

II

(Preparatory Acts)

COMMISSION

Proposal for a Council Directive on the introduction of measures to encourage improvements
in the safety and health of workers at the workplace

COM(88) 73 final

(Submitted by the Commission to the Council on 11 March 1988)

(88/C 141/01)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 118A thereof,

Having regard to the Commission proposal drawn up after consultation with the Advisory Committee on Safety, Hygiene and Health Protection at Work ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee,

In cooperation with the European Parliament,

Whereas Article 118A of the Treaty provides that the Council shall adopt, by means of Directives, minimum requirements for encouraging improvements as regards the health and safety of workers, especially in the working environment;

Whereas Article 118A also recommends that Directives shall avoid imposing administrative, financial and legal constraints which would hold back the creation and development of small and medium-sized undertakings;

Whereas the Communication from the Commission on its programme concerning safety, hygiene and health at work ⁽²⁾ provides for the adoption of Directives designed to guarantee the safety and health of workers;

Whereas the Council Resolution of 21 December 1987 on safety, hygiene and health at work took note of the Commission's intention to submit to the Council in the near future a Directive on the organization of the safety and health of workers at the workplace;

Whereas Member States have a responsibility to ensure the safety and health of persons on their territory, and of workers in particular;

Whereas Member States' legislative systems differ widely with regard to the prevention of work accidents and occupational diseases;

Whereas the incidence of accidents at work is still regrettably high, and preventive measures must be introduced or improved in order to guarantee the safety and health of workers;

Whereas, in order to achieve the maximum degree of protection which is reasonably practicable, it is essential that workers and their representatives be informed of the risks to their safety and health and of the measures required to reduce or eliminate these risks, and be allowed to verify that the necessary protective measures have indeed been taken;

Whereas cooperation between employers and workers and workers' representatives must be strengthened;

Whereas it is recognized as essential to take safety and health considerations into account from the earliest stages of workplace design;

Whereas employers must keep abreast of technological progress in order to provide optimum safety and health protection for their workers;

Whereas this Directive constitutes an overall social complement to various technical harmonization Directives designed to complete the internal market; whereas it supplements the provisions of Directive 80/1107/EEC of 27 November 1980;

Whereas it is planned, as of now, to establish specific provisions containing measures liable to improve safety and health at work;

⁽¹⁾ Council Decision 74/325/EEC (OJ No L 185, 9. 7. 1974, p. 15).

⁽²⁾ Doc. COM(87) 520 final and Council Resolution 88/C 28/01 (OJ No C 28, 3. 2. 1988).

Whereas a Committee composed of members nominated by the Member States needs to be set up to assist the Commission in implementing the supplementary measures provided for by the Directive,

HAS ADOPTED THIS DIRECTIVE:

Object

Article 1

The object of this Directive is the introduction of measures to encourage improvements in the safety and health of workers at the workplace. The Directive contains general principles concerning in particular the prevention of occupational risks, the protection of safety and health and the informing, consultation and training of workers and their representatives, as well as general principles concerning the implementation of such measures.

Definitions

Article 2

For the purposes of this Directive, the following terms have the meaning hereby assigned to them:

— *workplace*:

any place to which the worker has access in the undertaking and/or establishment,

— *worker*:

any person who performs work in some form, including students undergoing training and apprentices,

— *undertaking and/or establishment*:

a public-sector or private-sector entity engaging in particular in industrial, agricultural, commercial, administrative, educational, cultural or service activities,

— *employer*:

the body or person in charge of the undertaking and/or establishment,

— *prevention*:

all the provisions or measures taken or developed at each stage of the activities performed within the undertaking with a view to avoiding or reducing the occupational risks,

— *occupational risk*:

any work-related situation liable to damage the physical or psychological safety and/or health of the worker, excluding accidents on the way to and from work.

Article 3

Member States shall ensure that employers, workers and workers' representatives comply with those provisions of this Directive which apply to them.

Responsibility of the employer

Article 4

1. The employer shall be responsible for the safety and health of the workers in every aspect which is directly or indirectly related to the work in the undertaking and/or establishment.

2. Where an employer calls in a specialist safety and health service or an outside consultant for organization of protective measures, this shall not discharge him from his responsibilities in this area.

3. The obligations of the workers in these fields shall not affect the principle of the employers' responsibility.

Obligations of the employer

Article 5

1. Within the context of his responsibilities, the employer shall take the necessary measures for the protection of the safety and health of workers, including prevention of occupational risks and provision of information and training, as well as provision of the necessary organization and resources. The employer shall be constantly alert to the need to adjust these measures and improve existing situations.

2. The employer shall put the following general preventive principles into practice, adapting them to match the specific conditions applying to his undertaking, including the size of the undertaking:

— combating the risks at source,

— adapting the work to the man,

— adapting to technical progress,

— replacing the dangerous by the non-dangerous or the less dangerous,

— developing a coherent overall prevention policy based on technology, organization of work, working conditions and human relationships.

3. The specific obligations on employers shall be as follows:

(a) The employer shall evaluate the safety and health risks to workers in the choice of work equipment, the chemical substances or preparations used, and the design and fitting out of workplaces.

Subsequent to this evaluation, the preventive measures, working methods and production methods introduced by the employer must provide the maximum protection that is reasonably practicable to achieve in respect of the safety and health of the workers.

(b) The safety and health measures taken by the employer must be integrated into all the activities of the

undertaking and/or establishment and at all hierarchical levels.

(c) The employer must ensure that adequate consideration is given to ergonomic principles, in particular as regards:

- the design of workplaces,
- the choice of plant and equipment,
- the choice of working methods and production methods.

(d) The employer must take the necessary measures to permit workers to organize their work in accordance with their capabilities where reasonably practicable.

(e) In planning and organizing the work, the employer shall ensure that monotonous work involving repetitive activities of brief duration and work where the workrate is governed by a machine or conveyor belt such that the worker is prevented from influencing his workrate himself are avoided where reasonably practicable.

(f) The planning and introduction of new technologies shall be undertaken in close cooperation with the workers and/or their representatives, particularly in respect of the choice of equipment and the working conditions, including those aspects connected with the working environment and the physical and psychosocial well-being of the individual. Workers shall receive appropriate training.

(g) When several undertakings share a workplace, the employers shall coordinate their measures for the prevention of occupational risks, and shall inform one another and their workers and/or workers' representatives of these risks.

Preventive services

Article 6

1. The employer shall designate from the supervisory staff one or more workers to be responsible for the organization of measures for the prevention of occupational risks in the undertaking and/or establishment.

2. If this is not feasible for lack of competent personnel in the undertaking and/or establishment, the employer shall enlist the services of competent outside agencies or individuals.

3. Where the employer calls in competent outside agencies or individuals, he shall inform them of the factors known to affect, or suspected of affecting, the safety and health of the workers.

4. In all cases, the workers designated from within the undertaking and/or the outside agencies or individuals consulted must have the necessary training and be sufficient in number to deal with the organization of preventive measures, taking into account the size of the undertaking and/or the hazards to which the workers are exposed and their distribution throughout the entire undertaking and/or establishment.

5. Member States shall define the size of undertakings in which the employer, provided he is competent, may himself take responsibility for the measures referred to in paragraph 1.

6. Member States shall define the training needed and the number of persons needed to fulfil the conditions set out in paragraph 4 of this Article.

Article 7

1. The employer shall make the requisite arrangements for first-aid, fire-fighting and evacuation of workers and other persons present, and shall arrange the necessary contacts with outside agencies, particularly as regards first-aid, emergency medical care, rescue work and fire-fighting.

2. For first-aid, fire-fighting and the evacuation of personnel, the employer shall designate the workers required to implement such measures.

The number of such personnel, their training and the equipment available to them shall be commensurate with the size and/or specific hazards of the undertaking and/or establishment.

3. The employer shall take precautionary measures to allow the worker to protect himself by immediately leaving the workplace if a serious, imminent, unavoidable danger arises.

4. The employer shall as soon as possible give details of these precautionary measures to all workers exposed, or likely to be exposed, to a risk of serious and imminent danger.

5. In the event of a serious and imminent danger to his own safety and/or that of other persons, each worker shall be in a position to take the necessary measures to avoid the consequences of such a danger, on the basis of his own knowledge and the technical and hierarchical means at his disposal.

Information to be held*Article 8*

1. The employer shall:
 - (a) be in possession of an analysis of existing risks to safety and health at the workplace;
 - (b) decide on the protective measures to be taken and, if necessary, the protective equipment to be used;
 - (c) keep a list of accidents and occupational diseases which have resulted in a worker being unfit for work for more than three working days;
 - (d) draw up a report on accidents and occupational diseases having resulted in, or liable to result in, partial permanent unfitnes for work, indicating the causes and the measures taken or to be taken.
2. Member States shall establish the criteria for exempting undertakings from having to draw up the documents required to fulfil the obligations described in paragraph 1 (a) and (b).

Information of workers*Article 9*

1. In accordance with the practices adopted in the Member States, which may take account in particular of the size of undertakings, the employer shall take appropriate measures to ensure that the workers and/or their representatives in the undertaking or establishment receive adequate information concerning:
 - (a) the safety and health risks and the preventive measures and activities in respect of the undertaking in general and in respect of each worker's workstation and/or job;
 - (b) the measures taken pursuant to Article 7(4).

Such information shall also be provided to temporary workers and the employers of workers from outside firms present in the undertaking.

2. Workers or workers' representatives with specific responsibility for the protection of the safety and health of workers shall have access to:
 - (a) the risk analysis and analysis of protective measures referred to in Article 8 (1) (a) and (b);
 - (b) the list and the report on accidents and occupational diseases referred to in Article 8 (1) (c) and (d);

- (c) the information yielded by preventive measures, inspection agencies and bodies responsible for safety and health.

Consultation of workers*Article 10*

1. Workers or their representatives with specific responsibility for safety and health shall be consulted in advance by the employer with regard to:
 - any measure which may substantially affect health and safety,
 - the designation of persons referred to in Articles 6(2) and 7(2),
 - the information referred to in Articles 6(1) and 9;
 - the setting up of a specialist safety and/or health service or, where appropriate, the enlistment of an outside preventive service as referred to in Article 6(2);
 - the planning and organization of the training referred to in Article 11.
2. The consultation referred to in paragraph 1 may be restricted to the workers' representatives with specific responsibility for the protection of the safety and health of workers, on condition that there are enough of them.
3. Workers and workers' representatives with specific responsibility for the protection of the safety and health of workers shall not be placed at any disadvantage as a result of such activities.
4. The employer shall ensure that workers' representatives with specific responsibility for the protection of the safety and health of workers are allowed time off work without loss of pay and are provided with the necessary equipment to enable them to fulfil their obligations arising from this Directive.

Training of workers*Article 11*

1. The employer shall ensure that each worker receives adequate safety and health training specific to his workstation or job;
 - on recruitment,
 - in the event of a transfer or change of job,
 - in the event of a change in the work equipment.

The training shall be adapted to take account of new or changed risks.

2. The training referred to in paragraph 1 shall also be given, under the same conditions, to temporary workers present in the undertaking or establishment. The employer shall also ensure that workers from outside firms engaged in work in the undertaking and/or establishment have received training from their own firms appropriate to the work in which they are engaged.

3. Workers' representatives with specific responsibility for the protection of the safety and health of workers shall be entitled to appropriate training.

4. The training referred to in paragraph 1, 2 and 3 shall be provided during working hours and shall not be at the expense of the workers.

5. Member States:

— shall ensure that guidelines are drawn up concerning the content and duration of the training courses provided for in paragraphs 1 and 3,

— shall establish general rules concerning the conditions under which this training shall be provided.

Obligations on workers

Article 12

1. It shall be the duty of each worker during his working hours to take reasonable care of his own safety and health and that of all other persons affected by his actions or omissions at work.

2. To this end, workers must:

— make correct use of machinery, apparatus, tools, dangerous substances, transport equipment and other means of production,

— make correct use of the personal protective equipment supplied to them and, after use, return it to its proper place,

— refrain from changing or removing unnecessarily safety devices fitted to tools, pieces of apparatus, etc., and use such devices correctly,

— notify the employer immediately of any safety and/or health hazards which they have noticed,

— cooperate with their employer for as long as necessary in order to fulfil any tasks or requirements imposed by

the responsible authority to protect the safety and health of workers,

— perform their tasks in accordance with the safety and health training and instructions they have received,

— cooperate in ensuring that the working environment and working conditions are safe and pose no risk to safety and health within their field of activity, and monitor the effectiveness of the safety and health measures taken.

Article 13

The Council, acting on proposals from the Commission, shall adopt individual Directives laying down specific provisions concerning chiefly the technical areas listed in the Annex hereto.

Article 14

For the purposes of adapting this Directive and the Directives provided for in Article 13 under the conditions specified in each of them, to take account of:

— the adoption of Directives in the field of technical harmonization and standardization,

— technical progress, changes in international regulations or specifications, and new findings,

the Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.

The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of Decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that article. The Chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of the period to be laid down in each act adopted by the Council under this paragraph but which may not in any case exceed three months from the date of

referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Final provisions

Article 15

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January 1991 at the latest and shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field covered by this Directive.

3. Member States shall report to the Commission every two years on the practical implementation of the provisions of this Directive, indicating the points of view of employers and workers. The Commission shall inform the Committee and the Tripartite Committee.

Article 16

This Directive is addressed to the Member States.

ANNEX

LIST OF TECHNICAL AREAS REFERRED TO IN ARTICLE 13

- Workplaces.
- Work equipment.
- Personal protective equipment.
- Work with visual display units.
- Handling of heavy loads involving risk of back injury.

Proposal for a Council Directive concerning the minimum safety and health requirements for the workplace

First individual Directive within the meaning of Article 13 of Directive ... ⁽¹⁾

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 118A thereof,

Having regard to the Commission proposal drawn up after consultation with the Advisory Committee for Safety, Hygiene and Health Protection at Work ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee,

In cooperation with the European Parliament,

Whereas Article 118A of the EEC Treaty provides that the Council shall issue Directives containing minimum requirements designed to encourage improvements, especially in the working environment, as regards the health and safety of workers;

Whereas Article 118A also recommends that Directives shall avoid imposing administrative, financial and legal constraints which would hold back the creation and development of SMUs;

Whereas the Communication from the Commission on its programme concerning safety, hygiene and health at

⁽¹⁾ Doc. COM(88) 73 final.

⁽²⁾ Council Decision 74/325/EEC (OJ No L 185, 9. 7. 1974, p. 15).