

**UNICE CONTRIBUTION TO THE FIRST-STAGE CONSULTATION
OF THE SOCIAL PARTNERS ON PROTECTION OF THE
OCCUPATIONAL SAFETY AND HEALTH OF
SELF-EMPLOYED WORKERS**

26 September 2000

1. UNICE has noted the document for the first consultation of the social partners by the European Commission on protection of the occupational safety and health of self-employed workers and hereby submits its contribution to the discussion.
2. First of all, UNICE would like to thank the Commission services for letting the social partners have the relevant opinions produced to date by the Advisory Committee on Safety, Hygiene and Health Protection at work (ACSHH). Against this, it regrets that, conversely, the ACSHH interest groups have not been notified, for information, of the Commission's initiative to consult the social partners on a theme on which they have taken a stance in the past.
3. In general terms, UNICE endorses the opinions produced by ACSHH on this topic and the comments which follow complement them.
4. As the Commission recalls, with a few exceptions, EU labour legislation, notably on occupational safety and health, does not cover self-employed workers, since it applies to the framework in which there is a relationship of subordination between an employer and one or more employees. On that point, UNICE understands that, in its consultation document, the Commission does not include those workers who claim to be self-employed but for whom a link of subordination to the business for which they work can be demonstrated, and who may accordingly be regarded as employees.
5. UNICE recognises the importance of ensuring the safety and protecting the health of self-employed workers, particularly in a context where this form of work is increasing considerably. It refers to the ACSHH opinion for the elements which justify EU action in this area and would like to concentrate its comments here on the form that this action should take.
6. The approach advocated by the Commission, which leans towards the route of a recommendation to Member States, followed by an evaluation, seems completely reasonable to UNICE. It will trigger debate in the Member States and allow each of them to verify the types of problems that need to be addressed and to find the most appropriate solutions for tackling them effectively.

7. Regarding the substance, UNICE believes that the proposal for a recommendation on the occupational safety and health of self-employed workers should not implicitly involve an “alignment” of the regime applicable to self-employed workers on that applicable to employees. It is necessary to adapt the principles which guide prevention of risks at work to the very particular situation of self-employed while retaining comparable objectives in terms of the level of protection to be attained.
8. In addition, it would be necessary to recall the fundamental principle, contained in directive 92/57/EC on temporary work sites, whereby self-employed workers must not only ensure their own safety at work but also make sure that they do not endanger that of others, notably through their behaviour.
9. UNICE also believes it necessary to ensure that self-employed workers have ready access to all the information and training they may need regarding their safety and health at work, under economically acceptable conditions.
10. In this context, it may be useful, at EU level and if necessary in liaison with the sectoral organisations most concerned, to envisage preparation of practical guides and brochures for self-employed workers, setting out the main occupational risks they may be confronted with and offering them examples of good practice for prevention.
11. Lastly, if the services of the Commission were to wish to pursue the envisaged initiative in this area, UNICE considers that the second stage of consultation, on the content of the recommendation, could be held in the framework of ACSHH, with an invitation for the Commission to keep the social partners informed of its intention.