



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Directive 89/391/EEC, its individual Directives and Council Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC with a view to simplifying and rationalising the reports on practical implementation

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) BACKGROUND

- **Grounds for and objectives of the proposal**

This proposal aims to simplify and rationalise the provisions of the Community Directives concerning protection of the health and safety of workers at work that oblige the Member States and the Commission to draw up reports on their practical implementation.

The preparation by the Member States of a practical implementation report, which constitutes one of the bases for the Commission's report, is provided for by Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to improve the health and safety of workers at work¹, and by the individual Directives within the meaning of Article 16(1) of that Directive, namely: Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace², Council Directive 89/655/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work³, Council Directive 89/656/EEC of 30 November 1989 concerning the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace⁴, Council Directive 90/269/EEC of 29 May 1990 concerning the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers⁵, Council Directive 90/270/EEC of 29 May 1990 concerning the minimum safety and health requirements for work with display screen equipment⁶, Council Directive 92/57/EEC of 24 June 1992 concerning the implementation of minimum safety and health requirements at temporary or mobile construction sites⁷, Council Directive 92/58/EEC of 24 June 1992 concerning the minimum requirements for the provision of safety and/or health signs at work⁸, Council Directive 92/85/EEC of 19 October 1992 concerning 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 breastfeeding⁹, Council Directive 92/91/EEC of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling¹⁰, Council Directive 92/104/EEC of 3 December 1992 concerning the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries¹¹, Council

¹ OJ L 183, 29.6.1989, p.1.

² OJ L 393, 30.12.1989, p. 1.

³ OJ L 393, 30.12.1989, p. 13.

⁴ OJ L 393, 30.12.1989, p. 18.

⁵ OJ L 156, 21.06.1990, p. 9.

⁶ OJ L 156, 21.06.1990, p. 14.

⁷ OJ L 245, 26.08.1992, p. 6.

⁸ OJ L 245, 26.08.1992, p. 23.

⁹ OJ L 348, 28.11.1992, p. 1.

¹⁰ OJ L 348, 28.11.1992, p. 9.

¹¹ OJ L 404, 31.12.1992, p. 10.

Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels¹², Council Directive 98/24/EC of 7 April 1998 concerning the protection of the health and safety of workers from the risks related to chemical agents at work¹³, Directive 99/92/EC of the European Parliament and of the Council concerning minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres¹⁴, Directive 2002/44/EC of the European Parliament and of the Council of 25 June 2002 concerning the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration)¹⁵, Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 concerning the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise)¹⁶, Directive 2004/40/EC of the European Parliament and of the Council of 29 April 2004 concerning the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields)¹⁷, Directive 2006/25/EC of the European Parliament and of the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation)¹⁸. Three directives in the field in question do not require practical implementation reports, namely: Council Directive 83/477/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work¹⁹, Directive 2000/54/EC of the European Parliament and of the Council of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)²⁰ and Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC)²¹.

An implementation report is also required by Council Directives 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 employment relationship or a temporary employment relationship²², 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels²³, and 94/33/EC of 22 June 1994 on the protection of young people at work²⁴.

Moreover, the current provisions stipulate different intervals for the submission to the Commission of practical implementation reports (four or five years). These disparities will be harmonised by this proposal, which also aims to improve and rationalise the

¹² OJ L 307, 13.12.1993, p. 1.
¹³ OJ L 131, 05.05.1998, p. 11.
¹⁴ OJ L 23 of 28.1.2000 p. 57.
¹⁵ OJ L 177, 06.07.2002, p. 13.
¹⁶ OJ L 42, 15.02.2003, p. 38.
¹⁷ OJ L 159, 30.04.2004, p. 1.
¹⁸ OJ L 114, 27.04.2006, p. 38.
¹⁹ OJ L 263, 24.09.1983, p. 25.
²⁰ OJ L 262, 17.10.2000, p. 21.
²¹ OJ L 229, 29.06.2004, p. 23.
²² OJ L 206, 29.07.1991, p. 19.
²³ OJ L 113, 30.04.1992, p. 19.
²⁴ OJ L 216, 20.08.1994, p. 12.

existing framework by providing for a single document on practical implementation, which would include a general section with general principles and common aspects applicable to all the directives, complemented by specific chapters dealing with the aspects particular to each directive.

At the moment, the different time intervals imposed by the various directives mean that evaluation exercises are carried out almost continuously, resulting in disproportionately high administrative costs.

- **General context**

A considerable number of Community Directives concerning protection of the health and safety of workers at work require the Member States to report to the Commission at regular intervals on the practical implementation of the Directives, indicating the social partners' opinions.

The Directives in question provide for different intervals for the submission to the Commission of the national reports: either every five years (Directives 89/391/EEC, 89/654/EEC, 89/655/EEC, 89/656/EEC, 91/383/EEC, 92/29/EEC, 92/58/EEC, 92/85/EEC, 92/91/EEC, 92/104/EEC, 94/33/EC, 98/24/EC, 99/92/EC, 2002/44/EC, 2003/10/EC and 2004/40/EC) or every four years (Directives 90/269/EEC, 90/270/EEC, 92/57/EEC and 93/103/EEC). Besides, the Commission must submit periodically to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions a report on the implementation of the Directives concerned, taking into account, *inter alia*, the national reports.

Experience gained during years of implementing these provisions highlights not only considerable variations in the intervals for the submission to the Commission of national reports, but also administrative constraints which complicate and bureaucratised the exercise.

The preparation of regular reports on the practical implementation of the Directives concerning protection of the health and safety of workers is an important tool in taking stock of the efficiency of the measures adopted and their impact on the quality of the health and safety of workers in the European Union.

In its communication "Adapting to change in work and society: a new Community strategy for health and safety"²⁵, the Commission indicates in chapter 3.3.1. "Adapting the legal and institutional framework", that the existence of a full, coherent and solid Community legislative framework is an essential tool in terms of health and safety, where there is a need for standards and principles for preventing risks and protecting workers, and it states its intention to pursue a balanced approach in this field, based on experience gained in the implementation of legislative texts, along a number of parallel routes, *inter alia* via simplification and rationalisation of the existing legal framework, notably by producing a single report on their implementation, rather than the specific

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COM(2002) 118 final, 11.3.2002.

reports required under the various directives.

In its resolution²⁶ on the Commission's communication on a new Community strategy on health and safety at work 2002-2006, the Council notes that the Commission intends to present legislative proposals with a view to rationalising reports on the implementation of the Community directives and calls on the Commission to submit to it, by way of the Commission's right of initiative, any proposal needed for achieving the objectives set out in the new strategy, in particular for the purpose of rationalisation of the existing legal framework.

For its part, the European Parliament, in its resolution²⁷ on the Commission's communication on a new Community strategy on health and safety at work 2002-2006, considers that the proposal to codify and simplify (rather than de-regulate) the existing Community legislation in this area sits well with the wider project to simplify and improve the *acquis communautaire* in general as reflected in the Commission's communication "Simplifying and improving the regulatory environment"²⁸ and in its action plan²⁹, and 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. Parliament recognises in this connection that the focus is on revising the application of existing Community law and on the proposal relating to a single implementation report covering all the directives concerned.

More recently, in its report on improving health and safety in the workplace, the European Parliament supported the Commission's proposal to submit a single report covering the practical implementation of all the directives in the 25 Member States.

In the context of the "Better lawmaking" initiative of June 2002, the Commission proposed in February 2003 a policy for "updating and simplifying the Community *acquis*", aimed at securing a clear, understandable, up-to-date and user-friendly body of secondary Community legislation for the benefit of citizens, economic operators, public administrations etc. To achieve this goal, the Commission intervenes at six levels, namely simplification, consolidation, codification, repeal, obsolescence, and organisation and presentation of the *acquis*.

Based on the indicators proposed in its February 2003 communication, the Commission immediately identified 19 policy sectors that could be simplified, including health and safety at work.

The problem was also pinpointed in the conclusions adopted by the Competitiveness Council at its meeting of 25 and 26 November 2004 as one of the Council's priorities for simplifying Community law. An analysis of the problem shows that the information prescribed in certain health and safety directives imposes a disproportionate burden on the Member States, and one possible solution proposed is to minimise the amount of information required, and to ensure its harmonisation and communication every six

²⁶ OJ C 161, 5.7.2002.

²⁷ PE 323.680.

²⁸ COM(2001) 726, 5.12.2001.

²⁹ COM(2002) 278, 6.6.2002.

years in the form of an overall report on all measures.

- **Existing provisions in the area of the proposal**

Article 3 of the proposal contains a list of provisions in force that will be repealed. These are the final provisions of the directives indicated that contain references to reports on the practical implementation of the directives.

All these provisions will therefore be repealed by this proposal. The proposal nonetheless retains, through the inclusion of an Article 17a in Directive 89/391/EEC and an Article relating to the implementation report in Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC, the Member States' obligation to prepare and submit a report on the practical implementation of the health and safety Directives, while harmonising the intervals for their submission to five years and rationalising the exercise by requiring a single report. This proposal extends that obligation to the directives that do not provide for an implementation report; namely, Directives 83/477/EEC, 2000/54/EC and 2004/37/EC. Moreover, the proposal states that the structure of the report will be defined by the Commission, in cooperation with the Advisory Committee on Safety and Health at Work.

- **Consistency with the other policies and objectives of the Union**

This proposal is consistent with the objectives of the European Union's other policies, particularly as regards improving the regulatory framework with the aim of making businesses more competitive. Indeed, this proposal will allow, by requiring a single report, better evaluation of the impact of Community provisions on health and safety at work as regards the reduction of work accidents and occupational diseases, and therefore better evaluation of the resulting economic benefits for businesses and society as a whole.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENTS

- **Consultation of stakeholders**

Consultation methods, main sectors targeted and general profile of respondents

The Commission consulted, in accordance with Article 138 of the EC Treaty, in two stages, the representative social-partner organisations at European level listed in Annex 5 of the Commission's communication "Partnership for change in an enlarged Europe – Enhancing the contribution of European social dialogue"³⁰ and the Advisory Committee on Safety and Health at Work, in accordance with the Council Decision of 22 July 2004 on the creation of an Advisory Committee on Safety and Health at Work, which gave a favourable opinion.

Summary of responses and how they have been taken into account

The social partners all emphasised the importance they attach to an initiative to simplify and rationalise the provisions of the Community directives that impose

³⁰ COM(2004) 557 final, 12.8.2004.

practical implementation reporting obligations. Their suggestions to harmonise the intervals for submission to five years and extend the scope of the initiative to all the directives in this area have been taken into account.

The representatives of the social partners of the 25 Member States on the Advisory Committee have reaffirmed the position already expressed by the social partners at European level during the consultation under Article 138 of the Treaty.

The government representatives within this same committee have also expressed their support for an initiative aiming to reduce the administrative burden associated with the need to produce multiple reports.

- **Collection and use of expertise**

Use of external expertise was not necessary.

- **Impact assessment**

Option 1: Do nothing at this stage. This option would perpetuate a legal framework containing multiple obligations (one per directive) to report to the Commission at different times. This situation obliges national administrations and the social partners at national level to carry out evaluations continuously without any real added value.

Option 2: Amending the legal framework in order to bring together the various reporting obligations in a single report would allow an overall evaluation to be obtained at regular intervals and simplify the evaluation efforts of the national administrations and social partners at national level and would result in a considerable reduction in costs.

The proposed amendment affects only the Member States' obligation to report to the Commission on the practical implementation of the health and safety at work Directives; it does not impose any additional obligations on businesses.

This proposal will allow, by requiring a single report, better evaluation of the impact of Community provisions on health and safety at work as regards the reduction of work accidents and occupational diseases, and therefore better evaluation of the resulting economic benefits for businesses and society as a whole.

Given its nature, this proposal has not been the subject of an impact assessment. A financial statement is attached to this proposal.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

A new Article 17a entitled "Implementation reports" is added to Directive 89/391/EEC: It requires the Member States to submit to the Commission, every five years, a single report on the practical implementation of Directive 89/391/EEC and its individual Directives, indicating the social partners' points of view. It contains provisions on the content and procedure for preparing and submitting reports, and on the overall implementation evaluation to be carried out by the Commission. These

provisions will also permit the inclusion in this implementation reporting exercise of any future individual directives within the meaning of Article 16(1) of Directive 89/391/EEC.

Article 2 of the proposal provides for the inclusion of a new Article on an implementation report in the directives that are not individual directives within the meaning of Article 16(1) of Directive 89/391/EEC, namely Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC, requiring the Member States to submit their implementation reports to the Commission in the form of a specific chapter of the single report provided for under Article 17a (1) of Directive 89/391/EEC, and this will serve as a basis for the evaluation to be carried out by the Commission in accordance with Article 17a (4).

Article 3 of the proposal repeals the provisions of the directives currently in force that deal with implementation reports.

- **Legal basis**

Article 137(2) of the EC Treaty.

- **Subsidiarity principle**

The subsidiarity principle applies in so far as the proposal concerns a field, the protection of the health and safety of workers at work, which does not fall under the exclusive competence of the Community.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the reasons below.

The directives' provisions cannot be amended or repealed at national level.

The objectives of the proposal can be better achieved by Community action for the following reasons.

This proposal amends a Community legal act in force and repeals certain provisions of several directives in the field in question, which could not be achieved by the Member States themselves. On the other hand, it is a question of harmonising and rationalising the procedure for the preparation and submission of national reports on the practical implementation of the directives and the report to be produced by the Commission.

The proposal will improve the system for evaluating the health and safety at work Directives.

It will allow a significant reduction in the administrative burden resulting from the multiple obligations provided for in each directive.

The principle of subsidiarity is maintained, since the proposal amends existing Community provisions so as to improve and simplify their application.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons.

The proposal does not go beyond what is necessary to achieve the objective of simplifying and rationalising the existing legal framework in order to establish a single practical implementation report.

It is expected that the administrative burden on the Commission, the national authorities and the social partners will be significantly reduced.

- **Choice of instruments**

Proposed instrument: directive.

Other instruments would not be adequate for the following reasons.

Since it is a question of amending a directive and repealing the provisions of several directives, the only suitable method is the adoption of a directive.

4) BUDGETARY IMPLICATIONS

The proposal has no implications for the Community budget.

5) ADDITIONAL INFORMATION

- **Simplification**

The proposal simplifies the legislative framework, the administrative procedures applicable to (national or European) public authorities and the administrative procedures applicable to bodies and private individuals.

Currently, most of the existing Directives concerning protection of the health and safety of workers at work require the Member States to prepare and submit to the Commission, at different intervals, national practical implementation reports, indicating the social partners' points of view, and require the Commission to prepare its own report on the implementation of the directives.

This proposal simplifies and rationalises the exercise by harmonising the intervals for the submission of national reports to the Commission and requiring only one practical implementation report, which will include a general section and specific chapters on the aspects particular to each directive.

The national authorities will have to prepare and submit only one report on the implementation of the directives every five years. The Commission will also see a considerable simplification of its tasks, as it will receive and have to process only one report from each Member State every five years, rather than multiple reports from each of them.

The tasks of the social partners will also be simplified in that their contributions will be limited to a single practical implementation report every five years.

The proposal forms part of the Commission programme updating and simplifying the Community *acquis*.

- **Repeal of existing legislation**

The adoption of this proposal will mean that some legislative provisions must be repealed.

- **European Economic Area**

This draft instrument has to do with an area covered by the EEA Agreement and must therefore be extended to the European Economic Area.

- **Detailed explanation of the proposal by chapter or by article**

This proposal simplifies the obligations imposed respectively on the Member States to report on the practical implementation of the directives and on the Commission to prepare a report based on the national reports, by harmonising the intervals for the preparation of reports and their submission to the Commission and requiring a single practical implementation report, which will include a general section and chapters specific to each directive in question.

Article 1 of the proposal thus adds a new Article 17a to Directive 89/391/EEC requiring the Member States to submit to the Commission a single report on the practical implementation of that Directive and of the individual Directives within the meaning of Article 16(1) thereof (Article 17a (1) of Directive 89/391/EEC).

In order to ensure the consistency and facilitate the use of the national reports, Article 1 of the proposal (Article 17a (2) of Directive 89/391/EEC) also states that the structure of the report will be defined by the Commission, in conjunction with the Advisory Committee on Safety and Health at Work.

The structure of the report, together with a questionnaire specifying its content, will be sent to the Member States six months before the end of the period covered by the report. The Member States must transmit their reports to the Commission within nine months of the end of the five-year period that they cover (see Article 1 of the proposal – Article 17a (3) of Directive 89/391/EEC).

Article 1 of the proposal (Article 17a (4) of Directive 89/391/EEC) also requires the Commission, based on the national reports, to carry out an overall evaluation of the implementation of the directives in question and of any developments and to inform the other institutions of the results of this evaluation and, where applicable, of any initiatives that may prove necessary.

Article 2 of the proposal provides for the inclusion of a new Article on an implementation report in the directives that are not individual directives within the meaning of Article 16(1) of Directive 89/391/EEC, namely Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC, requiring the Member States to submit their implementation reports to the Commission in the form of a specific chapter of the single report provided for under Article 17a (1), (2) and (3) of Directive 89/391/EEC and this will serve as a basis for the evaluation to be carried out by the Commission in

accordance with Article 17a (4).

Article 3 of the proposal repeals the provisions on the practical implementation reports in the directives concerned.

The proposal requires the Member States to take the necessary measures to comply with the new rules (Article 4). This does not necessarily imply the adoption of legislative, regulatory or administrative acts at Member State level.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Directive 89/391/EEC, its individual Directives and Council Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC with a view to simplifying and rationalising the reports on practical implementation

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 137(2) thereof,

Having regard to the Commission's proposal³¹, presented after consultation of the Advisory Committee on Safety and Health at Work,

Having regard to the opinion of the European Economic and Social Committee³², after consultation of the Committee of the Regions,

Having regard to the opinion of the Committee of the Regions³³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty³⁴,

Whereas:

- (1) The preparation by the Member States of a practical implementation report, which is one of the bases for the Commission's report, is provided for by 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 work³⁵, and by the individual Directives within the meaning of Article 16(1) of that Directive, namely: Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace³⁶, Council Directive 89/655/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work³⁷, Council Directive 89/656/EEC of 30 November 1989 concerning the minimum health and safety requirements for the

³¹ OJ C [...], [...], p. [...].

³² OJ C [...], [...], p. [...].

³³ OJ C [...], [...], p. [...].

³⁴ European Parliament Opinion of ... (OJ C, Council Common Position of ... (...)) and position of the European Parliament of ...)

³⁵ OJ L 183, 29.06.1989, p.1.

³⁶ OJ L 393, 30.12.1989, p. 1.

³⁷ OJ L 393, 30.12.1989, p. 13.

use by workers of personal protective equipment at the workplace³⁸, Council Directive 90/269/EEC of 29 May 1990 concerning the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers³⁹, Council Directive 90/270/EEC of 29 May 1990 concerning the minimum safety and health requirements for work with display screen equipment⁴⁰, Council Directive 92/57/EEC of 24 June 1992 concerning the implementation of minimum safety and health requirements at temporary or mobile construction sites⁴¹, Council Directive 92/58/EEC of 24 June 1992 concerning the minimum requirements for the provision of safety and/or health signs at work⁴², 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 breastfeeding⁴³, Council Directive 92/91/EEC of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling⁴⁴, Council Directive 92/104/EEC of 3 December 1992 concerning the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries⁴⁵, Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels⁴⁶, Council Directive 98/24/EC of 7 April 1998 concerning the protection of the health and safety of workers from the risks related to chemical agents at work⁴⁷, Directive 99/92/EC of the European Parliament and of the Council concerning minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres⁴⁸, Directive 2002/44/EC of the European Parliament and of the Council of 25 June 2002 concerning the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration)⁴⁹, Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 concerning the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise)⁵⁰, Directive 2004/40/EC of the European Parliament and of the Council of 29 April 2004 concerning the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields)⁵¹, Directive 2006/25/EC of the European Parliament and of the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation)⁵².

³⁸ OJ L 393, 30.12.1989, p. 18.

³⁹ OJ L 156, 21.06.1990, p. 9.

⁴⁰ OJ L 156, 21.06.1990, p. 14.

⁴¹ OJ L 245, 26.08.1992, p. 6.

⁴² OJ L 245, 26.08.1992, p. 23.

⁴³ OJ L 348, 28.11.1992, p. 1.

⁴⁴ OJ L 348, 28.11.1992, p. 9.

⁴⁵ OJ L 404, 31.12.1992, p. 10.

⁴⁶ OJ L 307, 13.12.1993, p. 1.

⁴⁷ OJ L 131, 05.05.1998, p. 11.

⁴⁸ OJ L 23, 28.1.2000 p. 57.

⁴⁹ OJ L 177, 06.07.2002, p. 13.

⁵⁰ OJ L 42, 15.02.2003, p. 38.

⁵¹ OJ L 159, 30.04.2004, p. 1.

⁵² OJ L 114, 27.04.2006, p. 38.

- (2) An implementation report is also required by Council Directives 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 employment relationship or a temporary employment relationship⁵³, 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels⁵⁴, and 94/33/EC of 22 June 1994 on the protection of young people at work⁵⁵.
- (3) The provisions on the preparation of reports in the individual Directives within the meaning of Article 16(1) of Directive 89/391/EC and in Directives 91/383/EEC, 92/29/EEC and 94/33/EC are inconsistent in terms of both frequency and content.
- (4) The obligations on the Member States to report on the practical implementation and on the Commission to draw up a report on the basis of the national reports are an important part of the legislative cycle, providing the opportunity to take stock of and evaluate the various aspects of the practical implementation of the Directives; it is therefore appropriate to extend this obligation to those directives that do not require reports, namely: Directive 2000/54/EC of the Parliament and of the European Council of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)⁵⁶, Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC)⁵⁷ and Council Directive 83/477/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work⁵⁸.
- (5) It is therefore necessary to harmonise the provisions of Directive 89/391/EEC, the individual Directives within the meaning of Article 16(1) thereof and Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC.
- (6) The Commission's communication "Adapting to change in work and society: a new Community strategy for health and safety 2002-2006"⁵⁹ provides for the drafting of legislative proposals to simplify and rationalise implementation reports. This matter has also been identified as one of the priorities for the simplification of Community legislation in the context of the Better Lawmaking initiative.
- (7) The exercise should be simplified by harmonising the intervals for the practical implementation reports to be submitted to the Commission and by requiring a single practical implementation report which would include a general part applicable to all the directives and specific chapters relating to the aspects particular to each directive. These provisions and in particular the introduction of a new Article 17a in Directive 89/391/EEC will furthermore allow the inclusion in this implementation report exercise of the individual Directives within the meaning of Article 16(1) of Directive

⁵³ OJ L 206, 29.07.1991, p. 19.

⁵⁴ OJ L 113, 30.04.1992, p. 19.

⁵⁵ OJ L 216, 20.08.1994, p. 12.

⁵⁶ OJ L 262, 17.10.2000, p. 21.

⁵⁷ OJ L 229, 29.06.2004, p. 23.

⁵⁸ OJ L 263, 24.09.1983, p. 25.

⁵⁹ COM(2002) 118 final,

89/391/EEC that do not require reports, namely: Directives 2000/54/EC and 2004/37/EC and any future individual directives within the meaning of Article 16(1) of Directive 89/391/EEC.

- (8) The appropriate frequency for the Member States to draw up these reports and submit them to the Commission would be five years; the structure of the reports must be consistent to facilitate their exploitation; they must be drawn up on the basis of a questionnaire drafted by the Commission after consulting the Advisory Committee on Safety and Health at Work.
- (9) In accordance with Article 138(2) of the Treaty, the Commission consulted the social partners at Community level on the possible direction of Community action in this field.
- (10) Following this consultation, the Commission considered that Community action was desirable and consulted the social partners at Community level again on the content of the envisaged proposal, in accordance with Article 138(3) of the Treaty.
- (11) Following this second phase of consultation, the social partners at Community level did not inform the Commission of their wish to initiate the process which could lead to the conclusion of an agreement, as set out in Article 138(4) of the Treaty.
- (12) The necessary measures to be taken by the Member States do not involve the adoption of legislative, regulatory or administrative acts, since the drafting of reports on the implementation of Community directives does not currently require the adoption of such provisions at Member State level.

HAVE ADOPTED THIS DIRECTIVE:

Article 1 - Amendments to Directive 89/391/EEC

The following Article 17a is inserted in Directive 89/391/EEC:

"Article 17a – Implementation reports

1. Every five years, the Member States shall submit a single report to the Commission on the practical implementation of this Directive and individual Directives within the meaning of Article 16(1) thereof, indicating the points of view of the social partners.

2. The structure of the report shall be defined by the Commission, in cooperation with the Advisory Committee on Safety and Health at Work.

It shall include a general part on the provisions of this Directive and specific chapters on the implementation of the Directives referred to in paragraph 1.

3. The Commission shall send the structure of the report, together with a questionnaire specifying its content, to the Member States six months before the end of the period covered by the report. The report shall be transmitted to the Commission within nine months of the end of the five-year period that it covers.

4. Using these reports as a basis, the Commission shall evaluate the implementation of the Directives concerned and developments in terms of research and new scientific knowledge in the various fields in question. It shall periodically inform the European Parliament, the Council, the European Economic and Social Committee and the Advisory Committee on Safety and Health at Work of this evaluation and, if necessary, of any initiatives to improve the operation of the regulatory framework.

5. The first report shall cover the period 2007 to 2012 inclusive."

Article 2 – Amendments to Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC

1. The following Article 17a is inserted in Directive 83/477/EEC:

"Article 17a – Implementation report

Every five years, the Member States shall submit to the Commission a report on the practical implementation of this Directive in the form of a specific chapter of the single report referred to in Article 17a (1), (2) and (3) of Directive 89/391/EEC, which serves as a basis for the Commission's evaluation, in accordance with Article 17a (4)."

2. The following Article 10a is inserted in Directive 91/383/EEC:

"Article 10a – Implementation report

Every five years, the Member States shall submit to the Commission a report on the practical implementation of this Directive in the form of a specific chapter of the single report referred to in Article 17a (1), (2) and (3) of Directive 89/391/EEC, which serves as a basis for the Commission's evaluation, in accordance with Article 17a (4)."

3. The following Article 9a is inserted in Directive 92/29/EEC:

"Article 9a – Implementation report

Every five years, the Member States shall submit to the Commission a report on the practical implementation of this Directive in the form of a specific chapter of the single report referred to in Article 17a (1), (2) and (3) of Directive 89/391/EEC, which serves as a basis for the Commission's evaluation, in accordance with Article 17a (4)."

4. The following Article 17a is inserted in Directive 94/33/EEC:

"Article 17a – Implementation report

Every five years, the Member States shall submit to the Commission a report on the practical implementation of this Directive in the form of a specific chapter of the single report referred to in Article 17a (1), (2) and (3) of Directive 89/391/EEC, which serves as a basis for the Commission's evaluation, in accordance with Article 17a (4)."

Article 3 - Repeal

With effect from *[date to be specified, indicated in Article 4]* the following provisions shall be repealed:

- 1) Article 18(3) and (4) of Directive 89/391/EEC;
- 2) Article 10(3) and (4) of Directive 89/654/EEC;
- 3) Article 10(3) and (4) of Directive 89/655/EEC;
- 4) Article 10(3) and (4) of Directive 89/656/EEC;
- 5) Article 9(3) and (4) of Directive 90/269/EEC;
- 6) Article 11(3) and (4) of Directive 90/270/EEC;
- 7) Article 10(3) and (4) of Directive 91/383/EEC;
- 8) Article 9(3) and (4) of Directive 92/29/EEC;
- 9) Article 14(4) and (5) of Directive 92/57/EEC;
- 10) Article 11(4) and (5) of Directive 92/58/EEC;
- 11) Article 14(4), (5) and (6) of Directive 92/85/EEC;
- 12) Article 12(4) of Directive 92/91/EEC;
- 13) Article 13(4) of Directive 92/104/EEC;
- 14) Article 13(3) and (4) of Directive 93/103/EC;
- 15) Article 17(4) and (5) of Directive 94/33/EC;
- 16) Article 15 of Directive 98/24/EC;
- 17) Article 13(3) of Directive 1999/92/EC;
- 18) Article 13 of Directive 2002/44/EC;
- 19) Article 16 of Directive 2003/10/EC;
- 20) Article 12 of Directive 2004/40/EC;
- 21) Article 12 of Directive 2006/25/EC.

Article 4 - Implementation

The Member States shall adopt the measures necessary for them to comply with the provisions of this Directive by [...].

When the Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Article 5 - Entry into force

This Directive shall enter into force on the [...] day following that of its publication in the *Official Journal of the European Union*.

Article 6 - Addressees

This Directive is addressed to the Member States.

Done at Brussels, [...]

For the European Parliament
The President

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. TITLE OF THE PROPOSAL:

Proposal for a Directive of the European Parliament and of the Council amending Council Directive 89/391/EEC, its individual Directives and Council Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC with a view to simplifying and rationalising the reports on practical implementation.

2. ABM / ABB FRAMEWORK

Policy area(s) concerned and associated activity/activities:

Employment and social affairs – Work organisation and working conditions – Modernisation of employment law and industrial relations, including safety, hygiene and health of workers.

3. BUDGET LINES

3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex- B.A lines)) including headings :

N/A

3.2. Duration of the action and of the financial impact:

N/A – no financial implications

3.3. Budgetary characteristics (add rows if necessary) : N/A

Budget line	Nature of the expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
	Compulsory/ Non-compulsory expenditure	⁶⁰ Diff/ Non-dif ⁶¹	YES/NO O	YES/NO	YES/NO	N°
	Compulsory/ Non-compulsory expenditure	Differentiated /Non-differentiated appropriations	YES/NO O	YES/NO	YES/NO	N°

⁶⁰ Differentiated appropriations

⁶¹ Non-differentiated appropriations

4. SUMMARY OF RESOURCES

4.1. Financial resources

4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

EUR million (to 3 decimal places)

Nature of the expenditure	Section n°		Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and later	Total
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Operational expenditure⁶²

Commitment Appropriations (CA)	8.1.	a							0
Payment Appropriations (PA)		b							0

Administrative expenditure within reference amount⁶³

Technical & administrative assistance (NDA)	8.2.4.	c							0
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TOTAL REFERENCE AMOUNT

Commitment appropriations		a + c							
Payment appropriations		b + c							

Administrative expenditure not included within reference amount⁶⁴

Human resources and associated expenditure (NDA)	8.2.5.	d							
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6.	e							

⁶² Expenditure that does not fall under Chapter xx 01 of the Title xx concerned.

⁶³ Expenditure within Article xx 01 04 of Title xx.

⁶⁴ Expenditure within Chapter xx 01 other than Articles xx 01 04 or xx 01 05.

Total indicative financial cost of intervention

TOTAL CA including cost of human resources		a + c + d + e							
TOTAL PA including cost of human resources		b + c + d + e							

Co-financing details

If the proposal involves co-financing by Member States, or other bodies (please specify which), an estimate of the level of this co-financing should be indicated in the table below (additional lines may be added if different bodies are foreseen for the provision of the co-financing):

EUR million (to 3 decimal places)

Co-financing body		Years n	n + 1	n + 2	n + 3	n + 4	n + 5 and later.	Total
.....	f							
TOTAL CA including co-financing	a + c + d + e + f							

4.1.2. Compatibility with Financial Programming

- ☒ Proposal compatible with existing financial programming.
- ☐ Proposal will entail reprogramming of the relevant heading in the financial perspective.
- ☐ Proposal may require application of the provisions of the Interinstitutional Agreement⁶⁵ (i.e. flexibility instrument or revision of the financial perspective).

4.1.3. Financial impact on Revenue

- ☒ Proposal has no financial implications on revenue
- ☐ Proposal has financial impact – the effect on revenue is as follows:

Note: All details and observations relating to the method of calculating the effect on revenue should be shown in a separate annex.

⁶⁵ See points 19 and 24 of the Interinstitutional Agreement.

EUR million (to one decimal place)

		Prior to action [Year n-1]	Situation following action					
Budget line	Revenue		[Year n]	[n + 1]	[n + 2]	[n + 3]	[n + 4]	[n + 5] ⁶⁶
	a) Revenue in absolute terms							
	b) Change in revenue	Δ						

(Please specify each revenue budget line involved, adding the appropriate number of rows to the table if there is an effect on more than one budget line.)

4.2. Human Resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.

Annual requirements	Year n				n + 4	n+5 and later
Total number of human resources	1A for 60 days 1C for 60 days				1A for 120 days 1C for 120 days	1A for 120 days 1C for 120 days

5. CHARACTERISTICS AND OBJECTIVES

Details of the context of the proposal are required in the Explanatory Memorandum. This section of the Legislative Financial Statement should include the following specific complementary information:

5.1. Need to be met in the short or long term

Simplification and rationalisation of existing legal framework.

5.2. Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy

Action needed at Community level because it amends an existing directive and repeals provisions in several directives.

⁶⁶ Additional columns should be added if necessary i.e. if the duration of the action exceeds 6 years.

5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

Simplification and rationalisation of existing legal framework.

5.4. Method of Implementation (indicative)

Show below the method(s)⁶⁷ chosen for the implementation of the action.

X Centralised Management

☒ Directly by the Commission

☐ Indirectly by delegation to:

☐ Executive Agencies

☐ Bodies set up by the Communities as referred to in Art. 185 of the Financial Regulation,

☐ National public-sector bodies/bodies with public-service mission

☐ *Shared or decentralised management*

☐ With Member States

☐ With third countries

☐ *Joint management with international organisations (please specify)*

6. MONITORING AND EVALUATION

6.1. Monitoring system

Monitoring of the submission of national reports to the Commission.

6.2. Evaluation

6.2.1. Ex-ante evaluation

N/A

6.2.2. Measures taken following an intermediate/ex-post evaluation (lessons learned from similar experiences in the past)

Previous experience has shown the need to simplify and rationalise the existing legal framework.

⁶⁷ If more than one method is indicated please provide additional details in the "Relevant comments" section of this point

6.2.3. *Terms and frequency of future evaluation*

The next evaluation will take place at the end of the first period for the submission of implementation reports in 2012.

7. **ANTI-FRAUD MEASURES**

N/A

8. DETAILS OF RESOURCES

8.1. Objectives of the proposal in terms of their financial cost

Commitments (in EUR million to three decimal places)

(Headings of objectives, actions and outputs should be provided)	Type of output	Average cost	Year n		Year n+1		Year n+2		Year n+3		Year n+4		Year n+5 and later		TOTAL	
			No. of outputs	Total cost	No. of outputs	Total cost	No. of outputs	Total cost	No. of outputs	Total cost	No. of outputs	Total cost	No. of outputs	Total cost	No. of outputs	Total cost
⁶⁸ OPERATIONAL OBJECTIVE No 1																
Action 1.																
- Output 1																
- Output 2																
Action 2																
- Output 1																
Sub-total Objective 1																
OPERATIONAL OBJECTIVE No.2																
Action 1																
- Output 1																
Sub-total Objective 2																

⁶⁸ As described under Section 5.3.

OPERATIONAL OBJECTIVE No.n 1															
Sub-total Objective n															
TOTAL COSTS															

8.2. Administrative expenditure

8.2.1. Number and type of human resources

Type of post		Staff to be assigned to management of the action using existing and/or additional resources (number of posts/FTEs)					
		Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5
⁶⁹ Officials or temporary staff (XX 01 01)	A*/AD	1A for 60 days				1A for 120 days	1A for 360 days
	B*, C*/AST	1C for 60 days				1C for 120 days	1C for 360 days
⁷⁰ Staff financed by Article XX 01 02							
⁷¹ Other staff financed by art. XX 01 04/05							
TOTAL							

8.2.2. Description of tasks deriving from the action

Year n: preparation, consultation and adoption of the structure for national reports.

Year n+4 and/or year n+5: monitoring of submission of the 25 national reports, analysis and preparation of the Commission's report.

8.2.3. Sources of human resources (statutory)

The work will be carried out using existing resources:

(When more than one source is stated, please indicate the number of posts originating from each of the sources)

- ☐ Posts currently allocated to the management of the programme to be replaced or extended
- ☐ Posts pre-allocated within the APS/PDB exercise for year n
- ☐ Posts to be requested in the next APS/PDB procedure
- ☐ Posts to be redeployed using existing resources within the managing service (internal redeployment)
- ☐ Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

⁶⁹ Cost of which is NOT covered by the reference amount

⁷⁰ Cost of which is NOT covered by the reference amount

⁷¹ Cost of which is included within the reference amount

8.2.4. *Other administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)*

EUR million (to 3 decimal places)

Budget line Number and title	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
1. Technical and administrative assistance (including related staff costs)							
Executive agencies ⁷²	0						
Other technical and administrative assistance	0						
- <i>intra muros</i>							
- <i>extra muros</i>							
Total technical and administrative assistance	0						

8.2.5. *Financial cost of human resources and associated costs not included in the reference amount*

EUR million (to 3 decimal places)

Type of human resources	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later
Officials and temporary staff (XX 01 01)	0					
Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line)	0					
Total cost of human resources and associated costs (NOT in reference amount)	0					

Calculation– Officials and temporary agents

Reference should be made to Point 8.2.1, if applicable

⁷² Reference should be made to the specific legislative financial statement for the Executive Agency(ies) concerned.

Calculation– Staff financed under art. XX 01 02*Reference should be made to Point 8.2.1, if applicable***8.2.6. Other administrative expenditure not included in reference amount**

EUR million (to 3 decimal places)

	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
XX 01 02 11 01 – Missions							
XX 01 02 11 02 – Meetings & Conferences							
XX 01 02 11 03 – Committees ⁷³							
XX 01 02 11 04 – Studies & consultations							
XX 01 02 11 05 - Information systems							
2. Total other management expenditure (XX 01 02 11)							
3. Other expenditure of an administrative nature (specify, including reference to budget line)	0.03	0.03					0.06
Total administrative expenditure, other than human resources and associated costs (NOT included in reference amount)							0.06

Calculation - Other administrative expenditure not included in reference amount⁷³

Specify the type of committee and the group to which it belongs.