



**COUNCIL OF
THE EUROPEAN UNION**

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INFORMATION NOTE

from:	General Secretariat
to:	Permanent Representatives Committee/Council
Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 2004/40/EC on minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (eighteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) - Outcome of the European Parliament's first reading (Brussels, 28 to 29 March 2012)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

¹ OJ C 145, 30.6.2007, p.5

In this context, the rapporteur, Elisabeth Morin-Chartier (PPE, FR) presented a compromise amendment to the proposal for a Directive of the European Parliament and of the Council amending Directive 2004/40/EC on minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (eighteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC), on behalf of the Committee on Employment and Social Affairs. This amendment had been agreed during the informal contacts referred to above.

II. VOTE

When it voted on 29 March 2012, the plenary adopted the compromise amendment to the proposal for a Directive of the European Parliament and of the Council amending Directive 2004/40/EC on minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (eighteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC). The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto¹.

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text. The symbol "||" indicates changes of a linguistic or clerical nature.

Minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) *I**

European Parliament legislative resolution of 29 March 2012 on the proposal for a directive of the European Parliament and of the Council amending Directive 2004/40/EC on minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (eighteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (COM(2012)0015 – C7-0020/2012 – 2012/0003(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2012)0015),
 - having regard to Article 294(2) and Article 153(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0020/2012),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 22 February 2012¹,
 - after consulting the Committee of the Regions,
 - having regard to the undertaking given by the Council representative by letter of 7 March 2012 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs (A7-0042/2012),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ Not yet published in the Official Journal.

I. P7_TC1-COD(2012)0003

Position of the European Parliament adopted at first reading on 29 March 2012 with a view to the adoption of Directive 2012/.../EU of the European Parliament and of the Council amending Directive 2004/40/EC on minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (eighteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 153(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure²,

Whereas:

- (1) Following the entry into force of Directive 2004/40/EC of the European Parliament and of the Council³, stakeholders, in particular those in the medical community, expressed serious concerns about the impact that implementing that Directive could have on the use of medical procedures based on medical imaging, as well as its impact on certain industrial activities.
- (2) The Commission examined the arguments put forward by stakeholders and decided to reconsider some provisions of Directive 2004/40/EC, on the basis of new scientific evidence.
- (3) The deadline for transposition of Directive 2004/40/EC was postponed, by Directive 2008/46/EC⁴, until 30 April 2012, in order to allow a new Directive based on the most recent evidence to be adopted by that date.
- (4) On 14 June 2011, the Commission adopted a proposal for a new Directive to replace Directive 2004/40/EC. The aim of the new Directive is to ensure both a high level of health and safety protection for workers and the continuation and development of medical and other industrial activities using electromagnetic fields. Consequently, anticipating the adoption of the new Directive by 30 April 2012, the majority of Member States have not transposed Directive 2004/40/EC.

¹ Opinion of 22 February 2012 (not yet published in the Official Journal).

² Position of the European Parliament of 29 March 2012.

³ OJ L 159, 30.4.2004, p. 1.

⁴ OJ L 114, 26.4.2008, p. 88.

- (5) However, given the technical complexity of the subject-matter, it is unlikely that the new Directive will be adopted by 30 April 2012.
- (6) Consequently, the deadline of 30 April 2012 should be extended. It is therefore necessary for this Directive to enter into force on the day of its publication,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

In Article 13(1) of Directive 2004/40/EC the date "30 April 2012" is replaced by "**31 October 2013**."

Article 2

This Directive shall enter into force on the day of its publication in the Official Journal of the European Union.

Article 3

This Directive is addressed to the Member States.

Done at,

For the European Parliament

For the Council

The President

The President