Protection of workers from exposure to carcinogens or mutagens at work. Codification

1999/0085(COD) - 12/01/2017

The Commission presented a working document accompanying the Commission communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on the modernisation of the EU occupational safety and health legislation and policy.

The detailed ex-post evaluation of the EU acquis, checking their relevance as well as efficiency, effectiveness, coherence and EU added value, carried out by the Commission confirms that the framework meets its ambition to adequately protect workers.

Main conclusions: the evaluation concluded that the overall structure of the EU occupational safety and health acquis, consisting of a goal-oriented Framework Directive complemented by specific Directives, is generally effective and fit-for-purpose.

However, it pointed to **specific provisions of individual Directives that have become outdated or obsolete**, and highlighted the need to find effective ways to **address new risks**.

The way in which Member States have transposed the EU occupational safety and health Directives varies considerably across Member States. Compliance costs therefore vary and cannot be easily dissociated from more detailed national requirements.

As regards SMEs: the evaluation clearly concluded that compliance with the occupational safety and health Directives is more challenging for SMEs than large establishments, while at the same time the **major and fatal injury rates are higher for SMEs**. Specific support measures are therefore necessary to **reach SMEs** and help them increase their compliance in an efficient and effective way.

Next steps: the evaluation considered that occupational safety and health measures should reach the widest number of people at work, **no matter the type of working relationship they are in, and no matter the size of company they work for**. Compliance with occupational safety and health rules should be manageable for businesses of all sizes and effectively monitored on the ground.

Measures must be result-oriented, instead of paper-driven, and maximum use should be made of **new digital tools** to facilitate implementation.

Characteristics of the evaluation: this exercise also forms part of the Commission's Regulatory Fitness (REFIT) Programme with a special focus on SMEs. In this respect, the evaluation concentrated both on Framework Directive 89/391/EEC and on the other 23 directives related to it.

The evaluation also concerned Directive 2004/37/EC of the European Parliament and of the Council on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (sixth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC).

Directive 2004/37/EC establishes a hierarchy of risk control measures and also sets out obligations for the employers, being the substitution of the carcinogen or mutagen by "a substance, preparation or process which, under its conditions of use, is not dangerous or is less dangerous to workers' health or safety", the priority measure to implement, to eliminate or reduce the risks provided that this is technically possible.

While some data on occupational exposures is available at national level, a systematic assessment of the effectiveness of the Directive will necessitate the development of better data on occupational exposures to different carcinogens and mutagens.

The following issues will need to be considered:

- the need to adopt limit values for more substances for better chemical risk management in the future, based on duly justified reasoning. For this purpose an updated, simplified and quicker legal procedure for the adoption of occupational exposure limit values (OELs) could be considered. The adoption of these measures should be based on the substance prioritisation approach established and with the scientific advice of the Scientific Committee on Occupational Exposure Limits (SCOEL). Threshold and non-threshold issues need to be addressed and a more detailed explanation of how feasibility factors are taken into account need to be provided;
- the simplification of the procedures to set occupational limit values at EU level could also lead to improving the management of interface and further enhance synergies between OSH and other EU requirements such as REACH and CLP,.
- the need to consider the most appropriate approach to managing risks that may arise from exposure to reprotoxic substances;
- the need to consider if and how biomonitoring could be used more effectively for workplace risk management;
- the need to consider the potential adverse effects arising from exposure to dusts with low specific toxicity;
- developing EU guidance on a range of topics, such as practical risk management, using modern communication methods and tools.