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REPORT

on the Proposal for a European Parliament and Council Directive amending for the second time Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work (2nd individual Directive within the meaning of Article 16 of Directive 89/391/EEC) (COM(1998) 678 – C4-0707/1998 – 1998/0327(COD))

Committee on Employment and Social Affairs

Rapporteur: Peter Skinner

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)

CONTENTS

	Page
PROCEDURAL PAGE	4
LEGISLATIVE PROPOSAL	6
DRAFT LEGISLATIVE RESOLUTION.....	18
EXPLANATORY STATEMENT	19

PROCEDURAL PAGE

By letter of 22 December 1998, the Council consulted Parliament pursuant to Article 189c and Article 118a of the EC Treaty on the proposal for a Directive amending for the second time Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work (2nd individual Directive within the meaning of Article 16 of Directive 89/391/EEC) (COM(1998) 678 - 1998/0327(SYN)).

At the sitting of 11 January 1999 the President of Parliament announced that he had referred this proposal to the Committee on Employment and Social Affairs as the committee responsible and the Committee on Economic and Monetary Affairs for its opinion (C4-0707/1998).

This Commission proposal was included on the list of proposals that were pending on 1 May 1999 (C4-0219/1999) and required, as a result of the entry into force of the Treaty of Amsterdam, a change of legal basis and/or legislative procedure, in this instance the procedure laid down in Article 251 of the EC Treaty (the codecision procedure) (COM(1998) 678 - 1998/0327(COD)). By letter of 3 May 1999, the Commission confirmed its initial proposals and submitted them to Parliament.

At the sitting of 23 July 1999 the President announced that, in accordance with the Commission's letter of 20 July 1999, the proposals which were subject to codecision under the provisions of the EC Treaty, and on which Parliament had not yet delivered an opinion, had been referred anew to Parliament.

At the sitting of 23 July 1999 the President announced that she had also referred the proposal to the Committee on Industry, External trade, Research and Energy for its opinion.

The Committee on Employment and Social Affairs appointed Peter Skinner rapporteur at its meeting of 27 July 1999.

The committee considered the Commission proposal and draft report at its meetings of 31 January 2000, 25 May 2000 and 29 August 2000.

At the last meeting it adopted the draft legislative resolution by 42 votes to 0, with 4 abstentions.

The following were present for the vote: Michel Rocard, chairman; Winfried Menrad, vice-chairman, Marie-Thérèse Hermange, vice-chairman; Peter William Skinner, rapporteur; Sylviane H. Ainardi, Jan Andersson, María Antonia Avilés Perea, Elspeth Attwooll (for Luciano Emilio Caveri pursuant to Rule 153(2)), Theodorus J.J. Bouwman (for Jillian Evans pursuant to Rule 153(2)), Ieke van den Burg, Philip Rodway Bushill-Matthews, Alejandro Cercas Alonso, Luigi Cocilovo, Elisa Maria Damião, Proinsias De Rossa, Den Dover (for Bartho Pronk pursuant to Rule 153(2)), Carlo Fatuzzo, Ilda Figueiredo, Hélène Flautre, Fiorella Ghilardotti, Marie-Hélène Gillig, Anne-Karin Glase, Richard Howitt (for Harald Ettl pursuant to Rule 153(2)), Stephen Hughes, Anne Elisabet Jensen (for Daniel G.L.E.G. Ducarme pursuant to Rule 153(2)), Karin Jöns, Dieter-Lebrecht Koch (for Raffaele Lombardo pursuant to Rule 153(2)), Rodi Kratsa, Arlette Laguiller, Jean Lambert, Giorgio Lisi (for Guido Podestà pursuant to Rule 153(2)), Elizabeth Lynne, Thomas Mann, Mario Mantovani, Mauro Nobilia, Juan Ojeda Sanz (for James L.C. Provan pursuant to Rule 153(2)), Ria G.H.C. Oomen-Ruijten (for Fernando Reis pursuant to

Rule 153(2)), Manuel Pérez Álvarez, Tokia Saïfi, Luciana Sbarbati, Herman Schmid, Miet Smet, Ilkka Suominen, Anne E.M. Van Lancker, Barbara Weiler and Sabine Zissener (for David Sumberg pursuant to Rule 153(2)).

The Committee on Economic and Monetary Affairs decided on 20 January 1999 not to deliver an opinion. The Committee on Industry, External Trade, Research and Energy decided on 1 September 1999 not to deliver an opinion.

The report was tabled on 1 September 2000.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

LEGISLATIVE PROPOSAL

Proposal for a European Parliament and Council directive amending for the second time Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work (2nd individual Directive within the meaning of Article 16 of Directive 89/391/EEC) (COM(1998) 678 – C4-0707/1998 – 1998/0327(COD))

The proposal is amended as follows:

Text proposed by the Commission ¹

Amendments by Parliament

(Amendment 1)
Recital 1a (new)

Whereas the provisions of this Directive are also applicable to work at a depth.

Justification:

Such work includes the laying of foundations or the construction of basements in buildings in which the height factor results from viewing the situation from the lower level.

(Amendment 2)
Recital 5

Whereas work at a height may expose workers to particularly severe risks to their safety and health, and in particular to the risks of falls from a height and of serious occupational accidents;

Whereas work at a height may expose workers to particularly severe risks to their safety and health, and in particular to the risks of falls from a height and of serious occupational accidents ***which are responsible for high rates of injury, in particular fatal injuries;***

Justification:

The emphasis on protection as regards such risks stems from the fact that a huge number of accidents occur each year. Combating those risks is not, therefore, a preventive measure but, rather, a way of solving a problem caused by poor work organisation. In other words, this is an attempt not to express a hope but to acknowledge a reality.

¹ OJ C 247, 31.8.1999, p. 23

(Amendment 3)

Recital 6

Whereas any employer who intends to have temporary work carried out at a height ***should*** select equipment affording adequate protection against the risks of falls from a height;

Whereas any employer who intends to have temporary work carried out at a height ***shall*** select equipment affording adequate protection against the risks of falls from a height;

Justification:

The amendment is intended to strengthen the terminology of this recital regarding employers' selection of equipment in relation to protection against falls from height.

(Amendment 4)

Recital 6a (new)

Self-employed persons and employers may, where they themselves pursue an occupational activity and personally use work equipment intended for carrying out temporary work at a height, affect employees' health and safety; a solution must therefore be found to cover all persons employed in preparing, performing and completing temporary work at a height.

Justification:

Self-employed persons and employers who personally use equipment for temporary work at a height may act in a manner which jeopardises employees' health and safety.

In the case of building sites, Article 10 of Directive 92/57 already covers self-employed persons and employers who are personally engaged in work activity on the building site.

A solution must now be found to protect all persons working at a height in all sectors.

In particular, small firms, which mainly consist of self-employed persons or in which the employer himself is an essential part of the workforce, should not be left in a more favourable competitive position in relation to other smaller firms with, for example, 1-2 employees, through saving money on safety measures.

(Amendment 5)

Recital 7

Whereas ladders and scaffolding are the equipment most frequently used in performing temporary work at a height and the safety and health of workers engaged in this type of work therefore depend to a significant extent on their correct use; whereas the manner in which such equipment can most safely be used by workers ***should*** therefore be specified;

Whereas ladders and scaffolding are the equipment most frequently used in performing temporary work at a height and the safety and health of workers engaged in this type of work therefore depend to a significant extent on their correct use; whereas the manner in which such equipment can most safely be used by workers, ***including scaffolders, has therefore to be specified; whereas adequate specific training of the workers is therefore required, to ensure that they are aware of their own roles and responsibilities for the safety of themselves and their fellow workers;***

Justification:

The current text from the Commission contains no specific reference to 'scaffolders' and yet in certain Member States this is a recognised profession requiring certain levels of training and qualifications. Article 12 of the Framework Directive 89/391/EEC lays down general obligations on employers to provide adequate training specific to the worker's workstation or job. The second part of this amendment seeks to emphasise the need for specific training with regard to the use of ladders and scaffolding.

(Amendment 6)

Recital 8

Whereas this Directive is the most appropriate means of achieving the desired objectives and does not go beyond what is necessary to achieve that purpose;

Whereas this Directive is the most appropriate means of achieving the desired objectives and does not go beyond what is necessary to achieve that purpose, ***although it may be supplemented by training and research initiatives designed to prevent and eliminate risks effectively through the selection and use of equipment which is appropriate to each specific site, following consultation of workers' representatives;***

Justification:

One of the major problems with legislation relating to health and safety at work has been the application thereof. For this reason, active measures should be promoted with a view to implementing such legislation, by means of training and research initiatives. The opinion of workers' representatives should also be sought in connection with the drawing-up of those measures.

(Amendment 7)
Article 2(3)

Member States shall communicate to the Commission the texts of the provisions of national law which they have already adopted *or* adopt in the field covered by this Directive.

Member States shall communicate to the Commission the texts of the provisions of national law which they have already adopted ***and which must conform to the contents of this Directive, and also the provisions which they adopt in the future*** in the field covered by this Directive.

Justification:

The sole purpose of this amendment is to inject greater clarity into the wording of this paragraph.

(Amendment 8)
Annexe, point 4.1.0. (new)

DEFINITIONS

In this Directive « collective fall protection safeguards » means : Arrangements for safeguards (for example guard rails, shelters, network, covering) which shall be of suitable configuration and of sufficient strength to prevent or arrest falls from a height and, as far as possible, to preclude injury to workers._

Justification:

Given that collective safeguards are often the most important physical factor preventing falls from height, it is essential that a more detailed definition be provided in the Annex. It should be pointed out, moreover, that in different paragraphs of the Annex, the actual wording for these safeguards differs: 4.1.4 "collective fall protection safeguards"; 4.3.4 "collective safeguards";

4.3.7 "collective fall prevention safeguard", and this should be standardised in the final drafting.

(Amendment 9)

Annex, paragraph 4.1.1, first sub-paragraph

In accordance with Article 6 of Directive 89/391/EEC and Article 3 of this Directive, if temporary work at a height cannot be carried out in complete safety and under acceptable ergonomic conditions from a suitable surface, the work equipment most suitable to ensure ***an adequate*** standard of safety throughout the operations shall be selected. The dimensions of the equipment shall be appropriate to the nature of the work to be performed and the foreseeable stresses and influences and shall allow passage without danger.

In accordance with Article 6 of Directive 89/391/EEC and Article 3 of this Directive, if temporary work at a height cannot be carried out in complete safety and under acceptable ergonomic conditions from a suitable surface, the work equipment most suitable to ensure ***and maintain the highest*** standard of safety throughout the operations shall be selected. The dimensions of the equipment shall be appropriate to the nature of the work to be performed and the foreseeable stresses and influences and shall allow passage without danger.

Justification:

The purpose of this amendment is to specify that the standard of safety to be achieved when potentially hazardous work is being carried out must be as high as possible in order to prevent unforeseen occurrences of any kind.

(Amendment 10)

Annex, paragraph 4.1.2.

Ladders may be used as working places for work at a height ***only under circumstances in which the use of other, safer work equipment is not justified in view of the short duration of use and low level of risk.***

Use of ladders as working places shall be strictly limited to circumstances in which the low level of risk and the short duration of use so allow, subject to assessment of both factors and provided that the use of other, safer work equipment is not possible.

Justification:

The purpose of this amendment is to prevent the use of ladders in situations in which a ladder would not provide an adequate level of safety and to limit such use to a highly specific context.

(Amendment 11)

Rope access and positioning techniques may be used only in special circumstances and subject to the following conditions:

- work shall be carried out by at least two workers;

Rope access and positioning techniques may be used only in special circumstances and subject to the following conditions:

Deleted.

Justification:

If this type of dangerous work can be carried out by one person under the conditions referred to in other indents of 4.1.3. (e.g. the fail-safe means of descent, the extra suspension rope plus a double anchorage point) there is no need to endanger a second person.

(Amendment 12)

Annexe, point 4.1.4.

Depending on the type of work equipment chosen on the basis of the foregoing requirements, the appropriate precautions to **reduce** the risks to which it gives rise shall be determined. If necessary, **provision shall be made for** the installation of collective fall protection safeguards. These shall be of suitable configuration and of sufficient strength to prevent or arrest falls from a height and, as far as possible, to preclude injury to workers. They may be interrupted only at points of ladder or stairway access.

Depending on the type of work equipment chosen on the basis of the foregoing requirements, the appropriate precautions to **minimise** the risks to which it gives rise shall be determined. If necessary, the installation of collective fall protection safeguards **shall be approved by the person responsible for the health and safety plan at the site or workplace.** These **safeguards** shall be of suitable configuration and of sufficient strength to prevent or arrest falls from a height and, as far as possible, to preclude injury to workers. They may be interrupted only at points of ladder or stairway access. **Ladder or stairway access points shall have a protection device which may be used whilst the ladder or stairway is not in use because of a temporary interruption of work.**

Justification:

The purpose of this amendment is to prevent any risk of use or accident by any person connected or unconnected with the work whilst the equipment in question is not being used because of a temporary interruption of work. At any work site which entails the type of risk in question the

person in charge of health and safety at the workplace has an essential role to play.

(Amendment 13)
Annexe, point 4.2.1.

Ladders shall be so positioned as to ensure their stability during use. Portable ladders ***shall rest on a stable, strong, immobile and*** horizontal footing. Suspended ladders, other than rope ladders, shall be fixed in a secure manner to ensure that they cannot be displaced and prevent swinging.

Ladders shall be so positioned as to ensure their stability during use. Portable ladders ***will only be erected on footings of suitable strength and measures employed to ensure that they are stable, immobile and on a*** horizontal footing. Suspended ladders, other than rope ladders, shall be fixed in a secure manner to ensure that they cannot be displaced and prevent swinging.

Justification:

This amendment attempts to maintain the goal of ensuring maximum safety for the use of portable ladders, while moving away from the Commission text, which it was felt could lead to an obligation for the use of mobile platforms. Such an obligation would, again, have had enormous economic consequences, especially for small businesses in the painting and decorating and window cleaning sectors.

(Amendment 14)
Annex, point 4.2.2.

Before portable ladders are brought into service, their feet shall be prevented from slipping by securing the stiles at or near their upper or lower ends, by any anti-slip device or by any other arrangement of equivalent effectiveness. Ladders in several sections shall be so used as to ensure that ***the sections are prevented from moving relative to each other. Mobile ladders shall be immobilised before any person steps onto them.***

Before portable ladders are brought into service, their feet shall be prevented from slipping by securing the stiles at or near their upper or lower ends, by any anti-slip device or by any other arrangement of equivalent effectiveness. ***As a priority, ladders should be secured firmly using all possible means. Ladders used for access should be long enough for their uprights to protrude sufficiently beyond the access platform.*** Ladders in several sections shall be so used as to ensure that ***they are secure.***

The holding of the ladder by another person as a safety measure shall not be allowed.

Justification:

In view of the numerous falls from a height as the result of the incorrect use of ladders, it is of the utmost importance that the provisions governing their use are as clear as possible in this directive so that there is no doubt about their interpretation. Using another worker as a safety measure must always be avoided.

(Amendment 15)

Annex, paragraph 4.2.3.

Ladders shall be so used that a secure handhold and secure support are available to workers at all times.

Ladders shall be so used that a secure handhold and secure support are available to workers at all times. ***If a load has to be carried by hand on a ladder it shall not preclude the maintenance of a safe handhold.***

Justification:

It is when workers are carrying loads at the same time as climbing up or down a ladder that they are most at risk of falling. This amendment aims to minimise the risk to workers in such situations.

(Amendment 16)

Annex, paragraph 4.3.2.

Depending on the complexity of the scaffolding chosen, an assembly, use and dismantling plan shall be drawn up. It may be in the form of a standard plan, supplemented by items relating to specific details of the scaffolding in question.

Depending on the complexity of the scaffolding chosen, an assembly, use and dismantling plan shall be drawn up ***by a competent, qualified and trained person.*** It may be in the form of a standard plan, supplemented by items relating to specific details of the scaffolding in question.

Justification:

It is obvious that assembling scaffolding requires knowledge and a technique which only a duly qualified and competent person would have.

(Amendment 17)

Annex, point 4.3.3.

The bearing components of a scaffold shall be prevented from slipping, either by attachment to the bearing surface or by provision of an anti-slip device or by any other means of equivalent effectiveness. Mobile scaffolds shall be provided with devices which prevent their accidental movement when ready for use. These devices must be in operation **during work at a height**.

The bearing components of a scaffold shall be prevented from slipping, either by attachment to the bearing surface or by provision of an anti-slip device or by any other means of **proven** equivalent effectiveness **and the load-bearing surface must have a sufficient capacity. Scaffolding shall be braced against movement**. Mobile scaffolds shall be provided with devices which prevent their accidental movement when ready for use. These devices must be in operation **before any person steps onto the scaffolds and must also be properly marked**.

Justification:

Slipping of scaffolding is often caused by the nature of the bearing surface, so this amendment aims at tightening up provisions to prevent scaffolding slipping and collapsing and the bearing components of a scaffold must be based only on methods whose effectiveness is proven in order to prevent any kind of inadvertent mistake.

(Amendment 18)

Annexe, point 4.3.4.

The dimensions of scaffold decks shall be appropriate to the nature of the work to be performed and shall allow passage without danger. They shall be of a thickness such that they are entirely safe, having regard to the distance between two supports and the loads to be withstood. **Scaffold decks shall be so assembled that** their components cannot move **in normal use**. There shall be no dangerous gap between the deck components and the vertical collective safeguards.

The dimensions of scaffold decks shall be appropriate to the nature of the work to be performed **and to the load-bearing surfaces** and shall allow passage without danger. They shall be of a thickness such that they are entirely safe, having regard to the distance between two supports and the loads to be withstood. **The planks forming the scaffold deck shall be secured against movement and properly attached to each other so that** their components cannot **unintentionally** move. There shall be no dangerous gap between the deck components and the vertical collective safeguards.

Justification:

It is essential to reduce the risk of accidents which often occur from insufficiently secure

scaffolding. Again there is a need for a reference to the load bearing surface and, again in order to reduce the possibility of misinterpretation of the provisions regarding scaffolding, it is important to be more specific than the Commission proposal regarding prevention of movement of the scaffolding

(Amendment 19)

Annex, point 4.3.6.

Scaffolding shall be assembled, ***dismantled or significantly altered*** only under the supervision of a competent person and only by workers who are trained in this type of work. ***Such*** training shall include ***interpretation*** of the assembly and dismantling plan, safety during assembly, dismantling or alteration of the scaffolding ***concerned***, prevention of the risk of persons or objects falling, changing weather conditions, load factors and any other risks which the operations may entail. During the work, the person in charge and the workers concerned shall have available the assembly and dismantling plan mentioned in the present Annex (4.3.2.).

Scaffolding shall be assembled, ***altered (if the alteration entails a risk that anyone on the scaffolding may fall) or dismantled*** only under the supervision of a competent person and only by workers who are trained in this type of work. ***To provide for adequate specific training, this*** training shall include ***understanding*** of the assembly and dismantling plan, safety during assembly, dismantling or alteration of the scaffolding, prevention of the risk of persons or objects falling, changing weather conditions, load factors and any other risks which the operations may entail. ***Training may take place on a specialised course or in any other way which provides workers with an equivalent recognised level of competence.*** During the work, the person in charge and the workers concerned shall have available the assembly and dismantling plan mentioned in the present Annex (4.3.2.), ***as well as the assembly, usage and dismantling instructions.***

Justification:

Altering scaffolding is one of the most risky forms of scaffolding work, and even minor alterations entail serious risk of accident.

Persons working on scaffolding must be capable of making simple alterations which only involve a minor risk of a fall or technical error, which may entail persons or objects falling.

Complicated alterations are common in scaffolding work and should always be carried out under the supervision of a competent person and persons with the required training. This would help reduce the number of accidents.

The word 'significantly' is too imprecise and allows much leeway for interpretation, which may result in wide discrepancies in implementation in the Member States.

This amendment ties in with the earlier amendment to Recital 7 laying emphasis on the importance of specific training for the use of scaffolding, especially given that the Framework Directive is relatively weak on training requirements. It is also necessary to reiterate that assembly and dismantling of the scaffold should take place in conjunction with the assembly and dismantling plan.

Particularly in the case of small and medium-sized firms, it is of great importance to establish that when a worker has achieved a sufficient level of competence, this can be passed on to another firm/employer so that the training does not need to be repeated before scaffolding work can be carried out.

(Amendment 20)
Annex, paragraph 4.3.7.

When the performance of a particular task requires a collective fall prevention safeguard to be removed temporarily, effective compensatory measures shall be taken.

When the performance of a particular task requires a collective fall prevention safeguard to be removed temporarily, effective compensatory measures shall be taken.

The task may not be performed until such measures have been taken.

Once work on that particular task is finished (either for good or on a temporary basis) the collective prevention safeguards shall be put back in place.

Justification:

The purpose of this amendment is to drive home the idea that appropriate measures must be adopted both before and after the temporary task is performed.

(Amendment 21)
Annexe, point 4.3.7. a (new)

An employer who intends to assemble or alter a scaffold shall ensure provision of warning signs during use of the

sacffolding. The signs will explain the field of application for the scaffold, the maximum load, date of assembling and alterations, name of the employer and the competent person having inspected the scaffold in accordance with Annex IV, Part B, Section II, point 6.3 of Directive 92/57/EEC on the implementation of minimum safety and health requirements at temporary or mobile construction sites.

Justification:

This amendment brings the work equipment directive into line with provisions governing warning signs around scaffolding as laid down in the directive 92/57/EEC for the building industry.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a European Parliament and Council directive amending for the second time Directive 89/655/EEC concerning the minimum safety and health requirements for the use of work equipment by workers at work (2nd individual Directive within the meaning of Article 16 of Directive 89/391/EEC) (COM(1998) 678 – C4-0707/1998 – 1998/0327(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(1998) 678¹),
 - having regard to Article 251(2) of the EC Treaty and Article 137 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C4-0707/1998),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs (A5-0222/2000),
1. Approves the Commission proposal as amended;
 2. Asks to be consulted again should the Commission intend to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 247, 31.8.1999, p. 23

EXPLANATORY STATEMENT

1. INTRODUCTION: THE DANGERS OF FALLS FROM HEIGHT

The Commission's proposal (COM(1998) 678) opens with figures demonstrating just why it is important we focus on falls from height in the context of health and safety legislation. Almost 10% of all occupational accidents involve falls from height and one in ten of those results in permanent invalidity or death. Across the EU, in any one year, there are approximately 500,000 falls from height at the workplace, some 300,000 result in absences of more than three days, 40,000 result in serious injury and nearly 1,000 are fatal.

Many of these accidents result from poor use of scaffolding or ladders. Indeed, in the UK, the Health and Safety Executive has estimated that some 30% of prohibition notices are for unsafe scaffolding. These can be due to any number of factors, including basic physical or structural factors like scaffolding not being adequately tied to the building or large gaps being left in platforms which workers can fall through; it can be due to inadequate risk assessment; or it could be due to unsupervised or untrained scaffolders.

The original intention of the Commission had been to present a proposal for a so-called 'scaffolding directive' following the legislative developments outlined below. However, as the Commission's document points out, only about half of all serious falls from height and a third of fatalities from such falls actually involve ladders and scaffolding. The problem, therefore, goes beyond a simple review of health and safety protection around use of scaffolding, which is why the current proposal deals with protection of workers from all manner of falls from height.

2. THE LEGISLATIVE FRAMEWORK AT EU LEVEL

- The basic Framework Directive 89/391/EEC¹ on measures to encourage improvements in safety and health of workers set out general principles for protection of safety and health and for the prevention of risk. It included general obligations on employers to evaluate the risks and to take preventive measures based on risk assessment. It also laid the basis for future individual directives in specific areas.
- The individual directive 89/655/EEC² laid down minimum safety and health requirements for use of work equipment at work, with obligations on employers to ensure, among other things, that work equipment is suitable for the work in hand, that it can be used without risk to the workers using it, and that workers are given adequate training to use the equipment.

The first part of the Annex to this Directive laid down general minimum requirements for work equipment, including controls, guards and other safety measures applicable to all equipment. Additional requirements for *specific* work equipment were to be added to the Annex in future amendments to Directive 89/655. These led subsequently to Directive

¹ OJ L 183, 29.6.1989, p. 1

² OJ L 393, 30.12.1989, p. 13

95/63/EC¹ amending Directive 89/655 for which the current rapporteur was also Parliament's rapporteur (see below) and also led to the proposal before us today.

- Directive 92/57/EEC² addressed minimum health and safety requirements in the **building industry**, where workers are at particularly high levels of risk. This Directive included provisions on falls from height and on scaffolding and ladders. Often the wording left significant margin for Member States to interpret, for example, that "work at a height must be carried out only with *appropriate* equipment" (rapporteur's italics) – Article 5.1; or that "ladders must be *sufficiently* strong..." – Article 6.4. That said, Directive 92/57/EEC did lay a clear basis for improved safety in the building sector in Member States, in particular through the requirement that scaffolding must be inspected by a competent person – Article 6.3. On the ground in practice, of course, the problem is often that the regulations in place are not adequately enforced, but this is due largely to the overall lack of workplace inspectors which affects the whole range of health and safety legislation.

A footnote to the article in Directive 92/57/EEC on scaffolding and ladders announced specifically that this would be covered for all sectors in a future amendment to Directive 89/655/EEC. In a sense, therefore, it could be said that we have waited 8 years for legislation specifically on protection of workers using scaffolding and ladders outside the building industry.

- By the time the Commission made its proposal to amend Directive 89/655/EEC for specific types of work equipment, the debate over the Molitor Report was in full swing. Molitor had been extremely critical of over-regulation imposing heavy costs on industry, particularly through stringent health and safety requirements. Your rapporteur, and other members of this committee, had attempted to shift the focus of debate at the time to look also at the financial costs of industrial accidents caused by lax health and safety provisions.

However, the Directive finally adopted at the time (95/63/EC) only covered two specific types of work equipment (mobile equipment and equipment for lifting loads), and did not include scaffolding, as the Commission had initially proposed. Nevertheless, there was agreement in principle that a future proposal would be tabled to cover protection of workers using scaffolding and a specific commitment from Commissioner Flynn to that effect.

3. THE CURRENT PROPOSAL

The Legal Basis

It is important to point out that this proposal is based on Article 137 (ex-Article 118a) laying down minimum requirements for ensuring a better level of protection of workers' health and safety. It is important not to involve issues that would come under Article 95 (ex-Article 100a) on free movement of goods in the internal market.

¹ OJ L 335, 30.12.1995, p. 28

² OJ L 245, 26.8.1992, p. 6

This means that we are NOT dealing here with the design or construction of work equipment, but with the risks to health and safety of workers using the equipment. There is still a tendency to confuse the two, as has been demonstrated by some of the lobbying positions received by the rapporteur since publication of the Commission's proposal. The result is that, however important factors such as the weight of scaffolding parts might be, or the materials from which ladders and scaffolding are made, we cannot deal with such matters in any possible amendments to the proposal before us today.

The amendment to Directive 89/655

Initially the Commission had been looking to propose a separate directive on scaffolding, but after extensive discussions in the Advisory Committee on Health and Safety, it was decided to broaden the proposal to cover falls from height as a whole. As already mentioned, many falls from height occur in circumstances where ladders and scaffolding are not present. That said, the main focus of the proposal is on scaffolding, ladders and rope access, but the proposal is to incorporate these into the overall work equipment directive by amending the Annex to 89/655.

The proposal is intended to supplement the provisions laid down in Directive 92/57: According to the Commission's document, the current rules on falls from height in place in many Member States apply only to the building industry, whereas this proposal would cover all sectors. Moreover, as noted above, the wording of Directive 92/57 only partially addressed the problems even in the building industry.

The format of the proposal

For the sake of clarification, the rapporteur wishes to explain the format of the Commission's proposal: As usual in such proposals, it includes *recitals* setting down the problems needing to be addressed; the main articles of the proposal concern mainly *transposition* of the proposal; and the body of the text is in fact an amendment to the Annex to Directive 89/655 – which explains why the Annex appears to begin at 3.2.8 rather than point 1 (the Annex to Directive 89/655, as amended by Directive 95/63, currently ends at point 3.2.7). Apart from the specific requirements on use of *ladders* and *scaffolding*, and on *rope access*, the Annex would then also deal with the question of inadequate *training* for workers using in particular scaffolding.

4. THE RAPPORTEUR'S APPROACH

Figures published recently by the European Agency for Health and Safety in Bilbao suggest enormous variations in the incidence rates of falls from height between different Member States. On the one hand, the rapporteur acknowledges that such statistics are still not obtained on the basis of comparable criteria across the EU, which only serves to highlight once again the pressing need for comparable data on health and safety questions. On the other hand, such vast variations suggest that health and safety levels are not the same for workers across the EU. While in some Member States there are no effective provisions governing safety of work at a height, in Italy, for example, every single scaffolding has to be officially authorised prior to use. It is important, therefore, to stress yet again that the work equipment directive is intended to lay

down minimum requirements and that Member States will therefore be able to maintain higher standards and/or improve on standards already in place to encourage safer working practices.

This is why the rapporteur wishes to lend his support overall to the Commission proposal. It has been a long wait for legislation in this area but he is sure that this amendment to the Work Equipment Directive can increase protection for workers in what are often very risky circumstances.

Since his appointment as rapporteur on this proposal back in December 1998, your rapporteur has consulted widely and received many position papers, especially from the two sides of industry¹.

From the submissions received thus far by the rapporteur, there seems to be a general acknowledgement that the issues of worker protection at height need to be addressed, although some would argue that standards are already high enough in some Member States.

Although the climate in the year 2000 is not as stormy as it was at the time of Molitor in 1995, the rapporteur has noted that some divergences do still exist in the position papers he has received: certain employers' organisations caution against further regulation in this area; while some trade union organisations have criticised the Commission proposal as being too employer-oriented.

In addition to these differences between the two sides of industry, the rapporteur has noted that certain sectors in general remain problematic, and concerns have been expressed that the current Commission proposal does not adequately address issues affecting the cleaning or painting and decorating industries, or the working conditions for example of those working at height on containers.

5. THE AMENDMENTS

In drafting his amendments the rapporteur has been conscious of the differing standpoints. Over-regulation at European level is not helpful, but on the other hand if provisions are left too vague, the risk is that Member States will not transpose the directive in the spirit intended and this can lead to confusion when it comes to implementing provisions on the ground.

Arguments from industry that adapting work equipment would involve punitive costs need to be counterbalanced by reference to the growing body of research into the actual costs and benefits

¹ Submissions have been received from the European Platform of Scaffolders, the European Federation of Building and Woodworkers, various trade unions at national level, UNICE, specific European employers' federations in industries such as painting and cleaning, as well as national employer organisations and some individual companies. The rapporteur would also like to thank the rapporteur for the opinion in the Economic and Social Committee, Mrs Polverini. As a result of the technical discussions between the two sides of industry within the ECOSOC, the rapporteur has been able to take on board a number of the ideas put forward in amendments from Mrs Polverini's report.

of occupational safety and health¹, taking into account sickness, injury and overall productivity. Moreover, what price can be attached to the death or serious injury of a worker?

While the amendments proposed by the rapporteur do aim to tighten up the Commission text, he has not been deaf to the pleas from small businesses, particularly in industries such as painting and window-cleaning. Certain amendments, therefore, attempt to maintain safety standards, while not imposing obligations which would be impossible to meet for individuals in these sectors.

Ladders

Most work at a height is carried out from ladders or scaffolding, and many accidents at work involve falls from ladders. A recent report from the Committee on Standards and Technical Regulations² points out that the range of injuries from accidents on ladders is wide, with the head/brain affected in many cases and that although some falls are from relatively small heights, serious injuries still occur. There has been considerable pressure from trade unions, therefore, to introduce a ban on the use of ladders as work stations and instead to limit their use to access to workstations.

In practice, such a ban would mean thousands of small firms in the painting and decorating or cleaning business would not be able to continue operating, given that ladders are often the main equipment they use for carrying on their business. In drafting amendments, the rapporteur has therefore opted to tighten up the wording on use of ladders, laying the emphasis on risk assessment in the general Article (4.1.2) and being more specific on measures necessary to ensure ladders are secured firmly in the specific requirements for use of ladders (Articles 4.2.1-4.2.3), given that lack of stability and sliding are the main causes of accidents involving ladders. A further amendment deals with the question of workers carrying loads when climbing up or down ladders.

Scaffolding

Articles 4.3.1-4.3.7 in the Commission proposal cover specific requirements for the use of scaffolding. As mentioned already, a large percentage of accidents at work or stoppages ordered by workplace inspectors are caused by unsafe scaffolding. Scaffolding collapses are all too frequent and too often lead to fatalities. For this reason, the rapporteur has tabled amendments laying greater emphasis on measures to ensure the scaffolding is adequately secured and with particular focus on the load-bearing capacity of the platform, since this is often a significant factor in slippage of scaffolding.

Training

¹ Conference and Report on Costs and Benefits of OSH by Dublin Foundation 1997

Magazine of the European Agency for Safety and Health at Work, Issue 1, 1999 "A Question of costs and Benefits?"

² Draft Framework Standardisation Mandate to CEN Relative to the Safety of Consumers and Children (Doc.43/99); although this report deals with use of ladders also in domestic situations, much of the information contained in the report is relevant also to workplace use.

Adequate levels of training are in theory ensured through the Framework Directive 89/391/EEC. However, again, the rapporteur cannot emphasise enough the importance of adequate specific training in the use of scaffolding, given that the Framework Directive is not explicit enough on the levels of training required. Some Member States such as Denmark have a minimum three years training for the profession of scaffolder, and while this would be the ideal situation in all Member States, it is not possible to obtain such levels in all Member States. This Directive is concerned with laying down minimum requirements and in the question of training, the aim is to achieve basic minimum levels of competence for all workers using scaffolding.

Weight/design of equipment

Some of the submissions received by the rapporteur raise the whole issue of weight of materials used in the scaffolding itself; others refer to the problems of using wooden ladders as opposed to metal. While the weight of the scaffolding can indeed affect the risk to workers in the event of accident, unfortunately it is not possible in a directive based on the health and safety article in the Treaty to deal with such matters, which are covered by the machinery directive (89/392/EEC) with the internal market legal basis.

Signs and public safety

The rapporteur is very conscious of the necessity of providing adequate warning signs around workplaces. His last amendment reflects this and attempts to define the nature of the warning signs to be used around scaffolding: field of application, maximum load, date of assembly, name of employer and name of competent inspector. This would bring the provisions for all industries into line with the requirements laid down in directive 92/57/EEC covering the building industry.

The rapporteur is also conscious of the risk to members of the public from falling objects when work is carried out from a scaffolding or indeed from collapsing scaffolding itself. Unfortunately, again, this issue cannot be raised in a directive covering health and safety of workers, but he is investigating what provisions may exist with a view to protecting the public at large at European level.

6. AGREEMENT AT FIRST READING?

Since the entry into force of the Amsterdam Treaty, such health and safety legislation is covered by the codecision procedure. It should be recalled that the new Treaty foresees the possibility for Parliament and Council to reach agreement on a legislative proposal at first reading, and some interest has been expressed by successive Council Presidencies in trying out this new procedure on this proposal.

The rapporteur's personal view is that, for a proposal of this technical nature, where proposed amendments are likely to be very specific and therefore difficult to negotiate at an informal, political level, the best option is to aim for agreement with Council by second reading. Much will depend of course on the amendments put forward by Council and the Parliament respectively, but if there is a degree of political consensus, the option of agreement prior to second reading, and thus avoiding conciliation, seems to be the most likely and preferable

outcome. This view seemed to be shared by a majority of Members at the time of the discussion in Committee on the rapporteur's Working Document (PE 232.970).