

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(79) 83 final

Brussels, 2 March 1979

Proposal for a

COUNCIL DIRECTIVE

on the protection of workers from harmful exposure to chemical,
physical and biological agents at work

(submitted to the Council by the Commission)

COM(79) 83 final

EXPLANATORY MEMORANDUM

1. General Observations on the Proposal for a Directive

This proposal is based on the Council Resolution of 29 June 1978 on an Action Programme of the European Communities on Safety and Health at Work (1). It is one of the measures that will increase the protection of workers against occupational risks of all kinds, by improving the means and conditions of work, knowledge and human attitudes.

One of the general objectives of this action programme is that exposure to occupational risks of all workers within the European Community must be kept as low as possible. To monitor more effectively the application of preventive measures, surveillance of health and working conditions must be intensified, notably in line with the exigencies of occupational medicine, hygiene and safety appropriate to present day conditions.

The action programme on safety and health at work considers that harmonization of exposure limits is an essential and urgent matter and that the updating of such limits shall take into account the latest scientific data available to the Commission, and both are to be based on common concepts and references.

This programme also states that 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 work are to be established before 1982.

1. OJ No. C 165 of 11 July 1978.

The Commission has taken account of the above considerations in drawing up this proposal which is based on Article 100 of the Treaty establishing the European Economic Community. It lays down common principles for the prevention of risks and the protection of the exposed worker. It also makes provision for drawing up individual Directives concerning specific requirements for a certain number of agents. In addition it sets up a Technical Committee for the adaptation of a number of technical provisions of the Directive.

2. Observations on certain specific aspects of the proposal for a Directive

Article 1 sets out the objectives of the proposal which are two-fold: to eliminate or limit exposure to chemical, physical and biological agents and to prevent risks to workers' health and safety; to protect workers who are likely to be exposed to these agents.

Article 2 gives the definitions which are used in this proposal.

Article 3 requires the Member States to take the appropriate measures to ensure that worker exposure to all agents is kept as low as possible.

Article 4 requires the Member States to apply a number of provisions for the protection of workers from risks to their health, taking into account the nature of the agent, the intensity of the exposure and the magnitude of the risk.

Article 5 requires the application of further measures by the Member States for the agents given in Annex 1 of the proposal. These further measures are concerned with: the medical supervision of workers; access to measurement results; the provision of information and documentation available at national and Community levels.

Article 6 requires the Member States to make provisions for worker participation, ensure that a worker shall not suffer undue prejudice through his removal from exposure to agents, ensure that the application of this proposal does not lead to an undue effect outside work.

Article 7 makes provision for the drawing up of individual Directives for those agents listed in Annex 1 of the proposal.

Article 8 makes provision for the elaboration and adaptation to technical progress of a number of technical aspects.

Articles 9 and 10 are concerned with the setting up of the Technical Committee.

Annex 1 to this proposal gives a first list of agents for which individual Directives will be drawn up. This list is based, in particular, on that given in the actions which can be undertaken between now and 1982 under the action programme on Safety and Health at Work (1), and on the recommendation of the Advisory Committee on Safety, Hygiene and Health Protection at Work (set up by Council Decision 74/325/EEC of 27 June 1974).

Annex 2 to this proposal specifies the technical aspects to which the provisions of Article 8 apply.

3. Consultation of the European Parliament and the Economic and Social Committee

Under the terms of Article 100 of the Treaty establishing the European Economic Community, the opinion of these two institutions must be sought.

PROPOSAL FOR A COUNCIL DIRECTIVE ON THE
PROTECTION OF WORKERS FROM HARMFUL EXPOSURE TO
CHEMICAL, PHYSICAL AND BIOLOGICAL AGENTS AT WORK

The Council of the European Communities,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament (1),

Having regard to the Opinion of the Economic and Social Committee (2),

Whereas the Council Resolution of 29 June 1978 on an action programme of the European Communities on safety and health at work (3) provides for the harmonization of procedures regarding the protection of workers with respect to chemical, physical and biological agents; whereas the urgent need to harmonize laws in this field is recognized; whereas efforts must therefore be made towards the approximation, while the improvement is being maintained, of the laws, regulations and administrative provisions of the Member States as envisaged in Article 117 of the Treaty;

Whereas all appropriate measures must be taken to protect workers from harmful exposure to chemical, physical and biological agents at work; whereas differences are revealed by a comparison of protective measures taken by Member States which affect the worker; whereas, therefore, in the interests of balanced economic and social development, these measures, which directly affect the functioning of the common market, should be harmonized and improved; whereas this harmonization and improvement has to be based on common principles, procedures and guidelines;

1. OJ No. of
2. OJ No. of
3. OJ No. C 165 of 11 July 1978

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Whereas the provisions of this Directive constitute the essential requirements to achieve the protection of workers with respect to chemical, physical and biological agents;

Whereas further individual Directives shall lay down specific requirements, in particular limit values, for certain agents;

Whereas certain provisions of this Directive and the individual Directives may be re-examined in the light of experience gained and progress in the technical and scientific fields;

Whereas the Advisory Committee on Safety, Hygiene and Health Protection at Work set up by Council Decision 74/325/EEC (4) has been consulted;

HAS ADOPTED THIS DIRECTIVE

ARTICLE 1

The objectives of this Directive are:

- to prevent the risks for health and safety of workers through elimination or limitation of their exposure at work to those chemical, physical and biological agents considered harmful to health,
- to establish common principles which must govern the protection of workers likely to be exposed at work to risks to their health and safety from such agents.

ARTICLE 2

For the purposes of this Directive

- a) "agents" shall refer to chemical, physical and/or biological agents present at work and likely to be harmful to health.
- b) "worker" shall refer to any person exposed or likely to be exposed to agents at work.
- c) "limit values" shall refer to exposure limits and/or biological indicator limits in the appropriate medium/media depending on the agents.

4. OJ No. L 185 of 9 July 1974.

d) "appointed doctor" shall refer to the doctor responsible for the medical supervision of workers.

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 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;
- 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.

ARTICLE 5

For the agents listed in Annex 1 Member States shall, in addition to those measures laid down in Articles 3 and 4, ensure that:

- medical supervision of workers is provided prior to exposure, periodically thereafter and following the end of exposure,

- workers shall be provided with results of exposure measurements and group biological tests; individual workers shall have access to the results of their own biological tests. To assist them with the interpretation of the results and to further inform them of the potential hazards of the agents specifically prepared information and documentation at national and/or Community levels shall be made available,

ARTICLE 6

Member States shall ensure that:

- Workers and/or their representatives shall be involved, with the elaboration and application of the provisions in paragraph 1 of Article 4 and in Article 5.
- A worker shall not suffer undue prejudice through his removal from exposure to any of the agents.
- The application of this Directive shall not lead to undue effects outside the workplace.

ARTICLE 7

1. Further specific requirements, in particular limit values, for those agents given in Annex 1 shall be laid down in individual Directives.
2. Individual Directives shall be allotted a serial number.

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 9

- 1) There is hereby set up a Technical Committee for the Directive on the Protection of Workers from Harmful Exposure to Chemical, Physical and Biological Agents at work, hereinafter called "the Industrial Medicine and Hygiene Committee". It shall consist of representatives of the Member States with a representative of the Commission as Chairman.
- 2) The Industrial Medicine and Hygiene Committee shall draw up its own rules of procedure.

ARTICLE 10

1. Where the procedure laid down in this Article is to be followed matters shall be referred to the Industrial Medicine and Hygiene Committee by the chairman, either on his own initiative or at the request of the representative of a Member State.
2. The representative of the Commission shall submit to the Committee a draft of the measures to be adopted. The Industrial Medicine and Hygiene Committee shall deliver its opinion on the draft within a time limit set by the Chairman according to the urgency of the matter. Opinions shall be adopted by a majority of 41 votes, the votes of Member States being weighted as provided for in Article 148(2) of the Treaty. The Chairman shall not vote.
3.
 - a) The Commission shall adopt the proposed measures when they are in accordance with the opinion of the Industrial Medicine and Hygiene Committee.
 - b) Where the proposed measures are not in accordance with the opinion of the Committee, or if no opinion is adopted, the Commission shall without delay propose to the Council the measures to be adopted. The Council shall act by a qualified majority.
 - c) If, within three months of the proposal being submitted to it, the Council has not acted, the proposed measures shall be adopted by the Commission.

ARTICLE 11

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within 18 months of its notification and shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field covered by this Directive.

ARTICLE 12

This Directive is addressed to the Member States.

ANNEX 1

List of Agents

Acrylonitrile

Arsenic and compounds

Asbestos

Benzene

Cadmium and compounds

- Chlorinated solvents:
- Carbon tetrachloride
 - Chloroform
 - Paradichlorobenzene
 - 1,1,1-Trichloroethane
 - Trichloroethylene

Lead and compounds

Mercury and compounds

Nickel and compounds

Noise

ANNEX 2

Technical aspects

- sampling procedures and measuring methods (including quality control) with respect to the limit values;
- the procedures for medical supervision prior to, during and after the end of exposure;
- procedures regarding the establishment and the keeping of records concerning: ambient and personal measurement results, lists of exposed workers, and results of medical supervision;
- emergency measures, including the instruction of workers, and provisions for warning signs at workplaces where abnormal exposure to agents are likely to occur;
- collective and personal protection measures for certain operations (e.g. servicing and repairs) during which it cannot be guaranteed that concentrations or intensities of the agents will be kept below the limit values;
- procedures regarding personal and general hygiene requirements;
- signs to identify areas where significant exposure is likely to occur and to indicate the precautions which have to be taken.