

1 December 2014

EU Strategic Framework on Health and Safety at Work

KEY MESSAGES



- 1** BUSINESSEUROPE welcomes the focus of the new EU Strategic Framework on Health and Safety at Work on better implementation, compliance and simplification of existing EU and national legislation in this field.
- 2** The EU can provide most added value for the diverse national, sectoral and company circumstances through exchanges of best practice, data collection and development of tools.
- 3** Good safety and health performance can help business competitiveness as long as the benefits outweigh the costs and administrative burdens of health and safety measures at the workplace.

WHAT DOES BUSINESSEUROPE AIM FOR?



- *BUSINESSEUROPE would like to see an approach to ensure that the objectives of worker protection are met in an effective, efficient and proportionate way. A continual focus at EU and national level on improving and simplifying legislation is key to achieving this.*
- *We call for effective implementation of the strategic framework with the thorough involvement of EU and national social partners to ensure ownership of the strategic framework beyond the EU institutions.*
- *Once the results of the evaluation of existing EU legislation on health and safety at work are available, a considered assessment of the actions included in the strategic framework may be appropriate, however the general approach should remain.*



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EU Strategic Framework on Health and Safety at Work

Introduction

1. On 6 June the European Commission published an EU Strategic Framework on Health and Safety at Work for 2014 to 2020. This is based on an evaluation of the previous EU Strategy 2007 – 2012 and the results of a public consultation in 2013. This paper constitutes BUSINESSEUROPE's position on the Strategic Framework.

General remarks on health and safety at work

2. Employers are committed to protecting workers' health and safety at the workplace across the EU. Ensuring a safe, healthy and productive workforce is key to achieving the full potential of human capital on European labour markets. EU occupational safety and health (OSH) policy should therefore be linked to the EU 2020 strategy for growth and jobs.
3. Good safety and health performance, in particular when it helps reducing absenteeism due to work-related health and safety problems, can also be good for business continuity and competitiveness, as long as the administrative burdens and costs do not outweigh the benefits. Reducing absenteeism also has a positive impact on the sustainability of social protection systems, by reducing the use of social benefits.
4. Employers' responsibility to maintain workers health and safety does not extend beyond the workplace and the working factors, however, an increasing number of companies, in particular larger ones, are taking measures on a voluntary basis to support employee health and wellbeing.
5. Over the last years, there have been positive trends in the area of health and safety at work: a reduction of 27.9% in accidents between 2007 and 2011; 85% of workers expressing high levels of satisfaction with their health and safety at work; and 27 Member States now have a national OSH strategy, setting a framework for action tailored to the specific national circumstances.
6. At the same time, employers are faced with other, in some cases newer challenges at the workplace, for example dealing with psychosocial risks, musculoskeletal disorders and mental health problems. These are complex issues, where a better acknowledgement is needed of the combination of causal factors not only from work but also individuals' private lives, including social factors. Also, a better appreciation is needed of the often subjective nature of such risks in comparison to physical workplace risks. These individual factors can make psychosocial risks and mental health problems very difficult to evaluate.
7. Employers, as well as society as a whole are also faced with the challenge of an increasingly ageing workforce. Amongst other issues, health and safety at the workplace has an important role to play in dealing with this challenge.



General remarks on the Strategic Framework

8. BUSINESSEUROPE welcomes in general the approach of the new EU Strategic Framework on Health and Safety at Work, to focus on better implementation, compliance and simplification of existing EU and national legislation in this field. This approach rightly recognises that there is already a comprehensive body of EU occupational safety and health (OSH) legislation, with around 30 directives. It is also the best way to establish a level-playing field of OSH requirements across the EU.
9. We also agree on prioritizing non-legislative tools, including identification and exchange of good practices, data collection and tools which assist in implementation of legislation. These are useful as they can be tailored to the different national, sectoral and company approaches to OSH management. Guides for companies should be developed where necessary and useful, ensuring that they are short, simple and clear. Where these are to help companies in implementing legislation, care must be taken to ensure that they are in line with the national transposing measures.
10. Whilst employers are committed to providing health and safety protection for workers at the workplace, we share the view that costs to companies should be taken into account when taking action in this area. At the same time, we acknowledge that good safety and health performance can help business competitiveness, to the extent that the administrative burdens do not outweigh the benefits.
11. Compared to the previous EU Strategy for Health and Safety at Work, the structure of the new strategic framework is an improvement. Identifying the main challenges and strategic objectives linked to these is more appropriate for the EU level than providing too much detail. This is also in line with the approach of the new Commission President Juncker for the EU to focus on the big issues. It also allows for prioritising work. We also believe that the challenges the Commission has identified are the most relevant ones.
12. The effective implementation of the strategic framework is a critical issue for employers, as this is where strategic objectives will be turned into action and improvements in the area of OSH can be made. It is therefore important that there is a process for monitoring implementation, which also involves social partners and where specific indicators are used.
13. The results of the ongoing evaluation of all existing EU health and safety legislation could not be considered completely in the new strategic framework. The review in 2016 should take into account the results of the evaluation. However it should not lead to a change of general approach by the Commission.
14. Ownership of the strategic framework outside the EU institutions, in particular by social partners, is crucial for its delivery and ensuring that it is relevant to the realities of the workplace. Lessons should be learnt from the previous strategy, where ownership was already a problem. The process for development of the new strategic framework, in particular a lack of information, has not provided a good



basis in this respect. Involvement of social partners in delivery of the strategic framework at both EU and national level should therefore be one of the key objectives of the Commission, in cooperation with the Advisory Committee on Safety and Health.

Remarks on the main challenges

15. **Improving the implementation record of Member States** is crucial to ensure that legislation achieves its objective of protecting workers' health and safety across all EU countries. This must be done in an effective, efficient and proportionate way, taking into account national specificities. In this respect, it is also important to compare the implementation of legislation in the different Member States.
16. We agree on the need to **enhance the capacity of micro and small enterprises** to put in place effective and efficient risk prevention measures. BUSINESSEUROPE supports the high priority given by the Commission to reducing administrative and regulatory burdens on SMEs. The Commission should always try to ensure that new EU legislation can apply to companies of all sizes, taking the "Think small first" principle as a reference. This implies to demonstrate the proportionality of administrative burdens that any draft EU legislation would generate for SMEs.
17. **Improving the prevention of work-related diseases by tackling existing, new and emerging risks** is a key challenge for policy makers, employers and employees. Taking a preventive approach can be beneficial for companies in terms of ensuring business continuity, avoiding high levels of absence and avoiding loss of skilled workers. However, this is only possible if the administrative burdens do not outweigh the benefits. Also, it must be clear for the employer that the risks originated from the work performed.
18. There is already a body of existing EU legislation protecting workers from risks which can cause work-related diseases, including exposure to chemicals, carcinogens and mutagens, physical agents, biological agents, and more generally the EU framework directive on health and safety at work. Also, the Commission Recommendation on a European Schedule for occupational diseases has had a positive impact in that nearly all member states now have a system for recording occupational diseases and many member states have established policy for prevention of risks for occupational diseases and prevention of new risks. The recommendation makes an important distinction between work-related or occupational diseases, where there is a link between exposure and workplace and effect, and work-related ill health, which is broader with multiple causes.
19. BUSINESSEUROPE therefore believes that the necessary legislative framework already exists and that implementation should be the focus from now on. Furthermore, employers believe that a number of workplace risks, in particular psychosocial risks including stress, ergonomic risks and mental health issues are not best dealt with by legislation:
 - Firstly, it is often difficult to identify whether the risk is work-related, due to a situation in someone's private life or, as is often the case, due to a combination



- of factors including social aspects. Setting legislative obligations for employers in this case may not actually deal with the root cause of the problem.
- Secondly, unlike many physical risks in workplaces, psychosocial risks are of a very subjective nature. How someone deals with psychosocial challenges will depend from one person, one job and one sector to another. For example, some jobs are inherently stressful, in which case it is not about preventing stress, but ensuring that it is well managed. Binding EU legislation is not appropriate to take into account these different, often personal specificities.
20. Such risks are better dealt with through a preventive approach framed by an open culture at work floor level to find solutions. This should be based on a shared responsibility between employers, employees and co-workers.
21. The field of mental health at the workplace is a highly complex issue. Dealing with it requires an integrated approach, taking into account the job content, working conditions, work environment, work relations, career perspectives, work life balance as well as elements not linked to the work situation (health, family situation, personality, social situation etc.). This means that interventions from different fields of expertise are necessary, including public authorities and institutions and public health actors. In addition, companies often take voluntary initiatives in this field as part of Human Resources and/or Corporate Social Responsibility approaches.
22. **Demographic change** is a major issue and brings challenges for policy makers, industry, workers and society as a whole. The state has to contribute to dealing with this issue and action can be taken regarding many different aspects, e.g. reform of pension systems, flexible retirement schemes, increasing labour market participation and mobility and less rigid employment protection legislation. To facilitate a sustainable working life, employers are increasingly assessing whether workplace situations fit with the age composition of their workforce and where necessary and appropriate, may adapt workplaces and/or work processes accordingly. This can be particularly important for jobs which are physically demanding. In this way, OSH is another important element which has the potential to improving the workability of an ageing workforce.
23. In addition, cost- effective public health promotion and measures supporting lifestyle adaptations have a role to play in an individual's ability to continue working up to retirement age. There is also therefore a role for public health actors.

BUSINESSEUROPE along with the other European cross-industry employer social partners CEEP and UEAPME has run a project "Age management policies in enterprises in Europe", which aimed to develop a better understanding of how employers can encourage older workers to remain in the labour market. One of the key conclusions of the project was that structures which support workplace adaptations to allow individuals to continue working, help to effectively manage workability.

24. Improving workability is not only the responsibility of employers, but also those of employees in terms of adapting to changing situations, as well as co-workers in adapting to an ageing workforce. Employers recognise that whilst targeting workers



above a certain age can be valuable, often combining this with a lifecycle approach can bring greater benefits.

Remarks on the key strategic objectives

- ***Further consolidate national strategies***

25. The formulation of national OSH strategies has been a positive outcome of the previous EU strategy and we therefore support further coordination and mutual learning in this area. It will be important to assess whether social partners have been adequately involved in the development and review of national OSH strategies. Learning lessons from the past, we support the idea of establishing a database which compiles all the national strategies, which should not only be a tool for national governments, but also for social partners. We believe that existing structures should be used as contact points for national strategies.

- ***Facilitate compliance with OSH legislation, particularly by micro and small enterprises***

26. In general BUSINESSEUROPE welcomes tools which help SMEs in complying with OSH legal obligations and risk assessment, but also in developing OSH management processes. The focus should be on real action at the workplace, rather than on specific instruments, for example risk assessment documents. The Esener survey of the European Agency for Safety and Health at Work shows that lack of expertise is one of the main reasons for companies not having developed a documented OSH policy, management system or action plan. This is particularly the case for smaller companies, who may have to resort to external consultancy services for this. Action-oriented tools can therefore be a very useful way to provide guidance on how to implement OSH management and practices, as long as they are easily accessible and simple to use.

27. Whereas the OiRA (Online Risk Assessment) tool has had some added value, it could have more impact if the guidance on its use was not so focused on legal compliance with documented risk assessment processes, but rather what sort of preventive actions can be done at the workplace level to assess and minimize risks. It is for member states that decide to make use of the tool to see whether it should be linked to legal compliance and in this case ensure it is in line with national legislation. It is also important to note that many other tools exist at national and sectoral level, which others may be able to learn from.

28. Facilitating support of SMEs by larger enterprises through the supply chain may help in identifying possibilities for OSH improvements. However, action should remain limited to promoting good practice and should not place additional obligations on enterprises regarding the supply chain.

- ***Better enforcement of OSH legislation by Member States***

29. Whilst labour inspection is an important aspect in ensuring enforcement of OSH legislation by Member States, we do not believe that EU funding programmes



(including the ESF) should be used to provide resources for national labour inspectorates. There are more pressing challenges for which the ESF (and other funding sources) should be used, in particular combating high levels of unemployment and accompanying labour market reforms, as well as improving OSH policies. Furthermore, resourcing is the responsibility of national governments according to their own budgetary priorities. It is important that inspectors also have an advisory role in helping businesses comply with legislation.

30. Whilst we agree that the Senior Labour Inspectorates Committee (SLIC) can be involved in assessing the effectiveness of sanctions and administrative fines imposed by Member States, it should not be involved in the assessment of 'soft enforcement' measures, as these are not the responsibility of labour inspectorates. In evaluating the training of labour inspectors and their capacity to carry out their main duties in enforcing OSH legislation, the views of employers should also be sought, since they are in the frontline of action by the labour inspectorates.

- ***Simplify existing legislation***

31. We fully support the Commission's better regulation agenda, including simplification of existing EU and national legislation and reduction of unnecessary administrative burdens. This agenda is not about lowering worker protection or social standards. It is about ensuring that legislation is fit for purpose, i.e. to provide the same level of health and safety protection for workers across different EU countries, sectors and companies, and ensuring that can be implemented by employers. The main aim should be legal certainty – the employer needs to know in advance what needs to be done to comply with the legislation. This is also in the interest of workers who will be better protected if the companies are able to comply with the legal requirements. Avoiding gold-plating at national level is also an important objective for employers.

32. We support the evaluation of the existing body of EU OSH legislation and will continue to provide input throughout the process. The results of the evaluation and any policy recommendations stemming from this exercise should be the subject of normal consultation processes, including through the Advisory Committee on Safety and Health.

- ***Address the ageing of the workforce, emerging new risks, prevention of work-related and occupational diseases***

33. A balanced approach is needed to managing risks to health and safety at work. It is not possible to eliminate or prevent all risks at the workplace, including emerging new risks and therefore assessments should be done on a sound scientific basis. Not only the risks, but also the potential improvements in OSH that new technology can provide should also be taken into account. The European Agency for Health and Safety at Work, EU-OSHA, could usefully look into the potential OSH benefits of new technology.

34. Whilst employers acknowledge that certain risks may affect specific categories of workers more than others, it is important not to generalise. Individuals may react



differently to different types of risk at the workplace, even if they are in the same age-group, of the same sex or in any other specific group.

35. We are not convinced that an independent scientific consultation body should be set up to make recommendations to the Commission on how to address new risks. This is not acceptable as it would bypass the social partners. To ensure tripartite consultation, such work should be done through the Advisory Committee on Safety and Health at Work. Whilst we support that in the area of chemicals, policy work is supported by the Scientific Commission on Occupational Exposure Limits (SCOEL), we do not believe that such a body would be appropriate in the much broader and undefined area of new emerging risks.

- ***Improve statistical data collection and develop the information base***

36. We welcome that the Commission pursues the objective of enhancing the statistical database. A sound and harmonized statistical data collection, supported by sound scientific analysis, is an important prerequisite for international comparison and for evidence-based policy making. At the same time, the collection of data can be burdensome, including for companies that have to provide the data to national authorities. Therefore, companies should only be asked to provide data which is essential for a sound statistical data collection. Furthermore, the Commission should go further by assessing how to make better use of the data so that the collection of it has some added value.

37. We have concerns about moves towards creating a common EU database on occupational exposures, as this would be a step towards harmonizing criteria in this area. Although for some multinational enterprises, it could be useful to avoid different national approaches in this field, the setting of criteria for recognition of occupational diseases should remain the responsibility of member states, as is currently the approach of the Commission Recommendation on occupational diseases. This is important since compensation for occupational diseases is part of social security systems, which are purely the responsibility of member states and since compensation is in some countries provided by employers.

- ***Better coordinate EU and international efforts to address OSH and engage with international organisations***

38. We agree that the Commission should continue to cooperate and dialogue with strategic partners outside the EU and other international organisations on OSH issues. The EU should remain within its competences, focusing on mutual learning, and exchange of practices. Specifically on the issue of the global supply chain, the EU should act within its competences by providing relevant information and good practice to the ILO units and the team in charge of the specific G20 initiatives. The Commission should also ensure that cooperation with third countries has added value for the EU, including social partners.

- ***Social dialogue***

39. The European Commission rightly highlights the importance of the Social Dialogue and we welcome that it will continue to support the work of the EU and national



social partners in relation to OSH policies. We question what is meant by the intention to improve synergies between the contributions of EU social partners (cross-industry and sectoral) and the implementation of EU strategic priorities on OSH. As the strategic framework states, the autonomy of social partners needs to be fully respected, which means that European social partners are free to set their own priorities.

- ***Synergies with other policy areas***

40. We agree that there is a need for more synergies between OSH and other policy areas, whilst ensuring that the distinction between for example public health and employment and social issues is clear. The strategic framework sets out some key policy areas in this respect, however it does not indicate how better synergies will be developed. This requires that the Directorate General for Employment, Social Affairs and Inclusion better links with other Directorate Generals, to ensure integration of other aspects in health and safety policy. Vice versa other Directorate Generals need to link their policies to the EU's OSH approach as outlined in the strategic framework. There also needs to be good cooperation between EU-OSHA and other EU Agencies, including Eurofound and the European Chemicals Agency (ECHA). Despite the fact that 'mainstreaming' OSH was highlighted in previous strategy documents, little progress has been made so far.