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*****II**

RECOMMENDATION FOR SECOND READING

on the Council common position for adopting 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) (18th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)
(13599/1/2003 – C5-0016/2004 – 1992/0449C(COD))

Committee on Employment and Social Affairs

Rapporteur: Manuel Pérez Álvarez

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 its sitting of 20 April 1994 Parliament adopted its position at first reading on the proposal for a Council directive on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (COM(1992) 560 – 1992/0449C(COD)).

At the sitting of 15 January 2004 the President of Parliament announced that the common position had been received and referred to the Committee on Employment and Social Affairs (13599/1/2003 – C5-0016/2004).

The committee had appointed Manuel Pérez Álvarez rapporteur at its meeting of 26 July 1999.

It considered the common position and the draft recommendation for second reading at its meetings of 21–22 January, 16–17 February and 17–18 March 2004.

At the last meeting it adopted the draft legislative resolution by 20 votes to 5, with 2 abstentions.

The following were present for the vote: Theodorus J.J. Bouwman (chairman), Winfried Menrad (vice-chairman), Marie-Thérèse Hermange (vice-chairwoman), Manuel Pérez Álvarez (rapporteur), Elspeth Attwooll, Regina Bastos, Hans Udo Bullmann (for Jan Andersson), Harald Ettl, Anne-Karin Glase, Lisbeth Grönfeldt Bergman (for Philip Bushill-Matthews), Roger Helmer, Stephen Hughes, Rodi Kratsa-Tsagaropoulou, Jean Lambert, Elizabeth Lynne, Thomas Mann, Mario Mantovani, Bartho Pronk, Lennart Sacrédeus, Luciana Sbarbati (for Marco Formentini), Herman Schmid, Elisabeth Schroedter (for Jillian Evans), Helle Thorning-Schmidt, Bruno Trentin (for Marie-Hélène Gillig), Ieke van den Burg, Anne E.M. Van Lancker and Barbara Weiler.

The recommendation for second reading was tabled on 18 March 2004.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the Council common position for adopting 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) (18th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (13599/1/2003 – C5-0016/2004 – 1992/0449C(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (13599/1/2003 – C5-0016/2004),
- having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(1992) 560)²,
- having regard to the amended proposal (COM(1994) 284)³,
- 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 (A5-0196/2004),

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

Council common position

Amendments by Parliament

Amendment 1 Article 4, paragraph 4

4. The assessment, measurement and/or calculations referred to in paragraphs 1 and 2 shall be planned and carried out by competent services or persons at suitable intervals, taking particular account of the provisions of Article 7 of Directive 89/391/EEC concerning the necessary competent services or persons. The data obtained from the assessment, measurement and/or calculation of the level of exposure

4. The assessment, measurement and/or calculations referred to in paragraphs 1 and 2 shall be planned and carried out by competent services or persons at suitable intervals, taking particular account of the provisions of Article 7 **and Article 11** of Directive 89/391/EEC concerning the necessary competent services or persons **and the consultation and participation of workers**. The data obtained from the

¹ OJ C 128, 9.5.1994, pp. 146-154.

² OJ C 77, 18.3.1993, pp. 12-29.

³ OJ C 230, 19.8.1994, pp. 3-29.

shall be preserved in a suitable form so as to permit consultation at a later stage.

assessment, measurement and/or calculation of the level of exposure shall be preserved in a suitable form so as to permit consultation at a later stage.

Amendment 2
Article 6, point (d)

(d) *why and* how to detect *and report signs of injury*;

(d) how to detect *adverse health effects of exposure and how to report them*;

Amendment 3
Article 8

Appropriate health surveillance shall be carried out according to *Articles 14 and 15* of Directive 89/391/EEC *for workers who might suffer adverse health or safety effects, especially for workers at particular risk.*

1. With the objective of prevention and early diagnosis of any adverse health effects due to exposure to electromagnetic fields, appropriate health surveillance shall be carried out according to *Article 14* of Directive 89/391/EEC.

In any event, where exposure above the limit values is detected, a medical examination shall be made available to the worker(s) concerned in accordance with national law and practice. If health damage, resulting from such exposure is detected, a reassessment of the risks shall be carried out by the employer in accordance with Article 4.

2. The employer shall take appropriate measures to ensure that the doctor and /or the medical authority responsible for the health surveillance has access to the results of the risk assessment referred to in Article 4.

3. The results of health surveillance shall be preserved in a suitable form so as to permit consultation at later date, taking account of confidentiality requirements. Individual workers shall, at their request, have access to their own personal health records.

Amendment 4
Article 8 a (new)

Article 8 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.

(Same wording as that of Directive 2003/18/EC (on asbestos) in Article 1, point 19. See OJ L 97, 15.4.2003.)

Amendment 5
Article 11, paragraph 2

The Commission shall inform the European Parliament, the Council, the European Economic and Social Committee and the Advisory Committee on Safety and Health Protection at Work of the content of these reports and of its assessment of developments in the field in question and of any ***action*** that may be warranted in the light of new scientific knowledge.

Every five years the Commission shall inform the European Parliament, the Council, the European Economic and Social Committee and the Advisory Committee on Safety and Health Protection at Work of the content of these reports and of its assessment of developments in the field in question and of any ***initiative, in particular as regards exposure to static magnetic fields***, that may be warranted in the light of new scientific knowledge.

EXPLANATORY STATEMENT

Introduction

In 1994, at first reading, Parliament approved the Commission proposal on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents.

This proposal was an additional measure intended to give effect to Directive 89/391/EEC by specifying how the provisions of the latter were to apply to specific cases involving exposure to any of four types of physical agents, namely noise, mechanical vibration, optical radiation, and fields and waves, each of which was covered by a separate annex.

Later, in 1999, the Council decided to deal with physical agents separately by producing an individual directive for each type. This approach has been accepted, and Parliament and the Council have thus adopted two directives to date, on vibration and noise.

The proposal for a directive now under consideration relates to the risks arising from exposure to electromagnetic fields. The Employment Committee has also noted the Council's intention of continuing its work with a view to agreeing on a common position on the risks arising from exposure to optical radiation.

General remarks

The proposal for a directive falls under the heading of measures to improve the working environment and is intended to protect the health and safety of each worker individually as well as to form part of a bedrock of minimum protection designed to avert possible distortions of competition.

The Council common position lays down exposure limit values on the basis of the biological health effects. Compliance with these limit values will protect workers' health from any known short-term adverse effect.

The possible long-term adverse effects of exposure are not being taken into account, because the scientific data are not beyond challenge.

The common position also sets action values, measurable parameters which, if observed, will ensure that exposure limit values are not exceeded.

In addition, it sets out preventive measures to reduce the risks to which workers are exposed. These rest primarily on the obligation incumbent on employers to determine and assess risks. The common position likewise makes provision for workers to be informed and trained.

On the whole the common position allows for the main aims and for a number of amendments adopted by Parliament at first reading. Some of Parliament's first-reading amendments have been disregarded because they are no longer relevant now that the initial proposal has been split.

Specific remarks

The provisions of the common position on health surveillance do not include the points in the amended Commission proposal, produced in the wake of Parliament's first reading, that stressed the preventive nature of surveillance. The rapporteur considers that it would be desirable to reinstate the right to a medical examination in the event of overexposure and strengthen the prevention system set up by the directive.

Neither the common position nor the initial Commission proposal sets limit values for exposure to static magnetic fields.

However, in the light of Council statements and pending developments in scientific research, the directive should lay down a deadline for a future Commission report on this subject.

The rapporteur also believes that, following the example of the directive on protection of workers exposed to asbestos at work, as adopted by Parliament and the Council, the directive concerned here should contain a provision relating to the penalties to be enforced under national legislation adopted pursuant to the directive.

Conclusion

The rapporteur believes that the directive, with the amendments proposed, will adequately protect the workers concerned as well as making it easier for employers, in particular SMEs, to fulfil their obligations.

In keeping with the wish expressed earlier by the Employment Committee, he likewise takes the view that every effort should be made under the codecision procedure to enable the directive to be adopted as soon as possible.