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HSE CONTRACT RESEARCH REPORT No. 84/1996

**THE REGULATION OF HEALTH AND SAFETY IN  
FIVE EUROPEAN COUNTRIES:  
DENMARK, FRANCE, GERMANY, SPAIN, and ITALY  
WITH A SUPPLEMENT ON RECENT DEVELOPMENTS  
IN THE NETHERLANDS**

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*A study by  
A B Martin, A J Linehan and I Whitehouse*

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The report examines in detail the health and safety regimes, both the legislation and how it is implemented, in Denmark, France, Germany, Spain and Italy. It also describes some recent significant developments in the Netherlands. Because of the way labour inspection is organised in these countries there is reference to non-health and safety labour related subjects such as conditions of employment, wages, labour relations etc which do not fall within the remit of the Health and Safety Commission and Executive (HSC/E) in Great Britain. In addition the country chapters contain sections on environmental control and shipping which are outside the competence of HSC/E but are nevertheless closely related to it either because their problems arise from the same industrial source as those of direct concern to HSC/E or because they deal with the health and safety of a group of workers albeit by different means.

A literature search showed there were few published documents describing the health and safety systems of a cross-section of European countries. Germany and France were chosen because their systems are highly developed and significantly different from the British system, and also because they have influenced, to some extent, other countries. This is why Spain was chosen; it provides an example of how the French model has been adapted to Spain's own needs and conditions. For opposite reasons the Danish system was chosen - it is the one most like that of Great Britain. Italy, as one of the largest member states, warranted inclusion.

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## **INTRODUCTION**

- 1.1 In 1992 the British Government asked the Health and Safety Commission and Executive to examine the practicability of 'market testing' various areas of their non-policy making work with a view to eventual privatisation. The present study was commissioned in June 1992 as part of that exercise. Its immediate purpose was to establish whether other European Community Governments were thinking along the same lines, whether they had privatised any of their governmental functions in the field of health and safety regulation or had expressed any intention of doing so, and more generally to investigate the part played by non-governmental and private agencies in the systems /or safeguarding the workforce and public against industrial risk. Though almost no evidence was found of actual or intended privatisation it must be remembered that the industrial insurance bodies in France and Germany have, of long standing, had a major role in 'prevention' and deploy a substantial force of inspectors to that end. This study was submitted in mid-1993. The present volume is an expanded version of that work.
- 1.2 The scope of this study was originally confined to 4 Community countries, 3 large and one small. Germany and France are indispensable to a study of this sort both because their systems are highly developed and significantly different from the British, and because of the extent to which their regulatory regimes have influenced those of other countries. Spain is of first interest not only because of its size and intrinsic importance within the Community but because it provides an example of the way a particular regulatory model - in this case, the French model - has been adapted to the needs and conditions of another State. The fact that probably less was known about the Spanish system, at least in British circles, than about the original members of the Community provided an additional incentive. Denmark was chosen for the opposite reason: the fact that the Danish system was relatively well understood and highly respected in Britain and that most Danish officials speak English provided the authors with an opportunity to come to terms with the difficulties arising from the scope and complexity of the study without the additional hazards of translation and unfamiliarity. Italy was not included in the first selection of countries for purely practical reasons, time and cost. Happily it became possible to commission such a study (from Mr A J Linehan) in 1994 and this was prepared in time to include it in this volume. Finally, some radical developments in health and safety regulation in the Netherlands prompted the HSE in late 1993 to ask one of the original authors (Mr A B Martin) to report on these changes and assess their significance. His account is to be found at chapter 6.
- 2.1 The scope of a study of this sort in terms of the aspects of health and safety to be included is by no means self-evident. The difficulty is that 'health and safety' is an imprecise term. Its use in any particular country tends to be determined by the way regulation is organised in that country. A narrow - and chauvinistic - interpretation would have confined the study to the functions performed in Great Britain by the HSC and HSE. But in practice that would have led to difficulties of its own: the way 'labour inspection' for example, (another slippery term) is organised in European countries makes it necessary to cover the preparation and enforcement of legislation on other, non-health and safety, labour related subjects which do not fall within the competence of the HSC and HSE in Great Britain. Similarly subjects which to British eyes lie along the edge of 'health and safety', described usually by some such

term as 'the humanisation of work', are dealt with formally in Europe by the same organisation as regulate health and safety. To exclude these from the study would not only have given a profoundly misleading account of the regimes in the countries concerned but would also have failed to meet what is perhaps the main aim of the study, to illuminate the differences between national regulatory systems.

- 2.2 Two further subjects outside the control in GB of the HSC and HSE were also included, namely Environmental Control and Shipping. In the one case the health and safety problems arise from the same industrial source as worker safety - which does, of course, concern HSC and HSE; in the other, the fact that the health and safety of a particular group of workers is dealt with in GB by other governmental machinery is not a good reason for its omission from an account of health and safety regimes in other countries. Both subjects are arguably part of what has been described in this country as the 'health and safety system', that is the system considered in the large which seeks to protect workers and the public from the risks attendant on an industrial society.

### **Methods and Sources**

- 3.1 The study was conducted in four stages:

- (1) an in-house literature search; this provided material for an outline report, which was used mainly to identify the gaps in our knowledge;
- (2) a series of interviews with government and other officials in the four countries;
- (3) the relevant sections of the report, except for the chapters on Italy, were returned for comments;
- (4) the final draft.

- 3.2 The original literature search produced surprisingly little. Apart from published international reports (which were too summarised to be of much direct use) and academic studies mostly describing legal systems the most useful sources turned out to be two HSE studies<sup>1</sup> and a number of reports (in English) from the Danish Working Environment Service. A by-product of the present study has been greatly to increase HSE's stock of current literature describing these systems. Most Danish documents are in English; of the rest, the majority are in the language of origin though a few, usually to do with nuclear safety, are in English. Of the documents in German and Spanish only a few have been translated. The main documents are listed in annotated bibliographies to be found in the Annexes to the introductory and the national chapters of this report.

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<sup>1</sup> Workplace Health and Safety in Europe (The "Mapping Study" 1991) which was published by the Health and Safety Executive, London and Handbook of Labour Inspection (Health and Safety) in the European Community, D E Chubley (1990).

- 3.3 Interviews were arranged by the Embassies though it was not always possible to identify all the right people before the visits. The authors were obliged to revisit France and Germany to plug the gaps. Inevitably even then they were not able to interview everyone connected with the programme. The main omissions were the Spanish Ministry of the Environment and the CRAMs (Regional Accident Insurance Funds) in France. Railways were insufficiently covered. Nevertheless most of the principal players in health and safety were seen. For the record the authors held 13 interviews in France, 14 in Germany, 9 in Denmark, 13 in Spain and 15 in Italy. Interviews lasted anything from 1 to 4 hours. The names and appointments of those seen are listed in an Annex to each country chapter.
- 3.4 Interviews in Denmark were invariably in English. In the other countries we employed interpreters. Anyone with experience of interpretation will know that while it may be necessary it is not always sufficient. The problem is that the interpreters do not always know much about the subjects under discussion and consequently have little command of the terms of art used. A double process of translation is therefore necessary, the second being from 'translator speak' into 'health-and-safety-speak'. This introduces another layer of doubt into what has been said. The lesson is that an interviewer must be capable of translating what comes from the interpreter into terms which are understandable in the language in which they are ultimately to be expressed.
- 3.5 The overall impression of the oral evidence received is that it was generally reliable. Those interviewed were almost invariably helpful and frank. Some of the figures produced were suspiciously rounded and pat; some have since been revised by their source. The written sources were generally accurate as far as they went though there were unexpected omissions. Some were also, of course, out of date. It is to be hoped that most of these deficiencies have been made good either in the interviews or in subsequent contacts. Overall, and judging from the reactions of correspondents, the authors think a reasonably high level of confidence can be placed in the accuracy of the report, though there are bound to be some remaining factual and conceptual errors.
- 3.6 However this accuracy will not last long. Developments in Germany and Spain will have overtaken parts of their chapters by the time this is published. If the report is to have continuing usefulness - in creating a better mutual understanding of an important area of competence within the European Union - it will have to be properly and consciously maintained.

## **ACKNOWLEDGEMENTS**

- 4 This work would not have been possible without the whole-hearted participation of the officials interviewed. They must be regarded as the real authors of the accounts which follow of national health and safety systems though responsibility for the errors which remain must rest nearer home. We are profoundly grateful for their co-operation.

We would like, too, to acknowledge the valuable contribution to the France Chapter by Mr Les Philpott and the valuable contribution made by Ms Julia Soave to the chapter on Italy, both of International and Environment Branch, HSE; to the staff of the British Embassies in Copenhagen, Paris, Bonn, Madrid and Rome without whose preparatory work the visits would not have been possible - their help and personal kindness were much appreciated. Finally our thanks are due to the translation services of HSE who have responded in every way helpfully to the often unreasonable demands made on them.

**A B MARTIN**  
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**I WHITEHOUSE**

## **INTRODUCTION - ANNEX**

### **GENERAL BIBLIOGRAPHY**

**Workplace Health and Safety in Europe ('The Mapping Project'), HSE (1991).**

[Describes the regulatory arrangements in France, the former West Germany, Italy and Spain and makes comparisons between some health and safety statistics of these countries and Great Britain.]

**The Law and Practice Concerning Occupational Health in the Member States of the European Community, Environmental Resources Limited (ERL) (1985).**

[Slightly dated now, but a thorough guide to the health and safety legislation and its implementation and enforcement. It covers all EC countries except Spain and Portugal (nor the former German Democratic Republic).]

**Handbook of Labour Inspection (Health and Safety) in the European Community; D E Cluble, HSE (1990).**

[Covers all Member States, although does not include the same information on each one. Gives a full description of health and safety inspection in its legal and institutional context and some (now slightly obsolete) figures on staffing, accidents, prosecutions, etc. A useful source.]

**Labour Inspection in the European Community Health and Safety Legal Systems and Sanctions; Commission of the European Communities, Directorate-General Employment Industrial Relations and Social Affairs, M.Augras (April 1992).**

[This report summarises the administrative and legal frameworks in the Member States but concentrates on the legal procedures available to the inspectors.]

**Reporting Occupational Diseases in the European Community; (Draft text) Laursen, Netterstrom et al. (1992).**

[A survey on the systems for reporting occupational diseases.]

**A Survey of Occupational Health and Safety Services in the Member States of the European Communities and the European Free Trade Association; First Interim Report; the Existing Legal Frameworks in the Different Member States; Vogel, L., Brussels (1991).**

[A chapter for each country gives a summary of the legal framework, the preventative services and the systems of worker participation.]

**Licensing Systems and Inspection of Nuclear Installations; Nuclear Energy Agency and OECD (1991).**

[A useful report identifying the competent authorities, and summarising the licensing procedures and methods of inspection of nuclear installations worldwide.]

**The Structure and Functions of Environmental Enforcement Organisations in EC Member States; ERL (1991).**

[Contains a comparative section and country summaries of the relevant environmental legislation and standards, the 'permitting' process, and the arrangements for inspection and enforcement across the Community.]

**Review of Inspection Procedures Applied by Member States on Radiological Environmental Monitoring; a study for DG XI/A/1 of the CEC (1989).**

[A detailed report.]

**Comparative Analysis of the Reports of Tripartite Missions Assessing the Effectiveness of Labour Inspection Systems in Seven Countries of Western Europe: Belgium, Denmark, France, Federal Republic of Germany, Italy, Norway, UK; ILO Tripartite Symposium of Specialists in Labour Inspection, (1985).**

[This is a comparative report although individual reports on each country visited are also published. It is looking rather dated now but nevertheless has some useful information and provides constructive criticisms of the systems it examines.]

**Harmonisation and Hazard. Regulating Workplace Health and Safety in the European Community; Baldwin and Daintith, eds, Institute of Advanced Legal Studies, Graham and Trotman (1992).**

[A clear description, set in the context of European legislation, of the legal structure of basic health and safety obligations and their interpretation in France, Germany, Italy, the Netherlands, Spain and the United Kingdom.]

**Information on Research and Development Activities in Occupational Health, Hygiene and Safety in a Number of Countries; CARGO (Dutch advisory committee on occupational health research).**

[A brief guide to recent research activity in some European (east and west), Scandinavian and North American countries and Australia, with the aim of formulating a research policy for the Netherlands.]

**Employers Responsibilities for Health and Safety at Work in Selected European Countries; A report for the HSE, Institute of Advanced Legal Studies (July 1990).**

[Surveys and compares the relevant laws and practices in this area in the Netherlands, Spain, Italy, Germany and France.]