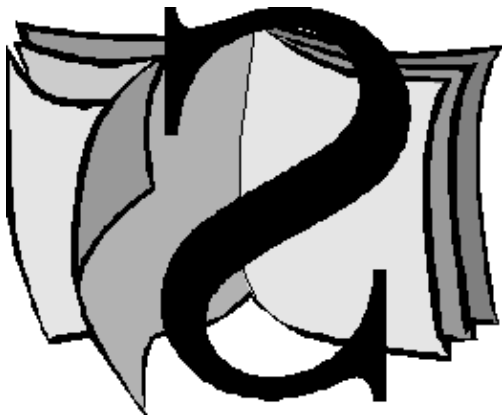


Subject: EUROPEAN INTEGRATION



ocial and

Ethical issues

in the European Union

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• INTRODUCTION

There is a variety of definitions relating to social, ethical and environmental accountability. In some cases ethical includes both social and environmental, in others it stands alone. In some instances environment is included as part of social. For the purposes of this work, social and ethical issues are defined broadly and they comprise apart from what is ordinarily defined as the social policy of the European Union also the environmental policy as well as issues like animal protection, advertising, consumer protection and criminal activities like corruption.

The early legislative acts as regards European Union social and environmental policy were based on article 100 and 235 of Treaty. Article 100 provides for an approximation of laws among the member states so that trade is not distorted, and article 235 empowers the Community to take measures to deal with any unforeseen circumstances which would otherwise impede the objectives of the community. The Single European Act (effective as from July 1987) established environmental protection as an explicit action of the Community and provides the necessary powers to implement it in article 130. The Single European Act was also a decisive turning point as far as that part of the EC's social policy relating to health and safety at work was concerned.

Currently, there are more than 500 binding legislative items (regulations, directives and decisions) in force in the environmental field. In the social policy field the majority binding legislation has dealt with aspects of the free movement of labour, equal treatment for men and women, health and safety standards at the work place, worker information and consultation and the terms and conditions of employment. However, in many areas in the social policy field non-binding acts like recommendations and resolutions are still prevailing.

The issues put here under the heading 'ethical' like consumer protection, arm trade, animal protection and corruption are scattered around and each separate issue tends to have a different legal base. Corruption, for example, falls within the third principle of the Union, which covers police and judicial co-operation in criminal matters. This principle is based on co-operation between member states, police forces, customs and judicial authorities and the possibilities for action by the Community institutions are limited.

• SOCIAL POLICY

The European Union social policy is a broad area comprising free movement of workers and social security for migrant workers, equal treatment for men and women, labour law, working conditions and health and safety at work, public health programmes, elderly people, poverty, social exclusion and the least-privileged groups, disabled people employment and vocational training, especially for long-term unemployed and young people and social protection.

In its early years social policy was considered more as an adjunct to economic policy and it remained, broadly speaking, an accompanying policy (European Parliament, 1996). The focus of the attention in the Council remained absolutely on economic concerns and on the rights of mobile workers. Later on, awareness on social issues was raised. Up to now the European Union has established minimum standards for health and safety at work and for equal treatment between men and women. In 1995 the European Social Fund spent more than "5.6 billion on trying to help people back into work, on training, counselling and other measures to boost employment (European Communities 1995–1999). Although progress has been made, the social policy of the European Union has been, nevertheless, marked by diverging national interests and values of the member states.

Treaty of Rome

The Treaty of Rome contained only a few scattered provisions on social and labour market policy. Articles 48, 49 and 51 covered the free movement of labour and the social security rules for migrant workers, whilst Articles 123–127 dealt with the European Social Fund. Although, the Treaty did contain a section on social and labour market policy, these provisions were more akin to political manifestos than legally binding rules (European Parliament, 1996). The only exception was clearly formulated article 119 requiring equal pay for

the same work which was the answer to French fear being uncompetitive because of relatively high pay of French women compared to men.

Collision between the Commission and the Council

Despite the greater directness of article 119 than those dealing with social security, the Commission devoted most efforts until 1996 to bringing about common living standards across the Community, doing little at first to make member states enforce common standards between men and women within each country.

The early enthusiasm of the Commission in the field of social security brought it into collision with the Council. Following the political Luxembourg compromise in January 1966 a social compromise was reached as well. The main component of it was that the initiative in social policy should pass from the Commission to the Council. Thus, the only practical achievements recorded between 1958 and 1974 were the implementation of freedom of movement for migrant workers and the associated social security arrangements and the establishment of the European Social Fund.

Growing awareness in 1970s

From the early 1970s awareness on social issues was growing. In December 1972 the meeting of the Council of Ministers again emphasised that social policy goals should be limited to those that were related directly to economic competitiveness. Nevertheless, the meeting acknowledged what had been disputed in 1966: that is, that unification into a single market must mean some loss of sovereignty in social affairs. A spate of social action programmes were initiated in the 1970s, followed in the 1980s by strong statements in support of a social space from the president of the Commission, Jacques Delors.

By referring to a social space, Delors appeared to be seeking to introduce an equivalence of standards, which would be agreed and accepted by both sides of industry through social dialogue, a concept central to his thinking. The social dialogue was intended to make trade unions and employers act as the initiators of social policy, on the understanding that, in return, the Commission would refrain from developing new initiatives itself.

Single European Act and safety and health at work

The Single European Act (effective as from July 1987), which was mainly adopted in order to facilitate implementation of the internal market, was a decisive turning point as far as that part of the Community's social policy relating to health and safety at work was concerned. Article 118a extended the use of qualified majority to health and safety at work and introduced the new co-operation procedure, which meant that the Parliament had more to say in the decision making related to these subjects. More than thirty Directives related to the health at safety at work have been accepted in this field since then.

Community Charter of the fundamental social rights of workers

In December 1989 the Heads of State 11 Member States – with the UK opting out – adopted the Community Charter of the fundamental social rights of workers or Social Charter for short. Based on the Council of Europe's Social Charter and the ILO's Conventions, it lays down a range of social rights that are to be guaranteed in the European labour market (European Parliament, 1996). Since the Social Charter has only moral, not legal force, the Commission draft an action programme of implementation measures which would have to be taken by member states under Directives. The methods to be used for implementing the action programme relied heavily on the consultation process with explicit reference to advisory committees and the social dialogue.

Social Protocol and Treaty of the European Union

Since the UK strongly opposed any increase of the Community power in the social policy field, the other 11 member states included an Agreement on Social Policy by annex to the treaty on the European Union. The Agreement spells out the objectives for social and labour market policy in accordance with the guidelines laid down in the 1989 Social Charter. The major achievement was that the decisions can be taken by qualified majority in the areas of improvements in the working environment to protect employees; working conditions; information and consultation of workers; equal opportunities for men and women on the labour market and equal treatment at work; occupational integration of people excluded from the labour market.

Social dimension of the Treaty of Amsterdam

The Labour Party victory in the British elections in 1997 marked a shift in that country's attitude toward social policy, culminating in the Labour government expressing its agreement with the objectives of the Agreement on Social Policy. As a result, the objectives of the Agreement on Social Policy were introduced into the body of the Treaty of Amsterdam and, following the ratification of that Treaty by all member states, any future social-policy legislation will be applicable to all member states, including the United Kingdom.

The Treaty of Amsterdam introduced strengthened provisions for social policy. A new legal base was created for equal opportunities and equal treatment of men and women at work, and mention is now made of the fight against social exclusion. An explicit reference to fundamental rights has added a new dimension to the objectives of social policy. Finally, a chapter on employment was incorporated into the new treaty. Each member state will retain control over its own employment policy, but from now on will fit into a co-ordinated European strategy. There will be a joint annual report on employment in the Union, qualified majority voting will be used by the Council to draw up guidelines which Member States should take into account (See European Communities 1995–1999b).

However, the Treaty of Amsterdam's provisions on social policy stipulate that European Union legislation in the areas of social security, employee rights in the event of layoffs and co-determination issues may be introduced only upon unanimous agreement in the Council. Therefore, while the requirement of unanimity in these areas does not prevent the emergence of common European legislation, the pace of development of such legislation is inevitably slowed. It should be noted that the issue of minimum wage remains an exclusive competence of the member states.

Social dimension in External relations

The issue of labour standards is included into the EU's new GSP arrangements, which provide for two types of measures. The first concerns the possibility of withdrawing some or all preferences granted to countries which countenance slavery or forced labour. The second type of measure consists of "special incentive schemes" the main aim of which is to help beneficiary countries improve the quality of their development by adopting more advanced social and environmental policies (The European Commission, 1996).

While the procedure leading to withdrawal is time-consuming, experience shows that it can, nevertheless, be brought to bear on countries significantly violating the most fundamental labour standards. On 24 March 1997, based on a complaint by two Trade Union Confederations, the Council temporarily withdrew access to the tariff preferences under both the industrial and agricultural GSP-schemes from the Union of Myanmar (Burma) because of its use of forced labour. This was based on an investigation opened in January 1996 by the Commission which heard experts and consulted the GSP Committee.

Nevertheless, according to the European Parliament External Economic Relations Committee Report especially the definition of a clear and courageous common position as regards labour standards and international trade by the Union, which could be defended within the WTO, the results have been rather disappointing. In the absence of common position, the EU submitted to the WTO's ministerial conference in Singapore (December 1996) a minimalist position reflecting major disagreements between the member states

hoping to achieve progress on that issue within the WTO and others preferred to confine it to the necessarily limited framework of the ILO (The European Parliament Committee on External Economic Relations, 1998).

In the context of enlargement the Commission has included economic and social rights in its discussion of the fulfilment of the so-called Copenhagen criteria (World Social Summit, held in March 1995) by the ten candidate countries. The opinions consider whether these countries have adhered to the European Social Charter or not. Other conventions considered include the European Convention on Human Rights, the European Torture Convention and the main UN instruments.

In its White Paper on the preparation of the associate states of central and eastern Europe for integration into the EU's internal market, the Commission devoted a chapter to social policy and action, outlining key measures which should have priority in the fields of equal opportunities, co-ordination of social security schemes, health and safety at work, labour law and employment conditions, and regulations on tobacco products (European Commission 1995 ; European Communities 1995-1999b).

Steps had already been taken under the PHARE programme and European agreements to help those countries overcome the acute social problems caused by the transition to a market economy. These included support for reforms of pension schemes and social security systems with a view to adopting a new approach to social protection based on experience acquired in western Europe, help in reorganising and financing health services, and support for employment policies to counter job losses caused by the privatisation and restructuring of public enterprises (see European Communities 1995-1999b).

• ***ACTION PLANING, Environmental programs***

Priorities for Development

The Union's priorities and policies to link social and economic development have four spheres of action:

- internal integration of marginal groups and less developed regions
- integration between the Union and its neighbours to the North, East and South
- integration of environment in policies related to other industrialized countries
- integration of environment in policies related to developing countries.

The downward spiral of poverty, population, poor health

Poverty is a cause and a consequence of the unsustainable use of resources. Whether local, national or regional, population growth can be a driving force of poverty and environmental degradation.

By 2000 our global population will reach 6 billion, 3.5 billion more than in 1950. Although population in the European Union is relatively stable, migration and economic change mean that more than 50 million residents are considered to live in poverty.

Social services and health are above all the responsibilities of national governments. The European Commission supports the Member States through special funds and through research and pilot projects focusing on issues such as health, training, generating investment, and improvement of infrastructure.

The new Protocol on Social Policy to the Maastricht Treaty committed the Community to action to promote social protection, living and working conditions, the development of human resources, lasting employment and to combating exclusion. The Maastricht Treaty also introduced a new chapter to the EC Treaty on

international development aid, which highlights the fight against poverty as one of the main goals of development co-operation.

The close relationship between population, development and the environment are beginning to be reflected in many countries' development policies, as well as in that of the European Community.

One way has been to reduce the debt burden. The Community supports the World Bank/IMF efforts to lighten the debt burden on the heavily indebted poorest developing countries. Eleven of thirteen of these countries are linked to the Community through the Lomé Convention. The Community's own aid is given almost exclusively as grants.

Community development aid is supporting education – particularly of women, health, reduction of infant mortality, women's empowerment and health services, and the introduction of nationally determined population strategies.

In 1994, the European Commission set an annual target of "300 million for development aid in population and reproductive health by 2000. In 1996, it exceeded this target, for example, by granting "200 million to India to improve quality reproductive health services according to Cairo Conference recommendations.

Community aid to the health sector has grown to "690 million under Lomé IV and projects are being reoriented away from infrastructure and equipment, towards the implementation of health policies.

The new emphases are on providing basic health care, building regional health and research training capacities in family planning, and responding to the threat of the HIV-AIDS virus. The Community is a major donor of development aid.

- **ETHICAL ISSUES**
- **CORRUPTION**

Joint Action of 22 December 1998 Adopted by the Council on Corruption in the Private Sector

This joint action stipulates that active and passive corruption must be made criminal offences at least where they involve the distortion of competition within the common market or where they result in economic damage to others by the improper award or execution of a contract. Each Member State must take the necessary measures to ensure that active and passive corruption are punishable by effective, proportionate and dissuasive criminal penalties.

- **ADVERTISING**

Resolution of the Council on the Image of Women and Men Portrayed in Advertising and the Media

This resolution calls on the member states to promote a realistic picture of the skills and potential of women and men in society. The member states are requested to take action aimed at disseminating this image by implementing regular information campaigns as well as supporting discussion, consultation and monitoring.

- **ARMS TRADE**

EU Code of Conduct on Arms Export

Signed in June, the European Code of Conduct represents an important first step towards the development of a common and responsible approach to arms exports by EU members. It aims to provide common EU rules for arms sales, and discourages member states from pursuing deals which have already been rejected by another

member on ethical grounds. But the critics says that the Code lacks clarity on when arms should or should not be sold, it does nothing to regulate arms brokers and there are virtually no provisions for achieving greater transparency.

• **ANIMAL PROTECTION**

Council Directive on the Approximation of Laws, Regulations and Administrative Provisions Regarding the Protection of Animals used for Experimental and Other Scientific Purposes

The aim of this Directive (24 November 1986) is to ensure that where animals are used for experimental or other scientific purposes the provisions laid down by law, regulation or administrative provisions in the Member States for their protection are approximated so as to avoid affecting the functioning of the common market, in particular by distortions of competition or barriers to trade. In accordance with the Directive the harmonisation should ensure that the number of animals used for experimental or other scientific purposes is reduced to a minimum, that such animals are adequately cared for, that no pain, suffering, distress or lasting harm are inflicted unnecessarily and ensure that, where unavoidable, these shall be kept to the minimum and unnecessary duplication of experiments should be avoided.

• **APENDIX**

4.1 CONSOLIDATE VERSION OF THE TREATY ESTABLISING THE EUROPEAN ESTABLISHING THE EUROPEAN COMMUNITY

Workers

Article 39 (ex Article 48)

1. Freedom of movement for workers shall be secured within the Community.
2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.

Social policy

Article 136 (ex Article 117)

The Community and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.

To this end the Community and the Member States shall implement measures which take account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Community economy.

They believe that such a development will ensue not only from the functioning of the common market, which will favour the harmonisation of social systems, but also from the procedures provided for in this Treaty and from the approximation of provisions laid down by law, regulation or administrative action.

Environment

Article 174 (ex Article 130r)

1. Community policy on the environment shall contribute to pursuit of the following objectives:

- preserving, protecting and improving the quality of the environment;
- protecting human health;
- prudent and rational utilisation of natural resources;
- promoting measures at international level to deal with regional or world wide environmental problems.

2. Community policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Community. It shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.

In this context, harmonisation measures answering environmental protection requirements shall include, where appropriate, a safeguard clause allowing Member States to take provisional measures, for non economic environmental reasons, subject to a Community inspection procedure.

3. In preparing its policy on the environment, the Community shall take account of:

- available scientific and technical data;
- environmental conditions in the various regions of the Community;
- the potential benefits and costs of action or lack of action;
- the economic and social development of the Community as a whole and the balanced development of its regions.

4. Within their respective spheres of competence, the Community and the Member States shall co-operate with third countries and with the competent international organisations. The arrangements for Community co-operation may be the subject of agreements between the Community and the third parties concerned, which shall be negotiated and concluded in accordance with Article 300.

The previous subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

