HEALTH AND SAFETY AT WORK

Improving health and safety at work has become a prior concern of European authorities since the 1980ies. With legislation at European level standards for minimal protection for workers have been set but the provisions adopted shall not prevent any Member States from maintaining or introducing more stringent measures for the protection of workers. The Charter of Fundamental Rights reinforces the importance of this policy in the European legislation.

LEGAL BASIS

Articles 71, 94, 95, 136, 137 and 308 of the EC Treaty.

OBJECTIVES

On the basis of Article 137, the EU encourages improvements in the working environment in order to protect workers' health and safety by harmonising working conditions. To this end, minimum requirements are laid down at EU level, allowing Member States to introduce a higher level of protection at national level if they so wish. Such directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

ACHIEVEMENTS

A. Background

1. The early stages

Within the framework of the European Coal and Steel Community (ESCS), created by the Treaty of Paris in 1951, various research programmes were carried out in the field of health and safety at work. The initial aim to reduce the significant numbers of explosion and fires in coalmines was extended to other extractive industries, for example to surface and underground mineral-extracting industries, in subsequent years.

The need for a global approach to occupational safety and health became more manifest with the establishment of the European Economic Community (EEC) by the Treaty of Rome in 1957. This area received Community attention through recommendations on occupational medicine and on the adoption of a European list of occupational diseases.

The Advisory Committee for Safety, Hygiene and Health Protection at Work was set up in 1974 to assist the Commission in the preparation and implementation of activities in this field. The aim to complete the Single European Market enforced the need to complement the Single Market by minimum requirements for occupational health and safety leading to the adoption of a few directives, for example the Directive 82/605/EEC (replaced by Directive 98/24/EC) on protection against the risks associated with metallic lead; the Directive 83/477/EEC (last amended by Directive 2003/18/EC) on asbestos; the Directive 86/188/EEC (last amended by Directive 2003/10/EC) on noise.
2. The Single European Act

With the adoption of the Single European Act in 1987, health and safety at work was introduced for the first time in the EEC Treaty in its new Article 118A laying down minimum requirements and allowing the Council to adopt occupational health and safety directives by qualified majority. The provisions adopted under Article 118A shall not prevent any Member States from maintaining or introducing more stringent measures for the protection of workers. The main objective of Article 118A was to improve workers' health and safety at work; to harmonise conditions in the working environment; to prevent 'social dumping' as the internal market was completed; and to prevent companies from moving to areas with a lower level of protection to gain a competitive edge.

Article 100, also relevant for the occupational safety and health, was the complementary side aiming at removing barriers to trade in the single market and at ensuring the placing of safe products on the market including machines and personal protective equipment for professional use. Member States are not permitted to set higher requirements for their products than those laid down by the directives.

The so-called 'Social Charter' (i.e. 'The Community Charter of the Fundamental Social Rights of Workers' of 1989), though not legally binding, affirms that 'the same importance must be paid to the social aspects as to the economic aspects of the single market'.


The Amsterdam Treaty strengthened the status of employment issues by introducing the Employment Title and the Social Agreement. Minimum directives in the field of protection of health and safety at work and concerning working conditions are adopted the first time in co-decision with the European Parliament. The scope of the notion of 'working conditions' in Article 118 was a highly controversial issue and diverging approaches were taken by the Parliament, the Council, Commission and the Member States. In its judgement of 12 November 1996 (Case No C-84/94) the European Court of Justice ruled that Article 118 should not be interpreted restrictively.

B. Main steps


Since the Treaty of Nice of 2003, Article 137 is the basis for the improvement of the working environment to protect workers' health and safety. One of the cornerstones in the development of the safety and health of work was the adoption of the Framework Directive 89/391/EEC with a particular focus on culture of prevention. The framework directive aims to improve the protection of workers from accidents at work and occupational diseases by providing preventive measures, information, consultation, balanced participation and training of workers and their representatives. It covers all workers in the EU, employed by private companies and public institutions/organisations. Self-employed and domestic servants are not covered by the framework directive. The framework directive is the basis for in total 19 "daughter directives" on:

- requirements for working places (Directive 89/654/EEC);
- the use of work equipment (Directive 89/655/EEC amended by Directive 2001/45/EC);
- the use of personal protective equipment (Directive 89/656/EEC);
- work with display screen equipment (Directive 90/270/EEC);
- manual handling (Directive 90/269/EEC);
- exposure to carcinogens (Directive 90/394/EEC);
- temporary or mobile construction sites (Directive 92/57/EEC);
- provision of safety and health signs at work (Directive 92/58/EEC);
— pregnant workers (Directive 92/85/EEC);
— mineral-extracting industries (drilling) (Directive 92/91/EEC);
— mineral-extracting industries (Directive 92/104/EEC);
— fishing vessels (Directive 93/103/EC);
— chemical agents (Directive 98/24/EC amended by Directive 2000/39/EC);
— minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmosphere (Directive 99/92/EC);
— the protection of workers from risks related to exposure to biological agents at work (Directive 2000/54/EC);
— the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Directive 2004/37/EC);

The Framework Directive have had an impact on other legislative acts, in particular on the Commission's proposal to amend the Directive 91/383/EEC on temporary agency workers; the proposal to amend Directive 2003/88/EC on certain aspects of the organisation of working time; on Directive 99/95/EC on working time provisions in maritime transport; on Directive 2000/34/EC concerning certain aspects of the organisation of working time to cover sectors and activities excluded from that directive (road, air, sea and rail transport, inland waterways, sea fishing, other work at sea and the activities of doctors in training); on Directive 94/33/EC on the protection of young people at work; and on the Council Regulation (EC) No 2062/94/EEC established the European Agency for Health and Safety at Work.

2. European Agency for Health and Safety at Work

The Agency, set up in 1996 in Bilbao (Spain), aims at bringing together and sharing knowledge and information and to contribute to promote a culture of risk prevention. It is represented through a network of focal points in Member States. Among other tasks, the Agency is in charge of the European Week for Safety and Health at Work. The annual information campaign is backed by all Member States, the European Commission and Parliament, trade unions and employers' federations. It provides an opportunity to focus on the importance of safety and health at work in a certain area of safety and health at work.

In 2008, the campaign focussed on 'Healthy Workplace Initiative: Good for you. Good for Business; 2007 focussed on musculoskeletal disorders 'Lighten the Load'; 2006 on 'Save Start' to raise awareness for young workers; 2005 on noise at work with the slogan "Stop that noise" and in 2004 safety in the construction sector.

C. Community Action Programmes and Strategies on Health and Safety at Work

Since the early stages with the European Coal and Steel Community research programmes (from 1951 until 1997) have been established in the field of safety and health at work. They focussed on, for example, industrial hygiene and safety in the mining industry, the control of nuisances and ergonomics in steel plants.

The Advisory Committee played a major role in drawing up the first action programme of the European Communities on safety and health at work from 1978-1982, with the agreement of both sides of industries, focussing on the causes of occupational accidents and diseases; the second programme (1983-1987) dealt with training, information statistics and research; the third (1988-1992) with social aspects of
the development of the internal market; the Community programme (1996-2000) with impact of rapid change in the way people work through the revolution in information technology.

The **European Social Agenda** (adopted 2000) contributed to a more strategic approach on **health and safety at work** at EU level with the objectives to consolidate, adapt and, where appropriate, simplify existing standards; to promote the application of legislation in small and medium size enterprises (SMEs) - taking into account the special constraints to which they are exposed - by means of a specific programme; to develop from 2001 onwards, exchanges of good practice and collaboration between labour inspection institutions.

Subsequently, the **Community Strategy 2002-2006** adopted a global approach to well-being in the workplace. It emphasised the culture of risk prevention, the combination of a variety of political instruments and the building of partnerships between all the players on the safety and health scene. It pointed at the fact that an ambitious social policy is a factor in the competitiveness equation and that, conversely, **having a ‘non-policy’ engenders costs** which weigh heavily on economies and societies.

The current **Community Strategy for the period 2007-2012** is focussing on prevention. It aims to achieve a continuous, sustainable and homogeneous reduction of occupational accidents and diseases in the EU, in particular through defining and implementing national strategies based on a detailed evaluation of the national situation and improving and simplifying existing legislation as well as enhancing its implementation in practice through non-binding instruments such as exchange of good practices, awareness-raising campaigns as well as better information and training. The Commission’s target to reduce 25% of work accidents across the EU was welcomed by the European Parliament.

**ROLE OF THE EUROPEAN PARLIAMENT**

The European Parliament has frequently emphasised the need for optimal protection of workers’ health and safety. In many resolutions, it has called for all aspects directly or indirectly affecting the physical or mental well-being of workers to be covered. Up to now, the European Parliament has had a significant influence on directives improving the working conditions.

The European Parliament supports the Commission's activities to increase the provision of information to SMEs. **Work must be adapted to people's abilities and needs** and not vice-versa. Working environments should be developed to take greater account of the special needs of disabled and older workers. Parliament urges the Commission to investigate new emerging risks not yet covered by current legislation, e.g. stress, burn-out, violence and harassment in the workplace.

Parliament called on the Commission to **amend the Directive** on the protection of workers from risks related to exposure to biological agents at work (Directive 2000/54/EC) to protect health workers from blood-borne infections due to needlestick injuries (resolution (6 July 2006, P6_TA(2006)0305) and to amend the Directives related to muskulo-skeletal disorders.

The **extension of the scope of the Framework Directive 89/391/EEC** to excluded groups of workers such as the military, the self-employed, domestic workers and home workers is another key request. It also calls for a directive laying down minimum standards for the recognition of occupational diseases.

Repeatedly, the Parliament is pleading for better implementation of existing directives.

With the **Lisbon Treaty entering into force**, the **ordinary legislative procedure** will be applied, but the characteristics of the co-decision procedure remain unchanged. Further, the Charter of Fundamental Rights will become legally binding by respecting the principle of subsidiarity according to general provisions of Title VII of the Charter.

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