Young people devise laws for Europe

PRESS KIT

MARCH 1, 2004

PARIS

Liberté • Égalité • Fraternité
RÉPUBLIQUE FRANÇAISE

MINISTÈRE DE LA JUSTICE

RadioFrance

Valeurs ACTUELLES

france 5

Europe, les jeunes imaginent ton droit

PARIS – March 1, 2004

TABLE OF CONTENTS

Liberté • Égalité • Fraternité
RÉPUBLIQUE FRANÇAISE

MINISTÈRE DE LA JUSTICE

Europe, les jeunes imaginent ton droit

Paris, March 1, 2004

PRESS RELEASE

DOMINIQUE PERBEN PRESENTS, WITH FIVE JUSTICE MINISTERS FROM GERMANY, GREAT-BRITAIN, HUNGARY, SPAIN, AND TURKEY, 8 PROPOSALS BY YOUNG EUROPEAN JURISTS TOMORROW'S EUROPE OF JUSTICE.

March 1, 2004, at MAISON DE LA RADIO, PARIS

In June 2003, Dominique PERBEN launched the "Young people devise laws for Europe" project. At this meeting, rich with innovative ideas,, Dominique PERBEN selected the 8 most inspiring proposals that he will later present to the European commissioner, Antonio VITORINO, in view of building a more efficient European justice catering to citizens expectations.

The 8 proposals selected bear on:

- **A European driving licence: generalising the demerit-points driving licence**
- **Compulsory driving data recorders on all vehicles**
- **A proposed assessment of relocations**
- **Labour inspection at Community level**
- **A European regulatory authority for the Internet**
- **Drawing-up a code of good conduct: Reinforcing Netiquette**
- **Instituting a European ombudsman for the environment**
- **Setting-up a European Court for the Environment.**

Over the past six months, Dominique PERBEN has visited all participating countries to meet those persons who will be spearheading Justice in Europe tomorrow, giving them an opportunity to exchange their visions of Europe of justice based on an examination of four themes:

- Environmental Issues
- Employees' Rights and Company Mobility
- Road Safety
- New Technologies and Ethics.

Future French magistrates drew up the first proposals and, during their visits with Dominique PERBEN, submitted the fruits of their work to their colleagues. **Thus, young European jurists were able to play their part in enriching the French project**.

The eight proposals will be reviewed in Paris in the presence of the relevant Justice Ministers, namely:

- **Brigitte ZYPRIES (Germany)**
- **Lord FALCONER (Great-Britain)**
- **Peter BARANDY (Hungary)**
- **José-Maria MICHAVILA (Spain)**
- **Cemil CICEK (Turkey)**

Antonio VITORINO, European Commissioner, **Ronald NOBLE**, Secretary-General of Interpol in France, **Rémi HEITZ**, Inter-ministerial Delegate for Road safety, and **Michel de GUILLENSCHMIDT**, attorney at the Paris Bar, will give their expert comments on the young jurists' proposals.

These proposals seek to narrow gaps between European legislations either by generalising existing measures at national level or by instituting innovative measures.

Contacts for the press**:**

Cabinet of the French Minister of Justice
Patricia CHAPELOTTE, Technical advisor for communication and the press
Arnaud LEBLIN, **Céline du MARTERAY**, Press officer
Phone: +33 (0)1 44 77 22 02

Contacts for the foreign press:
Laurence DELL'AITANTE or Perrine DUGLET, Press officers
Phone: +33 (0)1 44 77 69 49 or 72 57

Agenda for the Morning Session at Maison de la Radio:

9 h 00	**Opening speech by French Justice Minister and Keeper of the Seals, Dominique PERBEN**
9 h 15	**Presentation of the four themes** For each theme: - Viewing of an introductory film - Summary of proposals by two young jurists - Address by Dominique PERBEN - Address by a foreign Minister - Address by the expert speaker 9 h 20 – Road safety 9 h 55 – New technologies and Ethics 10 h 30 – Break 10 h 45 – Employees' Rights and Company Mobility 11 h 20 – Environmental Issues
11 h 55	**Closing address by Dominique PERBEN** **Summary of proposals put forward by young European jurists**
12 h 30	**Discussion with the press**
13 h 00	**Luncheon**

This morning session is entirely open to the press. Journalists are requested to use entrance B at the Maison de la Radio, rue de Boulainvilliers, Paris 75016.
All journalists are required to present their press card and identity papers

I. PROJECT OVERVIEW

It was in this light that Dominique Perben, Keeper of the Seals, French Justice Minister, launched in July 2003 the "Young people devise laws for Europe" project in close collaboration with the other participating countries.
The Minister wished young European jurists, who will be called upon to play a key role in our societies at the end of their training, to "devise" proposals geared towards a more efficient justice that better meets citizens' expectations.

The European Judiciary of Tomorrow

The European judiciary arena of tomorrow, which must first and foremost be a space of freedom, security and justice, will extend beyond the borders of the current fifteen Member States with the arrival of new members.

This reality is visible in magistrates' daily endeavours both in criminal and civil matters. It is also of relevance to European citizens since litigations now almost always reach beyond national frontiers.

As a result, in recent years, several milestones have marked the construction of the European judiciary space: from the Maastricht Treaty in 1993 to the Treaty of Amsterdam in 1997 and, more recently, with the inauguration of Eurojust on February 28, 2002. Judicial cooperation between Member States has hence become a reality.

The Four Themes

Young legal practitioners (magistrates, attorneys, legal experts, …) from six countries (France, Germany, Hungary, Spain, Turkey, and the United Kingdom) have examined four themes of relevance to all citizens and bordering on legal, economic and social issues:

- Environmental Issues
- Employees' Rights and Company Mobility
- Road safety
- New technologies and Ethics.

Milestones

Since June 2003, trainee judges at the French National Magistrates' School (*École Nationale de la Magistrature*) have developed proposals on the various themes and forwarded these proposals to their English, German, Hungarian, Turkish, and Spanish colleagues. Their European counterparts thus successively enriched the French project.
The future French magistrates accompanied the French Justice Minister on a visit to the other five countries where they were welcomed by their counterpart:

- On July 7, 2003, in **Barcelona**, in the presence of José-Maria MICHAVILA, Spanish Justice Minister, and Francisco-José Hernando SANTIAGIO, Chairman of the General Council of the Judicial Power;
- On October 30, 2003, in **London**, in the presence of Lord FALCONER, Lord Chancellor and Secretary of State for Constitutional Affaires;
- On December 9, 2003, in **Ankara**, in the presence of Cemil CICEK, Turkish Minister of Justice;
- On December 18, 2003, in **Berlin**, in the presence of Brigitte ZYPRIES, German Justice Minister;
- On January 19, 2004, in **Budapest**, in the presence of Peter BARANDY, Hungarian Justice Minister.

Dominique PERBEN now hosts a meeting in Paris, bringing together Justice Ministers from all six countries, eminent representatives of European institutions, young legal experts and the representative of their training institutions, in view of the final report on the work conducted by the young European jurists. The summary of their proposals may be presented to European authorities.

Key Figures concerning the Project

- ***Six countries*** *took part in the Project: France, Germany, Hungary, Turkey, Spain, and the United-Kingdom*
- ***120 young*** *European jurists put their shoulders to the task and proposed common legal principles*
- *These legal experts worked intensively* ***for seven months****, in small groups specializing on each theme*
- *They travelled to the* ***other five participating countries*** *to meet their counterparts*
- ***24 reports*** *were drawn up on the* ***four themes*** *proposed: these reports contain* ***20 to 70 pages*** *depending on the theme;*
- ***8 proposals*** *of a concrete nature may be presented to European authorities.*

II. THE THEMES AND LEGISLATION IN THE VARIOUS COUNTRIES

1. Environmental Issues

Ecological catastrophes such as Chernobyl, the Erika or the Prestige shipwrecks highlighted the need to undertake actions to protect our planet.

Some countries made significant efforts. In **France**, for instance, environmental issues have taken on a crucial dimension in the country's criminal code. The government has made arrangements to include an Environment Charter that was recently drafted. The Minister of Justice, Dominique Perben, also presented a bill aimed at reinforcing punishment applicable to the pollution of sea waters due to oil dumping.
At European level, environmental respect is an essential condition to enter the European Union.

However, environmental protection measures remain insufficient and the means of prevention and sanctions must be adapted to the specific aspects of these transnational offences.
With the project "**Young people devise laws for Europe**", France intends to bring together young Europeans that will in turn encourage respect toward the environment and strengthen the existing norms. The aim is also to implement a common strategy at European level.

Legislation in the various Participating Countries

FRENCH LAW

On June 25 2003, Dominique PERBEN, the French Minister of Justice, presented a **constitutional draft bill with respect to the Environment Charter**. According to President Jacques Chirac's wishes, the Charter should be mentioned in our national constitution. It will serve as a base for the creation of environmental legislation aiming at increasing efficiency in the preservation and protection of the environment, and the implementation of sustainable development.
The Charter prescribes that everyone has the right to live in a balanced and healthy environment. It also defines the duties of prevention and compensation for damages. The Charter indicates the measures to be taken by officials regarding the precautionary principle. It establishes the integration of environmental preservation public policies and mentions the citizens' right to information and their right to have a say in decisions that have an impact on the environment.

SPANISH LAW

A fundamental right recognised by the Constitution

Article 45 of the Spanish Constitution of December 27 1978 states: "Everyone has the right to enjoy an environment suitable for the development of the person as well as the duty to preserve it. The public authorities shall concern themselves with the rational use of all natural resources for the purpose of protecting and improving the quality of life and protecting and restoring the environment, supporting themselves on an indispensable collective solidarity. For those who violate the provisions of the foregoing paragraph, penal or administrative sanctions, as applicable, shall be established and they shall be obliged to repair the damage caused".

Specific criminal provisions

In accordance with the environmental fundamental right proclaimed in the Constitution, the Spanish legislator created a veritable environmental legislation through **different administrative regulations** aimed at ensuring environmental protection especially as regards manufacturers.
The new Spanish criminal code of 1955 extended the environmental legislation with the definition of offences in relation to "city and regional planning, historical heritage and environmental protection" stated in **Title XVI of the Criminal Code**.
Moreover, given that it is a fundamental right recognised by the Constitution, anyone can refer to the **Spanish Constitutional Tribunal** with a *Recurso de Amparo* (Complaint of constitutional rights violation) to ascertain and sanction measures contested by cancelling them. This refers to the violation of rights due to a legal or administrative decision.

ENGLISH LAW

Central to environmental protection efforts in England and Wales is **the Environment Agency**, set up by **the Environment Act 1995**. This is a non-departmental public body, sponsored largely by the Department for Environment, Food & Rural Affairs and the National Assembly for Wales. The Environment Agency is comprised of national centres (including the National Flood Warning Centre and the National Water Demand Management Centre) plus regional and area offices. It is involved with flood defence, pollution prevention and control activities, recreation, conservation and navigation, and its work includes risk assessment and management, environmental forecasting and assessment.

Under the influence of European legislation over the last 25 years, and the statutory revolution initiated by the Environmental Protection Act 1990, the laws of England and Wales, however imperfectly, serve to reflect **the principle that the 'environment' is an integrated whole, requiring an integrated scheme of regulatory protection**. Nevertheless, there is a perplexing division of appellate responsibilities between courts (civil and criminal), tribunals and administrative agencies, which is unlikely to provide a sound basis for handling future regulatory demands. On an initiative first began by the Department of the Environment, Food and Rural Affairs, and more recently, by the Royal Commission on Environmental Pollution there is **serious debate on establishing environmental tribunals** to consolidate and rationalise this raft of appeal mechanisms. This would lead to the better application of current environmental law and policy and increased public confidence in how environmental regulation is handled.

TURKISH LAW

Articles 35, 43, 44, 45, 56, 57, 63, 168 and 169 of the 1982 Constitution directly or indirectly refer to the environment. There is also a **framework law on the environment (no. 2872)** supported by **several statutory regulations**: on setting-up a pollution prevention fund, protecting air quality, noise control, water pollution control, wastewater control, medical wastes controls, etc.
Articles 516, 518, 520, 546 and 558 of the penal code bear on offences and penalties regarding the environment. Furthermore, **several laws** also provide for criminal punishments: the law on forests, the law of hunting, the law on water crops, and the law on the protection of cultural and natural heritage.
A bill is currently being prepared in view of preventing air, water and soil pollution caused by urbanisation and industrialisation, and to increase penalties prescribed.

GERMAN LAW

The first major enactment laying the foundations of German environmental law is historically the **1974 Federal law on emissions** that has since then been supplemented by more than thirty implementing decrees. Still today, it forms the backbone of environmental law in Germany.
Environmental protection was enshrined in the German constitution since 1994 as the legal principle in the Fundamental Law. Article 20a stipulates that "In view of its responsibility towards future generations, the State must protect the natural foundations of life and fauna within the framework of the constitution by legislation and, according to law and justice, by the executive and the judiciary".
Whereas the aforementioned law dealt primarily with air purity, the **new legislation** now applies to the protection of others environment elements such as water and the soil. In addition to legislation bearing on precise elements of the environment, the protection of the environment is now underpinned by a second approach known as **integrated environmental protection**. This approach entails provisions designed to protect the environment in a comprehensive manner. Examples include regulations such as the law on environmental compatibility controls or the law on environmental information.
Laws pertaining to the protection of the environment are not decided upon only at federal level. In some instances, such laws are passed by Lânders in accordance with the distribution of powers instituted by the Fundamental Law. Moreover, German legislation is increasingly marked by international agreements and EU standards.

HUNGARIAN LAW

Regulations

Article 8 of the **Constitution of the Hungarian Republic** provides that "The Hungarian Republic acknowledges and shall implement the right to a healthy environment for all", defining physical and mental health as a right of man which the country "defends via the protection of the natural and man-made environment" (article 70).
Similarly, the **Constitutional Court** has ruled in a binding decision that – save for exceptional cases – the State cannot lower the level of protection of nature as guaranteed by law.
Even before the 1989 constitutional amendment, **law no. II of 1976 on the protection of the human environment** defined the legal framework regarding environmental protection during the last decades, and enabled the enactment of other specific laws.
As of the 1990's, environmental protection laws were reshaped based on new foundations, with the Parliament passing **several laws** that had a decisive impact on subsequent legislation:

- Law no. LIII of 1995 on the general rules of environmental protection
- Law no. LVI of 1995 on environmental taxes on products
- Law no. LIII of 1996 on the protection of nature
- Law no. LXXVIII of 1997 on the transformation and protection of built environments.

Pursuant to this legislative effort, many governmental and ministerial decrees were issued. With the **"OGY" resolution 83/1997 of 26 September**, the Hungarian Parliament adopted the National Programme for the Protection of the Environment which defines future orientations in Hungarian environmental policy for a six-year period (1997-2002). A Fundamental Plan for the Protection of Nature was adopted at the same time, in order to guarantee the sustainable use and long-term conservation of natural resources.

Environmental administration

The ministry chiefly in charge of the environment was set up in Hungary since 1987, although its name and its purview have changed several times since then. Its primary role is to **outline the general environment policy and harmonise environmental measures**. Implementation of the environment policy in the various specific areas is also incumbent upon **other ministries**: the Ministry of Water and Environmental Protection, the Environment Management Institute, and the General Inspectorate for the Environment and the Protection of Nature. The 12 Environmental Inspectorates and the 10 Departments of Natural Parks have administrative powers in first-instance cases. In addition to activities carried out by the central administration and its territorial bodies, **local authorities** also play an important role in the protection of the environment and nature: in particular, local authorities oversee the drinking water network, sanitation, municipal waste management, as well as the delineation and protection of local natural parks.

EUROPEAN LAW

The European Union carried out various studies regarding environmental protection. **An outline decision with respect to environmental protection by criminal courts was adopted on December 27, 2002** and permits the harmonisation of accusations based on a previous convention of the Council of Europe.
The **Commission** lodged proposals after the "Prestige" shipwreck in order to reinforce criminal sanctions within the scope of the fight against pollution caused by ships. Two texts are being negotiated currently.
In addition, a proposed directive with respect to environmental responsibility which sets up prevention and compensation mechanisms for environmental damages is under review and findings should soon be published. It will harmonize, in particular, certain implementation mechanisms with respect to legal liability and administrative action.

2. Employees' Rights and Company Mobility

Judicial procedures for companies in distress often make it impossible to save enterprises for lack of access to sufficient information on their real economic situation in due time.
This difficulty is further aggravated in the case of multinational groups that are not subject to any legal regulations obliging them to provide information on their situation. A company managed chiefly in light of the parent company's financial interests can have irreversible and costly consequences from a social and economic perspective.

When facing strategic decisions taken by business enterprises, (relocations, outsourcing or restructuring), some of which received considerable media coverage recently, (Danone, Marks and Spencer in particular), national laws do not provide employees with sufficient protection. To be efficient, improvements must be envisaged at European level.

Dominique PERBEN, French Minister of Justice, raised awareness amongst his counterparts regarding this issue during the **Justice and Home Affairs Council of March 28-29, 2002**.

In spring 2001, the **European Commission** recalled the principle of business enterprises' social accountability and set up a forum enabling professional representatives to discuss ways and means of developing this sense of accountability.

Taking stock of national and European legislations, the young European experts will study and make proposals to enhance employees' protection at national and European level.

Legislation in the Various Participating Countries

FRENCH LAW

French laws contain provisions aimed at restricting redundancies through prevention measures and the guarantee of re-deployment.
For instance, certain provisions entitle employees to regular professional interviews and training so as to constantly adapt to changes in their work.

Among the provisions regarding re-deployment guarantee, a regulation obliges large companies to propose a nine-month re-deployment leave to their employees; another regulation stipulates that employees from other companies should receive help to find a new position from the start of the notice period without awaiting contract expiration. Yet another provision lays down a twofold increase of the dismissal allowance. A specific provision deals with collective redundancy: the company which undertakes to dismiss more than 1,000 employees must subscribe to the employment protection policy in the labour pool in which the site will be closed.
The notion of integrating the company in the process of local employment protection obviously gives a greater dimension to the notion of employees' re-deployment and to the employment protection plan. The legislator thus intended to subject the companies or groups of significant size, which have significant means, to specific obligations in terms of re-deployment and reactivating labour pools.

All companies or groups that employ more than a thousand persons in the Member States of the European Union and that have subscribed to the Social Policy Protocol and Agreement, annexed to the Treaty of the European Union, and the Member States of the European Economic Area are bound by these obligations. This applies to the countries covered by the EU directive no. 94-45 of September 22 1994 (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Island, Italy, Liechtenstein, Luxemburg, Netherlands, Norway, Portugal, Spain, Sweden, and the United Kingdom since December 15, 1999), and that comprise at least one establishment of more than 150 employees in at least two Member States.
In addition, the legislator envisaged **a global reform of the laws of dismissals** since the second half of 2004. This reform should be based on the analysis of the findings of inter-professional negotiations led at national level, aimed at defining: dismissal prevention procedures, regulations on employee representative information and consultation, and regulation on employment protection plans.

SPANISH LAW

The problem of "rogue bosses" and company relocations is not as topical and intense in Spain as it is in France. Indeed, over the past years, the country has not had to deal with large scale social conflicts resulting from the dismantling of industrial sections that generate the downfall of an entire region.

However, recent industrial conflicts have shown that the situation is changing: in 2002 the automotive company SEAT, which belongs to VolksWagen, decided to close and relocate the Spanish plant in Slovakia; another example is to be seen in the long strikes by the employees of SINTREL, a Telefónica subsidiary that went bankrupt after Telefónica was privatised in 1999.
Nonetheless, the Spanish government applies a policy of non-intervention in the economic arena. In Spain, relations between labour and management must be settled without interference by political spheres.

Labour legislation is very protective of employees with permanent contracts and it is almost impossible to dismiss employees. As a result, there are many precarious jobs with considerably less protection (30% of jobs) because companies are reluctant to sign permanent contracts.

Modernisation of laws on companies in distress was undertaken with respect to the bankruptcy legislation reform project that is currently being presented by the Ministry of Finance to redesign the current archaic system dating back to the 19th century. The aim is to improve the functioning of chambers of commerce (there are no commercial courts like in France, but only professional legal judges) that comprise one judge who is assisted by economists, accountants, etc. They are empowered to deal with matters that have an impact on bankruptcy proceedings and to bring together legal and economic spheres.

The bill mentions the redefinition of bankruptcy and winding-up by court decision so as to give the trustee in bankruptcy a more significant role. The bill also aims at giving creditors more protection and seeks to facilitate procedures.

ENGLISH LAW

The problem of company relocation and its consequences is not as topical and intense in the United Kingdom as it is nowadays in France. After the socio-economic slump of the 70s, the United Kingdom experienced a wave of mergers and concentrations that were largely encouraged by the Government.

The corporate governance system prevails in this country and has had a serious impact on the scope and nature of restructuring. The finance area and also the services recognised as beneficial to the public at large, as they are called, were particularly hard hit by a certain number of mergers.

The legal framework which ensures employee protection against company relocations often stems from **EU directives** on relocation and collective redundancies. The impact on employees generally varies according to the strength of the unions defending their interests at corporate level. Guarantees obtained may vary depending on the areas affected by restructuring.

Broadly stated, plans by an undertaking to reduce the workforce in a given location (which would constitute redundancy for those employees under the Employment Rights Act 1996) trigger the duty to consult with the workforce. **The duty to consult about potential redundancies with relevant recognized trade unions or elected employee representatives**, where redundancies of a certain size are involved, is set out in the Trade Union and Labour Relations (Consultation) **Act 1992 (TULCRA)**. Employers must consult the recognized trade union(s) about employees likely to be affected by the proposed dismissals or by measures taken in connection with those proposed dismissals. This applies even where those vulnerable to redundancy are not union members. Consultation should be in 'good time' once the employer has a proposal to dismiss on account of redundancy. If there is no recognized trade union(s), appropriate employee representatives should be elected by the employees for consultation purposes.

A document in relation to **the European directive "Information-Consultation"** issued by the Department for Trade and Industry was put to public consultation.

The legislative provisions create, through exemptions and interpretations of individual rights relating to dismissal, some **financial incentives** for employers to consider redeployment as an alternative to workforce reductions. What the law does not impose is a duty upon

employers to go through such a process, supported by an automatic sanction for failure to do so.

Employment Tribunals are joint jurisdictions composed of a panel of three persons: a chair who is a lawyer and two wing members nominated from either side of industry. They have jurisdiction to give rulings on matters relating to labour law.

TURKISH LAW

Although there are many legal provisions pertaining to capital movement and employees' socio-economical status, new regulations were adopted as part of the **harmonisation with the EU.**

The main legal provisions concerning employees' rights in response to the transfer of business undertakings are as follows:

- ⇨ Articles 48, 49, 51, 52, 53 and 54 of the Constitution
- ⇨ The new Labour law (no. 4875) adopted on June 16, 2003, whose article 6 lays down provisions on employees' job contracts and social security in the event of company shutdown and relocation
- ⇨ The law on direct foreign investments passed on August 20, 2003
- ⇨ Certain provisions of Law no. 506 protecting the rights of employees on temporary assignment in a foreign country
- ⇨ Law no. 3201, adopted on May 22, 1985, makes it possible to factor in stays abroad by Turkish citizens in view of social security calculations
- ⇨ Articles 146 to 152 of the Trade law bearing on company mergers, as well as articles 451 and 452 bearing on mergers between public limited companies
- ⇨ The law on maritime employment, the press, etc.

GERMAN LAW

The relocation of business undertakings has brought about changes in job organisation. In enterprises with more than 20 employees, article 111 ff. of the **law of labour in business enterprises** provides for consultation with the works council.

The head of a business undertaking must provide the works council with timely and detailed information on changes foreseen in work organisation and consult with the works council in this respect. The works council may avail itself of two statutory provisions: negotiations based on the parties' interests and the redundancy scheme.

First of all, the head of a business undertaking must attempt, in conjunction with the works council, to satisfy **the parties' interests**. Employers and employees jointly decide whether or not work organisation will be revamped and, where applicable, how and when this will be done. The goal is to avoid or to minimise drawbacks linked to these changes for employees, particularly in order to preserve jobs. So as to avoid dismissals, the head of the business undertaking may, *inter alia*, issue proposals regarding flexible organisation of work time, the promotion of part-time work, gradual early retirement, employee qualifications, as well as new work organisation methods. At the close of this procedure, it may be decided to abandon foreseen changes in work organisation or to amend the initial plan as regards the time frame or concerning quantitative or qualitative aspects.

Negotiations on a **redundancy scheme** usually begin once the scope of change in work organisation has been defined. The redundancy scheme seeks to compensate or attenuate economic disadvantages to be sustained by the employees concerned by these measures (e.g. via compensatory indemnities, qualifications, and outplacement). In cases where employers and employees are unable to agree on the steps to be taken, an enforceable decision is taken by a conciliation body (representatives of management and personnel, with an independent chairperson) in application of article 76 of the law on work organisation in business enterprises.

Once **changes in work organisation** have been made, management must also take into account, *inter alia*, the work council's other rights of involvement with special regard to the joint-decision right in view of personal and individual measures (dismissal, transfer, or requalification, *as per* articles 99 and 102 of the law on work organisation in business enterprises.

As regards **international restructuring** affecting enterprises established in several EU states, the European Works Council's rights of involvement must be taken into consideration. In accordance with article 31 of the law on European Works Councils, the latter must be consulted with regarding issues prescribed by articles 32 and 33 of the law on European Works Councils, in cases where two undertakings or enterprises established in different states are affected by the measures contemplated.

In **exceptional circumstances**, such as the relocation or shutdown of a business undertaking, enterprise, or parts of major establishments, collective redundancy, or events having a major impact on employees' interests, management must inform and consult with the European Works Councils in due time, supplying any useful supporting documents, so that its proposals or considerations may be grasped before a decision may be taken in the business undertaking (article 33 of the law on European Works Councils).
Note:
The foregoing developments are restricted to geographic relocation (within Germany or abroad) by a business undertaking or a part of the business undertaking and do not bear on the broader concept of company mobility.
It is to be noted that this issue is apparently less prevalent in Germany than it is in France. This may be because Germany has not witnessed spectacular cases as seen in France. It may also be propounded that Germany has a very different approach to this issue. Indeed, the possible strengthening of employees' rights could not prevent business undertaking from relocating to countries with lower production costs. As a general rule, this does not solve the basic problem behind the decision to relocate the business undertaking to another country either in full or in part.

HUNGARIAN LAW

The Hungarian Labour Code did not define rules applicable to collective redundancy until five years after its implementation. These rules seek primarily to ensure that the relevant authorities will have sufficient time, in the event of dismissals, to deal with problems facing employees who will be again in search of employment.

Employers may opt for collective redundancy for various reasons, especially in the event of job displacement, job reductions, or the regrouping of several functions. Dismissals must be declared within **thirty days** as prescribed by law. The employment contract may be discontinued not only by virtue of dismissal but also by amicable agreement. The employer may also terminate fixed-term employment contracts unilaterally, by paying the employee all remunerations to which the person is entitled up to the normal termination of the employment contract, within the limit of one year of salary.
Procedures for collective redundancy are regulated in detail by the Labour Code.
Within at least 15 days **prior to the decision to dismiss** employees, the employer contemplating collective redundancy must consult with the works council or otherwise an *ad hoc* committee composed of employee representatives and representative unions. In cases where redundancy is due to the cessation of business without the employer having a lawful successor, the liquidator must initiate collective redundancy proceedings.
Within at least 7 days **prior to the beginning of consultation**, the employer must communicate to employee representatives, in writing, all information pertaining to the dismissals (grounds, number of employees concerned, breakdown by employment category, number of employees in service during the dismissal period).

During the consultation, the employer must also communicate, in writing and in due time, the redundancy period and time schedule, selection criteria for redundant employees, methods of calculation and allocation criteria for indemnities other than those prescribed by law or collective bargaining agreements in the event of loss for employment.
The employees concerned must be **informed in writing**, within at least 30 days prior to notification of dismissal or unilateral declaration in the case of fixed-term contracts. Copy of this information must be sent to the relevant Employment and Labour inspectorates depending on the location concerned, as well as to the employee representatives.

Even though all other conditions may be met, the dismissals notified in view of downsizing may be deemed unlawful if the employer fails to comply with the duty of prior communication vis-à-vis the employees concerned or the relevant Employment and Labour inspectorates, or if the dismissals are prohibited by law or in view of an agreement reached during the consultation procedure.
The dismissals may be ruled unlawful by the courts which have eight days to hand down their decision within the framework of non-contentious proceedings.

EUROPEAN LAW

At European level, the first steps were taken with the adoption of a **directive known as "Vilvoorde"** whereby a general framework of information and consultation for employees of the EU was set up. Furthermore, after the Enron scandal in the United States, research was carried out on company management in close relation with professionals. The European Commission recently made proposals on issues related to group structure and financial solidarity within groups.
After taking stock of national legislations, the young European legal experts will study these issues and make proposals to increase employees' protection at national and European level.

3. Road Safety

The President of the French Republic announced that the fight against road insecurity was one of the main projects of his five-year term and constitutes a government priority. Indeed, 8,000 persons die in road accidents and 100,000 are injured every year. Dominique Perben, the French Minister of Justice, and Gilles de Robien, the French Minister for Road Maintenance and Building, Transportation, Housing, Tourism and Maritime Affairs presented a draft bill adopted on June 12, 2003 and that provides for the reinforcement of road accident prevention measures, and the promotion of awareness amongst drivers by increasing sanctions and enhancing their efficiency.

Although all Europeans countries are affected by road violence, the situation varies from one country to another. The exchange of good practices and new experiences can only be positive.

The young European legal experts will therefore examine common solutions for road safety, especially in view of implementing specific policies for target populations (young drivers, senior drivers, vehicle owners). They will also review more severe sanctions for clearly identified behaviours (alcohol, speed, drugs) or the comprehensive enforcement of certain measures (zero gram blood-alcohol content).

Legislation in the Various Participating Countries

FRENCH LAW

The French road safety legislation is characterised by the juxtaposition of specific offences defined in traffic regulations (offences and fines), a general offence of injury or involuntary homicide and, more recently, **endangering the life of others** in cases where the rules violated are particularly serious.
A recent **law of June 12, 2003** has reinforced criminal justice efficiency in treating road traffic offences by making drivers more aware of their responsibility, especially beginners and habitual offenders.
In particular, the law increases penalties incurred in the case of involuntary homicides or injuries while driving a vehicle and additional sanctions applicable to road litigations. For instance, the law stipulates that an involuntary homicide caused by a driver can be punished with up to 10 years' imprisonment if there aggravated offences overlap (endangering the life of others, plus drunk-driving, failure to stop after causing a road accident, drug-driving). Finally, the law put an end to leniency in applying driving licence suspensions if the life of others was endangered. Indeed, this practice, consisting in restricting the driving licence suspension to extra-professional activities, seemed incompatible with sentencing dangerous drivers.

SPANISH LAW

The fight against violence on the road falls mainly within the jurisdiction of the Ministry of the Interior (Traffic branch). **Most offences are administrative** and punished with fines or a driving licence suspension (over 0.5 g blood-alcohol concentration; exceeding speed limits; driving without a seat belt; etc.).
This system is deemed satisfactory. In addition, a **bill** should render failure to carry car insurance an administrative offence rather than a criminal offence.

Chapter 4 of the **Spanish Criminal Code** focuses on "road safety offences".
Thus, driving a motorised vehicle (including motorcycles) under the influence of drugs or alcohol is liable to criminal prosecution (weekend imprisonment, fine, driving licence suspension) and even 6 months to one year imprisonment if the driver refuses to submit to checks (art. 379, 380 of the Criminal Code).
Endangering the life of others by driving a motorised vehicle or a motorcycle with "obvious recklessness" is punishable by 6 months to 2 years imprisonment and 1 to 6 years driving licence suspension (art. 381 of the Criminal Code); if a person's life is put in danger with "deliberate disdain of others' life", the punishment may go up to 4 years' imprisonment and up to 10 years' driving licence suspension (art. 384 of the Criminal Code).

ENGLISH LAW

It is mainly the responsibility of the **Department of Transport** to ensure road safety within the United Kingdom.

A number of road traffic statutes cover the range of offences, from minor infractions, such as failing to report an accident, through to the more serious offences, such as causing death by dangerous driving. Most road traffic offences are punishable by a **combination of fines and penalty points** awarded against the driver who is responsible for the offences. Even where the statute does not impose a punishment of mandatory disqualification from driving, the Courts retain a **discretionary power** to disqualify the offending driver where

appropriate and depending on the circumstances. Additionally, in cases where a driver is a repeat offender within a limited time-period, the demerit-point system may automatically disqualify the driver from driving.

The Courts are able to take advantage of the loosely drafted offences to control those who pose a threat to the safety of road users in new ways: for example driving whilst using a mobile phone may be qualified as dangerous driving.

Most road traffic violations come under the jurisdiction of the **Magistrates' Courts** in summary proceedings. Nonetheless, the most serious offences such as manslaughter while driving under the influence of alcohol come under the jurisdiction of the Crown Courts through a committal of trial procedure.
The authorities lodged **an amendment to the Criminal Justice Bill** in May 2003. This Bill intends to increase to 14 years (instead of 10) the maximum prison sentence applicable to reckless drivers who are responsible for fatal accidents.

In Great Britain, statistics record approximately **300,000 road accidents** every year including **3,500 fatalities** and **40,000 serious injuries**. Britain has slightly less road accidents in comparison to other European countries. However, the Government has launched a campaign entitled "Tomorrow's Roads – Safer for Everyone" aimed at reducing serious road accidents by 40% by 2010. This campaign also seeks to noticeably reduce the number of accidents involving children, pedestrians or cyclists (130 deaths each year).

Measures used to reach this target include the increased number of **speed cameras** deployed at many locations along U.K. roads. These automatic devices seem to have markedly reduced the number of serious accidents in areas equipped with these cameras (a 35% decrease according to Department of Transport figures).

TURKISH LAW

Laws and statutory provisions on road safety entail:
- ⇨ Road traffic law no. 2918
- ⇨ Articles 45, 455, 459 and 565 of the Turkish penal code
- ⇨ Article 4 of the law on the application of penalties and road traffic regulations.

Turkish regulations have been revised to better cater to difficulties encountered. Thus, **article 45 of the penal code** was amended on January 8, 2003, increasing penalties for traffic offences by one-third. Nevertheless, **article 21 of the new penal code** endows magistrates with discretionary powers to increase penalties by between one-third and fifty percent.
The amendment also provides for disqualification from driving for persons guilty of drunk-driving or speeding, with the possibility that the driving licence may be reissued after psychiatric examination leading to an expert report.
Lastly, a road transportation law was passed on July 10, 2003 in an attempt to find solutions to road safety problems.

GERMAN LAW

Road safety policies in Germany seek to improve and ensure safety in a context of increasing mobility. These policies focus on a broad concept involving balanced **transportation laws** that are continuously improved upon, and a large number of **technical measures** including fostering awareness in particular. General trends in the number of road accidents corroborate the success achieved with this concept. Indeed, the road death toll has declined by approximately 38 percent over the last ten years.

Priorities in transportation policies include the reduction of accident hazards amongst **young drivers**. The driving licence system with a test period for young drivers has proven instrumental in this respect. In the event of road traffic violations, the law prescribes further training or assistance by specialised psychologists, with the possibility of disqualifying the driver.

The decrease in number of accidents linked to **alcohol intake or the use of narcotics** is also a priority. In addition to the breath analysers, a 0.5 threshold has been set and certain narcotics are now prohibited.

The demerit-point system was instituted to combat risks caused by drivers and vehicle owners who regularly breach traffic regulations. Road traffic offences recorded in the central transportation registry are evaluated in terms of points. Depending on the credit outstanding, different measures are taken and may go as far as disqualification from driving.

HUNGARIAN LAW

Law no. IV of 1978, published in the Penal Code, provides for road safety offences and defines the relevant punishments:

- § 184 (1): **endangering railway, air, maritime or road safety** by impairing or destroying a travel artery, vehicle, or equipment or accessories of these arteries or vehicles, by removing or altering road signs, by setting up misleading signs, by violent deeds or threats against the driver of a vehicle in circulation, or by any other means, constitutes a crime punishable with up to three year' imprisonment;
- § 186 (1): **directly endangering other persons' life or physical integrity** via failure to comply with road traffic laws constitutes a crime punishable with up to three year' imprisonment;
- § 187 (1): **Assaults and serious injuries of other persons non-intentionally**, via failure to comply with road traffic laws constitutes a crime punishable with up to three year' imprisonment or a community work sentence, or else a fine;
- § 187 (2): **The punishment** entails:

A) Up to three years' imprisonment, if the violation leads to permanent invalidity, a serious health impairment, or a collective accident;
B) From one to five years' imprisonment, if the violation causes a death;
C) From two to eight years' imprisonment, if the violation causes more than two deaths or a collective accident involving deaths.

- § 188 (1): Driving a railway, airborne, or motorised river or maritime **under the influence of alcohol or narcotics** affecting the ability to drive constitutes an offence punishable with up to one year's imprisonment, or a community work sentence, or else a fine.
- § 190 : For any driver of a vehicle involved in an accident, **failure to stop and the departure from the scene of the accident before ensuring that no one has been injured**, without attending to persons whose life or physical integrity may be directly threatened or who may therefore be in need of assistance, notwithstanding a more serious violation, commit an offence punishable with up to one year's imprisonment, or a community work sentence, or else a fine.

Other provisions geared to ensure road safety are laid down in **a series of regulations**:
- **Law no. CXXVIII of 2000** on the demerit-points system in view of precedents regarding road safety
- **Law no. LXXXIV of 1999** on the road traffic registry
- **Law no. I of 1988** on road traffic
- **Joint ruling no. 1/1975 (February 5)** by the Transportation and Post Office Ministry and the Ministry of the Interior on road traffic regulations – § Road Code ("KRESZ"), section 1/c.
- **Government order no. 2212/1996 (July 31)** on the Hungarian transportation policy
- **Parliament order no. 68/1996 "OGY" (July 9)** the Hungarian transportation policy and on the main objectives prior to implementing this policy
- **Memorandum no. 1994/13 by the National Forensic Medicine Institute** on detecting alcohol levels and the issuance of a forensic expert report
- Memorandum no. 1/1999 by the National Institute for Forensic Toxicology on detecting, through forensic toxicology, the presence of narcotics and psychotropic substance by collecting various human fluids
- **Law no. XXXIV of 1994** on the Police
- **Government decree no. 218/1999 (December 28)** on the various violations
- **Ruling no. 35/2000 (November 30)** by the Ministry of the Interior concerning the objectives of road traffic administration, and the issuance and confiscation of road traffic papers.

EUROPEAN LAW

At European level, the different legislations have not been brought into line, except for working hours offences in the field of transportation. Current works are related to general texts that will improve the application of fines and additional punishment including driving licence suspension.

In the medium-term, the creation of a **European record of offences** and **European repeat offences** could help to achieve significant progress in view of setting up a "European road safety area".

4. New technologies and ethics

The development of new information technologies has led to the emergence of new forms of criminality that legislators must face by providing an appropriate protection framework.
The fight against computer-related crime requires adapting means to ensure criminal justice at national and international levels.

Dominique Perben, French Minister of Justice, is aware of the situation and expressed the wish that the young European legal experts should investigate this issue and propose a coherent system for fighting against computer-related crime. They will examine youth protection, in particular, and the fight against online child pornography.

Legislation in the Various Participating Countries

FRENCH LAW

The law of June 17, 1988 on the prevention and punishment of sexual offences and the protection of minors makes France one of the most advanced countries in terms of legislation. This legislation is also in line with its commitments. Implementation of this law entails the revision of all instruments for the prevention and punishment of offences perpetrated against minors.

The law of March 4, 2002 on parental authority provides for the punishment of persons who would resort to prostituting minors.

Other legislations such as the **law on daily security and the law on internal security** also include provisions aimed at facilitating investigations in information technologies, especially by keeping data and defining a legal framework for online searches.

Finally, for a certain number of years, French criminal law has set up provisions for specific offences in terms of IT security breaches.

SPANISH LAW

The law no. 34/2002 of July 11, 2002 on Information Society Services and E-commerce (LSSI) came into force in October 2002. It implements the EU directive of May 19, 1998 and bears on all activities conducted by computer services providers. Although the companies' freedom to provide services prevails, certain restrictions apply in cases where other principles of public interest appear (examples: consumers' public health protection, respect of people's dignity and principle of non-discrimination on the basis of skin colour, gender, religion, etc.; protection of youth).

A **bill** that may be adopted before the end of 2003 provides for a significant revision of various provisions of the Spanish Penal Code. This bill envisages the amendment of article 189 of the Penal Code relating to the corruption of minors and that currently punishes by up to 3 years' imprisonment the use of minors in pornographic performances, whether public or private, or any person who elaborates, produces or distributes such material. These offences are sanctioned with up to 8 years' imprisonment in the case of minors of 13 years of age or deeds of particular gravity.
Moreover, the simple fact of possessing or using pornographic material showing minors or persons under disability may be punished by imprisonment of up to 3 months to one year. The same applies to the production and distribution of virtual pornographic pictures (cartoons, etc.) of minors or persons under disability, this being an extremely innovative approach.

ENGLISH LAW

Since 1990 in the United Kingdom, the **Computer Misuse Act 1990** legislates for offences committed against information technologies through unauthorised access or unauthorised modification of computer material once access has been gained (for instance by spreading viruses).

Outside of this area, there is no specific legislation defining high-tech offences *per se*, but rather a **whole series of laws dealing with other offences that can be committed via computer systems and networks**.

⇨ The following laws can therefore apply:
⇨ Obscene Publications Act 1959
⇨ Child Protection Act 1978, s.1
⇨ Criminal Justice Act 1988, s. 160.
⇨ Protection from Harassment Act 1997
⇨ Data Protection Act 1998
⇨ Malicious Communications Act 1988
⇨ Gambling - Betting, Gaming and Lotteries Act 1963, Gaming act 1968, Lotteries and Amusements Act 1976 and the Betting and Gaming Duties Act 1981
⇨ Telecommunications Act 1984, s. 42, 42A.
⇨ Terrorism Act 2000, covering Critical national infrastructure.
⇨ Copyright Designs and Patents Act 1988

A new law will take into account the need to deal with paedophile offender crimes perpetrated via the Internet. Proposals contained in the **Sexual Offences Bill**, which is currently progressing through parliament, will make it a criminal offence to commit "grooming" or befriending of children with intent to abuse by paedophiles. This is intended to enable prosecution at an early stage when children are being groomed, before a more serious sexual offence has been committed. The proposed legislation also includes the creation of a Risk of Sexual Harm Order relating to behaviour towards a child with an unlawful intent.

TURKISH LAW

On June 14, 1991, articles 525a, 525b, 525c and 525d bearing on computer-related crimes were introduced in the Turkish penal code. These articles provide for five types of offences, namely hacking, computer fraud, forgery and the use of forgery via computer means.
Turkey did not deem it necessary to pass specific laws on other offences perpetrated via computer technology. For instance, paedophilia is already punished under the penal code and no special provision has been instituted.
Nevertheless, the new penal code that is currently being reviewed by parliamentary commissions takes into account recent developments in information technology.

GERMAN LAW

The wide range of computer-related crimes makes it difficult to group statutory provisions under a single heading. One may distinguish the following areas:

1. **Violations of confidentiality, integrity and availability of data and computer systems** are the pillars regarding the security of electronic data transmission and payment systems:
   - unauthorised procurement and use of (data and systems espionage, article 202a of the penal code and article 17, par. 2 of the intellectual property and competition law)
   - Infringement upon data and systems integrity (articles 303a, 303b, and 274 par. 1, no. 2 of the penal code).

2. **Computer-related crime where information and telecommunication systems are used to trespass on property in a new manner**:
   - Falsification of data constituting evidence (articles 269 and 270 of the penal code) ;
   - Computer fraud (article 263a of the penal code)
   - Other offences pertaining to content: e.g. article 184 of the penal code (dissemination of pornographic media), article 86 of the penal code (exhibiting violence).

According to article 11, par. 3 of the penal code, memory storage media are considered as the means of disseminating data over the Internet. Pursuant to article 6 no. 6 of the penal code, the dissemination of pornographic media is covered by criminal laws applicable in Germany, regardless of the locus of the infringement.

On July 3, 2003, the Bundestag passed a law designed to amend criminal law in sex-related matters. One objective is to put a stop to increasing exhibits of pornographic media on the Internet involving children, by applying criminal law. With this intent in mind, the law provides for broadening the scope of criminal punishments to include the transmission of pornographic media involving children or to a third party, as well as to encompass the acquisition and possession of child pornography media. This law has not yet come into force.

HUNGARIAN LAW

Hungarian regulations are already harmonised, to a large extent, both with standards identified in Community law and with the Community guideline policies in these areas.

Copyright

The **1999 intellectual property law** regulated digital use, for the first time in Hungary, and acknowledged that copyright protection would be extended to cover the Internet. This law reframed the notion of exclusive reproduction rights so as to include the digital storage of works on electronic media, as well as the physical production of works transmitted via a computer network. Nevertheless, the law does not prohibit the provisional reproduction of a work as required for technical reasons but without any economic impact *per se*. The intellectual property code has set up a special rule for disseminating works transmitted via cable or any other means to the general public, enabling the latter to freely choose the place and time of access.

Law no. CII of 2003 amends several laws pertaining to industrial and intellectual property protection, and transposes Directive 2001/29/EC of the European Parliament and of the Council on the harmonisation of certain aspects of copyright and related rights in the information society. It has also partly transformed rules relative to digital uses.

The Right to informational self-determination

The main features of Hungarian regulations on data protection may be explained by the circumstances wherein this regulation was set up. Indeed, the **Constitutional Court** decisions had a decisive impact on the law on data protection. The right to informational self-determination and the enforcement thereof are thus central to legal provisions on personal data protection. The data protection regulation, effective since January 1, 2004, was amended in view of harmonising regulations.
Recent developments on the Internet and in new communication technologies have raised many new issues (managing content and access to services, spams, the dwindling of private spheres pursuant to the use of multimedia devices) that are still in need of a legal response and are only partially solved by data protection regulations.

Electronic commerce

Rules applicable to electronic commerce were prescribed by **Law no. CVIII of 2001** pertaining to certain aspects of electronic commerce services and services in connection with the information society. The structure and the chief principles of this law are in tune with the provisions of Directive 2000/31/EC of the European Parliament and of the Council on electronic commerce. The provisions of this Directive have been either transposed or are in the process of being integrated into Hungarian law.

Criminal laws prosecuting computer-related infringements

In Hungarian criminal law, the first provision bearing on computer-related infringements was enacted by **Law no. IX of 1994** amending the 1978 law inserted in the Penal Code and that instituted the computer fraud infringement.

A significant change in substantive criminal law occurred with the definition of new infringements pursuant to **Law no. CXXI of 2001** amending the Penal Code. The Hungarian lawmakers were thus able to harmonise Hungarian regulations with the provisions of the Convention on Cybercrime prepared under auspices of the Council of Europe and signed in Budapest on November 23, 2002. This amendment punished illegal access to computer systems and infringements on data and system integrity. Furthermore, this law set up a separate criminal offence for the improper use of tools to foil technical mechanisms ensuring protection of computer systems. Amendment of the penal code enabled the establishment of legal grounds for the criminal prosecution of the illegal interception of data transmitted or stored by computer systems, and instituted violations regarding the offer, possession or transmission of pornographic images via a computer system.

Law no. I of 2002, comprehensively amending the 1998 law relative to criminal procedures, set up a new coercive measure in Hungarian criminal procedure. By altering the rules applicable to conventional coercive measures (searches and seizures), this law permits the seizure of media and data, the examination of computer systems and media, as well as the interception, subject to authorisation by the courts, of content on the Internet or on closed computer networks.

EUROPEAN LAW

The Council of Europe elaborated a **Convention on Cybercrime** that includes provisions on incrimination, provisions aimed at facilitating investigations regarding information technologies and cooperation. The French Council of Ministers recently approved the bill ratifying the Convention and it should soon be read by Parliament.
A guideline Decision in accordance with the legislations of the Member countries in terms of computer systems violation was added to Chis convention.
An agreement was reached on this matter at the JHA Council on February 28, 2003.

A guideline Decision in relation to the fight against online child pornography and paedophile "child grooming" was agreed upon at European Level. This guideline fills a serious gap and ensures the harmonisation of accusations. A political agreement was reached on that text within the JHA Council on October 14 and 15, 2002, and should be officially approved in the coming months.

III. YOUNG JURISTS' PROPOSALS

1. The Environment

TITLE OF THE MEASURE
"Instituting a European Court for the Environment »

Spanish proposal

Why?

Current environmental laws large stem from Community law.
Spanish jurists have pinpointed two weaknesses that, in their opinion, require remedial action:

- Litigations in connection with serious environmental impairments are very limited in scope
- There are very few means of recourse available to persons who consider themselves victims of such deed.

How?

By setting up a specialised judicial body ruling in the final resort with respect to national courts and to which citizens, States, as well as other entities or organisations may turn directly.

TITLE OF THE MEASURE

"A European Ombudsman for Environment Issues"

Turkish proposal

Why?

Litigations in environmental matters are often cumbersome, lengthy, and costly.
In the event of litigations between the administration and its citizens, it would be desirable to develop means of recourse that are more flexible and swift, based on the model instituted in northern European countries.

How?

The legislative authority could appoint an ombudsman to handle environmental matters. The ombudsman would be fully independent and would receive claims lodged by citizens against deeds committed by the administration. Regular information provided to the public regarding any dysfunctions acknowledged would assuredly modify administrations' behaviour.
This institution would be entitled to collaborate with certain administrative authorities in suggesting laws and proposing changes or the withdrawal of decisions that are a potential hazard for the environment.
There is an increasing trend to appoint ombudsmen for the environment, thereby illustrating the will to seek out constructive solutions and to solve difficulties caused by sluggish juridical mechanisms.

2. Employees' Rights and Company Mobility

TITLE OF THE MEASURE
"A European Labour Inspectorate"

Spanish proposal

Why?

Spanish trainee judges have noted the lack of any European authority that may pool information on relocations.
As a result, they propose the establishment of a European Labour Inspectorate.

How?

- **Composition:**

The Inspectorate would comprise representatives of each EU Member State.
It would be endowed with investigation teams that can visit the place of relocation to gather all information required to carry out its assignments.

- **Terms of reference:**

1. Control the use of subsidies granted by the States or regions to business enterprises established in the EU and deciding to relocate.
2. Control social obligations incumbent upon the business enterprise deciding to relocate (e.g. redeployment and employee training).

TITLE OF THE MEASURE

"Entrust the European Commission with a major study on the Relocation of Business Enterprises"

British proposal

Why?

The impacts of relocation of business enterprises in Europe have led to harsh controversy.
In the United Kingdom, in particular, the consequences of relocation with regards to the job market still foster heated discussions, and public opinion is deeply divided on the issue of economic migration and repercussions on the job market.
In order to fully grasp all the issues at stake, we need reliable information permitting an analysis. Unfortunately, no comprehensive study has yet been conducted that would allow a precise assessment of the extent of this phenomenon and its economic impacts.

How?

An exhaustive study on the regional impact of relocation must be carried out so as to identify the steps that may be taken at national and European level.

The EU and it Member States must conduct such a study probing into the relocation of business enterprises or outsourcing (with the involvement of business enterprises, unions, and the public authorities). The study will seek to analyse the economic and commercial impacts of cross-border mobility.

3. Road Safety

TITLE OF THE MEASURE
"Setting up a European driving licence - Generalising the demerit-points driving licence

Hungarian proposal

Why?

The introduction of the demerit-point driving in Hungary dates back to early 2001 and was intended to increase existing deterrents.
The new rules seek to urge repeat offenders of road traffics to change their driving behaviour, via a system of objective warnings: the demerit-point driving licence. The system proved beneficial and has been adopted in many European countries. Nevertheless, driving licence disqualification systems vary from country to country, thus weakening the mechanism with special regards to violations committed in increasingly intense cross-border traffic.

How?

- By harmonisation the demerit-points system applicable in the European Union;

- By developing a unified system of control so that authorities in a foreign country may withdraw points as punishment for violations committed on its territory, with the points thus lost being compounded with points outstanding in the person's country of origin.

TITLE OF THE MEASURE
"Accident Data Recorders in Vehicles"

British proposal

Why?

In airplanes, the black box is used to record both technical data and pilots' conversations.
Transposing this technology to automotive vehicles would facilitate road accident investigations. For instance, infringers would no longer challenge the speed recorded by the black box.

How?

The British consider that this proposal may become feasible only if the cost of this technology were to decline.

All EU vehicles would be equipped with the data recorder, thus facilitating international cooperation in criminal matters: the data contained in the device would be common to all European countries and could be consulted by magistrates conducting inquiries on accidents.

For instance: a German magistrate is investigating an accident that took place on German territory and involving a French vehicle. The German magistrate could then request a French magistrate to have the black box checked for any information that may be of use in the inquiry.

4. New Technologies and Ethics

TITLE OF THE MEASURE
"A Regulatory Authority for the Internet »

French proposal

Why?

The Internet is constantly evolving and the rule of law must also adapt to keep abreast. Ethics must continue to play a very important role.
Aware of the fact that a comprehensive legislative response at global level would require years of negotiation and compromises before a final text can be agreed upon, the trainee judges recommend an operational and consensual proposal.
They therefore propound setting-up a regulatory authority designed to harmonise legal and ethical rules in connection with the Internet.

How?

- **Composition:**

A body comprising members from various spheres but with the public authority playing a predominant part; members would include Internet users' representatives as well as access providers.

- **Purview:**

A forum for discussion and scrutiny, with the ability to put forward proposals and to act as a driving force regarding all useful standards: legislative mechanisms, recommendations on international cooperation, guide of good practices for professionals and users.

TITLE OF THE MEASURE

Drawing-up a code of good conduct (definition of a good governance method, good practices, and Netiquette)"

German proposal

Why?

To reconcile the Internet with ethical principles, the young German jurists initially contemplated technical solutions. Although many technologies could be applied to filter Internet users' access to sites containing illegal content, no technology would effectively prevent access to prohibited content entirely. Indeed, the volume of data transmitted vie the Internet and the nature of this data evolves constantly, thus making it impossible to draw up and keep a full and consisted updated list of forbidden websites

Rather than a technical solution that would be difficult to implement, they therefore opted for fostering a collective sense of responsibility on the part of Internet users – access providers and surfers – by recommending the reinforcement of Netiquette or the drawing-up of a code of good conduct.

How?

- **The definition and adoption of a code of conduct:**

This code would be based on the main founding principles recognised by the international community (human dignity, equality of man, respect for privacy, as well as the freedom of expression) in order to strengthen the fight against racism, xenophobia and child pornography in particular.

- **In the event of failure to abide by the code of conduct:**

Agreements between the access provider and the client would provide for the termination of access in the event that these rules of good conduct are not complied with. This system may be further optimised by setting up a central body for reporting misuses. Access providers would refuse to provide services to persons blacklisted.

IV. THE PROJECT AS VIEWED BY THE YOUNG JURISTS...

Estelle CROS, trainee judge at the French National Magistrates' School (*École Nationale de la Magistrature*) and who worked on Road Safety, accompanied Dominique PERBEN on a visit to Barcelona on July , 2003. She considers that road safety concerns can be effectively dealt with only by instituting European judicial rules.

"A common European solution is the only way to achieve any significant reduction in road violence. For example, we propose setting up a European driving licence, mutual recognition of fines, a speed limit applicable in all Member States, or even placing a bridle on vehicles."

Florence Hermite, trainee judge, met with her counterparts at the Lawyers House in Budapest. She is a member of the group working on Employees' Rights and Company Mobility. She is convinced that it is indispensable to work with her counterparts at European level.

"Our encounter with Project participants and with French attorney in Budapest allowed us to realise, once again, the need to adopt a transnational perspective with regard to our legal professions. The exchange of viewpoints on the themes proposed was further enriched and took on a new meaning, especially as this was just before the historical moment with Hungary's accession to the European Union in May 2004".

...AND A SENIOR LECTURER

Eric BOUILLARD, Senior Lecturer at the *École Nationale de la Magistrature,* supervised work carried out by the group on New Technologies and Ethics. He accompanied the trainee judges and the French Justice Minister on the visit to Barcelona. He believes that European judicial provisions are indispensable to effectively combat infringements in the field of new technologies. He also considers that the methodology proposed by the Minister is extremely fruitful.

"Like in all the other themes proposed, New Technologies and Ethics clearly entail a global dimension and, first and foremost, a European scope. France cannot achieve effective protection without joining forces with its neighbours.
Regarding computer-related crimes, procedural amendments have been proposed at national level but remain insufficient especial with respect to websites and access providers located abroad.
In this regard, Ethics seemed to be an essential component and trainee judges underscores, for example, the progress made by labelling certain sites, through charters signed by certain access providers or "netetiquette". They also proposed setting-up a high authority in charge of defining ethical rules applicable in Euroland.

Despite the language barrier, we were able to discuss with jurists from the different countries regarding their national concerns and international cooperation. The Environmental Issues theme was of particular concern to the Spanish and the French, irrespective of the Prestige shipwreck.
This endeavour could lead to recommendations that may bring European countries closer together. Progress has been made in other fields as a result of international encounters that are subsequently relayed in the political arena. At any rate, this new working method deserves close scrutiny and should be encouraged."

V. PARTNERS IN THE PROJECT

Six countries took part in the Project: Germany, France, Hungary, Spain, Turkey, and Great Britain .

OUR SPANISH PARTNERS :
Trainee judges of the Judicial School

In Spain, the Judicial School of the General Council of the Judicial Power is in charge of selecting and training judges. The School also has an establishment in Madrid for continuing education. The General Council of the Judiciary is the constitutional body in charge of selecting and training the judges.

The head of the Judicial School is a judge of the judiciary. Lecturers (judges and university professors) are in charge of training future judges. Many outside participants such as judges, lawyers, and experts intervene in the School.
Every year, the School trains nearly 250 new judges whose initial training lasts 24 months, and more than 3,500 judges receive continuing training.

OUR GERMAN PARTNERS:
Law students, future judges, lawyers or notaries

The department in charge of organizing workshops and conferences, from the General Ministry of Justice, along with the persons responsible for legal experts' training in each of the 16 Länders is partner with the *École Nationale de la Magistrature*.
Trainee judges from various Länders agreed to take part in the project. These trainees are law students who have the equivalent of the four-year French degree and who are following an 18 month-training period and will sit a public examination (*Staatsexamen*) to become, according to the results, either notaries, judges or lawyers.

OUR BRITISH PARTNERS:
Young lawyers

The Law society representing 92,000 solicitors and the Bar Council representing 10,800 barristers in England and Wales are France's partners in this project. The British Institute of International and Comparative Law is also taking part in this project.

OUR TURKISH PARTNERS:
Trainee judges and prosecutors

The Turkish Ministry of Justice, in conjunction with the Director of the Justice Academy providing training for judges, was extremely enthusiastic at the presentation of the Project.

The Justice Academy is the future structure (to be officially inaugurated in March 2004) called upon to train magistrates and to replace the Judges and Prosecutors Training Centre founded in 1985. This two-year training includes six months of theory at the start and at the end of training, as well as 18 months of practical court training at the Court of Cassation and also at the Council of State.
Since its foundation, the centre has received nearly 5,000 judges and prosecutors.

OUR HUNGARIAN PARTNERS:
Young judges, lawyers and student in internships

The Hungarian Ministry of Justice, the National Judicial Council, the Bar and the Law University of Budapest are our partners in this project. The young judges (future judges and clerks), young lawyers and trainee students who are preparing to be appointed judges, will work together on this project.

THE FRENCH PARTNERS:
Young trainee judges

Trainee judges at the *Ecole Nationale de la Magistrature* began this work by presenting the first proposals to their European counterparts.
The *Ecole Nationale de la Magistrature* trains future French magistrates (31 months of training and internships), organises their on-going training and proposes vocational and continuous training for foreign magistrates.