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DOCUMENT 2-156Z/84

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. 2-621/84 -
COM(84) 456 final)

for a directive on the protection of workers by the
proscription of specified agents and/or work activities

Rapporteur: Mrs V. SQUARCIALUPI

By letter of 26 September 1984, the President of the Council of the European Communities requested the European Parliament to deliver an opinion, pursuant to Article 100 of the EEC Treaty, on the proposal from the Commission of the European Communities to the Council for a directive on the protection of workers by the proscription of specified agents and/or work activities (Fourth individual directive within the meaning of Article 8 of Directive 80/1107/EEC).

On 10 October 1984, the President of the European Parliament referred this proposal to the Committee on the Environment, Public Health and Consumer Protection as the committee responsible and to the Committee on Social Affairs and Employment for an opinion.

At its meeting of 17 October 1984, the Committee on the Environment, Public Health and Consumer Protection appointed Mrs SQUARCIALUPI, rapporteur.

The committee considered the Commission's proposal and the draft report at its meetings of 29 November 1984, 20 December 1984 and 29 January 1985.

At the last meeting the committee decided by 14 votes to 5, with 2 abstentions, to recommend to Parliament that it approve the Commission's proposal, subject to the following amendments.

The committee then adopted the motion for a resolution as a whole by 15 votes to 6, with 2 abstentions.

The following took part in the vote: Mrs WEBER, chairman; Mrs SCHLEICHER and Mrs BLOCH von BLOTTNITZ, vice-chairmen; Mrs SQUARCIALUPI, rapporteur; Mr ALBER, Mr AVGERINOS, Mr BANOTTI, Mr BOMBARD, Mr DUPUY, Mr EBEL, Mr HUGHES, Mr IVERSEN, Mrs JACKSON, Mr LAMBRIAS, Mr van der LEK, Mrs MARINARO, Mr MERTENS, Mr PEUS, Mr ROELANTS du VIVIER, Mr SCHMID, Mr SHERLOCK, Mr TOGNOLI and Mr VITTINGHOFF.

The opinion of the Committee on Social Affairs and Employment is attached.

The report was tabled on 1 February 1985.

The deadline for tabling amendments to this report will be indicated in the draft agenda for the part-session at which it will be debated.

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The Committee on the Environment, Public Health and Consumer Protection hereby submits to the European Parliament the following amendments to the proposal for a Council Directive on the protection of workers by the proscription of specified agents and/or work activities and the following motion for a resolution, together with explanatory statement:

Proposal for a Council directive on the protection of workers by the proscription of specified agents and/or work activities

Text proposed by the Council

Amendments tabled by the Committee on the Environment, Public Health and Consumer Protection

Preamble and recitals 1 to 6 unchanged

Amendment No. 1

7th recital (new)

'Whereas these principles need to be applied fairly and speedily to encourage wherever possible the early development of alternative non-dangerous agents and/or work activities'.

Amendment No. 2

8th recital (new)

'Whereas it is recognized that in the operation of these principles the Community has an obligation to ensure that the proscription of certain specified agents and/or work activities does not simply result in their transfer to third countries'.

Articles 1 to 3 unchanged

Article 4 (2)

2. The reasoned application
This notification must include at least a brief description of:

- the quantities used,
- the activities and/or processes involved,
- the products manufactured.

Article 4, (2)

2. The reasoned application
This notification must include at least a brief description of:

- the quantities used,
- the activities and/or processes involved,
- the products manufactured,
- the incidence of any related cancers among the workforce.

Amendment No. 4

Article 5(1)

1. Workers and /or their representatives in undertakings or establishments shall have access to the documents which are the subject of notification concerning their own undertaking or establishment in accordance with national laws.

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1. Workers and/or their representatives in undertakings or establishments shall have access to the documents which are the subject of notification concerning their own undertaking or establishment.

Amendment No. 5

Article 5(2)

2. Appropriate measures shall be taken to ensure that workers and their representatives in the undertaking or establishment receive adequate information concerning the health and safety risks pertaining to the agent or the work activity to which they are exposed or likely to be exposed, together with the measures to be taken against these risks.

Article 5(2)

2. Such documentation shall include such information to ensure that workers and their representatives in the undertaking or establishment are made fully aware of the health and safety risks pertaining to the agent or work activity to which they are exposed or likely to be exposed, together with the measures to be taken against these risks.

Amendment No. 6

Article 5(2)

Add to the end of this paragraph:

'including regular independent monitoring and inspection'.

Amendment No. 7

After Article 5 insert the following new article:

'6. In order to ensure that the operation of this directive does not simply result in the transfer of proscribed agents and/or work activities to third countries, the Commission shall monitor such developments with a view to formulating proposals to prevent finished products having involved the use of proscribed agents or processes in third countries entering the Community'.

Amendment No. 8

Article 6(1)

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this directive before 1 January 1987. They shall forthwith inform the Commission thereof.

Article 7(1)

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this directive before 1 January 1986. They shall forthwith inform the Commission thereof.

Amendment No. 9

Annex

The following are not permitted

2-naphthylamine and its salts
4-aminodiphenyl and its salts
4-nitrodiphenyl

Annex

The following are not permitted

2-naphthylamine and its salts
4-aminodiphenyl and its salts
4-nitrodiphenyl
benzidine.

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposal for a Council directive on the protection of workers by the proscription of specified agents and/or work activities (Fourth individual directive within the meaning of Article 8 of Directive 80/1107/EEC)

The European Parliament

- having regard to the proposal from the Commission to the Council¹,
 - having been consulted by the Council pursuant to Article 100 of the EEC Treaty (Doc. 2-621/84),
 - having regard to the report of the Committee on the Environment, Public Health and Consumer Protection and the opinion of the Committee on Social Affairs and Employment (Doc. 2-1567/84),
 - having regard to the result of the vote on the Commission's proposal,
- A. whereas it is necessary to continue and extend the bases for a common policy on the health and safety of 110 million European workers,
- B. whereas general guidelines must be laid down as quickly as possible on the large number of known and suspected carcinogens, because it would be far too time-consuming to draw up individual directives for each particular substance,
- C. whereas even when they are covered by restrictive legislation, the level of carcinogenicity of the substances dealt with in the proposal for a directive is too high for workers,
- D. whereas a halt to the production of certain chemical agents is urgently needed because of their significant carcinogenic effects,

¹OJ No. C 270, 10.10.1984, p. 3

- E. whereas stringent rules, reflecting the risks involved, are urgently needed to control the use of all carcinogens to which workers may be exposed in their work,
- F. whereas it is important to ensure that any such proscriptions do not simply result in the transfer of specified agents and/or work activities to third countries,
1. Welcomes the proposal for a directive which for the first time provides for a total ban on chemical agents, such as aromatic amines, in cases where 'use of the other means available does not make it possible to ensure adequate protection';
 2. Notes however that the substances covered by the ban have already been out of production for many years in most of the Member States, since they are carcinogenic;
 3. Calls for stringent policing of the potentially broad based exemptions allowed under the directive;
 4. Considers therefore that the deadline for applying the directive, which has been set at 1 January 1987, can be brought forward by at least one year, since in most of the Member States these substances are already prohibited by law or are no longer produced;
 5. Calls also for the Annex to the directive to be considered as open;
 6. Calls in particular for the inclusion in the near future of other aromatic amines with clear oncogenic effects and most importantly benzidine, which have already been taken into account in the American rules (OSHA), by the IARC, and in the laws of many European countries;
 7. Supports the Commission in its attempts to tackle this pressing problem of occupational exposure to carcinogens with framework directives, because this is the only practicable option in terms of time;

8. Calls on the Commission to monitor any transfer of use of proscribed agents and/or work activities to third countries, given the attendant risks for workers there, with a view to formulating proposals to prevent finished products having involved the use of proscribed agents or processes entering the Community;
9. Deplores the fact that such transfers are frequent and - as in the case of the Union Carbide factory in Bhopal - take place with no effort made to provide for the level of monitoring and precautions stipulated in the industrialized countries;
10. Calls for the rapid submission of a framework directive on the methods of measuring the various substances, outlining the general approach to be followed in order to standardize the situations in the various Member States and make the data comparable;
11. Awaits also with interest - and at the earliest possible date - a directive laying down the limit values for dangerous substances, in such a way as to reflect the seriousness of their potential danger to human health;
12. Instructs its President to forward to the Council and Commission, as Parliament's opinion, the Commission's proposal as voted by Parliament and the corresponding resolution.

EXPLANATORY STATEMENT1. Legislative precedents

The present proposal for a directive is based on the following Community legislation:

- (1) Action programme of the European Communities on safety and health at work (OJ No. C 165, 11.7.1978);
- (2) Second programme of action of the European Communities on safety and health at work (OJ No. C 67, 8.3.1984);
- (3) Council Directive on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work (OJ No. L 259, 15.10.1979). (N.B. the reference number given in the Commission document is not relevant).

2. Introduction

- 2.1. The present proposal from the Commission to the Council for a directive prohibiting the use of certain specified agents is one of the 21 measures provided for in the second programme of action of the European Communities on safety and health at work, which has continued and extended the bases for a common policy on the safety and health of 110 million European workers. More specifically, it is one of the six measures designed to provide protection against dangerous substances, of which point 5 provides for the development of 'preventive and protective measures for substances recognized as being carcinogenic and other dangerous substances and processes which may have serious harmful effects on health'.
- 2.2 In particular, Directive 80/1107 on the protection of workers from the risks related to exposure to chemical, physical and biological agents at work provides for a general or limited ban on an agent in cases where 'use of the other means available does not make it possible to ensure adequate protection'. With this in view, the Council has adopted directives on lead and asbestos, and in the case of asbestos, a limited ban has been adopted for the first time, as regards the spray application of this agent.

3. Subject of the proposal

- 3.1. The agents covered by the proposal are aromatic amines which are responsible for very high levels of carcinogenicity, particularly in the bladder. In a single factory in Ciriè (Turin) - known as the 'factory of death' - 130 deaths have occurred.
- 3.2. The ban on the use of agents and their compounds refers specifically to the following aromatic amines:
- 2-naphthylamine and its salts
 - 4-aminodiphenyl and its salts
 - 4-nitrodiphenyl
- In fact, from the biological point of view, only two agents are concerned, since 4-nitrodiphenyl becomes 4-aminodiphenyl in the human organism.
- 3.3. The substances referred to in the directive have been out of production for more than ten years since they have been recognized as being carcinogenic for several decades.
- 3.4. The deadline for applying the directive, i.e. 1 January 1987, seems pointless, therefore, as a number of Member States have already introduced legislation prohibiting the use and production of these agents, while in others they are no longer used or produced.
- 3.5. It is difficult to understand why the list does not include benzidine, which is universally recognized as being carcinogenic in the same way as other aromatic amines and which is still in production in only one of the countries of the European Community.
- 3.6. However, there still remains the problem of other aromatic amines with clear oncogenic effects, which have already been taken into account in the American rules (OSHA), by the IARC, and in UK and Italian legislation.
- 3.7. The annex to the directive should therefore be considered as 'open', with the possibility of its being updated to include other substances which are certainly carcinogenic (benzidine) and others which may be dangerous.

O P I N I O N
(Rule 101 of the Rules of Procedure)
of the Committee on Social Affairs and Employment

Draftsman: Mr. Fred TUCKMAN

On 18 December 1984, the Committee on Social Affairs and Employment appointed Mr Fred TUCKMAN draftsman of the opinion.

The committee considered the draft opinion at its meetings of 28 and 29 January 1985. It adopted the draft opinion unanimously on 29 January 1985.

The following took part in the vote: Mr WELSH (Chairman); Mr TUCKMAN (draftsman); Mrs d'ANCONA; Mr BACHY; Mr CHRISTIANSEN; Mr FITZGERALD; Mrs MARINARO (deputizing for Mr ALAVANOS); Mr MEGAHY; Mrs NIELSEN (deputizing for Mr LONGUET); Mr PETERS; Mr RAGGIO; Mr SAKELLARIOU (deputizing for Mrs DURY); Mr STEWART; Sir Jack STEWART-CLARK; Mr VGENOPOULOS; Mr WAWRZIK (deputizing for Mr BROK).

PE 94.407/fin.

The Committee on Social Affairs and Employment invites the Committee on the Environment, Public Health and Consumer Protection to include the following points in its draft motion for a resolution:

The Committee on Social Affairs and Employment:

1. Welcomes the fact that the European Parliament can give draft Directive (COM (84) 456 final) a favourable opinion. The proposals appear properly directed at the avoidance and elimination of clearly specified risks to health, coupled with a well-defined procedure for exemption.
2. Is particularly concerned with Article 5, in which the provision and availability of information to workers is specified; wishes this to be in terms which are intelligible to those concerned, and sees the need to convey information and impressions as overriding, while ensuring that statements and definitions are scientifically sound.
3. Wishes to see the workers drawn into a participatory and active role in promoting their own safety and the safety of others to ensure these provisions are implemented.
4. Is of the opinion that the draft Directive is properly addressed to certain chemical risks to workers within an establishment; points out that the Bhopal disaster indicates the need to protect surrounding populations as well, the care needed in introducing and handling complex processes in newly-industrializing countries, and the overriding need to understand, accept and obey the rules and regulations designed for the protection of people and property.
5. Regrets that it is not clear from the explanation of the proposal what categories of companies are using these substances, and notes that this seriously hampers control over the implementation of the Directive.
6. Asks the Commission to present such a list.