

Wednesday 23 October 2002

P5_TA(2002)0498

Application of health and safety legislation to self-employed *

European Parliament legislative resolution on the proposal for a Council recommendation concerning the application of legislation governing health and safety at work to self-employed workers (COM(2002) 166 – C5-0235/2002 – 2002/0079(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2002) 166),
 - having been consulted by the Council pursuant to Article 308 of the EC Treaty (C5-0235/2002),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs (A5-0326/2002),
1. approves the Commission proposal as amended;
 2. calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 4. calls for initiation of the conciliation procedure under the Joint Declaration of 4 March 1975 if the Council intends to depart from the text approved by Parliament;
 5. asks to be consulted again if the Council intends to amend the Commission proposal substantially;
 6. instructs its President to forward its position to the Council and Commission and, for information, to the parliaments of the Member States.

TEXT PROPOSED
BY THE COMMISSION

AMENDMENTS
BY PARLIAMENT

Amendment 1

Recital -1 (new)

(-1) Article 31 of the Charter of Fundamental Rights of the European Union provides that 'every worker has the right to working conditions which respect his or her health, safety and dignity'; that right, as a statement of the fundamental right to protection of the person and of human dignity, applies to all workers, irrespective of their legal status.

Amendment 2

Recital 3

(3) The social partners attach particular importance to the protection of the health and safety of self-employed workers and almost all are in favour of a Community action in the

(3) The social partners attach particular importance to the protection of the health and safety of self-employed workers **as well as those working alongside self-employed workers**

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form of a Council recommendation focusing on high risk sectors and notably on information and awareness-raising measures on risk prevention, appropriate training and medical surveillance.

and almost all are in favour of a Community action in the form of a Council recommendation focusing on high risk sectors and notably on information and awareness-raising measures on risk prevention, appropriate training and medical surveillance.

Amendment 3

Recital 5a (new)

(5a) Through their activities, self-employed workers may jeopardise the safety and health of other workers or other persons.

Amendment 4

Recital 9a (new)

(9a) Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites ⁽¹⁾, provides for the extension to self-employed workers and to employers, where they are engaged in work activity, of certain relevant provisions of 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 work ⁽²⁾ and of Council Directive 89/656/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use by workers of personal protective equipment at the workplace ⁽³⁾.

A similar extension of the minimum health and safety requirements should apply in all cases in which provisions applicable to employed workers may apply directly to self-employed workers working within the sphere of activity or organisation of an undertaking which employs employed workers and also legally provides employment to self-employed workers without a binding employment contract.

⁽¹⁾ OJ L 245, 26.8.1992, p. 6.

⁽²⁾ OJ L 393, 30.12.1989, p. 13.

⁽³⁾ OJ L 393, 30.12.1989, p. 18.

Amendment 5

Recital 9b (new)

(9b) This Recommendation applies to all self-employed workers, irrespective of whether they work alone or with employees in a firm belonging to the self-employed worker or to another person.

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Amendment 6

Recital 12

(12) The health and safety objectives laid down in this Recommendation do not prejudice the right of each Member State to establish specific procedures for the application of its legislation to self-employed workers.

(12) The health and safety objectives laid down in this Recommendation do not prejudice the right of each Member State to establish specific procedures for the application of its legislation to self-employed workers **with the aim of bringing health and safety measures concerning employed and self-employed workers in line with each other, and securing better health and safety conditions for all.**

Amendment 7

Recital 14a (new)

(14a) If the measures taken by the Member States do not prove effective after four years from the adoption of this Recommendation, the Commission should submit binding measures to ensure that the self-employed are fully covered by existing and future health and safety legislation.

Amendment 8

Recommendation 1

1. recognise, in the context of their policy on preventing occupational hazards and accidents, the right of self-employed workers to health and safety protection on an equal footing with employed workers and the duties to which they are subject in this area;

1. recognise, in the context of their policy on preventing occupational hazards and accidents, the right of self-employed workers to health and safety protection on an equal footing with employed workers and the duties to which they are subject in this area; **also recognise the duty of employers and of contracting undertakings to apply to self-employed workers whom they legally employ the relevant health and safety provisions which apply to employed workers;**

Amendment 9

Recommendation 2

2. organise the recognition of this right and these duties within their domestic legal order, in particular by making provision for the inclusion of self-employed workers in the scope of their legislation on health and safety at work and/or the adoption of specific measures relating to self-employed workers;

2. organise the recognition **and implementation** of this right and these duties within their domestic legal order, in particular by making provision for the inclusion of self-employed workers in the scope of **all** their legislation on health and safety at work and/or the adoption of specific measures relating to self-employed workers **with the aim of bringing health and safety measures concerning employed and self-employed workers in line with each other;**

Amendment 10

Recommendation 3

3. adapt, if necessary, this legislation to the specific needs of self-employed workers;

3. adapt, if necessary, this legislation to the specific needs of self-employed workers **by ensuring, in particular, that in**

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subcontracting relationships health and safety matters are covered by effective provisions; that the respective obligations of self-employed workers and of a contracting undertaking are laid down; and that the safety rules concerning the supply of work equipment or substances are observed, including the provision of information to self-employed workers about risks and advice on the use thereof;

Amendment 11

Recommendation 4

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| <p>4. take the necessary measures so that self-employed workers can obtain from the services and/or bodies appointed for this purpose useful information and advice on the prevention of health and safety risks in the context of their occupational activity; these measures must be adapted to the needs of self-employed workers and allow them to control the risks to which they are liable to be exposed;</p> | <p>4. take the necessary measures so that self-employed workers can obtain from the services and/or bodies appointed for this purpose useful information and advice on the prevention of health and safety risks in the context of their occupational activity; these measures must be adapted to the needs of self-employed workers and allow them to control the risks to which they are liable to be exposed, and should include the implementation of national information campaigns on health and safety at work, focusing on the specific risks in the various sectors where there is a very large number of self-employed workers;</p> |
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Amendment 13

Recommendation 6a (new)

- 6a. include considerations regarding the health and safety of self-employed workers in their national employment plans, using the experience gained in other Member States or at Community level as a basis for developing appropriate, comparable indicators, such as the rate of accidents among self-employed workers, by sector and sex, age group and other social circumstances;**

Amendment 14

Recommendation 7

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| <p>7. take the necessary measures, in line with their national legislation and/or practice, to ensure appropriate surveillance of the health of self-employed workers, depending on the health and safety hazards in question;</p> | <p>7. take the necessary measures, in line with their national legislation and/or practice, to ensure appropriate surveillance of the health of self-employed workers, depending on the health and safety hazards in question and, as a matter of priority, on specific hazards, taking into account the results of such surveillance in evaluating risks and in planning preventive activities, either in terms of public health, health at work and social security policies, or in terms of sectoral and company-level measures, in particular where the use of self-employed workers is relatively regular and foreseeable;</p> |
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Amendment 15
Recommendation 10

10. examine, at the end of four-year old period starting with the adoption of this Recommendation, the effectiveness of the measures taken with a view to implementing its provisions, and inform the Commission of its findings.

10. examine, at the end of four-year old period starting with the adoption of this Recommendation, the effectiveness of the measures taken with a view to implementing its provisions, and inform the Commission of its findings; **if, at the end of that four-year period, these measures prove ineffective, the Commission shall submit binding measures to ensure that self-employed workers are fully covered by existing and future health and safety legislation.**

P5_TA(2002)0499

Adapting to change in work and society

European Parliament resolution on the Commission communication: 'Adapting to change in work and society: a new Community strategy on health and safety at work 2002-2006' (COM(2002) 118 – C5-0261/2002 – 2002/2124(COS))

The European Parliament,

- having regard to the Commission communication (COM(2002) 118 – C5-0261/2002),
 - having regard to its resolution of 25 October 2000 on the social policy agenda⁽¹⁾,
 - having regard to Rule 47(1) of its Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs and the opinion of the Committee on Women's Rights and Equal Opportunities (A5-0310/2002),
- A. whereas Article 31(1) of the Charter of fundamental rights of the European Union⁽²⁾ stipulates that 'every worker has the right to working conditions which respect his or her health, safety and dignity',
 - B. whereas the priority given to workplace health and safety in the Commission has dwindled in the last decade, reflected in drastically reduced staffing (estimated now to be just 40 % of 1992 levels in terms of A and B grade officials) and, for example, a real gap in the Sixth Framework Programme for research,
 - C. whereas this drastic reduction in resourcing and priority runs counter to the Commission's rhetoric on the importance of occupational health and safety for better employability and quality in work,
 - D. whereas the decision taken by the Lisbon European Council, 23/24 March 2000 and ratified by the Barcelona European Council, 15/16 March 2002 to give firm encouragement to an economy that will create more and better jobs should also be seen as a commitment to improving conditions with regard to the health and safety of workers,
 - E. whereas the strategy must be accompanied by an action plan with clear deadlines and financial commitments,

⁽¹⁾ OJ C 197, 12.7.2001, p. 180.

⁽²⁾ OJ C 364, 18.12.2000, p. 1.