



EUROPEAN PARLIAMENT

2009 - 2014

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*Committee on Employment and Social Affairs*

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**2011/0152(COD)**

25.9.2012

# **AMENDMENTS**

## **234 - 249**

**Draft report**  
**Elisabeth Morin-Chartier**  
(PE474.084v02-00)

on the proposal for a directive of the European Parliament and of the Council on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (XXth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

Proposal for a directive  
(COM(2011)0348 – C7-0191/2011 – 2011/0152(COD))

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**EN**

*United in diversity*

**EN**

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**Amendment 234**  
**Elisabeth Morin-Chartier**

**Proposal for a directive**  
**Recital 5**

*Text proposed by the Commission*

(5) Directive 2004/40/EC was amended by Directive 2008/46/EC of 23 April 2008, with the effect of postponing by four years the deadline for transposition of Directive 2004/40/EC. This would allow the Commission to present a new proposal, and the co-legislators to adopt a new directive based on fresher and sounder evidence.

*Amendment*

(5) Directive 2004/40/EC was amended by Directive 2008/46/EC of 23 April 2008, with the effect of postponing by four years the deadline for transposition of Directive 2004/40/EC, **and subsequently by Directive 2012/11/EU<sup>1</sup>, with the effect of postponing the deadline for transposition until 31 October 2013.** This would allow the Commission to present a new proposal, and the co-legislators to adopt a new directive based on fresher and sounder evidence

Or. en

*Justification*

**Amendment 235**  
**Elisabeth Morin-Chartier**

**Proposal for a directive**  
**Recital 16**

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<sup>1</sup> OJ L 110, 24.4.2012, p.1-2.

*Text proposed by the Commission*

(16) A system including exposure limit values, ***orientation values*** and action ***values***, wherever applicable, should be seen as a means to facilitate the provision of a high level of protection against the ***established*** adverse health effects that may result from exposure to electromagnetic fields. But such a system may conflict with specific conditions in certain activities, such as ***medical procedures using magnetic resonance techniques or military operations where interoperability is required and where internationally accepted standards providing an equivalent protection of workers subject to specific exposure situations are already in place***. It is therefore necessary to take these particular conditions into account.

*Amendment*

(16) A system including exposure limit values and action ***levels***, wherever applicable, should be seen as a means to facilitate the provision of a high level of protection against the adverse health ***or safety risks*** that may result from exposure to electromagnetic fields. But such a system may conflict with specific conditions in certain activities, such ***as the use of magnetic resonance technique in medical sector***. It is therefore necessary to take these particular conditions into account.

Or. en

*Justification*

**Amendment 236**  
**Elisabeth Morin-Chartier**

**Proposal for a directive**  
**Recital 16 a (new)**

*Text proposed by the Commission*

*Amendment*

***(16a) Given the specificities of the armed forces and in order to allow their effective operation and interoperability, including in joint international military exercises, Member States should be able to***

*implement equivalent or more specific protection systems, such as internationally agreed standards like NATO standards, provided that adverse health effects and safety risks are prevented.*

Or. en

*Justification*

**Amendment 237**  
**Elisabeth Morin-Chartier**

**Proposal for a directive**  
**Recital 16 b (new)**

*Text proposed by the Commission*

*Amendment*

*(16b) Employers should be required to ensure that risks arising from electromagnetic fields at work are eliminated or reduced to a minimum. It is nevertheless possible that in specific cases and in duly justified circumstances, these exposure limit values set in this Directive are only temporarily exceeded. In such a case, employers are required to take the necessary actions to return to compliance with the exposure limit values as soon as possible.*

Or. en

*Justification*

**Amendment 238**  
**Elisabeth Morin-Chartier**

**Proposal for a directive**  
**Recital 17**

*Text proposed by the Commission*

(17) A system ensuring a high level of protection as regards the adverse health **effects** that may result from exposure to electromagnetic fields should take due account of specific groups of workers and avoid interference problems with, or effects on the functioning of, medical devices such as metallic prostheses, cardiac pacemakers and defibrillators, cochlear implants and other implants. Interference problems especially with pacemakers may occur at levels below the **orientation and action values** and should therefore be the object of appropriate precautions and protective measures.

*Amendment*

(17) A system ensuring a high level of protection as regards the adverse health **and safety risks** that may result from exposure to electromagnetic fields should take due account of specific groups of workers **at particular risk** and avoid interference problems with, or effects on the functioning of, medical devices such as metallic prostheses, cardiac pacemakers and defibrillators, cochlear implants and other implants **or body worn medical devices**. Interference problems especially with pacemakers may occur at levels below the action **levels** and should therefore be the object of appropriate precautions and protective measures;

Or. en

*Justification*

**Amendment 239**  
**Elisabeth Morin-Chartier**

**Proposal for a directive**  
**Article 1 - paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. This Directive *relates to the direct risks to the health and safety of workers due to known short-term adverse effects in the human body caused by induced electric or magnetic fields, by energy absorption and by contact currents. It also covers indirect health and safety effects.*

2. This Directive ***addresses all known direct biophysical effects and indirect effects provoked by electromagnetic fields.***

Or. en

*Justification*

**Amendment 240**  
**Elisabeth Morin-Chartier**

**Proposal for a directive**  
**Article 1 - paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. This Directive does not address long-term effects.

3. ***The exposure limit values set in this Directive address scientifically well-established relations between short term direct biophysical effects and exposure to electromagnetic fields. Therefore this Directive does not address suggested long-term effects.***

Or. en

*Justification*

**Amendment 241**  
**Elisabeth Morin-Chartier**

**Proposal for a directive**  
**Article 5 - paragraph 1**

*Text proposed by the Commission*

1. Taking account of technical progress and the availability of measures to control the production of electromagnetic fields at the source, ***the exposure to*** electromagnetic fields ***shall be*** eliminated or reduced to a minimum.

*Amendment*

1. Taking account of technical progress and the availability of measures to control the production of electromagnetic fields at the source, ***the employer shall take the necessary actions to ensure that risks arising from*** electromagnetic fields ***at the work place are*** eliminated or reduced to a minimum.

Or. en

*Justification*

**Amendment 242**  
**Elisabeth Morin-Chartier**

**Proposal for a directive**  
**Article 5 - paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. On the basis of the risk assessment referred to in Article 4, the employer shall devise and implement an action plan comprising technical and/or organisational measures to prevent any risks to workers at particular risk and any risks due to indirect effects referred to***

*in Article 4.*

Or. en

*Justification*

**Amendment 243**  
**Elisabeth Morin-Chartier**

**Proposal for a directive**  
**Article 6 - point d a (new)**

*Text proposed by the Commission*

*Amendment*

*(da) the possibility of transient symptoms  
and sensations related to effects in the  
central or peripheral nervous system;*

Or. en

*Justification*

**Amendment 244**  
**Elisabeth Morin-Chartier**

**Proposal for a directive**  
**Article 8 - paragraph 1 - subparagraph 1**

*Text proposed by the Commission*

*Amendment*

1. With the objective of prevention and

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early diagnosis of any adverse health effects due to exposure to electromagnetic fields, appropriate health surveillance shall be carried out in accordance with Article 14 of Directive 89/391/EEC.

early diagnosis of any adverse health effects due to exposure to electromagnetic fields, appropriate health surveillance shall be carried out in accordance with Article 14 of Directive 89/391/EEC. ***Those provisions shall be introduced with national law and/or practice.***

Or. en

*Justification*

**Amendment 245**  
**Elisabeth Morin-Chartier**

**Proposal for a directive**  
**Article 9 a (new) - paragraph 1**

*Text proposed by the Commission*

*Amendment*

***1. By derogation from the obligations in Article 3, the provisions set in this Article shall apply.***

Or. en

*Justification*

**Amendment 246**  
**Elisabeth Morin-Chartier**

**Proposal for a directive**

## Article 9 a (new) - paragraph 2

*Text proposed by the Commission*

*Amendment*

***2. Without prejudice to Article 5(1), exposure may exceed the exposure limit values, if the exposure is related to the installation, testing, use, development, maintenance of or research related to MRI-equipment for patients in the health sector, where all the following conditions are met:***

- a) where the risk assessment carried out in accordance with Article 4 has shown that limit values are exceeded;***
- b) where, given the state of the art, all technical and/or organisational measures have been applied;***
- c) in duly justified circumstances;***
- d) taking into account the characteristics of the workplace, work equipment, or work practices; and provided that the employer demonstrates that workers are still protected against adverse health effects and safety risks, including ensuring that the instructions for safe use provided by the manufacturer in accordance with Directive 93/42/EEC concerning medical devices are followed.***

Or. en

*Justification*

**Amendment 247**  
**Elisabeth Morin-Chartier**

**Proposal for a directive**

## Article 9 a (new) - paragraph 3

*Text proposed by the Commission*

*Amendment*

***3. Without prejudice to Article 5(1), Member states may allow for an equivalent or more specific protection system to be implemented for personnel working in operational military installations or involved in military activities, including in joint international military exercises, provided that adverse health effects and safety risks are prevented.***

Or. en

*Justification*

**Amendment 248**  
**Elisabeth Morin-Chartier**

**Proposal for a directive**  
**Article 9 a (new) - paragraph 4**

*Text proposed by the Commission*

*Amendment*

***4. Without prejudice to Article 5(1), Member States may allow, in duly justified circumstances and only for as long as they remain duly justified, for the exposure limit values to be temporarily exceeded in specific sectors or for specific activities outside the scope of paragraphs 2 and 3. Within this context, "duly justified circumstances" shall mean circumstances in which the following***

*criteria are met:*

*a) where the risk assessment carried out in accordance with Article 4 has shown that limit values are exceeded;*

*b) where, given the state of the art, all technical and/or organisational measures have been applied;*

*c) where the specific characteristics of the workplace, work equipment, or work practices have been taken into account; and*

*provided that the employer demonstrates that workers are still protected against adverse health effects and safety risks, including using comparable, more specific and internationally recognized standards and guidelines.*

Or. en

*Justification*

**Amendment 249**  
**Elisabeth Morin-Chartier**

**Proposal for a directive**  
**Article 9 a (new) - paragraph 5**

*Text proposed by the Commission*

*Amendment*

***5. Member States shall inform the Commission of any derogation under paragraphs 3 and 4 of this Article and the justification for such derogations in the report referred to in Article 17a of Directive 89/391/EEC.***

*Justification*