

Wednesday 23 October 2002

TEXT PROPOSED  
BY THE COMMISSION

AMENDMENTS  
BY PARLIAMENT

Amendment 15  
*Recommendation 10*

10. examine, at the end of four-year old period starting with the adoption of this Recommendation, the effectiveness of the measures taken with a view to implementing its provisions, and inform the Commission of its findings.

10. examine, at the end of four-year old period starting with the adoption of this Recommendation, the effectiveness of the measures taken with a view to implementing its provisions, and inform the Commission of its findings; ***if, at the end of that four-year period, these measures prove ineffective, the Commission shall submit binding measures to ensure that self-employed workers are fully covered by existing and future health and safety legislation.***

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## Adapting to change in work and society

**European Parliament resolution on the Commission communication: 'Adapting to change in work and society: a new Community strategy on health and safety at work 2002-2006' (COM(2002) 118 – C5-0261/2002 – 2002/2124(COS))**

*The European Parliament,*

- having regard to the Commission communication (COM(2002) 118 – C5-0261/2002),
  - having regard to its resolution of 25 October 2000 on the social policy agenda <sup>(1)</sup>,
  - having regard to Rule 47(1) of its Rules of Procedure,
  - having regard to the report of the Committee on Employment and Social Affairs and the opinion of the Committee on Women's Rights and Equal Opportunities (A5-0310/2002),
- A. whereas Article 31(1) of the Charter of fundamental rights of the European Union <sup>(2)</sup> stipulates that 'every worker has the right to working conditions which respect his or her health, safety and dignity',
- B. whereas the priority given to workplace health and safety in the Commission has dwindled in the last decade, reflected in drastically reduced staffing (estimated now to be just 40 % of 1992 levels in terms of A and B grade officials) and, for example, a real gap in the Sixth Framework Programme for research,
- C. whereas this drastic reduction in resourcing and priority runs counter to the Commission's rhetoric on the importance of occupational health and safety for better employability and quality in work,
- D. whereas the decision taken by the Lisbon European Council, 23/24 March 2000 and ratified by the Barcelona European Council, 15/16 March 2002 to give firm encouragement to an economy that will create more and better jobs should also be seen as a commitment to improving conditions with regard to the health and safety of workers,
- E. whereas the strategy must be accompanied by an action plan with clear deadlines and financial commitments,

<sup>(1)</sup> OJ C 197, 12.7.2001, p. 180.

<sup>(2)</sup> OJ C 364, 18.12.2000, p. 1.

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- F. whereas the proposal to codify and simplify (rather than deregulate) the existing Community legislation in this area sits well with the wider project to simplify and improve the *acquis communautaire* in general, which is reflected in the Commission communications on simplifying and improving the regulatory environment (COM(2001) 726) and (COM(2002) 278),
- G. whereas neither this nor non-legislative instruments such as benchmarking lessens the need to amend existing legislation and to spur Member States to implement existing laws with greater vigour,
- H. whereas the Lisbon agenda sets a 60% employment rate for women by 2010 which implies that gender specific consideration in all aspects of employment will be particularly important in order to achieve that goal,
- I. whereas the gender and demographic dimensions are evoked in the Commission's analysis but are almost entirely absent from the actions proposed; for example, proposals for action should take account of the fact that many sectors of employment dominated by women are low-paid and precarious; and that where men are more prone to serious industrial accidents, women tend to suffer work-related diseases and mental disorders,
- J. whereas an effective Community policy in the field of health and safety at the workplace is a factor of competitiveness,
- K. whereas the Commission is required to observe the principles of proportionality and subsidiarity when proposing initiatives,
1. Calls on the Commission to allocate the resources necessary to reflect the high priority to be accorded to occupational health and safety in the context of the ongoing debates on quality in work and employability, sufficient to re-establish a dynamic and proactive directorate for occupational health and safety;
2. Welcomes the Commission's initiative and urgently calls for a detailed action plan with financial and timing commitments against each major proposal; such a plan should be endorsed by the Advisory Committees on Safety, Hygiene and Health Protection at Work; and the Safety and Health Commission for the Mining and Other Extractive Industries, the European Parliament and the Council in time for the Spring 2003 European Council and could then be subject to annual monitoring through the Social Agenda scoreboard, as advocated by Council Resolution of 3 June 2002 on a new Community strategy on health and safety at work (2002-2006)<sup>(1)</sup>; Parliament and the Advisory Committees should clearly be involved in this monitoring process;
3. Calls on the Commission to integrate a gender dimension throughout the strategy, paying particular attention to the following:
- (i) the double workload faced by many people, predominantly women, of paid employment and socially productive but unpaid work in connection with personal responsibilities, which may have health and safety implications,
  - (ii) the fact that, in the context of the gender segmentation that characterises too many European labour markets, women receive less vocational training and education than their male colleagues,
  - (iii) the situation of specific groups such as homeworkers (a high percentage of whom are women) who manufacture a huge range of goods in their homes and women in agriculture and family-run SMEs, many of whom are legal partners in the business and carry out potentially dangerous work but have little access to training, information or social security;

<sup>(1)</sup> OJ C 161, 5.7.2002, p. 1.

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- (iv) how health, safety and reproductive health aspects of employment can be a hindrance to work entry by women in certain sectors which in turn perpetuates the gender division of labour and to propose measures to ensure that these obstacles are removed;

### ***Legislative issues***

4. Calls for the extension of the scope of the Framework Directive, Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work<sup>(1)</sup> to excluded groups of workers such as the military, the self-employed, domestic workers and home-workers; the exclusion of the latter two groups constitutes indirect discrimination against women and to end it would give concrete effect to the Commission's emphasis on gender;

5. Supports in its resolution of 20 September 2001 on harassment at the workplace, the 'global approach to well-being at work' including all kinds of risks such as stress, harassment, bullying and violence<sup>(2)</sup>; this echoes the judgement of the Court of Justice<sup>(3)</sup> as to the wide interpretation of 'working environment' (Article 137(1) TEC); however, the Commission should recognise gender as important in this context and be more concrete by, for example, proposing legislation on workplace bullying; the global approach should also include a commitment to extend strategic action to address or combat future risks posed by new processes or changes to existing ones;

6. On musculo-skeletal problems, which are suffered by over half the people affected by work-related complaints in the EU<sup>(4)</sup>, particularly older workers; urges the Commission to propose a comprehensive directive on workplace ergonomics, to review and improve the implementation of Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment<sup>(5)</sup> and to propose amendments to Council Directive 90/269/EEC of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers<sup>(6)</sup>, especially regarding repetitive handling of small loads; furthermore, gender considerations should be mainstreamed into policies and practices of risk assessment and workplace design;

7. Welcomes the commitment to extending the scope of Council Directive 90/394/EEC of 28 June 1990 on the protection of workers from the risks related to exposure to carcinogens at work<sup>(7)</sup> but warns that a more comprehensive approach is required; legislation should set exposure limits on priority dangerous substances, demand that substitutes be used wherever possible and ensure workers' interests are reflected in environmental, commercial and other initiatives on chemical products; attention should also be given to chemical, biological and other risks to emergency services personnel responding to major incidents as well as the possibility of developing minimum standards and measures in the EU to better protect such workers;

8. Calls on the Commission to put forward a proposal for a directive laying down minimum standards for the recognition of occupational diseases;

9. Urges the Commission to propose amendments where legislation is defective or inadequate, including Parliament resolution of 6 July 2000 on the introduction of measures to encourage improvements in the health and safety at work<sup>(8)</sup>; for example, Council Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration

<sup>(1)</sup> OJ L 183, 29.6.1989, p. 1.

<sup>(2)</sup> OJ C 77 E, 28.3.2002, p. 138.

<sup>(3)</sup> Judgment of 12 November 1996, Case C-841/94, Rec. 1996, p. I-05755.

<sup>(4)</sup> The Health and Safety of Men and Women at Work (Eurostat, ESAW, 1999).

<sup>(5)</sup> OJ L 156, 21.6.1990, p. 14.

<sup>(6)</sup> OJ L 156, 21.6.1990, p. 9.

<sup>(7)</sup> OJ L 196, 26.7.1990, p. 1.

<sup>(8)</sup> OJ C 121, 24.4.2001, p. 473.

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employment relationship or a temporary employment relationship<sup>(1)</sup>; Council Directive 96/71/EC of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>(2)</sup>, Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding<sup>(3)</sup>, which has several shortcomings as regards worker protection and pay and the length of maternity leave;

10. Urges the Commission to evaluate all existing health and safety legislation with a view to establishing whether gender specific needs have been taken into account, even in the sectors where women are underrepresented;

11. Believes that the Commission should take the initiative in developing common European standards for the certification of companies possessing a healthy and safe working environment and in preparing a proposal for a working environment management and audit scheme modelled on the legislation providing for an eco-management and audit scheme (EMAS);

12. Believes that legislative simplification must not become a cover for deregulation of health and safety provisions; instead, the consistency of existing provisions should be evaluated; the role of the stakeholders (especially public authorities and employee representatives) should be spelled out more clearly, ILO Conventions should be better taken account of, the tasks of health surveillance should in general be better clarified than the current fragmented and inconsistent way across different directives and a full gender-mainstreaming perspective should be implemented as a horizontal issue;

13. Calls on the Commission and Council to progress proposals already on the table, in particular the remaining elements of the Physical Agents work (electro-magnetic fields and waves and optical radiation); this is dealt with in 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<sup>(4)</sup>;

14. Calls for health and safety, as an established and citizen-centred area of Community law, to be a priority sector in the programme of legislative simplification to be jointly defined by the Council, Commission and Parliament; calls for representatives of the Advisory Committees to be part of the ad hoc body formed to take work forward in this sector; legislative simplification is dealt with in the above-mentioned communication (COM(2002) 278);

15. Recognises the emphasis on reviewing the application of existing Community legislation and the proposal for a single implementation report covering all the directives; hopes this will lead to more timely and comprehensive inputs to reviews; for example, the Commission must submit a review and proposal on the provision in the Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time<sup>(5)</sup> for so-called 'individual opt-outs' in time for the Council to respond by November 2003 — which clearly means that work in the Commission should already be underway; expects reviews to be used as an opportunity to promote the simplification of legislation and, where redundant, its repeal;

16. Welcomes the idea of encouraging the development of guides on how to apply existing directives — which should be accompanied by better training material and information on what works, especially for SMEs, in high-risk sectors and situations where there are specific, persistent and recurrent risks, and take account of gender, age and cultural factors; requests more detail as to the 'assessments ... at company level' of implementation; underlines that the social partners should not only be involved in working on these guides but also, more systematically and comprehensively, in the implementation process itself; asks the Commission to develop special programmes to this end for the candidate countries with a view to encouraging the actual implementation of working environment legislation at company level in these countries;

<sup>(1)</sup> OJ L 206, 29.7.1991, p. 19.

<sup>(2)</sup> OJ L 18, 21.1.1997, p. 1.

<sup>(3)</sup> OJ L 348, 28.11.1992, p. 1.

<sup>(4)</sup> OJ C 77, 18.3.1993, p. 12.

<sup>(5)</sup> OJ L 307, 13.12.1993, p. 18.

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17. Welcomes the Commission's pledge to ensure better application of existing law; calls on the Commission to adopt the broadest possible approach using all instruments: tougher sanctions, minimum requirements for the quality of preventive services and work inspection, better assessments of legislative implementation, exchange of best practice, strengthening the culture of prevention, greater involvement of employees in the workplace, etc.; stresses the importance of systematically evaluating the implementation of legislation at European level and creating a method of examining and discussing the national reports which must constitute a basis for future policy-making;

***New instruments***

18. Calls on the EU and Member States to raise awareness of all the players concerned about the need to reintegrate and retain disabled people in the labour market; invites in particular the social partners to include in their future collective agreements job retention measures for people who become disabled during their working career;

19. Believes more must be done to reinforce and harmonise labour inspection services: Member States should be required to instruct all competent authorities to carry out minimum numbers of missions, apply uniform standards and contribute to better Community-level data; for this purpose, a Community framework setting out the minimum criteria which a public service needs to satisfy should be established; believes that the preventive aspect of the work of labour inspection should be spelled out more clearly; emphasises that the labour inspection service should have adequate tools available to enforce legislation, e.g. the right to impose administrative fines;

20. Calls on the Commission to spell out, for the benefit of all actors, what the preventive approach entails:

- (i) information and training campaigns targeting workers and employers, especially at work and sectoral level, with wider roles for employee representatives e.g. on Health and Safety Committees which should be established in all companies;
- (ii) awareness-raising and education from an early age, as highlighted by the March 2002 conclusions to the Spanish Presidency/Bilbao Agency seminar on Education and Safety and Health — which now needs to be actively followed up; further, schools and other learning centres must themselves guarantee a safe and healthy environment for teachers and learners alike;
- (iii) comprehensive prevention services proactively offering tailored information and best practice models to companies; a key element would be trained prevention advisers with suitably broad backgrounds who could support in-house risk assessments and follow-up measures on both new and traditional topics;
- (iv) adaptation of all such activities to the specific circumstances of priority high risk sectors, companies and groups of workers e.g. construction, SMEs, etc.

21. Calls on the Commission to promote these elements through reports, recommendations and information-gathering; calls on the Commission and the Member States to facilitate communication between various authorities, specifically between local or municipal authorities with specific powers in the field of prevention, and to make a reality of this overall approach through an emphasis on information exchange amongst the concerned administrations, mutual learning and partnership between the relevant stakeholders at and within all levels, including in wider spheres such as general health professionals; calls on companies, as part of their corporate social responsibility, to incorporate health and safety at work in their strategic decisions, including as concerns their system of supplies, specific criteria in order to supplement legal requirements with sound practices;

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22. Emphasises the importance of developing appropriate indicators comprising a series of elements which are each individually representative of the level of a certain aspect of well-being at work and, taken together, are adequately representative for the purposes of gauging the general level of well-being;

23. Supports the use of new instruments, including benchmarking underpinned by quantified targets; notes the proposals regarding the Employment Guidelines for 2003 but is concerned that proper coverage may not be secured, as the Guidelines are due to be simplified; suggests that a separate open method of coordination on health and safety at work would ensure better coverage; asks that the Advisory Committees be fully involved in the framing of such a new open coordination method;

24. Underlines that a successful benchmarking approach will require not just more comparable and reliable data but also a harmonised system of definitions, recording and reporting of occupational diseases; urges the Commission to consider making occupational safety and health a regular part of the European Labour Force Survey, drawing on the experience of the 1999 ad hoc module, in order to be able to monitor progress against key objectives in the strategy on an annual basis; comparisons of structural factors, such as characteristics of Member States' prevention and inspection services, should also be developed; in this context, European level targets on occupational health and safety could be envisaged in due course; data and, where appropriate, targets should be broken down by gender and other relevant factors (e.g. atypical working patterns etc.);

25. Deeply regrets, given how much higher health and safety incidence rates are in SMEs, that the Commission has still not launched a multi-annual SME programme based on the two years of preparatory actions undertaken by the Bilbao Agency on the initiative of the European Parliament; such a programme was supported by the Commission in the European social agenda, endorsed at the Nice European Council, 7-9 December 2000<sup>(1)</sup>, and would facilitate the testing, analysis and dissemination of successful measures in this critical sector, including as regards education, awareness-raising and work organisation; an example of such a measure is the nordic model of roving and/or regional health and safety representatives working with SMEs; also stresses the importance of social dialogue as a tool for improving working conditions;

26. Calls on the Commission to draw up a Green Paper on promoting the use of economic incentives in the area of the working environment; examples could be lower insurance premiums for companies or sectors with a low incidence of sickness and accidents and the possibility of public tendering emphasising a healthy and safe working environment;

27. Believes that health and safety at work issues should be given a clear priority within the European Social Fund (ESF), particularly in view of the challenges faced in this area by the candidate countries; believes it is helpful that the European Social Fund is being used to establish a European data bank on good practice in the area of health and safety; wishes to see this taken up in the mid-term review of the ESF in 2003;

28. Calls for more concerted action by the Commission with regard to public contracts and tenders. The Commission should: (a) publish a Commission communication interpreting Community law on the public procurement of goods and services and the possibility of including health and safety considerations in this area; (b) set a good example by including an effective health and safety clause in its own policy on the public procurement of goods and services and among the conditions for receiving EU funding;

29. Calls on the Commission, in light of its failure to include 'Occupational Safety and Health' as a specific thematic priority in the Sixth Framework Programme on Research, to ensure that occupational safety and health issues will be given the highest profile and attention within related and relevant thematic priorities, particularly in relation to the objectives of the strategy;

30. Welcomes the Commission's new emphasis on 'mainstreaming health and safety' into other Community policies and asks the Commission to include in its Action Plan on the strategy a clear plan for mainstreaming occupational safety and health into all relevant legislative and non-legislative areas both within its DG Employment and Social Affairs and in its other DGs;

<sup>(1)</sup> OJ C 157, 30.5.2001, p. 4.

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31. Welcomes the Commission's reference to corporate social responsibility (CSR) and safety and health in the strategy and sees CSR as one of the options for raising safety and health levels above and beyond minimum legislative standards but never as a substitute for legislation and its effective implementation; calls for occupational safety and health to be included as an integral part of the Commission's CSR activities;

32. Calls for more detailed proposals regarding urgent technical, financial and other assistance to the candidate countries in the transposition and, critically, the implementation of the *acquis* in the occupational health and safety field (where the lag could hardly be underestimated) in both general and specific terms and as a matter of priority in those sectors and industries where the need for improvement is greatest, in particular, the training of specialists and labour inspectors, and the further development of the role of the social partners and other prerequisites of the EU approach;

33. Welcomes the proposal for the Bilbao Agency to establish a Risk Observatory; believes such an initiative should strike a balance between identifying new and emerging risks and promoting good practice in the reduction of both new and existing risks; points out the need for Member States, social partners and third countries to contribute to the initiative;

34. Agrees with the sentiments on prevention services but requests more concrete action; calls on the Member States to ensure that ILO Convention 161 is adopted so that it can also be ratified without problems in modern western society;

35. Draws particular attention to the need to find solutions to the serious plight of workers with precarious working conditions, which makes it difficult for them to have access to vocational training and compulsory health and safety training;

#### ***Institutional issues***

36. Notes the proposals for the integration of the candidate countries into the Senior Labour Inspectors Committee and other Community bodies; supports the proposal to merge the two Advisory Committees and hopes this will also facilitate the candidate countries' integration into the new structure; recommends that the new Committee's role in social partner consultations under Article 138 TEC should be clarified<sup>(1)</sup>;

37. Is surprised to find so little mention of the Dublin Foundation and its invaluable five yearly surveys on working conditions, which provide important safety and health data; supports the leading role given to the Bilbao Agency as the key player in non-legislative safety and health activities at Community level; regrets that the Commission has not yet produced its report on the Bilbao Agency following its external evaluation; hopes that the Foundation and the Agency will continue to improve and embed their cooperation in line with their respective roles in this policy area; and requests that the European Parliament be accorded a formal right to draw on the resources and expertise of both agencies;

38. Would like to see better cooperation between the Commission and the ILO, particularly in the context of development and trade policies, in order to extend the reach of Community approaches and experiences regarding occupational health and safety for the benefit of third countries;

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39. Instructs its President to forward this resolution to the Commission, the Council, the Committee of the Regions and the Economic and Social Committee.

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<sup>(1)</sup> Building on contributions already made by the Advisory Committee on Safety, Hygiene and Health at Work and, jointly, by UNICE and ETUC.