OPINION OF THE COMMISSION
pursuant to Article 251 (2), third subparagraph, point (c) of the EC Treaty, on the European Parliament's amendments to the Council's common position regarding the proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING A GENERAL FRAMEWORK FOR INFORMING AND CONSULTING EMPLOYEES IN THE EUROPEAN COMMUNITY

AMENDING THE PROPOSAL OF THE COMMISSION pursuant to Article 250 (2) of the EC Treaty
OPINION OF THE COMMISSION

pursuant to Article 251 (2), third subparagraph, point (c) of the EC Treaty, on the European Parliament's amendments to the Council's common position regarding the proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING A GENERAL FRAMEWORK FOR INFORMING AND CONSULTING EMPLOYEES IN THE EUROPEAN COMMUNITY

1. BACKGROUND

The Commission forwarded the above-mentioned proposal for a directive based on Article 137(2) to Parliament and the Council on 17 November 1998.

The Economic and Social Committee issued its opinion on 7 July 1999.

The European Parliament adopted an opinion at its first reading on 14 April 1999.

The Commission accepted some amendments made by Parliament. It presented an amended proposal on 23 May 2001 containing these amendments and a number of other changes.


On 23 October 2001, at its second reading, the European Parliament adopted 13 amendments to the Council's common position.

This opinion sets out the Commission's position on these amendments.

2. AIM OF THE COMMISSION PROPOSAL

To supplement the provisions in force at national and Community level with regard to the information and consultation of workers.

3. COMMISSION OPINION ON THE AMENDMENTS PROPOSED BY PARLIAMENT

3.1. Summary of the Commission position

The Commission is able to accept two amendments in full and three others in principle.

It cannot accept eight of the amendments adopted by Parliament.
3.2. Amendments by Parliament at second reading

3.2.1. Amendments accepted

3.2.1.1. Amendment 3 (definition of "social partners") (Article 2(e)(a)) (new)

The amendment aims to introduce a definition of "social partners" within the meaning of the Directive. As the concept is used in various provisions of the proposed Directive, particularly in Articles 5 and 11, it appears acceptable to define it in the terms proposed by Parliament.

3.2.1.2. Amendment 8 (content of the consultation) (Article 4(4)(c))

This amendment clarifies the text, specifying that the information on which the consultation is based is to be provided in accordance with Article 2(f).

3.2.2. Amendments accepted in principle

3.2.2.1. Amendment 2 (recital on sanctions) (recital 26(a) (new))

The Commission accepts the use of a specific recital to stress the importance of reinforced and dissuasive sanctions and legal procedures applicable in the event of an infringement of the rights deriving from the proposed Directive.

3.2.2.2. Amendment 6 (promotion of the social dialogue within small and medium-sized enterprises) (Article 3(3)(a) (new)

This amendment seeks to underline the importance of promoting the social dialogue within SMEs which, owing to their small staff numbers, fall outside the scope of the proposed Directive. The Commission accepts the principle behind the amendment, while considering that it should be the subject of a recital.

3.2.2.3. Amendment 13 (application of the principles of the Directive in public administrations) (Article 9(a) (new))

This amendment lays down that the Member States should examine, in cooperation with the social partners, methods for applying the principles of the proposed Directive in public administration. The Commission accepts the principle behind the amendment, while considering that it should be the subject of a recital.

3.2.3. Amendments refused

3.2.3.1. Amendment 1 (workers' representatives) (recital 22(a) (new))

The Commission considers the amendment proposed for the recital to be inappropriate in the context of this proposal, particularly in the light of Article 2(e).

3.2.3.2. Amendment 4 (definition of information) (Article 2(f))

The Commission considers the definition of information given in the Council's common position to be correct and sufficient in the light of, among other things, the provisions of Article 1 of the proposed Directive.
3.2.3.3. Amendment 5 (definition of consultation) (Article 2(g))

The Commission considers the definition of consultation given in the Council's common position to be correct and sufficient in the light of, among other things, the provisions of Article 1 of the proposed Directive.

3.2.3.4. Amendment 7 (content of the information) (Article 4(2)(a))

Given the general nature of the proposed Directive, the Commission considers the wording introduced by Parliament to be excessively detailed with regard to this provision.

3.2.3.5. Amendment 9 (content of consultation) (Article 4(4)(a) and (b)) (new)

The Commission considers the rules concerning approaches to consultation given in the Council's common position to be correct and sufficient in the light of, among other things, the provisions of Article 1 of the proposed Directive.

3.2.3.6. Amendment 10 (content of agreements between the social partners) (Article 5)

The Commission considers that Article 5 as set out in the Council's common position strikes an appropriate balance between the autonomy of the social partners and the requirements for the protection of workers.

3.2.3.7. Amendment 11 (workers' representatives) (Article 7)

Given the general nature of the proposed Directive, the Commission considers the wording introduced by Parliament to be excessively detailed with regard to this provision.

3.2.3.8. Amendment 15 (transitional provisions) (Article 10)

The Commission considers it acceptable, in the exceptional case of the proposed Directive, to make provision for a longer period for the full application of the provisions of this Directive in the Member States, which will have to make substantial efforts to achieve it, given the absence of general rules in this area.

3.3. Amended proposal

Pursuant to Article 250(2) of the EC Treaty, the Commission is amending its proposal as set out above.