BUSINESSEUROPE

POSITION PAPER

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Response to second stage consultation of the social partners on protecting EU healthcare workers from blood-borne infections resulting from needlestick injuries

Introduction

Following on from the first stage consultation of social partners launched in December 2006, the Commission is gathering the opinions of the European social partners on the usefulness of potential legislative and non-legislative initiatives on protecting EU healthcare workers from blood-borne infections resulting from needlestick injuries. Social partners should also indicate whether they wish to enter into negotiations on this subject.

The Commission is proposing potentially to amend EU legislation protecting the health and safety of workers, in particular the Directive on biological agents at work, by introducing stricter and more specific measures. Although non-legislative measures are not excluded, the Commission suggests that a 'binding act' may be appropriate for some measures.

General comments

1. European employers place great importance upon the protection of healthcare workers from blood-borne infections resulting from needlestick injuries and are committed to ensuring that preventive and protective measures are taken in this respect.

2. However, BUSINESSEUROPE does not agree with the principle laid down in the Commission's document, that further, more detailed EU rules are necessary to protect workers from this specific risk. Introduction of stricter, more specific protective measures would lead to more bureaucracy, less clarity and more cost. This would also be contrary to better regulation principles. In addition, such a move would set a precedent contrary to Framework Directive 89/391/EEC, that general principles for protection of workers' health and safety are set at EU level and specific measures are fixed through implementation at national level.

3. In practice, the combination of Framework Directive 89/391/EEC and some of the individual directives under it, provide adequate protection against this specific risk. The general minimum requirements for health and safety of workers of the framework directive are complemented by general requirements in more specific areas, such as biological agents at work. Therefore there is no need for further legislative measures to protect against this risk.

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4. The directive on biological agents at work, on which the commission is focusing, is only in implementation phase now. Rather than overhauling existing legislation, it would be sensible to assess the effectiveness of implementation of the rules at national level. This should not only be the case in relation to the biological agents directive, but in general regarding legislation covering this particular risk. In many member states, successful measures and procedures are already in place in this field. Unless such measures can be proved as inadequate or failing, further action is not warranted.

5. Aside from the lack of justification for more specific rules in this field, the need for action is not proven due to a lack of data. The Commission acknowledges that only estimates of needlestick injuries exist and that there are no harmonised EU level statistics. This is not sufficient to validate action.

6. BUSINESSEUROPE supports non-legislative action, as a tool for increasing awareness on this issue and assisting with implementation.

Specific comments

7. Whilst fully acknowledging the existence of risks to healthcare workers regarding needle-stick injuries and the seriousness of the issue, we point to the fact that the Commission acknowledges that there is a lack of harmonised statistics at European level regarding the extent of the problem. Current studies only serve to estimate the number of needlestick injuries in Europe and can therefore not be used as a basis for action. There is also no evidence that the estimated amount of needlestick injuries is due to insufficient legislation. Although, as stated, the health sector is one of the largest sectors of employment in Europe, this is not in itself justification for action, as it is not an indication of how many workers are actually at risk or affected.

8. Framework directive 89/391/EEC already provides for the general protection of workers' health and safety and general prevention of risks arising in the workplace. Employers are obliged to assess health and safety risks to workers, eliminate them as far as possible or minimise them. In addition, a number of individual directives provide more targeted rules, as follows:

- Directive 89/655/EEC concerning minimum safety and health requirements for use of worker equipment by workers requires employers to provide workers with suitable equipment, consider the hazards in the use of such work equipment, ensure that the use does not entail health and safety risks, and otherwise minimise the risk. This applies to medical equipment used in hospitals.

- Directive 89/656/EEC on minimum health and safety requirements for use of personal protective equipment by workers, states that where risks cannot be avoided, personal protective equipment has to be provided by employers and has to be adapted to the specific risks the person is subject to.

- Directive 93/42/EC concerning medical devices obliges employers to undertake a risk analysis of all medical devices before they are put on the market and design them in such a way that the risk of infection to the patient, user and third parties are eliminated or reduced as far as possible.

There is therefore no justification to develop or amend existing legislation for this specific risk.

9. This is not to mention Directive 2000/54/EC on biological agents at work, the focus of the Commission's proposals, which already covers all biological risks which could arise in all work activities in all sectors. This directive entails detailed obligations for employers in terms of eliminating or if not possible, minimising risks from exposure to biological agents at work. The amendment of this legislation to specify employers' obligations on preventing risks, applying stricter protective measures, would not facilitate employers' compliance with the rules, as it would result in incoherent legislation, entailing administrative burdens and costs.

10. In addition, specifying employers' obligations in this field is the role of the member states; general provisions allow adaptation to the national situation. Rather than amending current legislation, the Commission should assess national implementation of legislation and related additional provisions, which exist in many member states – EU action cannot be justified if national measures have not been shown to be insufficient.

11. Adopting specific legislation targeted at a particular risk would not allow for necessary adaptations due to future technical advancements in the sector. In order for the legislative framework to be adaptable, to take into account changes in the workplace, a framework approach is preferable to specific legislation.

12. The biological agents directive (2000/54/EC) was codified in 2000, as part of a process of simplification. The Commission's health and safety strategy for 2007 – 2012 emphasises the principle that legislation should be coherent, simple and effective in achieving the objective of reducing administrative burden on companies. Amendments to the biological agents directive to include stricter and more specific measures would therefore also be contrary to better regulation principles.

13. Although non-legislative measures are not excluded, the Commission already argues that a 'binding act' would be appropriate for some measures. This assumption does not respect the social partners' right to express their views in this field prior to engagement by the Commission.

14. BUSINESSEUROPE supports further work on non-legislative measures, as the most appropriate way to improve health and safety of workers in this area. In particular, we support the work of the Advisory Committee working party on OSH risks in the hospital sector to produce a guide on prevention and good practice for hospital

workers, focusing on the most significant risks in the sector, including biological agents. This should provide assistance for employers and workers in the sector, in terms of emphasising safe procedures and raising awareness, and assist with national implementation. Activities allowing member states to draw on experience from each other through best practice exchange would also be useful.

Conclusion

15. BUSINESSEUROPE sees no justification for EU level legislation in this field and therefore sees no purpose in entering into social partner negotiations on the subject.