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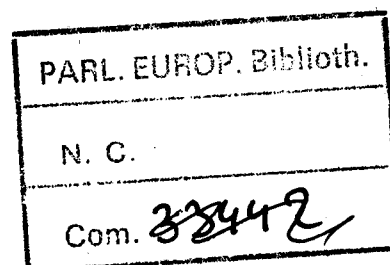
# EUROPEAN PARLIAMENT

*Directorate General for Research*

WORKING PAPER

## IMPACT OF THE EUROPEAN PARLIAMENT ON THE COMMUNITY'S SOCIAL LEGISLATION

JULY 1989 - JULY 1994



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**PUBLISHER:** EUROPEAN PARLIAMENT  
DIRECTORATE-GENERAL FOR RESEARCH  
DIVISION FOR SOCIAL AFFAIRS, THE ENVIRONMENT,  
PUBLIC HEALTH AND CONSUMER PROTECTION  
L - 2929 LUXEMBOURG  
TEL. (352) 43.00.1  
FAX: (352) 43.40.71

**EDITOR:** PERNILLE WINTHER, PRINCIPAL ADMINISTRATOR

**AUTHOR:** MARY BROWNE  
WITH THE ASSISTANCE OF DAPHNE KORTEKAAS (CHAPTER IV AND VI) AND  
STEFAN THOMAS (CHAPTER II)

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## SUMMARY

### *Introduction*

This is a summary of the findings of the study which investigated the impact on the European Parliament on the Community's social legislation over the period from July 1989 to July 1994<sup>1</sup>. The 1989-1994 Parliamentary term drew to a close in June after a very active period in the social field. A significant number of the legislative measures proposed in the Commission's Social Action Programme have been adopted by the Council. These measures give effect to the Community Charter on Fundamental Social Rights for Workers. The European Parliament supported the proposal for a 'Social Charter' from the beginning but it would have liked to see a more substantial text. Despite pressure from Parliament a number of measures from the Social Action Programme still remain to be adopted by the Council. The Parliament has consistently, through numerous resolutions, sought the extension of the Community's action in the social policy area.

It should be noted that this study focused on those Council directives, regulations, decisions and recommendations for which the Committee on Social Affairs, Employment and the Working Environment was responsible<sup>2</sup> and which were adopted by the Council. The Parliament has always attempted to influence Community's social policy through own initiative reports. The impact of these initiatives has, however, only been analysed marginally in this study. Details of the references for the Committee's Reports on the measures examined are provided in the Annex accompanying this summary. In order to identify the Parliament's impact, the amendments proposed by the Parliament were analysed quantitatively and qualitatively according to the degree to which they would potentially enhance or change a given piece of legislation.

### *1. Employment, Labour Market and Social Dimension*

Under this heading Parliament participated in the legislative process regarding:

- employee participation in profits and enterprise results<sup>3</sup>;
- collective redundancies<sup>4</sup>;
- proof of employment<sup>5</sup>;

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<sup>1</sup> The complete study is only available in English. Reference: Directorate General for Research, Social Affairs Series W-5.

<sup>2</sup> The Committee's current areas of responsibility are given in the European Parliament Rules of Procedure, October, 1993, Annex VI 'Powers and responsibilities of standing committees', p. 132.

<sup>3</sup> Council Recommendation 92/443/EEC, 27 July 1992, OJ L 245, 26.8.92, p. 53.

<sup>4</sup> Council Directive 92/56/EEC, 24 June 1992, OJ L 245, 26.8.92, p. 3.

<sup>5</sup> Council Directive 91/533/EEC, 14 October 1991, OJ L 288, 18.10.91, p. 32.

- the free movement of workers<sup>6</sup> and
- the right of residence<sup>7</sup>.

Through its amendments Parliament sought to guarantee the free movement of workers whether employed or retired. The Parliament's interest in ensuring that workers are informed and consulted was evident in the amendments proposed.

Regarding the Council Recommendation on the participation by employed persons in profits and enterprise results, Parliament played a part in highlighting the positive effects of financial participation by workers. The Council Recommendation on participation does include Parliament's concerns that financial participation should not obstruct wage negotiations and that workers should not face any capital risk.

The Parliament's interest in employee welfare is also clear in the amendments proposed to the Directive on proof of employment and collective redundancies. The 1992 amending Directive on Collective Redundancies sought to address deficiencies in the original 1975<sup>8</sup> Directive. In certain cases, when the controlling employer was located outside the Member State where the company redundancies were to take place, the application of the 1975 Directive could be avoided. In the amending Directive the Parliament succeeded in expanding the definition of collective redundancies to include the termination of employment contracts in certain circumstances. The provision of information to employees during the course of consultation on redundancies also stems from Parliament's amendments.

The Directive on proof of employment requires that employers inform employees in writing about the condition of their employment and Parliament ensured also that employees must be informed of any changes in these conditions.

The Regulation on the free movement of workers relating to the European Employment Agency, EURES (formerly SEDOC), was amended by the Parliament in two respects. Firstly, to improve the exchange of information on job vacancies, the European Co-ordination Office may adapt the technical means of circulating vacancies and applications. Secondly, individuals seeking to be considered for vacancies throughout the Union, must receive a response to their application within one month.

The Directive on the Right of Residence for employees and self-employed persons who have ceased their occupational activity saw a change in the legal base from that originally proposed. Both the Parliament and the Commission suggested the use of Articles 49 and 54 on the free movement of workers which would have required the use of the cooperation procedure. Instead the Council chose Article 235 which meant that the consultation procedure applied. However, the Parliament was consulted for a second time on this Directive. Parliament did succeed in ensuring that it receives a

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<sup>6</sup> Council Regulation EEC No 2434/92, 27 July 1992, OJ L 245, 26.8.92, p. 1.

<sup>7</sup> Council Directive 90/365/EEC, 28 June 1990, OJ L 180, 13.7.90, p. 28.

<sup>8</sup> Council Directive 75/129/EEC, OJ L 48, 22.2.75, p. 29.

Commission report on the implementation of the Directive in Member States. Under the definition of the suitable means of financial support for those who have ceased occupational activity and choose to live in another Member State, the Parliament ensured that early retirement pensions are included.

## *II. European Social Fund*

The Parliament has taken an interest in and sought to influence the revision of the European Social Fund from the beginning. In March 1993, the European Parliament adopted a resolution<sup>9</sup>, based on an own initiative report<sup>10</sup>, in which its approach to the revision of the Fund is outlined.

During the period under examination the Parliament was consulted regarding Regulation 2084/93<sup>11</sup> which outlines the areas and types of measures to receive support from the European Social Fund. The Parliament emphasised the importance of identifying new target areas for the Fund as a means of addressing long-term unemployment. The requirement that measures shall be of sufficient duration to meet the needs of the long-term unemployed, was also stressed by the Parliament. The Commission and the Council agreed with the Parliament on the advantages resulting from the continuous education of employees. The Parliament's amendments are reflected in the Regulation with regard to:

- the widening of the definition of 'industrial changes' to include services;
- the recognition of equality of access to the labour market between men and women; and
- the need to integrate youth into the labour market.

## *III. Living and Working Conditions*

The ability of the Parliament to encourage the placing of issues on the legislative agenda and to act as an observer of Community programmes is illustrated by the three Council Decisions examined under this heading.

In the case of the Decision to establish a third Community action programme to assist the disabled, *Helios II*<sup>12</sup> (1993-1996), the Parliament was not prepared to rush through such an important proposal until an assessment of *Helios I*, was available from the Commission. In this way the Parliament could review the operation of *Helios I* prior to agreeing on *Helios II*.

A number of important aspects in *Helios II* have resulted from the Parliament's amendments. Firstly, the definition of disability was extended to include psychological impairments. Secondly, the

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<sup>9</sup> OJ No. C 115, 26.4.1993, p. 40.

<sup>10</sup> Own Initiative Report A3-0057/93, 18 February 1993.

<sup>11</sup> Council Regulation 2084/93, 20 July 1993, OJ L 193, 31.7.93, p. 39.

<sup>12</sup> Council Decision 93/136/EEC, 25 February 1993, OJ L 56, 9.3.93.

Commission's cooperation with non governmental organisations (NGOs) was strengthened. This allows the Commission to seek the advice of NGOs on issues relating to the integration of the Disabled. Thirdly, the establishment of a European Forum for the Disabled is the direct result of a proposal from the Parliament. The Forum includes representatives of European organisations for the disabled and the social partners. The Commission shall consult the Forum on measures in the Helios II programme.

Over a number of years Parliament has passed resolutions on the elderly. The members of the Committee on Social Affairs, Employment and the Working Conditions have built up a strong level of knowledge in the area. The Parliament's role in encouraging the introduction of specific measures for the elderly has not gone unnoticed. Notably the **European Year of the Elderly and of Solidarity between Generations (1993)** is attributed to an idea from the Parliament.

The two Decisions on the elderly - **Community Action for the Elderly**<sup>13</sup> and the organisation of the **European Year of the Elderly and of Solidarity between Generations**<sup>14</sup> - were influenced by the Parliament. The Parliament ensured that events took place both at a Community level and in the Member States. The establishment of National Co-ordinating Committees was also the result of the Parliament's influence. The **Seniors Parliament**, which took place in November 1993, allowed the European Parliament to bring together senior citizens from every Member State to discuss and debate issues of importance to them. The results of the Seniors Parliament along with a recent Parliament report and resolution on the elderly<sup>15</sup> have been recognised by the Commission as giving "a powerful lead in setting the agenda for the next phase of our work at European level in this very important area of activity"<sup>16</sup>.

#### *IV. Social Protection*

Council Recommendations on the convergence of social protection objectives and policies<sup>17</sup> and the common criteria concerning sufficient resources and social assistance in social protection systems<sup>18</sup> were adopted over the period examined. The Parliament had already expressed its opinion on these areas with the adoption of its own initiative report 'The European Labour Market after 1992'. In this report the Parliament stated that it wished to see more extensive co-ordination and the partial harmonization of social protection among Member States. It also considered that the enjoyment of benefits and social security systems is an individual right, the aim of which is to safeguard the

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<sup>13</sup> Council Decision 91/49/EEC, 26 November 1990, OJ L 28, 2.2.91, p. 29.

<sup>14</sup> Council Decision 92/440/EEC, 24 June 1992, OJ L 245, 26.8.92, p. 43.

<sup>15</sup> Own Initiative Report A3-0029/94 part A, B, C adopted 24 February 1994, OJ C 77/94.

<sup>16</sup> Commissioner Flynn, Verbatim report of proceedings, Brussels, Wednesday/Thursday, 23.2.1994-24.2.1994, p. 28.

<sup>17</sup> Council Recommendation 92/442/EEC, 27 July 1992, OJ L 245/92, p. 46.

<sup>18</sup> Council Recommendation 92/441/EEC, 24 June 1992, OJ L 245, 26.8.92, p. 46.

purchasing power parity of workers and the self employed in the event of the loss of wages or income<sup>19</sup>. Parliament's main concern has been the improvement of social protection schemes, the development of which differs between Member States. It has also sought to establish the basic rights to minimum social protection in order to combat social exclusion.

The Council Recommendations on the convergence of social protection objectives and policies does reflect the Parliament's thinking regarding:

- maintenance of a standard of living in cases of illness;
- the recognition of demographic and labour market changes; and
- the respect for the national characteristics of the social protection systems.

With regard to the Council Recommendation on common criteria concerning sufficient resources and social assistance in social protection systems, the Parliament's amendments concerning statements respecting human dignity as a basic right underlying Community law; the guarantee of a decent life and reintegration of people into society were included in a modified form in the Recommendation.

#### *V. Safety and Health at Work*

Under this heading the European Parliament participated in the legislative process for 19 Directives based on Article 118a of the EEC Treaty involving the cooperation procedure, 1 Decision and 1 Regulation based on Article 235 of the Treaty requiring consultation and 1 Directive based on Articles 31 and 32 of the Euratom Treaty also requiring consultation. Thirteen<sup>20</sup> of the Directives based on Article 118a are individual Directives under the Framework Directive<sup>21</sup> on the introduction of measures to encourage improvements in the safety and health of workers at work which contains the general principles concerning the prevention of occupational risks, the protection of health and safety and the responsibilities of employers and workers. The Parliament has expressed its view in several resolutions that Article 118a should cover all issues related to workers' physical and mental wellbeing. It can be suggested that the working time Directive discussed below, whose legal base is 118a is an example of the Commission meeting Parliament's demands to some extent.

A recent and controversial Directive concerned working time<sup>22</sup>. It took three years for the Council to reach agreement on this Directive. The proposal for a Directive was surrounded by much debate, not only in the Council of Ministers and between both sides of industry, but also at the Parliament's

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<sup>19</sup> 'Social Security and Social Benefits' Part 1, para. 14-16, p. 8-9 and Part III, para. 27-37, p. 10-11 from the Own Initiative Report, 'The European Labour Market after 1992', A3-0238/92, adopted 8 July 1992, OJ C 241/92, p. 51.

<sup>20</sup> This includes the 2 Directives relating to biological agents.

<sup>21</sup> Council Directive 89/391/EEC, 12 June 1989, OJ L 183, 29.6.89, p. 1.

<sup>22</sup> Council Directive 93/104/EEC of 23 November 1993, OJ L 307, 13.12.93, p. 18.

Committee and Plenary sessions. The Parliament's impact on the Directive includes the following provisions:

- that equivalent health and safety measures should be provided for night and day workers;
- the minimum rest period should in principle include Sunday;
- working time must not exceed 48 hours over a seven day period and
- four weeks obligatory paid leave.

The Parliament did express concern about the large number of derogations which are provided for in the Directive, though it supported the derogation for cinematographic production. A provision that sick leave should not be included in the calculation of average rest periods for holidays stems from a Parliament amendment that was incorporated by the Council into the Directive. The Parliament was concerned that this Directive might be used to reduce the general level of protection for workers in some Member States. Following the second reading the Council introduced a measure to ensure that this cannot happen<sup>23</sup>.

The Directive on medical treatment on board vessels<sup>24</sup> incorporated the following Parliament amendments:

- the provision of water tight medicine chests for each life raft and lifeboat;
- arrangements for medical consultations by radio and
- the requirement that there be a sick bay and doctor on board depending on the size of vessels, the number of crew and the duration of the voyage.

Both the initial Directive on the protection of workers from risks related to exposure to biological agents at work<sup>25</sup> and the amending Directive<sup>26</sup>, which lists the biological agents to which it applies, include Parliament amendments. The amendments incorporated in the original Directive ensure that there are no limitations on the information provided regarding:

- the potential risks of biological agents;
- the diseases directly related with work activities and
- the identification of those who need special protective measures.

The Commission had originally proposed a distinction between those who make a "conscious decision" to work with biological agents and those who may be incidentally exposed to biological agents during

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<sup>23</sup> Article 18.3 (non-regression clause).

<sup>24</sup> Council Directive 92/29/EEC, 31 March 1992, OJ L 113, 30.4.92, p. 19.

<sup>25</sup> Council Directive 90/679/EEC, 26 November 1990, OJ L 374, 31.12.90, p. 1 (seventh individual Directive within the meaning of Article 16 (1) of the Framework Directive 89/391/EEC).

<sup>26</sup> Council Directive 93/88/EEC, 12 October 1993, OJ L 268, 29.10.93, p. 71 (seventh individual Directive within the meaning of Article 16 (1) of the Framework Directive 89/391/EEC).

the course of their work. The Council agreed with the Parliament's proposal that this distinction should not be included in the Directive. This ensured that all workers were brought up to the same level of protection. The Recommended Code of Practice on Vaccination is the direct result of a Parliament proposal to the 1993 amending Directive. Guidelines on the vaccination of workers exposed to biological agents (for which effective vaccines exist) are given in the Recommended Code.

Two further examples of Directives on which the Parliament had an impact address current issues of interest to workers. The Directive on the minimum safety and health requirements for work with display screens<sup>27</sup> sought to allay workers' fears on the effects of such screens. Both readings were important in terms of the acceptance of Parliament's amendments. The amendments included in the Directive have ensured that:

- workers receive regular eye checks;
- breaks from working on the screen are provided;
- equipment does not produce excess heat or radiation and
- there are no inbuilt 'clandestine' computer checks on worker's performance without their knowledge.

Due to the fact that the number of workers in 'atypical' situations form an increasing share of the European labour market the Directive on the protection of workers with a fixed duration or temporary employment relationship<sup>28</sup> is important. The recognition in the Directive, that 'atypical' workers have special needs, that they should receive training and be treated equally with permanent employees with regard to health and safety, stems from the Parliament's amendments.

The type of Parliament's amendments included in a number of Directives illustrates its attention to detail. The Parliament proposed 93 amendments to the Directive on safety and health requirements for the workplace<sup>29</sup>. Many of these amendments sought to improve on the specific provisions in the Directive's annexes. Among the amendments accepted were those which dealt with keeping emergency exits clear and the provision of emergency lighting. The Parliament recognised that specialist fire fighting equipment is necessary for fires involving different materials and chemical substances. Its requirement that suitable fire fighting equipment be provided in workplaces was also included in this Directive.

Further examples of the Parliament's detailed approach can be seen from some of the amendments which were included in the following Directives. The display of the telephone number for the local emergency services and the testing of emergency equipment on temporary and mobile construction

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<sup>27</sup> Council Directive 90/270/EEC, 29 May 1990, OJ L 156, 21.6.90, p. 14 (fifth individual Directive within the meaning of Article 16 (1) of the Framework Directive 89/391/EEC).

<sup>28</sup> Council Directive 89/383/EEC, 2 June 1991, OJ L 206, 29.7.91, p. 19.

<sup>29</sup> Council Directive 89/654/EEC, 30 November 1989, OJ L 393, 30.12.89, p. 1, (first individual Directive within the meaning of Article 16 (1) of the Framework Directive 89/391/EEC).

sites<sup>30</sup>. The location of emergency signs so that they are clearly visible and the reactivation of illuminated signs immediately after use in the Directive on the provision of safety and/or health signs at work<sup>31</sup>. The placing of appropriate fire fighting equipment in the engine room of fishing vessels in the Directive concerning the minimum safety and health requirements for work on board fishing vessels<sup>32</sup>.

In the Directive on the protection of workers from risks related to exposure to asbestos<sup>33</sup>, the Council included some of the items proposed by the Parliament to be given in the "notice of work" by demolition companies removing asbestos. These included information on the nature and duration to the work and the methods of handling the asbestos.

The Parliament's proposal that a list of criteria be used in the selection of projects for the European Year of Safety, Hygiene and Health at Work<sup>34</sup> was accepted by the Council.

A number of the Parliament's areas of interest are reflected in the amendments incorporated in the following Directives. The issues of information for workers and worker consultation and participation in the Framework Directive<sup>35</sup> were acknowledged in the associated individual Directives. Parliament's amendments on consultation and participation are also reflected in the Directives on the protection of workers from the risks related to exposure to carcinogens<sup>36</sup> and the working time Directive<sup>37</sup>. Workers and/or their representatives must be consulted prior to decisions being made on how to reduce the duration of exposure to carcinogens at work. Decisions regarding the definition of a night worker for the purposes of the working time Directive may be made by agreement between the two sides of industry.

The Parliament has also been concerned that workers are in the best position to benefit from the provisions of the health and safety directives. It wanted to ensure that in the case of workers speaking different languages, information would be provided in the relevant languages. This is partially provided

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30 Council Directive 92/57/EEC, 24 June 1992, OJ L 245, 26.8.92, p. 6 (eighth individual Directive within the meaning of Article 16 (1) of the Framework Directive 89/391/EEC).

31 Council Directive 92/58/EEC, 24 June 1992, OJ L 245, 26.8.92 (ninth individual Directive within the meaning of Article 16 (1) of the Framework Directive 89/391/EEC).

32 Council Directive 93/103/EEC, 23 November 1993, OJ L 307, 13.12.93, p. 1 (thirteenth individual Directive within the meaning of Article 16 (1) of the Framework Directive 89/391/EEC).

33 Council Directive 91/382/EEC, 25 June 1991, (amending Directive 83/477/EEC) OJ L 206, 29.7.91, p. 16.

34 Council Decision 91/388/EEC, 25 June 1991, OJ L 214, 2.8.91.

35 Articles 10 and 11 of the Framework Directive 89/391/EEC, 12 June 1989, OJ L 183, 29.6.89, p. 1.

36 Council Directive 90/394/EEC of 28 June 1993, OJ L 196, 26.7.90, p. 1 (sixth individual Directive within the meaning of Article 16 (1) of the Framework Directive 89/391/EEC).

37 Council Directive 93/104/EEC of 23 November 1993, OJ L 307, 13.12.93, p. 18.



for in the Directives on temporary or mobile construction sites<sup>38</sup>, the health and safety requirements on board fishing vessels<sup>39</sup> and surface and underground mineral-extracting industries<sup>40</sup>. These Directives require that "comprehensible information" is provided to workers.

On a number of occasions the Parliament gave special consideration to pregnant women in its amendments. Parliament's main concerns with regard to the Directive on pregnant workers<sup>41</sup> were that pregnant women, women who have recently given birth and women who are breastfeeding should attain real improvements with respect to their working environment, the length of maternity leave and the maternity allowance. Parliament stressed the need for risk assessment of exposure to dangerous agents, processes and working conditions. This risk assessment applies to the physical and mental health of pregnant women. Furthermore, Parliament emphasised that pregnant women shall be entitled to maternity leave without loss of employment rights and that Member States shall not reduce the level of protection already available to women workers under national legislation (non-regression clause). The above-mentioned points are reflected in the Directive. It should be noted that the Parliament would have liked to see an extension of maternity leave from 14 to 16 weeks and stronger protection with regard to:

- the level of maternity allowance;
- the protection measures in the case of night work;
- the reversal of the burden of proof in case of an infringement of the worker's rights under the provisions of this Directive.

Additionally, the Parliament has shown its interest in improving the situation for pregnant women in other Directives. The provision of facilities for pregnant women and nursing mothers to lie down and rest in appropriate conditions stems from a Parliament amendment included in the Directive on health and safety requirements for the workplace<sup>42</sup>. The desirability of not employing workers at risk in areas of potential exposure to carcinogens<sup>43</sup> goes some way towards addressing the Parliament's concern for pregnant women, though it had sought a complete ban on their employment in such conditions.

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<sup>38</sup> Council Directive 92/57/EEC, 24 June 1992, OJ L 245, 26.8.92 (eight individual Directive within the meaning of Article 16 (1) of the Framework Directive 89/391/EEC).

<sup>39</sup> Council Directive 93/103/EEC, 23 November 1993, OJ L 307, 13.12.93, p. 1.

<sup>40</sup> Council Directive 92/104/EEC, 3 December 1992, OJ L 404, 31.12.92 (twelfth individual Directive within the meaning of Article 16 (1) of the Framework Directive 89/391/EEC).

<sup>41</sup> Council Directive 92/85/EEC, 19 October 1992, OJ L 348/92, p. 1 (tenth individual Directive within the meaning of Article 16 (1) of the Framework Directive 89/391/EEC).

<sup>42</sup> Council Directive 89/654/EEC, 30 November 1989, OJ L 393, 30.12.89, p. 1 (first individual Directive within the meaning of Article 16 (1) of the Framework Directive 89/391/EEC).

<sup>43</sup> Council Directive 90/394/EEC, 28 June 1993, OJ L 196, 25.7.90, p. 1.

Another group in which the Parliament has expressed an interest is young workers. It passed a resolution in 1987<sup>44</sup> calling for the harmonization of the Member States' legislation in relation to child labour. The recent Directive on the Protection of Young Workers<sup>45</sup> provided the Parliament with an opportunity to express its views and seek to influence the final text. Parliament was successful in having a number of amendments on working hours, age limits and employment rights incorporated into the Directive, some of the amendments resulted in, firstly, reducing the working hours allowed for children in full time education from 15 hours per week and 3 hours per day, as originally proposed by the Commission, to 12 hours per week and 2 hours per day. Secondly, ensuring that the minimum working age cannot be below the minimum age at which compulsory schooling ends in a Member State. Thirdly, Member States shall ensure that young people are protected against economic exploitation and work likely to harm their safety, health or physical, mental or social development. Finally, the Parliament was influential in having a non-regression clause included in the Directive preventing Member States from reducing their present levels of protection. However, despite the Parliament's objections, the Directive gives the United Kingdom up to four years to implement requirements on hours of work and night work by adolescents and on weekly hours of work by children during the school term.

To facilitate further research and study the Council agreed the Regulation establishing the **European Agency for Safety and Health at Work**<sup>46</sup>. Prior to this the Parliament was consulted and it was successful in ensuring that the need for closer links between the European Agency, the European Foundation for Improvement of Living and Working Conditions and the Advisory Committee of Safety, Hygiene and Health Protection at Work is recognised. Also, as a result of a Parliament amendment the Council will review the Regulation within five years after consultation with the Parliament and receiving a report from the Commission.

## *VI. Vocational Training*

Regarding vocational training, Parliament was consulted on three Decisions:

- the establishment of an action programme, **Eurotecte II**, to promote innovation in the field of vocational training resulting from technological change in the European Community<sup>47</sup>;
- the establishment of an action programme, **FORCE**, for the development of continuing vocational training in the European Community<sup>48</sup> and

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<sup>44</sup> Resolution OJ C 190, 20.7.87, p. 4.

<sup>45</sup> Council Directive 94/33/EC of 22 June 1994, OJ L 216, 20.8.94, p. 12.

<sup>46</sup> Council Regulation No 2062/94 of 18 July 1994, OJ L 216, 20.8.94, p. 1.

<sup>47</sup> Council Decision 89/657/EEC, 18 December 1989, OJ L 393, 30.12.89, p. 29.

<sup>48</sup> Council Decision 90/267/EEC, 29 May 1990, OJ L 156, 21.6.90, p. 1.

- the establishment of a single Advisory Committee for Eurotecnet and FORCE<sup>49</sup>.

The Parliament was also consulted concerning the Recommendation on access to continuing vocational training<sup>50</sup>.

The final texts of the Council Decisions implementing Eurotecnet II, FORCE and the single advisory committee for both programmes show a greater emphasis on the role of the social partners. This reflects Parliament's amendments to the original proposals. The Council also accepted Parliament's emphasis on the importance of better operational co-ordination with other Community programmes in the field of vocational training.

Regarding the Recommendation on access to continuing vocational training, the Parliament stressed the importance of such training in view of technological developments; the growth of unemployment and the transnational aspects of training. It is notable that the Recommendation includes a provision referring to the own initiative report by the Parliament on Vocational Training Policy in Europe in the 1990's<sup>51</sup>.

### *Conclusion*

In terms of the participation of the Committee on Social Affairs, Employment and the Working Environment in the legislative process, this study confirms the expertise in many areas among the members of the Committee.

Where the Parliament has exhibited an impact through detailed and specific amendments, their full effect can only be ensured if they are fully transposed into the national legislation and implemented in practice. The inclusion in many of the Directives requiring the Commission to report on the national implementation of measures to the Parliament does in some way facilitate Parliament's involvement in the process over a longer period of time.

There is evidence to illustrate Parliament's strong interest in the rights and well-being of European citizens whether they be employees, the unemployed, disabled, children or the elderly.

Parliament sought during the period examined to extend the range and scope of the issues dealt with given the confines of the legal basis provided in the EC Treaties prior to the coming into force of the Treaty on European Union. The Agreement on Social Policy signed by eleven Member States does indicate an extension of the provisions in the EEC Treaty. Article 2 (2) of the Agreement is expected

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<sup>49</sup> Council Decision 92/170/EEC, 16 March 1992, OJ L 75, 21.3.92, p. 51.

<sup>50</sup> Council Recommendations 93/404/EEC, 30 June 1993, OJ L 181, 23.7.93, p. 37.

<sup>51</sup> Own Initiative Report A3-0093/93, adopted 21 April 1993, OJ C 150/93, p. 85.

to allow for the adoption of a wider range of social provisions than Article 118a of the EEC Treaty<sup>52</sup>. These developments reflect to some extent Parliament's proposals which were stated prior to the signing of the Maastricht Treaty. However, in a number of resolutions, Parliament has expressed concern that the Treaty on European Union only provides for a limited extension of the Union's powers in the area of social policy. The Parliament regrets that the Treaty and the Protocol on Social Policy introduced two legal bases, which it fears may cause confusion and a two-speed Europe with regard to social policy<sup>53</sup>.

The Parliament has played a part in setting the agenda for the next stage in European social policy through a long series of resolutions and very active participation in the legislative process. It is preparing to contribute further to that agenda through its response to the Commission's White Paper on Growth, Competitiveness and Employment and the Green and White Papers on European Social Policy - Options for the Union. Parliament seeks to find a balance between those policy issues best developed by the Union and those which benefit from national decisions through the operation of the principle of subsidiarity.

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<sup>52</sup> Whiteford, Elaine A, 'Social Policy after Maastricht', *European Law Review*. Vol. 18, No. 3, June 1993, p. 202.

<sup>53</sup> Resolution of 7 April 1992, OJ C 125/92, p. 81, and Resolution of 9 July 1992, OJ C 241/92, p. 175.

## INTRODUCTION

This study seeks to evaluate the impact of the European Parliament on the Community's Social legislation over the period from July 1989 to July 1994. The focus is particularly on the areas of concern to the Committee on Social Affairs, Employment and the Working Environment over this period<sup>54</sup>. Thirty three pieces of legislation (directives, regulations and decisions) and four recommendations in the field of social policy for which the Committee was responsible were issued by the Council over the period under examination<sup>55</sup>. The Committee also produced a large number of reports associated with the legislation and the areas of concern to the Parliament in the social field. The impact of these own initiative reports has only been marginally analyzed in this study

Due to the volume of work that has been produced it is necessary to set some priorities and limits in this evaluation. These have been established by bearing in mind the request for details of occasions where the Parliament has had a significant impact and the final users and audience for this information (including MEPs, the general public, the general and specialist media, trade unionists, employers and industrialists and representative organisations of children, the disabled and the elderly in this case).

While it is recognised that the Parliament may have informal influence through non legislative resolutions, debates and own initiative reports, an examination of enacted legislation allows for a study of Parliament's impact on concrete measures that have become part of the national domain. Potentially effecting both the general public and the specific groups towards whom the measures are directed.

The format of this study is as follows, firstly, Parliament's role in the legislative process and the opportunities for influence are discussed. Secondly, the method used to measure impact in this study is outlined. Thirdly, the growing significance of social policy in the Union is noted. Fourthly, Parliament's impact on each piece of legislation is discussed separately and finally, the conclusions will draw together a summary and evaluation of Parliament's impact on social legislation over the July 1989 to July 1994 period noting the most significant and the procedural approaches which proved successful.

### *Parliament's role in the legislative process and the opportunities for influence*

Since the large majority of the measures examined in this study were agreed under the legal basis and procedures of the EEC Treaty it is important to start by looking at the legislative process from that

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<sup>54</sup> The Committee's current areas of responsibility are given in the European Parliament Rules of Procedure (8th edition), October 1993, Annex VI 'Powers and responsibilities of standing committees', p. 132. The Rules of Procedure, 7th edition, February 1992 operated previously.

<sup>55</sup> Article 189 gives the characteristics of each kind of act that may be adopted by the Council. A regulation lays down general rules which are binding both at the Community level and at national level. Directives are binding on Member States as to the results to be achieved and decisions are binding in their entirety on the Member State or private citizen to whom they are addressed. Recommendations are not legal acts and are not binding. (Source: Hartley, T.C., The Foundations of European Community Law (2nd edition), 1988, Clarendon Press, Oxford).

basis. Prior to the ratification of the Treaty on European Union Parliament's role in the legislative process occurred principally through the provisions for consultation and cooperation along with the associated procedures. The Articles of the Treaty specify which procedure is to apply in a given case. When the Treaty provides for consultation it must be strictly applied. Additionally, the Council does in practice consult the Parliament beyond the areas required by the Treaty.

The consultation procedure involves the European Parliament giving its opinion with regard to the Commission's original proposal. After the receipt of the opinion, if the Commission or the Council significantly amend a proposal with regard to its legal basis or the substantive issue Parliament must be reconsulted. The first reading of the cooperative procedure corresponds to that of consultation for the Parliament, however, the Council rather than taking a definitive decision issues a 'common position' which is passed back to the Parliament with an account of the reasons behind its adoption and the Commission's position. The Parliament must react within 3 months. It has three forms of action at its disposal and they illustrate the power given to the European Parliament over that which applies in the case of the consultation procedure.

The options associated with the cooperation procedure are firstly, the European Parliament may accept the 'common position' or allow the three months to elapse in either case the Council may proceed. Secondly, if Parliament rejects the common position by an absolute majority Council can only act by unanimity and thirdly, Parliament may propose amendments to the common position by absolute majority, this requires the Commission to re-examine the proposal taking the Parliament's amendments as a starting point. Although ultimately it is the Council which makes the final decision on contents of a measure, where Parliament rejects a 'common position' it effectively has the power of veto if one Member State agrees with its opinion<sup>56</sup>. On occasions Parliament is dissatisfied with the information it receives from the Council but the cooperation procedure does require that the Council pay greater attention to Parliament's amendments.

However, it is also important to note that some of the Parliament's power arises from how it utilises the procedures associated with consultation and cooperation. In the case of both consultation and cooperation, where the Commission accepts the Parliament's amendments, the Council must act by unanimity to amend the text. The European Parliament may also delay submitting its opinion by giving an interim opinion, requesting more information or returning a proposal to the relevant Committee.

The Parliament's utilisation of the procedures associated with consultation and cooperation through delaying issuing its opinion, gaining the Commission's approval and rejecting or amending the 'common position' facilitate its influence to some degree and encourage contact with the Commission and the Council. The conciliation procedure, initiated by a Joint Declaration of the European Parliament, the Council and the Commission on 4 March 1975, is to find common ground on measures that have

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<sup>56</sup> An example of this can be seen in the case of the Sweeteners Directive. A detailed analysis of which is provided in David Earnshaw and David Judge. 'The European Parliament and the Sweeteners Directive: From Footnote to Inter-Institutional Conflict', in the *Journal of Common Market Studies*, vol. 31, no. 1, March 1993, pp. 103-116.

"appreciable financial implications". This provides Parliament with the opportunity to exert influence "in the final phase of decision making"<sup>57</sup>.

The ratification of the Treaty on European Union in November 1993 has introduced a new legislative procedure called "co-decision" based on Article 189b of the Union Treaty which begins like the cooperation procedure but the consequences of rejecting or proposing amendments to it differ significantly from those under the cooperation procedure. Should the Parliament indicate by an absolute majority that it intends to reject the 'common position' the Council must be informed immediately and it may convene the Conciliation Committee<sup>58</sup>, after this meeting, if it takes place, Parliament may either confirm its rejection or put forward amendments to the common position. Rejection means the proposal is deemed not to have been adopted<sup>59</sup>.

Finally, one of Parliament's most significant powers lies in the field of the budget and the distribution of funds is important to the social field. The Parliament has considerable Treaty powers in relation to the Community's budget which may be summarised as:

- the right to propose 'modifications' to compulsory expenditure;
- the right to propose 'amendments' to non compulsory expenditure up to the 'maximum rate of increase' and it may reinsert items at the second reading;
- the Parliament may reject the budget if it disapproves of the Council's final draft<sup>60</sup>.

#### *The method of evaluating and measuring Parliament's impact on the Community's social legislation*

Parliament's potential to have an impact on Community legislation can be seen from the previous discussion to exist formally through the powers provided by the Treaties and the use of procedures. It is also possible for Parliament to execute influence informally through its general resolutions, discussions and contacts with the Commission and Council including questions in plenary sessions and own initiative reports. Specifically in relation to the Committee on Social Affairs, Employment and the Working Environment, meetings are held with the Minister responsible from the Member State holding the Presidency at the beginning of the term of office and on occasions meetings have also taken place at the end.

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<sup>57</sup> OJ C 89/1975, Wyatt A. and Dashwood A., 1993, European Community Law, 3rd edition, Sweet and Maxwell, London, p. 39.

<sup>58</sup> The conciliation procedure under co-decision is to be distinguished from that mentioned above, which is based on the Joint Declaration. Tatsopoulos, Georgios, 1993, The Powers of the European Parliament in the European Union, Political Series W-7, Directorate General for Research, European Parliament, Political and Institutional Affairs Division, p. 16.

<sup>59</sup> This section relies heavily on Wyatt A. and Dashwood A., p. 41-42.

<sup>60</sup> Nugent, N., 1991, The Government and Politics of the European Community, p. 136-137.

Difficulties arise when one tries to measure the Parliament's impact on an individual piece of legislation since it is "unclear how much influence the Commission, the Parliament or individual Member States have brought to bear in the course of legislative procedures in the Council"<sup>61</sup>. However, these difficulties have not and should not prevent attempts at quantitative and qualitative evaluation of impact. It is hoped that such studies can convey to the general public the validity of the Parliament as the directly elected institution of the European Union whose influence has increased over time both through the extension of its formal procedures and informal practice. An impact study can also, by illustrating the nature of Parliament's input in its less than legislative role, be used to support the case for greater powers.

One way to measure Parliament's impact is to study its amendments to the Commission's proposals and the Council's 'common position' when the cooperative procedure applies. Simple quantitative measures of the number of amendments proposed and accepted by the Commission and the Council fail to account for the variations in the relevance and potential significance among the proposed amendments to the final legislative measure and its operation. Therefore, some classification of amendments is necessary. An approach used on a number of occasions in the past has been to place the amendments into one of four categories<sup>62</sup>,

- a) amendments concerning definition and wording;
- b) amendments bearing on particular aspects of emphasis and interpretation of existing formulations;
- c) amendments giving concrete form to or modifying the content of existing provisions;
- d) amendments adding new provisions into the directive.

Such an approach assists the quantitative and qualitative analysis of amendments with the most important amendments falling into categories c) and d). Although it is recognized that any categorisation will always be subject to some degree of questioning. It is also noted that the degree to which an amendment is incorporated by the Commission into its proposal or by the Council into legislation should be recorded along with the importance attached to these amendments and the questions they raise<sup>63</sup>.

Taking account of the categorisation noted above, the criticisms raised and placing the emphasis on identifying 'significant impact', this study places Parliament's amendments into three categories.

- A. amendments that concern the wording, arrangement or emphasis of the proposal without changing the sense or objective;

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<sup>61</sup> The Impact of the Parliament on Community Policies, Action Take Series, No. 3, 11-1988, p. 8.

<sup>62</sup> This approach is used in 'The Role of the Social Affairs Committee in influencing European Community legislation since 1989' and 'L'influence du Parlement européen dans la procédure législative à la lumière de l'adoption de quatre directives ou règlement dans les secteurs des affaires sociales et de l'environnement, December, 1991, WIP 92/01/142, p. 4.

<sup>63</sup> L'influence du Parlement européen dans la procédure législative à la lumière de l'adoption de quatre directives ou règlement dans les secteurs des affaires sociales et de l'environnement, December 1991, WIP 92/01/142.



- B. amendments that add to or modify the content of a proposed directive, decision or regulation;
- C. amendments which add new provisions to the directive, decision or regulation.

It should be noted that the changing of words in the definition will not always fall within the first category as in some cases such a change can extend the scope of a legislative measure. To assess significant impact the emphasis is placed on studying amendments that fall into categories B and C; noting the issues they raise and the degree to which they are accepted by the Commission and incorporated into the final legislation by the Council. It must also be observed when studying legislation which is developed using the cooperative procedure that the classification of amendments may not be consistent, depending on how items have been treated in the Council's 'common position' they may gain or lose significance<sup>64</sup>. The path of an amendment does not always run smoothly from its original form to the final legislative measure, even if accepted in one form in the 'common position' it may change again before the legislation is agreed and the degree of its inclusion may alter.

The second question which arises when discussing the legislative measures is how to qualify 'significant'? While to some extent this may be indicated from the attention given to Parliament's amendments by the Commission and Council, is there any other indication of significance? The legislation issued during the period July 1989 to July 1994 attracted the attention of representative groups of children, the elderly, the disabled, employers and workers who issued statements and submissions. The views expressed by these groups provide some indication of the significance of the provisions in a legislative proposal and proposed amendments for the operation of that legislation. It must be stressed that the Parliament makes its decisions independently but the information provided by these groups provides some expert details. It has also been observed that contact between representative groups and Parliament Members has increased on both sides.

### *The Growing Significance of Social Policy*

The legal competence for the Community's Social Policy<sup>65</sup> was originally<sup>66</sup> given by Part Three, Title III of the Treaty of Rome which includes the establishment of the European Social Fund<sup>67</sup>, the principle of equal pay for men and women<sup>68</sup> and the close cooperation between Member States on

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<sup>64</sup> The rules of procedure outline the requirements for the tabling, moving and admissibility of amendments. Rules of Procedure, February 1992, Rules 69 and 70, October 1993, Rules 60 and 72.

<sup>65</sup> For the legislation and acts examined in this study the legal competence was provided by the EEC Treaty as amended by the Single European Act.

<sup>66</sup> Article 2 of the EEC Treaty Principles notes the Community task of "an accelerated raising of the standard of living and closer relations between the States belonging to it" and Article 3 notes "the abolition as between Member States of obstacles to freedom of movement for persons". (These articles have since been amended by the Treaty on European Union).

<sup>67</sup> Part three, Title III, Chapter 2, Articles 123-128 of the EEC Treaty (these Articles have been amended by the Treaty on European Union).

<sup>68</sup> Article 119, EEC Treaty.

issues including -employment; -labour law and working conditions; -vocational training; -social security; -occupational health and safety; -collective bargaining and -the right of association<sup>69</sup>.

The Single European Act provided for new competencies in Social Policy notable in this study Article 118a provides for regulations in relation to occupational health and safety, Title V seeks economic and social cohesion and Article 100a has been used for social legislation as it relates to the functioning of the Internal Market. Also of note for the purpose of this study is Article 49 on proposals to bring about the freedom of movement of workers (as defined in Article 48). Legislation based on Article 118a and 100a allows for qualified majority voting at Council and cooperation with the Parliament as does Article 49.

Some of the legislation under examination is based on Article 100, regarding the harmonisation of legislation affecting the functioning of the common market, and Article 235, which is used when the Treaty does not provide the necessary powers for a given topic. In these cases the Council acts unanimously and in consultation with the European Parliament.

The adoption of the Protocol and Agreement on Social Policy which is annexed to the Treaty on European Union provides for a further advance on these provisions<sup>70</sup>. Article 2 (2) of the Agreement is expected to allow for the adoption of a wider range of social provisions than Article 118a of the EEC Treaty. However, questions exist concerning procedures and the application of legislation that may result due to the opt out by the United Kingdom. The importance of the Union's social policy and the provisions for legislation in the field have increased with each Treaty revision.

The development and implementation of measures in social policy can be identified by three periods since the founding of the Community. The first period 1958-1973 saw only limited social measures related to the co-ordination of social security for EC migrant workers. The second period 1974-1985 included a series of action programmes<sup>71</sup>, directives on equal pay and non discrimination in employment<sup>72</sup>, and labour law<sup>73</sup>. The developments since 1985 mark the third period with social policy receiving a high profile since the identification of a social dimension to the internal market by the Commission President Jacques Delors<sup>74</sup>. The Internal Market programme raised important welfare and employment issues, the Cecchini Report noted that the welfare gains from the 1992 internal market programme are expected to result from improved economies of scale, increased concentration,

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<sup>69</sup> Article 118, EEC Treaty.

<sup>70</sup> Whiteford, Elaine A., Europe Institute, Rijksuniversiteit, 'Social Policy after Maastricht', *European Law Review*, Vol. 18, No. 3, June, 1993, p. 202.

<sup>71</sup> Social Policy Action Programme, OJ C 13, 12.2.74, p. 1.

<sup>72</sup> Equal pay and equality directives 75/117, 76/207, 79/7, 86/378, 86/613.

<sup>73</sup> Labour law directives, collective redundancies 75/129, employer's rights in a transfer of undertakings 77/187; protection of employers in case of employer insolvency 80/987.

<sup>74</sup> 'The Social Dimension of the Internal Market', Social Europe, Commission 1988C.

and specialisation. Therefore, employment in previously 'sheltered' industries and regions must be a concern along with disparity in the distribution of gains from the predicted growth<sup>75</sup>.

The Commission's attention to the 'social dimension' included the publication of Community Charter of Fundamental Social Rights for Workers and its associated Action Programme which provides for the legislation to see the aims of the 'Social Charter' realised. The implementation of this legislation has formed a significant part of the Community's social policy over the 1989-1994 period.

The European Parliament has paid serious attention to the Social Charter, its action programme and the link between economic and social progress when attaining the Internal Market. Parliament adopted a detailed resolution on the Social Charter in November 1989<sup>76</sup> in which it reaffirmed its view that 'social rights' form part of the general body of fundamental human rights. Over the period 1989-1994 the realities of the economic situation and its effects, were raised in Parliament's resolutions on unemployment, job creation, atypical forms of employment, vocational training and access to the labour market<sup>77</sup>.

Two notably detailed resolutions supported by Committee reports were presented by the Committee to the Parliament in September 1990<sup>78</sup> and June 1992<sup>79</sup>. These reports drew on the expertise within the Committee and on opinions from a number of other Parliamentary Committees. The second report, while building on the first, focuses attention on the European labour market after 1992 and discusses in some detail -changes in the European labour market; -flexible forms of work; -social security; -social marginalization; -migration and immigration from third countries; -corporate restructuring, and -the social implications for the Union of the changes in Eastern Europe. In justifying this report and resolution the General Rapporteur stated that the changes occurring in the labour market and possible difficulties arising initially in the Internal Market require a strategy to "reconcile the increasing flexibility of the market with the need for social protection on both workers and non-workers"<sup>80</sup>.

It can be expected that these reports will be drawn upon as the Committee prepares its response to the Commission's Green and White papers on European Social Policy -Options for the Union. The periods of development of the Community's social policy have been noted above and it can be suggested that

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<sup>75</sup> Mosley, Hugh C., Science Centre Berlin, 'The Social Dimension of European Integration', International Labour Review, Vol. 129, 1990, No. 2.

<sup>76</sup> Bradley, Kiernan St. Clair 'Legal Developments in the European Parliament' in Yearbook of European Law 1989, A. Barav and D. A. Wyatt (eds), Clarendon Press Oxford. O C 323/1989, p. 44, Parliament's resolution on the Community Charter of Fundamental Social Rights.

<sup>77</sup> Bradley, Kieran St. Clair 'Legal Developments in the European Parliament in Yearbook of European Law 1990, A. Barav and D. A. Wyatt (eds), Clarendon Press, Oxford.

<sup>78</sup> Resolution adopted 13 September 1990, OJ C 260/90, p. 167. A3-0175/90, published as La Mise en Oeuvre des Droits Sociaux Fondamentaux.

<sup>79</sup> Resolution adopted 8 July, 1992, OJ C 241/92, p. 51, A3-0238/92.

<sup>80</sup> General Rapporteur, Mr. van Velzen, *ibid.* p. 24.

the application of the Protocol and Agreement on Social Policy following the ratification of the Treaty on European Union, along with the debates surrounding the Green and White Papers on Social Policy, and the White Paper on Growth, Competitiveness and Employment may be seen as the initial stages in the commencement of the next period.

Through a series of amendments proposed to the EEC Treaty Articles on Social Policy, the European Social Fund and the Free Movement of Workers, the Parliament sought to have the following items included in the Union Treaty:

- equality of opportunity and access to education (Article 117);
- common policies in the social and employment fields;
- the inclusion of health and undertakings run according to the principles of social economy (cooperatives, worker associations) in common policies (Article 118);
- the encouragement of improvements in the training of workers and equality of opportunity (Article 118a); and
- the extension of the social dialogue by the adoption of a legal framework conducive to negotiations and collective conventions along with the right of all workers to be informed and consulted before decisions which effect them are made (Article 118b).

With regard to the Social Fund, Parliament sought that all persons legally resident in the Community benefit from a policy of occupational training and finally in this context, the bringing about of the Freedom of Movement should ensure that migrants have the same rights as nationals<sup>81</sup>.

While it cannot be stated absolutely that the inclusion of some of the above items in the Agreement on Social Policy resulted from Parliament's proposals, some level of influence cannot be ruled out. Whiteford states that 'the Agreement can be regarded as a significant advance on the provisions of the EEC Treaty', with Article 2 recognising 'that the Community is to support and complement the activities of the Member States in the social field'. This writer also suggests that with the entry into force of the Treaty Article 2 (2) would allow for the adoption of a wider range of social provisions than Article 118a of the EEC Treaty<sup>82</sup>. However, in Resolutions Parliament has expressed concern that the Treaty on European Union only provides for a limited extension of the Union's powers in this area. It regrets that the Treaty and its protocol introduced two legal bases, which it fears may cause confusion and a two-speed Europe with regard to social policy<sup>83</sup>.

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<sup>81</sup> European Parliament publication, 1993 - the New Treaties.

<sup>82</sup> Whiteford, Elaine A., Europe Institute, Rijksuniversiteit, 'Social Policy after Maastricht', European Law Review, Vol. 18, No. 3, June 1993, p. 202.

<sup>83</sup> Resolution of 7 April, 1992, OJ C 125, 1992, p. 81 and Resolution of 9 July, 1992, O C 241, 1992, p. 175.

### ***The presentation of the individual studies***

Each study provides firstly, an outline of the measure, whether it is a regulation, decision, directive or recommendation. Secondly, the Parliament's amendments are categorised and discussed. The second part of the discussion, following tables giving the quantitative analysis of the amendments accepted by the Commission and the Council, highlights the amendments which have been incorporated into the measure. Thirdly, under the heading 'Parliament's Impact', there is a brief summary of the most significant amendments which were accepted and comments on any notable procedural issues.



## CHAPTER I: EMPLOYMENT, THE LABOUR MARKET AND THE SOCIAL DIMENSION

Under this heading Parliament participated in the legislative process with regard to the Recommendation on Employee Participation in Profits and Enterprise Results; directives on Redundancies; Proof of Employment and the Right of Residence and the regulation on the Free Movement of Workers. The above mentioned measures involved consultation with the Parliament, with the exception of the regulation on the free movement of workers which involved the cooperation procedure.

### I.1 RIGHT OF RESIDENCE

The Commission notes in the explanatory memorandum to its original proposal for a Council Directive<sup>84</sup> that the Heads of State and Government in Paris on the 9-10 December 1974 recommended that Member States' citizens should be granted special rights as Community nationals. The European Parliament included in its resolution of 11 November 1977 (the Scelba Report) the general right of residence. However, despite spending ten years discussing the issue the Member States were unable to reach unanimity with regard to a Directive.

In the light of the completion of the Internal Market and the expectations of European citizens the Commission withdrew its 1979 proposal and presented three individual proposals. These were on the 'Right of Residence for Students'; the 'Right of Residence for Employee and Self Employed Persons who have ceased their occupational activity' and the 'Right of Residence'. The objective was to extend the right of residence to those European citizens who did not have that right within Community law at the time of the proposal<sup>85</sup>. The Committee on Social Affairs, Employment and the Working Environment was responsible for the examination of the Directive on the 'Right of Residence for Employees and Self-Employed Persons who have ceased their occupational activity'.

*Council Directive 90/365/EEC of 28 June 1990<sup>86</sup> on the right of residence for employees and self-employed persons who have ceased their occupational activity*

The path of this Directive through the legislative process was not straightforward due to a change in the legal base. The Commission originally proposed that the Directive should be based on Articles 49 and 54 of the EEC Treaty. These Articles relate to the freedom of movement for workers and the freedom of establishment. They require cooperation with the European Parliament and allow for

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<sup>84</sup> Commission's original proposal COM(89) 275 final - SYN 199 - SYN 200, OJ C 191 28.7.89, p. 3.

<sup>85</sup> Community legislation at the time of the proposal - EEC Treaty Articles 48-66; Regulations Nos. 1612/68 and 1251/70 and Directives 68/360; 73/148 and 75/34.

<sup>86</sup> Council Directive 90/365/EEC of 28 June 1990, OJ L 180, 13.7.90, p. 28.

qualified majority voting at the Council of Ministers. The proposed legal basis did not find favour with the Council.

Following the first reading of the proposal by the Parliament<sup>87</sup>, the Council would only agree to the use of Article 235 as the legal basis. This Article is used when the Treaty is believed not to provide the necessary powers for a legislative measure. Under Article 235 the Council decides unanimously after consultation with the European Parliament. The Parliament was reconsulted on this Directive in what became the curious 'second first reading'<sup>88</sup>. This 'second first reading' involved the Parliament examining and proposing amendments to the 'Council's orientation'<sup>89</sup>.

### *The Directive*

The right of residence for those who have ceased their occupational activity, even if they did not exercise their right of freedom of movement during their working life, is recognised by this Directive. Member States shall grant the right of residence to nationals of Member States who pursued employment as an employee or self-employed person. The holder of the right of residence may be accompanied by his or her spouse and dependants. However, those who exercise this right must have sickness insurance and sufficient resources to ensure that they do not become a burden on the social security system of the host Member State.

The Directive specifies the type of pensions or benefits the individual must be in receipt of and the criteria by which these benefits are deemed to be sufficient. The stated pensions and benefits are: invalidity or early retirement pensions, old age benefits or a pension related to an industrial accident or disease.

A 'Residence permit for a national of a Member State of the EEC' shall provide evidence of the right of residence. The validity of this permit may be limited to five years on a renewable basis and the right of residence shall remain as long as the individual and their families fulfil conditions laid down in the Directive.

The Commission is required to submit a report on the application of this Directive to the European Parliament and the Council every three years. Member States were required to have introduced the necessary measures to comply with the Directive by the 30 June, 1992.

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<sup>87</sup> Legislative Resolution, European Parliament amendments adopted 13 December 1989, OJ C 15, 22.1.90, p. 74.

<sup>88</sup> Legislative Resolution, European Parliament amendments adopted 13 June 1990, OJ C 175, 16.7.90, p. 90.

<sup>89</sup> Due to the unusual nature of the 'Council orientation' document it was not readily available at the time of this study. For this reason the evaluation of the Parliament's impact on the Directive concentrates on the final Directive text.



The Directive is based on Article 235 which requires consultation with the European Parliament.

### *Parliament's Amendments*

The Rapporteur noted that the Committee saw the proposed Directive as incomplete and while only providing a partial right of residence it represents a "first stage towards a right of residence for all retired Community citizens throughout the Community"<sup>90</sup>. At the first reading the Parliament proposed twelve amendments<sup>91</sup> to the Commission's original proposal<sup>92</sup>. Nine of these amendments related to the Directive's recitals and included references to the following issues: the inclusion of early retirement pensions among the suitable financial means of support<sup>93</sup>; the free movement and right of residence of retired citizens should not be curtailed by disparities in benefits among Member States<sup>94</sup>; and the rights of nationals from non Member States<sup>95</sup>. These issues were raised again by the Parliament when it was reconsulted on the Council's orientation<sup>96</sup>.

The Parliament's amendments addressed to the Articles of the Directive sought to:

- ensure that those who have a pre-retirement pension, survivor's benefits or adequate resources, on which to live, are entitled to right of residence;
- allow the definition of family be extended to include a persons partner;
- ensure that in the event of the death, divorce or separation of the permit holder that members of the family shall retain the right of residence granted to them;
- allow pensions or other resources be deemed adequate if they ensure that those entitled to residence do not become a burden on the host country's social security scheme; and
- ensure that documents are issued free of charge and the residence permit is not required when the holder crosses a national frontier or in the event of a police check<sup>97</sup>.

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<sup>90</sup> Rapporteur Mr. Megahy, Debates of the European Parliament, OJ Annex 3-384, 11.12.89, p. 15.

<sup>91</sup> Legislative Resolution, European Parliament amendments adopted 13 December 1989, OJ C 15, 22.1.90, p. 74.

Amendments 32, 6, 25, 26 and 36; and 7, 38, 8 and 40 were grouped to form just two individual amendments.

<sup>92</sup> Commission's original proposal COM(89) 275 final - SYN 200, OJ C 191, 28.7.89, p. 3.

<sup>93</sup> First reading, amendment 33.

<sup>94</sup> First reading, amendment 1.

<sup>95</sup> First reading, amendment 44.

<sup>96</sup> 'Second first reading', amendments 3, 4 and 7.

<sup>97</sup> First reading, amendments 32, 6, 25, 26 and 36.

In order to ensure that there is some form of check on the implementation of the Directive, the Parliament sought to require:

- Member States report to the Commission on the provisions of national law in this field and on the implementation of the Directive<sup>98</sup>, and
- the Commission report, every three years, to the Council and the Parliament on the implementation of the Directive<sup>99</sup>.

These amendments were resubmitted after the Parliament was consulted on the Council's orientation document<sup>100</sup>. Other amendments put forward at this stage sought to: delete criteria deeming an applicants resources sufficient if they are greater than the host Member States' social assistance or minimum social security; and ensure that a person, granted residence, whose resources are unexpectedly reduced receives the necessary help<sup>101</sup>.

The quantitative analysis in the case of this Directive is incomplete because the Council 'orientation' document was not available. Therefore, the following tables identify the Parliament's amendments accepted and included in the Directive by the Council. The Commission did not issue a re-examined proposal following the second consultation with Parliament and for that reason there is no reference the Commission's position in the second table.

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<sup>98</sup> First reading, amendment 9.

<sup>99</sup> First reading, amendment 41 and 'second first reading', amendment 18.

<sup>100</sup> Legislative Resolution, European Parliament amendments adopted 13 June 1990, OJ C 175, 16.7.90, p. 90.

<sup>101</sup> 'Second first reading', amendments 10 and 17.

### ***First Reading***

| Amendment category | EP submitted <sup>102</sup> | Commission accepted <sup>103</sup> |            | Council accepted <sup>104</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 3                           | 0                                  | 1          | 0                               | 0          |
| B                  | 6                           | 2                                  | 2          | 1                               | 0          |
| C                  | 3                           | 0                                  | 1          | 1                               | 0          |

Total amendments: 12.

### ***Reconsultation***

| Amendment category | EP submitted <sup>105</sup> | Council accepted <sup>106</sup> |            |
|--------------------|-----------------------------|---------------------------------|------------|
|                    |                             | Partially                       | Completely |
| A                  | 2                           | 0                               | 0          |
| B                  | 14                          | 0                               | 1          |
| C                  | 2                           | 0                               | 0          |

Total amendments: 18 (amendment 1 did not apply to the English version).

As indicated by the quantitative analysis, the Parliament's amendments proved more successful with the Commission than the Council. The Council only clearly incorporated two of the Parliament's amendments into the Directive. Firstly, the requirement that the Commission submit a report, every three years, to the Council and the European Parliament on the application of this Directive<sup>107</sup> and secondly, the specification of 'early retirement pensions' among the acceptable financial resources for those seeking the right of residence<sup>108</sup>.

<sup>102</sup> Legislative Resolution, amendments agreed on 19 December 1989, OJ C 15, 22.1.90, p. 74.

<sup>103</sup> Commission's amended proposal COM(89) 675 final - SYN 199, SYN 200, OJ C 26, 3.2.90, p. 19.

<sup>104</sup> Council Directive 90/365/EEC, OJ L 180, 13.7.90, p. 28.

<sup>105</sup> Reconsultation, amendments agreed on 13 June 1990, OJ C 175, 16.7.90, p. 90.

<sup>106</sup> Council Directive 90/365/EEC, OJ L 180, 13.7.90, p. 28.

<sup>107</sup> First reading, amendment 41 and 'second first reading' category C partially accepted, Directive Article 4.

<sup>108</sup> First reading, amendment 33 and 'second first reading' amendment 3 category B completely accepted, Directive Article 1.

One of the Parliament's amendments to the original Commission proposal sought to include a provision on, the deeming of resources adequate if those entitled to residence do not become a burden on the social security system of the host country<sup>109</sup>. However, although this idea does seem to lie behind the Council's requirements, the Council is more specific in the Directive with regard to judging resources against levels of social assistance and security in the host country. As noted above, when the Parliament was consulted on the Council orientation it sought to have these measurements deleted<sup>110</sup> but these amendments were unsuccessful.

### ***Parliament's Impact***

Parliament's impact on this Directive was very limited. The Commission's report on the application of the Directive allows the Parliament to observe the process over a longer period. Additionally, the inclusion of early retirement pensions can be seen as a clarification in the Directive which reflects a current trend in retirement practice and the labour market, as the numbers of people taking early retirement has been noted to be increasing.

## **I.2 PROOF OF EMPLOYMENT**

***Council Directive 91/533/EEC of 14 October 1991<sup>111</sup> on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship***

The Commission stated that due to businesses seeking maximum flexibility there has been an "explosion" in different forms of work organisation and employment arrangements beyond part-time work and outwork. The more recent employment arrangements include 'vertical part-time work', job sharing, 'on-call' work, contract work, on the job training and training schemes. The differences found to exist, between Member States, in the written information provided to employees was unacceptable to the Commission. It was believed that such differences might have a negative effect on the operation of the Single Market. Therefore, the Commission put forward a proposal for a Directive which would make it compulsory for an employer to give employees written information concerning their terms of employment.

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<sup>109</sup> First reading, amendments 32, 6, 25, 26 and 36.

<sup>110</sup> 'Second first reading' amendments 10, 11 and 12.

<sup>111</sup> Council Directive 91/533/EEC of 14 October 1991, OJ L 288, 18.10.91, p. 32.

## ***The Directive***

The Directive requires that paid employees who have a contract or employment relationship (as defined by the law in a Member State) receive a document containing information on the essential elements of their employment. However, the Directive does not apply to employees whose employment does not exceed one month and/or eight hours per week or is of a casual and/or specific nature. The details of the information to be provided and the means by which it is given are laid out in the Directive. Additional information is provided for, in the case of employees working in a country or countries other than the Member State whose law governs the contract or employment relationship.

Member States are required to introduce measures to enable employees to pursue claims by judicial process in the case of an employers failure to comply with the Directive. The necessary legislation and measures to comply with the Directive were to have been introduced in Member States by the 30 June 1993.

The Directive is based on Article 100 of the EEC Treaty which requires consultation with the European Parliament.

## ***Parliament's Amendments***

During the Parliament's debate on the proposed Directive the Rapporteur noted that the compulsory proof of employment should result in "greater legal certainty for employees" in new atypical areas of employment<sup>112</sup>. Following the debate Parliament proposed twenty nine amendments<sup>113</sup> to the Commission's original proposal<sup>114</sup> for a Directive.

One of the most significant amendments proposed changing the legal basis for the Directive<sup>115</sup>. The Rapporteur pointed out, on behalf of the Committee, that they were surprised that the Commission had selected a legal basis (Article 100) which required Council unanimity. It was noted by the Rapporteur that "written proof of employment" was a "comparatively simple affair" for which it should be possible to achieve unanimity. However, she suggested that it would be more sensible to enable the Council to take a majority vote<sup>116</sup>. The Parliament proposed that Article 118a be selected as the legal basis. This provides for majority voting and requires cooperation with the European Parliament.

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<sup>112</sup> Rapporteur, Mrs Salisch, Debates of the European Parliament, OJ Annex 3-406, 11.6.91, p. 124.

<sup>113</sup> Legislative Resolution, European Parliament amendments adopted 8 July 1991, OJ C 240, 16.9.91, p. 16.

<sup>114</sup> Commission's original proposal COM(90) 563 final, OJ C 24, 31.1.91, p. 3.

<sup>115</sup> Amendment 1.

<sup>116</sup> Rapporteur, Mrs. Salisch, Debates of the European Parliament, OJ Annex 3-406, 11.6.91, p. 124.



When addressing the Parliament during the debate the Commissioner stated that he understood the strong feelings expressed by the Rapporteur and others. However, he noted that the Commission only accepted Article 100 "after very careful consideration" and it was therefore unlikely that the Commission would change its position<sup>117</sup>. This was the case and the amendment to change the legal basis was unsuccessful.

The Parliament was also concerned that the information to be supplied to workers under the Directive should be included in situations where there are already arrangements for employment contracts, letters of employment and similar documents<sup>118</sup>. Other Parliament amendments sought to ensure:

- that the Directive would apply to all employment even if on average it is for eight hours or less per week;
- that an employee should receive the written declaration within one week, rather than one month, after being recruited;
- that the declaration on employment must be written in a language with which the employee is familiar;
- that the declaration include information on, overtime rules, sick leave, recuperation time, undertakings hiring workers out on subcontracts and occupational risks with regard to employment abroad; and
- that employees should receive notification of any changes in the information provided in the declaration or contract<sup>119</sup>.

Finally, amendments proposed that Member States provide the Commission with information on the implementation of the Directive and that the Commission should in turn report on this implementation to the European Parliament, the Council and the Economic and Social Committee<sup>120</sup>.

The quantitative analysis of the Commission's and Council's acceptance of the Parliament's amendments is given in the table below:

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<sup>117</sup> Commissioner Millan, Debates of the European Parliament, OJ Annex 3-406, 11.6.91, p. 124.

<sup>118</sup> Amendments 9 and 26.

<sup>119</sup> Amendments 15, 16, 17, 20, 34, 25 and 24.

<sup>120</sup> Amendments 30 and 31.

| Amendment category | EP submitted <sup>121</sup> | Commission accepted <sup>122</sup> |            | Council accepted <sup>123</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 5                           | 0                                  | 2          | 1                               | 0          |
| B                  | 20                          | 1                                  | 3          | 2                               | 1          |
| C                  | 4                           | 0                                  | 0          | 0                               | 0          |

Total amendments: 29.

Although the Commission agreed that details on overtime rules should be included in the information provided to employees<sup>124</sup>, this suggestion did not find favour with the Council. Both the Commission and the Council incorporated the Parliament's amendment ensuring that employees receive notification of any changes, rather than only substantial changes, in the information provided in a written declaration on employment<sup>125</sup>.

The Commission completely accepted the Parliament's amendments which ensured that in cases where an employment document (contract, letter or similar document) is already used that it will contain the information required under this Directive. The changes made resulted, according to the Commissioner, in a "more effective and efficient" Directive<sup>126</sup>. Although the Council did not accept the Parliament's wording it did alter the Directive to incorporate the amendment's objective<sup>127</sup>. Article 3 of the Directive states more clearly the types of documents which may be used to convey the obligatory information to employees.

<sup>121</sup> Legislative Resolution, European Parliament amendments adopted 8 July 1991, OJ C 240, 16.9.91, p. 16.

<sup>122</sup> Commission's amended proposal COM(91) 294 final.

<sup>123</sup> Council Directive 91/533/EEC, OJ L 288, 18.10.91 p. 32.

<sup>124</sup> Amendment 20 category B partially accepted, Commission's amended proposal COM(91) 294 final, Article 2.

<sup>125</sup> Amendment 24 category B completely accepted, Directive Article 5.

<sup>126</sup> Explanatory memorandum to the Commission's amended proposal COM(91) 294 final.

<sup>127</sup> Amendments 9 and 26 category B partially accepted, Directive Article 3.

## ***Parliament's Impact***

This Directive has been described as relatively short and straightforward<sup>128</sup> and the Commission stated that it "is limited to the essentials"<sup>129</sup>. These factors, along with the use of Article 100 as the legal basis, made it difficult for Parliament to place its stamp on the Directive given that many of its amendments sought to add detail to the document.

However, the changes made to the Directive, as a result of the Parliament's proposals, ensure that employees will receive the information required under the Directive in written contracts, letters of engagement, a declaration or similar document. They will also receive notification of any changes in the information provided.

## **I.3 COLLECTIVE REDUNDANCIES**

***Council Directive 92/56/EEC of 24 June 1992<sup>130</sup> amending Directive 75/129/EEC<sup>131</sup> on the approximation of the laws of the Member States relating to collective redundancies***

This amending Directive proved necessary given the experience of applying the 1975 Directive on collective redundancies, the development of the single market and the changing business environment. The 1975 Directive only partly succeeded in approximating the laws of the Member States<sup>132</sup> and it did not cover all the circumstances in which redundancies might occur.

Commission statistics indicate that the number of mergers and acquisitions carried out by the top thousand European industrial enterprises doubled every three years over the 1980's. Four hundred and ninety two mergers and acquisitions occurred over the 1988-89 period. Particularly important in the context of this Directive is the fact that mergers and acquisitions involving EU enterprises from two different Member States represented forty percent of the total in 1989<sup>133</sup>. It was observed that given these circumstances, the original Directive did not make adequate provision for the protection of the

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<sup>128</sup> European Industrial Relations Review 206, March, 1991.

<sup>129</sup> Social Europe 2/92, p. 36.

<sup>130</sup> Council Directive 92/56/EEC of 24 June 1992, OJ L 245, 26.8.92, p. 3.

<sup>131</sup> Council Directive 75/129/EEC of 17 February 1975, OJ L 48, 22.2.75, p. 29.

<sup>132</sup> Report from the Commission to the Council on progress with regard to implementation of the Directive SEC(91) 1639 final.

<sup>133</sup> Figures cited in the Commission's Explanatory Memorandum to its proposal for a Council Directive COM(91) 292 final.



information and consultation rights of workers, when the enterprise's decision making centre is not located in the same Member State as the enterprise for which decisions are being made<sup>134</sup>.

### ***The Directive***

This amending Directive ensures that the requirements of the Directive 75/129/EEC also apply to collective redundancies which result from an establishment's activities being terminated as a result of a judicial decision. The means of calculating the number of redundancies is extended to include the termination of an employment contract for individual workers. Provided there are at least five such terminations they shall be equated with redundancies.

The employer's obligations are outlined in the amending Directive. An employer shall begin consultations with workers representatives 'in good time' to reach agreement. These consultations should cover means of avoiding redundancies and aid for redeploying or retraining workers made redundant. During the course of the consultations workers' representatives should receive all relevant information, and be notified in writing about the reasons for the projected redundancies and the proposed criteria for the selection of workers to be made redundant.

Member States shall ensure that the judicial and/or administration procedures for enforcing this Directive's obligations are available to the workers' representatives and/or workers. The necessary measures to comply with the Directive must be introduced within two years after its adoption on 24 June 1992. Alternatively, Member States may ensure that the employers' and workers' representatives introduce the required provisions by way of agreement.

This amending Directive is based on Article 100 of the EEC Treaty which requires consultation with the European Parliament.

### ***Parliament's Amendments***

The European Parliament submitted twelve amendments to the Commission's proposal for this amending Directive. These amendments reflected the Parliament's concerns: to extend the application of the concept of collective redundancies and to ensure that workers are adequately consulted, informed and protected by the Directive's provisions.

Firstly, the Parliament proposed amendments to widen the scope of collective redundancies by extending the period over which dismissals take place and reducing the number of workers which form the criteria for the Directive to apply<sup>135</sup>. Using the same criteria in terms of the time period, the

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<sup>134</sup> European Industrial Relations Review 216, January 1992.

<sup>135</sup> Amendment 1.

numbers of employees and the size of the enterprise the Parliament wanted negotiated terminations of employment contracts to also be regarded as collective redundancies<sup>136</sup>.

Secondly, with regard to information and consultation for employees the amendments sought to ensure that: consultations deal with the criteria for selecting workers to be made redundant, the proportions of men and women involved and the employees family situation<sup>137</sup>. Parliament wanted workers and/or their representatives to receive adequate information during any negotiations<sup>138</sup> and to have access to technical advice for the analysis of such information<sup>139</sup>.

Thirdly, the Parliament wanted Member States to be required to ensure that the Directive is enforced and fully effective, by having an adequate system of penalties<sup>140</sup>. Finally, Parliament proposed that Member States establish a Guarantee Fund to pay workers redundancy payments or benefits owed to them if their employer is unable to fulfil the obligations arising from this Directive<sup>141</sup>.

The quantitative analysis of the Parliament's amendments accepted by the Commission and the Council is given in the tables below.

| Amendment Category | EP submitted <sup>142</sup> | Commission accepted <sup>143</sup> |            | Council accepted <sup>144</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 1                           | 1                                  | 0          | 0                               | 0          |
| B                  | 8                           | 2                                  | 0          | 2                               | 0          |
| C                  | 3                           | 1                                  | 0          | 1                               | 0          |

Total amendments 12.

<sup>136</sup> Amendment 2.

<sup>137</sup> Amendment 5.

<sup>138</sup> Amendment 6.

<sup>139</sup> Amendment 7.

<sup>140</sup> Amendments 9 and 10.

<sup>141</sup> Amendment 11.

<sup>142</sup> Legislative Decision, European Parliament amendments adopted 11 March 1992, O C 94, 13.4.92, p. 154.

<sup>143</sup> Commissions amended proposal COM(92) 127 final, OJ C 117, 8.5.92.

<sup>144</sup> Council Directive 92/56/EEC of 24 June 1992, OJ L 245, 26.8.92, p. 3.

The Parliament's impact on this Directive was somewhat limited. Both the Commission and the Council accepted the same amendments to varying degrees. The Parliament's influence can be seen in the following provisions:

- the provision of information to workers during the course of consultations<sup>145</sup>;
- Member States may provide for workers' representatives to call upon the services of experts in accordance with national legislation and/or practice<sup>146</sup>; and
- the termination of individual worker's employment contracts shall be assimilated to redundancies provided that there are at least five such redundancies<sup>147</sup>.

As noted above the Parliament had sought to widen the scope of the collective redundancies further but this did not find favour with the Commission or the Council.

### ***Parliament's Impact***

Although, the Parliament's impact on this Directive appears quite limited, two factors must be borne in mind. Firstly, the Commission was very clear that the objective of this amending Directive was "to avoid the risk of circumvention" where the controlling employer is outside the Member State in which collective redundancies may take place<sup>148</sup>. Therefore, because the objective was very specific it made it more difficult for the Parliament to extend its scope, however, the Rapporteur expressed concern that the Directive "seeks to define and resolve the matter of collective redundancies for only 10% of European Companies....with the result that if the Commission proposal were accepted, 72% of European workers would have no protection against collective redundancy"<sup>149</sup>.

Secondly, it should not go unnoticed that it appears to have been the Parliament which raised the issue that in certain circumstances collective redundancies should include the termination of employment contracts. Also, as in the case of a number of other legislative measures examined in this study, the Parliament was concerned about the provision of information to employees and was successful in ensuring that they receive information during the course of consultations on redundancies.

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<sup>145</sup> Amendment 7 category B partially accepted, Directive Article 2.3.

<sup>146</sup> Amendment 7 category B partially accepted, Directive third Recital and Article 2.2.

<sup>147</sup> Amendment 2 category C partially accepted, Directive second Recital and Article 1. (a).

<sup>148</sup> Mr. Pandolfi, Vice-President of the Commission, Debates of the European Parliament OJ Annex 3-415, 9.3.92, p. 27.

<sup>149</sup> Rapporteur Mr. Torres Couto, Debates of the European Parliament, Annex OJ 3-415, 9.3.92, p. 23.

## **I.4 FREEDOM OF MOVEMENT FOR WORKERS**

*Council Regulation (EEC) No 2434/92 of 27 July 1992<sup>150</sup> amending Part II of Regulation (EEC) No 1612/68<sup>151</sup> on freedom of movement for workers within the Community*

Part II of Regulation (EEC) No 1612/68 relates to SEDOC<sup>152</sup> which is now known as the European Employment Agency (EURES). The Regulation outlines the procedure for the exchange of information between employment services in Member States regarding job vacancies; request for employment and living and working conditions. There is a network of people in public employment services in each country utilising the system which is updated at least monthly.

The Commission stated<sup>153</sup> that the revision of the Regulation was prompted by changes in the national labour markets and advances in information technology. It was recognised by the Commission that aspects of the original Regulation limited its effectiveness. Firstly, only information on "unfilled" vacancies was exchanged and these tended to be the less attractive jobs. Secondly, there tended to be differences between the applicants characteristics and the type of jobs available. Thirdly, there was no way of ensuring that the applicants received a response. The Commission also acknowledged that the usefulness of SEDOC had not been sufficiently promoted.

### ***The Regulation***

The amending Regulation is designed to facilitate the mobility of workers within the Community by improving the system of matching job applications and vacancies. This is to be done firstly, through the circulation of information using a uniform system set up by the European Coordination Office. Secondly, through the regular exchange of information and all data on vacancies and applications between the services responsible in the Member States. Applicants should receive a response within one month. The Commission is required to report, every two years, on the implementation of the Regulation to the Council and the European Parliament.

The amending Regulation came into force on the 27 August 1992 and is based on Article 49 of the EEC Treaty which requires cooperation with the Parliament.

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<sup>150</sup> Council Regulation (EEC) No. 2434/92 of 27 July 1992, O L 245, 26.8.92, p. 1.

<sup>151</sup> Council Regulation (EEC) 1612/68 of 15 October 1968, OJ L 257 19.10.68, p. 2.

<sup>152</sup> Système Européen de Diffusion des Offres et Demandes d'emploi en Compensation.

<sup>153</sup> Introduction to the Commission proposal for a Council Regulation (EEC) COM(91) 316 final - SYN 359, OJ C 254, 28.9.91, p. 9.

### ***Parliament's Amendments***

Following the first reading, the Parliament submitted nine amendments<sup>154</sup> to the Commission's original proposed for the amending Regulation<sup>155</sup>. No amendments were put forward at the second reading when the Parliament accepted the Council's common position. All but three of the Parliament's amendments were accepted by the Commission and the Council to varying degrees.

The unsuccessful amendments related to firstly, the national and regional employment authorities, and employers requesting information on vacancies, and secondly, the date of entry into force for the Regulation<sup>156</sup>. The Parliament had sought that the date be brought forward to 1 January 1993 and the Council decided on the earlier date of 27 August 1992 (the day following the Regulations publications in the Official Journal). Whether the date was brought forward due to Parliament's prompting is unclear.

The quantitative uptake of the Parliament's amendments by the Commission and the Council is given in the table below.

#### ***First Reading***

| Amendment category | EP submitted <sup>157</sup> | Commission accepted <sup>158</sup> |            | Council accepted <sup>159</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 2                           | 0                                  | 2          | 2                               | 0          |
| B                  | 6                           | 1                                  | 2          | 2                               | 1          |
| C                  | 1                           | 0                                  | 1          | 1                               | 0          |

Total amendments: 9.

The successful category B and C amendments resulted in the Parliament being influential in ensuring that:

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<sup>154</sup> Legislative Resolution, amendments adopted 11 March 1992, OJ C 94, 13.4.92, p. 203-205.

<sup>155</sup> Commission's original proposal COM(91) 316 final - SYN 359, OJ C 254, 28.9.91, p. 9.

<sup>156</sup> First reading, amendments 2 and 3.

<sup>157</sup> Legislative Resolution, European Parliament amendments adopted 11 March 1992, OJ C 94, 13.4.92, p. 203-205.

<sup>158</sup> Commission's amended proposal COM(92) 115 final - SYN 359, OJ C 280, 28.10.91, p. 73.

<sup>159</sup> Council's common position C3-0191/92 - SYN 359.

- the European Coordination Office, in collaboration with the Technical Committee, may adopt its uniform system of circulating vacancies and applications<sup>160</sup>;
- applicants for employment vacancies shall receive a response within a month<sup>161</sup>;
- the services responsible for border regions between Member States shall cooperate to provide as much practical information as possible on aspects of mobility<sup>162</sup>, and
- the border region services shall also forward a framework of coordinated measures on mobility to management and labour, social services, and all relevant institutions<sup>163</sup>.

Finally, to facilitate the monitoring of the implementation of this Regulation, the Parliament was successful in having incorporated in the Directive, the requirement that the Commission shall submit a report, every two years, to the European Parliament, the Council and the Economic and Social Committee. This report shall include data from studies and highlight any useful points with regard to development on the Community's labour market<sup>164</sup>.

It is interesting to note that the Council only partially accepted the Parliament's amendment on the Commission report in its common position but it was incorporated completely into the Regulation.

### ***Parliament's Impact***

The Parliament placed its mark on this Regulation by ensuring a prompt reply for applicants for employment vacancies and providing the means to observe the effectiveness of the Regulation and developments in the labour market.

## **I.5 EMPLOYEE PARTICIPATION**

***Council Recommendation 92/443/EEC of 27 July 1992<sup>165</sup> concerning the promotion of participation by employed persons in profits and enterprise results (including equity participation)***

The Commission expressed its intention to present a proposal for a Community instrument on the financial participation of employees in profits and enterprise results, in the Action Programme implementing the Social Charter. In its proposal for a Council Recommendation the Commission refers

<sup>160</sup> First reading, amendment 5 category B partially accepted, amended Regulation Article 1.3.2.

<sup>161</sup> First reading, amendment 6 category B completely accepted, amending Regulation Article 1.4.2.

<sup>162</sup> First reading, amendment 7 category B partially accepted, amending Regulation Article 1.5.(b).

<sup>163</sup> First reading, amendment 7 category B partially accepted, amending Regulation Article 1.5.(b).

<sup>164</sup> First reading, amendment 8 category C partially/completely accepted, amending Regulation Article 1.6.3.

<sup>165</sup> Council Recommendation 92/443/EEC of 27 July 1992, OJ L 245, 26.8.92, p. 53.

to the PEPPER Report (Promotion of Employee Participation in Profits and Enterprise Results)<sup>166</sup>, which evaluates the existing employee participation schemes in Europe.

The existing employee participation schemes can be classified into two broad categories, namely profit-sharing and employee-share ownership<sup>167</sup>. The positive effects of participation are identified by the PEPPER Report as:

- incentive effects, whereby the workers' motivation and involvement in the enterprise results in higher productivity and improved enterprise efficiency;
- wage flexibility involving more frequent wage adjustment which may result in less variable employment policies and thus lower the risk of unemployment; and
- stabilising effects (macroeconomic effects)<sup>168</sup>.

### *The Recommendation*

The Recommendation invites the Member States to encourage the widespread use of different forms of participation by employees in profits and enterprise results, either by means of profit sharing, through employee share-ownership or by a combination of both<sup>169</sup>. It also aims to address certain intra-community aspects of financial participation.

In Section II of the Recommendation, the Member States are specifically recommended to ensure that legal structures are adequate to allow for the introduction of different forms of financial participation. To encourage the setting up of different schemes consideration should be given to: the use of fiscal or financial incentives; the provision of adequate information including that on experience gained in other Member States; and the availability of a wide range of participation arrangements to the social partners.

The Annex outlines a number of key characteristics for consideration when setting up new schemes or revising existing ones. These include suggestions on, the regularity of participation, voluntary participation, the risks and the beneficiaries. Furthermore, the Recommendation emphasises the role of the social partners (see Section 1 (2)).

The legal basis for the Recommendation is Article 235 of the EEC Treaty which requires consultation with the Parliament and unanimity by the Council.

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<sup>166</sup> Commission's original proposal COM(91) 259 final, 3.9.91, p. 4. The PEPPER Report is referred to in Recital 6.

<sup>167</sup> See PEPPER Report, Supplement to Social Europe 3/91, p. 8.

<sup>168</sup> See PEPPER Report, p. 12 and also Recital 8 of the Recommendation.

<sup>169</sup> A non binding instrument was chosen to encourage the development of financial participation amongst Member States.

## **Parliament's Amendments**

Parliament proposed twenty two amendments<sup>170</sup> to the Commission's original proposal. These included the requirement that the Commission submit a report to the European Parliament and the Council on the application of the Recommendation and the conclusions of the working party (investigating the cross border aspects of financial participation) with three years of the Recommendation being agreed (instead of within four years as laid down in the original proposal)<sup>171</sup>. The Parliament also sought to provide for the participation of the social partners on the working party and to extend its tasks to include the investigation of the necessity for a directive to cover asset-formation policy<sup>172</sup>. A further amendment sought that within two years (instead of three years) the Member States should submit to the Commission the relevant data on employee financial participation available at national level.

The Rapporteur welcomed the Commission's proposal to set up a working party to deal with the cross-border aspects of financial participation. It was proposed that the working party would also examine the possibility of creating a European Model<sup>173</sup> for employee participation, because the simplification of voluntary schemes benefiting all employees was envisaged.

The proposed amendments illustrate the Parliament's areas of interest and concern. Firstly, a number of amendments related to employee participation and its wider application, these included those seeking:

- that a link between financial participation schemes and participation in decision-making should be made<sup>174</sup>;
- that the experience acquired in this area by those countries which have applied for EC membership be included<sup>175</sup>;
- that the part which could be played by financial participation in the economic reforms in Central and Eastern European countries and the German Lander should be considered<sup>176</sup>;
- that the role of the social partners is emphasised<sup>177</sup>;
- the development of alternative models for participation external to the business<sup>178</sup>; and

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<sup>170</sup> Legislative Resolution, European Parliament amendments adopted, OJ C 125, 18.5.92, p. 236.

<sup>171</sup> Amendment 15.

<sup>172</sup> Amendment 14.

<sup>173</sup> See Recital 12 of the Commission's original proposal and the European Parliament's Report A3-136/92, Explanatory Statement, p. 13.

<sup>174</sup> Amendments 1, 5 and 8.

<sup>175</sup> Amendment 10.

<sup>176</sup> Amendment 11.

<sup>177</sup> Amendment 18.

<sup>178</sup> Amendment 2.



- the facilitation of the introduction of cross-border schemes which benefit all employees on equal terms, including an extra type of financial participation, namely the 'investment wage scheme'<sup>179</sup>.

Secondly, through its amendments the Parliament wanted to ensure that the workers' welfare would not suffer under any participation scheme. The amendments sought:

- that equal pay should be stressed;
- the encouragement of schemes which will facilitate a more equitable distribution of income and wealth for both part-time and full-time employees;
- that the misuse of shares, where the employees' shares are held in trust should be prevented;
- a guarantee that financial participation schemes do not undermine any other conditions of employment; and
- the introduction of a distinction between income and capital risk, along with protection against income risk<sup>180</sup>.

Finally, the Parliament wanted to ensure that any schemes to encourage the equitable distribution of income and wealth would suit the needs of the small to medium sized enterprises (SMEs)<sup>181</sup>.

The Parliament's position with regard to this Recommendation is in line with its Motion for a Resolution regarding the Commission's Memorandum in 1983 on employee participation in asset formation<sup>182</sup>. In its report, the Committee on Social Affairs and Employment stressed, among other things, the equal distribution of wealth (leading to social justice); the responsibility of the social partners in this area; the importance of the participation of employees in their undertakings and the promotion of profit sharing schemes.

The following table shows the uptake of Parliament's amendments by the Commission and the Council:

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<sup>179</sup> Amendment 14.

<sup>180</sup> Amendments 14, 9, 4, 6, 17 and 21.

<sup>181</sup> Amendment 4.

<sup>182</sup> European Parliament Document A1-758/83, Rapporteur, Mr. E. Brok. For the memorandum from the Commission see Supplement 6/79 on the Bulletin of the European Communities: 'Employee Participation in Asset Formation, Memorandum from the Commission'. The Memorandum gives an outline of the situation and developments in the Member States and recommends desirable guidelines for the future with regard to asset formation policy.

| Amendment category | EP submitted <sup>183</sup> | Commission accepted <sup>184</sup> |            | Council accepted <sup>185</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 2                           | 0                                  | 2          | 0                               | 1          |
| B                  | 10                          | 4                                  | 3          | 3                               | 0          |
| C                  | 10                          | 4                                  | 2          | 0                               | 0          |

Total amendments: 22.

### ***Parliament's Impact***

Strikingly, the provisions with regard to setting up a working party were not included in the final Recommendation. Also, the cross-border aspects of financial participation are less specifically mentioned in the final text.

In order to evaluate the impact of the Parliament, attention is paid particularly to the category B amendments which were accepted by the Council. The Commission's report on the application of this Recommendation in the Member States must be submitted to the Parliament. Notably, the Annex includes the amendments concerning the prevention of financial participation substituting wage negotiations and the avoidance of capital risks.

Although the Council only partially accepted three of the category B amendments it should be noted that the final Recommendation includes an additional provision noting that the role of management and labour should be taken into account in accordance with national law and practice (section I (1.2)). Modifications to the Recommendations for Member States also note the role of employers and employees (section II.5 and II.6). These changes are possibly the result of the Parliament's emphasis on this issue.

<sup>183</sup> Legislative Resolution, European Parliament amendments adopted 9 April 1992, OJ C 125, 18.5.92, p. 236.

## CHAPTER II: THE EUROPEAN SOCIAL FUND

*Council Regulation (EEC) No. 2084/93<sup>186</sup> amending Regulation (EEC) No. 4255/88<sup>187</sup> laying down provisions for implementing Regulation (EEC) No. 2052/88<sup>188</sup> as regards the European Social Fund*

The European Social Fund (ESF), which was created in 1958, is provided for in Articles 123-127 and 130a-e of the EC Treaty and is the oldest of the three Structural Funds. Its objective is to strengthen the Union's economic and social cohesion and it operates in conjunction with the European Regional Development Fund (ERDF) and the guidance section of the European Agricultural Guidance and Guarantee Fund (EAGGF).

In order to improve on the effectiveness of the Structural Funds, the tasks and priorities of the Funds have been reorganized on several occasions. Prompted by the Single European Act, a thorough reform of all the Funds was undertaken in 1988<sup>189</sup>, the main effect of which was to lay down the basic principles in the Framework Regulation<sup>190</sup>:

- Community action through the Structural Funds shall concentrate on the attainment of five priority objectives.
- The Funds shall operate on the basis of close consultations between the Commission, the Member State concerned and the competent authorities designated by the Member State at national, regional or other level.
- The assistance shall be in keeping with the economic strategies pursued at local, regional and national level.
- Administration of the Funds shall be improved, particularly as the Funds appropriations have been doubled.
- The reform shall help to make the Community's structural operations more efficient and straightforward and improve follow-up action.

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<sup>186</sup> Council Regulation (EEC) 2084/93 of 20 July 1993, OJ L 193, 31.7.93, p. 39.

<sup>187</sup> Council Regulation (EEC) 4255/88 of 19 December 1988, OJ L 374, 31.12.88, p. 21.

<sup>188</sup> Council Regulation (EEC) 2052/88 of 24 June 1988, OJ L 185, 15.7.88, p. 9.

<sup>189</sup> Regulation (EEC) No. 2052/88, OJ L 185, 15.7.88 and Council Regulation (EEC) No. 4255/88 of 19 December 1988, OJ L 374, 31.12.88.

<sup>190</sup> Council Regulation (EEC) No. 2052/88 of 24 June 1988, OJ L 185, 15.7.88, p. 9. Fact Sheets on the European Parliament and the Activities of the European Union, PE 162.500, The European Social Fund, EN 4.4.3., 2.2.1994.

A further revision of the Structural Funds based on the above principles was approved by the Council in July 1993<sup>191</sup>. This was necessary since adjustments had to be made in the light of, first, the increased scope of the European Social Fund brought about by the Maastricht Treaty<sup>192</sup> and second, the decisions taken by the Edinburgh European Council regarding structural measures for the period from 1994 to 1999. The Social Fund is also seen as a means of responding to growing unemployment and changes in the labour market<sup>193</sup>.

The 1993 revision led to the amendment in part of the five priority objectives of the Structural Fund laid down in 1988, the revised Framework Regulation (EEC) No. 2081/93<sup>194</sup> sets out the objectives as follows:

- Objective 1: Promoting the development and structural adjustment of the regions whose development is lagging behind (where GNP for the previous three years is less than 75% of the Community average);
- Objective 2: Converting the regions, frontier regions or parts of regions (including employment areas and urban communities) seriously affected by industrial decline;
- Objective 3: Combatting long-term unemployment and facilitating the integration into working life of young people and of persons exposed to exclusion from the labour market<sup>195</sup>;
- Objective 4: Facilitating the adaption of workers of either sex to industrial changes and to changes in production systems<sup>196</sup>;
- Objective 5: Promoting rural development by:
  - (a) by speeding up the adjustment of agriculture structures as part of CAP (Common Agriculture Policy) reform, (5 (a) does not apply to the ESF),
  - (b) by assisting the development and structural adjustment of rural areas.

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<sup>191</sup> Council Regulation (EEC) No. 2084/93, Regulation (EEC) No 2081/93, Regulation (EEC) No. 2082/93, OJ L 193, 31.7.93.

<sup>192</sup> Treaty on European Union (Maastricht Treaty) Title VIII, Article 123.

<sup>193</sup> Green Paper on European Social Policy, consultative document (communication by Commissioner Flynn), p. 81.

<sup>194</sup> Regulation (EEC) No. 2081/93, OJ L 193, 31.7.93, p. 8. Also see Fact Sheets on the European Parliament and the Activities of the European Union, PE 162.500, The European Social Fund, EN 4.4.3., 2.2.1994.

<sup>195</sup> The current Objective 3 is derived from the combination of the old Objectives 3 and 4, which now also incorporates measures to enable those facing social exclusion to enter the labour market. The concept of long-term unemployment is more flexibly defined and ceases to be restricted to people unemployed for more than 12 months. Unemployed people at risk of long-term unemployment are now also included.

<sup>196</sup> The purpose of Objective 4 is to ensure that appropriate provision is made for further training and retraining of employees when new production methods are introduced. The aim is to curb job losses as a result of change in the manufacturing and service industries by improving vocational qualifications as a preventive measure.

The Regulation under examination in this study lays down the means by which the European Social Fund can facilitate the achievement of these Objectives.

### ***The Regulation***

This Regulation ((EEC) No. 2084/93) replaces the implementing Regulation (EEC) No. 4255/88 and is intended to give practical effect to the Structural's Fund's objectives, with regard to the Social Fund, as laid out in Regulation (EEC) No. 2081/93<sup>197</sup>.

The principle task of the Social Fund is to help achieve Objectives 3 and 4 of the Structural Funds in the Union as a whole and to provide support for measures financed under the other Funds, with a view to achieving Objectives 1, 2 and 5 (b). According to this Regulation, Social Fund assistance may be granted, among other things, for measures to:

- facilitate the employment of the long-term unemployed and young people seeking employment, for example, through vocational training, pre-training, upgrading of basic skills, guidance and counselling, temporary employment aids, and the development of appropriate training and support structures;
- promote the integration of people exposed to exclusion from the labour market;
- promote equal opportunities for men and women on the labour market; and
- support employment growth and stability through continuing training and other measures, especially in small and medium-sized enterprises and through the improvement of employment services.

When planning and programming measures, the Member States and the Commission, working together, should ensure that the Community's assistance is concentrated on a limited range of measures in order to be most effective.

To obtain the Social Fund grants for programmes or projects, national authorities in cooperation with regional and local authorities must draw up development plans, which they may submit along with blueprints for operational programmes. These development plans must include the available information on job supply and demand, the nature and features of vacancies, the measures to be carried out and the likely impact in terms of promoting equal opportunities on the labour market. Details must also be provided on the ways in which the business community and the two sides of industry are to be involved, having regard to the established rules and current practices of the Member States concerned.

After receiving the plans submitted by the national authorities, the Commission is required to draw up a Community Support Framework (CSF) setting out the main guidelines for the joint measures to be undertaken by the Community and the individual Member State. ESF assistance may be provided primarily in the form of grants for operational programmes, global grants, technical assistance, and

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<sup>197</sup> Council Regulation (EEC) No. 2081/93 of 20 July 1993, OJ L 193, 31.7.93, p. 5.

pilot and demonstration projects<sup>198</sup>. Member States have to provide the information required for the appraisal, monitoring, and evaluation of these measures.

Projects are also eligible for a grant if they are of special interest to the Community. They must attain a given financial order of magnitude and either be organized on a cross-border basis or involve innovation. The Commission may propose or stipulate that the Fund be used outside the CSFs to finance measures and studies relating to new approaches to vocational training or pilot projects aimed at promoting equal opportunities on the labour market or enabling those who might otherwise be excluded to enter the labour market<sup>199</sup>.

This Regulation entered into force on the third day following its publication in the Official Journal of the European Communities (i.e. 31.7.93 publication date).

Articles 126 and 127 of the EC Treaty, form the legal basis of this Regulation and they require consultation with the European Parliament.

#### *Parliament's Amendments*

While the Commission was drawing up its proposal for a Regulation<sup>200</sup>, the European Parliament illustrated its interest in the implementation and management of the reforms to the Structural Funds in a series of resolutions<sup>201</sup>. In March 1993 Parliament adopted a resolution<sup>202</sup> which outlined its approach to the revision of the Social Fund.

This resolution called for greater flexibility (for example when setting eligibility criteria), transparency in the programming and management of measures undertaken for the purposes of achieving the ESF objectives, and improved assessment and supervision of the use of resources. It welcomed the fact that additional socio-economic indicators would be taken into consideration, one example being national and regional prosperity as reflected in comparable Europe-wide statistics. In addition to calling for the duration of the European Social Fund assistance to be extended to at least five years, the Parliament also demanded an increase in the financial resources in keeping with the wider scope and tasks of the Fund following the Maastricht Treaty.

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<sup>198</sup> For more details see Regulation (EEC) No. 2084/93, Article 6.

<sup>199</sup> Ibid.

<sup>200</sup> Commission's original proposal, OJ C 131, 11.5.93, p. 10.

<sup>201</sup> Earlier European Parliament resolutions on the implementation and management of the reform of the Structural Fund, OJ C 240, 16.9.91, p. 256 and OJ C 284, 2.11.92, p. 54.

<sup>202</sup> European Parliament Resolution, OJ C 115, 26.4.93, p. 40. The Resolution was based on the report by Mrs. L. Onur on behalf of the Committee on Social Affairs, Employment and the Working Environment and the opinion of the Committee on Women's Rights, A3-0057/93, 18 February 1993.

The Parliament's many resolutions, in this field, demonstrate not only that the European Social Fund is regarded as a key means of resolving social problems and unemployment in particular, but also that the Parliament is determined to make real use of its potential influence.

As noted above, Articles 126 and 127 on which this Regulation is based require that the European Parliament is consulted regarding the Commission's proposal. In this case a decision was taken on the bulk of the amendments on 22 June 1993. However, the report on the proposal for a regulation was referred back to the Committee and the vote on the compromise amendments and the legislative resolution was postponed until the July part-session. This enabled Parliament, once the Council had adopted a common position, to give its final endorsement to the whole 'package' of Structural Fund proposals. In its opinion the European Parliament supported the Commission's proposal and reaffirmed that Objective 3 should have priority with regard to the European Social Fund.

The European Parliament submitted forty nine amendments<sup>203</sup>, based on reports by the Committee on Social Affairs Employment and the Working Environment and the opinions of the Committees consulted on this Regulation.

The Parliament submitted a wide range of amendments which addressed:

- the commitment to equal opportunities for men and women in the labour market and training<sup>204</sup>;
- the need for a broader definition of industrial adaptation to include services<sup>205</sup>;
- the involvement of the two sides of industry and non governmental organisations in the planning and programming of measures to be financed under the ESF<sup>206</sup>;
- the need for the measures under Objective 3 to combat long-term unemployment and assist young people find employment<sup>207</sup>; and
- the provision of backup facilities to aid the occupational integration of the long-term unemployed<sup>208</sup>.

Through a series of amendments the Parliament sought to ensure that victims of server poverty and social exclusion are covered by ESF measures to promote integration into the labour market<sup>209</sup>. In response to this issue the Commission and the Council maintained that they were generally seeking to

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<sup>203</sup> Opinion delivered and amendments adopted by the Parliament on 14 July 1993. See OJ C 194, 19.7.93, p. 105 and compromise amendments in O, C 255, 20.9.93, p. 104.

<sup>204</sup> Amendments 1, 6, 13, 19, 21, 22, 37, 40, 42 and 48.

<sup>205</sup> Amendments 4, 6, 29, 33 and 35.

<sup>206</sup> Amendment 7.

<sup>207</sup> Amendment 2.

<sup>208</sup> Amendment 15.

<sup>209</sup> Amendments 17 (comprise 3), 40, 42, and 30.

help all persons excluded from the labour market. Therefore, those who were excluded through poverty would be automatically entitled to assistance<sup>210</sup>.

The Parliament's attempt to ensure that ESF assistance is conditional on Member States having complied with the European Union measures on social welfare and employment was rejected<sup>211</sup>. Furthermore, proposals to delete any references to a fixed percentage of the ESF contributing to preparatory, accompanying and assessment actions<sup>212</sup>, were not accepted on the grounds that they were already covered in the other Structural Fund regulations.

A quantitative analysis of the uptake by the Commission and the Council of the Parliament's amendments is given in the table below. Although, very few amendments were accepted the following discussion will attempt to show that this should not be taken to imply that the European Parliament's fundamental concerns were not taken into account by the Council in the final Regulation.

| Category of amendment <sup>213</sup> | EP amendments <sup>214</sup> | Commission accepted <sup>215</sup> |            | Council accepted <sup>216</sup> |            |
|--------------------------------------|------------------------------|------------------------------------|------------|---------------------------------|------------|
|                                      |                              | partially                          | completely | partially                       | completely |
| A                                    | 4                            | 0                                  | 0          | 0                               | 0          |
| B                                    | 32                           | 9                                  | 1          | 9                               | 0          |
| C                                    | 13                           | 0                                  | 2          | 0                               | 2          |

Total amendments: 49.

The following discussion examines in more detail the Parliament's amendments which were accepted by the Commission and the Council and their incorporation into the Regulation.

As noted above the Parliament wanted to strengthen the commitment to equal opportunities for men and women in the labour market and in training. The Commission explicitly recognized that promotion of equal treatment should be considered a policy priority under the Social Fund<sup>217</sup> but only accepted

<sup>210</sup> Debates of the European Parliament, OJ Annex 3-423, p. 65.

<sup>211</sup> Amendment 44 category C.

<sup>212</sup> Amendments 39 and 41.

<sup>213</sup> Owing to the system of categories used in this study, the indications given here of the number of amendments taken over by the Commission or Council may differ from the official figures.

<sup>214</sup> OJ C 194, 19.7.1993, p. 105, and compromise amendments, in OJ C 255, 20.9.1993, p. 104.

<sup>215</sup> COM(93) 0303 final, p. 108.

<sup>216</sup> Council Regulation, 2084/93, OJ L 193, 31.7.93, p. 39.

<sup>217</sup> See Debates of the EP, No. 3-432, p. 65.



isolated parts of the Parliament's amendments<sup>218</sup>. The Council also watered down the elements of the amendments it incorporated into the Regulation. For example, the Parliament sought to impose an obligation on Member States to provide separate statistics for men and women in each case when they give the information needed to evaluate and manage the operations under the ESF. However, the Council only required the distinction between men and women 'where appropriate'<sup>219</sup>.

Nevertheless, the Regulation as finally agreed includes an additional paragraph calling on the Member States and the Commission to respect the principle of equal opportunities in the operations under the various objectives<sup>220</sup>. A link with the other articles of the regulation has thus been created. It is therefore possible to suggest that in the ESF regulation, the issue of equal treatment for men and women at work has, to a fairly large extent, been accorded the recognition called for by Parliament<sup>221</sup>.

With regard to the Objectives the Parliament was successful in ensuring firstly, that under Objective 4, the definition of industrial adaptation includes services for the purposes of the ESF regulation<sup>222</sup>. Secondly, the strategic importance of the continuing training of workers among the measures supported under Objective 4 was accepted by the Commission and Council<sup>223</sup>. Thirdly, the Commission and Council accepted the prioritising of measures under Objective 3 designed to combat long-term unemployment or enable young people to enter working life<sup>224</sup>. Finally, although the Commission accepted that the employment aids provided under Objective 3 should be temporary, this did not find favour with the Council. However, the Council did accept the need for appropriate training, employment and support structures including the provision of care services for dependants<sup>225</sup>.

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<sup>218</sup> Amendments 1, 40, 42.

<sup>219</sup> Regulation 2084/93, OJ L 193, 31.7.93, p. 39.

<sup>220</sup> Article 1 (4), Regulation 2084/93, OJ L 193, 31.7.93, p. 41.

<sup>221</sup> In Parliament itself, however, there was some support for the view that the wording of Objective 3 appearing in the outline regulation (Regulation (EEC) No. 2081/93) should have included a reference to equal treatment of men and women on the labour market. On this point see Debates of the EP No. 3-432, p. 80. The Economic and Social Committee made the same call in its opinion on the revision of the Structural Funds, OJ C 201, 26.7.93, p. 54, point 2.5.3.

<sup>222</sup> Amendment 4 category B partially accepted, Regulation 2084/93 eighth Recital.  
- On this point see the statements on Objectives 3 and 4 in the minutes of the conciliation meeting of the EP, Council, and Commission held on 12 July 1993, OJ C 255, 20.9.93, p. 18.

<sup>223</sup> Incorporated by the Commission into its amended proposal COM(93) 0303 final, p. 113.

Amendment 7 category C completely accepted, Regulation 2084 ninth Recital.

<sup>224</sup> Incorporated by the Commission into its amended proposal COM(93) 0303 final, p. 111.

Amendment 2 category C completely accepted, Regulation 2084/93 fourth Recital.

<sup>225</sup> Amendment 15 category B partially accepted, Regulation 2084/93 Article 1. 1.a.(iii).

As illustrated by a number of amendments, Parliament's was of the view that the two sides of industry and other non-governmental organizations should be involved as partners, when measures to be financed under the ESF were being planned and programmed and that principle should apply equally to all Member States<sup>226</sup>. The Commission and Council also laid down a provision (in Article 4(1), second subparagraph) to the effect that the plans had to specify how economic forces and the two sides of industry were to be involved 'within the context of each Member State's national institutional rules and current practices'<sup>227</sup>. As a result, Member States are afforded a wider measure of discretion in interpreting the term 'partnership', and, conversely, non-governmental organizations need to take more active steps in order to make the most effective use of their opportunities to wield influence.

### *Parliament's Impact*

The ESF regulation demonstrates that Parliament was able to play an important role in the revision of the Structural Funds. As the above remarks show, many of Parliament's amendments were taken up by the Commission, at least as far as the substance was concerned, even though the wording was changed or they were not given the binding legal force called for. At the end of the day, however, only its implementation will reveal how far the Institutions are in agreement as regards the Regulations on the ESF.

Specifically, with regard to the Regulation examined here, the Parliament was influential in - emphasising the merits of continuous education for employers; -having services included in the definition of industrial changes; -the need to integrate youth into the labour market; and - ensuring the recognition of equality of access to training and the labour market between men and women.

### *Postscript*

The code of conduct agreed between Parliament and the Commission on the implementation of structural policy<sup>228</sup>, whereby Parliament is to be involved much more actively at the programming stage of structural measures, Community initiatives, and pilot projects as well as in monitoring and assessing the programmes carried out, to some extent meets Parliament's demand for a greater say or more complete information. For example, the Commission has given an assurance in the code that the

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<sup>226</sup> Amendments 10, 26, 28, 31 (Compromise amendment 6), 32 (Compromise amendment 7) and 34 (Compromise amendment 8) category B.

The Parliament's compromise amendment 6 was drawn up following the above mentioned conciliation meeting and on the basis of the opinion of the Committee on Social Affairs, Employment and the Working Environment on the Council guideline; A3-0232/93, p. 4 and OJ C 255, 20.9.93, p. 106.

<sup>227</sup> See COM(93) 0379 final, p. 6; OJ L 193, 31.7.93, p. 42.

<sup>228</sup> See agreement concluded by Parliament and the Commission on 13 July 1993, OJ C 255, 20.9.93, pp. 19-20.

plans submitted by Member States, the Community support frameworks, and the operational programmes approved will be forwarded to Parliament.

Parliament's influence is also destined to grow as a result of the fact that, in accordance with the new Article 125 of the EU Treaty<sup>229</sup>, implementing decisions relating to the ESF are to be adopted under the cooperation procedure, whereas consultation of the EP was previously all that was required. Under Article 130d of the EU Treaty, the Council will still have to act unanimously when taking decisions concerning the tasks, priority objectives, and organization of the Structural Funds, but the EP will now be called upon to give its assent. The EP will thus continue to perform an essential role in the attempts to resolve social and employment problems by means of the ESF.

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<sup>229</sup> Article 125 of the EU Treaty now reads: 'The Council, acting in accordance with the procedure referred to in Article 189c ... shall adopt implementing decisions relating to the European Social Fund.'

1. The first part of the paper is devoted to the study of the properties of the function  $f(x)$  defined by the equation

$$f(x) = \int_0^x \frac{1}{1+t^2} dt$$
for  $x \in \mathbb{R}$ . It is shown that  $f(x)$  is an odd function, i.e.,  $f(-x) = -f(x)$ , and that it is strictly increasing. Moreover, it is proved that  $f(x)$  is bounded on any finite interval, and that its range is the interval  $(-\pi/2, \pi/2)$ . The second part of the paper is devoted to the study of the function  $g(x)$  defined by the equation

$$g(x) = \int_0^x \frac{1}{1+t^4} dt$$
for  $x \in \mathbb{R}$ . It is shown that  $g(x)$  is an even function, i.e.,  $g(-x) = g(x)$ , and that it is strictly increasing. Moreover, it is proved that  $g(x)$  is bounded on any finite interval, and that its range is the interval  $(0, \pi/2)$ .

The third part of the paper is devoted to the study of the function  $h(x)$  defined by the equation

$$h(x) = \int_0^x \frac{1}{1+t^6} dt$$
for  $x \in \mathbb{R}$ . It is shown that  $h(x)$  is an even function, i.e.,  $h(-x) = h(x)$ , and that it is strictly increasing. Moreover, it is proved that  $h(x)$  is bounded on any finite interval, and that its range is the interval  $(0, \pi/2)$ .

The fourth part of the paper is devoted to the study of the function  $k(x)$  defined by the equation

$$k(x) = \int_0^x \frac{1}{1+t^8} dt$$
for  $x \in \mathbb{R}$ . It is shown that  $k(x)$  is an even function, i.e.,  $k(-x) = k(x)$ , and that it is strictly increasing. Moreover, it is proved that  $k(x)$  is bounded on any finite interval, and that its range is the interval  $(0, \pi/2)$ .

The fifth part of the paper is devoted to the study of the function  $l(x)$  defined by the equation

$$l(x) = \int_0^x \frac{1}{1+t^{10}} dt$$
for  $x \in \mathbb{R}$ . It is shown that  $l(x)$  is an even function, i.e.,  $l(-x) = l(x)$ , and that it is strictly increasing. Moreover, it is proved that  $l(x)$  is bounded on any finite interval, and that its range is the interval  $(0, \pi/2)$ .

The sixth part of the paper is devoted to the study of the function  $m(x)$  defined by the equation

$$m(x) = \int_0^x \frac{1}{1+t^{12}} dt$$
for  $x \in \mathbb{R}$ . It is shown that  $m(x)$  is an even function, i.e.,  $m(-x) = m(x)$ , and that it is strictly increasing. Moreover, it is proved that  $m(x)$  is bounded on any finite interval, and that its range is the interval  $(0, \pi/2)$ .

The seventh part of the paper is devoted to the study of the function  $n(x)$  defined by the equation

$$n(x) = \int_0^x \frac{1}{1+t^{14}} dt$$
for  $x \in \mathbb{R}$ . It is shown that  $n(x)$  is an even function, i.e.,  $n(-x) = n(x)$ , and that it is strictly increasing. Moreover, it is proved that  $n(x)$  is bounded on any finite interval, and that its range is the interval  $(0, \pi/2)$ .

The eighth part of the paper is devoted to the study of the function  $o(x)$  defined by the equation

$$o(x) = \int_0^x \frac{1}{1+t^{16}} dt$$
for  $x \in \mathbb{R}$ . It is shown that  $o(x)$  is an even function, i.e.,  $o(-x) = o(x)$ , and that it is strictly increasing. Moreover, it is proved that  $o(x)$  is bounded on any finite interval, and that its range is the interval  $(0, \pi/2)$ .

## CHAPTER III: LIVING AND WORKING CONDITIONS

### III.1 COMMUNITY ACTIONS FOR THE ELDERLY

The age profile of the European Community's population has been changing significantly. The number of people over 60 years of age has risen from 46.5 million to 68.5 million since the 1960s and it is expected that this trend will continue. Planning is required to meet the demands these structural changes will place on the financing of pensions, health care and services for the elderly. Diversity among the needs of the elderly population adds to the demands. In recognition of the changing situation the Commission included a section on 'Elderly Persons' in the Community Charter of the Fundamental Social Rights of the Worker 1989. The European Union does not have any legal competence with regard to the elderly and it is generally regarded as the responsibility of the Member States. However, the sharing of information among interested parties and an awareness of the situation is considered important. With this end in mind the first EC Programme for Older People was introduced culminating in the European Year of the Elderly and of Solidarity between Generations in 1993. The two related legislative measures are examined in this study in order to evaluate the Parliament's impact. Parliament's role over the years in encouraging the introduction of measures for the elderly has not gone unnoticed.

#### *Council Decision 91/49/EEC of 26 November 1990 on Community Actions for the Elderly<sup>230</sup>*

##### *The Decision*

This Decision outlines the activities to be undertaken as part of Community actions for the elderly over the period 1 January 1991 to 31 December 1993. The objective of these actions was to contribute through the transfer of knowledge, ideas and experience on the activities carried out in Member States regarding: the preventive strategies to meet the economic and social challenges of an ageing population; the identification of innovative approaches for strengthening solidarity between the generations and integration of the elderly; and highlighting the positive contribution by the elderly to society.

The Decision provided for ECU 2,4 million to finance the actions during the first two years of the programme. The Commission had responsibility for the implementation of those actions which included organising conferences seminars and studies. It was assisted by an advisory Committee of two representatives from each Member State. The Decision designated 1993 'European Year of the Elderly and of Solidarity between Generations'. Before 31 December 1994 the Commission is to submit a report to the European Parliament, the Council and the Economic and Social Committee on the implementation, outcome and evaluation of actions provided for in this Decision.

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<sup>230</sup> Council Decision 91/49/EEC of 26 November 1990, OJ L 28, 2.2.91, p. 29.

The Decision was based on Article 235 of the EEC Treaty which requires the Council to act unanimously and consult the Parliament.

#### **Parliament's Amendments**

The Rapporteur found the Commission's proposal<sup>231</sup> "extremely restrictive in terms of content, financial resources and political commitment"<sup>232</sup>. The European Parliament submitted twenty three amendments to the proposal<sup>233</sup>. Ten of the Parliament's amendments addressed the Decision's Recitals and included those seeking references to firstly, avoiding the marginalization and discrimination by taking account of the needs of the elderly with regard to housing, transport, town planning and health<sup>234</sup>. Secondly, guarantees of the necessary pensions to live with dignity<sup>235</sup>, and thirdly, the involvement of the social partners in the exchange of information and experience<sup>236</sup>. Other amendments proposed to the Articles of the Decision sought to:

- increase the funding provided for the programmes of activities for the elderly;
- to extend the activities by one year to the end of 1994;
- prevent discrimination on the grounds of age;
- create a European Network of Innovative Action Projects and a 'European Code of Practice' to maintain good quality care for the elderly; and
- require the Commission to submit proposals for directives on flexible retirement systems, harmonization of retirement age pension entitlements between Member States, and a guaranteed minimum pension for all old people<sup>237</sup>.

The quantitative analysis of the acceptance of the Parliament's amendments is given in the table below.

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<sup>231</sup> Commission's original proposal COM(90) 80 final, OJ C 120, 16.5.90, p. 8.

<sup>232</sup> Rapporteur, Mr. Dimitrios Ninnas, Committee Report A3-0222/90.

<sup>233</sup> Legislative Resolution, European Parliament amendments adopted 11 October 1990, OJ C 284, 12.11.90, p. 140.

<sup>234</sup> Amendment 2.

<sup>235</sup> Amendments 30.

<sup>236</sup> Amendment 23.

<sup>237</sup> Amendments 9, 10, 25, 14 and 29.

| Amendment category | EP submitted <sup>238</sup> | Commission accepted <sup>239</sup> |            | Council accepted <sup>240</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 3                           | 0                                  | 0          | 0                               | 0          |
| B                  | 9                           | 0                                  | 0          | 0                               | 0          |
| C                  | 11                          | 0                                  | 0          | 1                               | 0          |

Total amendments: 23.

In this case, the Commission did not directly accept any of the Parliament's amendments, the uptake was confined to one amendment incorporated by the Council into the Decision. This amendment resulted in the Commission being required to publish a report on the implementation of the action programme which will be submitted to the European Parliament<sup>241</sup>. However, the Parliament's proposals that this report should be annual and that it would be examined by the Social Affairs Committee were not accepted.

At face value the Parliament's impact on this Decision may appear limited but the Parliament's part in placing the situation of the elderly on the European agenda is recognised in the Decision's Recitals which draw attention to the Parliament's resolutions since 1982 on:

- The situation and problems of aged in the EC<sup>242</sup>.
- Services for the elderly<sup>243</sup>.
- Community measures to improve the situation of old people in the Member States<sup>244</sup>.

Before drawing final conclusions on the Parliament's impact in this field, the Decision on the European Year of the Elderly is examined.

<sup>238</sup> European Parliament amendments adopted 11 October 1990, OJ C 284/1990.

<sup>239</sup> Commission amended proposal COM(92) 0482 final.

<sup>240</sup> Council Decision 91/49/EEC of 26 November 1990, OJ L 28, 2.2.91, p. 29.

<sup>241</sup> Amendment 26 category C partially accepted, Decision Article 7.

<sup>242</sup> European Parliament resolution, OJ C 66, 15.3.82, p. 71.

<sup>243</sup> European Parliament resolution, OJ C 88, 14.4.86, p. 17.

<sup>244</sup> European Parliament resolutions, OJ C 148, 16.6.86, p. 61.

## **EUROPEAN YEAR OF THE ELDERLY**

***Council Decision 92/440/EEC of 24 June 1992 on the organisation of the European Year of the Elderly and of Solidarity between Generations (1993)***<sup>245</sup>

The Council Decision on the European Year of the Elderly and of Solidarity between Generations (1993) outlined the objectives for the Year. These included the heightening of public awareness of the situation of the elderly and the challenge posed by demographic developments; promotion of solidarity between generations and the involvement of the elderly in Community integration. The measures to achieve these objectives include voluntary measures by public and private bodies such as the use of the logo and slogan and the dissemination of information in the media. The Decision provided for the Community to co-finance joint conferences, consciousness raising at national level, and the opening and concluding conferences of the European Year. An amount of ECU 6,9 million was deemed necessary to implement this Decision.

The European Year was to be coordinated at the Community and Member State level. Each Member State was required to set up a National Coordinating Committee to organize the participation of the regional and local authorities in the European Year. This Committee was to be representative of employers' and workers' representatives and the main non-governmental organizations representing or dealing with the elderly.

The Decision was based on Article 235 of the EEC Treaty which requires consultation with the European Parliament.

### ***Parliament's Amendments***

The Rapporteur noted that the European Year "provides a spring board for future action" and he points out that older people and their representative organisations have a key role to play and activities should promote cooperation and exchange as well as a European network of innovative pilot projects<sup>246</sup>. Parliament's nineteen amendments to the Commission's proposal for the Council Decision reflect the above views. Among these amendments were those which sought to ensure:

- that there would be a proper multiannual Community action programme for elderly after 1993 and a Charter for the Elderly<sup>247</sup>;
- that the Year would culminate with a Parliament of Senior Citizens<sup>248</sup>;

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<sup>245</sup> Council Decision 92/440/EEC, 24 June 1992, OJ L 245, 26.8.92, p. 43.

<sup>246</sup> Rapporteur Mr. R. Chanterie, MEP Rapporteur for the European Year 1993, Source: Social Europe 1/93.

<sup>247</sup> Amendments 7 and 10.

<sup>248</sup> Amendments 8 and 20.



- the involvement of cooperation and exchange activities between representative national organizations of the elderly<sup>249</sup>; and
- that the activities for the Year including an opening conference, network of innovative model projects for public and/or private operators<sup>250</sup>.

Notably the Parliament was concerned that activities should take place at the national level and that representative of national organizations of the elderly should be involved<sup>251</sup>.

The following table illustrates in quantitative terms the partial or full acceptance by the Commission and Council of the Parliament's amendments.

| Amendment category | EP submitted <sup>252</sup> | Commission accepted |            | Council accepted <sup>253</sup> |            |
|--------------------|-----------------------------|---------------------|------------|---------------------------------|------------|
|                    |                             | Partially           | Completely | Partially                       | Completely |
| A                  | 7                           | 0                   | 0          | 2                               | 0          |
| B                  | 4                           | 0                   | 0          | 0                               | 1          |
| C                  | 8                           | 0                   | 0          | 2                               | 1          |

Total amendments: 19.

The Commission did not issue an amended proposal. However, during the Parliament's debate the Member of the Commission stated that while he "could not commit the Commission to bringing forward a modified proposal", it would within the framework of the Council, support the inclusion of an article to allow for the establishment of national coordinating committees to include representatives of older people<sup>254</sup>. It was also noted that the Commission agreed with the proposal to convene a seniors Parliament but felt that it did not need to be included in the Decision itself.

The Council did include the establishment of a National Coordinating committee in its Decision and while it did not meet all of Parliament's wishes, Council decided that it should be representative "of a whole range of the interests of the elderly in particular of employers' and workers' representatives

<sup>249</sup> Amendments 8 and 2.

<sup>250</sup> Amendment 16.

<sup>251</sup> Amendments 8, 2 and 11.

<sup>252</sup> Legislative Resolution, European Parliament amendments adopted 12 June 1992, OJ C 176, 13.7.92, p. 235.

<sup>253</sup> Council Decision 92/440/EEC of 24 June 1992, OJ L 245, 26.8.92, p. 43.

<sup>254</sup> Debates of the European Parliament, OJ Annex 3-420, July 1992, p. 257.

and the main non-governmental organisations representing and dealing with the elderly"<sup>255</sup>. Parliament's amendments seeking: the greater involvement of the elderly in the process of Community integration; activities for the Year at a national level and an opening Conference to mark the Year were accepted to vary degrees.

### ***Parliament's Impact***

It is recognised that the original idea for the European Year of the Elderly and Solidarity between Generations came from the Parliament and was put into legislative form by the Commission<sup>256</sup>. Parliament's input into that legislation and the programme for the year (e.g. the Seniors Parliament) has insured that events have taken place at both a Community and national level and that they have been coordinated by a National Coordinating Committee. These issues are important for two reasons. Firstly, noting the issue of subsidiarity, decisions at a national level, where possible, are important. Secondly, attempts to improve contact with, accountability to and participation by the citizens of the Member States can be facilitated by the National Committee.

Parliament's impact is in two forms in the case of these two Decisions first, informally through resolutions on issues related to the elderly, the build up of a level of knowledge through contacts with representative groups and the interest of MEPs has played a part in placing the issues on the European agenda. Second, Parliament's knowledge has allowed it to formally have an impact on the Community's legislation in this field.

### ***Postscript***

The Seniors Parliament, which took place in November 1993, allowed the European Parliament to bring together senior citizens from every Member State to discuss and debate issues of importance to them. The results of the Seniors Parliament along with a recent Parliament report and resolution on the elderly<sup>257</sup> have been recognised by the Commission as giving "a powerful lead in setting the agenda for the next phase of our work at European level in this very important area of activity"<sup>258</sup>.

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<sup>255</sup> Article 1, Council Decision, OJ L 245, 26.8.92, p. 45.

<sup>256</sup> Member of the Commission, Debates of the European Parliament, 11 June 1992, OJ Annex 3-419, p. 257.

<sup>257</sup> Own Initiative Report A3-0029/94 part A, B, C, adopted 24 February 1994, OJ C 77/94.

<sup>258</sup> Commissioner Flynn, Verbatim report of proceedings, Brussels, Wednesday/Thursday, 23.2.1994-24.2.1994, p. 28.

### III.2 HELIOS II

***Council Decision 93/136/EEC of 25 February 1993 establishing a third Community action programme to assist disabled people (Helios II 1992-96)<sup>259</sup>***

Prior to the International Year of the Disabled, Community actions for the estimated 30 million disabled in the Member States, came from the European Social Fund, the Community network of rehabilitation centres and pilot projects on housing for the disabled. An action programme (1983-1987), specifically designed to assist the disabled, was set up in 1983. This programme established a network of nineteen local projects, as a result of which, many solutions were found to the local problems facing the disabled.

The second Community action programme, Helios I (1988-1991) established Community networks and emphasised the exchange of information with regard to employment, social and educational integration, vocational training and rehabilitation. To facilitate the exchange of information a network of data banks and bases (the Handynet project) was established.

The Parliament played its part in encouraging these developments through resolutions and reports on existing and proposed measures. A public hearing was organised by the Committee on Social Affairs in September 1987 to evaluate the first action programme (1983-1987). European representative organisations for the disabled participated in the hearing. It might be suggested that this evaluation assisted the Parliament in preparing its examination of the Helios programmes.

#### ***The Decision***

Helios II is described as a Community action programme to promote equal opportunities for the integration of the disabled. The disabled are defined in the Decision as people with serious disabilities or handicaps resulting from physical or mental impairments. The Programme objectives include the educational, economic and social integration of those to which the Decision applies. Vocational training and employment rehabilitation are also supported.

These objectives are to be achieved through a series of measures. Improvements in the exchange of information are facilitated by the computerized information and documentation system, Handynet. Activities based on specific annual themes involving disabled people and those working in this field. Disabled people are encouraged to take part in Community programmes, including those in the areas of training, new technologies and equality between men and women.

Community funds to the value of 37 million ECU has been allocated, for the four year period 1993 to 1996 (inclusive), to implement the programme. The Decision also provides for the establishment of an Advisory Committee and Liaison Group to assist the Commission and the European disability forum

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<sup>259</sup> Council Decision 93/136/EEC of 25 February 1993, OJ L 56, 9.3.93.

which will be consulted on appropriate aspects of Helios II. The Commission is required to report on the implementation of Helios II, on specified dates, to the European Parliament, the Council and the Economic and Social Committee.

The Decision is based on Articles 128 and 235 of the EEC Treaty. Article 235 requires consultation with the European Parliament.

#### *Parliament's Amendments*

The Parliament submitted twenty amendments<sup>260</sup> to the Commission's original proposal for a Decision<sup>261</sup>. These amendments addressed all aspects of the proposed Decision and by drawing on the experiences of those involved with Helios I, through consultation, the Parliament sought to ensure that Helios II would be more effective. The Rapporteur noted that the Commission's proposal could not be considered without comment and discussion<sup>262</sup>. In accordance with this view the European Parliament was not prepared to rush through such an important proposal until an assessment of Helios I was available. After receiving the Commission's report on Helios I in July 1992<sup>263</sup>, the Parliament submitted its amendments following the reading of the proposals for Helios II in October 1992.

Notable among the Parliament's amendments were those which sought to, firstly, ensure equal opportunities and extend the duration of the programme from four to five years<sup>264</sup>. Secondly, widen the definition of 'disabled people' to include those with learning difficulties or psycho-social disorders<sup>265</sup>. Thirdly, specify more clearly the objectives of Helios II including: the coordination of Community measures for the disabled; improving access to opportunities for learning and working; and the strengthening of cooperation with national councils of disabled people<sup>266</sup>.

Fourthly, under the general measures to achieve the programmes objectives, the Parliament wanted to see cooperation between disabled persons' organisations in the Member States assisted by the Commission and better coordination and exchange of information to improve public awareness of Community programmes<sup>267</sup>. The Parliament also laid out suggestions on, the budget and financial

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<sup>260</sup> Legislative resolution, European Parliament amendments adopted 30 October 1992, OJ C 305, 23.11.92, p. 595.

<sup>261</sup> Commission's original proposal COM(91) 350 final, OJ C 293, 12.11.91, p. 2.

<sup>262</sup> Rapporteur, Mrs. Ria Oomen-Ruijten, Report 16 October 1992, A3-0305/92, p. 28.

<sup>263</sup> Commission Report on Helios I, SEC(92) 1206.

<sup>264</sup> Amendment 1.

<sup>265</sup> Amendment 2.

<sup>266</sup> Amendments 3, 19, 17, 18 and 20.

<sup>267</sup> Amendment 4.

support needed for the programme<sup>268</sup>, preparation for a future programme<sup>269</sup> and the criteria for non-governmental organisations (NGOs)<sup>270</sup>.

Finally, the Parliament had been concerned that the Helios I programme did not sufficiently involve the handicapped and their organisations<sup>271</sup>, therefore, it proposed the establishment of the European Forum for the Disabled. It was suggested that the Forum would comprise, one representatives from the national council of disabled people in each Member State, one representative of each European NGO for disabled people and two representatives of the two sides of industry<sup>272</sup>.

The table below indicates quantitatively the amendments accepted by the Commission and the Council.

| Amendment category | EP submitted <sup>273</sup> | Commission accepted <sup>274</sup> |            | Council accepted <sup>275</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 7                           | 0                                  | 7          | 3                               | 1          |
| B                  | 10                          | 0                                  | 10         | 6                               | 1          |
| C                  | 3                           | 1                                  | 2          | 2                               | 0          |

Total amendments: 20.

The quantitative analysis suggests that the Council accepted, in some form, seventy five percent of the Parliament's amendments, however, it is necessary to look more closely at the category B and C amendments in order to evaluate the Parliament's impact on the Decision.

The Council accepted that the programme should promote "equal opportunities" for disabled people<sup>276</sup>. Although the Council did not completely accept the Parliament's suggestion to extend the

<sup>268</sup> Amendment 8.

<sup>269</sup> Amendment 7.

<sup>270</sup> Amendment 25 and 15.

<sup>271</sup> Fact Sheets on the European Parliament and the Activities of the European Union, Directorate-General for Research, September 1993, EN 4.4.8, p. 354.

<sup>272</sup> Amendments 5, 6 and 20.

<sup>273</sup> Legislative resolution, European Parliament amendments adopted 30 October 1992, OJ C 305, 23.11.92, p. 595.

<sup>274</sup> Commission's amended proposal, OJ C 25, 28.1.93, p. 1.

<sup>275</sup> Council Decision 93/136/EEC of 25 February 1993, OJ L 56, 9.3.93.

<sup>276</sup> Amendment 1 category B partially accepted, Decision Article 1.

definition of "handicapped people" to include those with "learning difficulties and psycho-social disorders", it did add the term "psychological impairments" to the definition<sup>277</sup>. It might be suggested that this extends the definition and provides some room for interpretation.

Parliament sought that the Commission should consult the non governmental organisations (NGOs) "about the drafting of the European code of good practice on integration into the labour market". The Decision provides for the Commission to strengthen cooperation with NGOs and it will also ask for advice on the technical aspects associated with specific types of integration<sup>278</sup>.

As noted previously, the Parliament proposed the establishment of a European Forum for the Disabled to ensure the involvement of the handicapped and their organisations in the Helios II programme. Both the Commission and the Council agreed to the establishment of a Forum. 'The European Disability Forum' shall be made up of at least one NGO representative of each Member State and representatives of employers' and trade union organisations. The Parliament had hoped that the Forum would serve a coordination role, but this is not the case, instead, the Commission shall ascertain the views of the 'forum' on all appropriate aspects of Helios II<sup>279</sup>.

The importance of evaluating programmes and building on experience had been stressed by the Parliament in relation to Helios I. In the case of Helios II the Parliament was successful in bringing forward the dates when the Commission shall submit, a brief report (1 July 1994), an interim evaluation (31 December 1995) and a full report (1 July 1997) on the implementation of the Helios II programme<sup>280</sup>. The Commission shall also where appropriate include a proposal for a Decision revising Helios II as a result of a proposal from the Parliament. Additionally, the re-examination of the Handynet system by December 1994, appears to have been prompted by a Parliament amendment<sup>281</sup>.

### ***Parliament's Impact***

The question remains as to whether the European Parliament's proposal for a European Disability Forum and its acceptance by the Council to include it in its Decision is significant. The importance of consultation with NGO's representing the disabled and the involvement of the disabled themselves has been emphasised by national organisations and by the Parliament in its own report. It can be concluded, therefore, that the Forum is potentially a valuable addition to the Decision. The Parliament

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<sup>277</sup> Amendment 2 category B partially accepted, Decision Article 2.

<sup>278</sup> Amendment 23 category B partially accepted, Decision Annex 4.1 and 4.2.

<sup>279</sup> Amendments 6 and 20 category C partially accepted, Decision Article 9.

<sup>280</sup> Amendment 7 category B completely accepted, Decision Article 11.

<sup>281</sup> Amendment 4 category B partially accepted, Decision Article 4.b.

was also successful in extending the definition of disability to include psychological impairments and strengthening the Commission's cooperation with non governmental organisations.

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## CHAPTER IV: SOCIAL PROTECTION

In the context of the Action Programme implementing the Charter of the Fundamental Social Rights of Workers (the Social Charter) two Council Recommendations were adopted relating to social protection systems and the right to social protection.

### IV.1 SUFFICIENT RESOURCES AND SOCIAL ASSISTANCE

*Council Recommendation 92/441/EEC of 24 June 1992<sup>282</sup> on common criteria concerning sufficient resources and social assistance in social protection systems*

#### *The Recommendation*

The Recommendation identifies common criteria concerning the provision of sufficient resources and benefits through Member States' social protection systems. Reference is made to the statements, in the Community Charter of the Fundamental Social Rights of Workers, on combatting social exclusion; a workers right to adequate social protection and sufficient resources; and medical and social assistance for those of retirement age who are without a pension or means of subsistence<sup>283</sup>. Through the Recommendation the Council asks Member States to recognise the basic right of a person to sufficient resources and social assistance. This right is based on respect for human dignity and is part of a consistent move to combat social exclusion.

A set of guidelines and principles is laid out for Member States to follow with regard to: recognizing the right to sufficient resources and assistance, organizing its implementation, and guaranteeing the resources and benefits. Member States are also recommended to draw up a report after five years and carry out an evaluation on the implementation and impact of the arrangements made. The Commission is asked to encourage the exchange of information and experiences between Member States. It is also requested to report, on the progress made and difficulties encountered in implementing the Recommendation, to the European Parliament, the Council and the Economic and Social Committee.

The Recommendation is based on Article 235 of the EEC Treaty which requires Council unanimity and consultation with the Parliament.

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<sup>282</sup> Council Recommendation 92/441/EEC of 24 June 1992, OJ L 245, 26.8.92, p. 46.

<sup>283</sup> Community Charter of the Fundamental Social Rights of Workers, eighth recital and points 10 and 25.

### *Parliament's Amendments*

Following the second report of the Committee on Social Affairs, Employment and the Working Environment<sup>284</sup> on the Commission's original proposal<sup>285</sup> the Parliament put forward twenty three amendments<sup>286</sup>. Notably, the Parliament sought to change the proposed legal basis of the Recommendation from Article 235 to Article 100a<sup>287</sup> since it concerns the social dimension of the Single Market and the approximation of national regulations. It was argued by the Rapporteur that the use of Article 100a as the legal basis was justified because "...guaranteed minimum income systems are financed by taxes and therefore have a bearing on competition between Member States....."<sup>288</sup>. This amendment was not accepted by the Commission<sup>289</sup> or the Council.

Through its amendments, the European Parliament expressed the belief that the existing minimum social protection in the Member States should be democratized and expanded<sup>290</sup>. In order to encourage integration and greater participation in society the amendments suggest:

- the reintegration of the poorest citizens into the system of general rights and providing access to further training and assistance with reintegration<sup>291</sup>;
- ensuring that procedures concerning financial support do not discriminate against specific disadvantaged groups<sup>292</sup>;
- the development of appropriate provisions to encourage employment and to ensure that there is no immediate loss of social assistance when a person starts low paid or part-time work<sup>293</sup>;
- the revision of minimum social protection through parliamentary procedure<sup>294</sup>.

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<sup>284</sup> Social Affairs Committee reports A3-288/91 and A3-0180/92, rapporteur: Mrs. Birgit Cramon Dalber. At the Parliament session 18 November 1991 the first report was referred back to the Committee on Social Affairs, Employment and the Working Environment in accordance with rule 103 of the Rules of Procedure (7th edition, February 1992).

<sup>285</sup> Commission's original proposal COM(91) 161 final, OJ C 163, 22.6.91, p. 3.

<sup>286</sup> Legislative Resolution, European Parliament amendments adopted, 14 May 1992, OJ C 150, 15.6.92, p. 286.

<sup>287</sup> Amendment 1.

<sup>288</sup> Rapporteur, Mrs. B. Cramon Dalber, Debates of the European Parliament, OJ Annex 3-418, 15.5.92, p. 242.

<sup>289</sup> Commissioner Ripa di Meana, Debates of the European Parliament, OJ Annex 3-418, 15.5.92, p. 245.

<sup>290</sup> Amendments 3, 15 and 12.

<sup>291</sup> Amendments 10 and 11.

<sup>292</sup> Amendment 17.

<sup>293</sup> Amendments 19 and 21.

<sup>294</sup> Amendment 15.

- the provision of social support on an individual basis<sup>295</sup>; and
- that Member States already possessing a social protection system ensure there are no poverty traps by integrating guaranteed minimum incomes and tax systems<sup>296</sup>.

Finally, the Parliament wanted the Commission, in cooperation with Eurostat and the Member States, to draw up criteria for the assessment of guaranteed minimum incomes and report annually on these to the Parliament<sup>297</sup>.

The following table indicates the uptake of the Parliament's amendments by the Commission and the Council.

| Amendment category | EP submitted <sup>298</sup> | Commission accepted <sup>299</sup> |            | Council accepted <sup>300</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 3                           | 0                                  | 0          | 0                               | 0          |
| B                  | 14                          | 2                                  | 0          | 2                               | 0          |
| C                  | 6                           | 0                                  | 1          | 0                               | 1          |

Total amendments: 23.

### *Parliament's Impact*

The Commission incorporated three of the Parliament's amendments into its amended proposal. In a similar fashion, the Council included these three amendments in the Recommendation. First, with reference to the Single European Act's preamble<sup>301</sup>, there is a clear statement on the respect for

<sup>295</sup> Amendment 18.

<sup>296</sup> Amendment 12.

<sup>297</sup> Amendment 23.

<sup>298</sup> Legislative Resolution, European Parliament amendments adopted 14 May 1992, OJ C 150, 15.6.92, p. 286.

<sup>299</sup> Commission's amended proposal COM(92) 240 final.

<sup>300</sup> Council Regulation, OJ L 245, 26.8.92, p. 46.

<sup>301</sup> Determined to work together to promote democracy on the basis of the fundamental rights recognized in the constitutions and laws of the Member States, in the Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, notably freedom, equality and social justice. (Single European Act, third preamble).

human dignity being one of the basic rights underlying Community law<sup>302</sup>. Second, the provision of sufficient resources and social assistance to allow a person live in a manner compatible with human dignity reflects the Parliament's wish to ensure sufficient resources to enable people to have a decent life<sup>303</sup>. Third, the need to reintegrate the poorest citizens into the system of general rights<sup>304</sup>.

The significance of Parliament's impact can be seen where the Recommendation stresses more clearly (as compared to the text of the Commission's original proposal) the promotion of minimum social protection as a factor for the (re-)integration of the poorest people of the Community and emphasises the basic right to a decent life. In view of the aims and objectives of this Recommendation, this can possibly be seen as a fundamental aspect of minimum social protection.

#### IV.2 CONVERGENCE OF POLICIES

***Council Recommendation 92/442/EEC of 27 July 1992<sup>305</sup> on the convergence of social protection objectives and policies***

##### ***The Recommendation***

The Council's Recommendation lays down a set of principles and aims to establish common objectives with regard to social security in order to further the co-existence of national systems. The provisions of the Social Charter with regard to the right to social protection for workers, persons re-entering the labour market and persons who reach retirement age are referred to.

The Recommendation acknowledges the diversity in the social protection systems<sup>306</sup> and it is stated that it is up to Member States to organize and finance their own systems. Recognising that all systems of social protection have fundamental principles of general policy, the Recommendation identifies several principles and objectives with regard to the areas of social protection.

The aim is that all Member States will apply these common principles to their protection systems covering sickness, maternity, unemployment, incapacity to work, the elderly and the family. It is stated in the recitals that social protection furthers solidarity among the citizens of the Member States. It is believed that too great a divergence of national social security systems obstructs the completion of the internal market (e.g. free movement or regional imbalances).

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<sup>302</sup> Amendment 2, category C, completely accepted, Recommendation second Recital.

<sup>303</sup> Amendment 6, category B partially accepted, Recommendation I. A.

<sup>304</sup> Amendment 10, category B partially accepted, Recommendation I. B. 5.

<sup>305</sup> Council Recommendation 92/442/EEC of 27 July 1992, OJ L 245, 26.8.92, p. 49.

<sup>306</sup> See Recommendation, recital 9.

The legal basis is Article 235 EC Treaty which requires unanimity and consultation with the Parliament.

### ***Parliament's Amendments***

The Recommendation was welcomed by the European Parliament, although it is stated that the practical effect will be minimal in view of its non-binding status.

Parliament proposed forty two amendments<sup>307</sup> to the Commission's proposal<sup>308</sup>. These included proposals for:

- two-yearly reports from the Commission to the Council and the Parliament;
- Member States to submit proposals for action to be taken on the Recommendation (before 30 June 1992);
- annual consultations with Member States; and
- the participation of the social partners in the evaluation of the actions undertaken.

The following table indicates the uptake of Parliament's amendments by the Council.

| Amendment category | EP submitted <sup>309</sup> | Council accepted <sup>310</sup> |            |
|--------------------|-----------------------------|---------------------------------|------------|
|                    |                             | Partially                       | Completely |
| A                  | 4                           | 0                               | 0          |
| B                  | 17                          | 0                               | 0          |
| C                  | 21                          | 0                               | 0          |

Total amendments: 42.

Fifteen of the twenty one category C amendments<sup>311</sup> sought changes to the proposed Recommendation's recitals and illustrate the Parliament's wish to emphasis the need for closer coordination and the partial upward harmonisation of social protection systems among Member States.

<sup>307</sup> Legislative Resolution, European Parliament amendments agreed, 14 February 1992, OJ C 67, 16.3.92, p. 198.

<sup>308</sup> Commission's original proposal COM(91) 228, OJ C 194, 25.4.91, p. 13.

<sup>309</sup> Legislative Resolution, European Parliament amendments accepted 14 February 1992, OJ C 67, 16.3.92, p. 198.

<sup>310</sup> Council Recommendation, 92/442/EEC, OJ L 245, 26.8.92, p. 49.

<sup>311</sup> Amendments 1-15, 53.

However, the Parliament also stressed the specific national aspects of these systems<sup>312</sup>. Other amendments stress the importance of the link between the completion of the internal market and the increasing need for improvement of the social protection systems<sup>313</sup>. In this context, the Parliament raised the issues of preventing social inequalities, social integration and the individualisation of social rights<sup>314</sup>. Finally, the Parliament sought to introduce a provision on workplace accidents and occupational diseases<sup>315</sup>.

### *Parliament's Impact*

It should be noted that although the amendments submitted by the Parliament were not included in the Council's Recommendation, it can be argued that the modified final text reflects several amendments, regarding:

- the importance of national characteristics of the social protection systems<sup>316</sup>;
- demographic changes and their effects on the labour market; and
- the progressive development of the aims and measurements relating to maintaining the standard of living in case of sickness interrupting a persons work<sup>317</sup>.

### *Postscript*

A final comment should be made on the Parliament's impact in the field of social protection. In the Commission's Half-Yearly Report on Action taken in response to Parliament's own initiative Resolutions (July to December 1990)<sup>318</sup>, reference is made to the fact that various draft Community instruments were announced in response to the requests put forward by Parliament based on the Committee's report on the 'Community Charter of Fundamental Social Rights for workers - priorities for 1991-92'<sup>319</sup>. These include the Recommendation on the convergence of the aims of social

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<sup>312</sup> Amendments 2-4, 6, 8.

<sup>313</sup> Amendment 1.

<sup>314</sup> Amendments 5, 6, 14 and 15.

<sup>315</sup> Amendment 27.

<sup>316</sup> See recital 16 (new) and Section A, introductory sentence of the Recommendation (modified).

<sup>317</sup> Amendment 26 category B partially accepted; Recommendation Section B 1 (d).

<sup>318</sup> SP(93) 1419/2, 19.5.93, p. 95.

<sup>319</sup> European Parliament Report A3-0175/90.

protection. Although, the Committee's report on the 'European Labour Market after 1992'<sup>320</sup> expressed disappointment at the level of attention paid to the proposals made in the first report.

Both of the Committee's reports state that in view of the existing substantial differences between the social protection systems in the Member States, there is a need for the partial harmonisation and greater coordination of social security systems. This could be brought about by means of political decisions by the legislative bodies of the Union or the Member States. With reference to the Committee's report on the European Labour Market the Commission acknowledges in its Half Yearly Report on Action taken for the period July to December 1992, that it is taking the Parliament's proposals into account in its analytical work. The Report on the European Labour Market after 1992 reemphasises:

- the re-integration of disadvantaged groups;
- the importance of equality of opportunity and social solidarity;
- the right to sufficient guaranteed resources and benefits;
- the issues of social dumping and distortion of competition; and
- the effect which greater mobility has on social security systems.

To conclude, with regard to the Community action in the field of social protection systems, the above mentioned reports have had some impact, both in prompting recommendations and in the assessment of action programmes.

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<sup>320</sup> European Parliament Report A3-0238/92.





## CHAPTER V: SAFETY AND HEALTH AT WORK

Under this heading the European Parliament participated in the legislative process for 19 Directives based on Article 118a of the EEC Treaty involving the cooperation procedure, 1 Decision and 1 Regulation based on Article 235 on the Treaty requiring consultation and 1 Directive based on Articles 31 and 32 of the Euratom Treaty also requiring consultation. Thirteen of the Directives based on Article 118a are individual Directives under the Framework Directive<sup>321</sup> on the introduction of measures to encourage improvements in the safety and health of workers at work. The Framework Directive contains the general principles concerning the prevention of occupational risks, the protection of health and safety and the responsibilities of employers and workers. It also outlines the guidelines on information, consultation, and participation for workers and employers.

### V.1 SAFETY AND HEALTH REQUIREMENTS FOR THE WORKPLACE

*Council Directive 89/654/EEC of 30 November 1989<sup>322</sup> on the minimum safety and health requirements for the workplace (first individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)*

#### *The Directive*

This Directive lays down the minimum safety and health requirements for the 'workplace'. The 'workplace' is defined as "the place intended to house workstations on the premises of the undertaking ..... and any other place within the area of the undertaking ..... to which the worker has access during the course of his employment"<sup>323</sup>. However, the Directive does not apply to means of transport, temporary or mobile work sites, extractive industries, fishing boats, forestry or agricultural land.

The employer's obligations is to ensure that the workplace meets the general requirements and the minimum safety requirements laid out in the Annexes. Member States were required to introduce the necessary legislation to comply with the Directive by 31 December 1992, although in the case of Greece, the date was extended to 31 December 1994. A distinction is made in the Directive between the requirements for existing and new workplaces. Workplaces used for the first time after 31 December 1992 must meet the safety and health requirements in Annex I on the other hand workplaces in use before 1 January 1993 must meet the requirements laid out in Annex II within three years of that date (in the case of Portugal it is within four years).

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<sup>321</sup> Council Directive 89/391/EEC, 12 June 1989, OJ L 183, 29.6.89, p. 1.

<sup>322</sup> Council Directive 89/654/EEC, 30 November 1989, OJ L 393, 30.12.89, p. 1.

<sup>323</sup> Directive Article 2.

Information for workers and consultation and participation with workers shall be in accordance with the Framework Directive. The Commission is required to report periodically to the European Parliament, the Council and the Economic and Social Committee on the implementation of this Directive.

This Directive is based on Article 118a of the EEC Treaty which involves cooperation with the European Parliament.

### *Parliament's Amendments*

The European Parliament examined in great detail the Commission's original proposal<sup>324</sup> for a Directive and it put forward ninety three amendments following the first reading<sup>325</sup>. After the second reading the Parliament proposed forty nine amendments<sup>326</sup> to the Council's common position<sup>327</sup>.

At the first reading the Rapporteur noted that the definitions of workplaces, business and workers should be in accordance with the Framework Directive. It was also stressed that workers and their representatives should not only be consulted but be part of the decision making process. This issue was raised again during the second reading. Due to the fact that this is the first individual Directive, a number of the Parliament's amendments addressed the question of the application of the Framework Directive's provisions on information, consultation and participation for workers<sup>328</sup>.

Concern was expressed about the distinction between the minimum safety and health requirements for new and existing workplaces as laid out in Annexes I and II respectively. The Parliament sought the deletion of Annex II, relating to existing workplaces, in order to avoid any variation in the minimum standards for workplaces. When this amendment was not successful a series of amendments were proposed, following the second reading, to Annex II and the Parliament wanted to see the transitional period, before existing workplaces would have to comply with the Annex, reduced from five to two years.

The Rapporteur described the "lead in time" as so long that it basically excluded workplaces already in existence and suggested that if the Commission reduced the transition period and accepted amendments to the Annex then "a compromise might be possible"<sup>329</sup>. It was accepted by the

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<sup>324</sup> Commission's original proposal COM(88) 74 final, OJ C 141, 30.5.88, p. 6.

<sup>325</sup> Legislative Resolution, European Parliament amendments adopted 16 November 1988, OJ C 326, 19.12.88, p. 103.

<sup>326</sup> Decision, European Parliament amendments adopted 13 September 1989, OJ C 256, 9.10.89, p. 51.

<sup>327</sup> Council's common position C2-004/89 - SYN 124.

<sup>328</sup> First reading, amendments 124, 127, 100 and 130, second reading amendment 50.

<sup>329</sup> Rapporteur Mr. Brok, Debates of the European Parliament, OJ Annex 2-360, 12.9.89, p. 63.

Commissioner that the transition period should be shorter than five years<sup>330</sup>. In the Directive the transitional period for existing workplaces was reduced and some of the Parliament's amendments to Annex II were accepted, these are discussed below.

Also among the Parliament's amendments to the Directive's Articles were those which sought to:

- bring forward the dates of entry into force of the Directive<sup>331</sup>;
- allow workers or their representatives request employers to eliminate any hazards without delay<sup>332</sup>;
- have work suspended until the hazard is eliminated if it cannot be rectified immediately<sup>333</sup>; and
- require the Commission to submit a report every two years to the European Parliament on the implementation of the Directive<sup>334</sup>.

The extensive range of detailed amendments on the minimum safety and health requirements laid out in the Annexes included proposals regarding:

- exits, emergency exits and escape routes<sup>335</sup>;
- safety measures for roofs and floors<sup>336</sup>;
- protection against noise, gases, vapours and dust<sup>337</sup>;
- facilities for handicapped persons<sup>338</sup>;
- changing rooms and washing facilities<sup>339</sup>; and
- the provision of facilities for pregnant women and nursing mothers<sup>340</sup>.

The quantitative analysis of the uptake of the Parliament's amendments by the Commission and the Council is given in the tables below.

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<sup>330</sup> Commissioner Papandreu, Debates of the European Parliament, OJ Annex 2-380, 12.9.89, p. 63.

<sup>331</sup> First reading, amendments 117, 120 and 121 and second reading, amendment 44.

<sup>332</sup> First reading, amendment 126 and second reading, amendment 11.

<sup>333</sup> Second reading, amendment 9.

<sup>334</sup> First reading, amendment 101 and second reading, amendment 18.

<sup>335</sup> First reading, amendments 138, 139, 155, 156, 157 and 158 and second reading, amendments 19, 20, 21 and 65.

<sup>336</sup> First reading, amendment 147, 149 and 151.

<sup>337</sup> First reading, amendment 161, 162 and 163 and second reading, amendments 27, 28 and 55.

<sup>338</sup> First reading, amendment 182 and second reading, amendment 55.

<sup>339</sup> First reading, amendments 173 and 174, and second reading, amendments 34, 35, 36, 37, 38, 47, 46, 58, 57 and 56.

<sup>340</sup> First reading, amendment 172 and second reading, amendment 56.

### First Reading

| Amendment category | EP submitted <sup>341</sup> | Commission accepted <sup>342</sup> |            | Council accepted <sup>343</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 19                          | 3                                  | 7          | 2                               | 3          |
| B                  | 53                          | 8                                  | 16         | 20                              | 10         |
| C                  | 21                          | 6                                  | 1          | 5                               | 1          |

Total amendments: 93.

### Second Reading

| Amendment category | EP submitted <sup>344</sup> | Commission accepted <sup>345</sup> |            | Council accepted <sup>346</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 3                           | 0                                  | 2          | 0                               | 2          |
| B                  | 36                          | 4                                  | 15         | 10                              | 9          |
| C                  | 10                          | 2                                  | 3          | 1                               | 1          |

Total amendments: 49.

As illustrated above the Parliament submitted a large number of amendments to the proposals for this Directive. A total of one hundred and forty two amendments were submitted by the Parliament following the first and second readings (recognising that this figure includes those resubmitted) and to varying degrees sixty four were incorporated into the Directive by the Council. The following discussion focuses attention on the category B and C amendments which were accepted. However, because of the wide range of amendments involved an attempt is made to highlight those which appear

<sup>341</sup> Legislative Resolution, European Parliament's amendments adopted 16 November 1988, OJ C 326, 19.12.88, p. 103.

<sup>342</sup> Amended Commission proposal COM(89) 86 final, OJ C 115, 8.5.89, p. 34.

<sup>343</sup> Council's common position C2-0004/89 - SYN 124.

<sup>344</sup> Decision, European Parliament amendments adopted 13 September 1989, OJ C 356, 9.10.89, p. 51. In this case of the 49 amendments adopted by the Parliament 10 were new, 22 partially repeated original amendments and 17 repeated amendments from the first reading.

<sup>345</sup> Commission's re-examined proposal COM(89) 520 final, OJ C 284, 10.11.89, p. 8.

<sup>346</sup> Council Directive 89/654/EEC, 30 November 1989, OJ L 393, 30.12.89, p. 1.

to be the most significant and reflect the Parliament's key areas of concern in the safety and health field.

Since this is the first individual Directive under the Framework Directive a number of the Parliament's amendments appear to have played a part in clarifying the application of the Articles of the Framework Directive with regard to the individual Directives. This was particularly the case regarding information, consultation and participation for workers concerning safety and health issues<sup>347</sup>.

The Parliament also sought to ensure that the recitals noted the need to provide workers with the highest levels of safety and health protection. The Directive's Recitals go some way towards addressing the Parliament's wishes by stating that the minimum requirements are designed to guarantee a better standard of safety and health at work<sup>348</sup>.

Through a series of four amendments the Parliament wanted to see some sort of follow up on the implementation of the Directive by Member States. The following requirements stem from these Parliament amendments:

- Member States must provide the Commission with the text of the provisions in national law already adopted in this field<sup>349</sup>;
- The Commission shall inform, the European Parliament, the Council, the Economic and Social Committee and the Advisory Council on Safety, Hygiene and Health Protection at Work, on the practical implementation of this Directive's provisions<sup>350</sup>; and
- The Commission shall submit periodically, to the European Parliament, the Council and the Economic and Social Committee a report on the implementation of this Directive<sup>351</sup>.

As noted above the majority of the Parliament's amendments related to the minimum safety and health requirements laid out in the Annexes. A number of the Parliament's detailed proposals were accepted by the Commission and the Council. These covered aspects of lighting, ventilation, safety devices, fire fighting equipment, emergency routes and exits, changing rooms and washrooms. Examples of the requirements which incorporate some of the more notable Parliament amendments include:

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<sup>347</sup> First reading, amendment 124 category B completely accepted, Directive Article 8. Second reading, amendment 50 category B partially accepted, Directive Article 7. First reading, amendment 108 category B partially accepted, Directive Article 8. First reading, amendment 111 category B partially accepted, Directive Article 8.

<sup>348</sup> First reading, amendment 105 partially accepted, Directive fifth Recital.

<sup>349</sup> First reading, amendment 98 category B completely accepted, Directive Article 10.2.

<sup>350</sup> First reading, amendment 99 category C partially accepted, Directive Article 10.3.

<sup>351</sup> First reading, amendment 101 category C partially accepted, Directive Article 10.4.

- Fire fighting equipment must be easily accessible and take account of the different physical and chemical properties of the substances present in the workplace<sup>352</sup>.
- A forced ventilation system (air-conditioning) must be maintained in working order and deposits or dust removed in case of danger<sup>353</sup>.
- Escalators and travelators must be equipped with any necessary safety devices<sup>354</sup>.
- Separate changing rooms, lavatories and washing facilities must be provided for men and women<sup>355</sup>.
- Outdoor workstations must be arranged so that workers: are protected from harmful noise; may leave their workstation safely; and cannot slip or fall<sup>356</sup>.

Other notable amendments incorporated into the Annexes relate to areas of interest to the Parliament, including pregnant women and the handicapped. The minimum safety and health conditions for new and existing workplaces must provide appropriate conditions for pregnant women and nursing mothers to lie down and rest<sup>357</sup>. Parliament was also successful in ensuring that the organization of workplaces must particularly take account of doors, passageways staircases, showers, washbasins, lavatories and workstations, to facilitate their use by the handicapped<sup>358</sup>.

### *Parliament's Impact*

This was the first of the individual Directives and it appears that the Parliament played a part in clarifying the application of the Framework Directive's provisions. The Committee and the Parliament, through the large number of detailed amendments, illustrated their interest in this field and their willingness to exam in depth the proposal from the Commission.

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<sup>352</sup> First reading, amendments 140 and second reading, amendment 22 category B partially accepted, Directive Annex I.5.1. and first reading, amendment 141 category B partially accepted, Directive Annex I. 5.2.

<sup>353</sup> First reading, amendments 143 and 145 category B partially accepted, Directive Annex I.6.1. and second reading, amendment 25 category B partially accepted, Directive Annex I.6.2.

<sup>354</sup> First reading, amendment 164 and second reading, amendment 26 category B completely accepted, Directive Annex I.13.

<sup>355</sup> Second reading, amendments 47, 37 and 38 category B completely accepted, Directive Annex I.18.1.1., 18.1.3., 18.2.2., 18.2.3., 18.3.

<sup>356</sup> First reading, amendment 186 category B partially accepted, Directive Annex I 21.3. Second reading, amendment 40 category B completely accepted, Directive Annex I 21.3.d.

<sup>357</sup> First reading, amendment 172 category C partially accepted, Directive Annex I.17 and second reading, amendment 56 category C partially accepted, Directive Annex II.12.

<sup>358</sup> First reading, amendment 182 category B completely accepted, Directive Annex I.20 and second reading, category B completely accepted, Directive Annex II.15.

The detailed amendments, to the minimum safety and health requirements, sought to ensure the efficient application of the Directive. Examples of the amendments which feature in the Directive's annexes include the requirements to keep emergency exits clear and provide emergency lighting, suitable fire fighting equipment and separate washing facilities for men and women. The Parliament was also successful in highlighting the needs of two groups in which it has shown an interest, these are pregnant women and the handicapped women.

## V.2 USE OF WORK EQUIPMENT

*Council Directive 89/655/EEC of 30 November 1989<sup>359</sup> concerning the minimum safety and health requirements for use of work equipment by workers at work (second individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)*

### *The Directive*

This Directive lays down the minimum safety and health requirements for the use of work equipment by workers at work. Work equipment is defined as any machine, apparatus, tool or installation used at work. The employer is required to ensure that work equipment is suitable for the work to be carried out. If it is not possible to ensure that work equipment can be used without risk, the employer must take measures to minimize the risks involved. Where there are specific risks the employer must ensure that the use of such equipment is restricted and repairs are carried out by designated workers.

In addition to the requirements under the Framework Directive the information and written instructions for workers must contain safety and health information concerning: the conditions of use of work equipment; foreseeable abnormal situations and information drawn from experience in using the equipment.

The employer must ensure that, firstly, work equipment provided for the first time after the 31 December, 1992 complies with any applicable Community Directives and the minimum requirements laid down in the Annex and secondly, equipment provided by 31 December, 1992 complies with the minimum requirements laid down in the Annex no later than four years after that date. The Commission is required to periodically submit a report on the implementation of the Directive to the European Parliament, the Council and the Economic and Social Committee.

This Directive is based on Article 118a of the EEC Treaty which requires cooperation with the European Parliament.

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<sup>359</sup> Council Directive, 89/655/EEC of 30 November 1989, OJ L 393, 30.12.89, p. 13.

### ***Parliament's Amendments***

At the first reading on the Commission's proposal for a Directive<sup>360</sup> it was stated by the deputy Rapporteur that workers can only safely use machines when they, firstly, have the relevant information on how the machine works and the safety measures. Secondly, the information provided must be relevant for new and older existing machinery, such information should be in a language workers can understand and thirdly, training of workers in the use of machinery is necessary<sup>361</sup>. A number of the Parliament's thirty six amendments following the first reading related to the above issues and formed part of the amendments incorporated into the final Directive.

The Parliament's amendments sought to include references in the recitals to maximising the level of protection<sup>362</sup>. Amendments directed towards the Directives Articles included those seeking to ensure:

- that the Directive would apply to existing equipment within two years of the Directive becoming effective, with an additional two years granted in the case of Spain and Portugal<sup>363</sup>;
- that written instructions are supplied to workers in their own languages<sup>364</sup>;
- that operators receive training concerning any possible irregularities and accidents<sup>365</sup>; and
- that reports on the implementation of the Directive are supplied by the Member States and the Commission<sup>366</sup>.

The Council stated in its common position that six of the Parliament's amendments including those on: Member States constantly seeking improvements in protection; cooperation between both sides of industry; and safety certificates for equipment; are provided for in the Framework Directive<sup>367</sup>. Since this is only the second individual Directive, it can be suggested that the Parliament was seeking to clarify the application of the Framework Directive with regard to the issues noted.

Other amendments related to the Annex on the minimum safety and health requirements and suggested that:

- warning signs clearly indicate all danger zones;
- automatic systems and services shall be fitted with manual overrule for emergency shut-down;

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<sup>360</sup> Commission's original proposal COM(88) 75 final, OJ C 114, 30.4.88, p. 3.

<sup>361</sup> Deputy Rapporteur, Mr. Vittinghoff, European Parliament debates, OJ Annex 2-371, 15.11.88, p. 41.

<sup>362</sup> First reading, amendments 8, 8, 105 and 107.

<sup>363</sup> First reading, amendment 191 and second reading, amendment 8.

<sup>364</sup> First reading, amendment 198.

<sup>365</sup> First reading, amendment 198.

<sup>366</sup> First reading, amendments 99, 100 and 101.

<sup>367</sup> First reading, amendments 8,9,108,190,199 and 127.



- moving parts of equipment will cease to function if protective guards are removed; and
- management should provide a statement of a safe system for the maintenance of all machines<sup>368</sup>.

Despite the fact that these amendments were accepted by the Commission following the first reading and resubmitted, following the second reading, by the Parliament they did not find favour with the Council.

The tables below illustrate quantitatively the uptake of Parliament's amendments by the Commission and the Council.

### *First Reading*

| Amendment category | EP submitted <sup>369</sup> | Commission accepted <sup>370</sup> |            | Council accepted <sup>371</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 6                           | 2                                  | 0          | 2                               | 0          |
| B                  | 21                          | 7                                  | 2          | 4                               | 2          |
| C                  | 9                           | 3                                  | 3          | 4                               | 0          |

Total amendments: 36.

<sup>368</sup> First reading, amendments 200, 201, 203 and 205.

<sup>369</sup> Legislative resolution, European Parliament amendments adopted 16 November 1988, OJ C 326, 19.12.88, p. 132.

<sup>370</sup> Commission amended proposal COM(89) 85 final, OJ C 106, 26.4.89, p. 13.

<sup>371</sup> Council's Common Position C2-0050/89 - SYN 125.

## Second Reading

| Amendment category | EP submitted <sup>372</sup> | Commission accepted <sup>373</sup> |            | Council accepted <sup>374</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 3                           | 0                                  | 0          | 0                               | 0          |
| B                  | 11                          | 2                                  | 1          | 1                               | 0          |
| C                  | 4                           | 0                                  | 0          | 0                               | 0          |

Total amendments: 18.

The following discussion focuses attention particularly on these category B and C amendments accepted by the Council in its common position and included in the final Directive.

It appears that the Parliament was influential in clarifying the situation concerning application of the Framework Directive for the definitions of workplace, undertaking and worker<sup>375</sup>. Notably, a number of the Parliament's amendments ensuring the provision of appropriate training and information for workers were incorporated to varying degrees into the Directive. The Directive's provisions given below reflect these Parliament amendments:

- the use of equipment involving a specific risk should be restricted to specified workers<sup>376</sup>;
- written information and instructions should include the conditions of use for equipment, foreseeable abnormal situations and conclusions drawn from experience in using equipment<sup>377</sup>; and
- workers should receive training on any risks which may be associated with using equipment and repairing such equipment<sup>378</sup>.

The Directive's provision on written instructions based on conclusions drawn from experience in using equipment, appears to stem from a Parliament amendment which the Council does not acknowledge in its common position<sup>379</sup>. On the other hand, although the Council noted its acceptance of the

<sup>372</sup> Decision, European Parliament amendments adopted 13 September 1989, OJ C 256, 9.10.89, p. 65.

<sup>373</sup> Commission re-examined proposal (89) 521 final, OJ C 287, 15.11.89, p. 12.

<sup>374</sup> Council Directive 89/655/EEC, 30 November 1989, OJ L 393, 30.12.89, p. 13.

<sup>375</sup> First reading, amendment 189 (deleting separate definitions as proposed by the Commission) category B partially accepted. First reading, amendment 115 category A partially accepted, Directive Article 1.2.

<sup>376</sup> First reading, amendment 194 category C partially accepted, Directive Articles 5, 6 and 7.

<sup>377</sup> First reading, amendment 198 category C partially accepted, Directive Articles 6 and 7.

<sup>378</sup> First reading, amendment 194 category C partially accepted, Directive Articles 6 and 7.

<sup>379</sup> First reading, amendment 196 category B partially accepted, Directive Article 6.3 third indent.

Parliament's amendment, that workers and/or their representatives have the right to make proposal to their employers to ensure safety and health at the workplace, the specific provision does not appear in the Directive<sup>380</sup>. These points are made to illustrate that the legislative process from the Council's common position to the Directive, as finally agreed, is not always straight forward and the very clear identification of the Parliament's impact can sometimes prove difficult.

As noted above the Parliament was concerned that the proposed five year transitional period for existing equipment was too long. Following the second reading the Commission and the Council did agree to reduce the transitional period. The Parliament had proposed a two year period but the Council stated four years in the Directive<sup>381</sup>.

Finally, in relation to reports on the implementation of the Directive and possible future measures in this field, the following Directive requirements stem from the Parliament's proposals:

- Member States shall inform the Commission of legislation already adopted in this field<sup>382</sup>;
- The Commission is required to periodically submit a report on the implementation of the Directive to the European Parliament<sup>383</sup>;
- The Committee on Safety, Hygiene and Health Protection at Work shall be consulted by the Commission on the drafting of proposals in this field<sup>384</sup>.

### ***Parliament's Impact***

The Parliament was successful in ensuring that workers receive information and instructions in using equipment. These instructions should include information drawn from experience in using the equipment and instructions for possible abnormal situations. Additionally, the monitoring of the implementation of this Directive, by the Parliament, will be facilitated by a periodic report from the Commission.

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<sup>380</sup> First reading, amendment 126 category C partially accepted in the Council's common position Article 8.2.

<sup>381</sup> Second reading, amendment 8 category B partially accepted, Directive Article 4.1. (b).

<sup>382</sup> First reading, amendment 98 category B completely accepted, Directive Article 10.2.

<sup>383</sup> First reading, amendment 101 category B partially accepted, Directive Article 10.3. and first reading, amendment 99 category C partially accepted, Directive Article 10.4.

<sup>384</sup> In accordance with Decision 74/325/EEC, OJ L 185, 9.7.74, p. 15.  
First reading, amendment 131 category B partially accepted, Directive Ninth Recital.

### V.3 WORKERS PERSONAL PROTECTIVE EQUIPMENT AT THE WORKPLACE

*Council Directive 89/656/EEC of 30 November 1989<sup>385</sup> on the minimum health and safety requirements for the use by workers of personal protective equipment at the work place (third individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC)*

#### *The Directive*

This Directive lays down the minimum requirements for personal protective equipment designed to be worn or held by the worker to protect against hazards which may endanger the workers safety and health and which cannot be avoided. The following items of clothing and equipment are excluded: ordinary working clothes or uniforms, equipment used by the military, the police and other public order agencies; sports and self-defence equipment; portable devices for signalling or detecting risks; equipment used by emergency and rescue services; and personal protective equipment used in road transport.

Details of the employer's obligations are laid out in the Directive. These include an assessment of the risks which cannot be avoided and the effectiveness of the personal protective equipment in protecting against these risks. Member States shall ensure that general rules are established for the use of such equipment. The Annexes to the Directive provide guidelines on the assessment of risk, items of personal protective equipment and activities, and sectors which may require such equipment.

Member States were required to put in place the necessary measures to comply with this Directive by the 31 December, 1992. The Commission is required to report periodically to the European Parliament, the Council and the Economic and Social Committee on the implementation of the Directive.

The Directive is based on Article 118a of the EEC Treaty which requires cooperation with the European Parliament.

#### *Parliament's Amendments*

At the first reading the Rapporteur noted the "dilemma" of on the one hand dealing with directives the texts of which should not be too detailed but on the other hand "some of the minimum provisions

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<sup>385</sup> Council Directive 89/656/EEC 30 November 1989, OJ L 393, 30.12.89.

certainly need to be explained"<sup>386</sup>. It was further emphasised at the second reading that "minimum requirements on workers' safety at the workplace should be as stringent as possible"<sup>387</sup>.

The Parliament proposed twenty four amendments<sup>388</sup> to the Commission's original proposal<sup>389</sup>. These amendments addressed issues relating to: protecting workers to the highest possible level<sup>390</sup>; the consultation with and protection of workers<sup>391</sup>; the date of entry into force of the Directive<sup>392</sup>; and reports on the Directive's implementation<sup>393</sup>.

Among these amendments were those which sought specifically to:

- ensure workers are provided with personal protective equipment free of charge by the employer<sup>394</sup>;
- allow workers or their representatives request an employer to eliminate hazards without delay<sup>395</sup>;
- ensure workers and their representatives are consulted in accordance with the provision of the Framework directive<sup>396</sup>;
- extend the transition period for Spain and Portugal by up to two years after the entry into force of the Directive<sup>397</sup>; and
- require the Commission to report on the implementation of the Directive initially after one year and subsequently every two years thereafter<sup>398</sup>.

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<sup>386</sup> Rapporteur, Mr. Alber, Debates of the European Parliament, O Annex 2-372, 13.12.88, p. 89. The Commission proposal for a Directive COM(88) 77 final -SYN 127, C2-0026/88, was originally dealt with by the Committee on the Environment, Public Health and Consumer Protection during Parliament's 1984-1989 term.

<sup>387</sup> Substitute Rapporteur, Mr. Chanterie, Debates of the European Parliament, OJ Annex 2-380, 12.9.89, p. 37.

<sup>388</sup> Legislative Resolution, European Parliament amendments adopted 14 December, 1988, OJ C 12, 16.1.89, p. 87.

<sup>389</sup> Commission's original proposal COM(88) 76 final, OJ C 161, 20.6.88, p. 1.

<sup>390</sup> First reading, amendments 1, 8, 12, 23 and 19.

<sup>391</sup> First reading, amendments 9, 22 and 12.

<sup>392</sup> First reading, amendment 2.

<sup>393</sup> First reading, amendments 2, 4, 5, 6 and 7.

<sup>394</sup> First reading, amendment 19.

<sup>395</sup> First reading, amendment 12.

<sup>396</sup> First reading, amendments 11 and 13.

<sup>397</sup> First reading, amendment 3.

<sup>398</sup> First reading, amendment 7.

Following the second reading the Parliament submitted nineteen amendments<sup>399</sup> to the Council's common position<sup>400</sup>. Amendments on the free provision of personal protective equipment to workers, and worker consultation and participation were resubmitted. The Parliament also sought to the reinstatement of Annex III on the minimum safety and health requirements for the use of personal protective equipment. However, none of the Parliament's category B or C amendments were accepted following the second reading.

The quantitative analysis of the Parliament's amendments which were accepted by the Commission and the Council is given in the following tables.

#### *First Reading*

| Amendment category | EP submitted <sup>401</sup> | Commission accepted <sup>402</sup> |            | Council accepted <sup>403</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 8                           | 4                                  | 2          | 2                               | 3          |
| B                  | 15                          | 3                                  | 4          | 4                               | 2          |
| C                  | 1                           | 0                                  | 0          | 1                               | 0          |

Total amendments: 24.

<sup>399</sup> Decision, European Parliament amendments adopted 13 September 1989, OJ C 256, 9.10.89, p. 64.

<sup>400</sup> Council's common position C2-0047/89 - SYN 126.

<sup>401</sup> Legislative Resolution, European Parliament amendments adopted 14 December 1988, OJ C 12, 16.1.89, p. 87.

<sup>402</sup> Commission's amended proposal, COM(89) 87 final, OJ C 115, 8.5.89, p. 27.

<sup>403</sup> Council's common position C2-0047/89 - SYN 126.

## Second Reading

| Amendment category | EP submitted <sup>404</sup> | Commission accepted <sup>405</sup> |            | Council accepted <sup>406</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partia ly                          | Completely | Partially                       | Completely |
| A                  | 2                           | 1                                  | 1          | 0                               | 1          |
| B                  | 14                          | 0                                  | 0          | 0                               | 0          |
| C                  | 3                           | 0                                  | 0          |                                 | 0          |

Total amendments: 19<sup>407</sup>.

The category B and C amendments from the first reading which were accepted by the Council are discussed below. The references in the Directive's recitals to, the guarantee of greater protection of workers' safety and health<sup>408</sup>, and the Commission consulting with the Advisory Committee on Safety, Hygiene and Health Protection at Work on proposals in this field<sup>409</sup>, appear to stem from the Parliament's amendments.

As noted above, the Parliament, wanted to ensure that workers do not have to pay for personal protective equipment. Although the Commission accepted this idea, the Council only partially incorporated the free provision of personal protective equipment in its common position. The Council provided Member States with the option, in accordance with their national practice, of allowing workers to be asked to contribute to the cost the personal protective equipment when it is not used exclusively in the workplace. The Parliament was not satisfied with the limited acceptance of its amendment and it was resubmitted following the second reading, however, it was unsuccessful and the Council's provision is in the Directive<sup>410</sup>.

In relation to reports on the implementation of the Directive, the following provisions reflect the Parliament's amendments.

<sup>404</sup> Decision, European Parliament amendments adopted 13 September 1989, OJ C 256, 9.10.89, p. 64.

<sup>405</sup> Commission's re-examined proposal COM(89) 519 final - SYN 126, OJ C 287, 15.11.89, p. 11.

<sup>406</sup> Council Directive 89/656/EEC, 30 November 1989, OJ L 393, 30.12.89, p. 18.

<sup>407</sup> Of the 19 amendments submitted at the second reading 6 repeat and 5 partially repeat amendments from the first reading while 8 were new.

<sup>408</sup> First reading, amendment 1 category B partially accepted, Directive recital 1.

<sup>409</sup> First reading, amendment 15 category B partially accepted, Directive recital 11.

<sup>410</sup> First reading, amendment 19 category B partially accepted, Directive Article 4.6.

- Member States shall inform the Commission about the national laws which they have already adopted in this field<sup>411</sup>.
- The Commission is required to inform the European Parliament, the Council, the Economic and Social Committee and the Advisory Committee on Safety, Hygiene and Health Protection at Work on the Member States laws in this field<sup>412</sup>.
- The Commission is required to report periodically to the European Parliament, the Council and the Economic and Social Committee on the implementation of the Directive<sup>413</sup>.

### ***Parliament's Impact***

The Parliament's impact on the Directive on personal protective equipment relates principally to procedural issues. The effectiveness of any Directive lies in its implementation in the Member State. Therefore, the reports from the Commission to the European Parliament on the Member States' legislation in this field and on the implementation of the Directive allow the Parliament to monitor the situation over the longer term.

## **V.4 MANUAL HANDLING OF LOADS**

*Council Directive 90/269/EEC of 29 May 1990<sup>414</sup> on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (fourth individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC)*

### ***The Directive***

This Directive lays down the minimum health and safety requirements for the manual handling of loads, where, because of the loads characteristics or unfavourable ergonomic conditions, there is a particular risk of back injury to workers. The manual handling of loads is defined as the transporting or supporting of a load by one or more workers.

Employers are required by the Directive to organise work and the use of mechanical equipment to avoid the need for the manual handling of loads by workers. Where this cannot be avoided the risks should be reduced. Workers and/or their representatives must receive general indications and if possible precise information on the weight of the load and its centre of gravity, if it is awkwardly loaded.

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<sup>411</sup> First reading, amendment 4 category B fully accepted, Directive Article 10.2.

<sup>412</sup> First reading, amendment 5 category B completely, Directive Article 10.3.

<sup>413</sup> First reading, amendment 7 category C partially accepted, Directive Article 10.4.

<sup>414</sup> Council Directive 90/269/EEC of 29 May 1990, OJ L 156, 21.6.90, p. 9.



Annex 1 outlines the reference factors (e.g. physical effort required, characteristics of the load) for the Directive's Articles. The individual risk factors (e.g. wearing unsuitable clothing, inappropriate knowledge or training) are listed in Annex II. Member States must have complied with the Directive by the 31st December, 1992 and they should report to the Commission, every four years, on the practical implementation of the Directive. The Commission is required to periodically report on the Directive's implementation to the Council, the European Parliament and the Economic and Social Committee.

The Directive is based on Article 118a cooperation with the Parliament.

### *Parliament's Amendments*

At the first reading the Parliament proposed twenty seven amendments<sup>415</sup> to the Commission's original proposal<sup>416</sup>. The most important among the Parliament's amendments were those which sought to extend the scope of the Directive beyond the emphasis on the risk of back injury<sup>417</sup>. The Rapporteur stated that "handling heavy loads can involve injury to other parts of the body"<sup>418</sup> and eight of the proposed amendments related to this issue. These amendments wanted to have the Directive cover "other possible injuries" from handling heavy loads<sup>419</sup>.

The Commission did not accept these amendments or address the issue of extending the Directive's scope in its amended proposal<sup>420</sup>. However, the Council stated in its common position<sup>421</sup> that it would go beyond the Parliament's proposal. It suggested that the use of the phrase, the "manual handling of loads where there is a risk particularly of back injury" (in the title and relevant Articles) would "cover all loads where there were risks of any kind including a risk of back injury"<sup>422</sup>.

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<sup>415</sup> Legislative Resolution, European Parliament amendments agreed, 16 November 1988, OJ C 326, 19.12.88, p. 132.

<sup>416</sup> Commission's original proposal COM(88)78 final, OJ C 117, 4.5.88, p. 8.

<sup>417</sup> The title of the Commission's original proposal was, "Council Directive on the minimum health and safety requirements for handling heavy loads where there is a risk of back injury for workers".

<sup>418</sup> Rapporteur Mr. Alber on behalf of the Committee on the Environment, Public Health and Consumer Protection (which was responsible for the proposed Directive prior to the Parliament elections in 1989), Debates of the European Parliament, OJ Annex 2-371, 15.11.88, p. 40.

<sup>419</sup> First reading, amendments 206-209 and 213-216.

<sup>420</sup> Commission's amended proposal COM(89) 213 final - SYN 128.

<sup>421</sup> Council's common position 9245/1/89, C3-227/89 - SYN 128.

<sup>422</sup> 'Council's reasons' in the Council's common position p. 4-5, the Council's own reference 9245/1/89. The European Parliament reference Doc C3-227/89 - SYN 128.

Despite this change, at the second reading the Rapporteur stated that the Council's approach only partly recognised the fact that a range of injuries may result from the manual handling of loads<sup>423</sup>. The Parliament again proposed to extend the scope of the Directive by replacing the specific references to, "a risk particularly of back injury to worker", with "a risk of injury of workers"<sup>424</sup>.

Following the second reading it was the Commission which sought to find a solution to ensure that the Directive's title clearly reflected its objective. At the debate on the second reading the Commissioner stated that the Parliament's amendment sought to widen the Directive's scope too far beyond risks from the manual handling of loads<sup>425</sup>. The Commission did not accept the Parliament's amendments but it did seek to "adopt a different wording in order to embrace the spirit of these amendments"<sup>426</sup>, suggesting instead the words "risk of musculoskeletal injury"<sup>427</sup>. This proposal was not acceptable to the Council and its own wording from the common position is in the Directive.

The details of the Parliament's attempt to widen the scope of the Directive and ensure its effectiveness have been discussed to illustrate two points. Firstly, the Parliament did succeed in putting the issue of the Directive's scope on the agenda and started a debate on the issue with the Commission and the Council. Secondly, the positions taken by the Commission and the Council following the first reading should not be assumed to be final.

Additionally, the Parliament sought to ensure that the health and safety of workers is protected to the highest possible level<sup>428</sup>, and that there be consultation and cooperation between the two sides of industry<sup>429</sup>. Other amendments suggested that the Commission should:

- consult the Advisory Committee on Safety, Health and Hygiene when making improvements in the safety and health provisions<sup>430</sup>, and
- report to the European Parliament on the implementation of the Directive, initially after one year and every two years thereafter<sup>431</sup>.

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<sup>423</sup> Rapporteur Mr. Hughes on behalf of the Committee on Social Affairs, Employment and the Working Environment, Debates of the European Parliament, OJ Annex 3-388, 13.3.90, p. 48.

<sup>424</sup> Decision, European Parliament amendments agreed 14 March 1990 OJ C 96, 17.4.90, p. 82. See amendments 1, 5, 6, 7, 9, 18, 21 and parts of amendments 19 and 20.

<sup>425</sup> Commissioner Papandreu, Debates of the European Parliament, OJ Annex 3-388, 13.3.90, p. 40.

<sup>426</sup> *ibid.*

<sup>427</sup> Commission's re-examined proposal COM (90) 131 final - SYN 128.

<sup>428</sup> First reading, amendments 1, 8, 107 and 9.

<sup>429</sup> First reading, amendments 108, 124 and 127.

<sup>430</sup> First reading, amendment 212.

<sup>431</sup> First reading, amendment 101.

The Parliament also wanted to allow Spain and Portugal an additional transitional period of two years before enacting the necessary legislation to implement the Directive<sup>432</sup>. Following the second reading the Parliament<sup>433</sup> again submitted amendments concerning: consultation and cooperation with workers<sup>434</sup>; allowing workers and their representatives to request an employer to take safety and health protection measures without delay<sup>435</sup> and Commission reports on the implementation of the Directive. Additionally, the Parliament wanted to ensure that qualified staff carry out frequent supervision<sup>436</sup>.

The quantitative uptake of Parliament's amendments by the Commission and Council is given in the tables below.

### *First Reading*

| Amendment category | EP submitted <sup>437</sup> | Commission accepted <sup>438</sup> |            | Council accepted <sup>439</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 4                           | 0                                  | 1          | 2                               | 0          |
| B                  | 21                          | 4                                  | 3          | 12 <sup>440</sup>               | 1          |
| C                  | 2                           | 1                                  | 0          | 1                               | 0          |

Total amendments: 27.

<sup>432</sup> First reading, amendment 97.

<sup>433</sup> Decision, European Parliament amendments adopted 14 March 1990, OJ C 96, 17.4.90, p. 82.

<sup>434</sup> Second reading, amendments 4, 10, 12 and 14.

<sup>435</sup> Second reading, amendment 11.

<sup>436</sup> Second reading, amendment 13.

<sup>437</sup> Legislative Resolution, amendments agreed 16 November 1988, OJ C 326, 19.12.88, p. 132.

<sup>438</sup> Commission's amended proposal COM(89) 213 final - SYN 128.

<sup>439</sup> Council's common position, C3-0227/89 - SYN 128, Council's own reference 9245/1/89.

<sup>440</sup> Seven of these amendments related to extending the scope of the proposed Directive to include "other possible injuries", amendments 206, 207, 209, 213, 214, 215 and 216.

## Second Reading

| Amendment category | EP submitted <sup>441</sup> | Commission accepted <sup>442</sup> |            | Council accepted <sup>443</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 2                           | 0                                  | 1          | 0                               | 1          |
| B                  | 19                          | 10 <sup>444</sup>                  | 2          | 2                               | 1          |
| C                  | 0                           | 0                                  | 0          | 0                               | 0          |

Total amendments: 21<sup>445</sup>.

In order to identify the Parliament's specific impact on this Directive the following discussion focuses attention on those category B and C amendments which were incorporated to some degree into the final Directive by the Council.

The Directive requires that workers and/or their representatives are to be consulted on all measures to be implemented with regard to the protection of their safety and health. This requirement is an addition to the general provisions on information for workers laid down in Article 10 of the Framework Directive and this type of addition is provided for in the Directive's recitals. These provisions reflect the Parliament's amendments on consultation and information for workers<sup>446</sup>. Additionally, it appears from the Council's common position that the Parliament's amendments prompted clarification concerning Member States providing better and stricter protection for workers.

A number of the Parliament's amendments on reports from the Member States and the Commission are included in the Directive, these involve:

- Member States reporting every four years on the practical implementation of the Directive<sup>447</sup>;

<sup>441</sup> Decision, European Parliament amendments adopted 14 March 1990, OJ C 96, 17.4.90, p. 82.

<sup>442</sup> Commission's re-examined proposal COM(90) 131 final - SYN 128.

<sup>443</sup> Council Directive 90/269/EEC, OJ L 156, 21.6.90, p. 9.

<sup>444</sup> Nine of these amendments relate to Parliament's wish to broaden the scope of the Directive to include all risks arising from the manual handling of loads, while the Commission did not accept these amendments it did seek to address the spirit of the amendments 1, 5, 6, 7, 9, 18 and the relevant parts of 19, 20 and 21. See text for discussion of this issue.

<sup>445</sup> Eight of these amendments repeat and ten partially repeat those submitted at the first reading while three are new.

<sup>446</sup> Second reading, amendment 10 category B completely accepted, Directive Article 6. First reading, amendment 108 category B partially accepted, Directive Recital 6.

<sup>447</sup> First reading, amendment 99 category B partially accepted, Directive Article 9.3. Second reading, amendment 15 category B partially accepted, Directive Article 9.3.

- Member States providing information on the national laws they have already adopted in this area<sup>448</sup>; and
- the Commission reporting periodically on the implementation of the Directive to the European Parliament, the Economic and Social Committee and the Council<sup>449</sup>.

The Parliament had sought that the Member States and the Commission report every two years but these suggestions were not accepted by the Council. Although, in the case of the Member States the interval for reporting was reduced by the Council from five to four years following the second reading.

Finally, the provisions on first, the organisation of work in order to avoid the need for the manual handling of loads by workers and second, the inclusion of height among the characteristics of the working environment (which may increase the risk of back injury) stem from the Parliament's detailed amendments<sup>450</sup>.

### ***Parliament's Impact***

The Parliament did place the issue of the manual handling of loads causing injuries other than back injuries on the agenda. It remains to be seen how widely the Directive applies in the light of its implementation in Member States. Amendments incorporated into the Directive facilitate the monitoring of its implementation with reports to the European Parliament from the Commission. Also, Parliament was successful in ensuring that workers are consulted on all measures regarding the protection of their safety and health in this area.

## **V.5 DISPLAY SCREEN EQUIPMENT**

***Council Directive 90/270/EEC of 29 May 1990<sup>451</sup> on the minimum safety and health requirements for work with display screen equipment (fifth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)***

### ***The Directive***

This Directive lays down the minimum safety and health requirements for work with display screen equipment. Account is taken in the Directive of related equipment like, the keyboard, software,

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<sup>448</sup> First reading, amendment 98 category B completely accepted, Directive Article 9.2.

<sup>449</sup> First reading, amendment 101 category C partially accepted, Directive Article 9.4.

<sup>450</sup> First reading, amendment 207 category B partially accepted, Directive Article 3.1. Second reading, amendment 20, category B partially accepted, Directive Annex 1.3. first indent.

<sup>451</sup> Council Directive 90/270/EEC, 29 May 1990, OJ L 156, 21.6.90, p. 14.

diskette drive and printer, within the term 'workstation'. The Directive does not apply to control cabs for vehicles; computer systems intended for public use or in "means of transport"; "portable systems"; calculators, cash registers or "traditional typewriters with a window".

Employers are obliged by the Directive to carry out an analysis of the workstations in order to evaluate the health and safety conditions for workers. Particular note should be taken of risks to eyesight and of physical and mental problems. In addition to the provisions regarding information and training for workers in the Framework Directive, this Directive requires that workers receive training in the use of the workstation, both before commencing work at the workstation and following any modifications in its organisation. The minimum requirements concerning the lay out of workstations are provided in the Annex to the Directive.

The employer is required to organise a worker's activities to allow for breaks from the display screen and changes of activity. In order to protect the workers' eyes and eyesight the Directive specifies that workers are entitled to appropriate tests before they commence work with a display screen; at regular intervals and if they experience visual difficulties. Member States were required to comply with the Directive by the 31 December, 1992. Employers must ensure that workstations already in operation before that date meet the minimum requirements within four years.

The Directive is based on Article 118a of the EEC Treaty under which cooperation with the European Parliament is required.

### *Parliament's Amendments*

At the first reading, the Parliament proposed fifty amendments<sup>452</sup> to the Commission's original proposal<sup>453</sup> for a Directive. These amendments covered the following issues. Firstly, the Parliament sought to more clearly define the scope of the Directive by proposing that it apply to "computerized information systems involving display units" rather than simply "visual display units"<sup>454</sup>. Secondly, a series of amendments addressed the issues relating to: consultations between the two sides of industry; the information provided to workers and the application of the Framework Directive<sup>455</sup>.

Thirdly, included among the amendments regarding the protection of workers, the Parliament wanted to ensure:

- that safety and health protection is provided to the highest possible level;
- that Member States constantly seek improvements;

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<sup>452</sup> Legislative Resolution, Parliament amendments adopted 14 December 1988, OJ C 12, 16.1.89, p. 92.

<sup>453</sup> Commission's original proposal COM(88) 77 final, OJ C 113, 29.4.88, p. 7.

<sup>454</sup> First reading, amendments 18, 3, 21, 22, 24 and 34.

<sup>455</sup> First reading, amendments 11, 13, 15 and 42.

- the limitation of intensive work with visual display units and the provision of specified breaks;
- regular medical check-ups, and
- the redeployment of pregnant 'visual display' workers without loss of earnings<sup>456</sup>.

The Rapporteur noted that the true effects of visual display units on pregnant women were unknown and therefore caution was the priority<sup>457</sup>.

Fourthly, a number of the amendments related to the implementation of the Directive covering:

- the extension of the transition period for Spain and Portugal, and
- reports from the Member States and the Commission on the relevant laws already adopted and the practical implementation of the Directive<sup>458</sup>.

Finally, the Parliament submitted fifteen detailed amendments to the Annex which outlines the minimum requirements for equipment, the working environment and computer 'software'. These amendments sought, among other things, to specify in detail the requirements for seating, lighting and levels of heat, noise and radiation emitted from the screen and related equipment<sup>459</sup>.

Following the second reading<sup>460</sup>, the Parliament again sought to more clearly define the scope of the Directive<sup>461</sup>. Parliament also wanted to strengthen the provisions of the Framework Directive on information for employees and their participation with regard to this Directive<sup>462</sup>. Since, as the Rapporteur noted this is a new field "it is necessary to acquire maximum information and develop prevention ..... through the participation of the workers themselves"<sup>463</sup>. There were also a number of detailed amendments to the minimum safety and health requirements.

The quantitative analysis in the tables below indicates the numbers of amendments accepted partially or completely by the Commission and Council following the first and second readings.

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<sup>456</sup> First reading, amendments 1, 2, 61, 34 and 31.

<sup>457</sup> Rapporteur Mr. Alber, Report Doc A2-279/88, Debates of the European Parliament OJ Annex 2-372, 13.12.88, p. 89.

<sup>458</sup> First reading, amendments 5-9.

<sup>459</sup> First reading, amendments 44-58.

<sup>460</sup> Decision, European Parliament amendments adopted 4 April 1990, OJ C 113, 7.5.90, p. 75.

<sup>461</sup> Second reading, amendments 1 and 8.

<sup>462</sup> Second reading, amendments 15 and 16.

<sup>463</sup> Rapporteur Mrs. Catasta, Debates of the European Parliament, OJ Annex N3-389, 3.4.90, p. 89.

### **First Reading**

| Amendment category | EP submitted <sup>464</sup> | Commission accepted <sup>465</sup> |            | Council accepted <sup>466</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 5                           | 2                                  | 0          | 2                               | 0          |
| B                  | 33                          | 18                                 | 3          | 11                              | 1          |
| C                  | 12                          | 3                                  | 0          | 5                               | 0          |

Total amendments: 50.

### **Second Reading**

| Amendment category | EP submitted <sup>467</sup> | Commission accepted <sup>468</sup> |            | Council accepted <sup>469</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 3                           | 0                                  | 1          | 0                               | 0          |
| B                  | 24                          | 5                                  | 11         | 9                               | 3          |
| C                  | 3                           | 0                                  | 0          | 0                               | 0          |

Total amendments: 30<sup>470</sup>.

It is notable that in the case of this Directive both the first and second readings proved important. To particularly identify the Parliament's impact on the Directive the following discussion concentrates on those category B and C amendments accepted by the Council. However, references are also made to the Commission's comments during the Parliament's debates to illustrate certain points.

The Parliament's amendments concerning the redeployment of pregnant women were not accepted by the Council or the Commission. The Commissioner stated that she shared the Parliament's concern,

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<sup>464</sup> Legislative Resolution, Parliament amendments adopted 14 December 1988, OJ C 12, 16.1.89, p. 92.

<sup>465</sup> Commission's amended proposal COM(89) 195 final, OJ C 130, 26.5.89, p. 5.

<sup>466</sup> Council's Common Position C3-0009/90 - SYN 127, 18 January 1990.

<sup>467</sup> Decision, Parliament amendments adopted 4 April 1990, OJ C 113, 7.5.90, p. 75.

<sup>468</sup> Commission's re-examined proposal COM(90) 199 final - SYN 127.

<sup>469</sup> Council Directive 90/270/EEC, 29 May 1990, OJ L 156, 21.6.90, p. 14.

<sup>470</sup> Of the amendments adopted at the second reading 6 were repeats, 13 partial repeats and 11 new.



but she noted that pregnant women do not only face risks from display screen work. At the time this Directive was being discussed the Commission was preparing a specific directive on the protection of pregnant women in the workplace and it was stated that the Parliament's amendments would be taken into account<sup>471</sup>.

The Directive's Recitals refer to better level of protection for workers with regard to safety and health and the application of the Framework Directive. These go some way towards accommodating the Parliament's amendments<sup>472</sup>. Additionally, the Directive requires that workers receive information on all aspects of safety and health relating to their workstations concerning the daily work routine and the protection of their eyes and eyesight along with the measures taken to comply with this Directive. These provisions stem from the Parliament's amendments<sup>473</sup> and resulted in the extension of the Framework Directive's requirements on information for workers (Article 10).

With regard to the daily routine and breaks from working with the display screen, the Parliament proposed that intensive VDU work should be limited to fifty per cent of working time in any day and that work is organized to provide fifteen minutes of alternative work for each hour of intensive VDU work. The Council partially accepted this amendment by including in its common position and the final text, the requirement that an employer plan a worker's activities so that work on the display screen is periodically interrupted by breaks or changes in activity<sup>474</sup>.

In order to further protect the workers using screens the Parliament sought to further protect their health by proposing that they receive regular medical check-ups every three years. The Council noted in its common position that it took account of this amendment when introducing the provision that workers are entitled to regular eye and eyesight tests. Following the second reading the Council specified in the Directive that these tests would be carried out by a person with the necessary capabilities". This addition appears to be the result of the Parliament's amendment seeking that a member of a competent professional body carry out the tests<sup>475</sup>.

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<sup>471</sup> Commissioner Papandreu, Debates of the European Parliament OJ Annex 3-389, 3.4.90, p. 93. Council Directive 92/85/EEC of 19 October 1992, on the protection of pregnant women (OJ L 348, 28.11.92), this Directive is examined later in this study.

<sup>472</sup> First reading, amendments 10 and 14 category B partially accepted, Directive first, fifth and sixth Recitals.

<sup>473</sup> First reading, amendment 13 and second reading, amendment 15 category B partially accepted, Directive Article 6.

<sup>474</sup> First reading, amendment 61 category C partially accepted, Directive Article 7.

<sup>475</sup> First reading, amendment 34 category B partially accepted, Directive Article 9.1. and second reading, amendment 21 category B partially accepted, Directive Article 9.1.

Some of the Parliament's detailed amendments resulted in the definition of a workstation including 'optional accessories', the diskette drive and telephones<sup>476</sup>. While a number of other detailed amendments were included in the minimum requirements for equipment, the working environment and computer 'software' outlined in the Annex. These resulted in the following requirements:

- the use of a separate base and adjustable table for the display screen<sup>477</sup>;
- no disturbing reflections on the screen<sup>478</sup>;
- the document holder should be stable and adjustable<sup>479</sup>;
- workstation equipment should not emit excess noise or heat<sup>480</sup>;
- radiation shall be reduced to a negligible level<sup>481</sup>;
- there should be no 'clandestine' checks on performance without the workers knowledge<sup>482</sup>;
- the lighting provided should take account of the type of work and the user's vision requirements<sup>483</sup>; and
- the size of the workstation should allow the worker to change position and vary movement<sup>484</sup>.

The Parliament was successful in ensuring that: Member States report on legislation already adopted in this field, and the Commission reports to the Parliament on the implementation of this Directive, on a regular basis<sup>485</sup>.

### *Parliament's Impact*

The Parliament's impact on this Directive stems from amendments submitted and accepted following the first and second readings. This Directive was designed to allay workers fears on the effects of display screens and the Parliament was successful in ensuring that workers receive regular eye checks

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<sup>476</sup> First reading, amendments 23/rev and 37 category B partially accepted, Directive Article 2 and second reading, amendment 10 category B partially accepted, Directive Article 2.

<sup>477</sup> First reading, amendment 45 category B partially accepted Annex 1.b.

<sup>478</sup> First reading, amendment 45 category B partially accepted, Directive Annex 1.b.

<sup>479</sup> Second reading, amendment 29 category B partially accepted, Directive Annex 1.d.

<sup>480</sup> First reading, amendment 54 category B partially accepted and amendment 56 category C partially accepted, Directive Annex 2. d and e.

<sup>481</sup> First reading, amendment 57 category C partially accepted, Directive Annex 2.f.

<sup>482</sup> First reading, amendment 55 category B partially accepted, Directive Annex 3.b.

<sup>483</sup> Second reading, amendment 32 category B partially accepted, Directive Annex 2.b.

<sup>484</sup> Second reading, amendment 31 category B partially accepted and amendment 41 category B completely accepted, Directive Annex 2.a.

<sup>485</sup> First reading, amendment 6 category B completely accepted, amendment 9 category C partially accepted and second reading, amendment 25 category B partially accepted, Directive Article 11.

and have breaks from working with the screen. The detailed examination of the Commission proposal by the Social Affairs Committee and the Parliament is well illustrated by the amendments proposed to the minimum safety and health requirements. These amendments resulted in the need to ensure that equipment does not produce excess heat or radiation and in order to protect the worker's welfare there should be no inbuilt 'clandestine' computer checks on the worker's performance without their knowledge.

## V.6 PROTECTION FROM RISKS RELATED TO EXPOSURE TO CARCINOGENS

*Council Directive 90/394/EEC of 28 June 1990<sup>486</sup> on the protection of workers from the risks related to exposure to carcinogens at work (Sixth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)*

### *The Directive*

This Directive aims to protect workers against the risks associated with exposure to carcinogens at work and where possible prevent any possible risks. It applies to activities where there is or is likely to be exposure, in which case the nature, degree and duration of exposure must be determined to assess the risk involved. The employer's obligations concern, the prevention and reduction of workers exposure to carcinogens; the type of information to be supplied to the authorities; measures to be taken in the case of unforeseen and foreseeable exposure; and workers' access to risk areas.

The Annexes to the Directive provide recommendations on health surveillance for workers and the requirements concerning limit values for exposure. Member States must have introduced the enacting legislation not later than 31 December 1992.

The Directive is based on Article 118a which required cooperation with the European Parliament.

### *Parliament's Amendments*

Following the first reading the Parliament submitted forty eight amendments<sup>487</sup> to the Commission's original proposal<sup>488</sup>. The twelve amendments to the recitals raised issues of particular concern to the Parliament. These included, information and participation for workers<sup>489</sup>; medical care and

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<sup>486</sup> Council Directive 90/394/EEC of 28 June 1990, OJ L 196, 26.7.90, p. 1.

<sup>487</sup> Legislative Resolution, European Parliament amendments adopted 24 May 1989, OJ C 158, 26.6.89, p. 107.

<sup>488</sup> Commission proposal COM(87) 641 final, OJ C 34, 8.2.88, p. 9.

<sup>489</sup> First reading, amendments 8, 19, 29, 25, and 31. Second reading, amendments 11 and 48.

surveillance<sup>490</sup>; the protection of workers at risk (notably pregnant women)<sup>491</sup> and the introduction of limit values for exposure to carcinogens<sup>492</sup>. The Parliament proposed a number of detailed amendments to the Directive's Articles on these areas. Some of these issues were raised again during the second reading<sup>493</sup>, notably that concerning the introduction of limit values. Other amendments sought;

- to emphasis the prevention of the use of carcinogens<sup>494</sup>, if at all possible;
- the provision of technical aid for small to medium sized enterprises to meet the requirements of the Directive<sup>495</sup>; and
- the application of associated Directives on dangerous substances<sup>496</sup>.

The quantitative analysis of the acceptance by the Commission and the Council of Parliament's amendments is given in the tables below.

### *First Reading*

| Amendment category | EP submitted <sup>497</sup> | Commission accepted <sup>498</sup> |            | Council accepted <sup>499</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 11                          | 0                                  | 4          | 1                               | 4          |
| B                  | 32                          | 11                                 | 2          | 11                              | 1          |
| C                  | 5                           | 2                                  | 1          | 1                               | 0          |

Total Amendments: 48. Amendments 14 and 52, and 44, 45 and 46 form just 2 amendments.

<sup>490</sup> First reading, amendments 32, 34, 35 and 37. Second reading, amendment 51.

<sup>491</sup> First reading, amendments 3, 5, 6, 7, 17 and 20. Second reading, amendments 5 and 17.

<sup>492</sup> First reading, amendments 4, 11, 13 and 15. Second reading, amendments 11, 13 and 48.

<sup>493</sup> Decision, Parliament amendments adopted 16 May 1990, OJ C 149, 18.6.90, p. 78.

<sup>494</sup> First reading, see amendments 3 and 20.

<sup>495</sup> First reading, amendments 43 and 11. Second reading, amendment 1.

<sup>496</sup> Second reading, see amendment 12.

<sup>497</sup> Parliament amendments adopted 24 May 1989, OJ C 158, 26.6.89, p. 107.

<sup>498</sup> Commission's amended proposal COM(89) 405 final, OJ C 229, 6.9.89, p. 8.

<sup>499</sup> Council's Common Position C3-0024/90 - SYN 110.

## Second Reading

| Amendment category | EP submitted <sup>500</sup> | Commission accepted <sup>501</sup> |            | Council accepted <sup>502</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 5                           | 2                                  | 2          | 0                               | 0          |
| B                  | 29                          | 5                                  | 1          | 1                               | 0          |
| C                  | 0                           | 0                                  | 0          | 0                               | 0          |

Total amendments: 34.

This is a case where the quantitative analysis does not provide a clear picture of the uptake of Parliament's amendments. Eleven category B amendments appear to have been partially accepted by the Council in its common position. However, in the case of six of these amendments only the less significant aspects have been included<sup>503</sup>.

The Parliament's amendments concerning information for workers and their participation in decisions regarding their protection have been included in the Directive to some degree in the following requirements:

- Each worker should have access to information on the results of a risk assessment<sup>504</sup>.
- An employer shall inform workers of an abnormal exposure to carcinogens following an unforeseeable event<sup>505</sup>.
- Workers and/or their representatives should be consulted on the measures necessary to reduce their exposure to a minimum<sup>506</sup>. Although the Parliament had sought "the balanced participation of workers".

Parliament was concerned about the protection of high risk groups. Following the first reading it proposed that pregnant women, women who are breastfeeding and young people under the age of eighteen should not be employed, as a matter of principle, in areas where they may come into contact with carcinogens (Category C amendment). The Parliament proposed a similar amendment following

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<sup>500</sup> Decision, EP amendments adopted 16 May 1990, OJ C 149, 18.6.90, p. 78.

<sup>501</sup> Re-examined Commission proposal COM(90) 221 final - SYN 110.

<sup>502</sup> Council Directive 90/394/EEC, 28 June 1990, OJ L 196, 26.7.90, p. 1.

<sup>503</sup> First reading, amendments 13, 21, 28, 15, 30 and 31.

<sup>504</sup> First reading, amendment 19 category B partially accepted, Directive Article 12 (e).

<sup>505</sup> First reading, amendment 23 category B partially accepted, Directive Article 7.1.

<sup>506</sup> First reading, amendment 25 category B partially accepted, Directive Article 8.1.

the second reading. The Council included in its common position and the Directive a provision requiring employers to consider not employing workers at risk in areas where they may come into contact with carcinogens<sup>507</sup>. Although the Parliament's demands were not met in full, the Commissioner stated at the second debate, that it defines high risk groups as "principally pregnant women, nursing mothers and young persons"<sup>508</sup>.

Detailed amendments proposed by the Parliament and incorporated into the Directive resulted in the following:

- the definition of carcinogens is in agreement with that used in other Directives, the technical phrase "R45 'may cause cancer'" was included<sup>509</sup>;
- the duration of the workers' exposure to carcinogens is considered when assessing risk<sup>510</sup>;
- the health records relating provisions in this Directive should be kept for forty years (the Commission had originally proposed 30)<sup>511</sup>; and
- Member States are required to report to the Commission on legislation already adopted in this field<sup>512</sup>.

Finally, after the second reading limit values for exposure to carcinogenic substances were introduced into the Directive. The Commission had initially resisted their inclusion but after "noting the desire of Parliament and of a number of member countries" it decided to include them where "there are acceptable scientific assessments"<sup>513</sup>.

### *Parliament's Impact*

The introduction of limit values for exposure to carcinogenic substances illustrates how the Parliament, along with other interests may succeed in getting the Commission to reconsider its original position. Parliament's amendments show its interest in information for workers and their participation in decisions. As a result of these amendments workers and/or their representatives should be consulted on the measures necessary to reduce their exposure to carcinogens, and have access to the results of the risk assessment. Parliament's concern for specific groups of workers like pregnant women and young people was also evident.

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<sup>507</sup> Directive Article 3 (4).

<sup>508</sup> Commissioner Papandreou, Debates of the European Parliament, OJ Annex 3-390, 15.5.90, p. 106.

<sup>509</sup> First reading, amendments 14 and 52 category B partially accepted, Directive Article 2.

<sup>510</sup> First reading, amendment 17 category B completely accepted, Directive Article 3.

<sup>511</sup> First reading, amendment 39 category B partially accepted, Directive Article 15.

<sup>512</sup> First reading, amendments 41, 45 and 46 category B partially accepted, Directive Article 19 (2).

<sup>513</sup> Commissioner Papandreou, Debates of the European Parliament, OJ Annex 3-390, 15.5.90, p. 107.

## V.7 EXPOSURE TO BIOLOGICAL AGENTS AT WORK

***Council Directive 90/679/EEC of 26 November 1990<sup>514</sup> on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)***

### ***The Directive***

This Directive aims to protect workers from risks to their health and safety which might arise from exposure to biological agents at work. Biological agents are defined in the Directive as micro-organisms which may cause infection, allergy or toxicity. They are classified into four groups depending on the degree to which they pose a threat of infection. An assessment of the workers' risks of exposure to biological agents must be made which includes an evaluation of the nature, degree and duration of workers' exposure. An employer is required to avoid the use of a harmful biological agent. However, where a risk is revealed exposure must be prevented and a series of specified measures followed.

The Directive specifies the type of information that must be supplied to the authorities. The employers' obligations; the information and training to be provided to workers; and arrangements for health surveillance are specified. Safety and health protection measures for workers in veterinary care facilities; industrial processes; laboratories and animal rooms are outlined. The Annexes to the Directive provide details on; work activities which may unintentionally result in exposure to biological agents; a warning sign for biological hazards; practical recommendations on the health surveillance of workers; and indications on containment levels for biological agents.

Member States were required to comply with the Directive no later than three years after 29 November 1990 and the Council was required, within six months of implementation to adopt a list of groups 2, 3 and 4 biological agents.

The Directive is based on Article 118a which requires cooperation with the European Parliament.

### ***Parliament's Amendments***

The Parliament submitted fifty<sup>515</sup> amendments to the Commission's original proposal for a Directive<sup>516</sup>. At the first reading the Rapporteur<sup>517</sup> highlighted three areas, regarding the

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<sup>514</sup> Council Directive 90/679/EEC of 26 November 1990, OJ L 374, 31.12.90, p. 1.

<sup>515</sup> Legislative resolution, European Parliament amendments adopted 24 May 1989, OJ C 158, 26.6.89, p. 92.

<sup>516</sup> Commission's original proposal COM(88) 165 final, OJ C 150, 8.6.88, p. 6.

Commission's proposal, about which the Committee were concerned. Firstly, regarding the Commission's distinction between the provisions for workers whose work involves a conscious decision to work with biological agents and those incidentally exposed<sup>518</sup>. Secondly, consideration was not given to the threat which biological agents may pose to workers' families or to animals and plants. Nine of the Parliament's amendments at the first reading<sup>519</sup> related to these issues.

Thirdly, the Rapporteur particularly noted the issue of consultation and information for workers. He stated that the Committee's main concern was "to ensure that workers are taken into the confidence of employers at all times so as to minimize risk"<sup>520</sup>.

Also included among the Parliament's amendments were those which raised issues relating to:

- the categorisation of biological agents<sup>521</sup>;
- information on diseases caused through work activity<sup>522</sup>;
- an increase in the categories of biological agents whose use should be avoided<sup>523</sup>;
- workers' health records, how long they should be kept for and their confidentiality<sup>524</sup>.

It must be noted that in the case of this Directive, that the Parliament's vote on the Committee's report regarding the Council's common position was postponed at the plenary in October 1990. However, the vote was never held and the Council reached its final decision on the Directive in November 1990. The quantitative analysis of the uptake of Parliament's amendments by the Commission and the Council is given in the table below. Since the Parliament did not vote on the proposed amendments at the second reading and the Commission did not issue a re-examined proposal the quantitative analysis only deals with the first reading.

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<sup>517</sup> Rapporteur Mr. Collins, Committee on the Environment, Public Health and Consumer Protection, which was responsible for the Directive prior to the Parliament elections in 1989, Debates of the European Parliament OJ Annex 2-378, 23.5.89, p. 48.

<sup>518</sup> First reading, amendments 30 and 36.

<sup>519</sup> First reading amendments 64, 5, 6, 8, 9, 10, 11, 17 and 31.

<sup>520</sup> First reading, amendments 49, 50-51, 45, 46 and 47.

<sup>521</sup> First reading, amendments 8, 9, 10, 11, 26, and 27.

<sup>522</sup> First reading, amendments 21, 22, 23, 24 and 70.

<sup>523</sup> First reading, amendments 41 and 42.

<sup>524</sup> First reading, amendments 39, 40 and 52.



## **First reading**

| Amendment category | EP submitted <sup>525</sup> | Commission accepted <sup>526</sup> |            | Council accepted <sup>527</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 12                          | 3                                  | 2          | 2                               | 4          |
| B                  | 33                          | 12                                 | 4          | 13                              | 1          |
| C                  | 5                           | 1                                  | 0          | 1                               | 0          |

Total amendments: 50.

In order to assess Parliament's impact on the Directive the following analysis emphasises those category B and C amendments accepted by the Council in its common position and the Directive. However, it should be noted that the quantitative analysis shown above over estimates the Council's partial acceptance of the category B amendments. Only minor parts of three amendments were included by the Council and these would not qualify as adding to or modifying the content of the Directive (definition of category B, see Introduction 2)<sup>528</sup>.

The Council took into account the Parliament's concern about a distinction being made in the level of protection provided to those making a conscious decision to work with biological agents and those incidentally exposed. The distinction was removed by the Council in its common position and the Directive provides for the same level of protection for all workers<sup>529</sup>. The Parliament had sought to increase the range of biological agents, the use of which would be avoided by employers. The Council was less specific but it did address the issue by introducing a new Article to the Directive. This Article states that an employer should avoid the use of a harmful biological agent or use one which is the least dangerous to workers' health<sup>530</sup>. These amendments had not been accepted by the Commission in its amended proposal.

The following are areas of the Directive's provisions where Parliament's amendments are included to some degree. Firstly, regarding the categorisation of agents, a biological agent shall be placed in the

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<sup>525</sup> Legislative resolution, European Parliament amendments adopted, 24 May 1989, OJ C 158, 26.6.89 p. 92.

<sup>526</sup> Commission's amended proposal COM(89) 404 final - SYN 129.

<sup>527</sup> Council's Common Position C3-0142/90 - SYN 129.

<sup>528</sup> First reading, amendments 48, 44 and 72.

<sup>529</sup> First reading, amendments 30 and 36.

<sup>530</sup> First reading, amendments 41 and 42, category B partially accepted, Directive Article 5.

highest possible risk group if it cannot easily be assigned to a group<sup>531</sup>. Secondly, concerning the assessment of risks:

- information on diseases which may be contracted from work activities should be included<sup>532</sup>; and
- the assessment should always identify those workers for whom special protective measures are necessary<sup>533</sup>.

Thirdly, the Parliament's amendments ensured that the Directive's requirements specify that workers and/or their representatives:

- are informed about any accident or incident involving the release of possibly harmful biological agents<sup>534</sup>; and
- are given, on request, the information provided to the competent authority if the risk assessment reveals that there is a risk to workers' health or safety<sup>535</sup>.

The workers' themselves are required to report any accident or incident involving the handling of a biological agent<sup>536</sup>.

The Parliament's amendments also played a part in ensuring the removal of any limitation on the Directive's application, where biological agents only cause diseases in animals and plants<sup>537</sup>. Although the Parliament had sought that the records on workers exposed to biological agents from Groups 3 and 4 be kept for forty rather than ten years, the Directive requires that records be kept up to forty years where exposure may result in infections<sup>538</sup>.

Finally, the Council agreed with the deletion of the proposed Annex I to the Directive. The proposed Annex provided definitions to allow for the establishment of a set of criteria in order to compare and group genetically modified micro-organisms with natural micro-organisms<sup>539</sup>.

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<sup>531</sup> First reading, amendments 26 and 27, category B partially accepted, accepted, Directive Article 18 (4).

<sup>532</sup> First reading, amendments 21, 22, 23, 24 and 70 (forming one amendment), category B partially accepted, Directive Article 3.3.

<sup>533</sup> First reading, amendment 51, category B completely accepted, Directive, Section III, Article 14.

<sup>534</sup> First reading, amendments 45, 46 and 47 (forming one amendment), category B partially accepted, Directive Article 10.3.

<sup>535</sup> First reading, amendment 43, category B partially accepted, Directive Article 10.6.

<sup>536</sup> First reading, amendment 49, category B amendment partially accepted, Directive Article 10.2.

<sup>537</sup> First reading, amendment 28.

<sup>538</sup> First reading, amendment 28, category B partially accepted, Directive Article 11.

<sup>539</sup> First reading, amendment 56, category C partially accepted.

## ***Parliament's Impact***

Parliament's amendments play an important part in this Directive. Firstly, with regard to ensuring that the Directive applies equally to all workers who work with biological agents, Parliament's proposals independently receiving the support of the Council. Secondly, by ensuring that there are no limitations to the provision of information on: risk assessment, workers requiring special protection measures, accidents or incidents involving biological agents; and thirdly, the keeping of records for 40 years in given circumstances.

### **V.8 EXPOSURE TO BIOLOGICAL AGENTS (amending Directive)**

***Council Directive 93/88/EEC of 12 October 1993<sup>540</sup> amending Directive 90/679/EEC<sup>541</sup> on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)***

#### ***The Directive***

Article 18 of the 1990 Directive 90/679/EEC<sup>542</sup> on the protection of workers from risks related to exposure to biological agents, required that the Council adopt by 28 May 1994 a list of group 2,3 and 4 biological agents to be included in Annex III of the Directive. This amending Directive provides these lists, which do not contain genetically modified biological agents. The Commission noted in the introduction to its proposal for a Directive<sup>543</sup> that the list is as complete as possible given the current status of technical progress.

A recommended code of practice, is provided for, on the vaccination of workers exposed to biological agents for which effective vaccines exist. Member States (except for Portugal) are required to have made the necessary arrangements in order to comply with this Directive by 30 April 1994. The date for Portugal is 31 December 1995.

This Directive is based on Article 118a of the EEC Treaty which requires cooperation with the Parliament.

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<sup>540</sup> Council Directive, 93/88/EEC of 12 October 1993, OJ L 268, 29.10.93, p. 71.

<sup>541</sup> Council Directive 90/679/EEC of 26 November 1990, OJ L 374, 31.12.90, p. 1.

<sup>542</sup> Directive 90/679/EEC of 26 November 1990, OJ L 374, 31.12.90, p. 1.

<sup>543</sup> Commission's original proposal COM(92) 261 final - SYN 421, OJ C 217, 24.8.92, p. 32.

### ***Parliament's Amendments***

The Parliament proposed eleven amendments<sup>544</sup> to the Commission's original proposal for the amending Directive. Eight of these were completely accepted by the Commission and the same amendments were partially or completely incorporated by the Council into its common position and the final Directive.

The three unsuccessful amendments sought to upgrade the classification of the following biological agents; *bartonella bacilliformis*<sup>545</sup>; herpesvirus simiae (B virus)<sup>546</sup> and the human immunodeficiency virus (HIV)<sup>547</sup>. It was stated by the Commission that these proposals appeared to go beyond the minimum requirements envisaged by the legal basis of the proposal<sup>548</sup>. Despite this the Parliament, once again, proposed the reclassification of the HIV virus at the second reading<sup>549</sup>. It was again unsuccessful as was a proposal to ensure that vaccinations are not obligatory or made a condition for employment<sup>550</sup>.

The quantitative analysis of Parliament's amendments accepted by the Commission and the Council is given in the tables below.

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<sup>544</sup> Legislative resolution, European Parliament amendments adopted 10 February 1993, OJ C 72, 19.3.93, p. 74.

<sup>545</sup> First reading, amendment 5.

<sup>546</sup> First reading, amendment 6.

<sup>547</sup> First reading, amendment 11.

<sup>548</sup> Commissioner Flynn, Debates of the European Parliament, OJ Annex 3-427, 8.2.93, p. 24.

<sup>549</sup> Decision, European Parliament amendments adopted 12 July 1993, OJ C 255, 20.9.93, p. 15, second reading amendment 2.

<sup>550</sup> Second reading, amendment 3.

### **First Reading**

| Amendment category | EP submitted <sup>551</sup> | Commission accepted <sup>552</sup> |            | Council accepted <sup>553</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 0                           | 0                                  | 0          | 0                               | 0          |
| B                  | 7                           | 0                                  | 4          | 2                               | 2          |
| C                  | 4 <sup>554</sup>            | 0                                  | 4          | 2                               | 2          |

Total amendments: 11.

### **Second Reading**

| Amendment category | EP submitted <sup>555</sup> | Commission accepted <sup>556</sup> |            | Council accepted <sup>557</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 0                           | 0                                  | 0          | 0                               | 0          |
| B                  | 2                           | 0                                  | 0          | 0                               | 0          |
| C                  | 0                           | 0                                  | 0          | 0                               | 0          |

Total amendments: 2.

Turning now to discuss the Parliament's amendments which have been incorporated in the amended Directive and focusing attention on those from categories B and C. At the debate for the first reading the Rapporteur noted that "vaccines are available to counteract the risks of a significant minority of bacteria and viruses" and that the vaccination should be seen as a means of prevention<sup>558</sup>.

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<sup>551</sup> Legislative resolution, European Parliament amendments adopted 10 February 1993, OJ C 72, 19.3.93, p. 74.

<sup>552</sup> Commission's amended proposal, COM(93) 86 final - SYN 392, OJ C 82, 23.3.93, p. 5.

<sup>553</sup> Council's common position C3-0200/93.

<sup>554</sup> This quantitative analysis must be read carefully, all the category C amendments accepted relate to the Recommended Code of Practice on vaccination.

<sup>555</sup> Decision, European Parliament amendments adopted 12 July 1993, OJ C 255, 20.9.93, p. 15.

<sup>556</sup> Opinion of the Commission on the amendments proposed by the European Parliament to the Council's common position, COM(93) 440 final - SYN 421.

<sup>557</sup> Council Directive 93/88/EEC of 12 October 1993, OJ L 268, 29.10.93, 71.

<sup>558</sup> Rapporteur, Mr. S. Hughes, Debates of the European Parliament, OJ Annex 3-427, 8.2.93, p. 22.

Accordingly, the Parliament proposed that a Recommended Code of Practice on vaccination for employees be attached to the Directive<sup>559</sup>.

This proposal was approved by the Commission and the Council. The Commission accepted the text of the Code as proposed by the Parliament. A shorter version was incorporated by the Council into its common position and the final text of the Directive. When debating the Council's common position, the Rapporteur stated that the Council's version does "contain the important essentials:

- that employers will carry out a risk assessment to identify workers exposed to [biological] agents;
- that vaccination will be offered to workers;
- that [the vaccination] will be free of charge;
- that employers will provide information on the disadvantages of non vaccination; and
- the records on the vaccination will be kept"<sup>560</sup>.

The Parliament also ensured firstly, that the list of biological agents does not contain genetically modified biological agents<sup>561</sup>. Secondly, the Hepatitis A and the White Pox virus are included among the list of biological agents for which vaccination is recommended<sup>562</sup> and thirdly, the introduction of a footnote providing for the possible application of containment measures on the release of eleven biological agents<sup>563</sup>. This is subject to the evaluation of Member States. It is interesting to note that the amendment introducing this footnote was proposed by the Social Affairs Committee following consultations with the responsible authorities in Germany<sup>564</sup>.

### *Parliament's Impact*

As with the original Directive on the protection of workers from risks related to exposure to biological agents, Parliament has had an impact of some importance on the final amended Directive. The attachment of a Recommended Code of Practice on Vaccination to the Directive stems directly from a Parliament suggestion and it includes the most important elements proposed. The detailed preparation by the Committee and consultation with expert bodies is illustrated in this Directive.

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<sup>559</sup> First reading, amendments 2, 3, 9 and 4.

<sup>560</sup> First reading, amendments 2, 3, 9 and 4 category C partially accepted, Amended Directive Annex VII.

<sup>561</sup> First reading, amendment 1 category B partially accepted, amending Directive recital 3.

<sup>562</sup> First reading, amendments 7 and 8 category B completely accepted, amending Directive Annex I.

<sup>563</sup> First reading, amendment 12 category B partially accepted, amending Directive Annex I.8.

<sup>564</sup> Rapporteur Mr. S. Hughes, Debates of the European Parliament, OJ Annex 3-433, 12.7.93, p. 14.

## V.9 PROTECTION OF WORKERS EXPOSED TO THE RISK OF IONIZING RADIATION

*Council Directive 90/641/Euratom 4 December 1990<sup>565</sup> on the operational protection of outside workers exposed to the risk of ionizing radiation during their activities in controlled areas*

### *The Directive*

The Directive is a supplement to Directive 80/836/Euratom which lays down the basic rules on the protection of public and occupational health against the dangers arising from ionizing radiation. Specifically, this Directive seeks to optimize at Community level the protection arrangements for outside workers, working in areas subject to special rules. An outside worker is defined as a worker performing activities in a controlled areas, whether employed temporarily or permanently by an outside contractor. The self employed are also covered by the Directive.

The obligations of Member States' authorities, outside undertakings, operators and workers are outlined in the Directive. These include, the equivalent protection of the all workers, the assessment of exposure, the provision of specialized training and personal protective equipment, and ensuring the worker is medical fit. Member States were required to make the necessary arrangements to enact the Directive prior to the 31 December 1993.

This Directive is based on Articles 31 and 32 of the Treaty establishing the European Atomic Energy Community. Article 31 requires consultation with the European Parliament.

### *Parliament's Amendments*

During the Parliament's debate the Rapporteur suggested that the proposal was "in some respects .... a direct response to the plea" made by the Parliament in a resolution of July 1988, following its committee of inquiry into the handling and transportation of nuclear waste. The Parliament had pointed out that there was evidence to show that temporary workers were often those most exposed to ionizing radiation. The Rapporteur also noted that although the 1980 Directive (noted above) did not distinguish between different types of workers, the Commission had found in practice "that temporary and outside workers were being adversely effected or were open to increased risks" due to deficiencies in the use of monitoring and recording systems for exposure<sup>566</sup>.

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<sup>565</sup> Council Directive 90/641/Euratom, 4 December 1990, OJ L 349, 13.12.90, p. 21.

<sup>566</sup> Rapporteur Mr. S. Hughes, Debates of the European Parliament, OJ Annex 3-394, 9.10.90, p. 106.

The European Parliament proposed eleven amendments<sup>567</sup> to the Commission's original proposal<sup>568</sup> for a Directive. Included among these amendments, were those which sought to firstly, optimize the protection for outside workers rather than just increase protection<sup>569</sup>. Secondly, ensure that exposure to ionizing radiation be kept as low as reasonably achievable<sup>570</sup>. Thirdly, include installations in the military area, food industry and medical fields under the Directive along with cargo emitting ionizing-radiation in transit<sup>571</sup>. Fourthly, ensure that trainees are included in the definition of an 'outside worker'<sup>572</sup>. Fifthly, protect workers who reach the dose limits laid down in the 1980 Directive by ensuring their redeployment to an area not involving exposure to ionizing radiation<sup>573</sup>. Finally, allow the Social Affairs Committee discuss a Commission annual report on the implementation of the Directive<sup>574</sup>.

The following table illustrates the uptake by the Commission and Council of Parliament's amendments.

| Amendment category | EP submitted <sup>575</sup> | Commission accepted <sup>576</sup> |            | Council accepted <sup>577</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 2                           | 0                                  | 1          | 0                               | 1          |
| B                  | 7                           | 0                                  | 2          | 0                               | 1          |
| C                  | 2                           | 0                                  | 1          | 0                               | 0          |

Total amendments: 11.

<sup>567</sup> Legislative Resolution, European Parliament amendments adopted 11 October 1990, OJ C 284, 12.11.90, p. 134.

<sup>568</sup> Commission Proposal COM(89) 376 final, OJ C 321, 21.12.90, p. 2.

<sup>569</sup> Amendments 3, 4, 7 and 8.

<sup>570</sup> Amendments 7, 8 and 9.

<sup>571</sup> Amendment 13.

<sup>572</sup> Amendment 5.

<sup>573</sup> Amendment 6.

<sup>574</sup> Amendment 6.

<sup>575</sup> Legislative Resolution, European Parliament amendments adopted 11 October 1990, OJ C 284, 12.11.90, p. 132.

<sup>576</sup> Commission's amended proposal COM(90) 557 final.

<sup>577</sup> Council Directive 90/641/Euratom of 4 December 1990, OJ L 349, 13.12.90, p. 21.



The Commission accepted four of the Parliament's amendments covering:

- the introduction of a recital on the employer's obligation to optimize protection and keep exposure as low as reasonably possible<sup>578</sup>;
- the incorporation of trainees in the definition of outside workers<sup>579</sup>;
- the submission of the Commission's annual report on the implementation of the Directive to the Social Affairs Committee for discussion<sup>580</sup>; and
- a note in the Annex with reference to keeping exposure as low as possible and not using the dose limits as acceptable levels of exposure<sup>581</sup>.

However, the Council only included two of the Parliament's amendments in the final Directive. A category A amendment on optimizing the protection of workers<sup>582</sup> and the category B amendment to include trainees under the definition of outside workers<sup>583</sup>.

### ***Parliament's Impact***

The purpose of the Directive is described as optimizing (rather than increasing as originally proposed) the protection of outside workers in the Community. This only to some extent addresses the fear, noted by the Rapporteur and Parliament's amendments, that the setting of limits up to which workers can be exposed to ionizing radiation might be used to legitimize exposure up to those levels. The effect of including trainees under the definition of 'outside workers' in addition to apprentices and students, remains to be seen. As is the case in many Directives the true effect of the Parliament's amendments included in the final Directive will depend on how they are implemented and put into practice in the Member States.

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<sup>578</sup> Amendment 3, category B.

<sup>579</sup> Amendment 5, category B.

<sup>580</sup> Amendment 10, category C.

<sup>581</sup> Amendment 9, category B.

<sup>582</sup> Amendment 4, category A, Directive Article 1.

<sup>583</sup> Amendment 5, category B, Directive Article 2.

## V.10 PROTECTION OF WORKERS FROM THE RISKS RELATED TO EXPOSURE TO ASBESTOS AT WORK

*Council Directive 91/382/EEC of 25 June 1991<sup>584</sup> amending Directive 83/477/EEC<sup>585</sup> on the protection of workers from the risks related to exposure to asbestos at work (second individual Directive within the meaning of Article 8 of Directive 80/1107/EEC<sup>586</sup>)*

### *The Directive*

This Directive amends Directive 83/477/EEC, as a result of technological advances and the experience of applying the 1983 Directive. The objective is to restrict and reduce the level of asbestos used. The Directive specifies a series of concentration levels and limit values for asbestos fibres in the air at the workplace.

When requested by the competent authorities, the work plan from demolition companies must be provided at the start of the project. The authorities may also request that the work plan include information on: the nature and duration of the work; the methods applied for handling asbestos; and the equipment to be used to protect those carrying out the work. The provisions of this Directive are to be reviewed by the Council in 1995.

Member States (with the exception of Greece) were required to have introduced the necessary legislation to comply with the Directive by the 1 January 1993, in the case of asbestos-mining activities the date is 1 January 1996. For Greece the general date for complying with the Directive is 1 January 1996 and in the case of asbestos-mining activities 1 January 1999.

This Directive is based on Article 118a of the EEC Treaty which requires cooperation with the European Parliament.

### *Parliament's Amendments*

At the first reading of the Commission's proposal<sup>587</sup> for the amending Directive the Parliament proposed six amendments<sup>588</sup>. These amendments sought to:

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<sup>584</sup> Council Directive 91/382/EEC of 25 June 1991, OJ L 206, 29.7.91, p. 16.

<sup>585</sup> Council Directive 83/477/EEC of 19 September 1983, OJ L 263, 24.9.83, p. 25.

<sup>586</sup> Council Directive 80/1107/EEC, OJ L 263, 24.9.83, p. 25.

<sup>587</sup> Commission Proposal COM(90) 184 final - SYN 256, OJ C 161, 30.6.90, p. 14.

<sup>588</sup> Legislative Resolution, European Parliament amendments adopted 10 October 1990, OJ C 284, 12.11.90, p. 95.

- prohibit the use of asbestos except in cases classified as essential by the Commission<sup>589</sup>;
- reduce the limit values for chrysotile fibres and other forms of asbestos in the air<sup>590</sup>;
- require that demolition companies have a licence when removing asbestos from buildings, structures, plant, installations or ships<sup>591</sup>;
- ensure that there would be no delay in the application of the Directive with regard to asbestos-mining activities<sup>592</sup>; and
- allow the Social Affairs Committee examine and discuss an annual report by the Commission on the implementation of the Directive<sup>593</sup>.

The Parliament also outlined the details which should be included in the notice of work supplied by the demolition company before the work commences<sup>594</sup>. No amendments were put forward by the Parliament at the second reading and the Commission did not submit a re-examined proposal<sup>595</sup>.

The table below illustrates quantitatively the amendments accepted by the Commission and Council.

| Amendment category | EP submitted <sup>596</sup> | Commission accepted <sup>597</sup> |            | Council accepted <sup>598</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 0                           | 0                                  | 0          | 0                               | 0          |
| B                  | 5                           | 1                                  | 0          | 3                               | 0          |
| C                  | 1                           | 0                                  | 0          | 1                               | 0          |

Total amendments: 6.

The Commission and Council partially accepted the Parliament's amendment with regard to the list of items to be included in a notice/plan of work from demolition companies removing asbestos. This

<sup>589</sup> First reading, amendment 2.

<sup>590</sup> First reading, amendments 1 and 3.

<sup>591</sup> First reading, amendment 4.

<sup>592</sup> First reading, amendment 5.

<sup>593</sup> First reading, amendment 6

<sup>594</sup> First reading, amendment 4.

<sup>595</sup> Decision adopted 17 April 1991, OJ C 129, 20.5.91, p. 93.

<sup>596</sup> Legislative Resolution, Parliament's amendments adopted 10 October 1990, OJ C 284, 12.11.90, p. 95.

<sup>597</sup> Commission's amended proposal COM(90) 539 final - SYN 256, OJ C 300, 29.11.90, p. 9.

<sup>598</sup> Council's Common Position C3-0015/91.

amendment is an addition to Article 12 of the original 1983 Directive and allows the competent authorities request information on:

- the nature and probable duration of the work;
- the place where the work is carried out;
- the methods applied where the work involves the handling of asbestos or of materials containing asbestos; and
- the characteristics of the equipment used for the protection and decontamination of those carrying out the work and the protection of other persons present on or near the worksite<sup>599</sup>.

In this amendment the Parliament had also sought the introduction of a licence for demolition companies, this was not accepted. The Commissioner stated that it "would involve excessive cost and excessive administrative burden for the companies concerned, and for the departments responsible for granting the licence"<sup>600</sup>.

Despite the Commission not accepting any other amendments, the Council partially included two further amendments in its common position and the Directive. Firstly, the permitted concentrations for chrysotile and other forms of asbestos in the air were reduced along the lines proposed by the Parliament<sup>601</sup>. Secondly, the Parliament had suggested that the use of asbestos be prohibited except in classified cases. The Council did not totally accept this approach but instead prohibited the use of low-density insulating or soundproofing materials which contain asbestos, therefore, going beyond the level of prohibition in the Commission's original proposal<sup>602</sup>.

Finally, although the Council did not accept the amendment to allow the Social Affairs Committee examine and discuss a Commission annual report on the implementation of the Directive, the Council states that it will review the Directive in 1995<sup>603</sup>. The Council includes this amendment among those which it took into account when agreeing its common position, but the connection between the amendment and the Council's review of the Directive is unclear.

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<sup>599</sup> First reading, amendment 4, category B, Directive 83/477/EEC Article 12, amending Directive 91/382/EEC Article 1 (6).

<sup>600</sup> Commissioner Papandreu, Debates of the European Parliament, OJ Annex 3-394, 9.10.90, p. 109.

<sup>601</sup> First reading, amendment 3, category B, Directive 83/477/EEC Article 3 (3), amending Directive 91/382/EEC Article 1 (1).

<sup>602</sup> First reading, amendment 2, category B, Directive 83/477/EEC Article 5, amending Directive 91/382/EEC Article 1 (2).

<sup>603</sup> First reading, amendment 6, category C, Directive 83/477/EEC Article 9 (1), amending Directive 91/382/EEC Article 1 (5).

### ***Parliament's Impact***

The Directive includes the Parliament's list of details that may be requested by the authorities from a demolition company removing asbestos when it submits a "notice of work". Parliament's amendments also encouraged more stringent measures relating to the restrictions on the use of asbestos and the permissible concentration levels for asbestos in the air. Furthermore, the Council took account of and partially accepted these more stringent measures although the Commission had not included them in its amended proposal.

## **V.11 SAFETY AND HEALTH PROTECTION FOR WORKERS WITH A FIXED-DURATION OR TEMPORARY EMPLOYMENT RELATIONSHIP**

***Council Directive 91/383/EEC of 25 June 1991<sup>604</sup> supplementing the measures to encourage improvements in the safety and health at work of workers with fixed duration employment relationship or a temporary employment relationship***

### ***The Directive***

The purpose of this Directive is to ensure that workers with a fixed duration or a temporary employment relationship, are given the same level of safety and health protection at work as other workers. The Framework Directive 89/391/EEC and the individual directives within the meaning of Article 16 (1) also apply in full to the workers covered by this Directive. Workers must be informed of any risks they may face and receive sufficient training appropriate to the characteristics of the job.

This Directive provides Member States with the option of prohibiting, the workers under this Directive, from work defined in national legislation as dangerous to their safety and health. If this option is not availed of the aforementioned workers should receive appropriate medical surveillance.

Member States were required to bring into force the necessary measures to comply with this Directive by 31 December 1992. The Commission shall report regularly to the European Parliament, the Council, and the Economic and Social Committee on the implementation of the Directive in Member States.

The Directive is based on Article 118a which requires cooperation with the Parliament.

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<sup>604</sup> Council Directive 91/383/EEC, 25 June 1991, OJ L 206, 29.7.91, p. 19.

### ***Parliament's Amendments***

At the first reading the Parliament proposed twenty five amendments<sup>605</sup> to the Commission's original proposal<sup>606</sup> for a Directive. Ten amendments related to the recitals, of which the most notable sought; firstly, that reference be made to the greater risks faced by 'atypical workers' and to their special needs<sup>607</sup>. Secondly, the deletion of the recital which prohibited temporary workers from doing work requiring special medical supervision, except in exceptional circumstances<sup>608</sup>.

Thirdly, the Parliament wanted to see the title of the Directive changed, by replacing the term "temporary workers" with "atypical workers". This change of title was part of the Parliament's attempt to widen the Directive's scope. In an amendment to Article 1 of the Directive the Parliament proposed that atypical workers be defined as "individuals under contracts or terms of employment which are not permanent and full-time and which offer reduced protection"<sup>609</sup>. The Parliament was not successful after the first or second readings in having the definition changed. Although, the title of the Directive was altered to include workers with "fixed-duration employment relationships" as well as those with "temporary employment relationships".

Other Parliament amendments related to:

- the authorization of temporary employment agencies by the public employment authority;
- compulsory training for workers if a job is dangerous;
- informing those responsible for health and safety about atypical workers doing jobs that may involve risks;
- allowing Member States introduce more favourable provisions to protect workers; and
- Member State and Commission reports on the implementation of the Directive<sup>610</sup>.

The tables below indicate quantitatively the uptake of Parliament's amendments by the Commission and the Council.

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<sup>605</sup> Legislative Resolution, European Parliament amendments adopted 24 October 1990, OJ C 295, 5.11.90, p. 106.

<sup>606</sup> Commission Proposal COM(90) 228 SYN 281, OJ C 224, 8.9.90, p. 8.

<sup>607</sup> First reading, amendments 41, 42 and 45.

<sup>608</sup> First reading, amendment 44.

<sup>609</sup> First reading, amendment 48.

<sup>610</sup> First reading, see amendments 69, 53, 55, and 57.

### **First Reading**

| Amendment category | EP submitted <sup>611</sup> | Commission accepted <sup>612</sup> |            | Council accepted <sup>613</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 4                           | 0                                  | 1          | 0                               | 1          |
| B                  | 15                          | 4                                  | 5          | 7                               | 1          |
| C                  | 6                           | 0                                  | 2          | 2                               | 0          |

Total amendments: 25.

### **Second Reading**

| Amendment category | EP submitted <sup>614</sup> | Commission accepted <sup>615</sup> |            | Council accepted <sup>616</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 0                           | 0                                  | 0          | 0                               | 0          |
| B                  | 4                           | 1                                  | 0          | 0                               | 0          |
| C                  | 1                           | 0                                  | 0          | 0                               | 0          |

Total amendments: 5<sup>617</sup>.

The following discussion notes in particular the category B and C amendments accepted by the Council and included in the final Directive. The recitals refer to the special nature of the risks faced by workers with a fixed duration or a temporary employment relationship. Reference is also made to the need, in certain sectors, for special additional rules regarding information, training and medical surveillance for workers. These references accommodate to some degree the Parliament's wishes<sup>618</sup>.

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<sup>611</sup> Legislative Resolution, amendments adopted 24 October 1990, OJ C 295, 5.11.90, p. 106.

<sup>612</sup> Commission's amended proposal COM(90) 533 final - SYN 281, OJ C 305, 5.12.90, p. 12.

<sup>613</sup> Common Position C3-0060/91.

<sup>614</sup> Decision European Parliament amendments adopted 15 May 1991, OJ C 158, 17.5.91, p. 81.

<sup>615</sup> Commission's re-examined proposal, COM(91) 211 final - SYN 281.

<sup>616</sup> Council Directive 91/383/EEC, 25 June 1991, OJ L 206, 29.7.91, p. 19.

<sup>617</sup> Of the amendments submitted, 4 were repeats of those submitted at the first reading and 1 was new.

<sup>618</sup> First reading, amendments 41, 42 and 45. Directive fourth, fifth and seventh Recitals.

The Parliament ensured that, the workers covered by this Directive, do not receive different treatment regarding safety and health at work, including access to personal protective equipment<sup>619</sup>. Other Parliament amendments incorporated into the Directive concern:

- workers receiving treatment appropriate to the particular characteristics of the job<sup>620</sup>;
- informing those responsible for preventing risks at work about the assignment of temporary workers to jobs that may involve risks<sup>621</sup>; and
- allowing Member States apply or introduce more favourable safety and health protection for workers<sup>622</sup>.

The requirements, firstly, that Member States report to the Commission every five years on the implementation of the Directive and secondly, that the Commission regularly report to the European Parliament, the Council and the Economic and Social Committee, appear to stem directly from Parliament's amendments<sup>623</sup>. Although, the Parliament had sought that Member States report on the implementation of the Directive after two years.

The Council agreed with Parliament's amendment<sup>624</sup> to delete the recital which made reference to prohibiting temporary workers, except in exceptional circumstances, from work requiring special medical supervision. Instead, the Council provided Member States with an element of choice in the Directive. Member States may ban temporary workers from certain types of work which is particularly dangerous to their safety and health and/or requires special medical surveillance. The type of work that is prohibited must be defined in national legislation. Those Member States which do not avail of the option to prohibit certain types of work requiring special medical surveillance must ensure that the appropriate medical care is provided<sup>625</sup>. The Council accepted no amendments after the second reading.

### ***Parliament's Impact***

At the first reading for this Directive the Rapporteur noted that the number of atypical workers is rising in Europe and their need for social protection<sup>626</sup>. By ensuring the freedom of Member States to

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<sup>619</sup> First reading, amendment 49, Directive Article 2.

<sup>620</sup> First reading, amendment 53, category B, partially accepted, Directive Article 4.

<sup>621</sup> First reading, amendment 55, category B partially accepted, Directive Article 6.

<sup>622</sup> First reading, amendment 57, category B partially accepted, Directive Article 9.

<sup>623</sup> First reading, amendments 58 and 59, category C amendments, partially accepted.

<sup>624</sup> First reading, amendment 44 category B.

<sup>625</sup> Directive Article 5.

<sup>626</sup> Rapporteur Mrs. Salisch, Debates of the European Parliament, OJ Annex 3-395, 24.10.90, p. 119.



enforce more stringent requirements the Directive is recognised as establishing minimum standards as sought by the Parliament.

Parliament ensured that the greater risks of temporary workers and their special needs are recognised while temporary or fixed duration employment does not justify different treatment with regard to working conditions, and health and safety requirements. Also, the Parliament is to regularly receive reports on the implementation of the Directive from the Commission, thus allowing the Parliament monitor the Directive over a longer period.

## **V.12 EUROPEAN YEAR OF SAFETY, HYGIENE AND HEALTH AT WORK (1992)**

***Council Decision 91/388/EEC of 25 July 1991<sup>627</sup> on an action programme for European Year of Safety, Hygiene and Health at Work (1992)***

### ***The Decision***

This Council Decision designated 1992 the European Year of Safety, Hygiene and Health at Work (from March 1992 to February 1993). The objective of the Year was to promote and enhance the value of Community measures in this field. It was recognised that there was a need to improve the knowledge about these Community measures among employer and worker organisations.

The Year's activities were organized by the Community, the Member States and the social partners. The Decision provided for national coordinating committees composed on a tripartite basis to liaise with the Advisory Committee on Safety, Hygiene and Health Protection at Work. A budget of ECU 12 million was provided for partially and completely funded activities. These activities included publications, videos and the incorporation of safety, hygiene and health issues in training programmes.

This Decision was based on Article 235 of the EEC Treaty which requires consultation with the European Parliament.

### ***Parliament's Amendments***

The Parliament proposed nineteen amendments<sup>628</sup> to the Commission's original proposal for a Decision<sup>629</sup>. It was noted by the Rapporteur that the Committee welcomed the action programme for the European Year. However, given the limited resources available the Parliament sought that they

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<sup>627</sup> Council Decision 91/388/EEC, 25 July 1991, OJ L 214, 2.8.91, p. 77.

<sup>628</sup> Amendment 8 did not apply to the English version and has not been examined in this study. Legislative Resolution, European Parliament amendments adopted 17 May, 1991, OJ C 158, 17.6.91, p. 342.

<sup>629</sup> Commission's original proposal COM(90) 450 final, OJ C 293, 23.11.90, p. 3.

should be targeted towards priority groups and activities, through the use of a set of selection criteria<sup>630</sup>.

The Parliament wanted it clearly recognised, among the recitals to the Decision, that the level of awareness of the content and implications varies considerably and that the involvement of workers and employers in accident prevention should be emphasised<sup>631</sup>. In relation to the financing of the Year, the Parliament proposed that the overall budget should be no less than ECU 20 million and the Commission included this level of funding for the three year period in its amended proposal<sup>632</sup>. However, during the Parliament's debate it was stated that while the Commissioner was sympathetic to increasing the funding there could be no guarantee that this would be the case<sup>633</sup>. As noted above a budget of ECU 12 million was provided for in the Decision.

The Parliament had also sought, among its detailed amendments to the Annex, to allow the European Trade Union Confederation and its organisations make submissions for grants. Other amendments to the Annex included those seeking to:

- ensure that television programmes are targeted at the more hazardous sectors<sup>634</sup>;
- have booklets and stickers on the Community's safety and health policy produced in the non-Community language most widely used by workers affected by these policies<sup>635</sup>; and
- promote the best practice with regard to safety and health in working systems and workplace design among architects, ergonomists and related professions<sup>636</sup>.

The table indicates the uptake of Parliament's amendments by the Commission and the Council.

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<sup>630</sup> Amendments 6 and 9.

<sup>631</sup> Amendments 3 and 5.

<sup>632</sup> Amendments 21 and 18.

<sup>633</sup> Commissioner Millan, Debates of the European Parliament, OJ Annex 3-405, 17.5.91, p. 315.

<sup>634</sup> Amendment 12.

<sup>635</sup> Amendments 13.

<sup>636</sup> Amendment 15.

| Amendment category | EP submitted <sup>637</sup> | Commission accepted <sup>638</sup> |            | Council accepted <sup>639</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 1                           | 0                                  | 1          | 0                               | 0          |
| B                  | 9                           | 0                                  | 7          | 3                               | 0          |
| C                  | 8                           | 5                                  | 1          | 3                               | 0          |

Total Amendments: 18.

The Parliament's impact is evaluated by noting the category B and C amendments included to varying degrees in the Decision as finally agreed by the Council.

The Recitals recognise the need to emphasise the importance of the commitment of employers and workers to safety, hygiene and health at work and the need to improve the level of knowledge on the content and implications of legislation in this field. These reflect the Parliament's amendments<sup>640</sup>.

As noted above, the Parliament proposed a set of criteria to be used for the selection of target groups and activities to receive resources for the European Year. The criteria proposed included:

- Priority groups should represent those least aware of and/or adequately prepared to cope with legislation in this field;
- Priority groups should include SME's;
- Seminars should be held with manageable numbers of participants and designed to produce tangible results; and
- Projects should lead to results that will continue beyond the European Year.

This idea of a set of selection criteria was accepted by the Commission and the Council and the list of criteria in the Decision reflect the Parliament's suggestions<sup>641</sup>. Also with regard to the targeting of resources, the television programmes and videos on safety and health were to deal with the most dangerous branches of work, as suggested by the Parliament<sup>642</sup>.

<sup>637</sup> Legislative resolution, Parliament amendments adopted 17 May 1991, OJ C 158, 17.6.91, p. 342.

<sup>638</sup> Commission's amended proposal, COM(91) 204 final.

<sup>639</sup> Council Decision 91/388/EEC of 25 July 1991, 25 July 1991, OJ L 214, 2.8.91, p. 77.

<sup>640</sup> Amendment 5 category B partially accepted, Decision third Recital and amendment 3 category B partially accepted, Decision fifth Recital.

<sup>641</sup> Amendment 4 category B partially accepted and amendment 9 category C partially accepted, Decision Annex 2.

<sup>642</sup> Amendment 12 category C partially accepted, Decision Annex II. A. 2. (b).

### ***Parliament's Impact***

Parliament's impact on this Decision results from its recognition that resources were limited and therefore needed to be used as effectively as possible. The criteria for selection based on targeting groups in need of information on legislation and projects which would benefit these groups beyond the Year, stems from the Parliament's amendments. Therefore, the Parliament was successful in seeking to make the European Year of Safety, Hygiene and Health at Work (1992) as effective as possible.

## **V.13 MEDICAL TREATMENT ON BOARD VESSELS**

***Council Directive 92/29/EEC of 31 March 1992<sup>643</sup> on the minimum safety and health requirements for improved medical treatment on board vessels***

### ***The Directive***

This Directive lays down the minimum requirements for improved medical treatment on board vessels, which are flying the flag of a Member State or are registered under the plenary jurisdiction of a Member State. The following vessels are excluded - inland navigation vessels, warships, non-commercial pleasure boats and tugs in harbour areas. The Articles of the Directive specify the Member State's responsibility to ensure that the Directive's requirements are met concerning; the medical equipment and facilities to be provided, the inspection of these provisions and the allocation of responsibility for their maintenance.

The Member State must also make sure that vessels carrying any of the dangerous substances listed in Annex III, at least include the antidotes specified in Annex II, among their medical supplies. Provisions must be made to provide information and training on the use of medical supplies and for emergency measures in the event of an accident. Medical consultations by radio should also be facilitated. Details on the categorisation of vessels, the types and quantities of medical supplies to be carried, dangerous substances and training are given in the Annexes to the Directive.

The Commission is required to report, to the European Parliament, the Council and the Economic and Social Committee every five years, on the implementation of the Directive by Member States. Member States are required to comply with the Directive by 31 December 1994.

The Directive is based on Article 118a of the EEC Treaty requiring cooperation with the Parliament.

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<sup>643</sup> Council Directive 92/29/EEC of 31 March 1992, OJ L 113, 30.4.92, p. 19.

## ***Parliament's Amendments***

The preparation of the Rapporteur's report "involved a long series of consultations with representatives from various international organizations, shipowners' associations and seamen's organizations"<sup>644</sup>. Twenty five amendments were proposed by the Parliament, at the first reading<sup>645</sup>, to the Commission's original proposal<sup>646</sup>.

At the debate on the first reading the Rapporteur<sup>647</sup> stated his regret that (at the time of the proposal) none of the Member States had ratified the International Labour Organisation (ILO) Convention 164 of 1987 on medical treatment for seafarers and the protection of their health. He suggested that the Commission's proposal should be seen as supplementary to the Convention. However, the Parliament's amendments to the proposed Directive's recitals, seeking that Member States ratify the Convention were not successful after the first or second readings<sup>648</sup>.

Parliament's amendments to the Directive's Articles proposed the detailed conditions that should determine; the contents and quantities of medical supplies; the medical equipment necessary on board and when there should be a sick bay or doctor on board<sup>649</sup>. Other amendments regarding the improvement of medical treatment on board vessels concerned the following issues:

- watertight medical chests in life rafts and vessels;
- the smooth operation of helicopter services for the transfer of the sick<sup>650</sup>;
- information and training programmes;
- medical advice by radio and satellite;
- reports on the implementation of the Directive; and
- details of the categories and generic types of dangerous wastes<sup>651</sup>.

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<sup>644</sup> Rapporteur Mr. Nianias, Debates of the European Parliament, OJ Annex 3-398, 22.1.91, p. 81.

<sup>645</sup> Legislative resolution, European Parliament amendments adopted, 24 January 1991, OJ C 48, 25.2.91, p. 72.

<sup>646</sup> Commission's original proposal COM(90) 272 final - SYN 278 OJ C 183, 24.7.90, p. 6.

<sup>647</sup> Rapporteur Mr. Nianias, Debates of the European Parliament, OJ Annex 3-411, 18.11.91, p. 7.

<sup>648</sup> First reading, amendment 2. Decision, European Parliament amendments adopted, 20 November 1991, OJ C 326, 16.12.91, p. 72. Second reading amendment 1.

<sup>649</sup> First reading, amendment 3.

<sup>650</sup> First reading, amendment 4, second reading amendment 7.

<sup>651</sup> First reading, amendments 3, 4, 25, 10, 13, 14, 15, 24 and second reading, amendments 7, 15, 19.

Detailed amendments were proposed to the Directive's Annexes which sought to extend the range of vessels carrying particular medical supplies<sup>652</sup>; and introduce a detailed list of dangerous wastes for which medical supplies and antidotes must be carried on board<sup>653</sup>.

A number of the Parliament's amendments following the second reading related to the application of the Directive to vessels registered in a Member State but not flying its flag. This point is discussed in greater detail below<sup>654</sup>.

The quantitative analysis of the partial or complete uptake of these amendments by the Commission and Council is given in the tables below.

### *First Reading*

| Amendment category | EP submitted <sup>655</sup> | Commission accepted <sup>656</sup> |            | Council accepted <sup>657</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 1                           | 0                                  | 1          | 0                               | 0          |
| B                  | 19                          | 6                                  | 4          | 5                               | 1          |
| C                  | 5                           | 1                                  | 0          | 1                               | 0          |

Total amendments: 25.

<sup>652</sup> First reading, amendments 17, 18 and 19.

<sup>653</sup> First reading, amendment 24.

<sup>654</sup> Second reading, amendments 2, 3, 5, 6 and 8.

<sup>655</sup> Legislative Resolution, European Parliament amendments adopted 24 January 1991, OJ C 48, 25.2.91, p. 146.

<sup>656</sup> Commission's amended proposal COM(91) 65 final - SYN 278, OJ C 74, 20.3.91, p. 11.

<sup>657</sup> Council's common position, C3-0347/91 - SYN 278, Council's reference 7538/91.

## Second Reading

| Amendment category | EP submitted <sup>658</sup> | Commission accepted <sup>659</sup> |            | Council accepted <sup>660</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 0                           | 0                                  | 0          | 0                               | 0          |
| B                  | 16 <sup>661</sup>           | 3                                  | 3          | 3                               | 2          |
| C                  | 4                           | 1                                  | 0          | 1                               | 0          |

Total Amendments: 20<sup>662</sup>.

In order to identify the Parliament's impact on this Directive the following discussion focuses attention on those category B and C amendments which were accepted by the Council and included in its common position and the Directive. In this case the first and second readings proved important with regard to the Parliament's amendments which were accepted.

Article 2 of the Directive incorporates a number of the Parliament's proposals. First, the duration of the voyage is included among the issues to be taken into account when decisions are made on the quantities of medical products and equipment to be carried. Second, vessels of more than 500 gross registered tonnes, with a crew of 15 or more workers and engaged on a voyage of more than three days must have a sick bay. Third, vessels with a crew of 100 or more workers and engaged on international voyages of more than three days should have a doctor on board. Fourth, life rafts and vessels must carry a watertight medicine chest containing at least the minimum specified medical supplies.

These detailed requirements were not mentioned in the Commission's original proposal. They were incorporated into the Commission's amended proposal, the Council's common position and the final Directive. Therefore, they appear to have come directly from the Parliament's amendments<sup>663</sup>.

Another important amendment which was incorporated concerns the provision of medical advice by radio and the requirement that some doctors providing this service have medical training in the special

<sup>658</sup> Decision, amendments agreed 20 November 1991, OJ C 326, 16.12.91, p. 72.

<sup>659</sup> Commission's re-examined proposal COM(91) 552 final - SYN 278.

<sup>660</sup> Council Directive 92/29/EEC of 31 March 1992, OJ L 113, 30.4.92, p. 19.

<sup>661</sup> These amendments except one which was partially accepted by the Commission relate to the vessels registered in a Member State but not flying that State's flag.

<sup>662</sup> Ten of these amendments repeat those submitted following the first reading while six are new.

<sup>663</sup> First reading, amendment 3, category B partially accepted.

conditions prevailing on board ship<sup>664</sup>. The following Directive provisions are also the result of the Parliament's amendments:

- medical supplies should be replenished and/or replaced as soon as possible<sup>665</sup>;
- in an emergency medical supplies not on board the vessel should be made available as quickly as possible<sup>666</sup>;
- personal medical records should remain confidential<sup>667</sup>; and
- training for the captain and designated workers should include preventive medicine<sup>668</sup>.

Following the second reading, the Parliament proposed amendments to ensure the Directive also applied to vessels registered in a Member State but not flying that state's flag. This proposal was incorporated into the Directive having been accepted by the Commission and the Council<sup>669</sup>. The Commissioner stated that it was an important consideration, "apart from improving competition, [it] also allow[s] for an improvement of the safety and health conditions of many sailors working for non-Community shipping lines"<sup>670</sup>.

Finally, after both the first and second readings, Parliament sought that the Member States take the necessary measures to ensure that helicopter services for transferring the sick operate smoothly. This issue is partially addressed in the footnote to Annex 1 on the categories of vessels. Member States are required to appropriately convey up-to-date information on the areas in which routine helicopter rescue services are provided and the circumstances in which they operate<sup>671</sup>.

### *Parliament's Impact*

Parliament's amendments did appear to lead to some important inclusions in this Directive arising from both the first and second readings. Notably the provision of water tight medicine chests for each life raft and life boat; the provision of a sick bay and the requirement to have a doctor on board depending on the vessel size and length of the voyage were all among Parliament's suggestions. Following the second reading the Commission and Council addressed the issue of vessels registered in Member States

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<sup>664</sup> First reading, amendment 10, category B partially accepted, Directive Article 6.

<sup>665</sup> First reading, amendment 6, category B completely accepted, Directive Article 4.2.

<sup>666</sup> First reading, amendment 7, category C partially accepted, Directive Article 4.3.

<sup>667</sup> First reading, amendment 11, category B partially accepted, Directive Article 6.

<sup>668</sup> First reading, amendment 25, category B partially accepted, Directive Annex V.

<sup>669</sup> Second reading, amendments 2, 3, 5, 6 and 8, category B amendments, Directive Articles 1, 2 and 3.

<sup>670</sup> Commissioner Papandreu, Debates of the European Parliament, OJ Annex 3-411, 18.11.91, p. 9.

<sup>671</sup> First reading, amendment 4 and second reading, amendment 7 category C partially accepted, Directive Annex I, footnote 1.



but not flying the States' flag in the final Directive, the Parliament drew attention to the need to clarify this issue.

#### **V.14 TEMPORARY OR MOBILE CONSTRUCTION SITES**

*Council Directive 92/57/EEC of 24 June 1992<sup>672</sup> on the implementation of minimum health and safety requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)*

##### *The Directive*

This Directive lays down the minimum safety and health requirements for temporary or mobile construction sites at which building or civil engineering works are carried out. It is required by the Directive that the client or project supervisor appoint one or more coordinators for safety and health matters. The coordinators duties for the projects preparation and execution stages are laid out in the Directive. In the case of construction sites, with a specified number of workers and for a project of a given duration, prior notice must be given to the competent authorities and clearly displayed on the construction site. A safety and health plan should be drawn up outlining the rules applicable to the construction site.

The Annexes to the Directive provide non exhaustive lists of building and civil engineering work covered by the Directive (Annex I) and work involving particular risk (Annex II). The minimum safety and health requirements for construction sites (Annex IV) are laid out in the Annexes along with a sample of the information to be included in the prior notice of work to be undertaken (Annex III).

Member States were required to have introduced the necessary measures to comply with the Directive by 31 December 1993. The Commission shall submit periodic reports to the European Parliament, the Council and the Economic and Social Committee on the implementation of the Directive.

The Directive is based on Article 118a of the EEC Treaty requiring cooperation with the Parliament.

##### *Parliament's Amendments*

The Rapporteur at the first reading of the Commission's proposal<sup>673</sup> for this Directive noted that the Committee's criticism of the Commission's proposal was "not fundamental but more one of

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<sup>672</sup> Council Directive 92/57/EEC of 24 June 1992, OJ L 245, 26.8.92, p. 6.

<sup>673</sup> Commission Proposal, COM(90) 275.

degree"<sup>674</sup>. The Parliament proposed thirty amendments<sup>675</sup> to the Commission's original proposal<sup>676</sup>. These amendments addressed issues relating to: a general safety, evacuation and health plan for the construction site; the duties of the safety and health coordinator; the formation of an employees committee for safety and health; and the details of the minimum safety and health requirements for construction sites.

Examples of the specific amendments proposed by the Parliament include firstly, ensuring that evacuation measures are incorporated in the safety and health plan<sup>677</sup>. Secondly, the Parliament was concerned that only one person should be responsible for coordinating safety and health and that they should coordinate action in relation to protection, the provision of information, and the implementation of working procedures<sup>678</sup>. Thirdly, workers on the construction site but under different employers should have the right to form a employees' committee on safety, which could give opinions on all measures<sup>679</sup>. Fourthly, a series of detailed amendments to Annex IV on the minimum safety and health requirements for construction sites sought to ensure that:

- the Council adopt an individual directive for safety regarding scaffolding and gantries;
- fire fighting equipment is regularly maintained and tested;
- measures are taken in situations where persistent extremes in temperature occur; and
- the address and telephone number of the local emergency accident services are clearly displayed<sup>680</sup>.

During the debate on the second reading the Rapporteur noted that there had "been some sound cooperative endeavour, both between Parliament and Commission and between Parliament and Council" on this Directive which had been positive<sup>681</sup>. Many of the amendments submitted following the second reading<sup>682</sup> were technical, relating to the headings and introductory phrases. The Parliament did resubmit amendments on the need for only one person to coordinate safety and health, an

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<sup>674</sup> Debates of the European Parliament, OJ Annex 3-401, 18.2.91, p. 40.

<sup>675</sup> Legislative Resolution, European Parliament amendments adopted 22 February 1991, OJ C 72, 18.3.91, p. 166.

<sup>676</sup> Commission's original proposal COM(90) 275.

<sup>677</sup> First reading, amendments 8, 9 and 10.

<sup>678</sup> First reading, amendment 1.

<sup>679</sup> First reading, amendment 14.

<sup>680</sup> First reading, amendments 22-26.

<sup>681</sup> Rapporteur Mr. Pronk, European Parliament debates, OJ Annex 3-417, 8.4.92, p. 158.

<sup>682</sup> Decision, European Parliament amendments adopted 13 May 1992, OJ C 150, 15.6.92, p. 88.

employees' committee on safety, and an employees right to leave their work station of they believed they were in serious danger<sup>683</sup>. However, these amendments did not prove successful.

The tables below illustrate quantitatively the uptake of Parliament's amendments by the Commission and the Council after the first and second readings.

### *First Reading*

| Amendment category | EP submitted <sup>684</sup> | Commission accepted <sup>685</sup> |           | Council accepted <sup>686</sup> |            |
|--------------------|-----------------------------|------------------------------------|-----------|---------------------------------|------------|
|                    |                             | Completely                         | Partially | Partially                       | Completely |
| A                  | 3                           | 0                                  | 1         | 0                               | 1          |
| B                  | 18                          | 5                                  | 4         | 6                               | 1          |
| C                  | 9                           | 1                                  | 2         | 2                               | 1          |

Total amendments submitted: 30.

<sup>683</sup> Second reading, amendments 2, 7, 14 and 16.

<sup>684</sup> Legislative Resolution, European Parliament amendments adopted 22 February 1991, OJ C 72, 18.3.91, p. 166.

<sup>685</sup> Commission's amended proposal COM(91) 117 - SYN 279, OJ C 112, 27.4.91, p. 4.

<sup>686</sup> Council's common position C3-0045/92 - SYN 279.

## Second Reading

| Amendment category | EP submitted <sup>687</sup> | Commission accepted <sup>688</sup> |            | Council accepted <sup>689</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 5                           | 0                                  | 1          | 0                               | 1          |
| B                  | 18                          | 2                                  | 5          | 0                               | 1          |
| C                  | 2                           | 0                                  | 1          | 0                               | 0          |

Total amendments submitted: 25<sup>690</sup>.

Now turning to the look more closely at the amendments from categories B and C which were accepted to varying degrees by the Council and incorporated into the Directive.

Firstly, the references in the Directive's recitals concerning the coordination of procedures for the award of public work contracts stem from a Parliament amendment<sup>691</sup>. With regard to the Directives Articles the Parliament ensured that:

- the prior notice (of the work to be conducted) should be clearly displayed<sup>692</sup>;
- the coordinators shall coordinate the activities of employers to, first, ensure the protection of workers, prevent accidents and provide information and second, that account is taken of the safety and health plan<sup>693</sup>;
- workers must be able to understand the information provided on safety and health (although the Parliament wanted to have the information provided in the worker's own language)<sup>694</sup>; and
- Member States must report to the Commission on the implementation of the Directive every four rather than five years<sup>695</sup>.

<sup>687</sup> Decision European Parliament amendments adopted 13 May 1992, OJ C 150, 15.6.92, p. 88.

<sup>688</sup> Re-examined Commission proposal COM(92) 260 final - SYN 279.

<sup>689</sup> Council Directive 92/57 EEC, 24 June 1992, OJ L 245, 26.8.92, p. 6.

<sup>690</sup> Of the amendments submitted, 5 were repeats and 6 partial repeats of those submitted for the first reading while 14 were new.

<sup>691</sup> First reading, amendment 3 category B partially accepted, Directive fourteenth Recital.

<sup>692</sup> First reading, amendment 6 category B partially accepted, Directive Article 3.3.

<sup>693</sup> First reading, amendment 10 category B partially accepted, Directive Article 6 (b) and (d).

<sup>694</sup> First reading, amendment 13 category B partially accepted, Directive Article 11.2.

<sup>695</sup> First reading, amendment 17 category B completely accepted, Directive Article 14.4.

Following the second reading it was accepted that account should be taken of all safety and health plans for subsequent work when estimating the period of time for the completion of the project, in accordance with the Parliament's proposal<sup>696</sup>.

As with a number of the other individual Directives under the Framework Directive some of the Parliament's detailed amendments were incorporated into the minimum safety and health requirements outlined in the Annexes. These included the requirements that:

- the address and telephone number of the local emergency accident services must be clearly displayed<sup>697</sup>; and
- fire fighting equipment must be regularly checked and maintained along with regular drills and tests in its use<sup>698</sup>.

It appears that the Parliament was at least partially responsible for having the safety and health requirements for scaffolding and ladders included. In addition the Council also added a footnote stating that scaffolding and ladders would be specified in a future Directive, amending the Directive on the use of work equipment by workers at work<sup>699</sup>. This partly addressed the Parliament's call for an individual Directive implementing the relevant measures for scaffolding and ladders<sup>700</sup>.

### ***Parliament's Impact***

This Directive includes a number of the Parliament's detailed amendments including the requirements that: the address and telephone number of the local emergency accident services are clearly displayed; fire fighting equipment is regularly checked; and workers must be able to understand the information provided on safety and health. These successful amendments illustrate the Parliament's detailed examination of the proposals and interest in the workers welfare. Additionally, the Parliament brought to the Council's attention the need for safety and health requirements for scaffolding.

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<sup>696</sup> Second reading, amendment 6 category B completely accepted, Directive Article 4.

<sup>697</sup> First reading, amendment 26 category C partially accepted, Directive Annex IV, Part A, 4.1.

<sup>698</sup> First reading, amendment 23 category C completely accepted, Directive Annex IV, Part A, 4.6.

<sup>699</sup> Council Directive 89/655/EEC of 30 November 1989, OJ L 393, 30.12.89, p. 13 (second individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC).

<sup>700</sup> First reading, amendment 22 category C partially accepted, Directive Annex IV, Part B, Section II, 6.

## V.15 SAFETY AND HEALTH SIGNS AT WORK

*Council Directive 92/58/EEC 24 June 1992<sup>701</sup> on the minimum requirements for the provision of safety and/or health signs at work (ninth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC*

### *The Directive*

This Directive lays down the minimum requirements for the provision of safety and/or health signs at work. The Directive does not apply to signs used for regulating road, rail, inland waterway, sea or air transport. Signs for placing dangerous substances and preparations on the market are also excluded. The type of signs providing information or instructions on safety and health may include signboards, acoustic signals, verbal communication or hand signals. Definitions of the various types of signs are given in Article II. The Annexes provide detailed minimum requirements for the various types of signs.

Employers are obliged to provide signs as laid down in the Directive where hazards cannot be avoided or adequately reduced. Member States may provide for exemptions with regard to illuminated and acoustic signals in given circumstances. The Directive distinguishes between safety and health signs used for the first time on or after 24 June, 1994 (when the Directive comes into force) and those signs already in use. These existing signs must fulfil the minimum requirements laid out in the Annexes within eighteen months of the Directive coming into force.

The Directive is based on Article 118a of the EEC Treaty requiring cooperation with the European Parliament.

### *Parliament's Amendments*

At the first reading Parliament submitted twenty six amendments<sup>702</sup> to the Commission's original proposal<sup>703</sup>. Amendments to the Directive's Articles sought to firstly, emphasis the need to eliminate risks<sup>704</sup>. Secondly, remove the provision allowing for exemptions from the Directive's requirements to use luminous and/or acoustic signs<sup>705</sup>; and thirdly, bring forward to 1 January 1993 the date by

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<sup>701</sup> Council Directive 92/58/EEC, 24 June 1992, OJ L 245, 26.8.92.

<sup>702</sup> Legislative Resolution, European Parliament amendments adopted 10 July 1991, OJ C 240, 6.9.91, p. 96.

<sup>703</sup> Commission's original proposal COM(90) 664 final, OJ C 53, 28.2.91, 46.

<sup>704</sup> First reading, amendment 1.

<sup>705</sup> First reading, amendment 2.

which Member States must introduce the necessary legislation to comply with the Directive<sup>706</sup>. This issue was raised again during the second reading<sup>707</sup>.

The majority of the Parliament's amendments addressed to the Directive's Annexes. These detailed amendments related to:

- emergency power supplies for illuminated signs<sup>708</sup>;
- the colour of warning signs<sup>709</sup>;
- the positioning of signs with regard to the line of vision<sup>710</sup>; and
- the rules covering the use of luminous<sup>711</sup> and acoustic signs<sup>712</sup>.

The introduction of signs indicating: noise, a fragile roof, distance, general obligations and telephones for first aid and fire fighting, were also proposed<sup>713</sup> by the Parliament.

The amendments following the second reading again raised the issues relating to: the derogations allowed to Member States<sup>714</sup> the use of acoustic signals<sup>715</sup> and the introduction of signs to indicate noise and a fragile roof<sup>716</sup>.

The quantitative analysis of the uptake of Parliament's amendments by the Commission and the Council is given in the tables below. In this case the first reading amendments were the most successful.

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<sup>706</sup> First reading, amendment 3.

<sup>707</sup> Decision, European Parliament amendments adopted 13 May 1992, OJ C 150, 15.6.92, p. 93. Second reading, amendments 1 and 4.

<sup>708</sup> First reading, amendment 6.

<sup>709</sup> First reading, amendment 5.

<sup>710</sup> First reading, amendment 12.

<sup>711</sup> First reading, amendments 7, 17 and 19. Second reading, amendments 16 and 17.

<sup>712</sup> First reading, amendments 8, 9, 10, 18, 20, 21 and 22. Second readings, amendments 8 and 9.

<sup>713</sup> First reading, amendments 25, 26, 23, 24 and 14. Second reading, amendment 11.

<sup>714</sup> Second reading, amendment 3.

<sup>715</sup> Second reading, amendments 8, 9, 16 and 17.

<sup>716</sup> Second reading, amendment 11.

### ***First Reading***

| Amendment category | EP <sup>717</sup> submitted | Commission accepted <sup>718</sup> |            | Council accepted <sup>719</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 5                           | 2                                  | 1          | 1                               | 1          |
| B                  | 14                          | 4                                  | 6          | 5                               | 3          |
| C                  | 7                           | 2                                  | 4          | 3                               | 2          |

Total amendments submitted: 26.

### ***Second Reading***

| Amendment category | EP submitted <sup>720</sup> | Commission accepted <sup>721</sup> |            | Council accepted <sup>722</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 1                           | 0                                  | 1          | 0                               | 1          |
| B                  | 11                          | 1                                  | 3          | 0                               | 0          |
| C                  | 2                           | 1                                  | 1          | 0                               | 0          |

Total amendments submitted: 14<sup>723</sup>.

To identify's the Parliament's impact on this Directive the following discussion focuses attention on those Category B and C amendments which were incorporated in some way by the Council into the Directive.

The Council did, to some extent, acknowledge the Parliament's wish to see priority being given to the elimination of risks. Employers are required to provide safety and/or health signs where hazards cannot

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<sup>717</sup> Legislative Resolution, European Parliament amendments adopted 10 July 1991, OJ C 240, 6.9.91, p. 96.

<sup>718</sup> Commission's amended proposal COM(91) 383 final, OJ C 279, 26.10.91, p. 13.

<sup>719</sup> Council Directive 92/58/EEC.

<sup>720</sup> Decision, European Parliament amendments adopted 13 May 1992, OJ C 150, 15.6.92, p. 93.

<sup>721</sup> Commission's re-examined proposal COM(92) 258 final.

<sup>722</sup> Council Directive 92/58/EEC.

<sup>723</sup> Of these amendments, 6 were new, 6 fully repeated while 2 partially repeated previously submitted amendments from the first reading.



be avoided or adequately reduced<sup>724</sup>. The other areas of Parliament's influence relate to the details laid out in the Annexes.

Parliament was successful in ensuring firstly, that in cases where signs use power there is a guaranteed emergency power supply<sup>725</sup>, and luminous signs indicating grave danger are fitted with auxiliary lamps<sup>726</sup>. Secondly, sign boards should be positioned in relation to the line of vision<sup>727</sup>. Thirdly, where illuminated signs and acoustic signals are used to indicate danger they must use identical codes<sup>728</sup> and be reactivated after use<sup>729</sup>. Fourthly, acoustic signals should use variable frequencies to indicate higher levels of danger<sup>730</sup>.

A number of new signs were introduced following proposals from the Parliament, these include:

- a general sign indicating danger<sup>731</sup>;
- signs indicating an emergency telephone for first aid, fire fighting and escape<sup>732</sup>; and
- hand signals to indicate distance.

Finally, the Parliament was also successful in ensuring that red and white stripes (in addition to yellow and black stripes) are used to indicate risk areas<sup>733</sup>.

### ***Parliament's Impact***

The location of emergency signs in relation to the line of vision; the reactivation of illuminated signs immediately after use; and the use of hand signals to indicate distance are some examples of the details additions to the Directive which stem from the Parliament's proposals. These successful proposals indicate once again the Parliament's attention to detail.

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<sup>724</sup> First reading, amendment 1 category B partially accepted, Directive Article 3.1.

<sup>725</sup> First reading, amendment 6, category B completely accepted, Directive Annex I. 8.

<sup>726</sup> First reading, amendment 19, category B partially accepted, Directive Annex VI. 2.3.

<sup>727</sup> First reading, amendment 12 category B completely accepted, Directive Annex II. 2.1.

<sup>728</sup> First reading, amendment 9, category B completely accepted, Directive Annex I. 9.

<sup>729</sup> First reading, amendment 18, category B partially accepted, Directive Annex VI. 2.2.

<sup>730</sup> First reading, amendment 22 category C partially accepted, Directive Annex VII. 1.2.

<sup>731</sup> First reading, amendment 24 category C partially accepted, Directive Annex II. 3.2.

<sup>732</sup> First reading, amendments 25 and 26, category C completely accepted, Directive Annex II. 3.4 and 3.5.

<sup>733</sup> First reading, amendments 15 and 16, category B partially accepted, Directive Annex V. 1.1 and 1.3.

## V.16 PROTECTION OF PREGNANT WORKERS AND WORKERS WHO HAVE RECENTLY GIVEN BIRTH OR ARE BREASTFEEDING<sup>734</sup>

*Council Directive 92/85/EEC of 19 October 1992<sup>735</sup> on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (10th individual directive within the meaning of Article 16(1) of Directive 89/391/EEC)*

### *The Directive*

The aim of the Directive is to improve the safety and health at work of pregnant workers, workers who have recently given birth or who are breastfeeding. This Directive may not have the effect of reducing the level of protection as compared with the situation which exists in each Member State when this Directive is adopted.

Articles 3, 4 and 5 relate to the risk assessment. This must be conducted by the employer, for all activities liable to involve a specific risk of exposure to chemical, physical and biological agents; industrial processes; or working conditions considered hazardous to the safety and health of the workers covered by this Directive. Annex I provides a non exhaustive list of agents, processes and working conditions which may be hazardous. This list includes references to the agents covered by the Directives on exposure to biological agents and carcinogens respectively<sup>736</sup>.

The Commission, in consultation with the Member States and assisted by the Advisory Committee on Safety, Hygiene and Health Protection at Work, shall draw up guidelines on this risk assessment. In the event of the assessment revealing, a risk to the safety and health of a worker or an effect on their pregnancy or breastfeeding, the employer is required to ensure that exposure to the risk is avoided. The means of avoiding exposure are detailed in the Directive. Also, Annex II provides a non exhaustive list of agents, processes and working conditions, exposure to which is prohibited.

The Directive lays out the entitlements for workers covered by the Directive for which Member States must take the necessary measures. These relate to: night work; maternity leave of at least 14 weeks; time off without loss of pay to attend ante-natal examinations; prohibition of dismissal and employment rights.

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<sup>734</sup> This Directive is included in this study to complete the analysis of all individual directives (to date) within the meaning of Article 16(1) of the Framework Directive 89/391/EEC. This is the tenth individual Directive and was referred to the Committee on Women's Rights as the responsible committee and to the Committee on Social Affairs, Employment and the Working Environment for its opinion.

<sup>735</sup> Council Directive 92/85/EEC of 19 October 1992, OJ L 348, 28.11.92.

<sup>736</sup> Biological agents, Council Directive 90/679/EEC of 26 November 1990, OJ L 374, 31.12.90, p. 1. Amending Council Directive of 93/88/EEC of 12 October 1993, OJ L 268, 29.10.93, p. 71. Carcinogens, Council Directive 90/394/EEC of 28 June 1990, OJ L 196, 26.7.90, p. 1.

The Member States shall report to the Commission every five years on the implementation of the Directive (initially 4 years after the Directive's adoption). The Commission is required to subsequently report to the Parliament, the Council, and the Economic and Social Committee on a periodic basis. The Council shall re-examine the Directive, on the basis of national reports or on the basis of a proposal submitted by the Commission no later than five years after the adoption of the Directive.

Member States are required to introduce the necessary measures to comply with the Directive not later than 19 October 1994 (i.e. two years after its adoption). Alternatively, if the two sides of industry introduce the necessary provisions by means of collective agreements, Member States are required to guarantee the results laid down by the Directive.

This Directive is based on Article 118a of the EC Treaty which requires cooperation with the European Parliament.

### *Parliament's Amendments*

The Parliament proposed forty amendments<sup>737</sup> to the Commission's original proposal<sup>738</sup>. In its report, the Committee on Women's Rights<sup>739</sup> stressed the importance of creating a balance between equality and protection, namely a high level of protection for pregnant women, while preventing an obstruction of women's access to the labour market. This concern was also expressed by the Committee on Social Affairs, Employment and the Working Environment in its opinion on the proposal<sup>740</sup>.

The Parliament put forward amendments seeking to extend the scope of the Directive to women who are breastfeeding<sup>741</sup>, to women in the agricultural sector and in atypical working conditions<sup>742</sup>. Concern was also expressed, through amendments, that the 'after birth leave' provided for in this Directive should also apply in the event of adoption<sup>743</sup> and that there is a need for a directive on parental leave<sup>744</sup>.

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<sup>737</sup> Legislative Resolution, European Parliament amendments adopted 12 December 1990, OJ C 19, p. 165.

<sup>738</sup> Commission's original proposal, OJ C 281, 9.11.90, p. 3.

<sup>739</sup> Committee Report A3-337/90, Rapporteur: Mrs. J. Ronn.

<sup>740</sup> Committee on Women's Rights, A3-337/90, Annex p. 4, Draftsman: Mrs. A. Catasta.

<sup>741</sup> First reading, amendment 60.

<sup>742</sup> First reading, amendment 13.

<sup>743</sup> First reading, amendments 54 and 27.

<sup>744</sup> First reading, amendments 9 and 10.

A wide range of the Parliament's amendments specifically addressed the relationship between working conditions and the risks that may exist. These amendments sought to ensure:

- the recognition of workplace hazards which can harm the reproductive systems of both men and women<sup>745</sup>;
- that the relevant health and safety authorities include mental stress in their evaluation of impact on reproduction and pregnancy<sup>746</sup>;
- that the individual employer is responsible for working conditions not being harmful to unborn children, pregnant or breastfeeding women<sup>747</sup>;
- where the physical, chemical and biological agents listed in the Annex are used in the workplace, an expert evaluation shall be carried out of the risk of harmful effects<sup>748</sup>;
- that workers receive information on the outcome of the risk assessment<sup>749</sup>; and
- pregnant workers can choose whether or not to do night work or rotating shifts<sup>750</sup>.

Furthermore, the Parliament sought to extend the period of paid maternity leave to sixteen weeks (instead of the proposed 14 weeks) on full pay with the flexibility of further time on 80% pay<sup>751</sup>. The Commission proposal contained a requirement for an obligatory two weeks paid leave before the presumed date of the birth. The Parliament was of the opinion that this requirement may be a disadvantage because of a degree of uncertainty about the date of birth and sought a more voluntary approach. It suggested women should be granted the full period of leave following the birth, even in cases where the delivery date is later than scheduled<sup>752</sup>.

In relation to employment rights, a series of amendments related to:

- the inclusion of a complaints procedure;
- the reversal of the burden of proof to the employer in the case of complaints; and
- maintenance of payment and employment rights<sup>753</sup>.

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<sup>745</sup> First reading, amendments 61 and 14/66.

<sup>746</sup> First reading, amendment 14/66.

<sup>747</sup> First reading, amendment 19.

<sup>748</sup> First reading, amendment 20.

<sup>749</sup> First reading, amendment 14/66.

<sup>750</sup> First reading, amendment 68.

<sup>751</sup> First reading, amendments 22, 23 and 24.

<sup>752</sup> First reading, amendment 69.

<sup>753</sup> First reading, amendments 29, 30, 72 and 67/16.

In order to monitor the implementation of the Directive the Parliament proposed, firstly, that the Annex, providing a non-exhaustive list of agents, processes and working conditions, be reviewed annually by an independent working group<sup>754</sup>, and secondly, that Member States notify the Commission, every three years, on the implementation of this Directive<sup>755</sup>.

Following the second reading the Parliament submitted sixteen amendments<sup>756</sup> to the Council's common position<sup>757</sup>. The Parliament's main concerns were that women should attain real improvements: in their working conditions; the length of maternity leave and the amount of the maternity allowance. Therefore, it sought that sixteen weeks leave should be guaranteed because of the fact that the minimum figures in number of Member States are already more generous than fourteen weeks<sup>758</sup>.

Moreover, the Parliament was of the opinion that the definition of the level of the maternity allowance should safeguard minimum allowances and real improvements. This definition should not, in the Parliament's view, be based on the allowance for sick pay because pregnancy should not, firstly, be seen as a sickness and secondly, sick pay is lower than maternity leave in certain Member States<sup>759</sup>. Parliament sought to ensure that the allowance shall guarantee an income which is at least equivalent to the last salary or wage of the worker. Also it shall be deemed equivalent if it guarantees income at least equivalent to 80% of the workers salary<sup>760</sup>.

The uptake of the Parliament's amendments following the first and second readings is given in the tables below.

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<sup>754</sup> First reading, amendment 70.

<sup>755</sup> First reading, amendment 72.

<sup>756</sup> Decision, European Parliament amendments adopted 13 May 1992, OJ C 150, 15.6.92, p. 99.

<sup>757</sup> Council common position A3-044/92.

<sup>758</sup> Second reading, amendments 1 and 7.

<sup>759</sup> Committee Report A3-169/92, p. 12.

<sup>760</sup> Second reading, amendments 10, 11, and 20/22.

### ***First Reading***

| Amendment category | EP submitted <sup>761</sup> | Commission accepted <sup>762</sup> |            | Council accepted <sup>763</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 0                           | 0                                  | 0          | 0                               | 0          |
| B                  | 26                          | 7                                  | 2          | 10                              | 3          |
| C                  | 14                          | 1                                  | 1          | 1                               | 0          |

Total amendments: 40.

### ***Second Reading***

| Amendment category | EP submitted <sup>764</sup> | Commission accepted <sup>765</sup> |            | Council accepted <sup>766</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 0                           | 0                                  | 0          | 0                               | 0          |
| B                  | 10                          | 1                                  | 7          | 1                               | 1          |
| C                  | 6                           | 1                                  | 1          | 0                               | 1          |

Total amendments: 16.

Looking more closely at the category B and C amendments which were incorporated into the final text of the Directive.

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<sup>761</sup> Legislative Resolution, European Parliament amendments adopted 12 December 1990, OJ C 19, 28.1.91, p. 165.

<sup>762</sup> Commission's amended proposal COM(90) 692 final, OJ C 25, 1.2.91, p. 9.

Note: Amendment 23 retains the provision that periods of sickness occurring during the maternity leave would not be taken into account as regards the duration of the leave. However, the amendment proposed to change the length of maternity leave to sixteen weeks. Since this was not incorporated by the Commission in its amended proposal, amendment 23 was not deemed accepted in this analysis.

<sup>763</sup> Council's Common Position, C3-044/92.

<sup>764</sup> Decision, European Parliament amendments adopted 13 May 1992, OJ C 150, 15.6.92, p. 99.

<sup>765</sup> Commission's re-examined proposal COM(92) 259 final - SYN 303.

<sup>766</sup> Council Directive 92/85/EEC, OJ L 348, 28.11.92, p. 1.

The Parliament was successful in having: the scope of the Directive extended to include women who are breastfeeding<sup>767</sup>; and in clarifying a pregnant worker's entitlement to time off without loss of pay for ante-natal examinations, where such examinations take place during working hours<sup>768</sup>. With regard to night work, the Directive introduces the element of choice for pregnant workers, by not obliging them to perform night work. This goes some way towards the Parliament's proposal however, the exemption from night work is only allowed on the submission of medical certificate stating that it is necessary on safety and health grounds<sup>769</sup>.

As noted above a number of the Parliament's amendments related to risk assessment. While the Framework Directive provides for a risk assessment to be conducted by the employer this Directive outlines in greater detail the requirements for an assessment of the chemical, physical and biological agents, and industrial processes which may be hazardous for the safety and health of pregnant workers, workers who have recently given birth or are breastfeeding. Specifically, the Directive incorporates the Parliament's amendments requiring: that mental stress is taken into account in the assessment; and that women workers are informed of the assessment results and the measures to be taken by the employer while safeguarding employment rights<sup>770</sup>. Annex I which gives a non-exhaustive list of agents, processes and working conditions, liable to involve a special risk, includes references to ionizing and non ionizing radiation, the handling of loads and extremes of cold and heat, which stem from the Parliament's proposals<sup>771</sup>.

As far as the maternity allowance is concerned and the Parliament's wish to ensure that the maternity allowance shall guarantee an equivalent income and that it is not based on sick pay, the issue was clarified. The Directive provides for an allowance to be "deemed adequate if it guarantees income at least equivalent to that which the worker concerned would receive in the event of a break in her activities on grounds connected with her state of health" (Article 11.3.), and it is stated in the Recitals that this "should in no circumstances be implemented as suggesting an analogy between pregnancy and illness" (Eighteenth Recital). The reference to equivalence is only for technical reasons.

Also regarding employment rights, following the second reading, the Council incorporated the Parliament's amendments, to ensure that the reasons for dismissal must be given in writing<sup>772</sup>, and

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<sup>767</sup> First reading, amendment 3 category B completely accepted, Directive eighth Recital; first reading, amendment 12 category B completely accepted, Directive Article 1.1 and 1.3.; and first reading, amendment 13 category B partially accepted, Directive Article 2.

<sup>768</sup> First reading, amendment 27 category B partially accepted, Directive Article 9.

<sup>769</sup> First reading, amendment 68 partially accepted, Directive Article 7.1.

<sup>770</sup> First reading, amendments 19, 20, 14/66, 8, 21, 67/16 category B partially accepted, and second reading, amendment 4 category B completely accepted, Directive Articles 3, 4 and 5.

<sup>771</sup> First reading, amendment 31/73 category B completely accepted, Directive Article 1. d and f.

<sup>772</sup> Second reading, amendment 9 category B partially accepted, Directive Article 10.2.

that Member States must introduce measures to provide workers with a complaints procedure when they believe that their rights under this Directive have been infringed<sup>773</sup>.

Finally, following the partial acceptance of a Parliament amendment the Member States are required to notify the Commission on the implementation of the Directive<sup>774</sup>.

### ***Parliament's Impact***

The above analysis shows that the amendments put forward by the Parliament with regard to: the length of maternity leave, the level of maternity allowance, the protection measures in the case of night work, and the reversal of the burden of proof were not accepted. However, Parliament's amendments regarding the individual risk assessment, as well as those relating to entitlement to maternity leave without loss of employment rights or a loss of income were incorporated to varying degrees in the Directive. This is significant in view of the Parliament's emphasis on the non-regressive nature of the Directive<sup>775</sup>.

## **V.17 PROTECTION OF WORKERS IN MINERAL EXTRACTING INDUSTRIES**

*Council Directive 92/91/EEC of 3 November 1992<sup>776</sup> concerning the minimum requirements for improving the safety and health protection of workers in the mineral extracting industries through drilling (eleventh individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)*

### ***The Directive***

The Directive lays down the minimum requirements for safety and health protection of workers in the mineral extracting industries through drilling. This includes all industries practising the extraction of minerals through drilling by boreholes; and/or prospecting; and/or preparation of extracted minerals for sale. The Directive lays out the employers responsibilities. The employers general obligation include ensuring; that work places are safe; that work involving a special risk is only given to competent staff and workers are supervised. A 'safety and health' document must be drawn up to illustrate that the risks to workers have been assessed.

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<sup>773</sup> Second reading, amendment 14 category C completely accepted, Directive Article 12.

<sup>774</sup> First reading, amendment 72 partially accepted, Directive Article 14.6.

<sup>775</sup> Article 1 (3) states: 'This Directive may not have the effect of reducing the level of protection afforded to pregnant workers, workers who have recently given birth or who are breastfeeding as compared with the situation which exists in each Member State on the date on which this Directive is adopted'.

<sup>776</sup> Council Directive 92/91/EEC, 3 November 1992, OJ L 348, 28.11.92, p. 9.



Additional employer obligations relate to, protection from fire, explosions and health endangering atmospheres, and the provision of escape and rescue facilities and warning and alarm systems. Workers must be kept informed of all measures taken concerning safety and health. The Directive provides for health and surveillance for workers. The Annex lays out the minimum safety and health requirements for workplaces.

The Commission is required to inform the European Parliament, the Council, the Economic and Social Committee, the Safety and Health Commission and the Advisory Committee on Safety, Hygiene and Health Protection at Work. Member States are required to introduce the necessary measures to comply with the Directive within twenty four months of the Directive's adoption (i.e. 3 November 1994). Workplaces already in use before the date on which this Directive is brought into effect, must satisfy the minimum safety requirements laid out in the Annex within five years of that date. Workplaces already in use before the date on which this Directive becomes effective must satisfy the safety and health requirements laid down in the Annex not later than five years after the Directive's adoption.

The Directive is based on Article 118a which requires cooperation with the European Parliament.

### *Parliament's Amendments*

Following the first reading on the Commission's original proposal for a Directive the Parliament proposed twenty five amendments. Seven of these amendments related to the Directive's Articles. The Parliament was concerned that the term employer should be clearly defined and that the definition should specify that employers are responsible for the health and safety of all operations and personnel<sup>777</sup>. Another amendment relating to the employers responsibilities proposed that reports to the authorities on fatal or serious occupational accidents should include an account of measures taken to prevent the recurrence of such accidents<sup>778</sup>.

In the interest of worker welfare the Parliament proposed that the health surveillance of workers take place before they start work and at regular intervals. It also suggested that workers should not have to pay for these health checks<sup>779</sup>. Other issues raised in the amendments concerned: risk assessment, the fact that workers representatives should be elected and the Commission's consultation with the Safety and Health Commission for Mining and other Extractive Industries<sup>780</sup>.

Seventeen of the Parliament's amendments proposed detailed changes to minimum safety and health requirements laid out in the Directive's Annex. These amendments related firstly, to a formal safety

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<sup>777</sup> First reading, amendment 2.

<sup>778</sup> First reading, amendment 4.

<sup>779</sup> First reading, amendment 6.

<sup>780</sup> First reading, amendments 3, 5 and 8.

assessment of the workplace<sup>781</sup>. Among the amendments were those which proposed that the formal safety assessment should:

- demonstrate to the responsible authority that the safety management systems (SMS) in a company are adequate; and
- demonstrate that the major hazards and risks have been identified and controls put in place<sup>782</sup>.

Secondly, a series of amendments sought to have the responsible authorities recognise the standards relating to: general and supervisor's training; safety exercises; survival techniques and the handling of emergency equipment<sup>783</sup>. Thirdly, in relation to information for workers the Parliament sought to ensure that written instructions are provided in the languages necessary to allow them to be understood by all workers and that instructions on the special language used in emergencies are made available<sup>784</sup>.

Following the second reading the Parliament again submitted amendments on the recognition of standards by the responsible authorities, election of workers' representatives and the definition of an employer<sup>785</sup>.

The quantitative analysis of the Parliament's amendments accepted by the Commission and the Council is given in the tables below.

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<sup>781</sup> First reading, amendments 10, 15, 19 and 21.

<sup>782</sup> First reading, amendment 10.

<sup>783</sup> First reading, amendments 11, 12, 24, 16, 20 and 22.

<sup>784</sup> First reading, amendment 13.

<sup>785</sup> Second reading, amendments 6, 7, 8, 3, and 1.

### ***First Reading***

| Amendment category | EP submitted <sup>786</sup> | Commission accepted <sup>787</sup> |            | Council accepted <sup>788</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 2                           | 0                                  | 2          | 0                               | 2          |
| B                  | 18                          | 4                                  | 12         | 10                              | 2          |
| C                  | 5                           | 1                                  | 4          | 3                               | 1          |

Total amendments: 25.

### ***Second Reading***

| Amendment category | EP submitted <sup>789</sup> | Commission accepted <sup>790</sup> |            | Council accepted <sup>791</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 0                           | 0                                  | 0          | 0                               | 0          |
| B                  | 8                           | 3                                  | 2          | 0                               | 1          |
| C                  | 0                           | 0                                  | 0          | 0                               | 0          |

Total amendments: 8<sup>792</sup>.

The following discussion highlights the notable category B and C amendments which were incorporated into the Directive by the Council.

The Directive provides for the health surveillance of workers before they are assigned duties in the extractive industry (to which this Directive applies) and at regular intervals. This requirement appears

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<sup>786</sup> Legislative Resolution, European Parliament amendments adopted 9 October, 1991, OJ C 280, 28.10.91.

<sup>787</sup> COM(91) 493 final, OJ C 46, 20.2.92, p. 50.

<sup>788</sup> Council's Common Position, C3-0193/92.

<sup>789</sup> Decision, European Parliament amendments adopted 8 July 1992, OJ C 241, 21.9.92, p. 88.

<sup>790</sup> Re-examined Commission proposal COM(92) 366 final - SYN 321.

<sup>791</sup> Council Directive 92/91/EEC, OJ L 348, 28.11.92, p. 9.

<sup>792</sup> Of these amendments 7 were repeats of those from the first reading while 1 was a partial repeat.

to stem from the Parliament's amendment. The Parliament's proposal that health surveillance may be provided under a national health system was also accepted<sup>793</sup>.

Under the Directive's requirements, an employer is required to ensure that a 'safety and health document' is prepared. This document incorporates to some degree the Parliament's proposal for a formal safety assessment<sup>794</sup>. The requirements that the safety and health document demonstrate: that the risks workers face have been assessed, and that the design (among other factors) of the workplace and equipment are safe, result from the Parliament's suggestions<sup>795</sup>. The Parliament was also influential in ensuring that an employer records the measures taken to avoid the repetition of any serious and/or fatal occupational accidents in the safety and health document<sup>796</sup>.

As noted above, the Parliament wanted to ensure that general workers and supervisors receive training to standard recognized by the responsible authorities. The Directive specifies that only supervisor's training should be in accordance with national laws and/or practices, however, this only partially incorporates the Parliament's amendments<sup>797</sup>.

The majority of the Parliament's amendments were directed towards the Annex on the minimum safety and health requirements for the on-shore and off-shore extractive industries (through drilling). The requirements applicable to both the on-shore and off-shore sectors of the industry include the following provisions which reflect, to varying degrees, the Parliament's detailed amendments:

- Workers should receive instructions they understand (comprehensible instructions). Although the Parliament had also sought that this would be clearly specified for written instructions<sup>798</sup>.
- Employers must ensure that there is a regular review of the safety and health management system (SMS)<sup>799</sup>.
- Workers should receive emergency training specific to the workplaces where they are based<sup>800</sup>.
- The emergency plan for sea rescue and workplace evacuation must include criteria concerning the response time of standby vessels and helicopters<sup>801</sup>.

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<sup>793</sup> First reading, amendment 6 category C partially accepted, Directive Article 8.2 and 8.3.

<sup>794</sup> First reading, amendment 9 category B partially, Directive Article 3.2.

<sup>795</sup> First reading, amendments 2 and 10 category B partially accepted, Directive Article 3.1 and 3.3.

<sup>796</sup> First reading, amendment 4 and second reading, amendment 2, category B completely accepted, Directive Article 3.4.

<sup>797</sup> First reading, amendment 12 category B partially accepted, Directive Annex, Part A 2.2 and 2.3.

<sup>798</sup> First reading, amendment 13 category B partially accepted, Directive Annex Part A 2.5.

<sup>799</sup> First reading, amendment 14, category B partially accepted, Directive Annex Part A 2.9.

<sup>800</sup> First reading, amendment 19, category B partially accepted, Directive Annex, Part C, 6.1)

<sup>801</sup> First reading, amendment 21 category B partially, Directive Annex, Part C, 6.4.

- A sufficient number of emergency response trained personnel must be available on the helicopter deck during helicopter movements<sup>802</sup>.

### ***Parliament's Impact***

It appears that the European Parliament was influential in ensuring, the provision of health surveillance for workers prior to their assignment and at regular intervals thereafter, along with the requirement that employers prepare a safety assessment for the 'safety and health document'. These measures and the details incorporated in the minimum safety and health requirements, including comprehensible instructions for workers and regular reviews of safety management systems, illustrate the European Parliament's impact on this Directive and once again its attention to detail.

## **V.18 PROTECTION OF WORKERS IN SURFACE AND UNDERGROUND MINERAL-EXTRACTING INDUSTRIES**

***Council Directive 92/104/EEC of 3 December 1992<sup>803</sup> on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries (twelfth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)***

### ***The Directive***

This Directive lays down the minimum requirements for the safety and health protection of workers in surface and underground mineral extracting industries. It also applies to those prospecting with a view to extracting and/or preparing extracted materials for sale. The employer's obligations, as laid down in the Directive, include ensuring, the safe design and construction of workplaces, that safety instructions are understood by all workers, and that safety drills are carried out at relevant intervals.

A safety and health document drawn up by the employer must show that the risks to which workers are exposed have been assessed; the workplace and equipment are safe and the aims of the Directive can be fulfilled. Workers shall receive a health check before being assigned to work in the extractive industries. Where there are workers from different undertakings, the employer in charge shall coordinate safety measures. The minimum safety and health requirements are given in detail in the Annex to the Directive.

Member States must comply with the Directive by 3 December 1994 and workplaces in existence before that date must satisfy the requirements as soon as possible and at least nine years later.

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<sup>802</sup> First reading, amendment 24 category C completely accepted, Directive Annex, Part C, 11.3.

<sup>803</sup> Council Directive 92/104/EEC of 3 December 1992, OJ L 404, 31.12.92, p. 10.

The Directive is based on Article 118a of the EEC Treaty which requires cooperation with the Parliament.

### ***Parliament's Amendments***

The Parliament's twelve amendments<sup>804</sup> to Commission's original proposal<sup>805</sup> were all aimed at the Directive's Annex. These amendments covered details on:

- the risk assessment for workers and the workplace;
- supervision;
- the recognition of standards by the responsible authorities;
- the languages in which instructions are written; and
- the review of safety management systems<sup>806</sup>.

The Parliament also sought to limit the working time for coal miners to eight hours in every consecutive twenty four hours<sup>807</sup>. Neither the Commission nor the Council accepted this proposal. The Council stating in its common position that it would be inappropriate given that there was a working time proposal being prepared<sup>808</sup>. Following the second reading the Parliament sought to bring the date of entry into force for the Directive forward by almost one year to 31 December, 1993<sup>809</sup>.

A quantitative analysis of the amendments submitted by Parliament and accepted by the Commission and Council is given in the tables below.

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<sup>804</sup> Legislative Resolution, European Parliament amendments adopted, 13 May 1992, OJ C 150, 15.6.92, p. 125.

<sup>805</sup> Commission's original proposal COM(92) 14 final, OJ C 58, 5.3.92, p. 3.

<sup>806</sup> First reading, amendments 2, 4, 5-7.

<sup>807</sup> First reading, amendment 13.

<sup>808</sup> Council's common position, C3-0289/92.

<sup>809</sup> Decision, European Parliament amendments adopted, 28 October 1992, OJ C 305, 23.11.92, p. 73. See amendment 9.

### ***First Reading***

| Amendment category | EP submitted <sup>810</sup> | Commission accepted <sup>811</sup> |            | Council accepted <sup>812</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 3                           | 0                                  | 3          | 1                               | 2          |
| B                  | 4                           | 2                                  | 1          | 1                               | 1          |
| C                  | 5                           | 3                                  | 1          | 3                               | 1          |

Total amendments: 12.

### ***Second Reading***

| Amendment category | EP submitted <sup>813</sup> | Commission accepted <sup>814</sup> |            | Council accepted <sup>815</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 2                           | 0                                  | 2          | 0                               | 0          |
| B                  | 5                           | 0                                  | 2          | 0                               | 0          |
| C                  | 2                           | 1                                  | 1          | 0                               | 0          |

Total amendments: 9.

The Parliament's amendments were well received after the first reading. The Commissioner stated that the amendments proposed did improve on the Commission's original proposal<sup>816</sup>. To identify the Parliament's impact on the Directive, the six category B and C amendments accepted by the Council are discussed.

Parliament sought to ensure workers safety through suitable supervision and training. The provisions in the Annex which require, firstly, that supervisors must visit occupied workstations at least once

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<sup>810</sup> Legislative Resolution, European Parliament amendments adopted 13 May 1992, OJ C 150, 15.6.92, p. 125.

<sup>811</sup> Commissions amended proposal COM(92) 251 final - SYN 392.

<sup>812</sup> Council's Common Position C3-0289/92, 8 July 1992.

<sup>813</sup> Decision European Parliament amendments adopted 28 October 1992, O C 305, 23.11.92, p. 70.

<sup>814</sup> Commission re-examined proposal COM(92) 489 final.

<sup>815</sup> Council Directive 92/104/EEC, OJ L 404, 31.12.92, p. 10.

<sup>816</sup> Commissioner Papandreou, Debates of the European Parliament, OJ Annex 3-418, 12.5.92, p. 92.

during each shift stems from a Parliament proposal. Although, the Parliament had suggested one visit for surface workstations and two for underground workstations per shift<sup>817</sup>.

Secondly, with regard to training, the Parliaments amendments are evident in the requirements that:

- supervisors have the necessary skills and competence in accordance with national law and/or practices;
- workplaces are staffed by those with the necessary abilities and training and
- workers receive instructions which they understand (comprehensible instructions)<sup>818</sup>.

The regular review by an employer of the safety and health management system in operation appears to be the result of the Parliament's amendment (category C) proposing the auditing of such systems<sup>819</sup>. An amendment to emphasise that workstations must be designed, constructed and equipped according to ergonomic principles was also included in the final text<sup>820</sup>.

#### ***Parliament's Impact***

The Parliament's attention to detail and interest in training of a recognised standard is evident from the amendments proposed in this case. Its impact on the Directive related to training for workers to ensure their health and safety and the introduction of reviews for health and safety management systems. However, the success of these measures depends on their implementation in the Member States.

### **V.19 FISHING VESSELS**

***Council Directive 93/103/EC of 23 November 1993<sup>821</sup> concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)***

#### ***The Directive***

This Directive lays down the minimum safety and health requirements applicable to work on board fishing vessels. It applies to fishing vessels used for commercial purposes which fly the flag of a

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<sup>817</sup> First reading, amendment 4, Directive Annex 1.3.

<sup>818</sup> First reading, amendments 4, 5, and 6, corresponding to Annex Part A 1.3, 1.4 and 1.5.

<sup>819</sup> First reading, amendment 7, Annex 1.9.

<sup>820</sup> First reading, amendment 3, Annex 1.1.3.

<sup>821</sup> Council Directive 93/103/E of 23 November 1993, OJ L 307, 13.12.93, p. 1.



Member State or which are registered under the plenary jurisdiction of a Member State. The specifically difficult working and living conditions on board vessels, along with high incidence of accidents among workers in this sector, are noted among the recitals of this Directive.

The responsibilities for owners of vessels and skippers are outlined in the Directive. Member States must take the necessary measures to ensure that owners maintain equipment and provide sufficient suitable emergency and survival equipment. Training for workers should cover fire fighting and the use of life saving equipment. More detailed training should be provided for those in command of a vessel. The Annexes to the Directive provide details on the minimum safety and health requirements for new and existing fishing vessels; life saving and survival equipment and personal protective equipment.

With regard to the application of this Directive, a distinction is made between firstly, new fishing vessels of fifteen meters or over, for which the Directive becomes effective from 23 November 1995 and secondly, existing vessels which will have to comply with the minimum requirements laid down in Annex II within seven years.

The Commission shall inform, the European Parliament, the Council, the Economic and Social Committee and the Advisory Committee on Safety, Hygiene and Health Protection at Work, on the implementation of the Directive in Member States. The necessary measures to comply with this Directive must be introduced in Member States by 23 November 1995.

The Directive is based on Article 118a of the European Community Treaty which requires cooperation with the European Parliament.

### ***Parliament's Amendments***

In April 1988 the European Parliament adopted a resolution on the importance of the preventive aspects of safety at work on board fishing vessels. During the Parliament's debate on the first reading for this Directive the Rapporteur noted that the Commission's proposal satisfied the Parliament's original request and gave substance to one of the measures mentioned in the action programme for the Social Charter<sup>822</sup>.

Following the first reading, the Parliament proposed thirty one amendments<sup>823</sup> to the Commission's original proposal<sup>824</sup>. Nine of these amendments related to the Directives recitals and included references to:

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<sup>822</sup> Rapporteur, Mr. Marques Mendes, Debates of the European Parliament, OJ Annex 3-420, 6.7.92, p. 19.

<sup>823</sup> Legislative Resolution, European Parliament adopted 8 July 1992, OJ C 241, 21.9.92, p. 106.

<sup>824</sup> Commission's original proposal COM(91) 466 final - SYN 369 OJ C 337, 31.12.91.

- the use of new technology in tracking and locating fishing vessels<sup>825</sup>;
- appropriate health and safety measures for smaller fishing vessels<sup>826</sup>;
- safety and health for the self employed<sup>827</sup>; and
- aid from Structural Funds for renovating fishing vessels to meet safety and health requirements<sup>828</sup>.

Amendments on safety and health measures for smaller fishing vessels and the self employed were again raised following the second reading<sup>829</sup>.

The amendments addressed to the Directives Articles covered the issues of:

- bringing forward the date of Directive's entry into force<sup>830</sup>
- the inspection of vessels<sup>831</sup>;
- details on training<sup>832</sup>; and
- the regularity of the Member States' reports to the Commission<sup>833</sup>.

Among the Parliament's detailed amendments to the Annexes were those which sought to ensure that the appropriate fire fighting equipment is fitted in the fishing vessel's engine room<sup>834</sup>.

During the debate on the first reading the Rapporteur highlighted the need to recognise the feasibility of adapting fishing vessels, currently in service, to meet the safety and health requirements laid down in Annex II<sup>835</sup>. The Parliament sought to extend, to four years, the transitional period for existing vessels to comply with the Directive<sup>836</sup>.

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<sup>825</sup> First reading, amendment 3.

<sup>826</sup> First reading, amendment 4. Second reading, amendment 1.

<sup>827</sup> First reading, amendment 9. Second reading, amendment 2.

<sup>828</sup> First reading, amendment 7.

<sup>829</sup> Decision, European Parliament amendments adopted 27 October 1993, not published in the Official Journal at the time of this study.

<sup>830</sup> First reading, amendments 14, 15, 16 and 21.

<sup>831</sup> First reading, amendment 12.

<sup>832</sup> First reading, amendments 18 and 19.

<sup>833</sup> First reading, amendment 22.

<sup>834</sup> First reading, amendments 24 and 29.

<sup>835</sup> Rapporteur, Mr. M. Mendes, Debates of the European Parliament, OJ Annex 3-420, 6.7.92, p. 92.

<sup>836</sup> First reading, amendment 1.

However, in its common position the Council decided that the transition period for existing fishing vessels should be seven years. The Parliament thought this was too long and following the second reading sought to have the transition period reduced to five years<sup>837</sup>. This amendment was not successful. Nevertheless, it is interesting to note that the Commissioner stated, that despite the Commission's preference for a shorter transitional period this issue was part of the "Council's compromise" in what was "an arduous and difficult negotiation" to achieve the unanimous adoption of the its common position<sup>838</sup>.

A quantitative analysis of the Parliament's amendments accepted by the Commission and the Council is given in the tables below.

### *First Reading*

| Amendment category | EP submitted <sup>839</sup> | Commission accepted <sup>840</sup> |            | Council accepted <sup>841</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 8                           | 2                                  | 2          | 2                               | 2          |
| B                  | 17                          | 6                                  | 3          | 6                               | 1          |
| C                  | 6                           | 2                                  | 0          | 2                               | 0          |

Total amendments: 31.

<sup>837</sup> Second reading, amendment 4.

<sup>838</sup> Commissioner Flynn, Verbatim report of proceedings (provisional edition) Monday II/Tuesday 25.10.1993 - 26.10.1993, p. 71.

<sup>839</sup> Legislative Resolution, amendments agreed 8 July 1992, OJ C 241, 21.9.92, p. 106-109.

<sup>840</sup> Commission's amended proposal COM(92) 409 final - SYN 369.

<sup>841</sup> Council's common position C3-0242/93 adopted 30.6.93.

## Second Reading

| Amendment category | EP submitted <sup>842</sup> | Commission accepted <sup>843</sup> |            | Council accepted <sup>844</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 2                           | 0                                  | 2          | 0                               | 2          |
| B                  | 4                           | 0                                  | 1          | 0                               | 1          |
| C                  | 2                           | 0                                  | 1          | 0                               | 0          |

Total amendments: 8<sup>845</sup>.

The following discussion gives details of the category B and C amendments accepted by the Council, to vary degrees, and included in the Directive. Parliament's amendments to the Directive's recitals on firstly, a reference to its own 1988 resolution on the importance of the preventative aspects of safety at work on board fishing vessels<sup>846</sup> and secondly, the use of new technologies to locate fishing vessels in an emergency, have been incorporated into the Directive in a reworded form<sup>847</sup>.

The need for fishing vessels, covered by this Directive, to be subject to regular controls and inspection was introduced following a proposal from the Parliament<sup>848</sup>. Aspects of the Directive's requirements on training stem from the Parliament's proposals, these are:

- training instructions should be clearly understood<sup>849</sup>;
- details on accident prevention should be included in training<sup>850</sup>;
- training should be updated when required, due to changes in the activities on board fishing vessels<sup>851</sup>; and

<sup>842</sup> Decision, amendments adopted 27 October 1993, not published in the OJ at the time of this study.

<sup>843</sup> Commission's re-examined proposal COM(93) 581 final - SYN 369.

<sup>844</sup> Council Directive 93/103/EC of 23 November 1993, OJ L 307, 13.12.93, p. 1.

<sup>845</sup> Of these 8 amendments 3 repeat and 5 partially repeat amendments from the first reading.

<sup>846</sup> First reading, amendment 2 category B partially accepted, Directive recital 5.

<sup>847</sup> First reading, amendment 3 category C partially accepted, Directive recital 6.

<sup>848</sup> First reading, amendment 13 category C partially accepted, Directive Article 3.2.

<sup>849</sup> First reading, amendment 18 category B partially accepted, Directive Article 9.

<sup>850</sup> First reading, amendment 18 category B partially, Directive Article 9.

<sup>851</sup> First reading, amendment 18 category B partially, Directive Article 9.

- details on recognised procedures should be included in the training for those likely to command a fishing vessel<sup>852</sup>.

The Parliament's attention to detail resulted in the requirement that the engine room of both new and existing fishing vessels be equipped with fire fighting equipment and if necessary fire detectors and alarm systems<sup>853</sup>. Finally, following the second reading the Parliament was successful in ensuring that the Member States report, every four rather than five years, on the practical implementation of this Directive<sup>854</sup>.

### ***Parliament's Impact***

As with a number of the Directives on health and safety Parliament's approach to this Directive has been detailed and practical. The inclusion of instructions on accident prevention; the updating of training and the regular checking of vessels stemming from Parliament's amendments are examples of this approach. The concern expressed by Parliament about the ability of existing vessels to comply is but a further example. The importance of these amendments will lie with their full implementation at Member State level.

## **V.20 WORKING TIME**

***Council Directive 93/104/EC of 23 November 1993<sup>855</sup> concerning certain aspects of the organization of working time***

### ***The Directive***

This Directive lays down the minimum health and safety requirements for the organization of working time. The details concerning daily rest periods, breaks during working time, weekly rest periods, annual leave and the maximum weekly working time are given in the Directive. Provisions for night and shift workers are laid out including those on health assessment for night workers and safety and health protection for night and shift workers.

A number of sectors (including transport and work at sea) are excluded from the Directive. Derogations from specified aspects of the Directive are provided for in Article 17 covering a wide range of employment activities. In the case of annual leave Member States may make use of a three year

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<sup>852</sup> First reading, amendment 19 category B partially accepted, Directive Article 10.

<sup>853</sup> First reading, amendments 24 and 29 category B completely, Directive Annex I. 5.1 and Annex II 5.1.

<sup>854</sup> Second reading, amendment 6 category B completely, Directive Article 13.3.

<sup>855</sup> Council Directive 93/104/EC of 23 November 1993, OJ L 307, 13.12.93, p. 18.

transitional period before introducing four weeks' annual leave, provided that workers receive three weeks paid leave. Member States may also delay applying the 48-hour maximum week for seven years, though in the intervening period workers must receive certain guarantees.

Member States must have in place the necessary measures to comply with this Directive by the 23 November 1996. Alternatively, arrangements may be made by collective agreements between the two sides of industry with Member States ensuring that the Directives' provisions are fulfilled.

The Directive is based on Article 118a of the EC Treaty which requires cooperation with the European Parliament.

### ***Parliament's Amendments***

The passage of this Directive through the legislative process took three years. It was surrounded by much debate, not only in the Council of Ministers and between both sides of industry but also at the Committee and Plenary sessions in the Parliament. The Deputy Rapporteur noted, during the first reading, that this is a "substantial issue" in a complex subject area and that the Community was addressing it in order to achieve three objectives. Firstly, to avoid differences between Member States with regard to working time that could result in distortion of competition incompatible with the concept of the single market". Secondly, "to avoid the risk of social dumping and chaotic deregulation" and thirdly, "to promote as widely as possible social progress" with regard to health and safety" which individual countries might be reluctant to set in place in a competitive environment<sup>856</sup>.

The European Parliament submitted forty amendments<sup>857</sup> to the Commission's original proposal for a Directive<sup>858</sup>. Notable among the eight amendments seeking changes to the Directive's recitals were those proposing:

- that the Community respect the International Labour Organisation (ILO) Conventions on weekly rest periods<sup>859</sup>;
- the implementation of the ILO Convention on night work for women in industry<sup>860</sup>;
- the right of European Community workers to a guaranteed minimum wage; and

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<sup>856</sup> Deputy Rapporteur Mr. Bourlanges, Debates of the European Parliament, OJ Annex 3-401, 18.2.91, p. 29.

<sup>857</sup> Legislative Resolution, European Parliament amendments adopted 20 February, February, 1991, OJ C 72, 13.3.91, p. 86.

<sup>858</sup> Commission's original proposal COM(90) 317 final - SYN 295, O C 254, 9.10.90, p. 4.

<sup>859</sup> ILO Conventions No 14 and 106, and Recommendation No 103.

<sup>860</sup> ILO Convention No 89.

- the introduction of work flexibility to allow men and women to reconcile their working and family life<sup>861</sup>.

Among the amendments proposed to the Directive's Articles were twelve directly related to night work. The Parliament's proposals included<sup>862</sup>:

- 'Night work' should mean all work performed during a period of not less than four consecutive hours (rather than seven as suggested by the Commission) between 8 p.m. and 9 a.m.
- The definition of a 'night worker' should include those who perform night work occasionally beyond a minimum limit laid down in each Member State after consultation with representatives of employers and workers.
- The normal working hours of a night-worker shall be less than the average working hours of workers performing the same work by day. Annual leave should be longer for night workers'. Additionally, night workers and rotating shift workers should receive a retirement pension, equal to other workers, at a lower age and after less years service.
- Night work for women should not lead to any discrimination against women.

A selection of the other category B and C amendments put forward by the Parliament sought:

- a rest period of twelve rather than eleven hours for a 24 hour period exclusive of travel and waiting time related to work;
- four weeks holidays, over a twelve month reference period, which cannot be replaced by financial compensation; and
- that overtime must not lead to working time exceeding the average 48 hours per week<sup>863</sup>.

As noted by the Rapporteur<sup>864</sup>, at the second reading, the position of the Council in its common position differed notably from the Commission's original proposal. Therefore, the Parliament had to address many new elements and the number of new amendments reflects this fact. The four areas covered by the amendments were identified by the Rapporteur as firstly, the level of protection for workers, with the Parliament expressing concern that the Directive could be used as a means of reducing existing protection<sup>865</sup>. Secondly, that for night work the norms of the ILO Convention and Recommendation should be respected by the Member States<sup>866</sup>. Thirdly, the Parliament sought the

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<sup>861</sup> First reading, amendments 2, 4, 3 and 7.

<sup>862</sup> First reading, amendments 10, 11, 18, 22, 24 and 25.

<sup>863</sup> First reading, amendments 13, 14, 15, 16, 38 and 52.

<sup>864</sup> Rapporteur Mr. Chanterie, Verbatim report of proceedings (provisional edition), Monday II/Tuesday, 25.10.1993 - 26.10.1993, p. 62.

<sup>865</sup> Second reading, amendment 27.

<sup>866</sup> Second reading, amendment 20.

application of the Directive within 2 years of its finalisation<sup>867</sup> and fourthly, the number of derogations provided for in the Directive caused concern<sup>868</sup>.

The quantitative analysis of the amendments accepted partially or completely by the Commission and Council are given in the tables below.

#### **First Reading**

| Amendment category | EP submitted <sup>869</sup> | Commission accepted <sup>870</sup> |            | Council accepted <sup>871</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 1                           | 0                                  | 0          | 0                               | 1          |
| B                  | 27                          | 4                                  | 7          | 9                               | 1          |
| C                  | 12                          | 1                                  | 1          | 1                               | 0          |

Total amendments: 40.

<sup>867</sup> Second reading, amendment 16.

<sup>868</sup> Second reading, amendments 14 and 17.

<sup>869</sup> Legislative resolution, amendments adopted 20 February 1991, OJ C 72, 18.3.91, pp. 86-95.

<sup>870</sup> Commission's amended proposal COM(91) 130 final - SYN 295.

<sup>871</sup> Council's common position 7253/93 SOC 196, 22 June 1993, Brussels.



## Second Reading

| Amendment category | EP submitted <sup>872</sup> | Commission accepted <sup>873</sup> |            | Council accepted <sup>874</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 2                           | 1                                  | 0          | 1                               | 0          |
| B                  | 13                          | 2                                  | 1          | 2                               | 1          |
| C                  | 2                           | 2                                  | 0          | 2                               | 0          |

Total amendments: 18<sup>875</sup> (Amendment 2 did not apply to the English version).

In order to judge the Parliament's impact on this Directive the following discussion highlights the category B and C amendments which were accepted by the Council and included in the Directive. The following discussion is presented according to the Parliament's principle areas of concern with regard to this Directive.

As noted above the Parliament was very concerned that the Directive should not be used to lower standards in Member States. In its common position the Council only accepted the provision to allow Member States introduce more favourable legislation in this area<sup>876</sup>. During the debate for the second reading the Commissioner noted the Parliament's concern and stated that neither the Commission nor the Council wanted this Directive "to be used as an excuse or justification for lower standards"<sup>877</sup>. A non-regression clause was incorporated to ensure that the Directive 'shall not constitute valid grounds for reducing the general level of protection afforded to workers'. This stems from the Parliament's amendment<sup>878</sup>.

Some of the Parliament's amendments relating to night work were incorporated to varying degrees into the final Directive and these have ensured that:

<sup>872</sup> Decision, amendments agreed 27 October 1993. Minutes of 27 October 1993, unpublished in the Official Journal at the time of writing.

<sup>873</sup> Commission's re-examined proposal COM(93) - SYN 295, unpublished version, November 1993.

<sup>874</sup> Council Directive 93/104/EC of 23 November 1993, OJ 307, 13.12.93, p. 18.

<sup>875</sup> Of these amendments 1 repeated an amendment from the first reading while 17 were new.

<sup>876</sup> First reading, amendment 38 category B partially accepted, Council's common position Article 15.

<sup>877</sup> Commissioner Flynn, Verbatim reports of proceedings Monday II/ Tuesday 25.10.1993-26.10.1993.

<sup>878</sup> Second reading, amendment 27 category C partially accepted, Directive Article 13.3.

- the two sides of industry are to be consulted by Member States on legislation or collective agreements regarding, the portion of a workers annual working time which is worked at night, which allows a worker fall under the definition of a night worker<sup>879</sup>;
- night and shift workers have safety and health protection services equivalent to those of other workers<sup>880</sup>; and
- the recitals refer explicitly to the principles on the organization of working time including those on night work<sup>881</sup>.

However, although the Council stated in its common position that it had incorporated the Parliament's amendment proposing, that health surveillance should be carried out at least once a year for night workers up to 40 years of age and at least twice a year for those who are older, the text only provides for free health assessment for night workers before their assignment and at regular intervals. The incorporation of the Parliament's amendment is unclear but it appears that the Parliament drew attention to the health assessment needs of night workers<sup>882</sup>. Additionally, the requirement that the health assessment comply with medical confidentiality stems from a Parliament amendment<sup>883</sup>.

In relation to the specific elements of working time the Parliament was successful in placing its mark on this Directive. The following provisions are the result of the Parliament's amendments:

- a minimum of four weeks paid annual holiday leave with no financial compensation to be paid instead<sup>884</sup>;
- the average working time for a seven day period should not exceed 48 hours including overtime<sup>885</sup>;
- the minimum rest period per seven day period shall in principle include Sunday<sup>886</sup>; and
- sick leave should not be included or should be considered neutral in the calculation of the holiday leave due<sup>887</sup>.

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<sup>879</sup> First reading, amendment 11 category B partially accepted, Directive Article 2, 4 (b).

<sup>880</sup> First reading, amendment 32 category B partially accepted, Directive Article 12.2.

<sup>881</sup> Second reading, amendment 1 category C partially accepted, Directive, ninth recital.

<sup>882</sup> First reading, amendment 26 category B partially accepted, Directive Article 9.

<sup>883</sup> First reading, amendment 27 category B partially accepted, Directive Article 9.

<sup>884</sup> First reading, amendment 15 category B partially accepted, Directive Article 7. At the debate on the second reading Commissioner Flynn stated "This provision, you will recall, has been introduced following your [the Parliament's] amendments on the last occasion" (Verbatim report of proceedings Monday II/Tuesday 25.10.1993-26.10.1993).

<sup>885</sup> First reading, amendment 16 category B partially accepted, Directive Article 6.

<sup>886</sup> First reading, amendment 14 category B partially accepted, Directive Article 5 second paragraph.

<sup>887</sup> Second reading, amendment 9 category B partially accepted, Directive Article 16.2.

During the debate on the second reading the Commissioner noted that he would bring the Parliament's concern about the large number of derogations provided for in the Directive to the Council's attention. However, he stated that he did not believe it was possible "to touch these provisions without destroying the fragile compromise that has built up in the Council"<sup>888</sup>. In the case of cinematographic production the Parliament accepted that derogations were necessary, it proposed a relevant amendment which, following the second reading, was incorporated into the Directive<sup>889</sup>.

Finally, the Parliament's amendments were incorporated to at least ensure that Member States inform the Commission about the implementation of the Directive and that the Commission subsequently provide a report, every five years, to the Institutions<sup>890</sup>.

### ***Parliament's Impact***

This Directive proved controversial throughout the legislative process both within the formal institutional domain and among wider interests, with regard to the legal basis and content. Despite this, some of Parliament's amendments did find their way into the final text. Notably paid holiday leave of at least 4 weeks per year with no financial compensation instead allowed and that the average working week should be 48 hours. However, the range of derogations and the allowance of longer working hours subject to agreement to some extent reduces their significance. Perseverance by the Parliament through formal channels by gaining the support of the Commission and possibly also through informal channels saw the inclusion of the non-regression Article ensuring that this Directive, acknowledged to be weaker than the original proposal, is not used to reduce standards in some Member States.

## **V.21 PROTECTION OF YOUNG PEOPLE AT WORK**

***Council Directive 94/33/EC of 22 June 1994 on the Protection of Young People at Work***<sup>891</sup>

### ***The Directive***

This Directive applies to any person under 18 years of age having an employment contract or employment relationship. Under the Directive Member States are required to prohibit work by children (any young person less than 15 years of age). They are also required to ensure that the minimum working and employment age is not lower than the minimum age at which compulsory full time

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<sup>888</sup> Commissioner Flynn, Verbatim report of proceedings Monday II/Tuesday 25.10.1993-26.10.1993.

<sup>889</sup> Second reading, amendment 12 category C completely accepted, Directive Article 16.2.

<sup>890</sup> First reading, amendment 52 category B partially accepted, Directive Article 18.5 and second reading, amendment 22 category B partially accepted, Directive Article 18.6.

<sup>891</sup> Council Directive 94/33/EC of 22 June 1994, OJ L 216, 20.8.94, p. 12.

schooling ends, as imposed by national legislation, or not less than 15 years. Work by adolescents (at least 15 years of age but less than 18 years of age) must be strictly regulated and protected.

Member States may make legislative or regulatory provision to allow; children work in cultural or similar activities; children of at least 14 years of age work under a combined work/training scheme and permit light work by children of 14 years or under certain conditions children of 13 years. The Directive lays out the requirements and limits concerning working time, night work, rest periods, annual rest and breaks for children and adolescents. A special clause within the Directive applies to the United Kingdom which is granted a longer period to implement the provisions on hours of work and night work for adolescents and on weekly hours of work by children during school term.

The employer is required to protect the safety and health of young people on the basis of an assessment of the hazards to young people in connection with their work. Also, Member States are required to ensure that young people are protected from specific risks to their safety, health and development due to their lack of experience.

Member States must introduce the necessary measures to comply with this Directive not later than 22 June 1996 or ensure that the two sides of industry have introduced the necessary provisions through collective agreement by that date. The implementation of this Directive shall not constitute valid grounds for reducing the general level of protection afforded to young people. The Commission is required to periodically report to the European Parliament, the Council, and the Economic and Social Committee on the application of the Directive.

This Directive is based on Article 118a of the EC Treaty which requires cooperation with the European Parliament.

### ***Parliament's Amendments***

The European Parliament drew attention to a need for a Directive harmonizing legislation in relation to child labour in a 1987 Resolution<sup>892</sup>. This resolution stressed the effects of work on a young person's health and safety, and physical and intellectual development. Parliament proposed forty three amendments<sup>893</sup> to the Commission's original proposal for this Directive<sup>894</sup>. These amendments addressed a wide range of issues including those relating to: the definition of light work<sup>895</sup>; the age limits which should apply<sup>896</sup>; working time<sup>897</sup>; the welfare of young workers<sup>898</sup>; the application

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<sup>892</sup> Resolution OJ C 190, 20.7.87, p. 44.

<sup>893</sup> Legislative Resolution, European Parliament amendments adopted 17 December 1992, OJ C 21, 25.1.92, p. 167.

<sup>894</sup> Commission's original proposal COM(91) 0543, OJ C 84, 4.4.92, p. 7.

<sup>895</sup> First reading, amendments 8 and 15.

<sup>896</sup> First reading, amendments 7, 16, 40 and 17.

of general employment rights<sup>899</sup>; and the list of agents, processes and work which entail a specific risk to young people<sup>900</sup>.

Notable examples of the amendments under the issues outlined above include, firstly, with regard to the age limits which should apply, the Parliament sought to:

- ensure that the minimum age for admission to employment or work is not less than the age of completion of compulsory schooling and not less than 15 years<sup>901</sup>, and
- place an age limit of not less than 14 years on children participating in combined work/training schemes and performing light work (the Commission had proposed 13 years of age)<sup>902</sup>.

Secondly, the Parliament put forward a comprehensive series of amendments concerning working time. These amendments proposed:

- that work performed by children in full time education be restricted to 12 hours per week and 2 hours per day (the Commission originally proposed 15 hours per week and 3 hours per day<sup>903</sup>;
- children in training or full time education should receive a rest period of 14 consecutive hours (rather than 12 hours as proposed by the Commission) in each 24 hour period, along with two rest days which in principle include Sunday<sup>904</sup>;
- a general ban on night work for young people (between 23.00 hours and 06.00 hours) but in cases of exemptions there should be no reason to fear adverse effects on their health and safety. Additionally, young people should be supervised by an adult worker; and
- young people in training or working during school holidays should only work 7 hours a day or 35 hours per week<sup>905</sup>.

Thirdly, in seeking to protect the welfare of young workers and ensure the application of general employment rights the Parliament's amendments sought:

- that young people receive regular medical check-ups;

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<sup>897</sup> First reading, amendments 52/27, 38, 42, 43, 41, 54/26, 28 and 25.

<sup>898</sup> First reading, amendments 4, 22, 14 and 20.

<sup>899</sup> First reading, amendments 9, 32, 12 and 30.

<sup>900</sup> First reading, amendments 42 and 43.

<sup>901</sup> First reading, amendments 7 and 16.

<sup>902</sup> First reading, amendments 17 and 40.

<sup>903</sup> First reading, amendment 25.

<sup>904</sup> First reading, amendments 52/27.

<sup>905</sup> First reading, amendment 41.

- that young people are paid an appropriate wage for their work to which the principle of equality applies; and
- to ensure that if young people lose their job they are entitled to unemployment benefits<sup>906</sup>.

Finally, the Parliament wanted to clarify the definition of light work to make sure that such work does not harm the health and development of young people<sup>907</sup>.

Following the second reading some of the Parliament's twenty amendments specifically addressed provisions and issues arising from the Council's common position. The Council common position introduced a provision allowing the United Kingdom up to four years to implement requirements on hours of work and night work by adolescents, and on weekly hours of work by children during school term. The Parliament sought to have the provisions providing this special treatment deleted<sup>908</sup>. Parliament was supported, to some degree, by the Commission. During the debate on the second reading the Commissioner stated that although the Commission could agree to the United Kingdom having more time to adapt its arrangements for adolescents "it is not acceptable that this additional period should apply to the limit on the duration of weekly work by children"<sup>909</sup>. However, the provision is included in the final text of the Directive.

The Commission's original proposal included a non-regression clause preventing Member States using the implementation of this Directive to lower existing standards but it was not included in the Council's common position. The Parliament, in line with the position it has taken for other Directives, sought to have it reinserted<sup>910</sup>. Other amendments following the second reading again related to employment rights, the minimum working age and working hours.

The tables below indicate the uptake of the Parliament's amendments by the Commission and the Council.

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<sup>906</sup> First reading, amendments 22, 9, 32, 12 and 30.

<sup>907</sup> First reading, amendments 8 and 15.

<sup>908</sup> Second reading, amendments 3 and 28.

<sup>909</sup> Commissioner Flynn, Verbatim Report of the European Parliament debate 8.3.1994.

<sup>910</sup> Second reading, amendment 26.

### ***First Reading***

| Amendment category | EP submitted <sup>911</sup> | Commission accepted <sup>912</sup> |            | Council accepted <sup>913</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 7                           | 0                                  | 4          | 1                               | 2          |
| B                  | 25                          | 8                                  | 6          | 8                               | 4          |
| C                  | 11                          | 0                                  | 1          | 4                               | 0          |

Total amendments: 43.

### ***Second Reading***

| Amendment category | EP submitted <sup>914</sup> | Commission accepted <sup>915</sup> |            | Council accepted <sup>916</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 0                           | 0                                  | 0          | 0                               | 0          |
| B                  | 17                          | 4                                  | 1          | 1                               | 0          |
| C                  | 3                           | 2                                  | 0          | 1                               | 0          |

Total amendments: 20<sup>917</sup>.

The focus of attention in the following discussion is on the category B and C amendments which were incorporated into the final text of the Directive.

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<sup>911</sup> Legislative Resolution, European Parliament amendments adopted 17 December 1992, OJ C 21, 25.1.92, p. 171.

<sup>912</sup> Commission's amended proposal COM(90) 0035, OJ C 77, 18.3.93, p. 1.

<sup>913</sup> Council's common position C3-0504/93-94/0383(SYN).

<sup>914</sup> Decision, European Parliament amendments adopted 9 March 1994, PV 2 II, unpublished in the Official Journal at the time of the study.

<sup>915</sup> Commission's re-examined proposal COM(94) 88 final - SYN 383.

<sup>916</sup> Council Directive 94/33/EC of 22 June 1994, OJ L 216, 20.8.94, p. 12.

<sup>917</sup> Of these amendments five repeat and seven partially repeat those submitted following the first reading while 8 are new.

The Parliament ensured a clearer definition of 'light work' such that it is not likely to be harmful to health and the development of children or to their attendance at school<sup>918</sup>.

With regard to the age limits the Parliament was successful in ensuring that the minimum working age would not be below the minimum age at which compulsory schooling ends or 15 years<sup>919</sup>. It also succeeded in clarifying that only those of at least 14 years do combined work training under conditions laid down by the competent authority<sup>920</sup>. It is interesting to note that it was the Council which accepted both of the above proposals without the prior approval of the Commission.

As noted above the Parliament submitted a number of amendments on working time for young people and the following provisions stem from the Parliament's proposals:

- work performed by children in full time education is restricted to 12 hours per week and two hours per day<sup>921</sup>; and
- children in training or doing light work should have 14 hours rest in a twenty four hour period, with two consecutive days rest if possible which shall in principle include Sunday<sup>922</sup>.

Some limited recognition is given to the Parliament's proposal on night work. The requirement that adolescents working at night must be supervised stems from a Parliament amendment<sup>923</sup>. Although the option of Member States prohibiting night work between 8pm and 6am is provided for, adolescents in specified areas of activity may work, except during the hours of midnight and 4am. This does not meet the Parliament's wish that those on work training may never work between 11pm and 6am.

Under what can be broadly termed young peoples welfare and employment rights the following provisions reflect the Parliament's amendments:

- generally employers should guarantee that young people have working conditions to suit their age<sup>924</sup>;

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<sup>918</sup> First reading, amendment 15 category B partially accepted, Directive Article 3. d and c.

<sup>919</sup> First reading, amendment 7 category C partially accepted, Directive eighth Recital and amendment 16 category C partially accepted Directive Article 1.1.

<sup>920</sup> First reading, amendment 17 category B partially accepted, Directive Article 4.b.

<sup>921</sup> First reading, amendment 25 category B completely accepted, Directive Article 8.1.b.

<sup>922</sup> First reading, amendment 52/27 category B partially accepted, Directive Article 10.1a and 10.2.

<sup>923</sup> First reading, amendments 43 and 54/26 category B partially accepted, Directive fifteenth Recital and Article 9.1. and 9.2.

<sup>924</sup> First reading, amendment 2 category B partially accepted, Directive Article 1.3.



- Member States shall ensure that young people are protected against economic exploitation and work likely to harm their safety, health or physical, moral or social development<sup>925</sup>;
- the employer shall assess any hazards to young people<sup>926</sup>;
- where derogations exist from the principle of prohibiting young people working, as in the case of adolescents on vocational training, the work must be performed under the supervision of a competent person<sup>927</sup>; and
- in general derogations must not be detrimental to regular school attendance or prevent children benefiting fully from their education<sup>928</sup>.

The Parliament's amendment seeking to require the Member States to report to the Commission which in turn will report to the European Parliament and the Council was incorporated by the Council into the final Directive<sup>929</sup>. Finally, the Parliament's concern about the absence of the non-regression clause was addressed and the clause reinserted into the final text of the Directive<sup>930</sup>.

### ***Parliament's Impact***

As noted above the Parliament has taken an interest in this field for some time and this Directive provided it with an opportunity to express its views and seek to influence the final text. Parliament was successful in having a number of its amendments on working hours, age limits and employment rights incorporated into the Directive. These include cases where the Council accepted amendments which had not been incorporated by the Commission into its amended proposal.

The Parliament was also influential, after the second reading, in having the non-regression clause, preventing Member States using the Directive to lower existing standards, reinserted in the Directive's text. However, the provisions providing the United Kingdom with extra time to implement aspects of the Directive were not removed much to the Parliament's dissatisfaction.

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<sup>925</sup> First reading, amendment 20 category B partially accepted and amendment 9 category C completely accepted, Directive Article 1.3.

<sup>926</sup> First reading, amendment 20 category B partially accepted, Directive Article 6.2.

<sup>927</sup> First reading, amendment 24 category B partially accepted, Directive Article 7.3.

<sup>928</sup> First reading, amendment 8 category B partially accepted, Directive eighth Recital.

<sup>929</sup> First reading, amendment 35 category C partially accepted, Directive Article 17. 4 and 5.

<sup>930</sup> Second reading, category C partially accepted, Directive Article 16.

## V.22 EUROPEAN AGENCY FOR SAFETY AND HEALTH AT WORK

### ***Council Regulation (EC) No 2062/94 of 18 July 1994 establishing a European Agency for Safety and Health at Work<sup>931</sup>***

This Regulation establishes the European Agency for Safety and Health at Work which will be located in Bilbao, Spain. The Agency's objective is to provide, the Community bodies, the Member States and those involved in the field, with the technical, scientific and economic information, in order to encourage improvements in the protection of the safety and health of workers. It will be the role of the Agency to gather and distribute information on research findings, organize conferences of experts from Member States, and contribute to the development of future Community action programmes relating to the protection of safety and health at work.

A network of the main component elements of the national information networks, national focal points and future topic centres in this field will be set up by the Agency. The Agency's Administrative Board shall consist of twenty seven members representing the Governments of the Member States, employers' and employees' organizations and the Commission. The Annual General Report of the Agency will be forwarded to the European Parliament, the Council, the Commission, the Court of Auditors, the Economic and Social Committee, the Member States and the Advisory Committee on Safety, Hygiene and Health Protection at Work.

This Regulation shall enter into force on the twentieth day following its publication in the Official Journal. No later than five years after that date, the Council, on the basis of a Commission report and after consulting the European Parliament, shall review this Regulation.

The Regulation is based on Article 235 of the EC Treaty which requires consultation with the European Parliament.

#### ***Parliament's Amendments***

The Parliament submitted thirty five amendments<sup>932</sup> to the Commission's proposal for a Regulation<sup>933</sup>. These amendments illustrate the Parliament's desire to clarify certain aspects of the Regulation and propose some changes. Firstly, the Parliament wanted to avoid duplication with the work of the European Foundation for the Improvement of Living and Working Conditions. The Parliament's amendments sought to ensure that the Agency would cooperate closely with the Foundation and the Advisory Committee on Safety, Hygiene and Health Protection at Work<sup>934</sup>. Secondly,

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<sup>931</sup> Council Regulation (EC) No 2062/94 of 18 July 1994, OJ L 216. 20.8.94, p. 1.

<sup>932</sup> Unpublished minutes (at the time of this study) Process Verbal PV 11 II, 22.4.1994.

<sup>933</sup> Commission's original proposal, COM(90) 564 final, OJ C 271, 16.10.91, p. 3.

<sup>934</sup> Amendments 2, 3, 6 and 11.

amendments addressed the issue of the use of languages and translation services<sup>935</sup>. Thirdly, the Parliament wanted to ensure the greater involvement and benefit for the social partners through the networks and Administrative Board of the Agency<sup>936</sup>.

Fourthly, amendments proposed consultation with the European Parliament on the Agency's annual work programme<sup>937</sup> and the appointment of the Administrative Board<sup>938</sup>. However, these amendments were not successful. Finally, other amendments dealt with the financing of the Agency from the Union's budget<sup>939</sup>, the functioning of the Board<sup>940</sup> and a review of the Regulation<sup>941</sup>.

The following table illustrates the Parliament's amendments accepted by the Commission and the Council.

| Amendment category | EP submitted <sup>942</sup> | Commission accepted <sup>943</sup> |            | Council accepted <sup>944</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 8                           | 0                                  | 2          | 2                               | 2          |
| B                  | 22                          | 4                                  | 7          | 3                               | 5          |
| C                  | 4                           | 1                                  | 2          | 1                               | 2          |

Total amendments: 34<sup>945</sup>.

The Parliament was successful in ensuring that the need for close links between the Agency, the European Foundation for Improvement of Living and Working Conditions and the Advisory Committee

<sup>935</sup> Amendments 4, 34.

<sup>936</sup> Amendments 10, 14 and 23.

<sup>937</sup> Amendments 27.

<sup>938</sup> Amendment 30.

<sup>939</sup> Amendments 5 and 33.

<sup>940</sup> Amendments 25 and 26.

<sup>941</sup> Amendment 35.

<sup>942</sup> Legislative Resolution, unpublished minutes (at the time of this study) Process Verbal PV 11 II, 22.4.1994.

<sup>943</sup> Commission's amended proposal, COM(94) 233 final.

<sup>944</sup> Council Regulation (EC) No 2062/94 of 18 July 1994, OJ L 216, 20.8.94, p. 1.

<sup>945</sup> Amendment 32 did not apply to the English text and therefore has not been included in this study.

of Safety, Hygiene and Health Protection at Work was recognised<sup>946</sup>. Other provisions in the Regulation which stem from the Parliament's amendments specify that:

- the language arrangements of the Community shall apply to the Agency and it will use the Translation Centre of the European Union<sup>947</sup>;
- national authorities or an institution designated by them shall co-ordinate and/or transmit information to the Agency<sup>948</sup>; and
- the general Communities budget shall contribute to the operating of the Agency<sup>949</sup>.

Notable Parliament amendments accepted by the Commission and the Council resulted in the following provisions so that:

- the Administrative Board shall elect its chairman<sup>950</sup>;
- the Agency's annual report will be issued in all official languages<sup>951</sup> and (the Council accepted that it should include comparisons between the results achieved and the Agency's objectives<sup>952</sup>); and
- not later than five years after the entry into force of this Regulation on the basis of a Commission report, the Council, having consulted the Parliament, shall review the Regulation and any new assignment<sup>953</sup>.

### ***Parliament's Impact***

The Parliament played a part in clarifying the aspects of the Regulation with regard to the budget and the use of Community languages. However, its impact lies in the requirement that the Council review the Regulation in consultation with the European Parliament on the basis of a Commission report. Thus facilitating the monitoring of the Agency's activities.

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<sup>946</sup> Amendment 2 category B completely accepted, Regulation fourteenth Recital and amendment 3 category B partially accepted, Regulation fifteenth Recital.

<sup>947</sup> Amendment 4 category C partially accepted, Regulation sixteenth Recital and amendment 34 category C completely accepted, Regulation Article 17.

<sup>948</sup> Amendment 15 category B completely accepted, Regulation Article 4.2.

<sup>949</sup> Amendment 5 category B completely, Regulation seventeenth Recital.

<sup>950</sup> Amendments 25 category B completely accepted, Regulation Article 8.4.

<sup>951</sup> Amendment 28 category B partially accepted, Regulation Article 10.2.

<sup>952</sup> Amendment 29 category B partially accepted, Regulation Article 10.2.

<sup>953</sup> Amendment 35 category C completely, Regulation Article 23.

## CHAPTER VI: VOCATIONAL TRAINING

The Parliament's impact on a series of Council measures in the field of vocational training is examined under this heading. During the period under examination the Eurotecnet II and Force programmes were established. The Council Decision 92/170/EEC establishes a Common Advisory Committee for these programmes and the Recommendation on Access to Continuing Vocational Training provides an overall framework for the existing vocational training programmes.

### VI.1 EUROTECNET II

*Council Decision 89/657/EEC of 18 December 1989<sup>954</sup> establishing an action programme to promote innovation in the field of vocational training resulting from technological change in the European Community (Eurotecnet II)*

#### *The Decision*

The Decision concerns the launching of the second phase (1990-1994) of the Community Action Programme on Vocational Training and Technological Change (Eurotecnet II). Whereas the first programme<sup>955</sup> concentrated on new technologies, the present programme deals with the economic and social effects of technological change. It aims to improve the quality and level of vocational training in view of these changes and their impact on employment, work, required skills and qualifications.

This programme shall consist of a network of demonstration projects both nationally and transnational in order to facilitate innovation. A common set of guidelines for the improvement of training policies and systems in Member States are laid out in the Decision. The guidelines' objectives include extending cooperation with public and private bodies, providing for the entry of young people into working life and promoting equal opportunities for men and women. Member States will receive the support of Community measures aimed at, among other things, the exchange of information and training methods, the development of transnational projects and research into the qualification requirements created by technological change. The Annex to the Decision outlines in detail the supporting measures to be taken by the Commission.

The Commission shall receive the opinion on the draft programme from an advisory committee composed of representatives of the Member States. Regarding the programmes implementation the European Centre for the Development of Vocational Training (Cedefop) will provide assistance. The

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<sup>954</sup> Council Decision 89/657/EEC, 18 December, 1989, OJ L 393, 30.12.89, p. 29.

<sup>955</sup> Based on the Council Resolution of 2.6.83, concerning vocational training measures relating to new information technologies (OJ C 166, 25.6.83, p. 1).

Decision requires an assessment of the national and transnational projects. A final report on the results of the Eurotecnet programme shall be submitted by the Commission to the European Parliament, the Council and the Economic and Social Committee by 30 June 1995, based on the relevant information provided by the Member States.

The legal basis of the Decision is Article 128 EC.

### *Parliament's Amendments*

Parliament proposed nineteen amendments<sup>956</sup> to the Commission's original proposal<sup>957</sup>. Five of these amendments concerned the funding of the Eurotecnet programme<sup>958</sup>. The Parliament was of the opinion that a financing plan should be presented for the whole term of the programme rather than just for the first three years as proposed by the Commission<sup>959</sup>. Reference was made to the fact that the necessary funding for the programme will come largely from the Social Fund and that the funding for its implementation needs to be estimated in accordance with the financial perspective annexed to the Interinstitutional Agreement of 1988<sup>960</sup>.

A number of amendments sought to ensure the participation of the social partners, especially with regard to the evaluation of the programme<sup>961</sup>. A specific mention of economic and social cohesion as one of the aims of transferring technology between Member States was sought by the Parliament<sup>962</sup>.

The remaining amendments related to:

- the transfer of methodologies of training<sup>963</sup>;
- the provision of training towards specific target groups including the public service and women<sup>964</sup>; and

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<sup>956</sup> Legislative Resolution, European Parliament amendments adopted 24 November 1989, OJ C 323, 27.12.89, p. 167.

<sup>957</sup> Commission's original proposals OJ C 242, 22.9.89, p. 7.

<sup>958</sup> Amendments 1, 18, 19, 17, 16, 20 and 8.

<sup>959</sup> Amendment 19.

<sup>960</sup> Interinstitutional Agreement OJ L 185, 29.6.88 and the provisions of budgetary discipline Council Decision 88/377/EEC.

<sup>961</sup> Amendments 2, 5, 6 and 12.

<sup>962</sup> Amendment 9.

<sup>963</sup> Amendments 3 and 4.

<sup>964</sup> Amendments 13 and 16.

- the necessity for training in the implementation of specific research and development programmes under the framework programme<sup>965</sup>.

The following table shows the uptake of Parliament's amendments by the Commission and the Council.

| Amendment category | EP submitted <sup>966</sup> | Commission accepted <sup>967</sup> |            | Council accepted <sup>968</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | Partially                          | Completely | Partially                       | Completely |
| A                  | 1                           | 0                                  | 1          | 0                               | 1          |
| B                  | 13                          | 20                                 | 7          | 1                               | 0          |
| C                  | 5                           | 0                                  | 1          | 0                               | 1          |

Total amendments: 19.

Although the Commission accepted to varying degrees the Parliament's proposals on the transfer of methodologies, the participation of the social partners and the access of women to training programmes, these found less favour with the Council. Only three of the Parliament's amendments were incorporated by the Council into the final Directive. The notable category B and C amendments accepted to vary degrees involved firstly, the recital statement on the adaptability of vocational training systems in order to contribute to the achievement of economic and social cohesion<sup>969</sup>, and secondly, highlighting the financing procedures for the Eurotecnet programme in the assessment results from the Member States<sup>970</sup>.

### *Parliament's Impact*

The strict quantitative and qualitative analysis of the Parliament's impact on this Decision found the uptake of Parliament's amendments confined to, a recital on the contribution vocational training can make to economic and social cohesion and the financial details to be provided in an assessment of the Eurotecnet programme.

<sup>965</sup> Amendments 10, 11 and 15.

<sup>966</sup> Legislative Resolution, European Parliament amendments adopted 24 November 1989, OJ C 323, 27.12.89, p. 167.

<sup>967</sup> Commission's amended proposal, OJ C 32, 10.2.90, p. 9.

<sup>968</sup> Council Decision 89/657/EEC, OJ L 393, 30.12.89, p. 29.

<sup>969</sup> Amendment 9 category C completely, Decision eighth Recital.

<sup>970</sup> Amendment 20 category B partially accepted, Decision Article 11.2.

However, a more detailed examination of the final text shows that firstly, the role of the social partner is stressed to a greater extent than in the original proposal along with the participation of representatives of both sides of industry as observers on the advisory committee<sup>971</sup>. Secondly, the Decision's provisions on finance give more details on the financial plan<sup>972</sup> than was the case in the Commission's amended proposal. It is possible that these modifications stem from the Parliament's position with regard to the Commission's original proposal.

## **VI.2 FORCE**

***Council Decision 90/267/EEC of 29 May 1990<sup>973</sup> establishing an action programme for the development of continuing vocational training in the European Community (FORCE)***

### ***The Decision***

The Decision established an action programme for the development of continuing vocational training in the European Community (Force). The programmes objectives include, firstly, increasing the awareness of the public authorities, SMEs, both sides of industry and individual workers to the benefits of vocational training. Secondly, the support of vocational training projects involving more than one country and thirdly, to improve the capacity of vocational training to respond to changes in the European labour market. The functions of continuing vocational training are described in the Decision as including, allowing workers to improve their qualifications and addressing any difficulties in business sectors or companies as a result of economic or technological change. The Force programme covers the period 1 January 1990 until 31 December 1994 and complements the policies and activities developed by the Member States.

In accordance with the principle of subsidiarity, the Decision first, provides a set of common guidelines designed to support and complement the policies and measures adopted by the Member States. These include enabling the least qualified workers to benefit from continuing vocational training and to promote equality for men and women. Second, a number of transnational measures at Community level are provided for, including European sectoral surveys on continuing vocational training and the exchange of information on numbers of participants, their gender and the training costs.

The Decision requires the Commission to ensure that the Force Programme complements other Community programmes involving vocational training. The European Centre for the Development of Vocational Training (Cedefop) shall assist with the implementation of the programme. The Commission is to be advised by the single Advisory Committee for Force and Eurotecnet, which was established

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<sup>971</sup> Eighteenth Recital, Articles 4 (2), 6(2) and 10(1).

<sup>972</sup> Decision Article 7.

<sup>973</sup> Council Decision 90/267/EEC of 29 May 1990, OJ L 156, 21.6.90, p. 1.



by the amending Council Decision 92/170/EEC<sup>974</sup> (which is discussed below). Before 30 June 1993 the Commission shall report to the European Parliament, the Council, the Economic and Social Committee, and the Advisory Committee on the first phase of the Force programme and before 30 June 1995 a final report on the implementation of the programme shall be submitted.

The legal basis of the Decision is Article 128 EC.

### *Parliament's Amendments*

The explanatory statement to the report from the Committee of Social Affairs, Employment and the Working Environment<sup>975</sup> points out the exclusion of the unemployed and non-EC nationals from the Force programme. A number of the Parliament's amendments sought to ensure access to continuing vocational training for the unemployed<sup>976</sup>. Another amendment also addressed the issue of the unemployed by seeking to extend the definition of a 'worker' as used in the Decision. The Parliament proposed that 'worker' should mean 'the working population, the unemployed and young people, including the self-employed and women wishing to resume an occupation'<sup>977</sup>.

The Commission did not accept the proposal to allow the unemployed to participate in the Force programme. It was stated by the Commissioner that this would not be possible because firstly, it would "undermine the principle objectives of the programme" and secondly, part of the cost of the programme is borne by the companies involved<sup>978</sup>.

Additionally, the Parliament was concerned that there should be no discrimination on the grounds of nationality and that all workers working in the EC should have equal access to continuing vocational training. The Commissioner remarked that this amendment could not be accepted, since it is connected with the right to freedom of movement for workers who are non-EC nationals and are residing in a Member State<sup>979</sup>.

Other Parliament amendments related to:

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<sup>974</sup> Council Decision 92/170/EEC of 16 March 1992, OJ L 75, 21.3.92, p. 51.

<sup>975</sup> Social Affairs Committee Report A3-0043/90/Part B.

<sup>976</sup> See amendments 5, 7, 1, and 3.

<sup>977</sup> See amendment 4.

<sup>978</sup> Commissioner Papandreou, Debates of the European Parliament, OJ Annex 3-388, 13.3.90, p. 54.

<sup>979</sup> Commissioner Papandreou, Debates of the European Parliament OJ Annex 3-388 13.3.90, p. 54: "(...) This matter is still unresolved, and, as you know, there is as yet no right to freedom of movement. (...), but I can assure Parliament that nationals of third countries who are permanently resident in the Community will be able to benefit from this programme."

- the encouragement of public and private training bodies to develop continuing vocational training schemes which lead to recognised qualifications;
- training schemes being aimed the re-integration of the unemployed into the labour market;
- leave from work for training; and
- the formation of a tripartite advisory committee composed of thirty size members (twelve appointed by the Member States, twelve appointed by UNICE and the CEEP, and twelve by ETUC)<sup>980</sup>.

The following table shows the uptake of Parliament's amendments by the Commission and the Council.

| Amendment category | EP submitted <sup>981</sup> | Commission accepted <sup>982</sup> |            | Council accepted <sup>983</sup> |            |
|--------------------|-----------------------------|------------------------------------|------------|---------------------------------|------------|
|                    |                             | partially                          | completely | partially                       | completely |
| A                  | 0                           | 0                                  | 0          | 0                               | 0          |
| B                  | 9                           | 0                                  | 2          | 0                               | 2          |
| C                  | 3                           | 0                                  | 0          | 0                               | 0          |

Total amendments: 12.

The quantitative analysis indicated that the Council only accepted two of the Parliament's category B amendments altering the time tables as follows:

- the FORCE action programme will operate from 1 January 1991 to 31 December 1994 (rather than from 1 July 1990 to 31 December 1993 as proposed)<sup>984</sup>;
- the Commission shall present its interim report before the 30 June, 1993 and its report on the implementation of the programme before 30 June 1995 (rather than on the 30 June 1992 and 30 June 1994 respectively as originally proposed)<sup>985</sup>.

Despite the Parliament's limited impact two additional comments should be made. Firstly, although as noted above the Commission rejected the proposal to allow the unemployed participate in the Force programme, the integration of the unemployed is given as one of the functions of continuing vocational

<sup>980</sup> See amendments 6, 12, 13 and 9.

<sup>981</sup> Legislative Resolution, European Parliament amendments agreed 14 March 1990, OJ C 96, 17.4.90, p. 68.

<sup>982</sup> COM(90) 188 final, OJ C 130, 29.5.90, p. 8.

<sup>983</sup> Council Decision 90/267/EEC of 29 May 1990, OJ L 156, 21.6.90, p. 1.

<sup>984</sup> Amendment 2 category B completely accepted, Decision Article 1.1.

<sup>985</sup> Amendment 10 category B completely, Decision Article 11.1.

training<sup>986</sup>. But the unemployed are not specifically included as a target group in the final text of the Decision.

Secondly, the Council did not accept the Parliament's proposal for a tripartite advisory committee or the Commission's amended proposal for a liaison group. However, the Council did include provisions for an advisory committee, composed of two representatives for each Member State chaired by a representative of the Commission with twelve representatives of both sides of industry as observers. This is along the lines of the advisory Committee provided for in the Decision for the Eurotecnet programme.

### ***Parliament's Impact***

In strict quantitative terms the Parliament's impact was limited to influencing the operating dates for the Force programme and the Commission reports. However, there is some evidence to suggest that the Parliament drew greater attention to the integration of the unemployed through vocational training and the role of the social partners.

## **VI.3 A SINGLE ADVISORY COMMITTEE FOR EUROTECNET II AND FORCE**

***Council Decision 92/170/EEC of 16 March 1992<sup>987</sup> establishing a single Advisory Committee for Eurotecnet and Force and amending Decisions 89/657/EEC and 90/267/EEC***

### ***The Decision***

The aim of the Decision is to further the effectiveness of Community action in the field of vocational training within the framework of the Eurotecnet II and Force programmes. The Decision amends Article 10 of Decisions 89/657/EEC and 90/267/EEC<sup>988</sup> and establishes a single Advisory Committee for continuing education and training covering both programmes. It is expected that a single Committee will improve the coordination and exchange of information between the separate activities, which form part of a common policy on vocational training.

The Advisory Committee will be composed of two representatives of each Member State and chaired by a representative from the Commission, who may be assisted by experts or advisors. Twelve representatives of both sides of industry shall participate in the work of the Committee as observers.

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<sup>986</sup> Decision Article 4.1.

<sup>987</sup> Council Decision 92/170/EEC of 16 March 1992, OJ L 75, 21.3.92, p. 51.

<sup>988</sup> Commission's original proposal COM(90) 648, 18.2.90, p. 3-4, OJ C 24, 31.1.91, p. 6.

The Commission will be assisted in the implementation of the Eurotecnet and Force programmes by the Committee.

The legal basis for the Decision is Article 128 EC.

### ***Parliament's Amendments***

Parliament welcomed the introduction of a joint committee with the aim of rationalizing and coordinating Community action programmes in the field of vocational training<sup>989</sup>. Two amendments were proposed by the Parliament to the Commission's original proposal for a Council Decision.

Firstly, the Parliament wanted to ensure that the right to vocational training throughout working life is recognised, noting Article 15 of the Charter of the Fundamental Social Rights of Workers<sup>990</sup>. Secondly, regarding the composition of the Advisory Committee, Parliament was of the opinion that because of the social partners, influence on and responsibility for continuing vocational training, they should not only have observe status<sup>991</sup>.

The following table shows the uptake of Parliament's amendments by the Council<sup>992</sup>.

| Amendment category | EP submitted <sup>993</sup> | Council accepted <sup>994</sup> |            |
|--------------------|-----------------------------|---------------------------------|------------|
|                    |                             | Partially                       | Completely |
| A                  | 0                           | 0                               | 0          |
| B                  | 1                           | 1                               | 0          |
| C                  | 1                           | 0                               | 0          |

Total amendments: 2.

<sup>989</sup> Social Committee Report A3-0175/91, 21.6.91, p. 6.

<sup>990</sup> Amendment 1 category C.

<sup>991</sup> Amendment 2 category B.

<sup>992</sup> In this case the Commission did not issue an amended proposal.

<sup>993</sup> Legislative Resolution, European Parliament amendments agreed 12 July 1991, OJ C 240, 16.9.91, p. 245.

<sup>994</sup> Council Decision, 92/170/EEC of 16 March 1992, OJ L 75, 21.3.92, p. 51.

## ***Parliament's Impact***

The final text is a slightly modified version of the Commission's original proposal. Only one of Parliament's amendments was partially included in the final text, namely the words advisory committee instead of committee of an advisory nature as stated in the original proposal. However, the position of the social partners within the Advisory Committee remains unchanged.

### **VI.4 CONTINUING VOCATIONAL TRAINING**

***Council Recommendation 93/404/EEC of 30 June 1993<sup>995</sup> on access to continuing vocational training***

#### ***The Recommendation***

The aim of the Recommendation is to create an overall framework for national and Community measures with regard to continuing vocational training. The various Community initiatives and action programmes are listed in the Recitals<sup>996</sup>. These form an integral part of the Recommendation where the Commission and Member States, are invited to utilise them to: (a) add to the body of comparative information on vocational training systems; (b) facilitate exchanges on experiences in innovations in training and (c) support the transfer of know-how between Member States.

Emphasis is placed in the Recommendation on the access of women to continuing vocational training, the diversity of national legal systems and practices; and the need to encourage a synergy between public and private sectors. Section II recommends that Member States take a wide range of measures in order to provide easy access for as many employees as possible to continuing vocational training, these measures include:

- making undertakings more aware of the need to invest in human resources;

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<sup>995</sup> Council Recommendation 93/404/EEC of 30 June 1993, OJ L 181, 23.7.93, p. 37.

<sup>996</sup> These include the following:

- Council Decision 63/266/EEC, laying down general principles implementing a common vocational training policy (fourth Recital);
- The Community Charter on the Fundamental Social Rights of Workers, Article 15, which states that every worker of the European Community must be able to have access to vocational training throughout his working life (eighth recital);
- the report of the Economic and Social Committee (22.10.92) on vocational training (eleventh Recital);
- joint opinions of the European Social Partners (tenth Recital), in particular the one mentioned on facilitating the broadest possible effective access to training activities (21.9.91);
- transnational cooperation measures at Community level, embracing FORCE (Decision 90/267/EEC, 20.5.90, Eurotecnet (Council Decision 89.657 EEC, 18.12.89), Commett II (Council Decision 89/27/EEC, 16.12.88), Petra (Council Decision 91/387/EEC, 22.7.91 and initiatives funded from the European Social Fund (twelfth Recital).

- providing assistance to small and medium sized enterprises (SME's) (e.g. technical support advice);
- encouraging giving information to and having consultations with employees' representatives;
- enabling less-qualified workers and workers with limited job opportunities to have access to continuing vocational training; and
- encouraging access to vocational training for women, young people and the unemployed.

Member States are invited to report on the measures taken under the terms of the Recommendation. On the basis of this information the Commission is to draw up an assessment report which it is invited to submit to the Advisory Committee on Vocational Training, the European Parliament and the Economic and Social Committee.

The non-binding form of the Recommendation was chosen because of the diversity of national regulatory instruments and the application of the subsidiarity principle<sup>997</sup>.

The legal basis for the Recommendation is Article 128 EC.

#### ***Parliament's Amendments***

The Commission noted, in its introduction to its proposal for a Recommendation, that the development of human resources by means of vocational training is one of the essential elements in increasing the competitiveness of the European economy and is important for firms and individuals alike<sup>998</sup>. In April 1993 the Parliament adopted an own initiative report on vocational training policy in the European Community for the 1990s which addressed the subject of access to continuing education<sup>999</sup>.

The Parliament submitted twenty amendments<sup>1000</sup> to the Commission original proposal. In its report, the Committee on Social Affairs, Employment and the Working Environment criticized employer-based continuing training measures<sup>1001</sup>. The Report stressed the need for a supplementary system of public and private training establishments, which should receive incentives under the Community programmes. This approach is believed to benefit economic cohesion, as well as equity

<sup>997</sup> A3-0124/93, p. 16. See also Debates of the European Parliament (OJ Annex 3-430/93, 19.4.93, p. 39: according to the Commissioner, Mr. Vanni d'Archirafi, "(...) a draft recommendation (...) would make it possible to define a number of common objectives, leaving it to the Member States (...) to establish the implementing procedures and instruments".

<sup>998</sup> Introduction to the Commission's original proposal COM(92) 486 final, p. 3, OJ C 23, 27.1.93, p. 8.

<sup>999</sup> Resolution A3-0093/93.

<sup>1000</sup> Legislative Resolution, European Parliament amendments adopted 21 April 1993, OJ C 150, 31.5.93, p. 80.

<sup>1001</sup> Committee Report A3-0124/93, p. 16.

between Member States<sup>1002</sup>. A number of the Parliament's amendments reflected this approach and sought to have it identified in the Recommendation.

The Parliament also wanted to emphasis firstly, the importance of creating better possibilities to increase the time available for training (e.g. through the reduction of working hours)<sup>1003</sup> and secondly, equal access to continuing vocational training should be guaranteed by disadvantaged groups<sup>1004</sup>.

With regard to the role of the social partners the Parliament wanted it recommended:

- that the two sides of industry step up their commitment to continuing and further vocational training;
- the development of systematic continuing training for each section through cooperation between public authorities and the two sides of industry; and
- that the two sides of industry ensure, through the use of collective agreements, workers are released from work for continuing training<sup>1005</sup>.

Additionally, the Parliament was fearful that measures would become entrenched in vulnerable industries or industries facing structural change and it therefore wanted to see cooperation between different sectors of industry.

Other amendments related to:

- the link between workers' qualifications and the competitiveness of workers;
- encouraging the free movement of workers by strengthening transnational cooperation;
- the transfer of know-how between the Member States and the EFTA countries, Eastern Europe and the Third World; and
- the establishment of outline programmes by the Commission<sup>1006</sup>.

The following table shows the uptake of Parliament's amendments by the Commission and the Council:

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<sup>1002</sup> See amendments 3, 12, 18, 15, 14, 19. Also see amendment 1, which stated that "differences between the rights laid down by law, in contracts and in practice in the different Member States undermine the provisions of the Community Charter of the Fundamental Social Rights of Workers".

<sup>1003</sup> Amendments 2 and 25.

<sup>1004</sup> Amendments 18 (less-qualified workers), 19 (the unemployed), see also amendment 5 with regard to women.

<sup>1005</sup> Amendments 6, 7 and 10.

<sup>1006</sup> Amendments 8, 17, 21 and 22.

| Amendment category | Parliament submitted <sup>1007</sup> | Commission accepted <sup>1008</sup> |            | Council accepted <sup>1009</sup> |            |
|--------------------|--------------------------------------|-------------------------------------|------------|----------------------------------|------------|
|                    |                                      | Partially                           | Completely | Partially                        | Completely |
| A                  | 3                                    | 0                                   | 3          | 0                                | 1          |
| B                  | 8                                    | 1                                   | 5          | 2                                | 1          |
| C                  | 9                                    | 0                                   | 4          | 1                                | 2          |

Total amendments: 20.

In order to evaluate the impact of the Parliament on this Recommendation, it is necessary to look at the category B and C amendments which were accepted by both the Commission and the Council and subsequently incorporated into the Recommendation's text.

Following from the Parliament proposals, the necessity to develop continuing training in view of technological changes and their impact on employee's skills was generally accepted. The Recommendation text recognises:

- the link between workers' qualifications, training and competitiveness of undertakings<sup>1010</sup>;
- the need to take account of the increase in the number of working women<sup>1011</sup>; and
- that continuing vocational training has a transnational dimension and can assist the free movement of workers<sup>1012</sup>.

The reference to the Parliament's own initiative report on vocational training policy in the European Community in the 1990s may be expected to continue to influence measures in this field<sup>1013</sup>.

<sup>1007</sup> Legislative Resolution, European Parliament amendments adopted 21 April 1993, OJ C 150, 31.5.93, p. 80.

<sup>1008</sup> COM(93) 205 final, 19.5.93.

<sup>1009</sup> Council Recommendation 93/64/EEC, OJ L 181, 23.7.93, p. 37.

<sup>1010</sup> Amendment 8 category B partially accepted, Recommendation Section II.1 and amendment 15 category B partially accepted, Recommendation Section II.9.

<sup>1011</sup> Amendment 5 category B completely accepted, Recommendation eleventh Recital.

<sup>1012</sup> Amendment 11 category C partially accepted, Recommendation Section II.1 and amendment 17, Recommendation Section II.15.

<sup>1013</sup> Amendment 4 category C completely accepted, Recommendation eleventh Recital.



### ***Parliament's Impact***

The Parliament's work in this field, including its report 'Vocational Training Policy in Europe in the 1990's', has not gone unnoticed. Parliament has also played a part in emphasising the important interrelationship between vocational training, workers' qualifications, competition, the level of employment and technological development. This Recommendation also illustrates the Parliament's role in emphasising the role of women.



## CONCLUDING COMMENTS

The purpose of this study was to evaluate and identify Parliament's impact on the Community's social legislation over the period from July 1989 to July 1994. It focused on the legislation and measures for which the Committee on Social Affairs, Employment and the Working Environment was principally responsible. Using a process of both quantitative and qualitative evaluations it was possible to identify Parliament's impact on a number of legislative measures.

The aspects of the final Council measures (directives, decisions, regulations and non binding recommendations) which reflect Parliament's areas of concern and stem from its amendments are given under each of the study's headings in the Summary. Therefore only some general findings are noted here. The amendments incorporated in a number of measures reflect Parliament's concern with regard to workers' welfare; the need for consultation with workers and their participation in decision making. Parliament's wish to follow the implementation of legislative measures is accommodated in a number of cases. The Commission is required to report to the Parliament on the implementation of Directives concerning health and safety in the work place. Also the Parliament's fear that Directives might be used by some Member States to reduce the existing safety and health provision lead to the introduction of a non-regression clause into three Directives in this study.

The ability of Parliament to raise the importance of issues through resolutions and own initiative reports for which Council measures are formally adopted, is possibly, reflected in Decisions on the elderly; the Regulation on the European Social Fund and the Recommendations and Decisions on Vocational Training.

The Committee's close examination of the Commission's proposals is confirmed by this study. The process of examination and impact was found to have been facilitated by the co-operation procedure, with occasions being identified where the Council accepted Parliament's amendments which were not accepted by the Commission. Also, some amendments were accepted following the second reading. This study confirms Peter's view of a "well articulated committee system", the members of which can develop a policy expertise<sup>1014</sup>.

A brief comment on the method of evaluation used in this study is called for. The limitations of simple quantitative measures of the numbers of amendments proposed by the Parliament and accepted by the Commission and Council were noted at the beginning of this study. In order to overcome some of the difficulties, the amendments were placed in three categories according to the degree to which they would potentially add to or positively change a given measure. It was felt that this approach improved upon simple quantitative methods, however, it is important to be aware of some possible difficulties.

The placing of amendments in categories will always be subject to some degree of questioning. Under the cooperation procedure the categorisation of amendments may need to be changed following the first

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<sup>1014</sup> Peters, Guy, 1992, P. 91 in Euro-politics, Institutions and Policymaking in the "New" European Community, Alberta M. Sbragia (ed.), The Brookings Institution, Washington D.C.

reading and depending on how they have been dealt with in the Council's common position. An amendment may be noted as having been accepted, but that part of an amendment which places it in a specific category may not be included in the final measure.

In a further effort to address the difficulties associated with evaluation, an attempt has been made to discuss the amendments in a qualitative way. This approach requires an understanding of the subject area to allow for judgements to be made on the impact of Parliament's amendments on the Council measure. In the case of Directives details on implementation are also relevant in assessing Parliament's impact.

The Treaty on European Union, the Social Protocol and the Agreement on Social Policy present opportunities and challenges for the Committee on Social Affairs, Employment and the Working Environment. Future studies must address the application of the new procedures and seek to further develop a qualitative approach in order to objectively assess the Parliament's impact on legislation.

## BIBLIOGRAPHY

This short bibliography complements the footnotes in the text:

European Parliament, Directorate General for Research, Fact sheets on the European Parliament and the Activities of the European Community, Luxembourg, 1993.

European Parliament, Directorate General for Research, Political and Institutional Affairs Division, The Power of the European Parliament in the European Union, Luxembourg, 1993 (Georgios Tsitsopolous, editor).

European Parliament, Directorate General for Research. Accessing European Parliament Documentation. Documentary Databases and Indexes of Debates Series. E-1.

Jacobs, F. and Richard Corbett and Michael Shackleton, The European Parliament (2nd edition), Longman, United Kingdom, 1992.

Sbragia, Alberta M. (ed.), Euro-politics. Institutions and Policymaking in the "New" European Community. The Brookings Institution, Washington, 1992.

Vogel-Polsky, Eliane, Social Policy in a United Europe, Directorate General for Research, European Parliament, Luxembourg, 1991.

Wyatt, A. and Dashwood A., European Community Law (3rd edition), Sweet and Maxwell, London, 1993.



**LIST OF REFERENCES TO TEXTS  
ON WHICH  
THE EUROPEAN PARLIAMENT HAS BEEN CONSULTED  
AND WHICH HAVE BEEN ADOPTED BY THE COUNCIL<sup>1</sup>**

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<sup>1</sup> Table organised in order of EP document number.





| EP-DOCUMENT                             | COMMISSION DOCUMENT                    | REPORTED BY                            | TITLE   | COUNCIL DOCUMENT                |
|---|--|--|---|---------------------------------|
| A3-020/89                               | COM(88)074<br>COM(89)089<br>COM(89)520 | Elmar BROK<br>(PPE - D)                | (DECISION **II <sup>2</sup> ) on the common position of the Council concerning the minimum safety and health requirements for the workplace.<br>Adopted 13 Sept 89 (OJ C 256/89, p. 51)   | 30 Nov 89<br>OJ L 393,<br>p. 1  |
| A3-021/89                               | COM(88)076<br>COM(89)087<br>COM(89)519 | Ria OOMEN-<br>RUIJTEN<br>(PPE - NL)    | (DECISION **II) on the common position of the Council with a view to the adoption of a Directive concerning the minimum health and safety requirements for use by workers of personal protective equipment at the workplace.<br>Adopted 13 Sept 89 (OJ C 256/89, p. 61)   | 30 Nov 89<br>OJ L 393,<br>p. 18 |
| A3-022/89                               | COM(88)075<br>COM(89)085<br>COM(89)521 | Stephen HUGHES<br>(PSE - UK)           | (DECISION **II) on the common position of the Council with a view to the adoption of a Directive concerning the minimum safety and health requirements for the use of work equipment by workers at work.<br>Adopted 13 Sept 89 (OJ C 256/89, p. 65)   | 30 Nov 89<br>OJ L 393,<br>p. 13 |
| A3-071/89                               | COM(89)355<br>COM(89)612               | Gérard DEPRez<br>(PPE - B)             | (LEGISLATIVE RESOLUTION *) embodying the opinion of the European Parliament in the proposal from the Commission to the Council for a decision relating to the adoption of a Community action programme in the field of vocational training and technological change (EUROTECNET II).<br>Adopted 24 Nov 89 (OJ C 323/89, p. 172) | 18 Feb 89<br>OJ L 393,<br>p. 29 |
| A3-072/89<br><br>See also:<br>A3-133/90 | COM(89)275<br>COM(89)675               | Thomas MEGAHY<br>(PSE - UK)            | (LEGISLATIVE RESOLUTION **I) embodying the opinion of the European Parliament in the first reading on the proposal from the Commission to the Council for a Directive on the right of residence for employees and self-employed persons who have ceased their occupational activity.<br>Adopted: 13 Dec 89 (OJ C 15/90, p. 78)  | 28 Jun 90<br>OJ L 128,<br>p. 28 |
| A3-041/90                               | COM(88)078<br>COM(89)213<br>COM(90)131 | Stephen HUGHES<br>(PSE - UK)           | (DECISION **II) on the common position drawn up by the Council with a view to the adoption of a Directive on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers.<br>Adopted 14 March 90 (OJ C 96/90, p. 82)                               | 29 May 90<br>OJ L 156,<br>p. 9  |
| A3-043/90                               | COM(89)567<br>COM(90)188               | Dimitrios<br>PAGOROPOULOS<br>(PSE - G) | (LEGISLATIVE RESOLUTION *) embodying the opinion of the European Parliament on the proposal from the Commission to the Council for a Decision proposing the adoption of a Community action programme for the development of continuing vocational training.<br>Adopted 14 March 90 (OJ C 96/90, p. 71)                          | 29 May 90<br>OJ L 156,<br>p. 1  |
| A3-076/90                               | COM(88)077<br>COM(89)195<br>COM(90)199 | Anna CATASTA<br>(PSE - I)              | (DECISION **II) on the common position drawn up by the Council with a view to the adoption of a Directive on the minimum health and safety requirements for work with display screen equipment.<br>Adopted 4 April 90 (OJ C 113/90, p. 75)  | 29 May 90<br>OJ L 156,<br>p. 14 |
| A3-101/90                               | COM(87)641<br>COM(89)405<br>COM(90)221 | Ursula<br>SCHLEICHER<br>(PPE - D)      | (DECISION **II) on the common position drawn up by the Council with a view to the adoption of a Directive on the protection of workers from the risks related to exposure to carcinogens at work.<br>Adopted 16 May 90 (OJ C 149/90, p. 71)   | 26 Jun 90<br>OJ L 193,<br>p. 1  |
| A3-133/90<br><br>See also:<br>A3-072/89 | COM(89)275<br>COM(89)675               | Thomas MEGAHY<br>(PSE - UK)            | (LEGISLATIVE RESOLUTION **I) embodying the opinion of the European Parliament on the orientation of the Council for a Directive on the right of residence for employees and self-employed persons who have ceased their occupational activity.<br>Adopted 13 June 90 (OJ C 175/90, p. 95)                                       | 28 Jun 90<br>OJ L 128,<br>p. 28 |

- 2    \*\*I    cooperation procedure (first reading)  
      \*\*II   cooperation procedure (second reading)  
      \*     ordinary consultation (single reading)

| EP-DOCUMENT                                | COMMISSION DOCUMENT                                  | REPORTED BY                    | TITLE   | COUNCIL DOCUMENT                |
|--|--|--------------------------------|---|---------------------------------|
| A3-218/90<br><i>See also:</i><br>A3-065/91 | COM(90)184<br>COM(90)539                             | The Lord O'HAGAN<br>(PPE - UK) | (LEGISLATIVE RESOLUTION **I) embodying the opinion of the European Parliament on the Commission proposal for a Council Directive amending Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work.<br>Adopted 10 Oct 90 (OJ C 284/90, p. 98)   | 25 Jun 91<br>OJ L 206,<br>p. 16 |
| A3-219/90                                  | COM(89)376<br>COM(90)557                             | Stephen HUGHES<br>(PSE - UK)   | (LEGISLATIVE RESOLUTION *) embodying the opinion of the European Parliament on the Commission proposal for a Council Directive on the operational protection of outside workers exposed to ionizing radiation during their activities in installations in which such radiation is used.<br>Adopted 11 Oct 90 (OJ C 284/90, p. 135)        | 4 Dec 90<br>OJ L 349,<br>p. 21  |
| A3-222/90                                  | COM(90)080   | Dimitrios NIANIAS<br>(RDE - G) | (LEGISLATIVE RESOLUTION *) embodying the opinion of the European Parliament on the proposal from the Commission to the Council for a decision on Community action for the elderly.<br>Adopted 11 Oct 90 (OJ C 284/90, p. 146)   | 26 Nov 90<br>OJ L 028,<br>p. 29 |
| A3-224/90                                  | COM(88)165<br>COM(89)404                             | Bartho PRONK<br>(PPE - NL)     | (DECISION **II) on the common position established by the Council with a view to the adoption of a Directive on the protection of workers from risks related to exposure to biological agents at work.<br>Adopted 13 Oct 90 (OJ C 284/90, p. 121)   | 26 Nov 90<br>OJ L 374,<br>p. 1  |
| A3-241/90<br><i>See also:</i><br>A3-097/91 | COM(90)228<br>COM(90)533                             | Heinke SALISCH<br>(PSE - D)    | (LEGISLATIVE RESOLUTION **I) embodying the opinion of the European Parliament on the Commission proposal for a Council Directive supplementing the measures to encourage improvements in the safety and health at work of temporary workers.<br>Adopted 24 Oct 90 (OJ C 295/90, p. 112)   | 25 Jun 91<br>OJ L 206,<br>p. 19 |
| A3-337/90<br><i>See also:</i><br>A3-169/92 | COM(90)406<br>COM(90)692<br>COM(94)259               | Joanna RÖNN<br>(PSE - DK)      | (LEGISLATIVE RESOLUTION **I) embodying the opinion of the European Parliament on the Commission's proposal for a Directive to encourage improvements in safety and health at work of pregnant workers or workers who have recently given birth or are breastfeeding.<br>Adopted 12 Dec 1990 (OJ C 19/91, p. 165)                          | 19 Oct 92<br>OJ L 348,<br>p. 1  |
| A3-378/90<br><i>See also:</i><br>A3-283/93 | COM(90)327<br>COM(91)130                             | Adrien ZELLER<br>(PPE - F)     | (LEGISLATIVE RESOLUTION **I) embodying the opinion of the European Parliament on the Commission proposal for a Council Directive concerning certain aspects of the organisation of working time.<br>Adopted 20 Feb 91 (OJ C 72/91, p. 86)   | 23 Nov 93<br>OJ L 307,<br>p. 18 |
| A3-379/90<br><i>See also:</i><br>A3-304/91 | COM(90)272<br>COM(91)065<br>COM(91)552               | Dimitrios NIANIAS<br>(RDE - G) | (LEGISLATIVE RESOLUTION **I) embodying the opinion of the European Parliament on the Commission proposal to the Council for a Directive on the minimum health and safety requirements for improved medical treatment on board vessel.<br>Adopted 24 Jan 91 (OJ C 324/91, p. 156)  | 31 Mar 92<br>OJ L 113,<br>p. 19 |
| A3-015/91<br><i>See also:</i><br>A3-134/92 | COM(90)275<br>COM(91)117<br>COM(92)260<br>COM(92)279 | Bartho PRONK<br>(PPE - NL)     | (LEGISLATIVE RESOLUTION **I) embodying the opinion of the European Parliament on the Commission proposal for a Council Directive on the implementation of minimum safety and health requirements at temporary or mobile sites.<br>Adopted 22 Feb 91 (OJ C 72/91, p. 172)  | 24 Jun 92<br>OJ L 245,<br>p. 6  |
| A3-065/91<br><i>See also:</i><br>A3-218/90 | COM(90)184<br>COM(90)539                             | The Lord O'HAGAN<br>(PPE - UK) | (DECISION **II) on the common position established by the Council with a view to the adoption of a Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work.<br>Adopted 17 April 91 (OJ C 129/91, p. 93)  | 25 Jun 91<br>OJ L 206,<br>p. 16 |
| A3-097/91<br><i>See also:</i><br>A3-241/90 | COM(90)228<br>COM(90)533<br>COM(91)211               | Heinke SALISCH<br>(PSE - D)    | (DECISION **II) on the common position adopted by the Council with a view to the adoption of a Directive supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship.<br>Adopted 15 May 91 (OJ C 158/91, p. 81) | 25 Jun 91<br>OJ L 206,<br>p. 19 |

| EP-DOCUMENT                                 | COMMISSION DOCUMENT                                  | REPORTED BY                              | TITLE   | COUNCIL DOCUMENT                |
|---|--|--|---|---------------------------------|
| A3-101/91                                   | COM(90)450<br>COM(91)204                             | Stephen HUGHES<br>(PSE - UK)             | (LEGISLATIVE RESOLUTION *) embodying the opinion of the European Parliament on the Commission proposal for a Council decision on an Action Programme for the European Year of Safety, Hygiene and Health Protection at work (1992).<br>Adopted 17 May 91 (OJ C 158/91, p. 342)  | 25 Jun 91<br>OJ L 214,<br>p. 77 |
| A3-141/91                                   | COM(90)563<br>COM(91)294                             | Heinke SALISCH<br>(PSE - D)              | (LEGISLATIVE RESOLUTION *) embodying the opinion of the European Parliament on the proposal from the Commission to the Council for a Directive on a form of proof of an employment relationship.<br>Adopted 8 July 91 (OJ C 240/91, p. 16)  | 14 Oct 91<br>OJ L 228,<br>p. 32 |
| A3-175/91                                   | COM(90)648   | Tove NIELSEN<br>(LDR - DK)               | (LEGISLATIVE RESOLUTION *) embodying the opinion of the European Parliament on the proposal from the Commission to the Council for a Decision 39/657/EEC establishing an action programme to promote innovation in the field of vocational training resulting from technological change in the Community (EUROTECNET) and Decision 90/267/EEC establishing an action programme for the development of continuing vocational training in the European Community (FORCE) in order to establish the Advisory Committee for continuing education and training embracing FORCE and EUROTECNET.<br>Adopted 12 July 91 (OJ C 240/92, p. 246) | 16 Mar 92<br>OJ L 075,<br>p. 51 |
| A3-182/91<br><i>See also:<br/>A3-135/92</i> | COM(90)664<br>COM(91)383<br>COM(92)258               | Stephen HUGHES<br>(PSE - UK)             | (LEGISLATIVE RESOLUTION **I) embodying the opinion of the European Parliament on the Commission proposal for a Council Directive concerning the minimum requirements for the provision of safety and/or health signs at work.<br>Adopted 10 July 91 (OJ C 240/91, p. 102)   | 24 Jun 92<br>OJ L 245,<br>p. 23 |
| A3-235/91<br><i>See also:<br/>A3-226/92</i> | COM(90)663<br>COM(91)493<br>COM(92)366               | Henry Bell<br>McCUBBIN<br>(PSE - UK)     | (LEGISLATIVE RESOLUTION **I) embodying the opinion of the European Parliament on the Commission proposal to the Council for a Directive concerning minimum requirements for improving the safety and health protection of workers in the extractive industries.<br>Adopted 9 Oct 91 (OJ C 280/91, p. 79)  | 3 Nov 92<br>OJ L 348,<br>p. 9   |
| A3-304/91<br><i>See also:<br/>A3-379/90</i> | COM(90)272<br>COM(91)065<br>COM(91)552               | Dimitrios<br>NIANIAS<br>(RDE - G)        | (DECISION **II) on the common position established by the Council with a view to the adoption of a Directive on the minimum health and safety requirements for improved medical treatment on board vessels.<br>Adopted 20 Nov 91 (OJ C 326/91, p. 72)   | 31 Mar 92<br>OJ L 113,<br>p. 19 |
| A3-383/91                                   | COM(91)228   | M. BARROS MOURA<br>(CG - P)              | (LEGISLATIVE RESOLUTION *) embodying the opinion of the European Parliament on the Commission proposal for a Council recommendation on the convergence of social protection objectives and policies.<br>Adopted 14 Feb 92 (OJ C 67/92, p. 198)  | 27 Jul 92<br>OJ L 245,<br>p. 49 |
| A3-084/92<br><i>See also:<br/>A3-225/92</i> | COM(91)316<br>COM(92)115                             | Tove NIELSEN<br>(LDR - DK)               | (LEGISLATIVE RESOLUTION **I) embodying the opinion of the European Parliament on the Commission proposal for a Council Regulation Changing Part II of Regulation 68/1612/EEC on freedom of movement for workers within the Community.<br>Adopted 11 Mar 92 (OJ C 94/92, p. 205)   | 27 Jul 92<br>OJ L 245,<br>p. 1  |
| A3-093/92                                   | COM(91)292<br>COM(92)127                             | José Manuel<br>TORRES COUTO<br>(PSE - P) | (LEGISLATIVE RESOLUTION *) embodying the opinion of the European Parliament on the Commission proposal for a Council Directive 75/129/EEC on the approximation of the laws of the Member States relating to collective redundancies.<br>Adopted 11 Mar 92 (OJ C 94/92, p. 154)  | 24 Jun 92<br>OJ L 245,<br>p. 1  |
| A3-134/92<br><i>See also:<br/>A3-015/91</i> | COM(90)275<br>COM(91)117<br>COM(92)260<br>COM(92)279 | Bartho PRONK<br>(PPE - NL)               | (DECISION **II) on the common position established by the Council with a view to the adoption of a Directive on the implementation of minimum safety and health requirements at temporary or mobile construction sites.<br>Adopted 13 May 92 (OJ C 150/92, p. 88)   | 24 Jun 92<br>OJ L 245,<br>p. 6  |
| A3-135/92<br><i>See also:<br/>A3-182/91</i> | COM(90)664<br>COM(91)383<br>COM(92)258               | Stephen HUGHES<br>(PSE - UK)             | (DECISION **II) on the common position adopted by the Council on 3 February 1992 with a view to the adoption of a Directive on the minimum requirements for the provision of safety and/or health signs at work.<br>Adopted 13 May 92 (OJ C 150/92, p. 93)  | 24 Jun 92<br>OJ L 245,<br>p. 23 |

| EP-DOCUMENT                                | COMMISSION DOCUMENT                    | REPORTED BY                                 | TITLE  | COUNCIL DOCUMENT                |
|--|--|---|--|---------------------------------|
| A3-136/92                                  | COM(91)259<br>COM(92)193               | The Lord O'HAGAN<br>(PPE - UK)              | (LEGISLATIVE RESOLUTION *) embodying the opinion of the European Parliament on the Commission proposal for a Council recommendation concerning the promotion of employee participation on profits and enterprise results (including equity participation).<br>Adopted 9 Apr 92 (OJ C 125/92, p. 241)   | 27 Jul 92<br>OJ L 245,<br>p. 53 |
| A3-163/92<br><i>See also:</i><br>A3-299/92 | COM(92)014<br>COM(92)251<br>COM(92)489 | Henry Bell McCUBBIN<br>(PSE - UK)           | (LEGISLATIVE RESOLUTION **I) embodying the opinion of the European Parliament on the Commission proposal for a Council Directive concerning minimum requirements for improving the safety and health protection of workers in the extractive industries for the exploration and exploitation of minerals in mines and quarries.<br>Adopted 13 May 92 (OJ C 150/92, p. 128) | 3 Dec 92<br>OJ L 404,<br>p. 10  |
| A3-169/92<br><i>See also:</i><br>A3-337/90 | COM(90)406<br>COM(90)692<br>COM(94)259 | Joanna RÖNN<br>(PSE - DK)                   | (DECISION **II) on the common position established by the Council on the adoption of a Directive to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding.<br>Adopted 13 May 1992 (OJ C 150/92, p. 99)  | 19 Oct 92<br>OJ L 348,<br>p. 1  |
| A3-180/92                                  | COM(91)161<br>COM(92)240               | Birgit CRAMON<br>DAIBER<br>(V - D)          | (LEGISLATIVE RESOLUTION *) embodying the opinion of the European Parliament on the Commission proposal for a Council recommendation on common criteria concerning sufficient resources and social assistance in the social protection systems.<br>Adopted 14 May 92 (OJ C 150/92, p. 286)  | 24 Jun 92<br>OJ L 245,<br>p. 46 |
| A3-199/92                                  | COM(91)508                             | Raphaël CHANTERIE<br>(PPE - B)              | (LEGISLATIVE RESOLUTION *) embodying the opinion of the European Parliament on the Commission proposal for a Council Decision on the organisation of the European Year of the Elderly and of Solidarity between Generations.<br>Adopted 12 Jun 92 (OJ C 176/92 p. 239)   | 24 Jun 92<br>OJ L 245,<br>p. 43 |
| A3-224/92<br><i>See also:</i><br>A3-285/93 | COM(91)446<br>COM(92)409               | António Joaquim MARQUES MENDES<br>(LDR - P) | (LEGISLATIVE RESOLUTION **I) embodying the opinion of the European Parliament on the Commission proposal for a Council Directive on the minimum health and safety requirements for work on board fishing vessels.<br>Adopted 8 Jul 92 (OJ C 241/92, p. 106)  | 23 Nov 93<br>OJ L 307,<br>p. 1  |
| A3-225/92<br><i>See also:</i><br>A3-084/92 | COM(91)316<br>COM(92)115               | Tove NIELSEN<br>(LDR - DK)                  | (DECISION **II) on the common position established by the Council with a view to the adoption of a Regulation amending Part II of Regulation 68/1612/EEC on freedom of movement for workers within the Community.<br>Adopted 8 Jul 92 (OJ C 241/92, p. 88)   | 27 Jul 92<br>OJ L 245,<br>p. 1  |
| A3-226/92<br><i>See also:</i><br>A3-235/91 | COM(90)663<br>COM(91)493<br>COM(92)366 | Henry Bell McCUBBIN<br>(PSE - UK)           | (DECISION **II) on the common position established by the Council with a view to the adoption of a Directive concerning minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling.<br>Adopted 8 Jul 92 (OJ C 241/92, p. 88)   | 3 Nov 92<br>OJ L 348,<br>p. 9   |
| A3-299/92<br><i>See also:</i><br>A3-163/92 | COM(92)014<br>COM(92)251<br>COM(92)489 | Henry Bell McCUBBIN<br>(PSE - UK)           | (DECISION **II) on the common position established by the Council with a view to the adoption of a Directive concerning minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries.<br>Adopted 28 Oct 92 (OJ C 305/92 p. 70)  | 3 Dec 92<br>OJ L 404,<br>p. 10  |
| A3-305/92                                  | COM(91)350<br>COM(92)482               | Ria OOMEN-RUIJTEN<br>(PPE - NL)             | (LEGISLATIVE RESOLUTION *) embodying the opinion of the European Parliament on the Commission proposal for a Council Decision establishing a third Community action programme to assist disabled people - Helios II (1992-1996).<br>Adopted 30 Oct 92 (OJ C 305/92, p. 595)  | 25 Feb 93<br>OJ L 056,<br>p. 30 |
| A3-397/92<br><i>See also:</i><br>A3-108/94 | COM(91)543<br>COM(93)035<br>COM(94)088 | Joanna RÖNN<br>(PSE - DK)                   | (LEGISLATIVE RESOLUTION **I) embodying the opinion of the European Parliament on the Commission proposal for a Directive on the protection of young people at work.<br>Adopted 17 Dec 92 (OJ C 21/93, p. 167)  | 22 Jun 94<br>OJ L 216,<br>p. 12 |

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| A3-015/93<br><i>See also:</i><br><i>A3-223/93</i> | COM(92)261<br>COM(93)086<br>COM(93)440 | Stephen HUGHES<br>(PSE - UK)                | (LEGISLATIVE RESOLUTION **I) embodying the opinion of the European Parliament on the Commission proposal for a Council Directive amending Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work.<br>Adopted 10 Feb 93 (OJ C 72/93, p. 77)      | 12 Oct 93<br>OJ L 286,<br>p. 71 |
| A3-124/93   | COM(92)486<br>COM(93)205               | Mechthild von ALEMANN<br>(LDR - D)          | (LEGISLATIVE RESOLUTION *) embodying the opinion of the European Parliament on the Commission proposal for a Council recommendation on access to continuing training.<br>Adopted 21 Apr 93 (OJ C 150/93, p. 85)  | 30 Jun 93<br>OJ L 181,<br>p. 37 |
| A3-177/93<br><i>See also:</i><br><i>A3-232/93</i> | COM(93)124                             | Ferruccio PISONI<br>(PPE - I)               | (amending Council Regulation 88/4255/EEC of 19 December 1988 laying down provisions for implementing Regulation 88/2052/EEC as regards the European Social Fund.<br>Adopted 22 June 93 (OJ C 194/93, p. 105)   | 20 Jul 93<br>OJ L 193,<br>p. 39 |
| A3-223/93<br><i>See also:</i><br><i>A3-015/93</i> | COM(92)261<br>COM(93)086<br>COM(93)440 | Stephen HUGHES<br>(PSE - UK)                | (DECISION **II) on the common position established by the Council with a view to the adoption of a Directive amending Directive 90/679/EEC on the protection of workers from risks related to exposure to biological agents at work.<br>Adopted 14 Jul 93 (OJ C 255/93, p. 108)                        | 12 Oct 93<br>OJ L 268,<br>p. 71 |
| A3-232/93<br><i>See also:</i><br><i>A3-177/93</i> | COM(93)124<br>COM(93)303<br>COM(93)379 | Ferruccio PISONI<br>(PPE - I)               | (LEGISLATIVE RESOLUTION *) on the Community guideline concerning a proposal for a regulation amending Council Regulation 88/4255/EEC of 19 December 1988 laying down provisions for implementing Regulation 88/2052/EEC as regards the European Social Fund.<br>Adopted 14 Jul 93 (OJ C 255/93, p. 64) | 20 Jul 93<br>OJ L 193,<br>p. 39 |
| A3-283/93<br><i>See also:</i><br><i>A3-378/90</i> | COM(90)317<br>COM(91)130               | Raphaël CHANTERIE<br>(PPE - B)              | (DECISION **II) on the common position established by the Council with a view to the adoption of a directive concerning certain aspects of the organization of working time.<br>Adopted 27 Oct 93 (OJ C 315/93)  | 23 Nov 93<br>OJ L 307,<br>p. 18 |
| A3-285/93<br><i>See also:</i><br><i>A3-224/92</i> | COM(91)466<br>COM(92)409               | António Joaquim MARQUES-MENDES<br>(LDR - P) | (DECISION **II) on the common position established by the Council with a view to the adoption of a Directive concerning the minimum safety and health requirements for work on board fishing vessels.<br>Adopted 27 Oct 93 (OJ C 315/93)   | 23 Nov 93<br>OJ L 307,<br>p. 1  |
| A3-108/94<br><i>See also:</i><br><i>A3-397/92</i> | COM(91)543<br>COM(93)035<br>COM(94)088 | Joanna RØNN<br>(PSE - DK)                   | (DECISION **II) on the common position drawn up by the Council with a view to the adoption of a Directive on the protection of young people at work.<br>Adopted 9 Mar 94 (OJ C 91/94, p. 89)   | 22 Jun 94<br>OJ L 216,<br>p. 12 |
| A3-148/94   | COM(90)564<br>COM(94)233               | Ria OOMEN-RUIJTEN<br>(PPE - NL)             | (LEGISLATIVE RESOLUTION *) embodying the opinion of the European Parliament on the Commission's proposal for a Regulation establishing a European Agency for Safety and Health at Work.<br>Adopted 22 Apr 94 (OJ C 128/94, p. 503)   | 18 Jul 94<br>OJ L 216,<br>p. 1  |

