

Mr Vladimir Špidla
Member of the European Commission
European Commission
DG Employment and Social Affairs
BERL 9/221
200, rue de la Loi
B-1049 Brussels

28 July 2005

THE SECRETARY GENERAL

Dear Commissioner,

On 6 September 2005, in plenary session the European Parliament will vote amendments to a proposal for a Directive on the minimum health and safety requirements regarding the exposure of workers to the risks arising from optical radiation. The proposed directive addresses exposure to artificial as well as natural sources of radiation (sunlight). It aims at establishing limit values for exposure to artificial radiation sources on one hand and sets out a preventive approach for addressing exposure to sunlight on the other.

UNICE is extremely concerned by the inclusion in the scope of the directive of provisions on sunlight.

Climatic conditions and work situations vary considerably throughout Europe and only very specific activities or professions are concerned by risks linked to occupational exposure to sunlight. It is therefore not appropriate to require every single employer in the EU to take action in this field and impose the implementation of a specific risk assessment and of continuous and detailed action programmes.

Moreover, it is important to note that the employer cannot be expected to prevent, manage and control exposure to sunlight in the same way as exposure to risks that are exclusively related to the production process. Exposure to sunlight is first and foremost a public health issue. Exposure occurs in various circumstances which are beyond the control of employers and for which they cannot be held liable.

On 12 July 2005, the European Parliament's Employment and Social Affairs Committee voted an amendment leaving it up to the Member States to decide whether they wish to define specific risk assessment obligations for employers regarding sunlight. UNICE welcomes the proposed amendment as a step in the right direction as this would prevent general imposition of unnecessary burdens on every single employer and, instead, enable Member States to decide on the steps to be taken taking account of climatic conditions.

However, from a legal point of view, it would be preferable to exclude exposure to sunlight from the scope of the proposed directive altogether.

Not all issues, particularly if they fall in the first place in the public-health domain and are not systematically and generally an occupational health issue, are most appropriately addressed through legal provisions. Instead, a particular focus should be put on practical guidance for managing professional solar radiation exposure situations and on enhanced sectoral prevention efforts and awareness-raising to help deal with these situations successfully where they are most likely to arise.

While awaiting the European Parliament's plenary vote, Coreper has examined the amendments already voted by Parliament's Employment and Social Affairs Committee in July 2005. In this context, I would like to draw your attention to the fact that the compromise proposed by the British Presidency on 15 July is clearly insufficient to avoid creating disproportionate demands on employers, imposing unjustified burdens on SMEs and to hedge against legal uncertainties. It is therefore not acceptable to UNICE.

Finally, UNICE would like to recall that the legislative proposal on optical radiation currently under discussion has not been subject to a proper feasibility and socio-economic impact assessment. The initial impact assessment drawn up in relation to the original proposal for a Directive of 1992 was not substantial and is not relevant for the detailed and far-reaching new proposal of June 2004.

In the name of their commitment to simplification and better regulation at EU level, UNICE calls on the EU institutions to be coherent and avoid over-prescriptive and unnecessary legislation on exposure to sunlight.

Yours sincerely,

Cordula Clement,



Philippe de Buck