

# EUROPEAN PARLIAMENT

1999



2004

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*Session document*

26 November 2002

FINAL  
**A5-0401/2002**

**\*\*\*III**

## **REPORT**

on the joint text approved by the Conciliation Committee for a European Parliament and Council directive on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (Noise) (Seventeenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)  
(PE-CONS 3666/2002 – C5-0501/2002 – 1992/0449A(COD))

European Parliament delegation to the Conciliation Committee

Rapporteur: Helle Thorning-Schmidt

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

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## PROCEDURAL PAGE

At the sitting of 20 April 1994 Parliament adopted its position at first reading on the proposal for a European Parliament and Council directive on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (Noise) (Seventeenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC (COM(1992) 560 – 1992/0449A (COD))).

At the sitting of 15 November 2001 the President of Parliament announced that the common position had been received and referred to the Committee on Employment and Social Affairs (10479/1/2001 – C5-0546/2001).

At the sitting of 13 March 2002 Parliament adopted amendments to the common position.

By letter of 19 June 2002 the President of the Council informed the Parliament that it was necessary to extend the deadline for considering Parliament's amendments, as laid down in Article 251(7) of the EC Treaty.

By letter of 2 August 2002 the Council stated that it was unable to approve all Parliament's amendments.

The President of the Council, in agreement with the President of Parliament, convened a meeting of the Conciliation Committee on 12 September 2002.

By letter of 18 October 2002 the President of Parliament informed the Parliament that it was necessary to extend the period for the work in committee, as laid down in Article 251(7) of the EC Treaty.

At its meeting the Conciliation Committee considered the common position on the basis of the amendments proposed by Parliament. In the light of subsequent trialogues and delegation meetings agreement was reached by exchange of letters of 3 and 23 October 2002.

On 22 October 2002 the Parliament delegation approved the results of the conciliation by 12 votes to 2.

The following took part in the vote: Renzo Imbeni, Vice-President and chairman of the delegation; Charlotte Cederschiöld, vice-president; Theodorus J.J. Bouwman, chairman of the Committee on the Employment and Social Affairs, Helle Thorning-Schmidt, rapporteur; Jan Andersson, (for Barbara Weiler), Philip Bushill-Matthews, (for Giorgos Dimitrakopoulos), Brian Crowley, Ilda Figueiredo, Françoise Grossetête, Stephen Hughes, Elizabeth Lynne, Bartho Pronk, Miet Smet, (for Manuel Pérez Álvarez), and Anne E.M. Van Lancker.

On 8 November 2002 the co-chairmen of the Conciliation Committee established that the joint text had been approved, pursuant to paragraph III.8 of the Joint declaration on practical arrangements for the new co-decision procedure,<sup>1</sup> and forwarded it to Parliament and the Council in all the official languages.

The report was tabled on 26 November 2002.

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<sup>1</sup> OJ C 148, 28.5.1999, p. 1.

## DRAFT LEGISLATIVE RESOLUTION

**European Parliament legislative resolution on the joint text approved by the Conciliation Committee for a European Parliament and Council directive on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (Noise) (Seventeenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (PE-CONS 3666/2002 – C5-0501/2002 – 1992/0449A(COD))**

**(Codecision procedure: third reading)**

*The European Parliament,*

- having regard to the joint text approved by the Conciliation Committee (PE-CONS 3666/2002 – C5-0501/2002),
  - having regard to its position at first reading<sup>1</sup> on the Commission proposal to Parliament and the Council (COM(1992) 560<sup>2</sup>),
  - having regard to the amended proposal (COM(1994) 284<sup>3</sup>),
  - having regard to its position at second reading<sup>4</sup> on the Council common position<sup>5</sup>,
  - having regard to the Commission's opinion on Parliament's amendments to the common position (COM(2002) 229)<sup>6</sup>,
  - having regard to Article 251(5) of the EC Treaty,
  - having regard to Rule 83 of its Rules of Procedure,
  - having regard to the report of its delegation to the Conciliation Committee (A5-0401/2002),
1. Approves the joint text;
  2. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;
  3. Instructs its Secretary-General duly to sign the act and, in agreement with the Secretary-General of the Council to have it published in the Official Journal of the European Communities;

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<sup>1</sup> OJ C 128 of 9.5.1994, p. 146.

<sup>2</sup> OJ C 77 of 18.3.1993, p. 12.

<sup>3</sup> OJ C 230 of 19.8.1994, p. 3.

<sup>4</sup> P5\_TAPROV(2002)0102.

<sup>5</sup> OJ C, not yet published in the OJ.

<sup>6</sup> OJ C, not yet published in the OJ.

4. Instructs its President to forward this legislative resolution to the Council and Commission.

## EXPLANATORY STATEMENT

### Background

- 1) The purpose of the directive first presented by the Commission on 8 February 1993 is to protect workers against risks to their health and safety arising from exposure to physical agents. The original proposal covered four agents: noise (risk to hearing), vibrations (risks to hand, arm and whole body), electromagnetic fields and optical radiation (risks to the health from induced currents in the body, shock and burn hazards from absorption of thermal energy).
- 2) On 20 April 1994 the Parliament adopted 41 amendments at first reading. After that the Commission amended its proposal and the Council subsequently adopted its common position on this second part of the physical agents package<sup>1</sup> more than 7 ½ years later on 29 October 2001. On 13 March 2002, at its second reading, Parliament adopted 19 amendments on the part of the directive which covers exposure of workers to noise, which has become an alarmingly frequent cause for professional health problems.

### Conciliation

- 3) The constituent meeting of the Parliament delegation was held in Strasbourg on 10 April 2002 and the delegation mandated its chair Mr Imbeni, Mr Bouwman, chair of the Committee on Employment and Social Affairs, Ms Thorning-Schmidt, rapporteur and Mr Pronk to start negotiations with the Council.
- 4) After three trialogues on 2 July, 3 and 17 September, a compromise package was approved by COREPER on 27 September and by the Parliament Delegation on 22 October 2002. Conciliation on this directive was formally opened on 12 September and concluded by an exchange of letters of 3 and 23 October 2002.
- 5) The main points of the agreement reached in conciliation can be summarised as follows:
  - The workers will be better protected from risks arising from exposure to noise: The upper exposure action value over an eight-hour period has been set at 85 dB(A) and the impulsional noise upper action value ( $p_{\text{peak}}$ ) at 140 Pa. (i.e. 137 dB in relation to 20 µPa). It will be obligatory for workers to wear individual hearing protectors where the noise exposure reaches these values. Preventive audiometric testing shall be available at a lower noise level: if the exposure exceeds the lower exposure action values (80 dB(A) over an eight-hour period and  $p_{\text{peak}} = 112 \text{ Pa}$ . (i.e. 135 dB in relation to 20 µPa) and there is a verified risk to health. Collective protection measures are granted priority over individual protection measures. The objective of keeping the noise levels reaching the ear below the exposure limit values in order to prevent irreversible damage to workers' hearing is established.

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<sup>1</sup> The first part of the physical agents package is the European Parliament and Council Directive 2002/44/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration) (16th individual Directive within the meaning of Article 16(1) of Directive 89/391/ECC), published in the Official Journal on 6 July 2002



- Employers will be obliged to pay particular attention to the availability of hearing protectors with adequate attenuation characteristics. They are responsible for checking the effectiveness of the personal protection measures and obliged to make every effort to ensure that employees wear individual hearing protectors.
- Workers and/or their representatives shall be consulted and participate as far as the assessment of risks, the identification of measures, actions reducing risks and choice of individual hearing protectors are concerned.
- The specific nature of the music and entertainment sectors will be taken into account in the implementation of the provisions of the Directive: The Member States shall draw up in consultation with the social partners a code of conduct providing for practical guidelines to help worker in these sectors to meet the obligations laid down in the Directive. In addition, with regard to these sectors the Member States are entitled to make use of a maximum transitional period of a total of five years from the entry into force of the Directive on condition that the levels of protection already achieved are maintained.
- The Member States' reports to the European Commission on the implementation of the directive shall contain a description of best practices for preventing noise and of other forms of work organisation and action taken by the Member States on the basis of these practices. On the basis of the Member States' reports, the Commission shall carry out an overall assessment of the implementation of the Directive taking into account inter alia the implications of the Directive for the music and entertainment sectors.

## Conclusion

The Delegation regards the end result of conciliation as very satisfactory for Parliament. It therefore recommends that the House adopt the text at third reading.

The Delegation thanks the European Commission and the Danish Presidency for their constructive cooperation. It underlines the importance for the European Parliament and the Council to keep their commitment to continue expanding the protection of workers to include the two remaining areas of the physical agents package: electromagnetic fields and waves as well as optical radiation.