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Second-stage consultation of the social partners on work-related musculoskeletal disorders

Introduction

In its consultation document on musculoskeletal disorders at work (MSD), the European Commission argues the following:

- MSD are on the increase in most EU Member States as illustrated by data on exposure to risk factors and on perceived work-related health risks available from two work-force surveys;
- the existing legislative framework does not adequately cover all work situations or ergonomic risk factors such as repetition, awkward/static postures, force or contact stress;
- it is therefore necessary to complete the legal framework through a new directive on MSD which would also integrate updated provisions of directives 90/269/EEC and 90/270/EEC, thereby providing for a simplified and more streamlined framework for MSD risk assessment and prevention.

The Commission invites the social partners to:

- forward an opinion or recommendation on the content of the envisaged regulatory and non-regulatory initiatives;
- inform it about their readiness to start a negotiation process in accordance with Articles 138 and 139 of the Treaty and on the basis of proposals described in the consultation document.

General comments

The Commission bases its argumentation that work-related MSD is generally on the rise on a few sources only, these being essentially two workforce surveys. These data are not sufficient for a sound analysis of the current situation at EU and Member State level. Without an analysis of statistical and medical data, it is difficult to assess MSD developments and the extent to which medically proven work-related problems have decreased or increased.

Moreover, it is misleading to argue that the current framework does not sufficiently cover MSD. The existing legislative framework provides for sufficient and wide coverage of MSD, for all work situations and regarding all ergonomic risk factors: the framework directive 89/391/EEC requires that employers assess, prevent and manage all health and safety risks. More specifically, it also requires the adaptation of the work to the individual, especially as regards the design of workplaces, the choice of work equipment and working and production methods, with a view, in particular, to alleviating monotonous work and work at a predetermined work rate, and to reducing this effect on health.

Moreover, a number of specific health and safety directives include provisions that require the prevention and management of MSD risks, such as Directive 89/655/EEC (use of work equipment by workers at work), Directive 90/270/EEC (work with display screen equipment), Directive 90/269/EEC (manual handling of loads) and Directive 2002/44/EC (risks arising from vibration). Finally, the machinery directive 98/37/EC addresses the issue from the point of view of technical specifications for machinery, supplemented by several European standards. In addition, machinery manufacturers are to observe specific provisions on ergonomic principles regarding the design and construction of machinery.

The fact that MSD in different forms may remain an important phenomenon is not due to a lack of legislation in this area. Rather, it is linked to the complexity of MSD, its multifarious and multifactorial nature and the difficulties of getting to grip with it from a practical prevention and risk management point of view. New or more specific legislative provisions would not bring a solution to this. In different professional contexts different MSD risks may arise, whereby these will also strongly depend on a number of non-work-related, individual and physical factors. It must also be noted that MSD occurrence is also strongly influenced by lifestyle and physical disposure and can also have non-work-related causes.

BUSINESSEUROPE agrees however that better prevention of work-related MSD is desirable. To achieve this, BUSINESSEUROPE sees a need to improve information on appropriate prevention strategies and to increase know-how with regard to management of occupational MSD risks, particularly at the level of small and medium-sized companies and the public sector.

Priority should be given to the elaboration of toolkits that are sector- and workplace-oriented and will prove very useful in enabling companies to develop well-adapted solutions. In parallel, making available relevant information to workers as regards safety instructions to be followed can prove useful as well. In particular, social partners at the appropriate levels as well as preventive services have an important role to play when it comes to the development of such tools.

Initiatives that could be usefully undertaken at Community level are awareness-raising activities, the exchange of experience with regard to successful prevention and management of MSD in specific work situations and the dissemination of good practice. In this respect, the European Agency for Safety and Health at Work 2007 campaign on MSD will be instrumental. Toolkits focusing on specific workplaces and situations could however also be developed at Community level, with the help of the Advisory Committee on Safety and Health at Work (ACSH).

Moreover, it is important to further investigate the links between causes and effects and communicate this information to employers. From a science and medical point of view, in many cases causes and effects cannot be easily determined. Cause-effect levels are difficult to establish and will depend on a multitude of factors, including non-work-related and individual factors. This also means that any limit value approach the Commission might envisage would be highly inappropriate and in any case impracticable.

Finally, BUSINESSEUROPE highlights that even if the Commission proposes to repeal two existing directives, the integration of updated provisions and new detailed and technical provisions into a combined directive cannot be regarded as a simplification of the legal framework. On the contrary, a new directive on MSD will contribute to an extension of formal duties of employers, increase complexity and costs without necessarily helping to achieve the goal of better MSD prevention. In the light of the better regulation agenda, the Commission and Member States should seriously reflect on the usefulness of new legal provisions in this area and thoroughly assess their possible impact.

Conclusion

Further legislative action on the prevention and management of MSD seems neither justified nor the most appropriate way of leading to the goal of better prevention of work-related MSD.

The fact that the phenomenon of MSD remains important is not due to a lack of legislation in this area, but linked to the complexity and the multifarious and multifactorial nature of MSD. This results in numerous challenges of getting to grip with it from a practical prevention and risk management point of view.

BUSINESSEUROPE therefore thinks that priority should be given to the elaboration of toolkits that are sector- and workplace-oriented, with a view to closing the know-how gap and enabling companies to develop well-adapted solutions.

BUSINESSEUROPE does not wish to start a negotiation process in accordance with Articles 138 and 139 of the Treaty.
