

# EUROPEAN PARLIAMENT

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FINAL  
**A5-0404/2002**

27 November 2002

**\*\*\*II**

## **RECOMMENDATION FOR SECOND READING**

on the Council common position for adopting a European Parliament and Council directive amending Council Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work (9635/1/2002 – C5-0450/2002 – 2001/0165(COD))

Committee on Employment and Social Affairs

Rapporteur: Elisa Maria Damião

***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)

***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## PROCEDURAL PAGE

At the sitting of 11 April 2002 Parliament adopted its position at first reading on the proposal for a European Parliament and Council directive amending Council Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work (COM(2001) 417 – 2001/0165 (COD)).

At the sitting of 10 October 2002 the President of Parliament announced that the common position had been received and referred to the Committee on Employment and Social Affairs (9635/1/2002 – C5-0450/2002).

The committee had appointed Elisa Maria Damião rapporteur at its meeting of 9 October 2001.

It considered the common position and draft recommendation for second reading at its meetings of 11–12 November and 26 November 2002.

At the latter meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Theodorus J.J. Bouwman, chairman; Marie-Hélène Gillig and Winfried Menrad, vice-chairpersons; Stephen Hughes, acting rapporteur; Jan Andersson, Elspeth Attwooll, Regina Bastos, André Brie (for Ilda Figueiredo), Hans Udo Bullmann (for Proinsias De Rossa), Philip Bushill-Matthews, Alejandro Cercas, Harald Ettl, Carlo Fatuzzo, Marco Formentini, Fiorella Ghilardotti (for Helle Thorning-Schmidt), Robert Goebbels (for Anne E.M. Van Lancker), Lisbeth Grönfeldt Bergman (for Rodi Kratsa-Tsagaropoulou), Roger Helmer, Karin Jöns, Anna Karamanou, Ioannis Koukiadis (for Claude Moraes), Jean Lambert, Elizabeth Lynne, Thomas Mann, Mario Mantovani, Ria G.H.C. Oomen-Ruijten (for Anne-Karin Glase), Bartho Pronk, Herman Schmid, Miet Smet, Ieke van den Burg and Barbara Weiler.

The recommendation for second reading was tabled on 27 November 2002.

## DRAFT LEGISLATIVE RESOLUTION

**European Parliament legislative resolution on the Council common position for adopting a European Parliament and Council directive amending Council Directive 83/477/EEC on the protection of workers from the risks related to exposure to asbestos at work (9635/1/2002 – C5-0450/2002 – 2001/0165(COD))**

**(Codecision procedure: second reading)**

*The European Parliament,*

- having regard to the Council common position (9635/1/2002 – C5-0450/2002),
- having regard to its position at first reading<sup>1</sup> on the Commission proposal to Parliament and the Council (COM(2001) 417<sup>2</sup>),
- having regard to the Commission's amended proposal (COM(2002) 254<sup>3</sup>),
- having regard to Article 251(2) of the EC Treaty,
- having regard to Rule 80 of its Rules of Procedure,
- having regard to the recommendation for second reading of the Committee on Employment and Social Affairs (A5-0404/2002),

1. Amends the common position as follows;
2. Instructs its President to forward its position to the Council and Commission.

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<sup>1</sup> OJ C (not yet published).

<sup>2</sup> OJ C 304 E, 30.10.2001, p. 179–183.

<sup>3</sup> OJ C 203 E, 27.8.2002, p. 273–283.

## Amendment 1

## ARTICLE 1, PARAGRAPH 3 A (NEW)

Article 3, paragraph 3 a (new) (Directive 83/477/EEC)

***3a. Member States shall, following consultation with both sides of industry in accordance with national law and practice, lay down practical guidelines for the determination of sporadic and low-intensity exposure, as provided for in paragraph 3.***

*Justification*

*This amendment adds precision to the text.*

## Amendment 2

## ARTICLE 1, PARAGRAPH 10

Article 10, paragraph 3 (Directive 83/477/EEC)

"3. Where exposure cannot be reduced by other means and where compliance with the limit value makes necessary the wearing of individual respiratory protective equipment, this may not be permanent and shall be kept to the strict minimum necessary for each worker.";

"3. Where exposure cannot be reduced by other means and where the compliance with the limit value makes necessary the wearing of individual respiratory protective equipment, this may not be permanent and shall be kept to the strict minimum necessary for each worker. ***During periods of work which require the use of individual breathing equipment, provision shall be made for breaks appropriate to the physical and climatological conditions and, where relevant, in consultation with the workers and/or their representatives, in accordance with national law and practice.***";

*(Reinstates Amendment 22 at first reading, adopted on 11 April 2002.)*

*Justification*

*In view of the extremely demanding conditions to which workers are exposed when using individual respiratory protective equipment, there should be provision for regular breaks for such work. There have been many complaints from workers who are required to spend hours*

*at a time working with such equipment.*

Amendment 3  
ARTICLE 1, PARAGRAPH 18 A (NEW)  
Article 16 a (new) (Directive 83/477/EEC)

***18a) The following article is inserted:***

***"Article 16 a***

***Member States shall provide for adequate sanctions to be applicable in the event of infringement of national legislation adopted pursuant to this Directive. These sanctions must be effective, proportionate and dissuasive."***

*(Reinstates Amendment 35 at first reading, adopted on 11 April 2002.)*

*Justification*

*Sanctions should be introduced against those not acting in conformity with their legal obligations, as it is the case in other Community social legislation.*

## EXPLANATORY STATEMENT

In its opinion at first reading delivered on 11 April 2002, the EP adopted 39 amendments, including two linguistic amendments, to the proposal submitted by the Commission.

The Commission accepted nine of these amendments in their entirety and three in part.

In its common position, the Council accepted one of the amendments accepted by the Commission and incorporated three other amendments in part.

The Council included a new point in the proposal for a directive with a view to prohibiting all activities exposing workers to asbestos fibres, with the exception of demolition work and the disposal of waste products resulting from demolition and asbestos removal.

The introduction of this ban covers activities which expose workers to asbestos fibres during the extraction of asbestos or the manufacture and processing of products containing asbestos.

In advocating the prohibition of the vast majority of activities, which could lead to workers being exposed to asbestos fibres, the Council considers that the text of the common position goes further than that of the Commission's original proposal.

The rapporteur welcomes this measure advocated by the Council, which is a crucially important one with regard to protecting the health of workers.

The amendments by the European Parliament incorporated by the Council into the common position are to that effect, and improve the original proposal submitted by the Commission.

However, despite the significant improvement which this prohibition represents, it should be emphasised that the objective of the amended proposal for a directive is to strengthen preventive measures in connection with exposure to asbestos in risk situations such as those associated with demolition, maintenance and repair work.

Therefore the rapporteur proposes three amendments to the Common Position as regards in particular breaks during periods of work, which require the use of individual breathing equipment, the determination of "sporadic and low-intensity exposure" to asbestos at work and provisions for adequate sanctions in the event of breaches of national legislation adopted pursuant to this Directive.

The rapporteur intends to ensure that the present proposal for modification of the Directive can be adopted quickly and start to be implemented as early as possible.