The Authors	3
List of Abbreviations	17
Prologue	19
Generalities	27
I. THE INSTITUTIONAL FRAMEWORK	27
 §1. The Treaties A. From a Community to a Union B. The European Community 1. Objectives 2. Subsidiarity 3. The acquis communautaire' C. Integration §2. The Institutions and their Competences A. The European Parliament B. The Council C. The Commission D. The Court of Justice §3. Other Organs A. The Economic and Social Committee (EC-Euratom) B. The Consultative Committee (ECSC) C. The European Social Fund D. European Centre for the Development of Vocational Training E. European Foundation for the Improvement of Living and Working Conditions F. The Standing Committee on Employment G. The European Agency for Safety and Health at Work H. Other Advisory Committees I. Sectorial Joint Committees and Informal Groups §4. The Legislative Process A. Community Law 	27 29 29 29 31 32 33 35 38 39 41 42 42 43 44 45 45 47 47
B. Secondary Law 1. EC and Euratom a. Regulations	47 47 48
b. Directives c. Decisions	48

	d. Recommendations and Opinions	5
	e. International Agreements	5
	2. The ECSC	5 5 5 5 5 5
	§5. The Decision-Making Process	5
	§6. Relations with other International Organisations	5
	A. Generalities	5
	B. The International Labour Organisation	5
	C. The European Economic Area	6
	D. Europe Agreements with Central and Eastern European	
	Countries	6
II.	THE SOCIAL PARTNERS	6
	§1. The Employers' Organisations	6
	§2. The Trade Unions	7
III.	COMPETENCES OF THE EC REGARDING LABOUR LAW	8:
	§1. The ECSC	
	§2. Euratom	8:
	§3. The EC	8.
	A. The 12	8.
		83
	B. The New Social Dimension after Maastricht (1991) for the 111. The Protocol on Social Policy	80
	2. Extension of Social Competence	86
	§4. Analysis of the New Social Dimension	92
	A. Legislation (Art. 2)	92
	1. Qualified Majority Voting	93
	a. Procedure	93
	b. Areas	94
	1) Health and Safety	94
	2) Working Conditions	94
	3) Information and Consultation	95
	4) Equal Treatment	96
	5) Integration of Excluded Persons	97
	2. Unanimous Voting	97
	a. Procedure	97
	b. Areas	97
	1) Social Security and Social Protection of Workers	97
	2) Job Security	97
	3) Representation and Collective Defence including	
	Co-determination	97
	4) Third Country Nationals 5) Financial Country of Coun	98
	5) Financial Contributions for Promotion of	1
	Employment 3. Excluded Areas	98
	a Pay	98
	b Dight of Assaciation	99
	o Dight to Ct. 1	99
		UU.

	B. The Role of the Commission	100
	C. Involvement of the Social Partners	100
	1. Consultation at Community Level (Art. 3)	101
	a. Procedure	101
	b. Social Partners	102
	2. Implementation of Directives	104
	3. Social Dialogue (Arts. 3–4)	106
	4. Community-wide Agreements (Art. 4)	107
	a. The Agreement of 31 October 1991	107
	b. The Maastricht Deal	109
	1) Implementation on Accordance with National Practice	110
	2) Impletation by a Council Decision	110
	c. The Communication of the Commission (1993)	110
	1) Concluding an Agreement	110
	2) The Implementation of the Agreements	112
	3) The Council	112
	D. Economic and Social Cohesion	113
	E. Vocational Training	113
	F. Equal Pay. Article 119 EC Treaty. The Barber Case	115
V. Eur	ROPEAN LABOUR LAW: TRAILER OR LOCOMOTIVE?	116
§1.	The ECSC	116
	The EC	116
	A. 1957–1974	116
	B. 1974–1989	118
	C. 1990 and Beyond: The Community Charter and the Social	
	Action Programme. The Maastricht Agreement on Social Policy	120
	1. The Community Charter of Basic Social Rights	120
	a. Foundation	120
	b. Objectives	120
	c. Scope	121
	d. Content	122
	1) The Twelve Commandments	122
	2) Implementation	124
	2. The Action Programme	124
	3. The Maastricht Agreement on Social Policy (1991),	
	the Green and the White Papers (1993)	125
	D. The White Paper on Growth, Competitiveness and	
	Employment (1993)	127
181	E. The White Paper on European Social Policy (1994)	129
§3.	Convergence or Divergence?	131
Dowt T	Individual I along I	105
art 1.	Individual Labour Law	137
CHAPTE	R I. THE FREE MOVEMENT OF WORKERS	138

§1. Free Movement

	A. Right to Leave	139
	B. Access and Residence	140
	1. Access	140
	2. Residence	141
	a. In the Case of Employment	141
	b. In the Case of Ceased Occupational Activity	143
	C. Equal Treatment	146
	1. National Law	147
	2. Collective and Individual Agreements	148
	3. Work	148
	4. Performance of Work	149
	5. Trade Union Freedom, Workers' Participation,	
	Management of Public Bodies	152
	6. Housing	153
	D. Workers' Families	153
	1. Right to Install	154
	2. Right to Work	155
	3. Training of Children	155
§2.	Scope of Application	156
	A. Workers	156
	B. Family Members	160
	C. Exceptions	162
	1. Employment in the Public Sector	162
	2. Public Policy, Security and Public Health	163
	a. Scope of Application	164
	b. Grounds of Public Policy or Security	164
	c. Public Health	166
	d. Procedural Safeguards	166
§3.	Promotion	168
	A. Employment Services	168
	B. Vocational Training	169
	C. Recognition of Qualifications and Diplomas	172
Снарте	R II. INTERNATIONAL PRIVATE LABOUR LAW	175
§1.	The Competent Judge	175
§2.	The Applicable Law	178
§3.	Posting of Workers	179
	A. Scope	180
	B. Material Content	181
Снарте	ER III. INDIVIDUAL EMPLOYMENT CONTRACTS	183
§1.	Part-Time – Fixed Duration – Temporary Work	183
_	A. The Proposals of 29 June 1990	183
	1. Part-Time Employment	184

139

	2. Employment Contracts for a Fixed Duration	184
	3. Temporary Work	185
	B. Directive: Health and Safety	186
	1. Scope	187
	2. Object: Equal Treatment	187
	3. Provision of Information to Workers	188
	4. Worker's Training	188
	5. Use of Worker's Services and Medical Surveillance of	
	Workers	188
	6. Protection and Prevention Services	188
	7. Temporary Employment: Responsibility	189
	8. Reporting	189
82	Conditions applicable to the Contract of Employment: Information	
82.	A. Scope	190
	B. Obligation to Provide Information	190
	1. In General	190
	2. Expatriate Employees	191
	3. Modifications	191
	4. Term and Form of Information	191
	C. Defence of Rights	192
	D. Implementation	192
83	Recruitment and Placement; Monopoly of the Public	1,2
85.	Employment Office?	192
APTE	ER IV. CHILD CARE AND THE PROTECTION OF YOUNG PEOPLE AT WORK	194
§1.	. Child Care	194
-	Protection of Young People at Work (the Directive of 22 June 1994)	195
Ü	A. Introductory Remarks	195
	B. Purpose and Scope	196
	1. Purpose	196
	2. Scope	197
	C. Definitions	197
	D. Prohibition of Work by Children	198
	E. Cultural or Similar Activities	198
	F. General Obligations on Employers	198
	G. Vulnerability of Young People – Prohibition of Work	199
	H. Working Time	200
	I. Night Work	201
	J. Rest Period	201
	K. Measures. Non-reducing Clause. Final Provisions	202
	RESOTOW -	
APTE	ER V. EQUAL TREATMENT FOR MEN AND WOMEN	203
§1.	Principle and Scope	203
	Definition	204
	A. Equality and Opportunity or of Outcome	205

D D:	
B. Direct and Indirect Discrimination	205
C. Exceptions	
1. Nature of the Activity	207
2. Protection of Women	207
3. Positive Discrimination	208
§3. Object	209
A. Equal Pay for Equal Work or Work of Equal Value	210
1. Equal Work or Work of Equal Value	210
2. Equal Pay	210
B. Access to Employment, Promotion, Vocational Training	212
C. Working Conditions	220
D. Social Security, Pensions	221
§4. Proof	222
§5. Implementation	223
§6. Announcement, Enforcement, Direct Effect	223
A. Announcement	224
B. Protection against Dismissal	224
C. Legal Proceedings	224
D. Sanctions	224
E. Direct Effect	224
E. Direct Effect	228
CHAPTED VI Drome	
CHAPTER VI. PROTECTION OF MOTHERHOOD	229
CHAPTER VIII WY	
CHAPTER VII. WORKING TIME, SUNDAY REST AND NIGHTWORK	231
§1. Working Time	231
A. In General	231
	231
B. The Directive of 23 November 1993	232
1. The Considerans: Legitimation, Goals and Objectives	233
2. Scope and Definitions	234
a. Scope	234
b. Definitions	235
3. Minimum Rest Periods, Other Aspects of the	_55
Organisation of Working Time	235
a. Daily Rest	235
b. Breaks	235
c. Weekly Rest	235
d. Maximum Weekly Working Time	236
e. Annual Leave	236
4. Night Work-Shift. Patterns of Work	236
a. Length of Night Work	236
b. Health Assessment and Transfer of Night Workers	230
to Day Work	236
c. Guarantees for Night-Time Working	
u. Notification of Regular Use of Night Workers	237
c. Salety and Health Protection	237
f. Pattern of Work	237
	237

5. Miscellaneous Provisions	237
a. More Specific Community Provisions	237
b. More Favourable Provisions	237
c. Reference Periods	238
d. Derogations	238
e. Final Provisions (Art. 18)	240
1) Date of Implementation	240
2) Maximum Weekly Working Time	240
3) Transitional Period: Annual Leave	241
4) General Level of Protection	241
5) Communication of Texts-Reports-Information	241
§2. Sunday Rest	242
§3. Night Work and Equal Treatment	243
CHAPTER VIII. SAFETY AND HEALTH	246
§1. First Measures	246
A. Euratom	246
B. EC: Transport	246
C. Other Actions	247
§2. 1987: The Single European Act and Article 118A	248
A. Health and Safety in the Working Environment	249
B. Application	250
1. The Framework Directive of 12 June 1989	251
a. Scope and Definitions	251
b. Employer's Obligations	252
c. Information, Consultation and Participation of Workers	253
d. Varia	253
2. The Individual Directives	253
CHAPTER IX. EMPLOYEE PARTICIPATION IN PROFITS AND ENTERPRISES RESULTS	256
CHAPTER X. RESTRUCTURING OF ENTERPRISES	259
§1. Collective Redundancies	259
A. Definitions and Scope	260
B. Information and Consultation of Workers' Representatives	263
C. The Role of the Government	264
§2. Transfer of Undertakings, Mergers and Divisions of Public	
Limited Liability Companies	265
A. Transfer of Undertakings	265
1. Definitions and Scope	265
2. Acquired Rights	272
a. Individual Rights	272
b. Collective Agreements	274
c. Social Security	274
d. Protection Against Dismissal	274
e. Workers' Representation	275

3. Information and Consultation	
B. Mergers and Divisions of Public Limited Links	27 27 27
of the Employer	3 27
A. Definitions and Scope	27
B. Guaranteed Pay	27
C. Guarantee Institutions	28 28
D. Social Security	28
	20,
Part II. Collective Labour Law	
	28
Chapter I. Collective Bargaining	-12
	28:
§1. For the 12	0.0
§2. After Maastricht: for the 11	285
A. Introductory Remarks	286
1. Broad and Narrow	286 286
2. A Multifaceted Role	286
3. Agreement with a Double Content	286
a. The Normative Part b. The Obligatory Part	287
4. Free Collective Bargaining, Division	287
4. Free Collective Bargaining: Pluralistic Democracy5. Subsidiarity	287
6. Abstention from an International Legal Framework	288
	288
B. Parties to the Agreement	288
1. The European Company Agreement	289
2. The European Industry Agreement	289
3. The European Multi-Industry Agreement	290 290
The European Militi-Regional Agrange	291
c. The competence to Conclude Collection A	291
The Mastifelli Deal: Specific Legal Droblems	291
1. Implementation on Accordance with National Practice a. Contracting Parties	291
b. Content of the Agreement	291
c. Form and Language	292
d. Scope	292
e. Binding Effect	292
f. Interpretation	293
g. Duration	294 294
2. Implementation by Council Decision	294
a. Which Agreements?b. Content	294
c. Scope	295
d. Binding Effect	295
e. Interpretation	295
f. Master or Slave	295
*	296

APTE	RII. WORKERS' PARTICIPATION	297
21	Information and Consultation	297
82	Participation in the Public Limited Liability Companies	299
82.	A. The Structure of the Company	300
	1. The Two-Tier System	300
	2. The One-Tier System	300
	B. Models of Participation	301
	1. The Two-Tier System	302
	2. The One-Tier System	304
82	The Societas Europaea (SE)	305
85.	A. More than 20 Years of Discussion	305
	B. Models of Participation	306
81	The Directive on European Works Councils or Procedures	308
84.	A. The Genesis of the Directive – A Spirit of Cooperation	308
	1. Genesis	308
	2. A Spirit of Cooperation	310
	B. Objective and Scope of the Directive	310
	1. Objective	310
	2. Scope	311
	a. Territorial	311
	1) The Eleven EU Member States (and the UK?)	311
	2) The European Economic Area (11+5)	311
	3) Companies with Headquarters outside the EEA	312
	b. Personal: Which Companies	312
	1) Numbers	312
	a. Community-scale Undertaking	312
	b. Group of Undertakings	313
	 Definition of 'Controlling Undertaking' 	313
	Community-scale Group of Undertaking	314
	2) Central Management	315
	3) Merchant Navy Crews	315
	C. Definitions and Notions	315
	1. Information and Consultation	315
	2. Representation of Employees	316
	D. Establishment of a EWC or a Procedure	316
	1. The Obligation to Negotiate in a Spirit of Cooperation	317
	2. Responsibility and Initiation of Negotiations	317
	a. Responsibility of Central Management	317
	b. Initiation of the Negotiation	318
	c. One or More EWCS-Procedures	318
	3. The Negotiation of the Agreement	318
	a. Parties to the Agreement and the Special Negotiating Body	
	1) Composition of the Negotiating Body	319
	2) Task of the Negotiating Parties	320
	b. Refusal or Cancellation of the Negotiations	321
	c. Experts and Costs	321
	d. Role of the Trade Unions and of the Employers' Associations	
	INDUCTATION WITH OF THE PROPERTY AND A ROBOTION OF THE PROPERTY OF THE	

4. Nature, Binding Effect, Form and Language of the Agreemen	ıt 322
a. Nature and Binding Effect of the Agreement	322
b. Form and Language of the Agreement	322
5. Content of the Agreement	323
a. Scope	323
b. The Setting up of a EWC	324
c. The Setting up of a Procedure	220
E. Prejudicial and Confidential Information – Ideological Guidance	327
1. Flotection of Employees' Representatives	327
G. Compliance with the Directive – Links – Final Provisions	328
1. Compliance with the Directive	328
2. Links	328
3. Final Provisions	329
H. Subsidiary Requirements: a Mandatory EWC	329
1. Composition of the EWC	330
2. Competence	330
a. General Information (Annual)	330
b. Ad hoc Information	331
3. Procedure	331
4. Role of Experts	332
5. Expenses	332
6. Future Developments I. Pre-existing Agreements-In Force	332
- Brooments III I OICC	332
1. Past Experience	333
a. Existing Councils	333
b. Format and Benefits	336
2. Timing, Form, Language and Format of the Agreement	336
a. Timing, Form and Language	336
b. Format: Detail or Permanent Negotiation?	337
3. Nature, Binding Affect and Applicable Law	337
4. Scope and Parties to the Agreement	337
5. Content of the Agreement	337
a. A EWC, a Procedure or Another Mechanism	337
b. Competence: Information and Consultationc. Functioning	338
d Role of Exports E	338
d. Role of Experts- Expenses	338
6. Prejudicial and Confidential Information 7. Status of the Employee Project	338
A Illration of the Acres and	339
Review of the Directive by the Control of the Directive by the Dir	339
J. Review of the Directive by the Commission	339
Epilogue: In Search of	2.4.1
	341
JOBS: PROMOTING EMPLOYMENT	341
We Need More (Good) Jobs	41
Balance	41
э	41

AN APPROPRIATE ANSWER	342
No (Easy Answers)	342
Subsidiarity	342
Strategies	343
TWO ANSWERS: A TWO STRACK SOCIAL EUROPE?	343
The 12	343
Unanimity	343
Qualified Majority	343
Social Dialogue	344
Marginal and Fundamental	345
Social Charter	345
The 11–16	345
Community Law	346
A New Social Dimension	346
Accessorium Sequitur Principale	347
An Enhanced Role for the Commission and the Social Partners	347
European Collective Bargaining	347
Informing and Consulting Employees: The EWC or a Procedure	348
The Strife goes on	348
Power Relations	349
Voluntarism	350
Cooperation	351
Balance	351
THE PATH IS CLEAR: TIME TO DREAM	351
	001
Annexes	353
	2.52
1. Community Charter of the Fundamental Social Rights of Workers	353
2. Protocol on Economic and Social Cohesion	360
3. UNICE, the ETUC and CEEP Joint Proposal of the Draft Treaty	260
for European Political Union (1991)	362
4. Protocol on Social Policy (1991)	364
5. Agreement on Social Policy concluded between the Member	
States of the European Community with the Exception of the	265
United Kingdom of Great Britain and Northern Ireland 6. Declarations	365
	369
7. Protocol concerning Article 19 of the Treaty Establishing the	270
European Community (1991)	370
8. Overall Approach to the Application by the Council of the	
Subsidiarity Principle and Article 3b of the Treaty on European	071
Union (1992)	371
Select Bibliography	379
Alphabetical List of Cited Cases of the European	
Court of Justice	383