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# The EEC Framework Directive for Health and Safety at Work†

## INTRODUCTION

European Commission President Jacques Delors has acknowledged that inclusion of Western European labor unions in the 1992 changes is necessary to avert a working class backlash to the single market.<sup>1</sup> Mr. Delors endorsed health and safety directives as part of a package of measures designed to ensure labor rights.<sup>2</sup> In September 1988, the Council of the European Community (Council) agreed to make a priority of this package.

On June 12, 1989, the Council passed Directive 89/391, a framework directive introducing measures to encourage improvements in the health and safety of workers.<sup>3</sup> Vasso Papan-dreou, Commissioner in charge of Social Affairs, described the directive as a step toward the guarantee of worker well-being.<sup>4</sup> Further, she stated that the measure would ensure a harmonized health and safety system for all enterprises participating in the market. The articulated policy goals are the improvement of health and safety standards in the workplace and the removal of competitive distortions.

This Comment reviews occupational health and safety regulation in the European Economic Community (EEC or Community) and examines the significance of Directive 89/391. Part I reviews background and history. Part II explains the effect and enforcement of directives. Part III summarizes the framework directive and implementing directives that provide more specific coverage of workplace risk. Finally, Part IV of the Comment concludes

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† An abridged version of this Comment appeared at 47 INT'L PRAC. NOTEBOOK 8 (July 1990).

<sup>1</sup> Markham, *Labor Rights of Europeans are Debated*, N.Y. Times, Sept. 25, 1988, at 6, col. 1.

<sup>2</sup> *Id.*; Ierodiaconou, *EC Labor Ministers Back Single Market Jobs Proposals*, Fin. Times (Int'l), Sept. 21, 1988, at 2, section I.

<sup>3</sup> Directive 89/391, Council Directive of 12 June 1989 on the Introduction of Measures to Encourage Improvements in the Safety and Health of Workers at Work, 32 O.J. EUR. COMM. (No. L 183) 1 (1989) [hereinafter Directive 89/391].

<sup>4</sup> *EC Adopts Framework Directive on Workers' Health Protection*, Xinhua General Overseas News Service, June 12, 1989.

with a discussion of Community policy in the area of worker health and safety.

### I. BACKGROUND AND HISTORY: OCCUPATIONAL HEALTH AND SAFETY IN THE EUROPEAN COMMUNITY

The Treaty of Rome (EEC Treaty)<sup>5</sup> establishing the EEC is directed toward removal of competitive impediments to economic growth and implicates social issues in the context of this goal.<sup>6</sup> Three original EEC Treaty articles touch social issues: article 117 (harmonization of working conditions), article 118 (promotion of cooperation in the social field), and article 119 (equal pay for men and women employed in the Community).<sup>7</sup> The Commission acted under the authority of article 118 to promote industrial medicine and the development of a uniform list of occupational diseases by issuing recommendations.<sup>8</sup>

In 1972, the Heads of Government<sup>9</sup> announced a revision of policy whereby social goals were to be pursued with the same vigor as economic union.<sup>10</sup> This shift in course was prompted by worker strikes, student protest, political change, and concern regarding diverse social systems as the Community prepared to expand from six to nine member states.<sup>11</sup> In 1974, the Council passed a Social Action Programme resolution which called for improved working conditions.<sup>12</sup> Subsequently, the Council appointed an Advisory Committee on Safety, Hygiene and Health Protection at Work.<sup>13</sup>

<sup>5</sup> Treaty Establishing the European Economic Community, Mar. 25, 1957, 298 U.N.T.S. 11 [hereinafter EEC Treaty].

<sup>6</sup> Sandler, *Players and Process: The Evolution of Employment Law in the EEC*, 7 COMP. LAB. L. 1, 2 (1985).

<sup>7</sup> *Id.* at 2; EEC Treaty *supra* note 5.

<sup>8</sup> Labor, Working Conditions, Social Security, *Industrial Health Under the EEC*, 2 Common Mkt. Rep. (CCH) ¶ 3,910 at 3,194, 3,195 (1978).

<sup>9</sup> The Heads of State or Government of the Member States and the Commission President meet twice a year as the European Council to develop policy. THE COMMISSION OF THE EUROPEAN COMMUNITY, THE EUROPEAN COMMUNITY 9 (1987).

<sup>10</sup> Hepple, *The Crisis in EEC Labor Law*, 16 INDUS. L.J. 77, 79 (1987).

<sup>11</sup> Sandler, *supra* note 6, at 3-4; Hepple, *supra* note 10, at 79.

<sup>12</sup> Council Resolution of 21 Jan. 1974 Concerning a Social Action Programme, 17 O.J. EUR. COMM. (No. C 13) 1 (1974).

<sup>13</sup> Decision 74/325, Council Decision of 27 June 1974 on setting up an Advisory Committee on Safety, Hygiene and Health Protection at Work, 17 O.J. EUR. COMM. (No. L 185) 15 (1974).

In June 1978, the Council passed a resolution on an Action Programme on safety and health at work.<sup>14</sup> This resolution expressed "political will" for Community action in the following areas: research, protection against dangerous substances, monitoring and inspection, compilation of statistics, and prevention of harmful effects of machines. During the same month, the Council passed Directive 78/610 which was aimed at reducing risks associated with exposure to vinyl chloride.<sup>15</sup>

A 1980 framework directive (Directive 80/1107) gave plenary treatment to dangerous substances including chemical, physical, and biological agents.<sup>16</sup> This directive was followed by directives establishing occupational health standards for lead exposure,<sup>17</sup> asbestos,<sup>18</sup> noise,<sup>19</sup> and specified agents.<sup>20</sup> The Council passed a 1982 directive to reduce accident hazards<sup>21</sup> and in 1984, the Council extended the first Action Programme by resolution.<sup>22</sup>

In 1986, the Single European Act (SEA)<sup>23</sup> extended the Community's authority to legislate in the field of occupational health and safety. It added article 118A to the EEC Treaty authorizing

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<sup>14</sup> Council Resolution of 29 June 1978 on an Action Programme of the European Communities on Safety and Health at Work, 21 O.J. EUR. COMM. (No. C 165) 1 (1978).

<sup>15</sup> Directive 78/610, Council Directive of 29 June 1978 on the Approximation of Laws, Regulations, and Administrative Provisions of the Member States on the Protection of the Health of Workers Exposed to Vinyl Chloride Monomer, 21 O.J. EUR. COMM. (No. L 197) 12 (1978).

<sup>16</sup> Directive 80/1107, Council Directive of 27 November 1980 on the Protection of Workers from Risks Related to Exposure to Chemical, Physical and Biological Agents at Work, 23 O.J. EUR. COMM. (No. L 327) 8 (1980) [hereinafter Directive 80/1107].

<sup>17</sup> Directive 82/605, Council Directive of 28 July 1982 on the Protection of Workers from the Risks Related to Exposure to Metallic Lead and its Ionic Compounds at Work, 25 O.J. EUR. COMM. (No. L 247) 12 (1982).

<sup>18</sup> Directive 83/477, Council Directive of 19 September 1983 on the Protection of Workers from the Risks Related to Exposure to Asbestos at Work, 26 O.J. EUR. COMM. (No. L 263) 25 (1983).

<sup>19</sup> Directive 86/188, Council Directive of 12 May 1986 on the Protection of Workers from the Risks Related to Exposure to Noise at Work, 29 O.J. EUR. COMM. (No. L 137) 28 (1986).

<sup>20</sup> Directive 88/364, Council Directive of 9 June 1988 on the Protection of Workers by the Banning of Certain Specified Agents and/or Certain Work Activities, 31 O.J. EUR. COMM. (No. L 179) 44 (1988).

<sup>21</sup> Directive 82/501, Council Directive of 24 June 1982 on the Major-Accident Hazards of Certain Industrial Activities, 25 O.J. EUR. COMM. (No. L 230) 1 (1982).

<sup>22</sup> Council Resolution of 27 February 1984 on a Second Programme of Action of the European Communities on Safety and Health at Work, 27 O.J. EUR. COMM. (No. C 67) 2 (1984).

<sup>23</sup> Single European Act, Feb. 17, 1986, 29 O.J. EUR. COMM. (No. L 169) 1 (1987) [hereinafter SEA].

the adoption of minimum workplace requirements regarding health and safety by way of directives achieved through cooperation with the European Parliament. The health and safety framework directive (Directive 89/391) is the first so achieved under article 118A.<sup>24</sup> Notably, under article 118A, the Council is permitted to act by a qualified majority.<sup>25</sup> The unanimity requirement applies to (and has stymied) other types of labor legislation.<sup>26</sup> Article 118A directives must avoid imposing constraints on the development of small and medium-sized undertakings.<sup>27</sup> This qualification has been characterized as a concession to proponents of deregulation.<sup>28</sup>

## II. EFFECT AND ENFORCEMENT OF DIRECTIVES

The Community generally issues directives, as opposed to regulations, on the subject of labor.<sup>29</sup> Article 118A is to be implemented in this way. One cannot properly assess the significance of Directive 89/391 and its implementing directives without regard for this particular legislative form.

Directives are binding on member states as to result to be achieved, but choice of form and method is left to the national governments.<sup>30</sup> Depending on the subject and existing legal coverage by national systems, directives may be flexible and permissive or more detailed and specific.<sup>31</sup> A directive is not as clear and immediate as a regulation, which is directly applicable to all member states and binding in its entirety.<sup>32</sup>

The European Court of Justice (European Court) has developed rules to define the scope and effects of directives.<sup>33</sup> The European Court has held that a directive may have direct effect,

<sup>24</sup> New Developments, *Council Adopts Framework Health and Safety Directive*, 4 Common Mkt. Rep. (CCH) ¶ 95,184, at 51,270 (1989).

<sup>25</sup> EEC Treaty, *supra* note 5, at art. 118A. Article 148 provides qualified voting requirements with differential weight assigned to votes of the member states. *Id.* at art. 148.

<sup>26</sup> Hepple, *supra* note 10, at 82.

<sup>27</sup> EEC Treaty, *supra* note 5, at art. 118A.

<sup>28</sup> Hepple, *supra* note 10, at 84.

<sup>29</sup> Comment, *The European Community's Draft Fifth Directive: British Resistance and Community Procedures*, 10 COMP. LAB. L.J. 429, 434 (1989).

<sup>30</sup> EEC Treaty, *supra* note 5, at art. 189.

<sup>31</sup> Comment, *supra* note 29, at 435.

<sup>32</sup> EEC Treaty, *supra* note 5, at art. 189; Anderson, *Inadequate Implementation of EEC Directives: A Roadblock on the Way to 1992?*, 11 B.C. INT'L & COMP. L. REV. 91 (1988).

<sup>33</sup> Anderson, *supra* note 32, at 97.

creating rights in certain circumstances.<sup>34</sup> This effect is achieved only when a directive provision imposes a sufficiently precise and unconditional obligation.<sup>35</sup> Direct effect operates vertically so as to confer rights on the individual vis-a-vis national governments or other bodies exercising public authority.<sup>36</sup> It does not operate horizontally so as to confer rights against private parties.<sup>37</sup> After expiration of the directive's implementation period, these rights can be enforced in national courts<sup>38</sup> with redress in the European Court upon exhaustion of state law remedies.<sup>39</sup> A member state cannot rely on its own failure to implement a directive to deny rights under Community law.<sup>40</sup>

EEC Treaty article 169 provides that the Commission can bring suit against a member state in the European Court if the state has failed to fulfill an obligation under the EEC Treaty.<sup>41</sup> There is, however, no systematic procedure to assess implementation of directives.<sup>42</sup> The Commission learns of infringements through complaints of affected parties, and sometimes on its own initiative.<sup>43</sup> In 1986, sixty percent of all proceedings initiated against member states by the Commission concerned failure to properly implement directives.<sup>44</sup> The initiation of proceedings has steadily increased and infringement actions are now rather routine.<sup>45</sup>

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<sup>34</sup> *Id.* at 97-99; Gumbley, *EEC Directives and Public Bodies*, 130 NEW L.J. 1175 (1980).

<sup>35</sup> Anderson, *supra* note 32, at 98-99.

<sup>36</sup> *Id.* at 99.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 97, 99.

<sup>39</sup> Sandler, *supra* note 6, at 10.

<sup>40</sup> Gumbley, *supra* note 34, at 1175. The European Court has further strengthened the power of directives by requiring member state law to be interpreted with reference to them. Anderson, *supra* note 32, at 101. It has limited member state discretion by formulating principles of implementation. *Id.* at 106. For example, the European Court has required that member states give effect to directives by provisions of "a binding nature" or with the "character of law." *Id.* at 108.

<sup>41</sup> The Commission must first deliver a reasoned opinion and consider submissions made by the member state. EEC Treaty, *supra* note 5, at art. 169.

<sup>42</sup> Anderson, *supra* note 32, at 95.

<sup>43</sup> *Id.* Sometimes infringements are discovered in the course of private litigation referred to the European Court independent of the Commission. *Id.* Under article 170, a member state might also bring suit against a noncompliant member state but must first present the matter to the Commission. EEC Treaty, *supra* note 5, at art. 170. After the Commission issues an opinion, the complaint may proceed to the European Court. This procedure has been used infrequently. T. HARTLEY, *THE FOUNDATIONS OF EUROPEAN COMMUNITY LAW* 305, 306 (1988).

<sup>44</sup> Anderson, *supra* note 32, at 94-95.

<sup>45</sup> T. HARTLEY, *supra* note 43, at 313.

Most cases are settled; only a small portion proceed to the point of judgment.<sup>46</sup>

Should a case proceed to judgment, the European Court's decision is binding on the parties.<sup>47</sup> The European Court cannot, however, provide sanctions if its judgment is ignored.<sup>48</sup> Italy has ignored twenty European Court rulings,<sup>49</sup> including one that cites noncompliance with a previous ruling.<sup>50</sup> West Germany has ignored four rulings and Belgium has ignored six.<sup>51</sup> At this point, the matter becomes a political one.<sup>52</sup>

### III. FRAMEWORK DIRECTIVE ON INTRODUCTION OF MEASURES TO IMPROVE HEALTH AND SAFETY OF WORKERS

Directive 89/391 describes responsibilities and obligations of workers and employers.<sup>53</sup> The directive requires member states to bring their national law into compliance with its provisions by December 31, 1992.<sup>54</sup> Directive 89/391 is designed as a basis for more specific directives covering all the risks connected with the workplace.<sup>55</sup> Its coverage complements that of Directive 80/1107,<sup>56</sup> which has been amended to provide for binding limits on dangerous substances.<sup>57</sup>

The scope of Directive 89/391 is expansive, applying to all sectors including industry, agriculture, commerce, and services.<sup>58</sup> The directive describes employer obligations, which include providing workers with information and safety training, taking necessary measures for first aid and fire-fighting, and consulting with workers and their representatives regarding matters of health

<sup>46</sup> *Id.*

<sup>47</sup> *Id.* at 300.

<sup>48</sup> *Id.* at 314.

<sup>49</sup> *Europe's Rhetoric and Reality*, THE ECONOMIST, Sept. 23-29, 1989, at 64.

<sup>50</sup> Hepple, *supra* note 10, at 85.

<sup>51</sup> *Europe's Rhetoric and Reality*, *supra* note 49, at 64.

<sup>52</sup> T. HARTLEY, *supra* note 43, at 315.

<sup>53</sup> Directive 89/391, *supra* note 3.

<sup>54</sup> *Id.* at art. 18.

<sup>55</sup> *Id.* at art. 16.

<sup>56</sup> Commission of the European Communities Information Memo P-19, 24 Feb. 1988, at 2-3 [hereinafter Commission Memo].

<sup>57</sup> Directive 88/642, Council Directive of 16 December 1988 amending Directive 80/1107 on the Protection of Workers from the Risks related to Chemical, Physical and Biologic Agents at Work, 31 O.J. EUR. COMM. (No. L 356) 74 (1988).

<sup>58</sup> Directive 89/391, *supra* note 3, at art. 2.

and safety.<sup>59</sup> Workers receive similar admonitions to correctly use machinery and personal protective equipment.<sup>60</sup> Workers are required to inform their employers if a situation poses a danger or if there are shortcomings in the protection arrangements. Workers are also instructed to cooperate with their employer and co-workers in carrying out safety responsibilities. The directive provides that workers can appeal in accordance with national law practice if they consider employer action to be inadequate.<sup>61</sup>

The general terms and exhortative quality of Directive 89/391 suggest that it is flexible, allowing latitude in member state implementation. Its provisions are frequently conditioned with reference to the nature and size of the undertaking.<sup>62</sup> These clauses refer to article 118A which provides that its directives will avoid imposing constraints on the development of small- and medium-sized undertakings.<sup>63</sup>

The objective stated in Directive 89/391 is to encourage improvements in the safety and health of workers. Implementation is to be accomplished by way of the directive's general guidelines and in accordance with national laws and practices. The obligation imposed would seem too ill-defined to support direct effect.<sup>64</sup> The general terms of its provisions permit member state discretion in implementation. It is conceivable that in a case of abject defiance, the directive might be found to create individual rights. For example, if a member state failed to require fire safety standards or to provide an avenue of redress for worker complaints regarding unsafe conditions, such failure might give rise to an enforcement action.

Member states are required to report on their implementation of the directive and to supply the Commission with texts of national law already adopted in the field.<sup>65</sup> These procedures suggest that there will be some central oversight. European labor unions might also play a role in enforcing the framework directive. The Commission can address complaints if a member state fails to adequately implement the directive at the end of the designated period.

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<sup>59</sup> *Id.* at arts. 5–12.

<sup>60</sup> *Id.* at art. 13.

<sup>61</sup> *Id.* at art. 11.

<sup>62</sup> *Id.* at arts. 7–10.

<sup>63</sup> EEC Treaty, *supra* note 5, at art. 118A.

<sup>64</sup> See *supra* notes 33–40 and accompanying text.

<sup>65</sup> Directive 89/391, *supra* note 3, at art. 18.

Five implementing directives lay out more detailed requirements. The first individual directive describes requirements for the workplace.<sup>66</sup> It distinguishes between existing workplaces and new, modified or converted workplaces, with separate annexes detailing standards. The subjects covered are specific and include room dimensions, conditions of walls, ceilings and floors, ventilation, room temperature, fire detection, and emergency exits. Some of the annex requirements are cast in general terms. Room temperature should be "adequate for human beings" and sufficient ventilation is to be provided.<sup>67</sup>

The second directive sets out requirements for use of work equipment including machines, tools, apparatus and installations.<sup>68</sup> Employers are obliged to maintain equipment and to provide instructions and safety information to workers.<sup>69</sup> The annex contains general minimum requirements for work equipment.<sup>70</sup>

The third directive applies to personal protective equipment used at work.<sup>71</sup> The annexes lay out the risks to be covered and criteria for selection of equipment.<sup>72</sup> Collaboration between employer and worker is required regarding choice of equipment, assessment procedures, and measures to promote correct use.<sup>73</sup>

The fourth directive is aimed at reducing risk of back injury.<sup>74</sup> Factors relating to such risk and methods of reducing it are identified. The directive calls for worker information and, where possible, mechanical assistance.<sup>75</sup>

<sup>66</sup> Directive 89/654, Council Directive of 30 November 1989 Concerning the Minimum Safety and Health Requirements for the Workplace, 32 O.J. EUR. COMM. (No. L 393) 1 (1989).

<sup>67</sup> *Id.* at Annex I, arts. 6-7.

<sup>68</sup> Directive 89/655, Council Directive Concerning the Minimum Safety and Health Requirements for the Use of Work Equipment by Workers at Work, 32 O.J. EUR. COMM. (No. L 393) 13 (1989).

<sup>69</sup> *Id.* at art. 6.

<sup>70</sup> *Id.* at Annex, art. 2.

<sup>71</sup> Directive 89/656, Council Directive of 30 November 1989 on the Minimum Safety and Health Requirements for the Use by Workers of Personal Protection Equipment at the Workplace, 32 O.J. EUR. COMM. (No. L 393) 18 (1989).

<sup>72</sup> *Id.* at Annex I-III.

<sup>73</sup> *Id.* at art. 8.

<sup>74</sup> Directive 90/269, Council Directive of 29 May 1990 on the Minimum Health and Safety Requirements for the Manual Handling of Heavy Loads where there is a Risk Particularly of Back Injury to Workers, 33 O.J. EUR. COMM. (No. L 156) 9 (1990).

<sup>75</sup> *Id.* at art. 3, 7.

Finally, a directive outlining requirements for display screen equipment has been adopted.<sup>76</sup> The annex describes the required features for equipment and environment. The directive calls for specific measures such as ophthalmological examinations for workers.<sup>77</sup>

These five individual directives also include a reporting requirement so that measures toward implementation are communicated to the Commission.<sup>78</sup> Further, a 1988 Commission decision provides for an improved information system and for expert technical advice to facilitate implementation of health and safety directives.<sup>79</sup> The thorough detail of the implementing directives would seem to bind an employer to a fully articulated standard. The result required by these directives is defined in a relatively precise and specific manner, thereby facilitating enforcement.<sup>80</sup> The reporting requirements might enable the Commission to detect member state noncompliance.

#### IV. POLITICAL CONTEXT: DIRECTION OF POLICY

Western European labor unions have provided some of the political impetus for the Community's social policy.<sup>81</sup> Ernst Breit, as head of the German Workers Federation, warned that "social dumping" will result in 1992 as business relocates to southern Europe where labor costs are lower.<sup>82</sup> This warning is premised on the idea that member states will reduce the level of social protection in order to lower labor costs and compete for capital. Such competition could hasten a downward spiral of wages and benefits. In France, the General Confederation of Workers has been critical of the barrier-free market as favoring business at the expense of the working class.

Professor Hepple of the University of London observes that the liberalization of capital movement does permit relocation to

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<sup>76</sup> Directive 90/270, Council Directive on the Minimum Health and Safety Requirements for Work with Display Screen Equipment, 33 O.J. EUR. COMM. (No. L 156) 14 (1990).

<sup>77</sup> *Id.* at art. 9.

<sup>78</sup> *See, e.g.*, Directive 90/270, *supra* note 76, at art. 11.

<sup>79</sup> Commission Decision 88/383, Commission Decision Providing for the Improvement of Information on Safety, Hygiene and Health at Work, 31 O.J. EUR. COMM. (No. L 183) 34 (1988).

<sup>80</sup> *See supra* notes 30–40 and accompanying text.

<sup>81</sup> Buchan & Ierodiaconou, *Athens Takes the Community Tiller*, *Fin. Times*, July 1, 1988, § 1, at 3, col. 4 [hereinafter *Athens*].

<sup>82</sup> Markham, *supra* note 1.

areas of low social and wage costs but is discouraged by such factors as low productivity, lack of skills, energy, and resources, and weak infrastructure.<sup>83</sup> Removal of remaining barriers to free movement of capital, goods, and services, with increased labor flexibility, is considered to be the means of reducing real labor costs.<sup>84</sup> The Commission's position is that labor flexibility can be achieved without regression of social rights by improving the function of the internal market.

The Thatcher government favors market force labor policy<sup>85</sup> and deregulation of business.<sup>86</sup> The voluntarist system in force in the United Kingdom, Ireland and Denmark allows autonomous collective bargaining between labor and management without governmental interference.<sup>87</sup> A legalistic system permitting regulation is in force in the other member states.<sup>88</sup> The differences between the two traditions have added to the difficulties in formulating EEC labor policy. These factors, coupled with the unanimity requirement under other EEC Treaty articles, have worked to defeat labor measures such as draft directives on parental leave, part-time and temporary work, and a recommendation on reduction and reorganization of working time.<sup>89</sup> The United Kingdom worked to postpone a draft directive on company structure and administration with requirements for worker consultation.<sup>90</sup>

As a consequence of this trend toward deregulation, few labor directives have been passed since 1980 except in the area of equal opportunity for men and women, and in the area of health and safety.<sup>91</sup> It appears that the Community will continue to emphasize health and safety in the future. In February 1988, the Commission outlined five guiding principles in its social policy.<sup>92</sup> One

<sup>83</sup> Hepple, *supra* note 10, at 80. Professor Hepple is a Professor of English Law at the University of London, University College.

<sup>84</sup> *Id.* at 80-81.

<sup>85</sup> Comment, *supra* note 29, at 437.

<sup>86</sup> Hepple, *supra* note 10, at 81.

<sup>87</sup> Comment, *supra* note 29, at 443-45; Blanquet, *Harmonization of Labor Law in the EEC*, 16 GA. J. INT'L & COMP. L. 267 (1986) (personal remarks of the Directorate-General for Employment, Social Affairs, and Education of the European Communities).

<sup>88</sup> Blanquet, *supra* note 87, at 267.

<sup>89</sup> Hepple, *supra* note 10, at 82-3.

<sup>90</sup> *Id.* at 82; Comment, *supra* note 29, at 445, 451.

<sup>91</sup> Hepple, *supra* note 10, at 77.

<sup>92</sup> Commission Memo, *supra* note 56, at 1.

objective was to promote living and working standards. The directives on health and safety were presented as a key component of this initiative. Jacques Delors reiterated the Commission's commitment to progressive harmonization of health and safety standards in his 1989 Statement of the Commission's Programme.<sup>93</sup> Directives relating to additional protection of workers from asbestos, biological agents, and carcinogens are on the Community agenda.<sup>94</sup> The Commission also plans a comparative study of national rules and regulations of working conditions.<sup>95</sup>

In May 1989, the Commission adopted a preliminary draft for a Community Charter of Fundamental Social Rights.<sup>96</sup> These rights include the right to protection of health and safety in the workplace, with upward harmonization as the means of enforcement.<sup>97</sup> The Charter was adopted by eleven member states in December 1989 and the Commission has formulated various initiatives toward its implementation. Meanwhile, the political debate continues. Prime Minister Thatcher has characterized the charter as Marxist interventionism<sup>98</sup> and rejects the social dimension of the Community's program as "social engineering."<sup>99</sup> West German Chancellor Helmut Kohl supports social action that would prevent the undercutting of high German labor standards.<sup>100</sup> Greek ministers have also voiced support for worker protection.<sup>101</sup> Socialist leaders in France and Spain might be inclined toward a gesture for labor.<sup>102</sup> Public debate regarding EEC labor policy has even surfaced in the United States.<sup>103</sup>

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<sup>93</sup> *Programme for the Commission for 1989*, BULL. EUR. COMM. Supp. 2/89, at 28 (1989) [hereinafter *Programme*].

<sup>94</sup> *Programme*, *supra* note 93, at 31; COMMISSION OF THE EUROPEAN COMMUNITIES, TWENTY-SECOND REPORT ON THE ACTIVITIES OF THE EUROPEAN COMMUNITIES 1988, at 225 (1989).

<sup>95</sup> *Programme*, *supra* note 93, at 31.

<sup>96</sup> Commission of the European Communities Information Memo P-25 Rev, 17 May 1989.

<sup>97</sup> *Id.* at 4.

<sup>98</sup> Buchan, *Storm Cloud Gathers over the Social Charter*, Fin. Times, June 12, 1989, § 1 at 18, col. 3. [hereinafter *Storm Cloud*].

<sup>99</sup> Markham, *supra* note 1.

<sup>100</sup> *Storm Cloud*, *supra* note 98, at col. 3.

<sup>101</sup> *Athens*, *supra* note 81, at col. 4.

<sup>102</sup> *Storm Cloud*, *supra* note 98, at col. 3.

<sup>103</sup> See Swaboda, *U.S. Will Soon Face Global Labor Standards*, Wash. Post, May 28, 1989, at H3; Jackson, *Will West and the World Build on Decency or on Exploitation of Workers?*, L.A. Times, July 28, 1989, Part II at 7, col. 1.

### CONCLUSION

Directive 89/391, the framework directive for improvement of health and safety of workers, appears to be a preliminary step in upward harmonization. Its significance may lie more in its indication of policy—as evidence of renewed political concern for labor as economic integration approaches—than as an occupational health measure. The passage of the implementing directives indicates a more forceful endorsement of worker guarantees.

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