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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2434/92

of 27 July 1992

amending Part II of Regulation (EEC) No 1612/68 on freedom of movement for workers within the Community

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community, and in particular Article 49 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas freedom of movement for workers within the Community constitutes a fundamental right established by the Treaty;

Whereas to give effect to freedom of movement for workers who are nationals of Member States it is necessary to strengthen the mechanism for clearing vacancies and applications for employment provided for in Regulation (EEC) No 1612/68 ⁽⁴⁾;

Whereas the principle of non-discrimination between Community workers implies the recognition, in fact and in law, of the right of all nationals of the Member States to enjoy the same priority on the labour market as that enjoyed by nationals in each Member State; whereas this equality of priority should apply under the mechanism for clearing vacancies and applications for employment;

Whereas it is important to ensure the greatest possible transparency of the Community labour market, especially when determining vacancies and applications for employment which are the subject of Community clearance,

Article 1

Regulation (EEC) No 1612/68 is hereby amended as follows:

1. does not concern the English text;
2. in Article 14:
 - in paragraph 1 the words 'by region and by branch of activity' shall be deleted,
 - paragraph 2 shall be replaced by the following:

'2. The Commission, taking the utmost account of the opinion of the Technical Committee, shall determine the manner in which the information referred to in paragraph 1 is to be drawn up.'
 - in the first sentence of paragraph 3 the words 'in agreement with the Technical Committee' shall be replaced by 'taking the utmost account of the opinion of the Technical Committee',
 - does not concern the English text';
3. Article 15 shall be replaced by the following:

'Article 15

1. The specialist service of each Member State shall regularly send to the specialist services of the other Member States and to the European Coordination Office:
 - (a) details of vacancies which could be filled by nationals of other Member States;
 - (b) details of vacancies addressed to non-Member States;
 - (c) details of applications for employment by those who have formally expressed a wish to work in another Member State;
 - (d) information, by region and by branch of activity, on applicants who have declared themselves actually willing to accept employment in another country.

⁽¹⁾ OJ No C 254, 28. 9. 1991, p. 9 and OJ No C 107, 28. 4. 1992, p. 10.

⁽²⁾ OJ No C 94, 13. 4. 1992, p. 202 and Decision of 8 July 1992 (not yet published in the Official Journal).

⁽³⁾ OJ No C 40, 17. 2. 1992, p. 1.

⁽⁴⁾ OJ No L 257, 19. 10. 1968, p. 2. Last amended by Regulation (EEC) No 312/76 (OJ No L 39, 14. 2. 1976, p. 2).

The specialist service of each Member State shall forward this information to the appropriate employment services and agencies as soon as possible.

2. The details of vacancies and applications referred to in paragraph 1 shall be circulated according to a uniform system to be established by the European Coordination Office in collaboration with the Technical Committee.

If necessary, the European Coordination Office may adapt this system in collaboration with the Technical Committee.';

4. Article 16 shall be replaced by the following:

'Article 16

1. Any vacancy within the meaning of Article 15 communicated to the employment services of a Member State shall be notified to and processed by the competent employment services of the other Member States concerned.

Such services shall forward to the services of the first Member State the details of suitable applications.

2. The applications for employment referred to in Article 15 (1) (c) shall be responded to by the relevant services of the Member States within a reasonable period, not exceeding one month.

3. The employment services shall grant workers who are nationals of the Member States the same priority as the relevant measures grant to nationals *vis-à-vis* workers from non-Member States.';

5. in Article 17 (1):

- does not concern the English text,
- the word 'returns' in subparagraph (a) (i) shall be replaced by 'details',
- subparagraph (b) shall be replaced by the following:

'(b) the services territorially responsible for the border regions of two or more Member States shall regularly exchange data relating to vacancies and applications for employment in their area and, acting in accordance with their

arrangements with the other employment services of their countries, shall directly bring together and clear vacancies and applications for employment.

If necessary, the services territorially responsible for border regions shall also set up cooperation and service structures to provide:

- users with as much practical information as possible on the various aspects of mobility, and
- management and labour, social services (in particular public, private or those of public interest) and all institutions concerned, with a framework of coordinated measures relating to mobility';

6. in Article 19:

- paragraph 1 shall be replaced by the following:

'1. On the basis of a report from the Commission drawn up from information supplied by the Member States, the latter and the Commission shall at least once a year analyse jointly the results of Community arrangements regarding vacancies and applications.';

- the following shall be added:

'3. Every two years the Commission shall submit a report to the European Parliament, the Council and the Economic and Social Committee on the implementation of Part II of this Regulation, summarizing the information required and the data obtained from the studies and research carried out and highlighting any useful points with regard to developments on the Community's labour market.';

7. Article 20 shall be deleted;

8. the Annex shall be deleted.

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 27 July 1992.

For the Council
The President
N. LAMONT

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE 92/56/EEC

of 24 June 1992

amending Directive 75/129/EEC on the approximation of the laws of the Member States relating to collective redundancies

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the Community Charter of the Fundamental Social Rights of Workers, adopted at the Regulation Council meeting held in Strasbourg on 9 December 1989 by the Heads of State or Government of eleven Member States, states *inter alia* in point 7, first paragraph, first sentence, and second paragraph; in point 17, first paragraph; and in point 18, third indent:

7. The completion of the internal market must lead to an improvement in the living and working conditions of workers in the European Community (. . .).

The improvement must cover, where necessary, the development of certain aspects of employment regulations such as procedures for collective redundancies and those regarding bankruptcies.

17. Information, consultation and participation for workers must be developed along appropriate lines, taking account of the practices in force in the various Member States.

(. . .)

18. Such information, consultation and participation must be implemented in due time, particularly in the following cases:

(— . . .)

(— . . .)

— in cases of collective redundancy procedures;

(— . . .)';

Whereas, in order to calculate the number of redundancies provided for in the definition of collective redundancies within the meaning of Council Directive 75/129/EEC of 17 February 1975 on the approximation of the laws of the Member States relating to collective redundancies ⁽⁴⁾, other forms of termination of employment contracts on the initiative of the employer should be equated to redundancies, provided that there are at least five redundancies;

Whereas it should be stipulated that Directive 75/129/EEC applies in principle also to collective redundancies resulting where the establishment's activities are terminated as a result of a judicial decision;

Whereas the Member States should be given the option of stipulating that workers' representatives may call on experts on grounds of the technical complexity of the matters which are likely to be the subject of the informing and consulting;

⁽¹⁾ OJ No C 310, 30. 11. 1991, p. 5 and OJ No C 117, 8. 5. 1992, p. 10.

⁽²⁾ OJ No C 94, 13. 4. 1992, p. 157.

⁽³⁾ OJ No C 79, 30. 3. 1992, p. 12.

⁽⁴⁾ OJ No L 48, 22. 2. 1975, p. 29.

Whereas the provisions of Directive 75/129/EEC should be clarified and supplemented as regards the employer's obligations regarding the informing and consulting of workers' representatives;

Whereas it is necessary to ensure that employers' obligations as regards information, consultation and notification apply independently of the fact that the decision on collective redundancies emanates from the employer or from an undertaking which controls that employer;

Whereas Member States should ensure that workers' representatives and/or workers have at their disposal administrative and/or judicial procedures in order to ensure that the obligations laid down in Directive 75/129/EEC are fulfilled,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 75/129/EEC is hereby amended as follows:

1. Article 1 shall be amended as follows:

- (a) the following subparagraph shall be added to paragraph 1:

'For the purpose of calculating the number of redundancies provided for in the first subparagraph of point (a), terminations of an employment contract which occur to the individual workers concerned shall be assimilated to redundancies, provided that there are at least five redundancies.';

- (b) subparagraph 2 (d) shall be deleted.

2. Section II shall be replaced by the following:

'SECTION II

Information and consultation

Article 2

1. Where an employer is contemplating collective redundancies, he shall begin consultations with the workers' representatives in good time with a view to reaching an agreement.

2. These consultations shall, at least, cover ways and means of avoiding collective redundancies or reducing the number of workers affected, and of mitigating the consequences by recourse to accompanying social measures aimed, *inter alia*, at aid for redeploying or retraining workers made redundant.

Member States may provide that the workers' representatives may call upon the services of experts in accordance with national legislation and/or practice.

3. To enable workers' representatives to make constructive proposals, the employers shall in good time during the course of the consultations:

- (a) supply them with all relevant information and
- (b) in any event notify them in writing of:
 - (i) the reasons for the projected redundancies;
 - (ii) the number of categories of workers to be made redundant;
 - (iii) the number and categories of workers normally employed;
 - (iv) the period over which the projected redundancies are to be effected;
 - (v) the criteria proposed for the selection of the workers to be made redundant in so far as national legislation and/or practice confers the power therefor upon the employer;
 - (vi) the method for calculating any redundancy payments other than those arising out of national legislation and/or practice.

The employer shall forward to the competent public authority a copy of, at least, the elements of the written communication which are provided for in the first subparagraph, point (b), subpoints (i) to (v).

4. The obligations laid down in paragraphs 1, 2 and 3 shall apply irrespective of whether the decision regarding collective redundancies is being taken by the employer or by an undertaking controlling the employer.

In considering alleged breaches of the information, consultation and notification requirements laid down by this Directive, account shall not be taken of any defence on the part of the employer on the ground that the necessary information has not been provided to the employer by the undertaking which took the decision leading to collective redundancies.';

3. in Article 3 (1) the following subparagraph shall be added after the first subparagraph:

'However, Member States may provide that in the case of planned collective redundancies arising from termination of the establishment's activities as a result of a judicial decision, the employer shall be obliged to notify the competent public authority in writing only if the latter so requests.';

4. in Article 4, the following paragraph shall be added after paragraph 3:

'4. Member States need not apply this Article to collective redundancies arising from termination of the establishment's activities where this is the result of a judicial decision.';

5. the following phrase shall be inserted at the end of Article 5:

'or to promote or to allow the application of collective agreements more favourable to workers.';

6. the following text shall be inserted after Article 5:

'Article 5a

Member States shall ensure that judicial and/or administrative procedures for the enforcement of obligations under this Directive are available to the workers' representatives and/or workers.'

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive at the latest two years after its adoption or shall ensure, at the latest two years after adoption, that the employers' and workers' representatives introduce the required provisions by way of agreement, the Member States being obliged to take the necessary steps enabling them at all times to guarantee the results imposed by this Directive.

They shall immediately inform the Commission thereof.

2. When Member States adopt the provisions referred to in paragraph 1, such provisions shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

3. Member States shall forward to the Commission the text of any fundamental provisions of national law already adopted or being adopted in the area governed by this Directive.

Article 3

This Directive is addressed to the Member States.

Done at Luxembourg, 24 June 1992.

For the Council

The President

José da SILVA PENEDA

COUNCIL DIRECTIVE 92/57/EEC

of 24 June 1992

on the implementation of minimum safety and health requirements at temporary or mobile constructions sites (eighth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 118a thereof,

Having regard to the proposal from the Commission ⁽¹⁾, submitted after consulting the Advisory Committee on Safety, Hygiene and Health Protection at Work,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Article 118a of the Treaty provides that the Council shall adopt, by means of directives, minimum requirements for encouraging improvements, especially in the working environment, to ensure a better level of protection of the safety and health of workers;

Whereas, under the terms of that Article, those directives are to avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings;

Whereas the communication from the Commission on its programme concerning safety, hygiene and health at work ⁽⁴⁾ provides for the adoption of a Directive designed to guarantee the safety and health of workers at temporary or mobile construction sites;

Whereas, in its resolution of 21 December 1987 on safety, hygiene and health at work ⁽⁵⁾, the Council took note of the Commission's intention of submitting to the Council in the near future minimum requirements concerning temporary or mobile construction sites;

Whereas temporary or mobile construction sites constitute an area of activity that exposes workers to particularly high levels of risk;

Whereas unsatisfactory architectural and/or organizational options or poor planning of the works at the project

preparation stage have played a role in more than half of the occupational accidents occurring on construction sites in the Community;

Whereas in each Member State the authorities responsible for safety and health at work must be informed, before the beginning of the works, of the execution of works the scale of which exceeds a certain threshold;

Whereas, when a project is being carried out, a large number of occupational accidents may be caused by inadequate coordination, particularly where various undertakings work simultaneously or in succession at the same temporary or mobile construction site;

Whereas it is therefore necessary to improve coordination between the various parties concerned at the project preparation stage and also when the work is being carried out;

Whereas compliance with the minimum requirements designed to guarantee a better standard of safety and health at temporary or mobile construction sites is essential to ensure the safety and health of workers;

Whereas, moreover, self-employed persons and employers, where they are personally engaged in work activity, may, through their activities on a temporary or mobile construction site, jeopardize the safety and health of workers;

Whereas it is therefore necessary to extend to self-employed persons and to employers where they are personally engaged in work activity on the site certain relevant provisions of Council Directive 89/655/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive) ⁽⁶⁾, and of Council Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual Directive) ⁽⁷⁾;

Whereas this Directive is an individual Directive within the meaning of Article 16 (1) of Council Directive 89/391/EEC

⁽¹⁾ OJ No C 213, 28. 8. 1990, p. 2 and OJ No C 112, 27. 4. 1991, p. 4.

⁽²⁾ OJ No C 78, 18. 3. 1990, p. 172 and OJ No C 150, 15. 6. 1992.

⁽³⁾ OJ No C 120, 6. 5. 1991, p. 24.

⁽⁴⁾ OJ No C 28, 3. 2. 1988, p. 3.

⁽⁵⁾ OJ No C 28, 3. 2. 1988, p. 1.

⁽⁶⁾ OJ No L 393, 30. 12. 1989, p. 13.

⁽⁷⁾ OJ No L 393, 30. 12. 1989, p. 18.

of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work ⁽¹⁾; whereas, therefore, the provisions of the said Directive are fully applicable to temporary or mobile construction sites, without prejudice to more stringent and/or specific provisions contained in this Directive;

Whereas this Directive constitutes a practical step towards the achievement of the social dimension of the internal market with special reference to the subject matter of Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products ⁽²⁾ and the subject matter covered by Council Directive 89/440/EEC of 18 July 1989 amending Directive 71/305/EEC concerning coordination of procedures for the award of public work contracts ⁽³⁾;

Whereas, pursuant to Council Decision 74/325/EEC ⁽⁴⁾, the Advisory Committee on Safety, Hygiene and Health Protection at Work is consulted by the Commission with a view to drawing up proposals in this field,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Subject

1. This Directive, which is the eighth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC, lays down minimum safety and health requirements for temporary or mobile construction sites, as defined in Article 2 (a).

2. This Directive shall not apply to drilling and extraction in the extractive industries within the meaning of Article 1 (2) of Council Decision 74/326/EEC of 27 June 1974 on the extension of the responsibilities of the Mines Safety and Health Commission to all mineral-extracting industries ⁽⁵⁾.

3. The provisions of Directive 89/391/EEC are fully applicable to the whole scope referred to in paragraph 1, without prejudice to more stringent and/or specific provisions contained in this Directive.

⁽¹⁾ OJ No L 183, 29. 6. 1989, p. 1.

⁽²⁾ OJ No L 40, 11. 2. 1989, p. 12.

⁽³⁾ OJ No L 210, 21. 7. 1989, p. 1. Amended by Commission Decision 90/380/EEC (OJ No L 187, 19. 7. 1990, p. 55).

⁽⁴⁾ OJ No L 185, 9. 7. 1974, p. 15. Last amended by the 1985 Act of Accession.

⁽⁵⁾ OJ No L 185, 9. 7. 1974, p. 18.

Article 2

Definitions

For the purposes of this Directive:

- (a) 'temporary or mobile construction sites' (hereinafter referred to as 'construction sites') means any construction site at which building or civil engineering works are carried out; a non-exhaustive list of such works is given in Annex I;
- (b) 'client' means any natural or legal person for whom a project is carried out;
- (c) 'project supervisor' means any natural or legal person responsible for the design and/or execution and/or supervision of the execution of a project, acting on behalf of the client;
- (d) 'self-employed person' means any person other than those referred to in Article 3 (a) and (b) of Directive 89/391/EEC whose professional activity contributes to the completion of a project;
- (e) 'coordinator for safety and health matters at the project preparations stage' means any natural or legal person entrusted by the client and/or project supervisor, during preparation of the project design, with performing the duties referred to in Article 5;
- (f) 'coordinator for safety and health matters at the project execution stage' means any natural or legal person entrusted by the client and/or project supervisor, during execution of the project, with performing the duties referred to in Article 6.

Article 3

Appointment of coordinators — Safety and health plan — Prior notice

1. The client or the project supervisor shall appoint one or more coordinators for safety and health matters, as defined in Article 2 (e) and (f), for any construction site on which more than one contractor is present.

2. The client or the project supervisor shall ensure that prior to the setting up of a construction site a safety and health plan is drawn up in accordance with Article 5 (b).

The Member States may, after consulting both management and the workforce, allow derogations from the provisions of the first paragraph, except where the work concerned involves particular risks as listed in Annex II.

3. In the case of constructions sites:

- on which work is scheduled to last longer than 30 working days and on which more than 20 workers are occupied simultaneously, or
- on which the volume of work is scheduled to exceed 500 person-days,

the client or the project supervisor shall communicate a prior notice drawn up in accordance with Annex III to the competent authorities before work starts.

The prior notice must be clearly displayed on the construction site and, if necessary, periodically updated.

Article 4

Project preparation stage: general principles

The project supervisor, or where appropriate the client, shall take account of the general principles of prevention concerning safety and health referred to in Directive 89/391/EEC during the various stages of designing and preparing the project, in particular:

- when architectural, technical and/or organizational aspects are being decided, in order to plan the various items or stages of work which are to take place simultaneously or in succession,
- when estimating the period required for completing such work or work stages. Account shall also be taken, each time this appears necessary, of all safety and health plans and of files drawn up in accordance with Article 5 (b) or (c) or adjusted in accordance with Article 6 (c).

Article 5

Project preparation stage: duties of coordinators

The coordinator(s) for safety and health matters during the project preparation stage appointed in accordance with Article 3 (1) shall:

- (a) coordinate implementation of the provisions of Article 4;
- (b) draw up, or cause to be draw up, a safety and health plan setting out the rules applicable to the construction site concerned, taking into account where necessary the industrial activities taking place on the site; this plan must also include specific measures concerning work which falls within one or more of the categories of Annex II;
- (c) prepare a file appropriate to the characteristics of the project containing relevant safety and health

information to be taken into account during any subsequent works.

Article 6

Project execution stage: duties of coordinators

The coordinator(s) for safety and health matters during the project execution stage appointed in accordance with Article 3 (1) shall:

- (a) coordinate implementation of the general principles of prevention and safety:
 - when technical and/or organizational aspects are being decided, in order to plan the various items or stages of work which are to take place simultaneously or in succession,
 - when estimating the period required for completing such work or work stages;
- (b) coordinate implementation of the relevant provisions in order to ensure that employers and, if necessary for the protection of workers, self-employed persons:
 - apply the principles referred to in Article 8 in a consistent manner,
 - where required, follow the safety and health plan referred to in Article 5 (b);
- (c) make, or cause to be made, any adjustments required to the safety and health plan referred to in Article 5 (b) and the file referred to in Article 5 (c) to take account of the progress of the work and any changes which have occurred;
- (d) organize cooperation between employers, including successive employers on the same site, coordination of their activities with a view to protecting workers and preventing accidents and occupational health hazards and reciprocal information as provided for in Article 6 (4) of Directive 89/391/EEC, ensuring that self-employed persons are brought into this process where necessary;
- (e) coordinate arrangements to check that the working procedures are being implemented correctly;
- (f) take the steps necessary to ensure that only authorized person are allowed onto the construction site.

Article 7

Responsibilities of clients, project supervisors and employers

1. Where a client or project supervisor has appointed a coordinator or coordinators to perform the duties referred to

in Articles 5 and 6, this does not relieve the client or project supervisor of his responsibilities in that respect.

2. The implementation of Articles 5 and 6, and of paragraph 1 of this Article shall not affect the principle of employers' responsibility as provided for in Directive 89/391/EEC.

Article 8

Implementation of Article 6 of Directive 89/391/EEC

When the work is being carried out, the principles set out in Article 6 of Directive 89/391/EEC shall be applied, in particular as regards:

- (a) keeping the construction site in good order and in a satisfactory state of cleanliness;
- (b) choosing the location of workstations bearing in mind how access to these workplaces is obtained, and determining routes or areas for the passage and movement and equipment;
- (c) the conditions under which various materials are handled;
- (d) technical maintenance, pre-commissioning checks and regular checks on installations and equipment with a view to correcting any faults which might affect the safety and health of workers;
- (e) the demarcation and laying-out of areas for the storage of various materials, in particular where dangerous materials or substances are concerned;
- (f) the conditions under which the dangerous materials used are removed;
- (g) the storage and disposal or removal of waste and debris;
- (h) the adaptation, based on progress made with the site, of the actual period to be allocated for the various types of work or work stages;
- (i) cooperation between employers and self-employed persons;
- (j) interaction with industrial activities at the place within which or in the vicinity of which the construction site is located.

Article 9

Obligations of employers

In order to preserve safety and health on the construction site, under the conditions set out in Article 6 and 7, employers shall:

- (a) in particular when implementing Article 8, take measures that are in line with the minimum requirements set out in Annex IV;

- (b) take into account directions from the coordinator(s) for safety and health matters.

Article 10

Obligations of other groups of persons

1. In order to preserve safety and health on the construction site, self-employed persons shall:

- (a) comply in particular with the following, *mutatis mutandis*:
 - (i) the requirements of Article 6 (4) and Article 13 of Directive 89/391/EEC and Article 8 and Annex IV of this Directive;
 - (ii) Article 4 of Directive 89/655/EEC and the relevant provisions of the Annex thereto;
 - (iii) Article 3, Article 4 (1) to (4) and (9) and Article 5 of Directive 89/656/EEC;
- (b) take into account directions from the coordinator(s) for safety and health matters.

2. In order to preserve safety and health on the site, where employers are personally engaged in work activity on the construction site, they shall:

- (a) comply in particular with the following, *mutatis mutandis*:
 - (i) Article 13 of Directive 89/391/EEC;
 - (ii) Article 4 of Directive 89/655/EEC and the relevant provisions of the Annex thereto;
 - (iii) Articles 3, 4 (1), (2), (3), (4), (9) and 5 of Directive 89/656/EEC;
- (b) take account of the comments of the coordinator(s) for safety and health.

Article 11

Information for workers

1. Without prejudice to Article 10 of Directive 89/391/EEC, workers and/or their representatives shall be informed of all the measures to be taken concerning their safety and health on the construction site.

2. The information must be comprehensible to the workers concerned.

Article 12

Consultation and participation of workers

Consultation and participation of workers and/or of their representatives shall take place in accordance with Article 11 of Directive 89/391/EEC on matters covered by Articles 6,

8 and 9 of this Directive, ensuring whenever necessary proper coordination between workers and/or workers' representatives in undertakings carrying out their activities at the workplace, having regard to the degree of risk and the size of the work site.

Article 13

Amendment of the Annexes

1. Amendments to Annexes I, II and III shall be adopted by the Council in accordance with the procedure laid down in Article 118a of the Treaty.

2. Strictly technical adaptations of Annex IV as a result of:

- the adoption of directives on technical harmonization and standardization regarding temporary or mobile construction sites, and/or
- technical progress, changes in international regulations or specifications or knowledge in the field of temporary or mobile construction sites

shall be adopted in accordance with the procedure laid down in Article 17 of Directive 89/391/EEC.

Article 14

Final provisions

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1993 at the latest.

They shall forthwith inform the Commission thereof.

2. When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

3. Member States shall communicate to the Commission the texts of the provisions of national law which they have already adopted or adopt in the field governed by this Directive.

4. Member States shall report to the Commission every four years on the practical implementation of the provisions of this Directive, indicating the points of view of employers and workers.

The Commission shall inform the European Parliament, the Council, the Economic and Social Committee and the Advisory Committee on Safety, Hygiene and Health Protection at Work.

5. The Commission shall submit periodically to the European Parliament, the Council and the Economic and Social Committee a report on the implementation of this Directive, taking into account paragraphs 1, 2, 3 and 4.

Article 15

This Directive is addressed to the Member States.

Done at Luxembourg, 24 June 1992.

For the Council

The President

José da SILVA PENEDA

ANNEX I**NON-EXHAUSTIVE LIST OF BUILDING AND CIVIL ENGINEERING WORKS REFERRED TO IN
ARTICLE 2 (a) OF THE DIRECTIVE**

- | | |
|---|--|
| 1. Excavation | 8. Repairs |
| 2. Earthworks | 9. Dismantling |
| 3. Construction | 10. Demolition |
| 4. Assembly and disassembly of prefabricated elements | 11. Upkeep |
| 5. Conversion or fitting-out | 12. Maintenance — Painting and cleaning work |
| 6. Alterations | 13. Drainage |
| 7. Renovation | |
-

ANNEX II

**NON-EXHAUSTIVE LIST OF WORK INVOLVING PARTICULAR RISKS TO THE SAFETY AND
HEALTH OF WORKERS REFERRED TO IN ARTICLE 3 (2), SECOND PARAGRAPH OF THE
DIRECTIVE**

1. Work which puts workers at risk of burial under earthfalls, engulfment in swampland or falling from a height, where the risk is particularly aggravated by the nature of the work or processes used or by the environment at the place of work or site (*).
 2. Work which puts workers at risk from chemical or biological substances constituting a particular danger to the safety and health of workers or involving a legal requirement for health monitoring.
 3. Work with ionizing radiation requiring the designation of controlled or supervised areas as defined in Article 20 of Directive 80/836/Euratom ⁽¹⁾.
 4. Work near high voltage power lines.
 5. Work exposing workers to the risk of drowning.
 6. Work on wells, underground earthworks and tunnels.
 7. Work carried out by divers having a system of air supply.
 8. Work carried out by workers in caisson with a compressed-air atmosphere.
 9. Work involving the use of explosives.
 10. Work involving the assembly or dismantling of heavy prefabricated components.
-

(*) In implementing point 1, Member States have the option of setting figures for individual situations.

⁽¹⁾ OJ No L 246, 17. 9. 1980, p. 1. Last amended by Directive 84/467/Euratom (OJ No L 265, 5. 10. 1984, p. 4).

ANNEX III

CONTENT OF THE PRIOR NOTICE REFERRED TO IN ARTICLE 3 (3), FIRST PARAGRAPH OF THE
DIRECTIVE I

1. Date of forwarding:
2. Exact address of the construction site:
.....
3. Client(s) (name(s) and address(es)):
.....
4. Type of project:
5. Project supervisor(s) (name(s) and address(es)):.....
.....
6. Safety and health coordinators(s) during the project preparation stage (name(s) and address(es))
.....
7. Coordinator(s) for safety and health matters during the project execution stage (name(s) and address(es)):
.....
.....
8. Date planned for start of work on the construction site:
9. Planned duration of work on the construction site:
10. Estimated maximum number of workers on the construction site:
11. Planned number of contractors and self-employed persons on the construction site:.....
.....
12. Details of contractors already chosen:
.....
.....
.....
.....

ANNEX IV

MINIMUM SAFETY AND HEALTH REQUIREMENTS FOR CONSTRUCTION SITES

Referred to in Article 9 (a) and Article 10 (1) (a) (i) of the Directive

Preliminary remarks

The obligations laid down in this Annex apply wherever required by the features of the construction site, the activity, the circumstances or a hazard.

For the purposes of this Annex, 'rooms' covers, *inter alia*, hutted accommodation.

PART A

GENERAL MINIMUM REQUIREMENTS FOR ON-SITE WORKPLACES

1. *Stability and solidity*
 - 1.1. Materials, equipment and, more generally, any component which, when moving in any way, may affect the safety and health of workers must be stabilized in an appropriate and safe manner.
 - 1.2. Access to any surface involving insufficiently resistant materials is not authorized unless appropriate equipment or means are provided to enable the work to be carried out safely.
2. *Energy distribution installations*
 - 2.1. The installations must be designed, constructed and used so as not to present a fire or explosion hazard; persons must be adequately protected against the risk of electrocution caused by direct or indirect contact.
 - 2.2. The design, construction and choice of equipment and protection devices must take account of the type and power of the energy distributed, external conditions and the competence of persons with access to parts of the installation.
3. *Emergency routes and exits*
 - 3.1. Emergency routes and exits must remain clear and lead as directly as possible to a safe area.
 - 3.2. In the event of danger, it must be possible for workers to evacuate all workstations quickly and as safely as possible.
 - 3.3. The number, distribution and dimensions of emergency routes and exits depend on the use, equipment and dimensions of the site and of the rooms and the maximum number of persons that may be present.
 - 3.4. Specific emergency routes and exits must be indicated by signs in accordance with the national regulations implementing Directive 77/576/EEC ⁽¹⁾.

Such signs must be sufficiently resistant and be placed at appropriate points.
 - 3.5. Emergency routes and exits, and the traffic routes and doors giving access to them, must be free from obstruction so that they can be used at any time without hindrance.
 - 3.6. Emergency routes and exits requiring illumination must be provided with emergency lighting of adequate intensity in case the lighting fails.
4. *Fire detection and fire fighting*
 - 4.1. Depending of the characteristics of the site, the dimensions and use of the rooms, the on-site equipment, the physical and chemical properties of the substances present and the maximum potential number of people present, an adequate number of appropriate fire-fighting devices and, where required, fire detectors and alarm systems must be provided.

⁽¹⁾ OJ No L 229, 7. 9. 1977, p. 12. Last amended by Directive 79/640/EEC (OJ No L 183, 19. 7. 1979, p. 1).

- 4.2. These fire-fighting devices, fire detectors and alarm systems must be regularly checked and maintained.

Appropriate tests and drills must take place at regular intervals.

- 4.3. Non-automatic fire-fighting equipment be easily accessible and simple to use.

The equipment must be indicated by signs in accordance with the national regulations implementing Directive 77/576/EEC.

Such signs must be sufficiently resistant and placed at appropriate points.

5. *Ventilation*

Steps shall be taken to ensure that there is sufficient fresh air, having regard to the working methods used and the physical demands placed on the workers.

If a forced ventilation system is used, it must be maintained in working order and must not expose workers to draughts which are harmful to health.

Any breakdown must be indicated by a control system where this is necessary for workers' health.

6. *Exposure to particular risks*

- 6.1. Workers must not be exposed to harmful levels of noise or to harmful external influences (e.g. gases, vapours, dust).

- 6.2. If workers have to enter an area where the atmosphere is liable to contain a toxic or harmful substance or to have an insufficient oxygen level or to be inflammable, the confined atmosphere must be monitored and appropriate steps taken to prevent any hazards.

- 6.3. A worker may not in any circumstances be exposed to a high-risk confined atmosphere.

He must at least be watched at all times from outside and all appropriate precautions must be taken to ensure that he can be assisted effectively and immediately.

7. *Temperature*

During working hours, the temperature must be appropriate for human beings, having regard to the working methods used and the physical demands placed on the workers.

8. *Natural and artificial lighting of workstations, rooms and traffic routes on the site*

- 8.1. Workstations, rooms and traffic routes must as far as possible have sufficient natural lighting and be provided with appropriate and sufficient artificial lighting at night and when natural daylight is inadequate; where necessary, portable light sources that are protected against impact must be used.

The colour of artificial light used must not alter or affect the perception of signals or signposts.

- 8.2. Lighting installations for rooms, workstations and traffic routes must be placed in such a way that there is no risk of accident to workers as a result of the type of lighting fitted.

- 8.3. Rooms, workstations and traffic routes where workers are especially exposed to risks in the event of artificial lighting must be provided with emergency lighting of adequate intensity.

9. *Doors and gates*

- 9.1. Sliding doors must be fitted with a safety device to prevent them from being derailed and falling over.

- 9.2. Doors and gates opening upwards must be fitted with a mechanism to secure them against falling back.

- 9.3. Doors and gates along escape routes must be appropriately marked.

- 9.4. In the immediate vicinity of gates intended primarily for vehicle traffic, there must be doors for pedestrian traffic unless it is safe for pedestrians to cross; such doors must be clearly marked and kept free at all times.

- 9.5. Mechanical doors and gates must operate without any risk of accident to workers.

They must be fitted with emergency stop devices which are easily identifiable and accessible and, unless they open automatically in the event of a power-cut, it must be possible for them to be opened manually.

10. *Traffic routes — danger areas*

- 10.1. Traffic routes, including stairs, fixed ladders and loading bays and ramps, must be calculated, located, laid out and made negotiable to ensure easy, safe and appropriate access in such a way as not to endanger workers employed in the vicinity of these traffic routes.

- 10.2. Routes used for pedestrian traffic and/or goods traffic including those used for loading and unloading must be dimensioned in accordance with the number of potential users and the type of activity concerned.

If means of transport are used on traffic routes, a sufficient safety clearance or adequate protective devices must be provided for other site users.

Routes must be clearly marked, regularly checked and properly maintained.

- 10.3. Sufficient clearance must be allowed between vehicle traffic routes and doors, gates, passages for pedestrians, corridors and staircases.

- 10.4. If the site includes limited-access areas, these must be equipped with devices to prevent unauthorized workers from entering.

Appropriate measures must be taken to protect workers who are authorized to enter the danger areas.

Danger areas must be clearly signposted.

11. *Loading bays and ramps*

- 11.1. Loading bays and ramps must be suitable for the dimensions of the loads to be transported.

- 11.2. Loading bays must have at least one exit point.

- 11.3. Loading ramps must be sufficiently safe to prevent workers from falling off.

12. *Freedom of movement at the workstation*

The floor area at the workstation must be such as to allow workers sufficient freedom of movement to perform their work, taking account of any necessary equipment or appliances present.

13. *First aid*

- 13.1. The employer must ensure that first aid can be provided, and that the staff trained to provide it can be called upon, at any time.

Measures must be taken to ensure that workers who have had an accident or have suddenly been taken ill can be removed for medical treatment.

- 13.2. One or more first-aid rooms must be provided where the scale of the works or the types of activity being carried out so require.

- 13.3. First-aid rooms must be fitted with essential first-aid installations and equipment and be easily accessible to stretchers.

They must be signposted in accordance with the national regulations implementing Directive 77/576/EEC.

- 13.4. In addition, first-aid equipment must be available at all places where working conditions so require.

This equipment must be suitably marked and easily accessible.

The address and telephone number of the local emergency service must be clearly displayed.

14. *Sanitary equipment*

14.1. *Changing rooms and lockers.*

- 14.1.1. Appropriate changing rooms must be provided for workers if they have to wear special work clothes and if, for reasons of health or propriety, they cannot be expected to change in another area.

Changing rooms must be easily accessible, be of sufficient capacity and be provided with seating.

- 14.1.2. Changing rooms must be sufficiently large and have facilities to enable each worker, where necessary, to dry his working clothes as well as his own clothing and personal effects and to lock them away.

If circumstances so require (e.g. dangerous substances, humidity, dirt), facilities must be provided to enable working clothes to be kept in a place separate from workers' own clothes and personal effects.

- 14.1.3. Provisions must be made for separate changing rooms or separate use of changing rooms for men and women.

- 14.1.4. If changing rooms are not required as referred to in point 14.1.1, first paragraph, each worker must be provided with a place in which he can lock away his own clothes and personal effects.

14.2. *Showers and washbasins*

- 14.2.1. Suitable showers in sufficient numbers must be provided for workers if required by the nature of the work or for health reasons.

Provisions must be made for separate shower rooms or separate use of shower rooms for men and women.

- 14.2.2. The shower rooms must be sufficiently large to permit each worker to wash without hindrance in conditions of an appropriate standard of hygiene.

The showers must be equipped with hot and cold running water.

- 14.2.3. Where showers are not required under the first paragraph of 14.2.1, a sufficient number of suitable washbasins with running water (hot water if necessary) must be provided in the vicinity of the workstations and the changing rooms.

Provisions must be made for separate washbasins, or separate use of washbasins for men and women when so required for reasons of propriety.

- 14.2.4. Where the rooms housing, the showers or washbasins are separate from the changing rooms, there must be easy communication between the two.

14.3. *Lavatories and washbasins*

Special facilities with an adequate number of lavatories and washbasins must be provided for workers in the vicinity of workstations, rest rooms, changing rooms and rooms housing showers or washbasins.

Provisions must be made for separate lavatories or separate use of lavatories for men and women.

15. *Rest rooms and/or accommodation areas*

- 15.1. Where the safety or health of workers, in particular because of the type of activity carried out or the presence of more than a certain number of employees as well as the remote nature of the site, so require, workers must be provided with easily accessible rest rooms and/or accommodation areas.

- 15.2. Rest rooms and/or accommodation areas must be large enough and equipped with an adequate number of tables and seats with backs for the number of workers concerned.

- 15.3. If there are no facilities of this kind, other facilities must be provided in which workers can stay during interruptions in work.

- 15.4. Fixed accommodation areas unless used only in exceptional cases, must have sufficient sanitary equipment, a rest room and a leisure room.

They must be equipped with beds, cupboards, tables and seats with backs taking account of the number of workers, and be allocated taking account, where appropriate, of the presence of workers of both sexes.

- 15.5. Appropriate measures should be taken for the protection of non-smokers against discomfort caused by tobacco smoke in rest rooms and/or accommodation areas.

16. *Pregnant women and nursing mothers*

Pregnant women and nursing mothers must be able to lie down to rest in appropriate conditions.

17. *Handicapped workers*

Workplaces must be organized to take account of handicapped workers, if necessary.

The provision applies in particular to the doors, passageways, staircases, showers, washbasins, lavatories and workstations used or occupied directly by handicapped persons.

18. *Miscellaneous provisions*

- 18.1. The surroundings and the perimeter of the site must be signposted and laid out so as to be clearly visible and identifiable.

- 18.2. Workers must be provided at the site with a sufficient quantity of drinking water and possibly another suitable non-alcoholic beverage both in occupied rooms and in the vicinity of workstations.

- 18.3. workers must:

- be provided with facilities enabling them to take their meals in satisfactory conditions,
- where appropriate, be provided with facilities enabling them to prepare their meals in satisfactory conditions.

PART B

SPECIFIC MINIMUM REQUIREMENT FOR ON-SITE WORKSTATIONS

Preliminary remark

If special situations so dictate, the classification of these minimum requirements into two sections, as below, should not be regarded as binding.

Section I

On-site indoor workstations

1. *Stability and solidity*

Premises must have a structure and stability appropriate to the nature of their use.

2. *Emergency doors*

Emergency doors must open outwards.

Emergency doors must not be so locked or fastened that they cannot be easily and immediately opened by any person who may require to use them in an emergency.

Sliding or revolving doors are not permitted if intended as emergency exits.

3. *Ventilation*

If air-conditioning or mechanical ventilation installations are used, they must operate in such a way that workers are not exposed to draughts which cause discomfort.

Any deposit or dirt likely to create an immediate danger to the health of workers by polluting the atmosphere must be removed without delay.

4. *Temperature*

4.1. The temperature in rest areas, rooms for duty staff, sanitary facilities, canteens and first-aid rooms must be appropriate to the particular purpose of such areas.

4.2. Windows, skylights and glass partitions should allow excessive effects of sunlight to be avoided, having regard to the nature of the work and the use of the room.

5. *Natural and artificial lighting*

Workplaces must as far as possible have sufficient natural light and be equipped with the means of providing artificial lighting which is adequate for the purposes of protecting workers' safety and health.

6. *Floors, walls, ceilings and roofs of rooms*

6.1. The floors of workplaces must have no dangerous bumps, holes or slopes and must be fixed, stable and not slippery.

6.2. The surfaces of floors, walls and ceilings in rooms must be such that they can be cleaned or refurbished to an appropriate standard of hygiene.

6.3. Transparent or translucent walls, in particular all-glass partitions, in rooms or in the vicinity of workplaces and traffic routes must be clearly indicated and made of safety material or be shielded from such places or traffic routes to prevent workers from coming into contact with walls or being injured should the walls shatter.

7. *Windows and skylights*

7.1. It must be possible for workers to open, close, adjust or secure windows, skylights and ventilators in a safe manner.

When open, they must not be positioned so as to constitute a hazard to workers.

7.2. Windows and skylights must be designed in conjunction with equipment or otherwise fitted with devices allowing them to be cleaned without risk to the workers carrying out this work or to workers present.

8. *Doors and Gates*

8.1. The position, number and dimensions of doors and gates, and the materials used in their construction, are determined by the nature and use of the rooms or areas.

8.2. Transparent doors must be appropriately marked at a conspicuous level.

8.3. Swing doors and gates must be transparent or have see-through panels.

8.4. If transparent or translucent surfaces in doors and gates are not made of safety material and if there is a danger that workers may be injured if a door or gate should shatter, the surfaces must be protected against breakage.

9. *Traffic routes*

Where the use and equipment of rooms so requires for the protection of workers, traffic routes must be clearly identified.

10. *Specific measures for escalators and travelators*

Escalators and travelators must function safely.

They must be equipped with any necessary safety devices.

They must be fitted with easily identifiable and accessible emergency shut-down devices.

11. *Room dimensions and air space in rooms*

Workrooms must have sufficient surface area and height to allow workers to perform their work without risk to their safety, health or well-being.

Section II

On-site outdoor workstations

1. *Stability and solidity*

1.1. High-level or low-level movable or fixed workstations must be solid and stable, taking account of:

- the number of workers occupying them,
- the maximum loads they may have to bear and the weight distribution,
- the outside influences to which they may be subject.

If the support and the other components of these workstations are not intrinsically stable, their stability will have to be ensured by appropriate and safe methods of fixing to avoid any untimely or spontaneous movement of the whole or of parts of the workstations.

1.2. *Checking*

Stability and solidity must be checked appropriately and especially after any change in the height or depth of the workstation.

2. *Energy distribution installations*

2.1. On-site energy distribution installations, especially those subject to outside influences, must be regularly checked and maintained.

2.2. Installations existing before the site began must be identified, checked and clearly signposted.

2.3. Whenever possible, where overhead electric power lines exist, either they must be redirected away from the area of the site or else the current must be cut off.

If this is not possible, there will be barriers or notices to ensure that vehicles and installations are kept away.

Suitable warnings and suspended protections must be provided where vehicles have to pass beneath the lines.

3. *Atmospheric influences*

Workers must be protected against atmospheric influences which could affect their health and safety.

4. *Falling objects*

Wherever technically feasible, workers must be protected by collective methods against falling objects.

Materials and equipment must be laid out or stracked in such a way as to prevent their collapsing or overturning.

Where necessary, there must be covered passageways on the site or access to danger areas must be made impossible.

5. *Falls from a height*

5.1. Falls from a height must be physically prevented in particular by means of solid cradles which are sufficiently high and have at least an end-board, a main handrail and an intermediate handrail or an equivalent alternative.

5.2. In principle, work at a height must be carried out only with appropriate equipment or using collective protection devices such as cradles, platforms or safety nets.

If the use of such equipment is not possible because of the nature of the work, suitable means of access must be provided and safety harnesses or other anchoring safety methods must be used.

6. *Scaffolding and leaders (*)*

6.1. All scaffolding must be properly designed, constructed and maintained to ensure that it does not collapse or move accidentally.

6.2. Work platforms, gangways and scaffolding stairways must be constructed, dimensioned, protected and used in such a way as to prevent people from falling or being exposed to falling objects.

6.3. Scaffolding must be inspected by a competent person:

- (a) before being put into service;
- (b) subsequently, at periodic intervals;
- (c) after any modification period without use, exposure to bad weather or seismic tremors, or any other circumstance which may have affected its strength or stability.

6.4. Ladders must be sufficiently strong and correctly maintained.

They must be correctly used, in appropriate places and in accordance with their intended purpose.

6.5. Mobile scaffolding must be secured against spontaneous movements.

7. *Lifting equipment (*)*

7.1. All lifting devices and accessories, including their component parts, attachments, anchorings and supports, must be:

- (a) properly designed and constructed and sufficiently strong for the use to which they are put;
- (b) correctly installed and used;
- (c) maintained in good working order;
- (d) checked and subjected to periodic tests and inspections in accordance with current legislation;
- (e) operated by qualified workers who have received appropriate training.

7.2. All lifting devices and accessories must clearly display their maximum load values.

7.3. Lifting equipment and accessories may not be used for other than their intended purposes.

8. *Excavating and materials-handling vehicles and machinery (*)*

8.1. All excavating and materials-handling vehicles and machinery must be:

- (a) properly designed and constructed taking account, as far as possible, of the principles of ergonomics;
- (b) kept in good working order;
- (c) used correctly.

(*) This point will be specified in the framework of the future Directive amending Directive 89/655/EEC, particularly with a view to supplementing point 3 of the Annex thereto.

- 8.2. Drivers and operators of excavating and materials-handling vehicles and machinery must be specially trained.
- 8.3. Preventive measures must be taken to ensure that excavating and materials-handling vehicles and machinery do not fall into the excavations or into water.
- 8.4. Where appropriate, excavating machinery and materials-handling machinery must be fitted with structures to protect the driver against being crushed if the machine overturns, and against falling objects.

9. *Installations, machinery, equipment (*)*

- 9.1. Installations, machinery and equipment, including hand tools whether power-driven or not, must be:
 - (a) properly designed and constructed taking accounts, as far as possible, of the principle of ergonomics;
 - (b) kept in good working order;
 - (c) used solely for the work for which they were designed;
 - (d) operated by workers who have received appropriate training.
- 9.2. Installations and equipment under pressure must be checked and subjected to regular tests and inspections in accordance with existing legislation.

10. *Excavations, wells, underground works, tunnels and earthworks*

- 10.1. Suitable precautions must be taken in an excavation, well, underground, working or tunnel:
 - (a) using an appropriate support or embankment;
 - (b) to prevent hazards entailed in the fall of a person, materials or objects, or flooding;
 - (c) to provide sufficient ventilation at all workstations so as to ensure a breathable atmosphere which is not dangerous or harmful to health;
 - (d) to enable workers to reach safety in the event of fire or inrush of water or materials.
- 10.2. Before excavation starts, measures must be taken to identify and reduce to a minimum any hazard due to underground cables and other distribution systems.
- 10.3. Safe routes into and out of the excavation must be provided.
- 10.4. Piles of earth, materials and moving vehicles must be kept away from the excavation; appropriate barriers must be built if necessary.

11. *Demolition work*

Where the demolition of a building or construction may present a danger:

- (a) appropriate precautions, methods and procedures must be adopted;
- (b) the work must be planned and undertaken only under the supervision of a competent person.

12. *Metal or concrete frameworks, shutterings and heavy prefabricated components*

- 12.1. Metal or concrete frameworks and their components, shutterings, prefabricated components or temporary support, and buttresses must be erected and dismantled only under the supervision of a competent person.
- 12.2. Adequate precautions must be taken to protect workers against risks arising from the temporary fragility or instability of a structure.

(*) This point will be specified in the framework of the future Directive amending Directive 89/655/EEC, particularly with a view to supplementing point 3 of the Annex thereto.

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- 12.3. Shutterings, temporary supports and buttresses must be devised and designed, installed and maintained so as to safely withstand any strains and stresses which may be placed on them.
13. *Cofferdams and caissons*
- 13.1. All cofferdams and caissons must be:
- (a) well constructed, of appropriate, solid materials of adequate strength;
 - (b) appropriately equipped so that workers can gain shelter in the event of an irruption of water and materials.
- 13.2. The construction, installation, transformation or dismantling of a cofferdam or caisson must take place only under the supervision of a competent person.
- 13.3. All cofferdams and caissons must be inspected by a competent person at regular intervals.
14. *Work on roofs*
- 14.1. Where necessary to avert a risk or where the height or the slope exceed values set by the Member States, collective preventive measures must be taken to prevent workers, and tools or other objects or materials, from falling.
- 14.2. Where workers have to work on or near a roof or any other surface made of fragile materials through which it is possible to fall, preventive measures must be taken to ensure that they do not inadvertently walk on the surface made of fragile materials, or fall to the ground.
-

COUNCIL DIRECTIVE 92/58/EEC

of 24 June 1992

on the minimum requirements for the provision of safety and/or health signs at work (ninth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 118 a thereof,

Having regard to the proposal from the Commission ⁽¹⁾, submitted following consultation of the Advisory Committee on Safety, Hygiene and Health Protection at Work,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Article 118 a of the Treaty provides that the Council must adopt, by means of directives, minimum requirements to encourage improvements, especially in the working environment, as regards the health and safety of workers;

Whereas, under that Article, such directives must avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings;

Whereas the Commission communication on its programme concerning safety, hygiene and health at work ⁽⁴⁾ provides for a revision and extension of the scope of Council Directive 77/576/EEC of 25 July 1977 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the provision of safety signs at places at work ⁽⁵⁾;

Whereas, in its Resolution of 21 December 1987 on safety, hygiene, and health at work ⁽⁶⁾, the Council took note of the Commission's intention of submitting to it within a short period of time a proposal for revising and extending the abovementioned Directive;

Whereas Directive 77/576/EEC should be replaced by this Directive for the sake of consistency and clarity;

Whereas this Directive is an individual Directive within the meaning of Article 16 (1) of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work ⁽⁷⁾; whereas the provisions of Directive 89/391/EEC therefore apply in full to the provision of safety and health signs at work, without prejudice to more stringent and/or specific provisions contained in this Directive;

Whereas existing Community rules relate mainly to safety signs and the marking of dangerous obstacles and locations, and are therefore restricted to a limited number of types of signs;

Whereas the effect of this restriction is that some hazards are not appropriately marked; whereas new types of signs should therefore be introduced in order to enable employers and workers to identify and avoid risks to safety and/or health at work;

Whereas safety and/or health signs must be provided where hazards cannot be adequately reduced by techniques for collective protection or by measures, methods or procedures used in the organization of work;

Whereas the many differences between the safety and/or health signs currently in use in the Member States lead to uncertainty, and this may become more widespread with the free movement of workers within the internal market;

Whereas the use of standardized signs at work is, in general, likely to reduce the hazards which may arise from linguistic and cultural differences between workers;

Whereas this Directive constitutes a tangible step towards developing the social dimension of the internal market;

Whereas, pursuant to Decision 74/325/EEC ⁽⁸⁾, as last amended by the Act of Accession of Spain and Portugal, the Advisory Committee on Safety, Hygiene and Health Protection at Work is to be consulted by the Commission on the drafting of proposals in this field,

⁽¹⁾ OJ No C 53, 28. 2. 1991, p. 46 and OJ No C 279, 26. 10. 1991, p. 13.

⁽²⁾ OJ No C 240, 16. 9. 1991, p. 102 and OJ No C 150, 15. 6. 1992.

⁽³⁾ OJ No C 159, 17. 6. 1991, p. 9.

⁽⁴⁾ OJ No C 28, 3. 2. 1988, p. 3.

⁽⁵⁾ OJ No L 229, 7. 9. 1977, p. 12. Last amended by Commission Directive 79/640/EEC. (OJ No L 183, 19. 7. 1979, p. 11.)

⁽⁶⁾ OJ No C 28, 3. 2. 1989, p. 1.

⁽⁷⁾ OJ No L 183, 29. 6. 1989, p. 1.

⁽⁸⁾ OJ No L 185, 9. 7. 1974, p. 15.

HAS ADOPTED THIS DIRECTIVE:

SECTION I

GENERAL PROVISIONS

Article 1

Object

1. This Directive, which is the ninth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC, lays down minimum requirements for the provision of safety and/or health signs at work.

2. This Directive shall not apply to signs for the placing on the market of dangerous substances and preparations, products and/or equipment, unless other Community provisions make specific reference thereto.

3. This Directive shall not apply to signs used for regulating road, rail, inland waterway, sea or air transport.

4. The provisions of Directive 89/391/EEC shall apply in full to the whole area referred to in paragraph 1, without prejudice to more stringent and/or specific provisions in this Directive.

Article 2

Definitions

For the purposes of this Directive:

- (a) safety and/or health signs means signs referring to a specific object, activity or situation and providing information or instructions about safety and/or health at work by means of a signboard, a colour, an illuminated sign or acoustic signal, a verbal communication or a hand signal, as the case may be;
- (b) prohibition sign means a sign prohibiting behaviour likely to incur or cause danger;
- (c) warning sign means a sign giving warning of a hazard or danger;
- (d) mandatory sign means a sign prescribing specific behaviour;
- (e) emergency escape or first-aid sign means a sign giving information on emergency exits or first-aid or rescue facilities;
- (f) information sign means a sign providing information other than that referred to in (b) to (e);
- (g) signboard means a sign which provides specific information by a combination of a geometric shape, colours and a symbol or pictogram and which is rendered visible by lighting of sufficient intensity;
- (h) supplementary signboard means a signboard used together with one of the signs described under (g), which provides supplementary information;
- (i) safety colour means a colour to which a specific meaning is assigned;
- (j) Symbol or pictogram means a figure which describes a situation or prescribes specific behaviour and which is used on a signboard or illuminated surface;
- (k) illuminated sign means a sign produced by a device made of transparent or translucent materials which are illuminated from the inside or the rear in such a way as to give the appearance of a luminous surface;
- (l) acoustic signal means a coded sound signal which is released and transmitted by a device designed for that purpose, without the use of a human or artificial voice;
- (m) verbal communication means a predetermined spoken message communicated by a human or artificial voice;
- (n) hand signal a movement and/or position of the arms and/or hands, in coded form, for guiding persons who are carrying out manoeuvres which constitute a hazard or danger for workers.

SECTION II

EMPLOYERS' OBLIGATIONS

Article 3

General rules

1. Employers shall provide safety and/or health signs as laid down in this Directive where hazards cannot be avoided or adequately reduced by techniques for collective protection or measures, methods or procedures used in the organization of work, or ensure that such signs are in place.

Employers shall take into account any risk evaluation made in accordance with Article 6 (3) (a) of Directive 89/391/EEC.

2. Without prejudice to the provisions of Annex V, the signs used for road, rail, inland waterway, sea and air

transport shall be installed, wherever appropriate for such forms of transport, inside undertakings and/or firms.

Article 4

Safety and/or health signs used for the first time

Without prejudice to Article 6, a safety and/or health sign used at work for the first time on or after the date referred to in Article 11 (1) first subparagraph must fulfil the minimum requirements set out in Annexes I to IX.

Article 5

Safety and/or health signs already in use

Without prejudice to Article 6, a safety and/or health sign which was already in use at work before the date referred to in Article 11 (1) first subparagraph must fulfil the minimum requirements set out in Annexes I to IX by no later than eighteen months after that date.

Article 6

Exemptions

1. Taking account of the types of activity and/or size of the undertakings concerned, Member States may specify categories of undertakings allowed to replace totally, partially or temporarily the illuminated signs, and/or acoustic signals provided for in this Directive by alternative measures which afford the same level of protection.

2. Member States may derogate, after consulting both sides of industry, from the application of Annex VIII, section 2 and/or Annex IX, section 3, whilst laying down alternative measures guaranteeing the same level of protection.

3. Member States shall consult, in accordance with national laws and/or practice, employers' and workers' organizations when implementing paragraph 1.

Article 7

Information and instruction for workers

1. Without prejudice to Article 10 of Directive 89/391/EEC, workers and/or their representatives shall be informed of all the measures to be taken concerning the safety and/or health signs used at work.

2. Without prejudice to Article 12 of Directive 89/391/EEC, workers must be given suitable instruction, in particular in the form of specific directions concerning the safety and/or health signs used at work.

In particular, the instruction referred to in the first subparagraph shall cover the meaning of the signs, especially signs incorporating words, and the general and specific behaviour to be adopted.

Article 8

Consultation of workers and workers' participation

Consultation and participation of workers and/or their representatives shall take place in accordance with Article 11 of Directive 89/391/EEC on the matters covered by this Directive, including Annexes I to IX.

SECTION III

MISCELLANEOUS PROVISIONS

Article 9

Adaptation of the Annexes

Adaptations of a technical nature to Annexes I to IX shall be adopted, in accordance with the procedure provided for in Article 17 of Directive 89/391/EEC, in the light of:

- the adoption of directives on technical harmonization and standardization concerning the design and manufacture of safety and/or health signs or devices at work,
- technical progress, changes in international rules or specifications and advances in knowledge in the field of safety and/or health signs at work.

Article 10

1. Directive 77/576/EEC shall be repealed on the date referred to in Article 11 (1), first subparagraph.

However, in the cases referred to in Article 5, that Directive shall continue to apply for a maximum period of eighteen months following that date.

2. Any reference to the repealed Directive shall be taken to refer to the corresponding provisions of this Directive.

*Article 11***Final provisions**

1. Member States shall bring into force the laws, regulations and administrative provisions required to comply with this Directive no later than 24 June 1994.

They shall immediately inform the Commission thereof.

2. When Member States adopt these measures they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

3. Member States shall communicate to the Commission the text of the provisions of domestic law which they have already adopted or adopt in the field covered by this Directive.

4. Member States shall report to the Commission every five years on the practical implementation of the provisions of this Directive, indicating the views of employers and workers.

The Commission shall inform the European Parliament, the Council, the Economic and Social Committee and the Advisory Committee on Safety, Hygiene and Health at Work thereof.

5. The Commission shall forward periodically to the European Parliament, the Council and the Economic and Social Committee a report on the implementation of this Directive, taking into account paragraphs 1 to 4.

Article 12

This Directive is addressed to the Member States.

Done at Luxembourg, 24 June 1992.

For the Council

The President

José da SILVA PENEDA

ANNEX I

GENERAL MINIMUM REQUIREMENTS CONCERNING SAFETY AND/OR HEALTH SIGNS
AT WORK

1. Preliminary remarks

- 1.1. Where health and/or safety signs are required by the general rule in Article 3 of the Directive, they must conform to the specific requirements in Annexes II to IX.
- 1.2. This Annex introduces those requirements, describes the different uses of safety and/or health signs, and gives general rules on the interchanging and combining of signs.
- 1.3. Health and/or safety signs must be used only to convey the message or information specified in the Directive.

2. Types of signs

2.1. Permanent signs

- 2.1.1. Permanent signboards must be used for signs relating to prohibitions, warnings and mandatory requirements and the location and identification of emergency escape routes and first-aid facilities.

Signboards and/or a safety colour must be used to mark permanently the location and identification of fire-fighting equipment.
- 2.1.2. Signboards on containers and pipes must be placed as laid down in Annex III.
- 2.1.3. Places where there is a risk of colliding with obstacles or of falling must be permanently marked with a safety colour and/or with signboards.
- 2.1.4. Traffic routes must be permanently marked with a safety colour.

2.2. Occasional signs

- 2.2.1. Illuminated signs, acoustic signals and/or verbal communication must be used where the occasion requires, taking into account the possibilities for interchanging and combining signs set out in Section 3, to signal danger, to call persons to take a specific course of action and for the emergency evacuation of persons.
- 2.2.2. Hand signals and/or verbal communication must be used where the occasion requires, to guide persons carrying out hazardous or dangerous manoeuvres.

3. Interchanging and combining signs

- 3.1. Any one of the following may be used if equally effective:

- a safety colour or a signboard to mark places where there is an obstacle or a drop,
- illuminated signs, acoustic signals or verbal communication,
- hand signals or verbal communication.

- 3.2. Some types of signs may be used together:

- illuminated signs and acoustic signals,
- illuminated signs and verbal communication,
- hand signals and verbal communication.

4. The instructions in the table below apply to all signs incorporating a safety colour:

Colour	Meaning or purpose	Instructions and information
Red	Prohibition sign	Dangerous behaviour
	Danger alarm	Stop, shutdown, emergency cutout devices Evacuate
	Fire-fighting equipment	Identification and location
Yellow or Amber	Warning sign	Be careful, take precautions Examine
Blue	Mandatory sign	Specific behaviour or action Wear personal protective equipment
Green	Emergency escape, first aid sign	Doors, exits, routes, equipment, facilities
	No danger	Return to normal

5. The effectiveness of a sign must not be adversely affected by:
 - 5.1. the presence of another emission source of the same type which interferes with visibility or audibility; therefore, in particular,
 - 5.1.1. the placing of too many signs too close together should be avoided;
 - 5.1.2. two illuminated signs which are likely to be confused are not to be used at the same time;
 - 5.1.3. an illuminated sign is not to be used in the proximity of another similar illuminated source;
 - 5.1.4. two acoustic signals are not to be used at the same time;
 - 5.1.5. an acoustic signal is not to be used if there is too much ambient noise;
 - 5.2. poor design, insufficient number, incorrect positioning, poor state of repair or incorrect functioning of the signs or signalling devices.
6. Depending on requirements, signs and signalling devices must be cleaned, maintained, checked, repaired, and if necessary replaced on a regular basis to ensure that they retain their intrinsic and/or functional qualities.
7. The number and positioning of signs or signalling devices to be installed will depend on the extent of the hazards or dangers or on the zone to be covered.
8. Signs requiring some form of power must be provided with a guaranteed emergency supply in the event of a power cut, unless the hazard has thereby been eliminated.
9. The triggering of an illuminated sign and/or acoustic signal indicates when the required action should start, the sign or signal must be activated for as long as the action requires.
Illuminated signs and acoustic signals must be reactivated immediately after use.
10. Illuminated signs and acoustic signals must be checked to ensure that they function correctly and that they are effective before they are put into service and subsequently at sufficiently frequent intervals.
11. If the hearing or the sight of the workers concerned is impaired, including impairment caused by the wearing of personal protective equipment, measures must be taken to supplement or replace the signs concerned.
12. Areas, rooms or enclosures used for the storage of significant quantities of dangerous substances or preparations must be indicated by a suitable warning sign taken from section 3.2. of Annex II, or marked as provided in section 1 of Annex III, unless the labelling of the individual packages or containers is adequate for this purpose.

ANNEX II

MINIUM GENERAL REQUIREMENTS CONCERNING SIGNBOARDS

1. Intrinsic features

- 1.1. The shape and colours of signboards are set out in section 3, in accordance with their specific object (signboards indicating a prohibition, a warning, a mandatory action, an escape route, an emergency or fire-fighting equipment).
- 1.2. Pictograms must be as simple as possible and should contain only essential details.
- 1.3. The pictograms used may be slightly different from or more detailed than those shown in section 3, provided that they convey the same meaning and that no difference or adaptation obscures the meaning.
- 1.4. Signboards are to be made of shock and weather-resistant material suitable for the surrounding environment.
- 1.5. The dimensions and colorimetric and photometric features of signboards must be such that they can be easily seen and understood.

2. Conditions of use

- 2.1. Signboards are in principle to be installed at a suitable height and in a position appropriate to the line of sight, taking account of any obstacles, either at the access point to an area in the case of a general hazard, or in the immediate vicinity of a specific hazard or object and in a well-lit and easily accessible and visible location.

Without prejudice to the provisions of Directive 89/654/EEC, phosphorescent colours, reflective materials or artificial lighting should be used where the level of natural light is poor.

- 2.2. The signboard must be removed when the situation to which it refers ceases to exist.

3. Signboards to be used

3.1. *Prohibitory signs*

Intrinsic features:

- round shape
- black pictogram on white background, red edging and diagonal line (the red part to take up at least 35 % of the area of the sign).

Signs to be used



No smoking



Smoking and naked flames forbidden



No access for pedestrians



Do not extinguish
with water



Not drinkable



Not access for unauthorized
persons



No access for industrial vehicles



Do not touch

3.2. *Warning signs*

Intrinsic features:

- triangular shape
- black pictogram on a yellow background with black edging (the yellow part to take up at least 50 % of the area of the sign).



Flammable material
or high temperature ⁽¹⁾



Explosive material



Toxic material



Corrosive material



Radioactive material

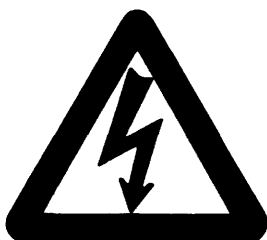


Overhead load

⁽¹⁾ In the absence of a specific sign for high temperature.



Industrial vehicles



Danger: electricity



General danger



Laser beam



Oxidant material



Non-ionizing radiation



Strong magnetic field



Obstacles



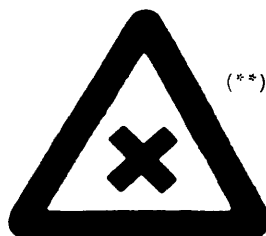
Drop



Biological risk



Low temperature



Harmful or irritant material

3.3. Mandatory signs

Intrinsic features:

- round shape
- white pictogram on a blue background (the blue part to take up at least 50 % of the area of the sign).

(*) Pictogram laid down in Council Directive 90/679/EEC of 26 November 1990 on the protection of workers from the risks related to exposure to biological agents at work (Seventh individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) / OJ No L 374, 31. 12. 1990, p. 1.

(**) The background to this sign may exceptionally be amber if justified in order to differentiate it from a similar road safety sign.



Eye protection
must be worn



Safety helmet
must be worn



Ear protection
must be worn



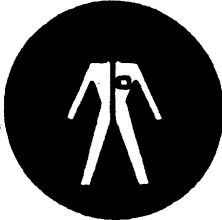
Respiratory equipment
must be worn



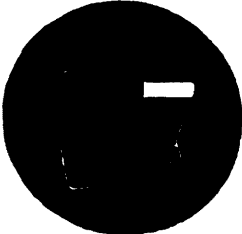
Safety boots
must be worn



Safety gloves
must be worn



Safety overalls
must be worn



Face protection
must be worn



Safety harness
must be worn



Pedestrians must
use this route

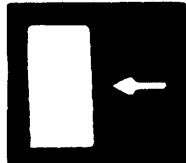
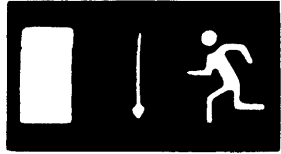
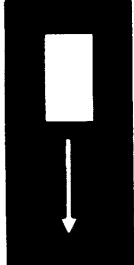
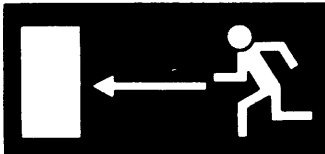


General mandatory sign
(to be accompanied where
necessary by another sign)

3.4. *Emergency escape or first-aid signs*

Intrinsic features:

- rectangular or square shape
- white pictogram on a green background (the green part to take up at least 50 % of the area of the sign).



Emergency exit/escape route





Eyewash



- rectangular or square shape
- white pictogram on a red background (the red part to take up at least 50 % of the area of the sign).



Emergency fire
telephone



This way
(supplementary information sign)

ANNEX III

MINIMUM REQUIREMENTS GOVERNING SIGNS ON CONTAINERS AND PIPES

1. Containers used at work for dangerous substances or preparations defined in Directives 67/548/EEC ⁽¹⁾ and 88/379/EEC ⁽²⁾ and containers used for the storage of such dangerous substances or preparations, together with the visible pipes containing or transporting dangerous substances and preparations, must be labelled (pictogram or symbol against a coloured background) in accordance with those Directives.

Paragraph 1 does not apply to containers used at work for brief periods nor to containers whose contents change frequently, provided that alternative adequate measures are taken, in particular for information and/or training, which guarantee the same level of protection.

The labels referred to in paragraph 1 may be:

- replaced by warning signs as provided for in Annex II, using the same pictograms or symbols,
 - supplemented by additional information, such as the name and/or formula of the dangerous substance or preparation and details of the hazard,
 - for the transporting of containers at the place of work, supplemented or replaced by signs applicable throughout the Community for the transport of dangerous substances or preparations.
2. Signs must be mounted as follows:
 - on the visible side(s),
 - in unpliable, self-adhesive or painted form.
 3. Where appropriate, the signs referred to in section 1 of this Annex must have the intrinsic features defined in section 1.4. of Annex II and must fulfil the conditions of use for signboards laid down in section 2 of Annex II.
 4. Without prejudice to sections 1, 2 and 3, the labels used on pipes must be positioned visibly in the vicinity of the most dangerous points, such as valves and joint, and at reasonable intervals.
 5. Areas, rooms or enclosures used for the storage of significant quantities of dangerous substances or preparations must be indicated by a suitable warning sign taken from section 3.2 of Annex II, or marked as provided in section 1 of Annex III, unless the labelling of the individual packages or containers is adequate for this purpose, taking into account Annex II, point 1.5 with regard to dimensions.

Stores of a number of dangerous substances or preparations may be indicated by the warning sign for general danger.

The signs or labels referred to above must be positioned, as appropriate, near the storage area or on the door leading into the storage room.

⁽¹⁾ OJ No L 196, 16. 8. 1967, p. 1.

⁽²⁾ OJ No L 187, 16. 7. 1988, p. 14.

ANNEX IV**MINIMUM REQUIREMENTS FOR THE IDENTIFICATION AND LOCATION OF FIRE-FIGHTING EQUIPMENT****1. Preliminary remark**

This Annex applies to equipment used exclusively for fire-fighting purposes.

2. Fire-fighting equipment must be identified by using a specific colour for the equipment and placing a location signboard, and/or by using a specific colour for the places where such equipment is kept, or their access points.
 3. The colour for identifying this equipment is red.
The red area must be sufficiently large to allow the equipment to be identified easily.
 4. The signboards provided for in section 3.5 of Annex II must be used to mark the locations of this equipment.
-

ANNEX V

MINIMUM REQUIREMENTS GOVERNING SIGNS USED FOR OBSTACLES AND DANGEROUS LOCATIONS, AND FOR MARKING TRAFFIC ROUTES**1. Signs for obstacles and dangerous locations**

- 1.1. Places where there is a risk of colliding with obstacles, of falling or of objects falling should be marked with alternating yellow and black, or red and white stripes in built-up zones in the undertaking to which workers have access during their work.
- 1.2. The dimensions of the markings must be commensurate with the scale of the obstacle or dangerous location in question.
- 1.3. The yellow and black or red and white stripes must be at an angle of approximately 45° and of more or less equal size.
- 1.4. Example:

**2. Marking of traffic routes**

- 2.1. Where the use and equipment of rooms so requires for the protection of workers, traffic routes for vehicles must be clearly identified by continuous stripes in a clearly visible colour, preferably white or yellow, taking into account the colour of the ground.
- 2.2. The stripes must be located so as to indicate the necessary safe distance between the vehicles and any object which may be near by, and between pedestrians and vehicles.
- 2.3. Permanent traffic routes in built-up areas outdoors should, as far as is practicable, be similarly marked, unless they are provided with suitable barriers or pavements.

ANNEX VI

MINIMUM REQUIREMENTS FOR ILLUMINATED SIGNS

1. Intrinsic features

- 1.1. The light emitted by a sign must produce a luminous contrast which is appropriate to its environment, in accordance with the intended conditions of use of the sign, but without producing glare for an excessive amount of light or poor visibility as a result of insufficient light.
- 1.2. The luminous area emitting a sign may be of a single colour or contain a pictogram on a specified background.
- 1.3. The single colour must correspond to the table of colours and their meanings set out in section 4 of Annex I.
- 1.4. Likewise, when the sign contains a pictogram, the latter must comply with all the relevant rules set out in Annex II.

2. Specific rules governing use

- 2.1. If a device can emit both continuous and intermittent signs, the intermittent sign should be used to indicate a higher level of danger or a more urgent need for the requested/imposed intervention or action than is indicated by the continuous sign.

The duration of each flash and the frequency of the flashers of an intermittent illuminated sign must be such as to

- ensure the proper perception of the message, and
- avoid any confusion either between different illuminated signs or with a continuous illuminated sign.

- 2.2. If a flashing sign is used instead of — or together with — an acoustic signal, identical codes must be used.
- 2.3. Devices for emitting flashing signs in the event of grave danger must be under special surveillance or be fitted with an auxiliary lamp.

ANNEX VII

MINIMUM REQUIREMENTS FOR ACOUSTIC SIGNS

1. Intrinsic features

1.1. Acoustic signals must:

- (a) have a sound level which is considerably higher than the level of ambient noise, so that it is audible without being excessive or painful;
- (b) be easily recognizable, particularly in terms of pulse length and the interval between pulses or groups of pulses, and be clearly distinct from any other acoustic signal and ambient noises.

- 1.2. If a device can emit an acoustic signal at variable and constant frequencies, the variable frequency should be used to indicate a higher level of danger or a more urgent need for the requested/imposed intervention or action in relation to the stable frequency.

2. Code

The signal for evacuation must be continuous.

ANNEX VIII

MINIMUM REQUIREMENTS FOR VERBAL COMMUNICATION

1. Intrinsic features

- 1.1. Verbal communication between a speaker or emitter and one or more hearers is to take the form of (sometimes coded) short texts, phrases, groups of words and/or individual words.
- 1.2. Spoken messages are to be as short, simple and clear as possible; the verbal skills of the speaker and the hearing abilities of the hearer(s) must be such as to ensure reliable verbal communication.
- 1.3. Verbal communication is direct (by means of the human voice) or indirect (by means of a human or artificial voice which is broadcast by whatever means is appropriate).

2. Specific rules governing use

- 2.1. The persons involved must have a good knowledge of the language used so that they are able to pronounce and understand the spoken message correctly and consequently behave in a way which is appropriate to health and/or safety.
- 2.2. If verbal communication is used instead of — or together with — gestures, code words should be used such as:

— start	to indicate the start of a command
— stop	to interrupt or end a movement
— end	to stop the operation
— raise	to have a load raised
— lower	to have a load lowered
— forwards	} to be coordinated with the corresponding hand signals
— backwards	
— right	
— left	
— danger	for an emergency stop
— quickly	to speed up a movement for safety reasons.

ANNEX IX

MINIMUM REQUIREMENTS FOR HAND SIGNALS

1. Features

Hand signals must be precise, simple, expansive, easy to make and to understand, and clearly distinct from other such signals.

Where both arms are used at the same time, they must be moved symmetrically and for giving one sign only.

Provided that they fulfil the conditions given above, the signals used may vary slightly from or be more detailed than those shown in section 3; they must, however, be equally meaningful and comprehensible.

2. Specific rules governing use

2.1. The person giving the signs, hereinafter referred to as the 'signalman', will use arm/hand movements to give manoeuvring instructions to the person receiving the signs, hereinafter referred to as the (operator).

2.2. The signalman must be able to monitor all manoeuvres visually without being endangered thereby.

2.3. The signalman's duties must consist exclusively of directing manoeuvres and ensuring the safety of workers in the vicinity.

2.4. If the conditions described in point 2.2 are not fulfilled, one or more extra signalmen should be deployed.

2.5. The operator must interrupt the ongoing manoeuvre in order to request new instructions when he is unable to carry out the orders he has received with the necessary safety guarantees.

2.6. Accessories:

The operator must be able to recognize the signalman without difficulty.

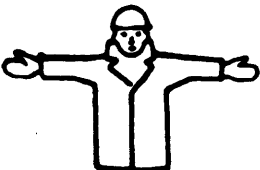
The signalman is to wear one or more appropriate distinctive items, e.g. a jacket, helmet, sleeves or armbands, or carry bats.

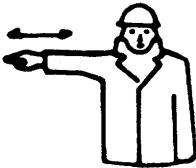
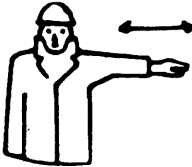
The distinctive items are to be brightly coloured, preferably all of the same colour and for the exclusive use of signalmen.

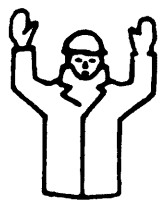
3. Coded signals to be used

Preliminary remark:

The following set of coded signals are without prejudice to other codes applicable at Community level, used for the same manoeuvres in certain sectors:

Meaning	Description	Illustration
A. General signals		
START Attention Start of command	both arms are extended horizontally with the palms facing forward	
STOP Interruption End of movement	the right arm points upwards with the palm facing forwards	
END of the operation	both hands are clasped at chest height	
B. Vertical movements		
RAISE	the right arm points upwards with the palm facing forward and slowly makes a circle	
LOWER	the right arm points downwards with the palm facing inwards and slowly makes a circle	
VERTICAL DISTANCE	the hands indicate the relevant distance	

Meaning	Description	Illustration
C. Horizontal Movements		
MOVE FORWARDS	both arms are bent with the palms facing upwards, and the forearms make slow movements towards the body	
MOVE BACKWARDS	both arms are bent with the palms facing downwards, and the forearms make slow movements away from the body	
RIGHT to the signalman's	the right arm is extended more or less horizontally with the palm facing downwards and slowly makes small movements to the right	
LEFT to the signalman's	the left arm is extended more or less horizontally with the palm facing downwards and slowly makes small movements to the left	
HORIZONTAL DISTANCE	the hands indicate the relevant distance	

Meaning	Description	Illustration
D. Danger		
DANGER Emergency stop	both arms point upwards with the palms facing forwards	
QUICK	all movements faster	
SLOW	all movements slower	

COUNCIL DECISION

of 24 June 1992

on the organization of the European Year of the Elderly and of Solidarity between Generations
(1993)

(92/440/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the constant improvement of living and working conditions and the harmonious development of economies are aims of the European Economic Community;

Whereas the European Parliament adopted on 18 February 1982 a resolution on the situation and problems of the Elderly in the European Community ⁽⁴⁾, on 10 March 1986 a resolution on services for the elderly ⁽⁵⁾ and on 14 May 1986 a resolution on Community measures to improve the situation of the elderly in the Member States of the Community ⁽⁶⁾;

Whereas the European Parliament urged, in that resolution, the designation of a European Year for the Elderly;

Whereas on 26 November 1990 the Council adopted Decision 91/49/EEC on Community actions for the elderly ⁽⁷⁾, including the designation of 1993 as 'European Year of the Elderly and of Solidarity between Generations';

Whereas the trend in current demographic developments is towards a major increase in the population of the elderly; whereas this trend will have considerable economic and social implications, in particular for the labour market, social security and social expenditure;

Whereas exchanges of information and experience as well as cooperation and consultation on measures affecting the

elderly between the Commission, the Member States and representatives of the elderly are important for the development of solidarity within the Community;

Whereas the measures to be carried out at Community level are intended to make known and to complement the different types of measures carried out in Member States at various levels;

Whereas an amount of ECU 6,9 million is deemed necessary to implement this Decision; whereas, for the 1992 budget year, under the current financial perspective, the amount deemed as necessary is ECU 4,339 million;

Whereas the amounts to be committed for financing this Decision for the period following the 1992 budget year will have to be consistent with the Community financial framework in force;

Whereas the Treaty does not provide, for the adoption of this Decision, powers other than those of Article 235,

HAS DECIDED AS FOLLOWS:

*Article 1***Objectives — Measures — Coordinated Measures**

1. The objectives of the European Year of the elderly and of Solidarity between Generations (1993), hereafter referred to as the 'European Year', shall be:

- (a) to highlight the Community's social dimension;
- (b) to heighten society's awareness of the situation of the elderly, the challenges resulting from present and future demographic developments and the consequences of an ageing population for all Community policies;
- (c) to promote reflection and discussion on the types of change required in order to deal with this situation and these developments;
- (d) to promote the principle of solidarity between generations;
- (e) to involve the elderly more in the process of Community integration.

⁽¹⁾ OJ No C 25, 1. 2. 1992, p. 5.

⁽²⁾ OJ No C 176, 13. 7. 1992.

⁽³⁾ OJ No C 169, 6. 7. 1992, p. 49.

⁽⁴⁾ OJ No C 66, 15. 3. 1982, p. 71.

⁽⁵⁾ OJ No C 88, 14. 4. 1986, p. 17.

⁽⁶⁾ OJ No C 148, 16. 6. 1986, p. 61.

⁽⁷⁾ OJ No L 28, 2. 2. 1991, p. 29.

2. The following measures are envisaged for the European Year:

(a) *Measures with no financial implications for the Community budget*

Voluntary measures to be undertaken by public and private bodies:

- use of the common logo and the slogan of the European Year in consciousness-raising campaigns and for events,
- dissemination of information on the European Year in the media;

(b) *Measures co-financed from the Community budget*

- (i) Joint conferences with Member States aimed at implementing the objectives of the European Year.

Financial support of up to 30 % of the cost of these measures may be granted.

- (ii) Information activities and exchanges between bodies from various Member States for:

- (a) increasing the ability of the elderly to be self-reliant;
- (b) dealing more effectively with the health problems of the elderly;
- (c) enhancing the positive contribution of the elderly and solidarity between generations;
- (d) promoting the active involvement of the elderly in society;
- (e) developing dialogue and mutual understanding in the Community so as to deal more effectively with the challenges of ageing.

Financial support of up to 60 % of the cost of these measures may be granted.

- (iii) Information and consciousness raising at national level

Measures in line with the objectives of the European Year on subjects to be determined by the Member State and the Commission in consultation with the Committee of an advisory nature referred to in Article 5, including:

- prizes and competitions at national level,
- information and publicity campaigns at national level,
- publication of information at national level,

— organization of events at national level.

Financial support of up to 30 % of the cost of these measures may be granted.

- (iv) Organization at Community level of the opening and concluding conferences of the European Year.

Organization of the other events at Community level, including some concerning the gradual transition from working life to retirement, in particular on the basis of the Commission report on the implementation of Council recommendation 82/857/EEC of 10 December 1982 on the principles of a Community policy with regard to retirement age ⁽¹⁾,

(c) *Projects to be funded solely from the Community budget*

- (i) Prizes and competitions at Community level

Prizes shall be awarded for competitions on subjects to be determined by the Commission in consultation with the abovementioned Committee of an advisory nature.

- (ii) Information and publicity campaigns at Community level in the media of all Member States.

- (iii) Publication of information at Community level, including the following reports:

- (a) economic and social policies and the elderly;
- (b) the social integration of the elderly in Europe;
- (c) 'Eurobarometer' survey concerning the elderly;
- (d) a social portrait of European senior citizens;
- (e) 'Social Europe' (special issue concerning the elderly).

- (iv) Network of pilot projects by public and/or private bodies aimed at encouraging new approaches both to using the potential represented by the elderly and promoting the contribution which they can make, and for care of those elderly who cannot manage alone.

3. Coordinated measures for the European Year will be taken by the Community, the Member States — including, where appropriate, regional and local authorities — employers' and workers' representatives and non-governmental organizations representing or dealing with the elderly.

⁽¹⁾ OJ No L 357, 18. 12. 1982, p. 27.

*Article 2***National Coordinating Committee**

1. Each Member State shall ensure that a National Coordinating Committee is set up to organize the participation of the Member States — and, where appropriate, of regional and local authorities — in the European Year.

2. The National Committee shall ensure that it is representative of the whole range of interests of the interests of the elderly, in particular of employers' and workers' representatives and the main non-governmental organizations representing or dealing with the elderly.

*Article 3***Measures with no financial implications for the Community budget or partly financed from the Community budget**

The measures referred to in Article 1 (2) (a) and (b) shall be decided on in accordance with the procedure set out in Article 5 (2).

*Article 4***Financing**

1. The amount of Community financing deemed necessary to implement this Decision shall be ECU 6,9 million, including ECU 4,339 million for the 1992 budgetary year under the current financial perspective.

For the subsequent period of application of this Decision, this amount will have to be consistent with the Community financial framework in force.

2. The budget authority shall determine the appropriations available for each financial year, taking into account the principles of sound management referred to in Article 2 of the Financial Regulation applicable to the general budget of the European Communities.

*Article 5***Committee**

1. The Commission shall be assisted by the Committee of an advisory nature established by the first paragraph of Article 6 of Council of an advisory nature established by the first paragraph of Article 6 of Council Decision 91/49/EEC.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on this draft, within a

time limit which the Chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

3. At the initiative of its Chairman or, as the case may be, at the request of one of its members, the Committee shall examine any matter connected with coordinating the measures deriving from this Decision and the national measures undertaken as part of the European Year.

*Article 6***Projects**

1. Member States shall, after consulting the National Committees referred to in Article 2:

- evaluate the projects of national public or private bodies to be submitted to the Commission for funding,
- monitor the execution of such projects and report to the Commission where such projects receive national financing.

2. The Committee referred to in Article 5 shall be informed of any project to which the Commission intends to allocate financing.

*Article 7***Notification of the European Parliament, the Council and the Social Committee**

The Commission shall inform the European Parliament, the Council and the Economic and Social Committee of the progress of work and shall send them a report on an assessment of the actions carried out in the course of the European Year.

Done at Luxembourg, 24 June 1992.

For the Council

The President

José da SILVA PENEDA

COUNCIL RECOMMENDATION

of 24 June 1992

on common criteria concerning sufficient resources and social assistance in social protection systems

(92/441/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

- (1) Whereas reinforcing social cohesion within the Community requires the encouragement of solidarity with regard to the least privileged and most vulnerable people;
- (2) Whereas respect for human dignity is one of the fundamental rights underlying Community law, as recognized in the preamble to the Single European Act;
- (3) Whereas social exclusion processes and risks of poverty have become more prevalent and more diversified over the last 10 years, owing primarily to a combination of developments in the labour market with, in particular, growth in long-term unemployment, and in family structures with, in particular, an increase in social isolation;
- (4) Whereas there is a need for general development policies capable of contributing towards halting the perceived structural trends to be accompanied by specific, systemic and coherent integration policies;
- (5) Whereas, consequently, social policy efforts need to be continued, their achievements reinforced and these policies adapted to the multi-dimensional nature of social exclusion, which involves linking the various forms of immediate assistance needed to measures aiming expressly at the economic and social integration of the people concerned.
- (6) Whereas people with insufficient, irregular and uncertain resources are unable to play an adequate

part in the economic and social life of the society in which they live and to become successfully integrated economically and socially; whereas the right of the least privileged to sufficient, stable and reliable resources should therefore be recognized as part of a consistent, overall policy for supporting their integration;

- (7) Whereas on 29 September 1989 the Council and the Ministers for Social Affairs meeting within the Council adopted a resolution on combating social exclusion ⁽⁷⁾ which stressed that combating social exclusion may be regarded as an important part of the social dimension of the internal market;

- (8) Whereas the Community Charter of the Fundamental Social Rights of Workers, adopted at the European Council in Strasbourg on 9 December 1989 by the Heads of State or Government of 11 Member States, states, *inter alia*, in its eighth recital and in points 10 and 25:

'Whereas, (. . .) in a spirit of solidarity, it is important to combat social exclusion;'

'According to the arrangements applying in each country:

10. Every worker of the European Community shall have a right to adequate social protection and shall, whatever his status and whatever the size of the undertaking in which he is employed, enjoy an adequate level of social security benefits.

Person who have been unable either to enter or re-enter the labour market and have no means of subsistence must be able to receive sufficient resources and social assistance in keeping with their particular situation.'

- '25. Any person who has reached retirement age but who is not entitled to a pension or who does not have other means of subsistence, must be entitled to sufficient resources and to medical and social assistance specifically suited to his needs.'

⁽¹⁾ OJ No C 163, 22. 6. 1991, p. 3.

⁽²⁾ OJ No C 150, 15. 6. 1992.

⁽³⁾ OJ No C 14, 20. 1. 1992, p. 1.

⁽⁷⁾ OJ No C 277, 31. 10. 1989, p. 1.

- (9) Whereas the Commission has included this fundamental aspect of the fight against social exclusion in its action programme relating to the implementation of the Community Charter of the Fundamental Social Rights of Workers, while noting in particular the value of a Community initiative, in a spirit of solidarity, to assist the least privileged citizens of the Community, including the elderly, whose situation all too often resembles that of persons excluded from the labour market;
- (10) Whereas the implementation of a guarantee of resources and social assistance comes within the sphere of social protection; whereas it is for Member States to define, in this connection, the legal nature of the provisions intended to ensure this guarantee, which in most Member States do not come within the sphere of social security;
- (11) Whereas it is important to take account during the progressive implementation of this recommendation of the availability of financial resources, of national priorities and of balances within national social protection systems; whereas there are disparities in development between Member States as regards social protection;
- (12) Whereas, in its resolution on combating poverty in the European Community ⁽¹⁾, the European Parliament declared itself in favour of establishing in all the Member States a guaranteed minimum income to help ensure that the poorest citizens are integrated into society;
- (13) Whereas, in its opinion on poverty of 12 July 1989 ⁽²⁾, the Economic and Social Committee also recommended the introduction of a minimum social income, both to act as a safety net for the poor and to boost their reintegration into society;
- (14) Whereas this recommendation does not affect national and Community provisions on right of residence;
- (15) Whereas the Treaty does not, in respect of the attainment of these objectives, provide for any means of action other than those laid down in Article 235,
- exclusion, and to adapt their social protection systems, as necessary, according to the principles and guidelines set out below;
- B. to recognize this right according to the following general principles:
1. it is to be a right based on respect for human dignity;
 2. the scope of that right is to be defined *vis-à-vis* individuals, having regard to legal residence and nationality, in accordance with the relevant provisions on residence, with the aim of progressively covering all exclusion situations in that connection as broadly as possible, in accordance with detailed arrangements laid down by the Member States;
 3. every person who does not have access individually or within the household in which he or she lives to sufficient resources is to have access to such right:
 - subject to active availability for work or for vocational training with a view to obtaining work in the case of those persons whose age, health and family situation permit such active availability, or, where appropriate, subject to economic and social integration measures in the case of other persons, and
 - without prejudice to the Member States' option of not extending this right to persons in full-time employment or to students;
 4. access is not to be subject to time limits, assuming compliance with the eligibility conditions and on the understanding that, in practice, the right may be granted for limited but renewable periods;
 5. the right is auxiliary in relation to other social rights. An effort should be made in parallel to reintegrate the poorest people into the systems of general rights;
 6. it is to be accompanied by those policies deemed necessary, at national level, for the economic and social integration of those concerned, as laid down in the resolution of the Council and of the Ministers for Social Affairs, meeting within the Council, of 29 September 1989 on combating social exclusion;
- C. to organize the implementation of this right according to the following practical guidelines:
1. (a) fixing the amount of resources considered sufficient to cover essential needs with regard to respect for human dignity, taking
- A. to recognize the basic right of a person to sufficient resources and social assistance to live in a manner compatible with human dignity as part of a comprehensive and consistent drive to combat social

⁽¹⁾ OJ No C 262, 10. 10. 1989, p. 194.

⁽²⁾ OJ No C 221, 28. 8. 1989, p. 10.

- account of living standards and price levels in the Member State concerned, for different types and sizes of household;
- (b) adjusting or supplementing amounts to meet specific needs;
- (c) in order to fix the amounts, referring to appropriate indicators, such as, for example, statistical data on the average disposable income in the Member State, statistical data on household consumption, the legal minimum wage if this exists or the level of prices;
- (d) safeguarding an incentive to seek employment for persons whose age and condition render them fit for work;
- (e) establishing arrangements for periodic review of these amounts, based on these indicators, in order that needs continue to be covered;
2. granting, to people whose resources taken at the level of the individual or the household are lower than the amounts thus fixed, adjusted or supplemented, differential financial aid to bring them up to these amounts;
3. taking the necessary measures to ensure that, with regard to the extent of the financial support thus granted, the implementation of the regulations in force in the areas of taxation, civil obligations and social security takes account of the desirable level of sufficient resources and social assistance to live in a manner compatible with human dignity;
4. taking every measure to enable those concerned to receive appropriate social support, comprising measures and services such as, in particular, advice and counselling, information and assistance in obtaining their rights;
5. adopting arrangements in respect of persons whose age and condition render them fit for work, which will ensure they receive effective help to enter or re-enter working life, including training where appropriate;
6. taking the necessary measures to ensure that the least privileged are informed of this right;
- simplifying as far as possible the administrative procedures and arrangements for examining means and situations involved in claiming this right;
- organizing, in so far as possible and in accordance with national provisions, the machinery for appeals to independent third parties, such as tribunals, to which the persons concerned should have easy access:
- D. to guarantee these resources and benefits within the framework of social protection arrangements;
- to determine detailed arrangements, finance costs and organize their administration and implementation in accordance with national legislation and/or practice;
- E. to implement the measures laid down in this recommendation progressively as from now in such a way that a report can be drawn up after five years,
- taking into account economic and budgetary resources as well as the priorities set by national authorities and balances within social protection systems, and
- where appropriate, varying their scope according to age group or family situation;
- F. to take appropriate measures:
- to collect information systematically on the actual arrangements for access to these measures for the people concerned, and
- to carry out a methodical evaluation of their implementation and impact;
- II. AND THEREFORE ASKS THE COMMISSION:
1. to encourage and organize, in liaison with the Member States, the systematic exchange of information and experiences and the continuous evaluation of the national provisions adopted;
2. to submit to the European Parliament, the Council and the Economic and Social Committee, on a regular basis, reports based on information supplied by the Member States describing the progress achieved and obstacles encountered in implementing this recommendation.
- Done at Luxembourg, 24. 6. 1992.

For the Council
The President

José da SILVA PENEDA

COUNCIL RECOMMENDATION

of 27 July 1992

on the convergence of social protection objectives and policies

(92/442/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas, under the terms of Article 118 of the Treaty, the Commission has as its task the promotion of close cooperation between Member States in the social field;

Whereas the Community Charter of the Fundamental Social Rights of Workers, adopted at the Strasbourg European Council on 9 December 1989 by the Heads of State or Government of 11 Member States, states in the 7th, 13th and 16th recitals and in points 10, 24 and 25:

'Whereas the completion of the internal market must offer improvements in the social field for workers of the European Community, especially in terms of (...) social protection (...);'

'Whereas (the) aim (of this Charter) is (...) to declare solemnly that the implementation of the Single European Act must take full account of the social dimension of the Community and that it is necessary in this context to ensure at appropriate levels the development of the social rights of workers of the European Community, especially employed workers and self-employed persons;'

'Whereas the solemn proclamation of fundamental social rights at European Community level may not, when implemented, provide grounds for any retrogression compared with the situation currently existing in each Member State;'

'According to the arrangements applying in each country:

10. Every worker of the European Community shall have a right to adequate social protection and shall, whatever his status and whatever the size of the undertaking in which he is employed, enjoy an adequate level of social security benefits.

Persons who have been unable either to enter or to re-enter the labour market and have no means of subsistence must be able to receive sufficient resources and social assistance in keeping with their particular situation.'

'According to the arrangements applying in each country:

24. Every worker of the European Community must, at the time of retirement, be able to enjoy resources affording him or her a decent standard of living.
25. Every person who has reached retirement age but who is not entitled to a pension or who does not have other means of subsistence must be entitled to sufficient resources and to medical and social assistance specifically suited to his needs.'

Whereas social protection is an essential instrument of solidarity among the inhabitants of each Member State, in the context of the general right of all to social protection;

Whereas the Commission in its action programme relating to the implementation of the Community Charter of the Fundamental Social Rights of Workers noted that differences in social security cover might act as a serious brake on the free movement of workers and exacerbate regional imbalances, particularly between the north and the south of the Community; whereas, based on this, it has been proposed that a strategy be promoted for the convergence of Member States' policies in this field, underpinned by objectives established in common, making it possible to overcome such disadvantages;

Whereas, having noted that comparable trends in most of the Member States may lead to common problems (in particular the ageing of the population, changing family situations, a persistently high level of unemployment and the spread of poverty and forms of poverty), the Council proposed, at its meeting on 29 September 1989, that this *de facto* convergence should be further promoted by establishing common objectives as a guide for national policies;

⁽¹⁾ OJ No C 194, 25. 7. 1991, p. 13.

⁽²⁾ OJ No C 67, 16. 3. 1992, p. 206.

⁽³⁾ OJ No C 40, 17. 2. 1992, p. 91.

Whereas the aim of this convergence strategy is to fix common objectives able to guide Member States' policies in order to permit the co-existence of different national systems and to enable them to progress in harmony with one another towards the fundamental objectives of the Community;

Whereas the specific common objectives must act as pointers to the way in which these systems are modified to take account of protection needs, particularly those resulting from changes in the labour market, family structures and demographic trends;

Whereas this convergence seeks also to guarantee the continuation and stimulate the development of social protection within the context of the completion of the internal market; whereas this will facilitate the mobility of workers and their families within the Community and whereas steps should be taken to ensure that this mobility is not impeded by too great a disparity in levels of social protection;

Whereas, because of the diversity of the schemes and their roots in national cultures, it is for Member States to determine how their social protection schemes should be framed and the arrangements for financing and organizing them;

Whereas this recommendation does not affect national and Community provisions on right of residence;

Whereas the social protection objectives laid down in this recommendation are without prejudice to each Member State's option to establish the principles and organization of its health system;

Whereas this action appears necessary in order to achieve, as part of the operation of the common market, one of the aims of the Community,

1. HEREBY RECOMMENDS THAT MEMBER STATES SHOULD:

A. allow their general policy in the area of social protection, without prejudice to the powers of the Member States to establish the principles and organizations of their own systems in the sectors concerned, to be guided by the following principles:

1. Taking account of the availability of funds, of priorities and balances within social protection systems and according to those systems' own organizational and funding procedures, social protection should attempt to fulfil the following tasks:

(a) in conformity with the principles enunciated in the Council Recommendation of 24 June 1992 on common criteria concerning sufficient resources and social

assistance in social protection systems ⁽¹⁾, to guarantee a level of resources in keeping with human dignity;

- (b) under conditions determined by each Member State, to give any person residing legally, within its territory, regardless of his or her resources, the chance to benefit from the system for the protection of human health existing in the Member State;
- (c) to help to further the social integration of all persons legally resident within the territory of the Member State and the integration into the labour market of those who are in a position to exercise a gainful activity;
- (d) to provide employed workers who cease work at the end of their working lives or are forced to interrupt their careers owing to sickness, accident, maternity, invalidity or unemployment, with a replacement income, fixed wither in the form of flat-rate benefits, or benefits calculated in relation to their earnings in their previous occupation, which will maintain their standard of living in a reasonable manner in accordance with their participation in appropriate social security schemes;
- (e) to examine the possibility of introducing and/or developing appropriate social protection for self-employed persons.

2. Social benefits should be granted in accordance with the following principles:

- (a) equal treatment in such a way as to avoid any discrimination based on nationality, race, sex, religion, customs or political opinion, provided that applicants fulfil the conditions regarding length of membership and/or residence required to be eligible for benefits;
- (b) fairness, so that beneficiaries of social benefits will receive their share from improvements in the standard of living of the population as a whole, while taking account of priorities set at national level.

3. Social protection systems must endeavour to adopt to the development of behaviour and of family structures where this gives rise to the emergence of new social protection needs, related in particular to changes on the labour market and demographic changes.

⁽¹⁾ See page 46 of this Official Journal.

4. Finally, social protection systems must be administered with maximum efficiency having regard to the rights, needs and situations of those concerned, and with maximum effectiveness in terms of organization and functioning;

B. adapt and, where necessary, develop their social protection systems, without prejudice to the powers of the Member States to establish the principles and organization of their own systems in the sectors concerned in order progressively to attain the following aims and to take the necessary measures to this end:

1. Sickness

Organize the role of social protection in preventing illness and in treating and rehabilitating the persons concerned so as to meet the following objectives:

- (a) under conditions determined by each Member State, to ensure for all persons legally resident within the territory of the Member State access to necessary health care as well as to facilities seeking to prevent illness;
- (b) to maintain and, where necessary, develop a high-quality health-care system geared to the evolving needs of the population, and especially those arising from dependence of the elderly, to the development of pathologies and therapies and the need to step up prevention;
- (c) to organize where necessary the rehabilitation of convalescents, particularly following serious illness or an accident, and their subsequent return to work;
- (d) to provide employed persons forced to interrupt their work owing to sickness with either flat-rate benefits or benefits calculated in relation to their earnings in their previous occupation, which will maintain their standard of living in a reasonable manner in accordance with their participation in appropriate social security schemes.

2. Maternity

- (a) to organize for all women legally resident within the territory of the Member State coverage of the costs of treatment necessary due to pregnancy, childbirth and their consequences, subject to participation by the women concerned in appropriate social

security schemes and/or subject to cover by social assistance;

- (b) to ensure that employed women who interrupt their work due to maternity enjoy appropriate social protection.

3. Unemployment

- (a) in accordance with the provisions of the recommendation of 24 June 1992 and subject to their active availability for work, to guarantee minimum means of subsistence for employed persons legally resident in the territory of the Member State;
- (b) to make available to the unemployed, particularly to young people arriving on the job market and to the long-term unemployed, a range of measures against exclusion designed to foster their integration into the labour market, subject to their active availability for work or for vocational training with a view to obtaining employment;
- (c) to provide employed workers who have lost their jobs with either flat-rate benefits, or benefits calculated in relation to their earnings in their previous occupation, which will maintain their standard of living in a reasonable manner in accordance with their participation in appropriate social security schemes subject to their active availability for work or for vocational training with a view to obtaining employment.

4. Incapacity for work

- (a) in accordance with the provisions of the recommendation of 24 June 1992, to guarantee minimum means of subsistence to disabled persons legally resident within the territory of the Member State;
- (b) to foster the social and economic integration of persons suffering from a chronic illness or from a disability;
- (c) to provide employed workers forced to reduce or interrupt work due to invalidity with either flat-rate benefits, or benefits calculated in relation to their earnings in their previous occupation, adjusted where appropriate according to the degree of their incapacity, which will maintain their standard of living in a reasonable manner in accordance with their participation in appropriate social security schemes.

5. The elderly

- (a) in accordance with the provisions of the recommendation of 24 June 1992, to guarantee minimum means of subsistence to elderly persons legally resident within the territory of the Member State;
- (b) to take appropriate social security measures, having regard to the specific needs of the elderly where they are dependent on care and services from outside;
- (c) to take steps to combat the social exclusion of the elderly;
- (d) having regard to specific national circumstances as regards unemployment and demographic conditions, to seek to remove obstacles to work for persons who have reached the minimum age at which entitlement to retirement pension begins;
- (e) to put in place mechanisms to enable former employed workers who have retired with no gap in their working lives to benefit from a reasonable replacement income throughout their retirement, taking into account, where appropriate, statutory and supplementary schemes, while maintaining a balance between the interests of the working population and those who have retired;
- (f) for purposes of calculating pension rights, to reduce, in particular by opening up the possibility of voluntary contributions, the penalty for those workers who have gaps in their careers as a result of periods of illness, invalidity or long-term unemployment, and for those who gave up work temporarily to bring up their children or, where appropriate, in accordance with national legislation, other dependants;
- (g) to adapt pension schemes to the trend of behaviour and family structures;

- (h) to promote, where necessary, changes to the conditions governing the acquisition of retirement and, especially, supplementary pension rights with a view to eliminating obstacles to the mobility of employed workers;
- (i) in due course, to adapt pension schemes to demographic changes, while maintaining the basic role of statutory pension schemes.

6. Family

- (a) to develop benefits paid to:
 - families with the greatest child-related costs, for example because of the number of children,
 - and/or
 - the most disadvantaged families;
- (b) to contribute to fostering the integration of persons who, having brought up children, wish to enter the labour market;
- (c) to help remove obstacles to occupational activity by parents through measures to reconcile family and professional responsibilities.

II. AND, TO THIS END, REQUESTS THE COMMISSION TO:

1. submit regular reports to the Council on progress achieved in relation to the objectives set out above and to determine and develop, in cooperation with the Member States, the use of appropriate criteria for that purpose;
2. organize regular consultation with the Member States on the development of social protection policy.

Done at Brussels, 27 July 1992.

For the Council
The President
N. LAMONT

COUNCIL RECOMMENDATION

of 27 July 1992

concerning the promotion of participation by employed persons in profits and enterprise results
(including equity participation)

(92/443/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas in its communication concerning the Action Programme relating to the implementation of the Community Charter of the Fundamental Social Rights of Workers the Commission announced its intention to submit a Community instrument on equity sharing and financial participation by employed persons;

Whereas a report on the promotion of participation by employed persons in profits and enterprise results in the Member States has been prepared; whereas this report has established that there is a great variety in the types of scheme encountered in the Community, including cash payments, share-based and deferred profit-sharing schemes and various types of particular share-ownership schemes for employed persons;

Whereas encouragement of financial participation in enterprises by employed persons, without discrimination on grounds of sex or nationality, may be seen as a means of achieving a wider distribution of the wealth generated by enterprises which the employed persons have helped to produce; whereas, furthermore, the promotion of enterprise schemes for the financial participation of employed persons in enterprises encourages in particular greater involvement of employed persons in the progress of their companies;

Whereas, while the body of empirical research into the effects of such schemes in practice does not yet provide overwhelming evidence of strong overall advantages, there are sufficient indications that such schemes produce a

number of positive effects, particularly on the motivation and productivity of employed persons and on the competitiveness of enterprises;

Whereas it is appropriate to promote a wider spread of financial participation schemes within the Community, without seeking active harmonization or a reduction in the existing wide range of available schemes;

Whereas account should be taken of the important role and the extensive responsibilities of management and labour in this area; whereas the interest and active involvement of management and labour in this Community initiative are a pre-condition for its ultimate success;

Whereas the present action appears necessary to attain, in the course of the operation of the common market, one of the objectives of the Community.

I. HEREBY INVITES THE MEMBER STATES:

1. to acknowledge the potential benefits of a wider use, individually or collectively, of a broad variety of schemes to increase the participation of employed persons in profits and enterprise results by means of profit-sharing, employee share-ownership or a combination of both;
2. to take account of the role and the responsibility of management and labour in this context, in accordance with national law and/or practice;

II. HEREBY RECOMMENDS THE MEMBER STATES TO:

1. ensure that legal structures are adequate to allow the introduction of the financial participation schemes referred to in this recommendation;
2. consider the possibility of according incentives such as fiscal or other financial advantages to encourage the introduction of certain schemes;
3. encourage the use of such schemes by facilitating the supply of adequate information to all relevant parties;
4. take account of experience gained in other Member States when deciding on which participation schemes to promote;

⁽¹⁾ OJ No C 245, 20. 9. 1991, p. 12 and OJ No C 140, 3. 6. 1992, p. 5.

⁽²⁾ OJ No C 125, 18. 5. 1992, p. 241.

⁽³⁾ OJ No C 18, 21. 4. 1992, p. 40.

5. ensure that in the context of the laws, regulations and practice possibly existing in the Member States the parties concerned have a wide range of options or arrangements available, the implementation of which would, when suitable, be the subject of consultations between employers and employed persons or their representatives;
6. ensure that this choice can be made at a level which, taking account of national collective bargaining legislation and/or practices, is as close as possible to the employed person and the enterprise;
7. contemplate and/or encourage consideration of the points set out in the Annex when new financial participation schemes are being prepared or when existing schemes are being reviewed;
8. examine, after a period of three years following the adoption of this recommendation, the data available at a national level on the development of financial

participation by employed persons and to communicate the results to the Commission;

9. enhance management and labour's awareness of the above matters;

III. NOTES THAT THE COMMISSION INTENDS:

to submit a report to the European Parliament, the Council and the Economic and Social Committee on the application of this recommendation within four years of its adoption, on the basis of the information supplied to it by the Member States.

Done at Brussels, 27 July 1992.

For the Council
The President
N. LAMONT

ANNEX

POINTS REFERRED TO IN SECTION II, POINT 7

1. *Regularity*: the application of participation schemes on a regular basis and the granting of 'bonuses' at least once a year.
2. *Pre-determined formula*: the definition, in a clear way and before the beginning of each reference period, of the formula for calculating the amounts allocated to employed persons.
3. *Maintaining wage negotiations*: the existence of financial participation schemes should not stand in the way of normal negotiations dealing with wages and conditions of employment or of setting wages and working conditions through such negotiations.

The question of the agreement on new provisions in the field of the financial participation of employed persons may be taken up in the normal negotiations dealing with wage-setting and working conditions, without replacing them.

4. *Voluntary participation*: the opportunity for both enterprises and employed persons to express a choice, within the framework of any laws, regulations or agreements which may exist in the Member States, on the adoption of a participation scheme or on the financial participation scheme or arrangements in which they wish to participate.
5. *Calculation of amounts* allocated to employed persons: the amount of bonuses should not generally be fixed in advance, but determined on the basis of a pre-determined formula reflecting the enterprise's performance during a certain period (expressed in terms of profits or any other indicator) the performance measure(s) chosen to measure the performances being clearly specified.
6. *Amounts*: the formula for calculating bonuses should be such that it will produce the expected incentive, although it should not exceed a specific ceiling (in relative or absolute terms) in order to avoid wide fluctuations in income.
7. *Risks*: employees should be made aware of the risks inherent in financial participation schemes; apart from the risks of income fluctuation inherent in participation schemes, employed persons may be exposed to additional risk if their participation takes the form of investments that are relatively undiversified; in this context, the possibility of providing for mechanisms to protect against the risk of depreciation in the value of assets merits consideration.
8. *Beneficiaries*: beneficiaries are primarily employed persons, i.e. wage-earners covered by employment contracts; as far as possible, access to participation schemes should be open to all persons employed by the enterprise.

More generally, workers in similar objective situations should have equal rights with regard to access to participation schemes.
9. *Enterprise type*: participation schemes may be instituted by both privately-owned firms and public enterprises, as long as suitable indicators of enterprise results or profits are, or can be, made available.
10. *Size of enterprises*:
 - (a) small and medium-sized enterprises should have adequate opportunities to be able to implement financial participation schemes; in particular, it is important to ensure that administrative constraints are few in number and that, if needed at all, minimum financial requirements are not too high;
 - (b) in larger enterprises, especially multinational companies, it may be useful to link all or part of employee benefits to the performance of a separate profit unit rather than to overall enterprise results;
 - (c) the size of enterprises may also affect the choice of the most appropriate scheme.
11. *Complexity*: complex participation schemes should be avoided.
12. *Information and training*: to ensure the success of any type of participation scheme, substantial efforts will be required to provide relevant information and, if need be, training for all employed persons concerned.