
EUROPEAN PARLIAMENT

Working Documents

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Report

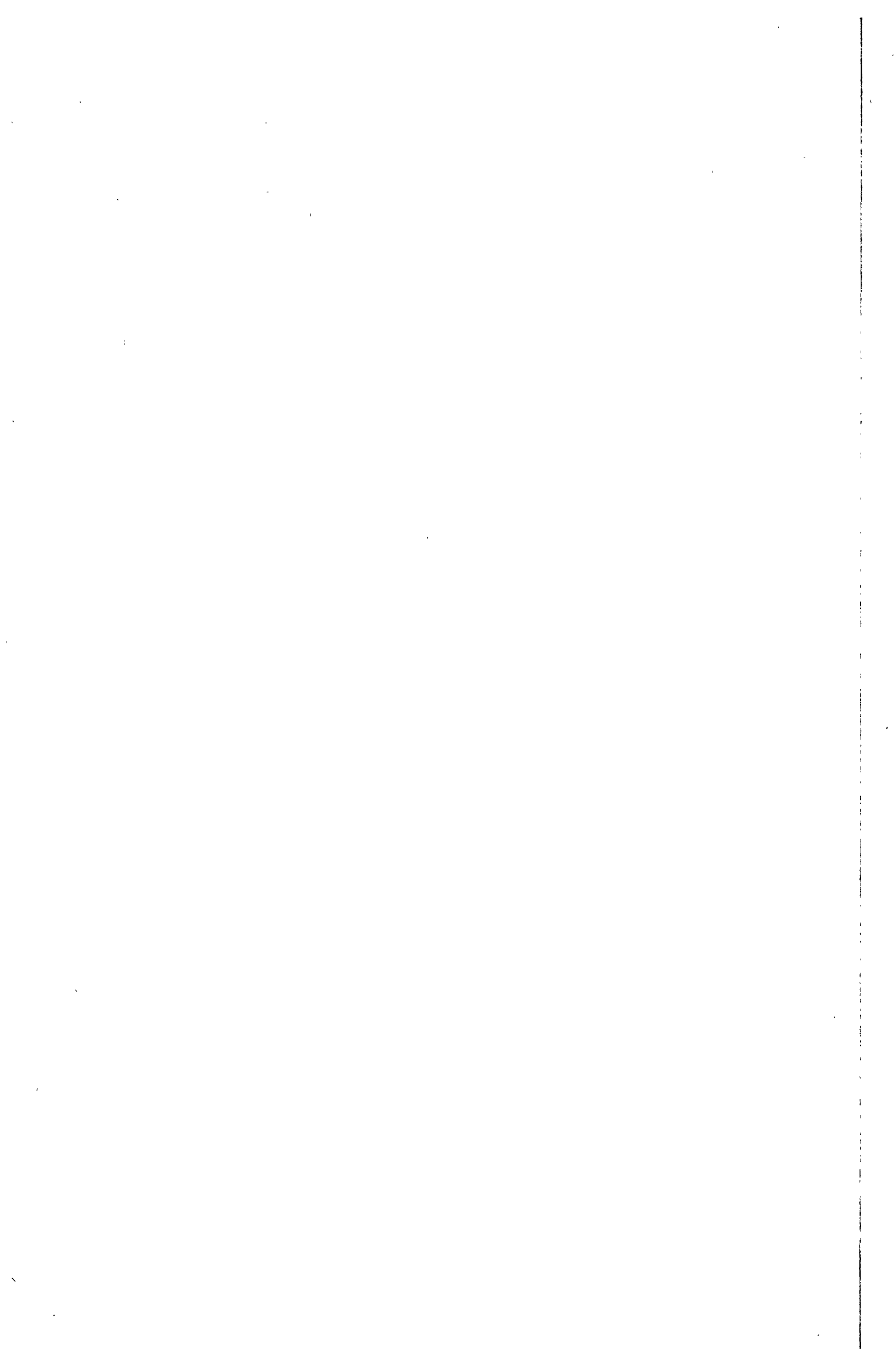
drawn up on behalf of the Committee on the Environment,
Public Health and Consumer Protection

on the proposal from the Commission of the
European Communities to the Council (Doc. 13/79)
for a directive on the protection of workers
from harmful exposure to chemical, physical and
biological agents at work

Draftsman: Mr A. SHERLOCK

12.1

PE 60.751/final



By letter of 7 March 1979 the President of the Council of the European Communities consulted the European Parliament on the proposal from the Commission of the European Communities to the Council for a directive on the protection of workers from harmful exposure to chemical, physical and biological agents at work.

On 23 April 1979, the President of the European Parliament referred this proposal to the Committee on the Environment, Public Health and Consumer Protection as the committee responsible.

The Committee on the Environment, Public Health and Consumer Protection appointed Mr Sherlock rapporteur on 25 September 1979.

It considered the proposal at its meetings of 3 October and 28 November 1979 and 19 December 1979. At its meeting of 19 December 1979 it unanimously adopted the motion for a resolution and the accompanying explanatory statement.

Present: Mr Collins, chairman; Mr Alber, vice-chairman; Mr Johnson, vice-chairman; Mrs Weber, vice-chairman; Mr Sherlock, rapporteur; Mr Adam (deputizing for Mrs Seibel-Emmerling), Mr Ghergo, Miss Hooper, Mrs Krouwel-Vlam, Mrs Maij-Weggen, Mr Mertens, Mr Muntingh, Mr O'Connell, Mrs Roudy, Mrs Schleicher, Mrs Squarcialupi and Mr Verroken.

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The Committee on the Environment, Public Health and Consumer Protection hereby submits to the European Parliament the following motion for a resolution together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a directive on the protection of workers from harmful exposure to chemical, physical and biological agents at work

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹;
 - having been consulted by the Council pursuant to Article 100 of the EEC Treaty (Doc. 13/79);
 - having regard to the report of the Committee on the Environment, Public Health and Consumer Protection (Doc. 1-641/79);
1. Welcomes the presentation of this draft outline directive laying down general principles and criteria to prevent and protect workers from being exposed to agents harmful to their health;
 2. Is of the opinion that, to this end, it ought to be possible to accelerate the submission of the specific directives concerned to protect the worker at his place of work, in emulation of what has already been achieved for his protection against exposure to ionizing radiation² and vinyl chloride monomer³;
 3. Together with the European Commission, stresses that the implementation of such directives must not be allowed to have adverse effects outside the undertakings concerned;
 4. Considers it necessary in this connection, together with the presentation of the specific directive on protection of workers at their place of work, to proceed, where necessary, to draw up harmonized emission and immission limits for these harmful agents;
 5. Approves this proposal, subject to the amendments set out below, pursuant to Article 149, second paragraph, of the EEC Treaty.

¹ OJ C 89, 5.4.1979, p.6

² OJ L 187, 12.7.1976, p.1

³ OJ No. L 197, 22.7.1978, p.12

Proposal for a Council directive on the protection of
workers from harmful exposure to chemical, physical and
biological agents at work

Preamble, Article 1 and Article 2 unchanged

Article 3

Member States shall take appropriate measures to ensure that exposure of workers to agents shall be kept as low as can be reasonably achieved.

Article 3

Member States shall take appropriate measures to ensure that exposure of workers to agents shall be kept within such limits as to exclude all danger to workers' health, if contact with these agents cannot be avoided or further reduced.

Article 4

1. Member States shall ensure that the measures they establish to protect workers likely to be exposed at work to risks to their health from agents shall include:
 - prevention at the technical level;
 - establishment of limit values which shall not be exceeded, and of sampling procedures and measuring methods;
 - collective and personal protection measures;
 - hygiene measures;
 - information for workers on the potential risks to which they are exposed, the technical preventive measures taken, and the precautions taken by the employer and to be taken by the worker;

Article 4

1. Member States shall ensure that the measures they establish to protect workers exposed at work to risks to their health from agents shall include:
 - prevention at the technical level;
 - establishment of limit values which shall not be exceeded, and of sampling procedures and measuring methods;
 - collective and personal protection measures;
 - hygiene measures;
 - information for workers on the potential risks to which they and members of their households and families are exposed, the technical preventive measures taken, and the precautions taken by the employer and to be taken by the worker;

¹ For complete text see OJ C 89, 5.4.1979, p. 6

- use of warning and safety signs;
 - medical supervision;
 - keeping updated records of exposure levels, lists of workers exposed to agents, and medical records;
 - emergency procedures for abnormal exposures.
2. The application of each of the provisions of paragraph 1 of this Article shall take into account the nature of the agent, the intensity of exposure and magnitude of risk.

- use of warning and safety signs;
 - medical supervision;
 - keeping updated records of exposure levels, lists of workers exposed to agents, and medical records;
 - emergency procedures for abnormal exposures.
2. The application of each of the provisions of paragraph 1 of this Article shall take into account the nature of the agent, the intensity and duration of exposure and magnitude of risk.

Articles 5, 6 and 7 unchanged

Article 8

The detailed elaboration of the technical aspects, as set out in Annex 2,
- of the provisions of Article 4
- of the equivalent provisions in individual Directives
and their adaptations necessary to keep in line with technical progress shall be made in accordance with the procedure of Article 10.

Article 8

The detailed elaboration of the technical aspects, as set out in Annex 2,
- of the provisions of Article 4
- except the fixing of limit values
- of the equivalent provisions in individual Directives
and their adaptations necessary to keep in line with technical progress shall be made in accordance with the procedure of Article 10.

Articles 9, 10, 11, 12 and Annexes unchanged

EXPLANATORY STATEMENT

1. INTRODUCTION

1.1. This proposal is welcome not only because of its aims, but also because it is the first proposal to be based on the Council Resolution of 29 June 1978 on an Action Programme of the European Communities on Safety and Health at Work (1).

1.2. This action programme contains a number of actions which can be undertaken by 1982, and some of these are directly relevant to this proposal, namely to:

establish, for certain specific toxic substances such as asbestos, arsenic, cadmium, lead and chlorinated solvents, exposure limits, limit values for human biological indicators, sampling requirements and measuring methods, and satisfactory conditions of hygiene at the workplace;

establish information notices on the risks relating to and handbooks on the handling of certain dangerous substances such as carcinogenic substances, asbestos, arsenic, lead, mercury, cadmium and chlorinated solvents;

develop a common methodology for monitoring both pollutant concentrations and the measurement of environmental conditions at places of work; carry out intercomparison programmes and establish reference methods for the determination of the most important pollutants;

promote new monitoring and measuring methods for the assessment of individual exposure, in particular through the application of sensitive biological indicators. Special attention will be given to the monitoring of exposure in the case of women, (especially of expectant mothers, women of child-bearing age)² and adolescents;

undertake a joint study of the principles and methods of application of industrial medicine with a view to promoting better protection of workers' health.'

1 OJ nr. C 165 of 11/7/1978 page 1

2 This text was added by the Commission

2. GENERAL COMMENTS:

2.1. The aims of this proposal are wholeheartedly approved. These aims are to protect workers who are or who are likely to be exposed at work to risks to their health and safety arising from chemical, physical and biological agents and to prevent such risks through elimination or limitation of the exposure of the workers concerned to these agents.

2.2. Although it is not made entirely clear in the text, it is evident that such aims are to be accomplished in a number of ways by:

- ensuring that framework legislation exists in Member States, and, where it does not exist, to introduce framework legislation,
- requiring Member States to consider certain measures when they introduce legislation for specific agents,
- obliging Member States to take additional measures for a certain number of agents (listed in Annex 1).

2.3. This proposal is thus not intended to replace existing legislation. It will be not only a first step in this area for the harmonization of the various laws, regulations and administrative practices in existence in the Member States but will also serve to prepare the ground for individual Directives which will subsequently be prepared at Community level. It is thus to be expected that progressive harmonization will take place as Member States introduce legislation based on the general principles of this Directive as more and more individual Directives are adopted.

2.4. The European Parliament recognizes the importance of this Directive and the impact which it will have in all Member States, but in order to accelerate the harmonization process it urges the Commission to prepare and submit as soon as possible a number of the individual directives indicated in Article 7 on the basis of Annex 1.

2.5. The proposal is limited to "workers" which thus excludes the general public. This is an important principle since in most Member States the protection of workers is the responsibility of a different Ministerial body to that for the protection of the

general public. The adoption of Community proposals to protect the workers should lead to consideration of parallel measures to protect the general public.

2.6. Although this proposal is obviously intended to cover all possible hazards inherent in chemical, physical and biological agents, it is obvious that certain agents are excluded, such as ionizing radiation (1) and vinyl chloride monomer (2), since provisions already exist at Community level for these agents.

2.7. The continued advance in the recognition of new hazards from existing agents, coupled with rapid technological progress, has increasingly required urgent measures to be taken to protect workers. In view of the many technical advances in this field the need for a technical adaptation committee is obvious. However, the tasks of this Committee should be more clearly defined and it should be evident that

- adaptations having serious economic consequences are excluded,
- adaptations likely to affect the limit values (not only the setting of them) are also excluded.

Specific requirements need to be introduced in the special Directives. There is a need for cooperation between all those involved, in particular the social partners. Priority must be given to the protection of workers, even though this may sometimes entail an adverse economic effect with respect to other industrial nations outside the Community.

2.8. In view of the importance of the individual Directives, it is necessary that the proposals for these Directives are submitted to the European Parliament for opinion.

3. SPECIFIC COMMENTS ON CERTAIN INDIVIDUAL ARTICLES

3.1. Article 2

The effectively used terms should be more clearly defined and unambiguous.

(1) OJ L 87/76 p. 1

(2) OJ L 197/78 p. 12

3.2 Article 3

This article requires Member States to take 'appropriate measures', but does not say what these measures should be. Therefore the committee proposes a clearer formulation specifying that if exposure to these agents cannot be avoided or further reduced, it must be kept within such limits as to exclude all danger to workers' health.

3.3 Article 4

3.3.1 The introduction of 'medical supervision' necessarily implies the use of valuable medical manpower. In many instances the direct contact between the worker and the doctor may not be necessary but the doctor must retain the ultimate responsibility for the assessment of the health of the worker.

3.3.2 The committee considers it necessary that members of workers' families and households be informed of the potential risks of indirect exposure to dangerous substances.

3.4. Article 6

Since it is a principle that the social partners be involved with all aspects of this Directive, it is particularly important to ensure that they are informed if and when the exposure limits are exceeded.

With regard to the second indent it is evident that this directive will have considerable impact in all Member States since it is intended to cover tens of millions of workers.

It is certain that the application of this Directive, which is intended to reduce the health risk for workers exposed to harmful agents, will require in certain cases that workers be removed from certain jobs, where there is excessive exposure. Appropriate ways will have to be found in each Member State to ensure that the workers do not suffer undue prejudice from this.

3.5. Article 7

This article makes reference to the list of agents in Annex 1 which contains agents which do not appear by name in the Action Programme. If it is the Commission's intention that Annex 1 contain only very hazardous agents then this should be stated and the list shortened but left open so that other agents can subsequently be added.

3.6. Article 8

This article is concerned with the detailed elaboration of technical aspects. Taking into account the fact that the reworded Article 4 as proposed is now a general text the detailed technical aspects to which reference is made can only be dealt with in relationship to special Directives. This being the case it follows that the special Directives will in some cases deal fully with all the technical aspects, whereas in other cases they will only be touched upon. It is therefore preferable that each individual Directive specifies which technical aspects require detailed elaboration.

3.7. Annex 1

The agents listed in Annex 1 require that additional precautions are to be taken and also priority consideration for the preparation of individual specific directives.

It is also evident that Community action should be limited to the most important and urgent problems. However, it should be made clear that if a new, unforeseen and serious danger arises the Commission has the possibility of acting, even if the agent is not listed in Annex 1, and submit proposals to the Council.