

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF REGIONS ON THE PRACTICAL IMPLEMENTATION OF THE PROVISIONS OF THE HEALTH AND SAFETY AT WORK DIRECTIVES 89/391 (FRAMEWORK), 98/654 (WORKPLACES), 89/655 (WORK EQUIPMENT), 89/656 (PERSONAL PROTECTIVE EQUIPMENT), 90/269 (MANUAL HANDLING OF LOADS) AND 90/270 (DISPLAY SCREEN EQUIPMENT)**

**UNICE POSITION PAPER**

UNICE welcomes publication of the communication on practical implementation of the health and safety framework directive and the first five individual directives.

The Communication, building on Member States' reports and one independent expert report analysing implementation of the directives in all sectors including the public sector, evaluates transposition and practical application of the above-mentioned directives at EU level. It concludes that EU legislation has had a clearly positive influence on national standards for occupational safety and health and contributed to substantially raising the levels of occupational safety and health at the workplace.

However, despite this positive assessment overall, the Communication generally highlights:

- long process of transposition of the legislation at Member State level;
- insufficient application of the existing legislation in the public sector;
- difficulties of practical application of the existing legislation among SMEs;
- uneven access and quality of preventive services throughout the EU;
- deficits in the activities of the enforcement authorities in some Member States.

### General comments

UNICE agrees with a number of elements in the analysis regarding implementation of the framework directive and the first five individual directives, but does not agree with all. It also highlights that there are a number of methodological difficulties presented by the analysis. This means that there must be a careful assessment of which general and definite conclusions can truly be drawn from the material that the report builds on. The main observations UNICE would like to make at this stage are summarised below.

A substantial corpus of legislation aimed at raising health and safety standards and covering all known risks and most categories of workers, including temporary workers, has gradually been put in place at EU level. It is based on risk prevention and its centrepiece is the framework directive. UNICE generally values the preventive approach put in place by EU legislation.

The analysis of implementation of the framework directive and the first five individual directives reveals, however, that the legislation is complex, not always fully understood and in some instances too detailed and imposing considerable burdens on SMEs. This has led to transposition as well as practical implementation problems.

This points firstly towards a general need for a more thorough socio-economic impact assessment and analysis of feasibility aspects when legislation is conceived, with a view to avoiding excessive burdens on companies and particularly SMEs.

Secondly, it points towards a general need for achieving more simple, understandable and consistent EU occupational health and safety legislation. Enhanced and serious efforts to reflect on the codification, simplification and rationalisation of the legislative framework rather than increasing its complexity are required.

In this respect, however, opportunities have recently been missed through the adoption of very complex, burdensome and detailed legislation on physical agents.

Thirdly, strong emphasis should be put on making what exists work better, by ensuring correct transposition and better implementation of the current framework, rather than on introducing new legislation. This is also particularly important in view of the need for the new Member States to absorb fully the existing Community acquis in this area, and to ensure that the same occupational safety and health standards are applied throughout the enlarged EU and that there is fair competition.

UNICE therefore highlights the importance of concentrating on:

- strengthening the overall prevention culture through focused attention on Member States education and training policies and awareness-raising activities at appropriate levels;
- making more easily understandable, practical and tailored information available to SMEs (particularly smaller and micro companies);
- stepping up training efforts particularly targeting smaller and micro enterprises;
- systematically accompanying legislative provisions by practical guidance for organisations in the public and private sector, as the development of such instruments at European, national and sectoral levels is crucial in order to enable organisations to develop their own practical and effective solutions;
- providing easier access for SMEs and particularly smaller and micro companies to high quality and tailored support services and specialist advice at reasonable cost where required competences do not exist internally and recourse to external advice is needed;
- develop supporting tools that enable companies to choose appropriate personal protective equipment;
- generally improving the availability, accessibility and quality of preventive services (whereby certification is not considered a promising route to success);
- enhancing the capacities and effectiveness of enforcement authorities with a view to ensuring a level playing field throughout the EU when it comes to enforcement;
- encouraging benchmarking orientations among enforcement authorities throughout the EU;
- fostering the information, educational and prevention-oriented role labour inspectorates should play alongside their purely enforcement-oriented role;
- stepping up efforts in developing harmonised statistics and improving the comparability of data.

### Specific comments

It is essential that the public sector, including public authorities, to whom the legislative framework applies as much as to the private sector, demonstrates good leadership when it comes to the implementation of provisions.

The communication makes particular reference to “deficits in organisational structures” in many companies when it comes to the management of occupational safety and health issues. There is however no need to further specify organisational structures to manage health and safety in companies, as health and safety will be most successfully managed if integrated in general management systems. Rather, there is a need when conceiving legislation to ensure that provisions are simple and take better account of feasibility issues, particularly for smaller and micro enterprises. These companies inevitably do not have similar organisational and management structures or administrative and financial resources to larger enterprises and may therefore encounter difficulties to cope with complex and demanding provisions and administrative requirements.

UNICE agrees with suggestions to avoid overlaps between directives and to avoid particularly the inclusion in individual directives of specific provisions/further specification with regard to issues that are sufficiently covered in the framework directive, such as the general obligations of employers, and worker information, consultation, participation and training.

Against this, UNICE opposes the idea of reflecting on limit values for handling of loads. This suggestion disregards the very great disparity between activities and their constraints and the fact that, consequently, it is not only the weight of loads that has to be considered but also their physical form and how they are handled.

Appropriate adaptation of the legal framework would consist, for instance, of simplifying the directive on visual display units in the light of technical progress. For the vast majority of users its provisions and precautions are out of proportion to the risks. Its annex to some extent no longer corresponds to current technological developments. A considerable simplification could be achieved by moving away from specifying detailed obligations for employers, in favour of looking into solutions producers of equipment and conformity requirements could provide. As regards telework aspects in general, UNICE recalls that the agreement between European social partners on telework concluded in 2002 and followed up at national level provides valuable guidance for such situations.

## Conclusions

The analysis of implementation reports of the framework directive and the first five individual directives reveals that the complexity of the legislation has led to transposition as well as practical implementation problems.

This points towards a general need for enhanced efforts to reflect on ways to simplify and rationalise the legislative framework and to avoid adding to its complexity. Also, not all health-and safety-related issues are most appropriately addressed through detailed provisions, but would benefit from a more framework-like and goal-oriented approach. This could provide for the necessary flexibility for development and innovation in both the monitoring and management of some health and safety aspects and facilitate practical application for SMEs.

Moreover, it is important to concentrate on fostering correct transposition and better implementation of the existing legal framework by strengthening the overall prevention culture, providing adequate support to SMEs and enhancing the capacities of specialist services and enforcement authorities.

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