COUNCIL REGULATION (EC) No 1112/2005

of 24 June 2005

amending Regulation (EC) No 2062/94 establishing a European Agency for Safety and Health at Work

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 308 thereof,

Having regard to the proposal from the Commission, submitted following consultation with the Advisory Committee for Safety and Health at Work,

Having regard to the Opinion of the European Parliament [1],

Whereas:

(1) Council Regulation (EC) No 2062/94 of 18 July 1994 establishing a European Agency for Safety and Health at Work [2] includes provisions concerning the aims, tasks and organisation of the Agency and in particular of its Administrative Board. Those provisions were amended following the accession of Austria, Finland and Sweden, when new members had to be added to the Administrative Board.

(2) Health and safety at work, a key element in promoting quality in employment, represents one of the European Union's most important social policy areas. The Commission Communication on 'Adapting to change in work and society: a new Community strategy on health and safety at work 2002 to 2006' of 11 March 2002 highlights the important role to be played by the European Agency for Safety and Health at Work, hereinafter 'the Agency', in the promotion, awareness-raising and anticipation activities needed to achieve the objectives set out therein.

(3) The Council Resolution of 3 June 2002 on a new Community strategy on health and safety at work (2002 to 2006) [3] requires the Agency to play a leading role in the collection and dissemination of information on good practice, awareness-raising and risk anticipation. The Council calls on the Commission to promote cooperation between the Member States and the social partners at European level through the Agency, with a view to future enlargement and welcomes the Commission's intention to submit a proposal for improving the Agency's operation and tasks in the light of the external evaluation report and the Advisory Committee's opinion on that report.

(4) The European Parliament Resolution of 23 October 2002 on the Commission Communication: 'Adapting to change in work and society: a new Community strategy on health and safety at work 2002 to 2006' also supports the leading role given to the Agency as the key player in non-legislative health and safety activities at Community level and hopes that the European Foundation for the Improvement of Living and Working Conditions and the Agency will continue to improve their cooperation in line with their respective roles in this policy area.

(5) The European Economic and Social Committee Opinion of 17 June 2002 on the Communication from the Commission 'Adapting to change in work and society: a new Community strategy on health and safety at work 2002 to 2006' [4] highlights the role of the Agency in the evaluation of risks and the need for regular contacts between the Agency and the European Foundation for the Improvement of Living and Working Conditions to avoid duplication and to stimulate joint reflection.

(6) The Commission Communication on the 'Evaluation of the European Agency for Safety and Health at Work', prepared in accordance with Article 23 of Regulation (EC) No 2062/94 and based on an external evaluation carried out in 2001, as well as on the contributions of the Administrative Board and of the Commission Advisory Committee for Safety and Health at Work, underlines the need to amend Regulation (EC) No 2062/94 in order to maintain and improve the efficiency and effectiveness of the Agency and its management structures.

(7) The European Parliament has called upon the Commission to reconsider the composition and working methods of agencies' boards and to put forward appropriate proposals.

[1] Opinion of 28 April 2005 (not yet published in the Official Journal).
[2] OJ L 216, 20.8.1994, p. 1. Regulation as last amended by Regulation (EC) No 1654/2003 (OJ L 245, 29.9.2003, p. 38).
[3] OJ C 161, 5.7.2002, p. 1.
[4] OJ C 241, 7.10.2002, p. 100.

(8) A Joint Opinion concerning the future governance and functioning of the Boards of the Agency, the European Centre for the Development of Vocational Training and the European Foundation for the Improvement of Living and Working Conditions has been submitted to the Commission by their respective management or administrative Boards.

(9) The tripartite governance of the Agency, the European Centre for the Development of Vocational Training and the European Foundation for the Improvement of Living and Working Conditions by representatives of governments, employers' organisations and employees' organisations is fundamental to the success of those bodies.

(10) The participation of the social partners in the governance of those three Community bodies creates a specificity which requires them to function according to common rules.

(11) The existence within the tripartite Board of the three groups drawn from government, employers and employees and the designation of a coordinator for the groups of employers and employees have proved to be essential. That arrangement should therefore be formalised and also extended to the government group. In line with the guidelines for the development of future Community Bodies, included in the communication from the Commission 'The operating framework for the European Regulatory Agencies', and in particular the need for representation of the relevant stakeholders in the boards of these bodies, and in line with the principle agreed by the Heads of State and Government for more active involvement of the social partners in the development of the Social Policy Agenda, all Board members (government employers, employees and Commission representatives) should have uniformly one vote each.

(12) The maintenance of the tripartite representation from each Member State ensures that all major stakeholders are involved and that account is taken of the diversity of interests and approaches which characterise social issues.

(13) It is necessary to anticipate the practical consequences for the Agency of the forthcoming enlargement of the Union. The composition and functioning of its Board should be adjusted to take account of the accession of new Member States.

(14) The Bureau provided for in the Rules of Procedure of the Board needs to be strengthened in order to ensure continuity in the functioning of the Agency and efficiency in its decision-making. The composition of the Bureau should continue to reflect the tripartite structure of the Board.

(15) According to Article 3 of the Treaty, the Community shall aim to eliminate inequalities and promote equality between men and women in all its activities. Therefore, it is appropriate to make provision for encouraging a balanced representation of men and women in the composition of the Board.

(16) Regulation (EC) No 2062/94 should therefore be amended accordingly.

(17) The Treaty provides for no powers, other than those under Article 308 thereof for the adoption of this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2062/94 is amended as follows:

1. Article 2 is replaced by the following:

'*Article 2*

Objective

In order to improve the working environment, as regards the protection of the safety and health of workers as provided for in the Treaty and successive Community strategies and action programmes concerning health and safety at the workplace, the aim of the Agency shall be to provide the Community bodies, the Member States, the social partners and those involved in the field with the technical, scientific and economic information of use in the field of safety and health at work.'

2. Article 3 is amended as follows:

(a) Paragraph 1 is amended as follows:

(i) Points (a) and (b) are replaced by the following:

'(a) collect, analyse and disseminate technical, scientific and economic information in the Member States in order to pass it on to the Community bodies, Member States and interested parties; this collection shall take place to identify risks and good practices as well as existing national priorities and programmes and provide the necessary input to the priorities and programmes of the Community;

(b) collect and analyse technical, scientific and economic information on research into safety and health at work and on other research activities which involve aspects connected with safety and health at work and disseminate the results of the research and research activities;'

(ii) Points (h) and (i) are replaced by the following:

'(h) provide technical, scientific and economic information on methods and tools for implementing preventive activities, identify good practices and promote preventive actions, paying particular attention to the specific problems of small and medium-sized enterprises. With regard to good practices, the Agency should in particular focus on practices which constitute practical tools to be used in drawing up an assessment of the risks to safety and health at work, and identifying the measures to be taken to tackle them;

(i) contribute to the development of Community strategies and action programmes relating to the protection of safety and health at work, without prejudice to the Commission's sphere of competence;'

(iii) The following point (j) is added:

'(j) The Agency shall ensure that the information disseminated is comprehensible to the end users. To achieve this objective, the Agency shall work closely with the national focal points referred to in Article 4(1), in accordance with the provisions of Article 4(2);'

(b) Paragraph 2 is replaced by the following:

'2. The Agency shall work as closely as possible with the existing institutions, foundations, specialist bodies and programmes at Community level in order to avoid any duplication. In particular, the Agency shall ensure appropriate cooperation with the European Foundation for the Improvement of Living and Working Conditions, without prejudice to its own aims.'

3. Article 4 is amended as follows:

(a) In Article 4, paragraph 1 is replaced by the following:

'1. The Agency shall set up a network comprising:

— the main component elements of the national information networks, including the national social partners' organisations, according to national legislation and/or practice;

— the national focal points;

— any future topic centres.'

(b) In Article 4(2), the first and second subparagraphs are replaced by the following:

'2. The Member States shall regularly inform the Agency of the main components of their national health and safety at work information networks, including any institution which in their judgement could contribute to the work of the Agency, taking into account the need to ensure the fullest possible coverage of their territory.

The competent national authorities or a national institution designated by them as a national focal point shall coordinate and/or transmit the information to be supplied at national level to the Agency, in the framework of an agreement between each focal point and the Agency on the basis of the work programme adopted by the Agency.

The national authorities shall take into account the point of view of social partners at national level in accordance with national legislation and/or practice.'

4. The following Article is added:

'Article 7a

Governing and management structures

The governing and management structure of the Agency shall comprise:

(a) a Governing Board;

(b) a Bureau;

(c) a Director.'

5. Article 8 is replaced by the following:

'Article 8

Governing Board

1. The Governing Board shall consist of:

(a) one member representing the Government from each Member State;

(b) one member representing the employers' organisations from each Member State;

(c) one member representing the employees' organisations from each Member State;

(d) three members representing the Commission.

2. The members referred to in points (a), (b) and (c) of paragraph 1 shall be appointed by the Council from the members and alternate members of the Advisory Committee on Safety and Health at Work.

The members referred to in paragraph 1(a) shall be appointed on a proposal from the Member States.

The members referred in paragraph 1(b) and (c) shall be appointed on a proposal by the respective groups' spokespersons on the Committee.

The proposals from the three groups within the Committee shall be submitted to the Council; the proposals shall also be forwarded to the Commission for information.

The Council shall at the same time appoint, under the same conditions as for the member, an alternate member to attend meetings of the Governing Board only in the absence of the member.

The Commission shall appoint the members and alternate members who are to represent it, taking into account a balanced representation of men and women.

When submitting the lists of candidates, the Member States, employers' organisations and employees' organisation shall endeavour to ensure that the composition of the Governing Board fairly reflects the various economic sectors concerned and to ensure a balanced representation of men and women. These submissions shall take place within three months of the renewal of the membership of the Advisory Committee for Safety and Health at Work being renewed in accordance with the provisions of Articles 3(3) and (4) and 4(1) of Council Decision of 22 July 2003 setting up an Advisory Committee on Safety and Health at Work [1].

The list of the members of the Governing Board shall be published by the Council in the *Official Journal of the European Union* and by the Agency on its Internet site.

3. The term of office of members of the Governing Board shall be three years. It shall be renewable.

Exceptionally, the term of office of the members of the Governing Board who are in office on the day of the entry into force of this Regulation shall be extended until a new Governing Board has been appointed in accordance with the provisions of paragraph 2.

Upon expiry of their term of office or in the event of their resignation, members shall remain in office until their appointments are renewed or until they are replaced.

4. Within the Governing Board, the representatives of governments, employees' organisations and employers' organisations shall each form a group. Each group shall designate a coordinator who will take part in the meetings of the Governing Board. The coordinators of the employees' and employers' groups shall be representatives of their respective organisations at European level. Coordinators who are not appointed Board members within the meaning of paragraph 1 will take part in meetings without the right to vote.

The Governing Board shall elect its chair and three vice-chairs, one from each of the three groups referred to above and one from among the Commission representatives, to serve for a period of one year, which may be renewed.

5. The chair shall convene the Governing Board at least once a year. The chair shall convene additional meetings at the request of at least one-third of the members of the Governing Board.

6. All members of the Governing Board shall have one vote each and decisions shall be taken by an absolute majority. However, decisions in the framework of the annual work programme and with budgetary consequences for the national focal points shall also require the consent of the majority of the government group.

The Governing Board shall devise a written decision-making procedure, to which the first subparagraph shall apply *mutatis mutandis*.

7. The Governing Board, having received an opinion from the Commission, shall adopt its rules of procedure which shall lay down the practical arrangements for its activities. The rules of procedure, shall be transmitted for information to the European Parliament and the Council. However, within a period of three months of the rules of procedure being transmitted to it and acting by a simple majority, the Council may modify those rules.

8. The Governing Board shall establish a Bureau of 11 members. The Bureau shall be made up of the chair and the three vice-chairs of the Governing Board, one coordinator per group as referred to in the first subparagraph of paragraph 4, and one more representative of each group and of the Commission. Each group may designate up to three alternates to attend the meetings of the Bureau, in the absence of the full members.

9. Without prejudice to the responsibilities of the Director, as set out in Article 11, the Bureau shall, as delegated by the Governing Board, monitor the implementation of the decisions of the Governing Board and take all necessary measures for the proper governing of the Agency between the Governing Board meetings. The Governing Board may not delegate to the Bureau the competences referred to in Articles 10, 13, 14 and 15.

10. The annual number of meetings of the Bureau shall be decided by the Governing Board. The chair of the Bureau shall convene additional meetings at the request of its members.

11. Decisions by the Bureau shall be taken by consensus. If no consensus can be reached, the Bureau shall refer the matter to the Governing Board for decision.

12. The Governing Board shall be fully and promptly informed on the activities of and the decisions taken by the Bureau.

(1) OJ C 218, 13.9.2003, p. 1.'

6. In Article 9, the following subparagraph is added:

'The chair of the Governing Board and Director of the European Foundation for the Improvement of Living and Working Conditions shall have the option of attending meetings of the Governing Board as observers.'

7. Article 10 is amended as follows:

(a) In Article 10(1), the first subparagraph is replaced by the following:

'The Governing Board shall determine the strategic aims of the Agency. The Governing Board shall in particular adopt the budget, the four-year rolling programme and the annual programme on the basis of a draft drawn up by the Director referred to in Article 11, after consultation of the Commission services and the Advisory Committee on Safety and Health at Work.'

(b) In Article 10(1), the fourth subparagraph is deleted.

8. In Article 11, paragraph 2 is replaced by the following:

'2. The Director shall be the legal representative of the Agency and shall be responsible for:

(a) the proper preparation and implementation of the decisions and programmes adopted by the Governing Board and the Bureau;

(b) the management and the day-to-day administration of the Agency;

(c) the preparation and publication of the report referred to in Article 10(2);

(d) the performance of the tasks prescribed;

(e) all staff matters;

(f) the preparation of the Governing Board meetings and the Bureau meetings.'

9. Each time the term 'Administrative Board' appears in the articles, it is replaced by 'Governing Board'.

Article 2

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 24 June 2005.

For the Council
The President
L. LUX