

The ongoing debate on the Chemical Agents Directive

In the last Newsletter¹ we reported on the resumption of negotiations on the draft Chemical Agents Directive, its general implications and two questions which trade unions regard as fundamental: the scope of the directive and biological monitoring. This article considers two further aspects which we feel are skimmed in the current proposal.

Risk assessment

The first is the right of employees and their representatives to be informed, consulted and participate in the process of evaluating and avoiding the potential risks of exposure to chemicals. This should be intrinsically linked to the employers' obligations to carry out a risk assessment, as the quality of information supplied to exposed employees or their representatives (if any) depends entirely on the quality of the risk assessment.

As exposure to chemicals entails particular risks, the employers' risk assessment obligations must be more stringent than the general obligations stipulated in Articles 6(3) and 9(1) of the Framework Directive (89/391/EEC).

So, it is not enough to limit the scope of the directive to risks to the health and safety of workers who are exposed to chemical substances which are classified as *dangerous*, because some chemicals which are not dangerous in themselves may still constitute a risk in certain (unforeseen) work situations or in various compounds.

When assessing the risks related to exposure to chemicals, it is not enough to list their dangerous *chemical* properties (i.e., the conditions under which the substance in question may react with other substances), because a risk is also proportionate to the *physical* properties of a substance, like its volatility (i.e., it may accumulate in the air breathed by the exposed employee at a low room temperature).

The risks associated with chemical substances also vary with the route of exposure. As well as inhalation, which is frequently referred to, there are also the risks of absorption through the skin and swallowing. The risk assessment should cover all possible routes of exposure.

But there are also particular risks from exposure to chemical substances in certain dangerous work situations, which may lead to fire or explosions resulting in the unintentional and uncontrollable release of substances. It is imperative that the special risk assessment for chemicals takes this into consideration.

Worker information, consultation and participation

The other aspect glossed over in the draft Directive is the right of workers and/or representatives to information, consultation and participation. Education, training and information are crucial to the worker's correct handling of chemical substances, dangerous or otherwise. Some general employers' obligations included in the Commission's original proposal have been dropped entirely, such as:

- work involving a specific risk must be entrusted only to competent staff;
- appropriately trained personnel must be responsible for providing information, education and training to employees;
- workers have the right to perform the work assigned to them without endangering their own health and safety and/or that of others; and
- relevant safety drills must be performed at regular intervals.

The right of the workers and/or their representatives to be provided with detailed information in a comprehensible form and adapted to the needs of the individual worker (Article 6 and Annex I of the 1994 draft, now Article 7) now refers only to the results of the risk assessment. The information now has to be provided in what is described as “*a manner appropriate to the outcome of the risk assessment*”. Different ways in which this can be done - verbally, individual instruction, training with written information - are given as examples, but the reference is now to “*the nature and the degree of the risk revealed by the assessment required by article 3 of the Directive*” and not to the needs of the individual worker.

The current draft is also unclear on the training requirements for working with chemicals. In that, it falls short of other Health at Work directives like the Manual Handling of Loads Directive and the Display Screen Equipment Directive. For instance, there is no requirement for employees to be trained to deal with accidents. In most cases, the scope and content of the training depends on the nature and degree of the risk revealed by the assessment. No further detail is given as to the content of the training.

All in all, this proposal seriously narrows down the employee's protection rights.

A final word: the scope of the Carcinogens Directive is due to be extended to substances which, under the provisions of Directive 67/548/EEC, fulfil the requirements for classification as mutagenic and toxic to reproduction (Categories 1 and 2). Article 1.3 of the current proposal must be clarified to ensure that exposure to mutagens and substances which are toxic to reproduction are covered by more extensive prevention requirements laid down in the second amendment of Directive 90/394/EEC.

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¹ TUTB Newsletter No 5, February 1997, p. 17