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### EDITORIAL

## Commission must take responsibility for tackling MSDs

The findings of the last European working conditions survey highlight a long-running trend: the collection of work-related medical conditions that affects most workers in Europe is that of musculoskeletal disorders (MSDs). Work accident frequency rates may be going down, partly at least due to job-shedding in some sectors of industry, but the suffering, work incapacity and forms of disability related to MSDs evidence the relatively unimpressive delivery of prevention policies in this field. Almost a quarter of workers complain of backache. Muscle pains, fatigue and stress are reported by just over 22% of workers. National working conditions surveys tell much the same story.

These figures are evidence that the conditions of work intensification are wreaking havoc with workers' health. Trade unions have for years been arguing that MSDs are symptoms of a work organisation imposed by company management. Employers, by contrast, try to play down the problem, branding it a societal issue due to poor lifestyle choices. Their obdurate stonewalling of any European legislation in this field has so far paid off: the Commission has never yet put up a concrete proposal for a directive, despite it being set as a priority for the Community strategy 2002-2006. The credibility of Community health at work policy will be badly dented if the Commission continues to shirk its responsibilities and does not come rapidly forward with a coherent and ambitious proposal for a Directive to prevent MSDs.

The European surveys show up the inconsistency and disingenuousness of the employers' arguments. They reveal a very close link between the development of MSDs and some kinds of work organisation. The Dublin Foundation survey shows that the closest link between a given set of working conditions and a group of health outcomes is specifically shown by back problems. The link between physically demanding work and these medical conditions is even closer than that between exposure to chemical hazards and breathing difficulties.

MSDs therefore contribute significantly to social inequalities of health, and the more rapidly-worsening health conditions for the worst-exploited groups. It is a lifelong decline with grievous consequences for the quality of life of ageing workers and the retirement age population. It is on the cards that young workers currently exposed to harmful working conditions will become worn-out before their time, suffering from MSDs in the not too distant future.

Despite what the employers' side may say, the knowledge is already there to enable much more effective prevention. There is no need for new studies to get the knowledge required. The claims about scientific uncertainties are just an excuse for doing nothing. Nor is the cost of preventive measures in the frame as the main obstacle. Effective prevention of MSDs would clearly be good for society by reducing spending on health systems and social security that currently bear most of the costs "outsourced" by business. The costs to companies could be written off, anyway. The real reason for employers' hostility likely lies elsewhere. It is all about power in the workplace. There is a direct link between MSDs and workers' lack of control over their working conditions. The jobs and sectors where that control is lowest are where bodies are forced into postures and movements that ultimately stop them working normally. Work intensity, monotonous and repetitive work, psychological pressures, the failure to really consult workers on work organisation are all factors that contribute to MSDs.

The campaign against MSDs being run by the unions is also about democracy in the workplace, therefore. Healthy work is part and parcel of work where the workers gradually acquire a large span of control over the organisation and content of what they do. ■

**Marc Sapir,**

Director of the Health and Safety Department, ETUI-REHS

**THE HEALTH AND SAFETY DEPARTMENT OF THE EUROPEAN TRADE UNION INSTITUTE – RESEARCH, EDUCATION, HEALTH AND SAFETY (ETUI-REHS)** aims at promoting high standards of health and safety at the workplace throughout Europe. It succeeds the former European Trade Union Technical Bureau (TUTB), founded in 1989 by the European Trade Union Confederation (ETUC). It provides support and expertise to the ETUC and the Workers' Group of the Advisory Committee on Safety, Hygiene and Health Protection at Work. It is an associate member of the European Committee for Standardization (CEN). It coordinates networks of trade union experts in the fields of standardization (safety of machinery) and chemicals (classification of hazardous substances and setting occupational exposure limits).

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## Social partners pledge to prevent harassment and violence at work

Violence<sup>1</sup> at work – a hydra-headed moral, psychological, social, physical and sexual phenomenon – poses a big and concerning threat to workers' health. Its knock-on effects cause them and the firm or body they work for to underperform. Violence is a fact of society that concerns us all, increasingly intolerable but still all around: it is written into the biological competition between animal species and, within the same species, that struggle for power that lets a small elite dominate the group. As rational human beings, we try to hold these primitive instincts in check. The representatives of private business and public service body workers and employers in the Member States of the European Union have decreed that violence or the use of violence in any form, including by third parties, is unacceptable. As a practical step towards outlawing it, the social partners<sup>2</sup> have pledged no longer to tolerate, but to prevent and tackle violence at work by signing up to the European framework agreement on harassment and violence at work of 26 April 2007<sup>3</sup>.

### An elusive issue

The European social partners originally included the negotiation of a framework agreement on harassment and violence in their work programme 2006-2008. The Trade Union Technical Bureau, the forerunner of the European Trade Union Institute's Health and Safety Department, took a lead on this by staging a discussion and awareness-building seminar for union health and safety officers in December 2004.

Before embarking on talks, the European social partners themselves took part in a joint seminar in May 2005 to map out the parties' broad options and a timetable for negotiations to agree on a framework agreement on the basis of article 139 of the Treaty on European Union<sup>4</sup>.

Talks stretched out from February to December 2006, overrunning the 9 months allowed by the Treaty for this kind of negotiation<sup>5</sup>, as it soon emerged that "violence" and "harassment" were used to signify a wide range of particularly complex things. The first big task for the negotiators was to define and agree on the scope of the agreement: was violence to be physical, moral or sexual? And would harassment be psychological, sexual or extend to physical harassment?

A first test for the negotiators was to pin down the concepts behind these terms and their physical expression in the workplace. A general agreement that they are highly disruptive of work meant puzzling carefully through their causes. The discussions hinged on such questions as, "Do they stem from

working conditions or the violent nature of society?", "Can they be prevented in workplaces?", "What risk factors and preventive measures need acting on?".

The negotiators first had to make their way through a maze of questions to get to a response that was coherent and acceptable to all across different cultures and sensibilities<sup>6</sup>, also taking into account a wide range of work situations and players like work specifiers and project managers, as well as those doing the work in prescribed working conditions like working alone, night work, work handling valuables, women in a male work environment, public-facing work, wielding or exposed to violence, etc.

Because "violence" is a word that covers all forms of inappropriate conduct, whether through speech, body language, behaviour (threats, exclusion and harassment), and even murderous physical brutality, the European Trade Union Confederation (ETUC) wanted to make sure that no forms of violence were ruled out from the start of negotiations. It thought that could only be ensured by creating a taxonomy (see diagram) of the different forms of violence and their impacts at work. The employers' negotiators took a different tack, arguing that business owners could not be called to account for the general rise in violence in society and so could not be held vicariously liable for the acts of third parties, including in the workplace.

The European framework agreement on harassment and violence commits its signatories and their members. That fact alone makes it a good agreement, and is something without which the ETUC in particular would never have signed let alone implemented it. But it is a curate's egg of good and bad aspects, briefly considered here.

### Strengths

The first is the recognition that violence is a big problem, and a pressing concern for the European social partners, prompting them to implement an agreement that states in so many words that violence in any form is unacceptable, including that committed by third parties not on the payroll. The problem can no longer be brushed aside, and so comprehensive awareness-building and training campaigns will be run, because the agreement is an action-oriented framework.

The social partners pledge that no form of violence will be tolerated in their organisations any more, and they will positively promote mutual respect for the dignity of others. Such respect is essential if workers' health and the work environment are not to be undermined.

<sup>1</sup> Used as a catch-all term here for physical, moral (including psychological harassment going by the names of "bullying" or "mobbing") and sexual violence, and their particular manifestations (see diagram p. 4).

<sup>2</sup> The European Trade Union Confederation (ETUC) and the employers' organisations BUSINESSEUROPE, UEAPME and CEEP.

<sup>3</sup> The full framework agreement can be downloaded from <http://www.etuc.org/a/3574>.

<sup>4</sup> Article 139 reads, "should management and labour so desire, the dialogue between them at the Community level may lead to contractual relations, including agreements". Agreements concluded at Community level are implemented either in accordance with the procedures and practices specific to management and labour and the Member States, or, in matters covered by Article 137, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission. For more details, see box p. 5.

<sup>5</sup> Article 138.4 of the Treaty reads, "the duration of the procedure shall not exceed nine months, unless the management and labour concerned and the Commission decide jointly to extend it".

<sup>6</sup> Interestingly, the findings of the *Fourth European working conditions survey* suggest that Finland has the highest rate of complaints about violence at work. This, however, may be due to violence being less tolerated than elsewhere in Europe, with victims readier to report it (see article p. 32).

The agreement relies on existing legislative instruments, referring particularly to Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work. The very fact of including that reference gives the strategy to use in tackling violence – it must be based on a rigorously preventive approach which in each case attempts to identify and eliminate the risk factors. It also spells out the stages of a strategy now recognised as effective, based on identification, prevention and management (see chapter 4 of the agreement). In terms of proactive prevention of risks, “management” has to be understood as an ongoing, participatory process whose first aim is to eliminate the causal factors of the effects being tackled. Where violence at work is concerned, management must be about more than administering or managing risks; it must actively protect workers against the appearance of violence through evaluations, information and striving to actively eliminate all its causal factors.

Lastly, the agreement says that more attention must be paid to the victims of violence through measures of support and reintegration that the enterprise or organization must put in place. These measures must respect the confidentiality and dignity of the persons involved, and so intervention by a trusted person is suggested.

### Weaknesses

<sup>7</sup> The diagram that accompanies this article is an attempt to break this complexity down into logical elements.

Like its forerunner, the autonomous framework agreement on work-related stress, the Violence Agreement has failings that are directly related to

the essential nature of the instrument as provided for in the European treaty, and to the kind of problems it sets out to tackle. As a result, the agreement describes, but does not define, the problems.

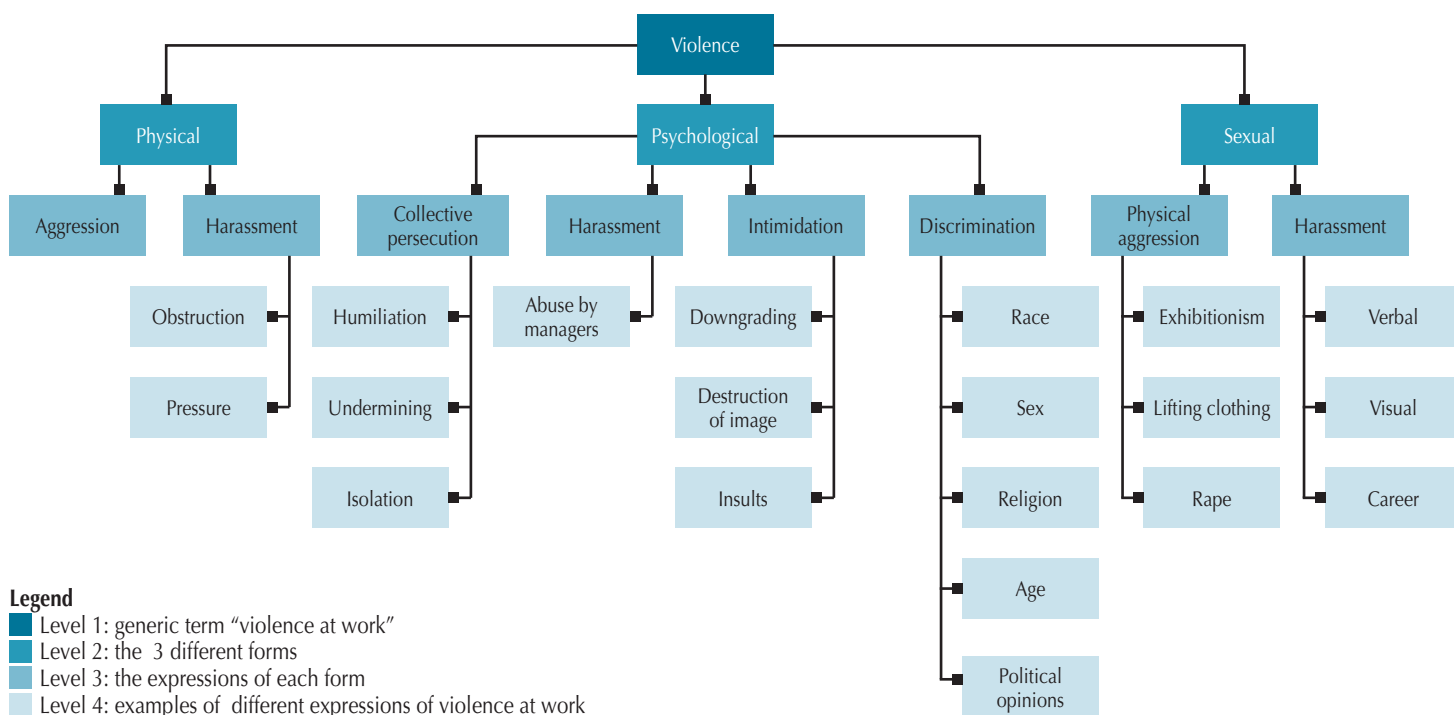
This is not because the agreement’s negotiators or draftsmen were unable to agree on a definition, however; rather it reflects the complexity and diversity of what, being primarily psychosocial problems, are difficult either to bundle together under a clear-cut blanket term that would encompass them all, or to quantify in terms of physical scale<sup>7</sup>. So, the negotiators settled on taking a practical approach of describing specific situations rather than going for wordy and convoluted definitions.

It is a “framework” agreement, which means that it cannot encompass the sometimes extremely serious specific situations that affect particular sectors, regions or activities. The ETUC negotiators are hoping that in negotiations for the implementation of the agreement, the social partners will be able to display the realism and vision needed to turn a framework agreement into a specifically workable and effective instrument in the particular situations concerned.

### Conclusion

The preventive process described in Framework Directive 89/391/EEC applies to preventing the risk of violence at work. While the principle is referred to, its implementation is not described in the agreement which, technically, could not include such a complex aspect. The social partners will need

### Tentative taxonomy of violence at work





to display proactivity and vision in implementing appropriate means for tackling violence by identifying the risk factors specific to the jobs in each type of undertaking or organisation in Europe. This analytical approach will be a first step preparatory to eliminating or taking practical measures to control the risk factors. These criteria will be the litmus of the signatory organisations' good intentions, involvement and ability to implement the agreement.

In practise, that means that if a lone worker has to shut up the shop or a filling station at night in a remote workplace, the employer must assess the risks run and take every possible measure required: this might mean fitting a video monitoring system or rostering an extra person at closing time. Similarly, the organizers of hospital or clinic out-of-hours services providing intake for violent, drunk, drug-taking

or plain psychologically-disturbed patients will have to assess the situation and take appropriate measures for the staff. Whenever a worker faces the risk of violence because of the nature of the activities or the circumstances, even exceptional, measures will have to be taken after a participatory risk assessment. If there is a problem, i.e., a failure of prevention, the victim will have to be reintegrated into the organisation and be given support. In less clear-cut cases of bullying or sexual harassment between workmates in the same workplace, respect for confidentiality, internal "sub judice", and the dignity of those who are often destabilised by repeated incidents will often make it essential to draft in expertise from outside. ■

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### Autonomous framework agreement: what legal scope?

Stefan Clauwaert, a legal expert with ETUI-REHS, was closely involved, as an adviser, with the work of the ETUC delegation that negotiated the European autonomous framework agreement on harassment and violence at work. We asked him about the foundations and legal implications of this text.

#### **The framework agreement on harassment and violence at work is referred to as "autonomous". Can you tell us what that means?**

The legal basis of the framework agreement is Article 139 of the European treaty. Paragraph 2 of that article creates two possibilities for transposing a European framework agreement. At the request of the European social partners, the framework agreement can be incorporated into a Commission proposal for a directive that will then be submitted to the Council for adoption. In that case, the Member States are legally obliged to transpose the directive.

A second option is possible under Article 139: the European social partners can negotiate an agreement on an autonomous basis. In that case, transposition in the Member States is the responsibility of the national social partners, who will use the specific instruments and procedures of the national industrial relations system.

An agreement that is built into a directive is legally binding. It has the same legal value as a classic directive. On the other hand, autonomous framework agreements are not legally binding. They are, however, "contractually" binding. That means that it is the member organisations of the European social partners, with support from the latter if they desire, that will have to guarantee transposition of the agreement in their national context.

One question remains, however: Do autonomous agreements form part of the *Community acquis*? For the ETUC, the answer is yes, because the legal basis of this type of agreement is a European treaty article, a primary source of European legislation. Some do not share that opinion. The only way to settle this difference of views would be to test a case falling within one of the three European autonomous framework agreements (Ed.: teleworking, stress and harassment-violence) before the European Court of Justice. The Court would then establish the legal nature of this type of agreement.

#### **Some states already have legislation against harassment or violence at work. How can the co-existence of national legislation and the text adopted by the European social partners be assured?**

European autonomous framework agreements should be seen as complementary to legally binding texts existing at European and national level. Our colleagues from the countries having a binding legal framework in this area can, for example, use European autonomous framework agreements to settle certain details not covered by legislation or even to request the revision of laws. I can give the example of transposition of the autonomous framework agreement on stress at work in Belgium. That country already had legislation on stress at work, but it applied only to the private sector. The adoption of a framework agreement between the European social partners, among other factors, prompted the government to extend the scope of the law to the public sector.

Interview by **Denis Grégoire**  
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## European framework agreements : “The best option as the politics stand”

**M**aria Helena André, Deputy General Secretary of the ETUC, negotiated the framework agreement on violence and harassment at work with the employers' representatives. We asked her what problems the negotiations had had, and what practical results are expected from the agreement. We also asked for her assessment of how the 2004 framework agreement on stress is being rolled-out.



Maria Helena André,  
Deputy General Secretary of the ETUC

### In the ETUC's book, what are the agreement's strengths and net benefit for European trade unions?

The biggest net benefit of the agreement is having it. The European social partner agreements can help improve working conditions and protection for workers at work. We are giving something positive to the unions and business. Some European countries already have specific laws and collective agreements on harassment and violence at work, but most have little beyond the general law. This agreement will force the national social partners to get around the table, admit that the risk exists within organisations, and work out joint solutions to roll out systems for preventing and dealing with it when it arises in the workplace.

The approach itself is what is very important in our book. It is mainly about acknowledging the problem and the social partners signing up to joint actions to prevent and deal with it. But at the same time, it gives trade unions tools to leverage their national social dialogue and improve actual working conditions.

### It took a bit more than the 9 months set by the European Commission to get an agreement. Why was that?

There's no really objective reason to look for. The talks were fairly tough going because, as we had

already found in the negotiations on work-related stress, it touches on issues directly related to companies' work organisation. It was important to get an acknowledgement that harassment and violence are not the sole responsibility of employees and something that happens between employees, but can be a chain-of-command and staff organization thing. Clarification by the European employers' delegation of the agreement's inevitable implications for how companies are organized was the aspect that took most time.

### How will the ETUC be supporting implementation of the agreement?

We have developed what we think is a pretty effective methodology, but it still needs fine-tuning as more autonomous agreements get signed. The first thing is to let our members know that the agreement is there, and help them understand the spirit and letter of it. It is written in Brussels in "Europeak" English. It's very important to get all that over clearly to our national members, but also to activists and workers at subnational levels. Concretely, the ETUC is drawing up guidance on how to interpret the agreement. We'll be trying to put this out in as many languages as possible, and explain why particular things feature in the agreement and what lines the unions and employers took during negotiations.

We've also put forward a project to the European Commission for organizing information and discussion workshops with our national organisations that will also encourage them to carry the agreement into practice at the national level. If all goes well, these activities will get under way at the start of 2008.

The ETUC is also likely to be asked to give a presentation on the contents of the agreement to the sectoral social dialogue committee. This is particularly important, because the employers refuse to accept that they had any responsibility for violence outside the workplace almost to the end of negotiations. Granted, external violence affects some sectors than others, but it stops being a sectoral problem when more than one sector is affected. It is important for trade unions to take ownership of the agreement's first steps in national negotiations so it can be adjusted to sectoral needs.

The ETUC is also hoping to work out a checklist for implementation of social dialogue instruments that we developed as part of a project run last year on work-related stress. We'll be giving it its first "road test" and adapting it to new needs if required.

**So, you're using the system put in place for implementation of the work-related stress agreement. What is the ETUC's assessment of that agreement three years on from being signed?**

There is always a glass half-full or half-empty in the sense that we are looking at the procedure rather than the agreement's impact on improving working conditions or how firms operate. As far as the procedure and initiatives taken by the social partners at national level go, I think it's safe to say that these are going quite well. As the European social partners hand autonomous agreements to their respective organisations, they are starting to test out procedures at national level, especially in countries that have little experience in these matters and no well-developed system of social dialogue.

Each autonomous agreement that gets signed is used to test out and improve the procedure established before. It's a learning process for which there is no sure-fire, directly-applicable recipe.

**The social partners might differ on whether this kind of agreement is legally binding. Isn't there a risk that signing more of these just means having more paper provisions that won't give workers as much protection as Directives?**

We have to face facts – the days of social directives may not be over, but are increasingly numbered. Looking at the wrangling in the Council of Social Affairs Ministers over draft Directives that have been on the table for years and are getting nowhere, I would rather have autonomous agreements that commit the social partners to actually do something.

To say that the protection offered by autonomous agreements is not inherently as good as legislation is too big a generalization. Look at how the agreement on stress or that on telework were implemented at national level – some countries did it through legislation, while others did it through collective bargaining between social partners leading to changes in the code of labour laws. Granted, some other States transposed it through lighter instruments, but they were mainly countries with no strong tradition of collective bargaining. So, yes, there are concerns there. But, if it's a choice between legislation that may not come in for years, or agreements that are implemented and improved by the social partners, then as the politics stand, I would opt for the latter. ■

Interview by **Denis Grégoire**  
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# Classification and labelling of chemicals

## What the Globally Harmonised System means for workers

In late June 2007, the European Commission adopted a proposal for a Regulation on classification, labelling and packaging of hazardous substances and mixtures intended to implement in the EU the Globally Harmonised System of classification and labelling of chemicals adopted by the United Nations Economic and Social Committee. The changes to the Community rules on classification and labelling of chemical substances and preparations will impact the health and safety of workers who are exposed to hazardous chemicals. This article looks at the draft Regulation, which the European Parliament and Council will have to agree on through the co-decision procedure.

Chemicals are manufactured and marketed globally, and present the same hazards everywhere<sup>1</sup>, but different countries use different systems to classify and label them. The same substance, for instance, may be classified as “toxic” in the United States, “harmful” in the EU and “not dangerous” in China (see table below). Using different criteria to evaluate the hazards of the same chemical inevitably results in different health and safety information being supplied to professional users and consumers. It also complicates the job of firms that sell their products globally, and so have to change their labels to meet the criteria used in different jurisdictions.

### Hazard classification and communication for a chemical with LD<sub>50</sub> = 257 mg/kg \* (oral route) in different jurisdictions

Jurisdiction / System	Hazard Classification / Communication
GHS	Signal word: Danger Pictogram: Skull and crossbones
EU	Hazard statement: Harmful Pictogram: St Andrew's Cross
USA	Toxic
Canada	Toxic
Australia	Harmful
India	Non toxic
Japan	Toxic
Malaysia	Harmful
Thailand	Harmful
New Zealand	Hazardous
China	Not dangerous
Korea	Toxic

It was decided to address these issues and improve protection for people and the environment in all countries by developing a globally harmonised classification and labelling system under the aegis of the United Nations. The Globally Harmonised System (GHS) of Classification and Labelling of Chemicals was formally adopted in 2002 by the United Nations Economic and Social Committee (UN ECOSOC).

It aims to harmonise the different classification and labelling (C&L) systems used throughout the world for:

- chemicals;
- preparations (= mixtures of chemicals);
- communication of hazards for workers, consumers and the environment from the handling, transport and use of these products via labels and safety data sheets.

The benefit of a harmonised system is to provide a single benchmark for producers, importers and users in all countries, including those with no chemicals classification system or legislation. It should also promote global trade and movement of chemical substances and preparations.

### Implementing the GHS in the EU

The Member States at the World Summit on Sustainable Development in Johannesburg in 2002 adopted a Plan of Implementation of the new system aimed at having the GHS up and running by 2008. The new system is an opt-in one, but most countries are keen to legislate for a mandatory one.

In Europe, the Commission has always favoured bringing the new system into Community law through a regulation to be adopted at the same time as that of the REACH reform. The REACH regulation was adopted in December 2006 and came into effect in the 27 Member States in June 2007, but the Commission was unable to keep to its initial timetable for the GHS.

<sup>1</sup> The hazards a chemical presents to humans or the environment come from its intrinsic properties, e.g., it may be explosive, very toxic, carcinogenic or environmentally hazardous.

Source: adapted from *Analysis of the potential effects of the proposed GHS regulation on its downstream legislation*, Commission Services, August 2006

\* LD<sub>50</sub>: the amount of a chemical administered in a single dose that kills 50% (half) a test group of animals. The lethal dose is expressed as mg of substance tested per kg of body weight.



## Public consultation on the draft proposal for a Regulation

The Internet consultation ran for 2 months from 21 August 2006 to 21 October 2006\*, during which time all the stakeholders concerned were invited to consult and comment on the Commission's draft text and impact assessment studies. The Commission slightly revamped its draft text in light of the responses received, and adopted the proposal (COM (2007) 355 final) which will become the Community GHS Regulation after scrutiny by the European Parliament and Council.

Around 370 replies were received, most (254) from industry. Comments were also received from European national governments and/or national public authorities (18 replies) as well as non-EU public authorities (4). Ten NGOs sent in replies. On the trade union side, the replies of member federations and confederations were collected and coordinated by the ETUC and its research institute (ETUI-REHS).

The draft regulation finally adopted by the Commission is almost identical in content to that put out to public consultation. There is no denying that the ultra-technicality of the subject and the protracted preliminary negotiations in the United Nations to get to a single, globally harmonised system left little "wiggle room". Unlike REACH, the impact assessment studies published by the Commission for the public consultation excited no controversy. The consensus was that the costs of implementing the GHS are relatively low compared to the costs of other chemicals legislation, and that even these will

be offset by the savings that the GHS will bring to companies that market these products.

One of the key consultation issues was stakeholders' opinions on the length of the inevitable transitional period in which the old and new classification and labelling systems would run together. The Commission suggested three years for substances and a further four or five years for mixtures. This is because the classification of mixtures depends on the classification of substances, so the new criteria will have to be applied first to substances, and then to mixtures.

The Commission has finally gone with a first transitional period running from the entry into force of the GHS up to 1 December 2010, during which firms will be able to use either classification system for substances and mixtures. Then, a second, four-and-a-half year transitional period (up to 1 June 2015) will kick in, when the GHS system will be compulsory for the labelling of substances. Substance safety data sheets will have to show both the old EU classification and the new GHS classification. Firms will be able to continue using either system for mixtures during this second period. From 1 June 2015, the old EU system will no longer be legal, and the GHS system will be the rule for both substances and mixtures.

\* [http://ec.europa.eu/enterprise/reach/ghs\\_consultation\\_en.htm](http://ec.europa.eu/enterprise/reach/ghs_consultation_en.htm)

In August 2006, the Commission departments sponsoring the GHS (DG Enterprise and DG Environment) put up a draft proposal for a Regulation to introduce the GHS into Community law<sup>2</sup> on the legal basis of article 95 of the European Treaty (harmonization of the internal market). As with REACH, the Commission issued a two-month Internet public consultation on its draft proposal before it is formally adopted by the Commissioners as a body (see box).

The proposal for a Regulation on classification, labelling and packaging of hazardous substances and mixtures was finally adopted by the Commission on 27 June 2007<sup>3</sup>. It has since gone forward to the Parliament and Council, which will have to agree on the final wording of the regulation via a co-decision procedure.

## How will the GHS change the current system?

The current EU classification and labelling system for chemicals is set out in three key directives:

- the Dangerous Substances Directive: 67/548/EEC
- the Dangerous Preparations Directive: 1999/45/EC
- the Safety Data Sheet Directive: 91/155/EEC

The first two lay down the rules on classification, packaging and labelling of dangerous substances and dangerous preparations placed on the Community market. In practical terms, that means that a hazard assessment must be done in line with the rules set out in these two directives on any substance or preparation manufactured or imported in the EU. If the substance or preparation meets the specified danger criteria in terms of its physicochemical properties, or its impacts on human or environmental health, these hazards must be marked on the label.

All the dangerous substances and preparations marketed in Europe must be classified and labelled whatever the quantity placed on the market.

Annex I of Directive 67/548/EEC contains the list of dangerous substances whose classification is harmonised in the EU. It currently contains some 8000 substances and is periodically updated in response to proposals from a Commission technical committee<sup>4</sup> to take account of scientific and technical progress.

If a dangerous substance not included in Annex I is placed on the market (as it is, or as an ingredient in a

<sup>2</sup> [http://ec.europa.eu/enterprise/reach/ghs\\_consultation\\_en.htm](http://ec.europa.eu/enterprise/reach/ghs_consultation_en.htm).

<sup>3</sup> Proposal for a Regulation of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures, and amending Directive 67/548/EEC and Regulation (EC) No 1907/2006, 27 June 2007, COM (2007) 355 final.

<sup>4</sup> Technical Committee on Classification and Labelling of Dangerous Substances (TC C&L).

preparation), the manufacturer, importer or distributor must classify it (or the preparation) themselves in line with the criteria set out in Annex VI of Directive 67/548/EEC.

The final piece of the jigsaw – the Safety Data Sheet Directive – ensures that suppliers of dangerous substances and preparations supply information on the hazards of their chemicals and guidance on safe use to professional customers. These provisions on safety data sheets were incorporated in the REACH Regulation that has recently come into effect.

After a transitional period in which the old and new systems will run in tandem, the GHS Regulation will replace Directive 67/548/EEC and Directive 1999/45/EEC in the Community legal set-up. Manufacturers, importers and distributors will still have the same obligations on classification and labelling of their own substances and mixtures, but will have to apply the newly-defined globally harmonised criteria as taken over into the EU's GHS Regulation.

### The scope of the GHS

The Commission proposal for a GHS Regulation applies to substances and mixtures. Aerosols are also included in a specific hazard class. Radioactive substances are excluded from the scope, as they are covered by other rules. Substances and mixtures not placed on the Community market are also excluded. These would include non-isolated intermediates, and substances and mixtures for scientific research and development, for example. Nor does

the proposal for a Regulation apply to substances and mixtures intended for the final user in the form of medicines, cosmetics and foodstuffs (covered by specific rules). Biocides and pesticides, by contrast, are firmly within its scope.

### Key changes made by the GHS

The key changes lie in adjustments to the classification criteria, assigning danger symbols (pictograms) and risk phrases (now "hazard statements" in the GHS). Detailing all the changes would make for a laborious read; these are best found in the proposal for a Regulation itself. A brief outline of the changes is given in the box below, however.

In line with the GHS, the Commission's draft Regulation also introduces a new terminology. What is now called a "preparation" will in future be a "mixture", while the description "dangerous" becomes "hazardous".

All the hazard classes defined in the GHS are taken over into the proposal for a Regulation but, not all the categories defined in the GHS are automatically included within each hazard class. For example, GHS category 5 is not included in the "acute toxicity" hazard class because it did not exist in the current Community system.

As well as having firms self-classify their substances and mixtures, the Commission proposal requires manufacturers or importers to "notify" all their classifications to the ECHA, the new European Chemicals Agency based in Helsinki. This is already

### Comparison of categories for acute oral toxicity in current EU legislation and the GHS

EU	Very Toxic		Toxic		Harmful		
LD <sub>50</sub> *	≤ 5	5-25	25-50	50-200	200-300	300-2000	2000-5000
GHS	Category 1	Category 2	Category 3		Category 4	Category 5	

The concentration limits of the individual categories in the GHS system do not coincide with those of the categories in the European system for acute oral toxicity. This means, for example, that a substance classified as very toxic if swallowed in the current EU system (LD<sub>50</sub> < 25 mg/kg) will be classified in the GHS either as a category 1 substance (LD<sub>50</sub> < 5 mg/kg) or a category 2 substance (LD<sub>50</sub> between 5 and 25 mg/kg).

\* See note of the table p. 8

### Examples from the "translation" tables from the current EU system to the GHS system in Annex VII of the proposal for a Regulation

R Phrases (EU)	GHS hazard statement	GHS hazard classification
R42	H334	Respiratory sensitizer
R43	H317	Skin sensitizer
Carc. Cat.2; R45	H350	Carcinogen Cat. 1B
Repr. Cat.2; R60	H360	Reproductive toxicant Cat. 1B
Repr. Cat.2; R61	H360	("May damage fertility") ("May damage unborn child")

an obligation of the REACH regulation, and so is being carried over into the draft GHS Regulation. The idea is to establish a classification and labelling inventory made up of all the notifications and harmonised classifications received by the ECHA so as to be able to identify any differences in classification for the same substance manufactured by different producers, and force them to agree on the same classification.

## The GHS' seven annexes

The draft Regulation proper sets out the principles and general rules on classification, packaging and labelling of hazardous substances and mixtures. The technical details are contained in seven Annexes.

- **Annex I** includes a general introduction (part 1), the hazard classes and criteria for physical, health and environmental hazards (parts 2, 3 and 4) replacing Annex VI of Directive 67/548/EEC, except for ozone depletion, which is placed in part 5.
- **Annex II** includes the extra labelling provisions from Annex VI to Directive 67/548/EEC not yet covered by the GHS.
- **Annex III** contains the list of hazard statements. It is similar to Annex III of Directive 67/548/EEC.
- **Annex IV** gives the rules for applying precautionary statements. The list of precautionary statements is similar to Annex IV of Directive 67/548/EEC.
- **Annex V** reproduces the GHS hazard pictograms and is similar to Annex II of Directive 67/548/EEC.
- **Annex VI** contains the list of substances with harmonised classifications. It includes the entries in Annex I of Directive 67/548/EEC, adapted where necessary to the GHS classification criteria.
- **Annex VII** includes "translation" tables for suppliers of substances and mixtures already evaluated under the current rules for those hazard categories where a simple equivalence exists. These tables provide an option for suppliers to fulfil their new obligations without having to reclassify their currently self-classified substances and mixtures from scratch. Should a supplier choose not to use the table, he must re-evaluate the substance or mixture using the criteria laid down in Annex I.

## Issues for the various stakeholders

The future GHS Regulation is closely linked not only to REACH, but also to a raft of existing Community laws. This means it could play into all the laws that deal with classification and labelling rules for dangerous chemical substances or preparations, where classification lays various obligations on manufacturers ("downstream" legislation). Apart from REACH, this includes, for example, the Pesticides, Waste, Water and Air Quality Directives, but also the Seveso and Health and Safety at Work Directives (Chemicals Directive, Carcinogens Directive, Pregnant Workers Directive, etc.).

The Commission says that the new system was designed and negotiated to minimise the impact on existing legislation and keep up the levels of human and environmental protection provided by the current rules. But the changes to be made to the classification criteria will inevitably bring changes to the classification and labelling of some chemical substances and preparations.

Different scenarios could arise where chemical substances or preparations classified as hazardous could be re-categorized and classified as more or less so, while chemicals not currently classified as hazardous could be categorized as such.

Labels will then have to be adapted, with very different consequences for producers, workers and consumers. Chemical substances or preparations that were not classified as hazardous and are now reclassified as such could suffer falling sales. On the other hand, workers and consumers will be informed about a hazard they were previously unaware of.

Conversely, downgrading dangerous substances or preparations to a lower category could benefit producers by relieving them of certain obligations linked to classification, such as the Chemicals Directive's requirement for employer to carry out a workplace risk assessment and take all the preventive measures necessary to eliminate or reduce these risks. Clearly, such a scenario would be a step backward for the health and safety of workers exposed to these chemicals.

## The ETUC's position

The European Trade Union Confederation (ETUC) took a stance on the draft GHS Regulation in the EU<sup>5</sup> for the public consultation issued by the Commission. In its response to the Commission, the ETUC welcomed the choice of a regulation to implement GHS in the EU, which would then make it directly applicable in the 27 Member States.

The ETUC also voiced concerns about some aspects of the proposal, especially the way in which the potential effects of the regulation on downstream legislations will be addressed. Some substances and preparations not classified in the current Community system will be classified in the new GHS. This could increase the number of substances and preparations that fall within the scope of downstream legislation.

The Commission proposes amending the classification criteria references in downstream legislation so as to minimise the GHS system's impacts on industry.

There have already been industry calls for the Commission to "uncouple" downstream legislation on dangerous substances and preparations classification before adopting the new GHS system. Any such levelling-down is not acceptable to workers.

<sup>5</sup> <http://hesa.etui-rehs.org/uk/dossiers/files/ETUC-GHS-EN.pdf>.

Another issue of concern for the ETUC is that of taking manufacturers' obligations to supply the ECHA with an inventory of substances they have classified and labelled as hazardous out of the REACH regulation and putting it into the GHS Regulation. This could be an opportunity for industry to throw this gain into question to the disadvantage of workers, who will be better off with a harmonised classification for the same substance.

In its response to the Commission, the ETUC also argues that if a globally harmonized system is to be guaranteed, the EU needs to implement all the hazard categories specified in the GHS proposal. In cases where an existing category is not replaced, or where by replacing individual categories the GHS leads to a lowering of the current EU classification, the ETUC believes the latter should be kept.

Similarly, deleting substances currently classified in Annex I of Directive 67/548/EEC by the automatic application of the new GHS criteria is not acceptable. The ETUC does not want any individual chemical taken off the list of EU-classified hazardous substances until it has been further documented and re-assessed in terms of its (eco)-toxicological properties.

## Next steps

The Commission believes that Parliament and Council could get to an agreement on the final text of the GHS Regulation towards the end of 2008 or early 2009. Only after this co-decision procedure will the regulation come into effect in the 27 EU countries. The transitional period during which the old and new systems will operate in tandem will be a testing time for manufacturers, importers and distributors of chemicals, as they have to phase in the new system. It will also be tough on the millions of European workers across all sectors who use chemicals and will have to get used to new labels, bearing in mind that they are often the only source of information available on the dangers of chemicals used in workplaces.

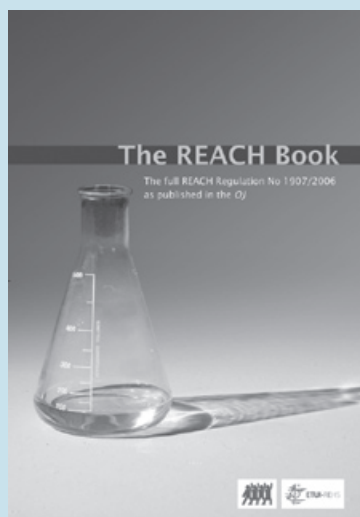
The Commission set up a working group in January 2007 to draw up guidance<sup>6</sup> in order to help firms implement the GHS Regulation. It is also important for the trade unions to make an early start on informing and training workers in the future harmonised chemicals classification and labelling system. Workers' reps will also have to keep a particularly sharp watch on how existing worker protection laws are adapted to the new GHS Regulation. The European trade unions are clear on the fact that introducing the GHS system into Community law must not only preserve current levels of protection of human health and the environment, but also be an opportunity to raise them. ■

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<sup>6</sup> RIP 3.6: *Guidance on Classification and Labelling under GHS* (Jan 2007).

### The REACH Book

The full REACH Regulation No 1907/2006 as published in the *OJ*



The ETUI-REHS Health and Safety Department is publishing a softback version of the full text of the REACH Regulation (apart from Annex XVII) and Directive 2006/121/EC on the classification, packaging and labelling of dangerous substances.

To order: <http://hesa.etui-rehs.org/uk> > Publications



# The Community strategy 2007–2012

## A trip on a UFO

The Commission Communication on the Community health and safety at work strategy for the period 2007-2012 received short shrift from the unions. "The Commission's general approach seems to view occupational health primarily as a variable of the productivity and competitiveness of businesses", lamented the European Trade Union Confederation in a press release.

Laurent Vogel goes further in his forensic analysis of the Commission text published here to claim that, "Productivity seems to have become an end in itself and the basis for legitimating any social policy". On top of that particular political spin, the ETUI-REHS researcher catalogues a string of other failings in the new Community strategy, singling out the failure to mention the importance of workers taking part in implementing prevention policies, and stripping away the labour inspectorate's policing and enforcement responsibilities to reduce it to a business services agency.

The failure to mention REACH's potentials for improving workers' protection from chemical hazards and the scant attention paid to tackling work-related illnesses evidence the yawning gulf that seems to divide the European establishment from workplaces. It is as if the authors of the Commission document had been whisked off on a flying saucer for a long trip a million miles from Earth-bound factories, assembly lines and building sites.

And yet European policy-makers have enough surveys, figures and other statistics at their fingertips. The working conditions survey done by the Dublin Foundation among 30 000-odd European workers, for instance, whose key findings we report on here. They make uncomfortable reading, and offer a tiny glimpse of what work intensification means for the health of millions of workers. The figures

– 35% of European workers say their work is making them ill – give the lie to the Commission's favoured rhetoric that quality and productivity at work go hand in hand.

The analysis of the findings of the ETUI-REHS's survey on labour inspection systems in Europe unfortunately brings no ray of hope to the gloomy picture on working conditions. Laurent Vogel finds a growing gap between labour inspectorate responses, still very largely focused on work accidents, and the challenges posed by preventing occupational illnesses, which are now the foremost cause of work-related deaths.

These findings, and our complaints about them, are not just directed to the European authorities.

We also want the trade unions to take them on board, in the hope that they will see them as an invitation to take a longer, harder look at their own health and safety at work strategies.

## A critical look at the health and safety at work strategy 2007-2012

The Commission Communication on the Community HSW strategy for 2007-2012 was given a rough reception by the trade unions. The union criticisms were anything but a simple hissy fit, and raise big questions about the conditions for an effective preventive strategy. Most of these questions go to national strategies as much as the Community strategy. They are not just about where other actors and institutions may be going wrong. They also point to the need for the trade union movement to take a hard look at its own health and safety at work strategy.

### The need for a Community strategy

Along with equality of opportunity for men and women, health and safety at work has been one of the most vigorous areas of Community social policy intervention. The score of directives adopted in the field have helped bring on what are often major reforms in all European Union countries. These are important gains that need defending against employers' and some governments' attempts to roll them back in different and sometimes shambolic ways that all amount to deregulation. These gains will not be defended by turning a blind eye to the real failings of Community health at work policies. The Community directives do a vital job in providing a common frame of reference for the different EU states. But they are not enough to automatically level working conditions upwards.

Some failings are inherent to the legislation. Directives are compromise laws, and so may be not absolutely internally-consistent and contain provisions that can be interpreted and applied in very different ways. This is a constraint that any Community social policy has to work within. Damage limitation is the only option, as the current balance of political power offers no prospects for radical improvements.

But the main problem is not with the legislation itself. The experience of the past fifteen years has shown that even the most coherent and ambitious laws are not enough, because they have to operate in a conflict situation – that of labour relations.

Their application is heavily conditioned by two sets of factors:

- the social dynamics of workplaces and society. No improvement in working conditions ever comes from a simple “top down” reform – it has to be driven by collective action of the workers themselves;
- an institutional dynamic, which is about the public authorities defining and implementing a coherent strategy<sup>1</sup>.

The pursuit of a Community HSW strategy stems from the broad consensus that Community legislation must be backstopped by exactly that institutional dynamic, both at EU level and in each State. It is not about setting the non-legislative instruments of such a dynamic against existing or future legislation. Rather, it is a concern that the directives should be a more effective means of levelling-up working conditions that makes the case for a set of non-legislative measures which could help deliver that objective.

### What is a strategy?

“Strategy” has become a buzz-word. It has long since left the theatre of war to permeate countless other spheres. It describes an action that draws together a set of measures in an articulated and coherent way to achieve specific ends. You can have a love strategy as much as a business strategy. Medical research has gone so far as to attribute strategy to viruses. A strategy requires there to be at least a clear definition of the objectives to be attained, deployment of appropriate means, consistency of means, mechanisms for evaluating and if need be correcting what was done in a given period.

For health and safety at work, it is essential to start from a detailed situation evaluation and plan the activity of the different participants who make up a preventive system<sup>2</sup>. Even using the most token definition, it takes a big stretch of the imagination to see the Communication put forward by the Commission as a strategy.

It contains a jumble of ideas, a few mostly vaguely-worded proposals, often conflicting objectives lumped together, almost nothing by way of a timetable, very little about the available means, and a big gap where the evaluation mechanisms should be. Like many Community texts, the document's internal logic is focused on looking for a wording that will set no backs up, or at least, in which everyone will be able to find what they are looking for. Failing that, there is always coining new hybrid

<sup>1</sup> For a comparative analysis, see D. Walters (ed.), *Regulating health and safety management in the European Union: a study of the dynamics of change*, Brussels, P.I.E., Peter Lang, 2002.

<sup>2</sup> Of particular interest is J.L. Castellá, *Guía de introducción a los Sistemas Nacionales de Seguridad y Salud in el Trabajo*, ILO, 2002.

terms like “flexicurity” in the hope of keeping everyone happy!

The Communication blazons individual well-being, business productivity and profits, balance between work and other aspects of life, flexibility and security, and a string of other promises of a glorious future in a Brave New World. The future European society looks like a hen house that offers bliss to both fox and hens. It is what is known as a “win-win-win” scenario – what advertisers use to persuade us that buying a particular car clearly helps protect the environment.

But until the foxes turn vegetarian, there is a need to set objectives and provide means that take into account the real conflict of interests in which health and safety at work fits. It is a bizarre fate for the word “strategy” – evolved in warfare situations – to describe a set of ideas and actions that deny the existence of conflict. Whenever the Communication touches on the compatibility of entirely disparate objectives, it simply cites examples of “virtuous circles”. So, “the lack of effective protection to ensure health and safety at work can result in absenteeism in the wake of workplace accidents and occupational illnesses, and can lead to permanent occupational disability. This not only has a considerable human dimension, but also has a major negative impact on the economy”. Not that this is wrong, but the reality is much more complex. Some forms of health damage incur no financial loss to firms, others only short- or long-term losses, etc. The linkage between health and safety at work, and workplace absences is less straightforward than the Commission intimates.

This aim to reconcile conflicting interests and objectives turns to farce when the Communication tackles the gender equality issue. The Commission wants equality... to increase women’s productivity! It says that, “Inequality both inside and outside the workplace can have an effect on the health and safety of women at work and thus have an impact on their productivity”. Productivity seems to have become an end in itself and the basis for legitimating any social policy. It is an approach which conveniently forgets that the unequal distribution of unpaid work also plays into the productivity of men’s work.

### General objectives: quality and productivity

The Communication defines a very wide array of objectives. But at no point does it examine how they stack up against each other. Are they at cross-purposes? How far can they be reconciled? Where are compromises needed? These questions are dodged.

The very title of the Communication is telling: “Improving quality and productivity at work: Community strategy 2007-2012 on health and safety

at work”. The strategy is therefore summarized by two objectives from which the very word “health” has been airbrushed out. The concept of “quality of work” could not be more vague. It can signify many different things: quality of life at work, quality of the end product, quality of the work process as the best fit between corporate goals and work organisation (this is the direction generally taken by quality-related standards<sup>3</sup>), etc. And productivity can be seen as pulling in opposite directions on multiple levels (individuals, firms, societies, etc.).

What is the linkage between productivity and health and safety at work? The question is anything but straightforward. This report lays no claim to analyse its different facets, but it can be said that there are different ways of boosting productivity, and that the health impact of these different ways can be infinitely variable. Defining a health and safety at work strategy by starting out from the premise that it is about increased productivity begs several questions. It may be just a soundbite phrase to placate employers’ concerns. It may be a self-imposed restriction: health is to be improved only to the extent that the improvement also enhances productivity. Or it may be a criterion for the choice of priorities and concrete policies to be implemented.

The Communication is never specific about the connection between productivity and health and safety at work. Magpie-like, it simply stacks the two objectives together. The choice of work accidents as the main indicator of the outcomes to be achieved may imply that the immediate, visible costs to business are given priority over long-term health damage. A thorough discussion of the economic aspects of health and safety at work would obviously be useful to help go beyond the empty spin that automatically ties prevention to competitiveness.

### What priority areas?

The Communication defines a set of priority areas for action focused on six main elements:

- strengthening implementation of Community legislation;
- encouraging the development and implementation of national strategies;
- promoting changes in behaviour;
- confronting new risks;
- assessing progress made;
- promoting health and safety at international level.

This kind of salami-slicing is no help in getting clearly-defined, specific objectives. It does not start out from an analysis of the current situation and the problems it poses. The Communication was structured according to the Commission departments’ internal concerns. Each element is defined in sufficiently vague terms to become a dumping ground for a rag-bag of disparate objects. It is a classic example of “cut and paste”: chunks of text from a

<sup>3</sup> Economists point to the potential incompatibility of company managers’ quality goals with health and safety at work. “Quality of work” as conceived by business managers is not automatically four-square with workers’ quality of life at work. There is neither a virtuous nor a vicious circle. Everything depends on the social conditions in which the work organisation is set. See: Ph. Askenazy, E. Caroli, *New Organizational Practises and Well-Being at Work: Evidence for France in 1998*, LEA Working Paper 03-11, 2003.



wide range of sources are lumped together with no overall approach that clearly defines the priorities. The result is more of a long list than a coherently-defined policy.

What makes this worse is that the Communication seems to stand almost outside time. It mainly reflects internal box-ticking approaches: demarcating the dividing lines between the different Commission departments, determining the instruments used, avoiding conflicts with Member States, etc. As a result, it puts the biggest focus on parroting forms of words that get repeated from one document to another, giving the appearance of a strong consensus. What the Communication does not do is to situate the strategy in a specific context. It all-but ignores the implementation of REACH (a major reform that gets only a single mention in a relatively secondary point on labour inspection). Nowhere does it mention the challenges posed by Community enlargements, even though the last European working conditions survey (2005) highlights the wide gaps between national situations<sup>4</sup>.

### The issue of Community legislation

The first element relates to the legislative framework. Each term has been weighed in the balance to avoid having to take a clear stand on the debate on the role of Community legislation that has been raging for nigh-on fifteen years. Each paragraph is constructed to be a sop to deregulationists without caving in completely. There is no problem with such a drafting exercise on paper. The big "if" is whether it can drive a coherent policy.

Optimists will point to the Commission's pledge to enforce Community legislation and its exhortation to Member States to pay attention to this matter. It announces that practical guidance will be produced. Pessimists will wonder about the repeated heralding of legislative simplification, the reference to "unnecessary administrative charges" that legislation allegedly places on business. The real policy choices are shelved.

Looking at the concrete initiatives announced in this part of the Communication, a number of useful proposals and some major ambiguities stand out.

Strengthening the implementation of Community legislation is an absolute must in a situation where the gaps between extremes are steadily widening. Subcontracting where there is no coordination between the different employers is a big problem. Preventive services in Europe today are another core issue. The Communication rightly emphasizes both. But it does so inconsistently by deciding from the outset that Community action will be confined to a possible recommendation. The logical thing would have been to take stock of what has happened with a soft law instrument like a recommendation in a

field like health and safety at work. It has not been the most edifying of experiences.

The Commission then calls for greater co-operation between labour inspection bodies. This part of the Communication contains a few positive approaches, especially on the need for market surveillance, environmental policy and labour inspection to work in concert. Here again, the Communication seems to want to stick to its "something for everyone" policy. On the one hand, it emphasizes the importance of labour inspection and offers proposals for improved European co-operation, while on the other, it defines the role of labour inspection in terms that could turn it into anything but a health and safety enforcement authority. In the list of what it expects of national strategies, it cites the "involvement of labour inspectors as intermediaries to promote better compliance with the legislation in SMEs, primarily through education, persuasion and encouragement, then, where necessary, through coercive measures".

The Communication then addresses the future development of Community legislation. Once again, it performs a balancing act, with sops all round but no assessment whatever of real needs. The Communication says that Community legislation will be simplified. In so doing, it clearly ties the debate into a firmly deregulationist frame of reference focused mainly on reducing paperwork for business. Here again, there should have been a specific analysis of the health and safety at work issues<sup>5</sup>. But no. From the 1980s onwards, the Community legislative approach has been to focus on implementing systematic, planned management of health and safety at work problems. Rather than reacting to hazards as they arose, it rightly called for health and safety requirements to be given weight in all company decisions. That kind of approach requires appropriate resourcing. It entails essential "administrative costs". Political pressure from some Member States is trying to push it in a different direction. The Netherlands, the United Kingdom and Denmark in particular have mounted a barrage of opposition to these "administrative costs". But they have offered not the slightest credible alternative to the implementation of systematic, planned management of health and safety at work problems<sup>6</sup>. In its Communication, the Commission is careful not to say exactly what it will do on the simplification front, for it knows full well that it is an exercise which could undermine the entire edifice of Community health and safety legislation.

Future legislative measures are announced in the most diffident terms. The Commission says it will "continue its work, through the ongoing consultations with the social partners, to find ways of improving risk prevention with regard to musculoskeletal disorders, carcinogens and needlestick infections". Movement on the two biggest issues (carcinogens and musculoskeletal disorders) has been stalled for

<sup>4</sup> Critically discussed from an analysis of the situation in Lithuania by Charles Woolfson and Dace Calite, *New European Community Strategy for Health and Safety: The elephant in the room*, *International Journal of Occupational and Environmental Health*, vol. 13, 2007, p. 342-355.

<sup>5</sup> We have been here before. The very first issue of this Newsletter looked at the inconsistency of the deregulationist case in an article on the Molitor report. That was back in October 1995. Since then, the report has sunk into oblivion, but the case it built, with slight variations in the words, lingers on in most of the documents subsequently produced by the health and safety deregulation lobby.

<sup>6</sup> See the special report: The Community strategy at mid-term, *TUTB Newsletter*, No. 26, December 2004, p. 17-30. Downloadable from <http://hesa.etui-rehs.org> > Newsletters.



years. The Commission no longer even dares utter the word “directive” despite it featuring in the strategy for 2002-2006. So the Commission will continue its work between 2007 and 2012, but will it ever complete it? After five years of fudging the issue, it could have given a clearer statement of what “ways” it plans to “find”.

On chemical hazards, the Commission simply flags up a third list of indicative exposure limits, as well as the possible revision of the Carcinogens Directive. Hardly a far-reaching programme. The third list is ready, and adopting it will do nothing to make good the huge delay in defining exposure limits at EU level. There is also nothing to say that the Commission will adopt all the health criteria-based exposure limits put forward by the Community's Scientific Committee (SCOEL). Think only of what happened back in 2006 when the second list of indicative exposure limits was up for adoption – the Commission caved in to industry pressure and dropped the exposure limits for nitrogen oxide and nitrogen dioxide (NO and NO<sub>2</sub>).

The Commission draws no conclusion from the implementation of REACH, and so has likely forfeited an important opportunity to strengthen the prevention of chemical hazards in workplaces. Specifically, the role of the European Chemicals Agency is passed over in silence. And yet, a coherent policy on chemical hazards would require organised co-operation between those concerned with health and safety at work and the bodies responsible for implementing REACH. Clarification is needed in several areas, like the link to be made between occupational exposure limit values in workplaces and the idea of no-effect exposure levels that will be worked out by the chemical industry.

## National strategies

The Communication then moves on to the key issue of national health and safety at work strategies. It recommends a method that it would have done well to apply to its own work: “These strategies should be defined on the basis of a detailed evaluation of the national situation, with the active participation and consultation of all interested parties, including the social partners.”

The proposals on national strategies centre around four material things: health surveillance, the rehabilitation and reintegration of workers excluded from the workplace by health problems, taking account of social and demographic change, and strengthening coherence between health and safety at work policy and other policies like public health, regional development, employment and restructuring, and public procurement.

It is regrettable, however, that the first three of these four points do not really interface with Community

initiatives. Health surveillance is particularly crucial if the strategy's outcomes are to be evaluated with wider-ranging data sets than just work accident figures.

The fourth thing – coherence between health and safety at work policy and other policies – significantly omits two big things: internal market and enterprise policy, and environmental policy. Such an unambitious wording reflects the degree to which health and safety at work policy is seen as marginal compared to other European policies. Something which was very clearly to be seen in the debates around REACH.

## Change attitudes or promote a social dynamic?

That part of the Communication on changing attitudes is packed with ambiguities and contradictions. Its glimmerings of positive signs are swamped in forms of words which could result in policies that would work against any form of coherent strategy. The Commission takes great care not to define its own role here, but simply exhorts a series of other parties to do things. Truth to tell, it is a failing widespread in the Communication. The Commission is more often found saying that it will encourage other parties to do something than to set itself something to do.

This part lumps together two spheres of activity that have no direct connection other than a general political shibboleth of the “culture of risk prevention”. The first focuses on training in health and safety for pupils and students in all levels of education, as well as employers and workers. The Commission is contemplating a recommendation on health and safety training in all training policies.

No-one doubts the importance of training. But it has to address the real needs. Technical training focused on risks fails to address the key issue of how companies operate. A series of surveys done among young workers injured in serious accidents clearly show that lack of technical training is not necessarily the biggest factor. Workers' lack of control of working conditions due to the employer's right of control of employees is what in many cases acts to neutralize the real knowledge that workers have about what prevention requires<sup>7</sup>. There is often a huge gap between theory training in a school or college and the reality of workplace labour relations characterised by a lack of democracy, job blackmail, pressure for more productivity, etc. These situations are much worse for contingent workers. They are part of the reason for the very critical plight of temporary agency workers, regardless of the level and standard of their training.

Instead of calling for a change in attitudes by reference to a culture of risk prevention seen as a sort of

<sup>7</sup> See, in particular, D. Cru, N. Frigul, P. Clappier & A. Thébaud-Mony, *La construction sociale de l'accident de travail chez les jeunes : formation aux risques du travail et vécu de l'insertion professionnelle à la sortie du système de recherche*, Paris, Ministry for Education, 1995.

individual mind-mapping, the Community strategy ought to be addressing the work-related obstacles to prevention, especially flexibility and insecurity.

The second part of this “cut and paste” job is to call for the creation of “healthier and safer workplaces”. The idea is to persuade business that it can become more competitive by encouraging workers “to adopt lifestyles which improve their general state of health”.

The emphasis on lifestyles bespeaks an individualistic, often moralising approach to health problems that is often only a pale secular rationalisation of the religious conception of ill-health as a punishment for individual sins. The social determinants of health are swept aside. Public health is reduced to interventions to persuade individuals to “manage” their health as carefully as an investor would his share portfolio. The key issue of social inequalities of health is given a back seat.

Also, giving business a mission in this field based on its profit potential is dangerously inappropriate on three counts:

- it may undermine the collective prevention of work hazards. A recent debate among Dutch occupational doctors discussed the question<sup>8</sup>, “What to do if an economic analysis shows that the cost-benefit ratio of intervention on individual behaviours like drinking or smoking is more favourable than replacing carcinogens in the workplace?” Not a few doctors argued that in such a case, intervention on the so-called individual factors would take priority;
- it invests the company with a mission that may impinge on workers’ private lives. The European Commission’s fudge over employment discrimination against smokers is indicative of the danger of giving employers a greater say over aspects of workers’ personal lives<sup>9</sup>. There have been many cases of abuse over testing for illegal drug use and discrimination on health grounds;
- it may distort public health policies by allowing them to be enforced by actors with aims different to public health objectives.

The final part of this section holds a major surprise – probably an unintended consequence of cobbling patchy texts together. While the issue of workers’ representation is omitted in every part of the Communication where it should logically have been found, it suddenly pops up in the actions called for at the bottom of the paragraph on “health”. The aim is far-reaching: “To ensure that workers’ representatives are given a greater coordinating role in the systematic management of occupational risks”. This objective is clearly contradicted by the recommended level of action. The Commission simply calls on trade unions and employers’ organisations to address the matter in the context of the “sectoral social dialogue”. It does not take rocket science

to foresee that in so inappropriate a framework for such an issue (which has nothing sectoral about it!), nothing will happen...

The most rational explanation for this incongruity is that the total omission of workers’ representation in health and safety must have struck one of the officials involved in drafting the text as glaringly odd. The disembodied phrase must have been cannibalized from another text lying around on his computer hard drive. And this hapless phrase must have been bounced around between paragraphs before finally landing in the least logical place possible. And yet, the issue involved would have borne serious analysis. Countless workers in Europe have no representation in health and safety. And the existing representation bodies are often under-resourced (training, information, access to expertise, right of co-decision or unilateral initiative, etc.) to do their job properly. This seriously inhibits prevention.

## Identifying new risks and promoting mental health

This part of the Communication “patches together” two points. One is on identifying new risks and rightly calls for a bigger fundamental and industrial research focus on work-related health problems. Here, the Communication lumps hazards like dangerous substances and musculoskeletal disorders together with new risks like those related to nanoparticles.

The other point is that of promoting mental health at work. This is surely a good thing. But the Commission sets itself no concrete tasks. It passes the buck to Member State and social partner initiatives.

The Commission flags up no specific measures in this part. It merely encourages other parties (the Bilbao Agency, Member States and social partners) to do something.

## Evaluating progress made

Any coherent strategy requires the means for regular evaluation. And evaluation has been one of the weakest points of Community policies in this field so far.

The Communication proposes various measures for improving the collection of information, chiefly through Community instruments – especially Eurostat statistics on work accidents and occupational illnesses – but also exchanges between national information systems.

The measures called for seem poor or too ill-defined to plug the vast gaps that are clear to see. The only statistics in any way usable for comparison (with significant caveats) are those on reported work

<sup>8</sup> A debate attended by the author at the conference organised by the Netherlands Society of Occupational Medicine in Arnhem on 23 May 2007. The debate centred around the application of the new Community strategy in the Netherlands.

<sup>9</sup> The debate was set rolling by a written question put to the European Commission on 8 May 2006 by Scots MEP, Catherine Stihler, who asked whether a job advertisement with the heading “Smokers need not apply” breached EU anti-discrimination legislation. Commissioner Spidla’s answer was so ambiguous that it seemed to justify such discrimination. Later, the Commission specified that it had only said that such discrimination was not prohibited by the existing directives.

accidents. Where occupational illnesses are concerned, any attempt to harmonize statistics falls foul of the fact that recognition of occupational illnesses takes place within wholly different and highly discriminatory national systems. Most of the health damage caused by work is invisible in the national statistics. Harmonizing statistics means harmonizing recognition systems first. This objective set by the European Union back in 1962 will never be achieved so long as the Commission balks at adopting a binding instrument on the matter.

What other scant data there is available on health and safety at work, exposures to work-related risks and the preventive measures implemented is far from uniform between countries and wholly exceptional in the form of Community data. Looking just at preventive measures, it has to be said that the provisions most needed in firms (workers' representation and preventive services) feature in no statistical research in most Member States.

Any strategy evaluation is therefore built on very shifting sands. Even reported accident figures are put to questionable use in Community documents. They focus on all-worker frequency rate trends, disregarding the trend in the distribution of workers between sectors and occupations. And yet it is clear that part of the recorded improvement in frequency rates is a knock-on effect of redistributing the labour force into lower-accident-rate sectors and occupations. A reduction in the overall all-worker frequency rate does not necessarily mean that better prevention is taking place<sup>10</sup>.

There is a real danger that serious problems will be overlooked by overplaying and especially by misusing the work accident indicator. According to the International Labour Organisation's (ILO) overall estimates, work accident mortality in the developed countries is markedly lower than that from work-related diseases (see table). So, in Sweden, the ILO estimates that 63 deaths were caused by fatal work accidents in 2001 versus more than 3000 deaths from work-related diseases. The estimated figures for the United Kingdom are 236 and 20 120, respectively, and 1209 and 10 787 in Romania. Many more people die each year in Europe from asbestos-related cancers alone than in all work accidents.

This is why trade unions are distinctly cool about a 25% cut in work accident frequency being set as a major objective of the Community strategy for 2007-2012. If relevant indicators are not set in other areas, too-narrow a focus on aggregated work accident frequency statistics may conceal continuing or worsening major risks from chemicals, musculoskeletal disorders or to mental health. This would work against taking account of the health and safety of women at work and implementing policies to prevent long-term risks.

The aim of a 25% reduction in reported work accident frequency rates looks like a last minute inclusion in the Communication. The urge for a soundbite headline overshadowed any concern for coherence. The Commission press release heralding the new strategy pushed the envelope to talk about bringing down work-related accident and occupational disease rates by 25%. The Communication itself only mentions accidents. During the strategy, groundwork discussions, the trade unions, governments and employers' representatives all cautioned against an arbitrary choice of quantitative indicators at Community level. The differences in national situations and, even more, the difficulty of getting uniform data, should have prompted the Commission not to give in to the temptation of spinning the news.

<sup>10</sup> One of the very few studies into this refers to the United Kingdom: R. Davies and P. Jones, *Trends and context to rates of workplace injury*, HSE, Research report No. 386, 2005. The authors call for prevention policies to be evaluated by reference to occupation-specific work accident trends rather than aggregated all-worker data.

### Work-related mortality figures for EU countries, 2001

Country	Total employment (x 1000)	Fatal accidents ILO estimate	Work-related mortality	Deaths caused by dangerous substances
Austria	3799	137	2846	613
Belgium	4051	78	2965	639
Bulgaria	2751	317	2781	596
Cyprus	309	40	435	94
Czech Republic	4728	525	4759	1020
Denmark	2725	56	1999	430
Estonia	577	53	571	122
Finland	2388	64	1766	380
France	24 113	730	17 918	3859
Germany	36 816	1107	27 350	5891
Greece	3917	90	2883	621
Hungary	3859	389	3845	825
Ireland	1716	74	1298	280
Italia	21 634	1397	16818	3622
Latvia	1037	105	1034	222
Lithuania	1522	169	1531	328
Luxembourg	277	16	213	46
Malta	146	7	111	24
Netherlands	7865	116	5722	1232
Poland	14 207	1463	14 184	3041
Portugal	4999	414	3978	857
Romania	10 697	1209	10 787	2313
Slovakia	2124	257	2159	463
Slovenia	914	122	940	202
Spain	15 945	1160	12 526	2698
Sweden	4239	63	3085	664
United Kingdom	28 225	236	20 356	4384
<b>Total EU</b>	<b>205 580</b>	<b>10 394</b>	<b>164 860</b>	<b>35 466</b>

Source: J. Takala, *Decent Work – Safe Work, ILO Introductory Report to the XVIIth World Congress on Safety and Health at Work*, Orlando, 2005



## The international dimension

The final part focuses on the international dimension of health and safety at work. It is an undeniably positive turn. Co-operation with the ILO should be backstopped by a policy to tackle the systematic operation of double standards by European multinationals<sup>11</sup>. These double standards are sometimes actively connived in by some European governments. Think only of the British government's outrageous attempts in 2000 to systematically cut the levels of protection for pregnant workers when ILO Convention No. 183 was being adopted<sup>12</sup>. This debate highlighted the discord among Member States, some of which refused to promote at international level rules that were in line with a Community directive already in force. Many EU states, indeed, continue to ratify ILO Conventions only in dribs and drabs (see table p. 21-22).

The Commission's announced pledge to a world asbestos ban is also very positive. But it should also extend to waste disposal and, especially ship-breaking.

Here again, there is a regrettable lack of any reference to REACH. And yet improved prevention of chemical hazards clearly also requires a coherent policy at world level for evaluating chemicals and prohibiting the most dangerous substances.

## Eloquent silences

The Communication is not easy for non-insiders to understand. This is not because it is written in difficult language. But the Communication often lapses into code. What might seem a mundane phrase to the average person actually refers back to policies set by stereotyped wordings. In some cases, a word or reference has far-reaching political ramifications that go unmentioned and even less analysed.

In many respects, what is omitted, disregarded and skated around speaks more than the words. The Communication often shirks the debate rather than address contentious issues or ones that are the subject of turf wars between different Commission departments.

REACH is a major reform with a significant potential impact on health and safety at work. Far from drawing the conclusions of REACH, the Communication mentions it only as a sideshow issue. The words "organisation of work" are used only sparingly. The Commission seems resigned to employers treating work organisation as their private domain. There is no question of their allowing workers a major say in their work life and hence how companies are run. The links between equality and health and safety at work policies are given a passing nod, when this was one of the big failures of Community policy over the period 2002-2006. The growth of

contingent employment is addressed only incidentally, with no specific initiative contemplated in the matter<sup>13</sup>. Worker representation receives the most casual treatment when the objectives of health and safety at work and democracy in the workplaces are inseparable. Working time is another no-go area. It is mentioned nowhere in the Communication, although the Commission has put forward proposals to amend the Community legislation on the matter that plainly go against a coherent health and safety at work strategy.

## Where our responsibilities lie

The Commission's Communication offers no prospects for a dynamically developing Community health at work policy going forward. There are many obstacles. The Commission's in-house resources have been slashed from what they were in the early 1990s, when the complexity of the issues to be dealt with and the enlargement from 12 to 27 States demand greater resources.

The Council of Ministers' Resolution adopted on 25 June 2007<sup>14</sup> reflects a policy whose sights are set low. It is a compromise text between States that would have liked to push the Commission to go further and those that felt that the Communication gave too few assurances to the pro-deregulation lobbies. As a result, the Resolution sends out very contradictory signals. On some points, the text somewhat improves the contents of the Communication. There are, for example, clearer statements on worker representation, labour inspection, the meaning of quality of work, etc. But on other points, the Council Resolution seems to want to damp down the few – albeit hesitantly-phrased – concrete initiatives announced by the Commission.

So, the Council Resolution is tight-lipped on the need to revise the Carcinogens Directive, and on the musculoskeletal disorders directive. The Council's silence betrays the deep divisions that exist today among the Member States on any development of Community legislation. Likewise, the Council Resolution places extreme emphasis on any legislative initiative being locked into the hostile and tunnel-visioned framework of so-called "better regulation". The new buzzword is simplification of legislation "without reducing the existing levels of protection". Negotiators will love the wording. It hides the fact that specific proposals for simplification by themselves significantly reduce existing levels of protection.

This faces the trade unions with a big responsibility. With Community action on health and safety at work flagging, trade union action based in workplaces is the main thing that is capable of giving impetus to more progressive national preventive strategies. Arguably, it could be said that the dynamic between the Community and national levels has gone into reverse. Throughout the 1990s, Community policy

<sup>11</sup> The multinational Etex (formerly Eternit), for example, is still producing asbestos cement in different countries, and spearheaded a pro-asbestos propaganda campaign in Brazil.

<sup>12</sup> See: "ILO: New Maternity Protection Convention", *TUTB Newsletter*, No. 14, June 2000, p. 9-11. Downloadable from: <http://hesa.etui-rehs.org> > Newsletter.

<sup>13</sup> The word "insecure" appears once only in a descriptive bracket, on page 3. There is no reference to temporary agency workers!

<sup>14</sup> *OJ*, C-145 of 30 June 2007, p. 1-4.



had been the stimulus for many reforms, thoroughgoing debates and real changes in most Member States. This impetus has lost much of its momentum. It will probably continue playing a positive role in countries where the situation is worst and bargaining positions are least favourable. In other countries, it is more likely that only internal dynamics will give fresh impetus to health and safety at work policies. That is not to say that union action in this field should withdraw into parochial nationalism. On the contrary, the problems are broadly

similar and the only way to develop a more favourable bargaining position is through joint initiatives and gradually working out a joint strategy. Any progress in the coming years will therefore hinge on trade unions' abilities to organise co-operation, mount united campaigns and give a voice to the immense groundswell of workers' demands on health and safety at work. ■

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### EU Member State ratifications of the ILO's health and safety at work Conventions adopted since 1980

European Union countries have a poor track record on ratifying International Labour Organisation (ILO) health and safety at work Conventions.

We looked at the ten Conventions adopted in this field since 1980. Convention No. 187 was discounted, being adopted only in 2006, which is too soon to draw meaningful conclusions about the number of ratifications. Also, its implementation is closely tied to ratification of the other Conventions. All other health and safety at work Conventions adopted between 1980 and 2001 were included.

The status of ratifications is generally poor, with wide differences between States. In some States, there is clear political obstruction. Four countries – France, Greece, Malta and the United Kingdom – have not ratified a single one of these Conventions. The situation in another group of eight countries is little better. Austria, Bulgaria, Estonia, Ireland, Latvia, Lithuania, Luxembourg and Romania are below the already very low Community average, with just one or two of the ten Conventions ratified. The biggest group counts eleven countries. Their score is unimpressive. Germany, Belgium, Cyprus, Denmark, Spain, Hungary, Italy, the Netherlands, Poland, Portugal and Slovenia have managed just three or four ratifications. Four more dynamic countries – Finland, Slovakia, Sweden and the Czech Republic – make up a group with at least five ratifications each. The one country that has ratified

most ILO health and safety at work Conventions is Sweden with eight of the ten ratified. Only one Convention has been ratified by at least half of EU countries – the fairly general Convention No. 155, which broadly corresponds in content to the 1989 framework directive.

One of the two least ratified Conventions is Chemicals Convention No. 170 with barely three ratifications out of the 27 States. This makes little sense. When it was being adopted, the Member States rightly stood up against the Commission's argument that they had no competence to negotiate a Convention that had ramifications for the free movement of goods. The Court of Justice found for the Member States (and the Council) against the Commission. Having battled to negotiate the Convention, the States have turned their backs on ratification! Safety and Health in Agriculture Convention No. 184 has also gone largely unratified. Its more recent date (2001) may go some way to explaining this. Prevention of Major Industrial Accidents Convention No. 174 has also been largely shunned (four ratifications). And yet it is a valuable complement to the Community directives on the matter by involving workers' representation in the various measures to prevent major industrial accidents – one of the big failings of the Seveso directives.

Source: ILOLEX, October 2, 2007

#### List of Conventions examined

- Convention (No. 155) on occupational safety and health, 1981
- Convention (No. 161) on occupational health services, 1985
- Convention (No. 162) on asbestos, 1986
- Convention (No. 167) on safety and health in construction, 1988
- Convention (No. 170) on chemicals, 1990
- Convention (No. 171) on night-work, 1990
- Convention (No. 174) on the prevention of major industrial accidents, 1993
- Convention (No. 176) on safety and health in mines, 1995
- Convention (No. 183) on maternity protection, 2000
- Convention (No. 184) on safety and health in agriculture, 2001

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	C155	C161	C162	C167	C170	C171	C174	C176	C183	C184	Number of the 10 Conventions ratified
Austria	-	-	-	-	-	-	-	+	+	-	2
Belgium	-	-	+	-	-	+	+	-	-	-	3
Bulgaria	-	-	-	-	-	-	-	-	+	-	1
Czech Republic	+	+	-	+	-	+	-	+		-	5
Cyprus	+	-	+	-	-	+	-	-	-	-	3
Denmark	+	-	+	+	-	-	-	-	-	-	3
Estonia	-	-	-	-	-	-	+	-	-	-	1
Finland	+	+	+	+	-	-	-	+	-	+	6
France	-	-	-	-	-	-	-	-	-	-	0
Germany	-	+	+	+	-	-	-	+	-	-	4
Greece	-	-	-	-	-	-	-	-	-	-	0
Hungary	+	+	-	+	-	-	-	-	+	-	4
Ireland	+	-	-	-	-	-	-	+	-	-	2
Italy	-	-	-	+	+	-	-	-	+	-	3
Latvia	+	-	-	-	-	-	-	-	-	-	1
Lithuania	-	-	-	-	-	+	-	-	+	-	2
Luxembourg	+	-	-	-	-	-	-	-	-	-	1
Malta	-	-	-	-	-	-	-	-	-	-	0
Netherlands	+	-	+	-	-	-	+	-	-	-	3
Poland	-	+	-	-	+	-	-	+	-	-	3
Portugal	+	-	+	-	-	+	-	+	-	-	4
Romania	-	-	-	-	-	-	-	-	+	-	1
Slovakia	+	+	-	+	-	+	-	+	+	+	7
Slovenia	+	+	+	-	-	-	-	-		-	3
Spain	+	-	+	-	-	-	-	+	-	-	3
Sweden	+	+	+	+	+	-	+	+		+	8
United Kingdom	-	-	-	-	-	-	-	-	-	-	0
<b>Total ratifications by EU States</b>	<b>14/27</b>	<b>8/27</b>	<b>10/27</b>	<b>8/27</b>	<b>3/27</b>	<b>6/27</b>	<b>4/27</b>	<b>10/27</b>	<b>7/27</b>	<b>3/27</b>	<b>73 ratifications out of 270</b>

Source : ILOLEX, October 2, 2007



## Inspection still a weak link in most national preventive strategies

**L**abour inspection as an institution emerged in 19th century industrialised societies<sup>1</sup>. Today, it holds a central place in national prevention systems in all countries<sup>2</sup>. Without labour inspection systems, there would be very little point to health and safety laws. One surprising feature of the changes in preventive systems over the past fifteen years is the little focus put on labour inspection in most European Union countries. Preventive measures have been extended to previously neglected areas, but the labour inspectorate staffing totals and responsibilities have seldom stayed in line with the new needs.

Also, labour inspection is constantly assailed by complaints about its inspection and enforcement responses from employers who want to be effectively let off scot-free for placing workers in danger. In some countries, government policies have undermined labour inspection resources. In some cases, inspectorates' responsibilities have been made

unclear by having an advisory role foisted on them in preference to inspection and enforcement. The European Court of Justice is also sending out disturbing signals in a deeply questionable judgement on surveillance of the work equipment market (see News in brief, p. 46).

This article is based on a survey done by our Department between December 2006 and February 2007 (see box).

### No Community harmonization

There has been a radical shake-up in the rules on health and safety at work in all the countries examined over the past twenty years, mainly driven by carrying the Community directives over into national law. Labour inspection, by contrast, has remained essentially an individual Member State sphere of responsibility.

### Description of the survey

The survey was done in the 27 EU countries plus Switzerland, Norway and Croatia. A questionnaire was sent out to the authorities responsible for labour inspection (30 bodies) and trade union confederations (approximately 70). It was also posted on our website so that individuals (mostly labour inspectors) and local organisations (mostly trade unions or associations of labour inspectors) could answer it.

From the 30 public bodies contacted, we received 14 replies (referred to here as "official replies"). From the trade union confederation side, we received 26 replies from 19 different countries (referred to as "union replies"). We received 12 replies from individuals (mostly labour inspectors) or specialised organisations (mostly trade unions/associations of labour inspectors) in 7 different countries. All told, of the 30 countries covered by the survey, only three (Ireland, Romania and Slovakia) sent no reply.

The best-case scenario was taken to be that of countries for which we received an official reply, a union reply and at least one individual reply from an inspector or association of inspectors. This made it possible to compare the different replies, which often provided complementary information. Only two countries – Portugal and the United Kingdom – fell into this class.

Six countries – Belgium, Bulgaria, Cyprus, Denmark, Estonia and the Netherlands – returned at least one official reply and one union reply.

In five countries – Cyprus, Lithuania, Luxembourg, Slovenia, Norway and Switzerland – only the official authorities sent in replies.

Replies from trade union confederations only were received from eight countries – Spain, Finland, Hungary, Latvia, Malta, Poland, the Czech Republic and Croatia.

Three countries – France, Italy and Sweden – returned both trade union replies and individual replies.

Individual replies only were sent from three countries – Germany, Austria and Greece. For Germany, the reply covered only the situation in one Land. The data we have are not necessarily representative for the whole of Germany.

Some respondents also sent in documents – like reports on activities and analytical articles – which helped fill out the replies to the questionnaire.

This information set was supplemented by documents held in the ETUI-REHS documentation centre.

<sup>1</sup> Few historians have explored the history of the labour inspectorate. One notable exception is: V. Viet, *Les Voltigeurs de la République. L'Inspection du travail en France jusqu'en 1914*, Paris, CNRS, 1994.

<sup>2</sup> See: W. Von Richthofen, *Labour Inspection. A guide to the profession*, Geneva, ILO, 2002.

The structure and operation of labour inspection systems in the different countries of Europe still differ in major ways that can best be accounted for by a range of factors.

### Generalist inspectorate or specialised health and safety inspectorate

Generalist inspection systems tend to police compliance with all the rules governing employment relations. Specialised systems police only health and safety at work. But within each of these broad categories lie what may be significant differences.

Specialised inspection can address all health and safety issues, including work organisation and workers' representation in the company, or restrict its scope by taking a narrower approach to work hazards. The United Kingdom's inspection system, for example, has no remit for workers' safety representation, and responsibility only for some aspects of working time. This state of affairs is apt to encourage a narrowly technical approach to risks and overlook the workplace dynamics that enable effective prevention to be organised.

### Single system or multiple participants

In some countries, labour inspection is carried out by a single corps of public servants. Other countries have other bodies whose activities complement those of the main inspectorate. This is particularly the case in the four biggest EU states. In France, Germany and Switzerland, action by the generalist labour inspectorate is supplemented by specialised inspection systems set up as part of social security system coverage of work-related risks. Italy has a twin-track system comprising the labour inspectorate (with a generalist remit, sponsored by the Ministry of Labour) and the national health system which, through its local units, also has inspection responsibilities for health and safety at work. The United Kingdom's main inspection agency (the Health and Safety Executive) exists alongside local authorities with specific responsibility for inspecting small and medium-sized service sector firms.

The labour inspectorate is not always a unitary body. Some countries (France, Luxembourg) have a specific inspectorate to police the activity of occupational health services. Belgium is a case apart with a state-run federal labour inspectorate split into different specialised branches (welfare at work, employment laws, social security, supervising the economic information provided to workers' reps, etc.). In Sweden, a specialised agency polices the regulations for chemicals used in workplaces and sold to consumers.

Some countries also have specialised inspection services for particular branches, like the transport inspectorates in France and the Netherlands. Labour inspection responsibilities may be performed by other organisations in some branches of the public service. Also, all European countries have specific

environmental inspectorates that also often have remits over workplaces (especially firms presenting major industrial accident hazards) or issue permits for certain business activities. Inspection of work equipment placed on the market was not included in our questionnaire. In some countries, this is mainly a labour inspection remit, while in others, it falls more to supervisory agencies run by the economic regulation authorities.

### Coverage of all employed worker

Generally-speaking, transposition of the Community directives has improved the public services by extending the remit of labour inspection or creating specific inspection agencies in some branches. By contrast, the working conditions of some categories of workers are not policed by any inspection service. Most Community countries operate such exceptions for domestic workers and inmates working in prisons. The survey was not able to go more deeply into this issue, which requires further consideration at some future point.

It might also be instructive to determine how effectively labour inspection activity can be in production processes which combine employed and self-employed workers – a fairly common situation in construction, transport, agriculture, retail and other sectors.

### Inspection ratios: disturbingly low in most countries

The questionnaire contained a series of questions on inspectorate staffing totals and the ratio of the number of inspectors to the number of workers and firms subject to inspection.

The first inescapable conclusion is that such figures are not always kept. This information was available in only 21 of the 27 countries for which we received replies. But where several replies were received for the same country, the differences between the sources tend to be very limited.

Taking the indicator of number of inspectors per million workers, countries can be classified into three groups. The variations between EU countries are significant. Taking the extremes, there is a variation from one to five between the lowest ratio countries (between 45 and 50 inspectors per million workers in Belgium, Spain, Hungary, Slovenia and the Netherlands) and the highest ratio ones (over 250 inspectors per million workers in three countries: Finland, Greece and Italy). This finding, however, needs to be qualified by a more detailed analysis of the structures and tasks of the different inspection systems. The International Labour Office (ILO) finds cause for concern in those industrialised countries, where the inspector-to-worker ratio is below 100 inspectors per million workers<sup>3</sup>. That is the case for 11 of the 22 states for which our survey returned data.

<sup>3</sup> ILO, press release, 16 November 2006, ref. ILO/06/52.



But the basic “inspectors-per-million-workers” ratio is not a conclusive indicator of the front-line labour inspection ratio. The British trade union reply emphasizes this point, and observes that out of a total Health and Safety Executive (HSE) staff of more than 1500, only 900 inspectors are active in workplace inspections.

The “inspectors-per-100 000-firms” ratio is a useful pointer to the labour inspection enforcement capacity faced with the increasing complexity of production processes and, especially the legal fragmentation of firms through subcontracting networks. The Polish statistics which reveal the difficulty of ensuring proper monitoring are relevant here. In 1995, the labour inspectorate carried out inspection visits in 54 550 firms, accounting for just over 5 172 363 workers. In 2005, the number of visits had increased by just over 10% compared to 1995, rising to 66 693. But the number of workers concerned had fallen by approximately a third to 3 393 532. Many replies call attention to this problem: even where inspectorate staffing totals are unchanged or slightly up, the needs-resources gap continues to widen.

One thing that is totally missing is uniform indicators at European level. The data on inspection ratios (measured per number of workers and firms covered) need supplementing with more systematically-collected data on inspections carried out on health and safety at work. This kind of data was sent in for a few countries only. The methodology used to collect these data differs from one country to another. Few countries have successfully evaluated the statistical probability of an inspection visit of a randomly-selected workplace in a given year. It would be helpful if far more self-consistent statistical indicators were compiled as part of the Community strategy.

## Staffing total trends

The replies on staffing total trends reveal wide between-country variations. National situations are not moving closer together, in that countries with the lowest inspector ratios may also be those where staffing totals are falling. Short-term swings are difficult to interpret: a sudden rise or fall may just be a correction from an opposite trend in previous years. Beyond these annual variations, the general long-term trend is that the role of labour inspection is being under-rated in national prevention strategy roll-out.

There are three factors common to all countries:

- the fragmentation of production channels, not least through subcontracting;
- the increased complexity of inspection work from legislation that is less about the “nuts-and-bolts” and imposes management obligations in the broad sense (risk assessment, consultation of workers, implementation of preventive services, etc.);

## Number of inspectors per million workers \*

Low ratio (under 100)	Medium ratio (100-200)	High ratio (over 200)
Germany <sup>a</sup>	United Kingdom	Denmark
Belgium <sup>b</sup>	Sweden	Finland
Spain	Austria	Italy
Hungary	Estonia	Greece
Slovenia	Latvia	
Netherlands	Poland <sup>d</sup>	
Portugal	Norway	
Malta		
Luxembourg		
France <sup>c</sup>		

\* Countries are ranked by ascending order in each column.

a. The reply relates to only one Land and does not include mutual insurance fund officers.

b. The reply relates only to specific health and safety at work inspectors.

c. The reply does not include the regional sickness insurance fund (CRAM) inspection officers. It says that the labour inspection development plan should increase the inspectors- per-million-workers ratio from 94 in 2006 to 148 in 2010.

d. The Polish trade union reply states that of the 2439 labour inspection staff, 1457 are engaged in workplace inspection activities. On this basis, Poland has been classed as “medium ratio”.

- expansion of the scope of health and safety at work to include such things as mental health problems, a focus on harassment and different forms of psychological violence, etc.

Such a situation requires an expansion of inspectorates’ staffing totals and areas of competency. There is no clearly-distinguishable Europe-wide trend in staffing totals, but most of the national replies claim that inspectorates are sometimes drastically understaffed. As to areas of competency, it will be seen below that there are also serious gaps in most countries.

As far as staffing total trends go, the overwhelming impression is of a lack of any real strategic planning by States. In many countries, trends are uneven. Labour inspection is neglected and staffing totals decline in cycles that can extend for five to ten years. These cycles are halted in times of crisis or when specific events like a disaster or “unexpected” rise in fatal accident rates elicits a knee-jerk public policy response in the form of a recruitment drive to at least partially offset the deepening staff shortage. This kind of reactive policy offers no way of achieving structural consolidation in labour inspection. It is a fire fighting strategy.

## Areas of competency

The questionnaire asked for a rating of the professional expertise available. It listed six types, with scope for adding others. Replies for each type of competency could range from 5 to 0. The average score for all six types of competency listed in the questionnaire was 2.77, with wide variations between types. The most commonly-found type was safety engineer (average score: 3.94) followed by lawyers (3.35). Two other types of expertise had average scores over 2.5 – industrial hygienists (2.80) and occupational doctors (2.66). Two areas seem fairly disregarded,

failing to achieve an average score of 2.5 – ergonomists (2.33) and psychologists (1.51).

While a high level of safety engineers is found almost uniformly across Europe, the presence of occupational doctors is much more variable. They are well-represented in some countries (Belgium, Italy, Cyprus) and practically non-existent in others (Denmark). In some countries, assessments are sharply divided. In the United Kingdom, for example, the official reply claims that occupational doctors are very well represented within the inspectorate, whereas the other replies give a much less rosy assessment. The sanguine official view is not borne out by a literature review – much of the medical competency previously possessed by the HSE appears to have been dispensed with.

### Areas of activity

Analysis of the areas of labour inspection activity shows them broadly to be focused on work accidents and other safety issues. Chemical hazards are less systematically inspected for. Psychosocial and ergonomic risks are only really priorities in a minority of countries.

This distribution of labour inspection activities is borne out by the national statistics where they break down inspections by category. For example, Belgium's labour inspection report for 2005 indicates that out of 7394 cases handled, 3083 (42%) involved work accidents.

### Obstacles

Picking out the obstacles to efficient labour inspection is less easy. The average score for all the factors

listed in the questionnaire was just short of 3 (2.96) on a scale from 5 (situation very good, no significant obstacle from this factor) to 0 (situation very bad, this factor is a major obstacle). The specific score for each factor tends to hover around the average score.

Three factors receive a somewhat more critical rating (around 2.5):

- ability of appropriate policy-makers to frame a specific, effective policy to support labour inspection activities;
- time available to inspectors to inspect workplaces;
- effectiveness of legal penalties for contraventions reported by inspectors.

It is this latter factor that gets the least favourable assessment and lowest scores (0 or 1), especially from respondents who are inspectors or associations/trade unions of inspectors. This rating is borne out by the additional documents supplied, especially the activity reports published annually by labour inspection authorities in different countries. They reveal that labour inspection non-compliance reports are rarely followed by a court case, and that most contraventions reported go effectively unpunished.

Some countries have administrative fines on top of legal penalties. Although easier to levy, they seem to be little used. The Netherlands labour inspection authority report for 2005, for example, reports that just over 5000 administrative fines were imposed in that year. Just under half (2433) related to health and safety at work, and they amounted to just under 7 million euros (roughly averaging 285 euros per contravention fined). Administrative fines levied for breach of the foreign workers employment legislation were very similar in number, but markedly higher in total amount (over 13.2 million euros). The

Inspection activities: average score over all replies	
Investigation of a serious or fatal work accident	4.24
Action related to safety other than accident investigations	3.32
Action related to chemical hazards with immediate or short-term effects	3.22
Control of the contents of risk assessments and drawing up of prevention plans	3.20
Control of workplace health and safety management	3.12
Checking compliance with the rules on consultation and representation of workers	2.86
Control of workers' health and safety information and training	2.86
Substitution of dangerous substances like carcinogens or reprotoxins by non-dangerous or less dangerous substances	2.73
Checking compliance with exposure limits	2.71
Control of temporary workers' health and safety conditions	2.71
Action related to ergonomic problems	2.33
Control of preventive services' activity in regard to health surveillance	2.52
Control of preventive services' activity other than health surveillance	2.15
Action related to psychosocial risks, especially different forms of violence and harassment	1.98

same report emphasizes that the inspectorate gives a marked preference to "light hand" intervention. Where a contravention is found during an inspection visit, non-penalty enforcement measures (warning, prohibition notice) are used in over 80% of cases. "Punitive measures" were applied in just under 20% of cases. In 10% of the cases, inspectors ordered work to be halted. In 4% of cases, they levied an administrative fine. In 4% of cases, they combined halting work with an administrative fine or a report to the prosecution authorities. In just 1% of cases, they wrote up a non-compliance report. Where a contravention is established in connection with a serious or fatal accident, by contrast, administrative fines or reports are much more common (56% of investigations into such accidents result in "punitive" action). This reflects a more reactive than preventive approach, in that the most deterrent measures tend to be used for contraventions that result in deaths or serious injuries, and not for putting workers at risk.

Some countries have sought to lessen the degree to which employers escape liability by improving the linkages between the justice system and labour inspection, and by creating specialised units within the court system to prosecute health and safety offences. Spain's central prosecution service has been given a specialised section in all geographical districts. The trade unions work directly with these specialised prosecutors to bring the force of criminal law to bear on employers who flout their prevention obligations. One specific aim of the action plan for prevention recently adopted in Spain is to improve the linkages between the labour inspection authority and these specialised sections of the prosecution service<sup>4</sup>.

Some other factors not mentioned in the questionnaire were reported by respondents, such as no or too little co-operation with workers' safety reps (especially in the United Kingdom). This key aspect will be looked at further below. Some replies took issue with the age structure of labour inspection staff, raising fears of a rapid decline in the service from a failure to recruit enough new inspectors. In Belgium, for example, the average age of all inspectorate staff was 50 years in 2005 and, by the end of 2006, 18% of the staff were aged 60. Assessments of factors internal to inspectorates (initial training, continuing training, relations between inspectors and their superiors) tended to be more favourable. The Finnish reply, by contrast, reported a conflict between the labour inspection service and its sponsoring ministry. The recent European Court of Justice ruling on surveillance of the work equipment market reveals how helpless inspectors are when their job is obstructed by superiors reluctant to lock horns with employers.

### Relations with the other participants in prevention

It is not feasible to have labour inspectors permanently sited in each workplace. Relations between

inspectors and the other participants in prevention are therefore key to the effectiveness of inspection systems. This may seem to go without saying, but it does reveal significant differences of approach between inspection services.

Some systems seem to focus on relations with employers, providing them with encouragement, advice and support. This kind of approach is all about not putting the frighteners on employers, and speaking their language by showing that a proper health and safety policy will boost their profit margin. Enforcement is used only reluctantly. The inspectorate's function may become muddled, turning it into a sort of free health and safety at work consultancy paid for out of the public purse. In the United Kingdom, for instance, the labour inspection authority played a sometimes very equivocal role when the Community directives were being transposed by intimating to employers that it would not be officious in punishing contraventions.

Relations with the employer are not just about the priorities assigned to inspection or advice. Over and above this policy issue must be considered the ability of the inspection service to act on the quality of OHS management. The framework directive and the national reforms which accompanied its implementation highlight the importance of systematic, planned and participatory management. Four key components of this management play a special role: risk assessment, planning of preventive measures, taking prevention requirements into account in corporate strategizing, consultation of workers and their representatives on all issues likely to affect health and safety at work. There is an important need to distinguish two debates here. One is about the place of enforcement measures and penalties in inspection policies. The other concerns the importance of holistic health and safety management versus specific tangible aspects. There is no automatically right answer to these two problems<sup>5</sup>. Tight checks on managerial organization or advice on breaches of particular technical specifications are equally possible approaches. Taking health and safety into account as a management system involves redefining some basic types of competency in the inspection service: an ability to audit material aspects of management systems, the power to intervene in company labour relations practices, a grip on risk assessment issues. The "interpersonal relations" aspect of the inspectorate's work takes on a very particular importance. Unless these abilities are developed and the necessary time found to put them into practice, inspections are likely to be confined to ticking off the boxes for the existence of selected procedures and documents without judging their effectiveness. This failing may be exacerbated by the tendency in some States to expand certification by commercial organisations, which marginalises the role of labour inspection. This debate is reflected in two issues in very many Community countries.

<sup>4</sup> *Plan de acción para el impulso y la ejecución de la estrategia española de seguridad y salud en el trabajo (2007-2012). (Periodo julio 2007-abril 2008), Madrid, 25 July 2007.*

<sup>5</sup> For a more comprehensive discussion, see A. Bruhn, *The inspector's dilemma under regulated self-regulation, Policy and Practice in Health and Safety*, Vol. 4, No. 2, 2006, p. 3-23.

One is the role of labour inspection in relation to risk assessment<sup>6</sup>; the other is the importance of a systematic policy of support for workers' reps by the labour inspection service.

Most occupational ill-health develops in a context of adversarial workplace relations. To be effective, labour inspection should support the activity of workers and their trade unions to improve working conditions. It should ensure that workers' collective rights to information, training and consultation are respected. It should be based on active co-operation between the inspection system and the system for trade union representation of workers in health and safety. No European inspection system takes this approach in any material way. Some, however, are more receptive to it and appreciate the importance of action that also includes the prevailing system of labour relations in firms. Empirical data from several countries tend to show that firms which have workers' representation in health and safety also most invariably operate a prevention policy.

In some Central and Eastern European countries, this debate has also focused on a specific institution, a partial legacy of the past, whose redeployment in a new context could be a big asset for prevention. In some of these countries, what are known as "worker inspectors" play a special role. In truth, the institution's origins lie much further back in time. It emerged in the industrialised countries of western Europe at the end of the 19<sup>th</sup> century and had long been a central demand of the trade unions in France, Germany and England<sup>7</sup>. The trade unions had secured recognition for union reps to act as inspectors under a variety of names in industries like mining. In some cases, these worker inspectors held auxiliary posts within the general labour inspection authority. The evidence is that this institution made a major contribution to prevention provided there was a clear demarcation of roles between the collective representation of workers and enforcement of legislation. In most former Soviet bloc countries, the labour inspection system had forged close ties with the trade unions and was partly based on the activity of these "worker inspectors". This relationship was not clear-cut inasmuch as the trade unions tended to operate as an extension of the Party and State authorities. The worker inspectors often sought to play down company management's liability for accidents and blame them on mistakes by individual workers. The revival of independent trade unions ought to have given a new impetus to this institution.

The worker inspection system was heavily run-down during the transition towards capitalism and has completely disappeared in some countries. In Poland, it has struggled to stay alive in firms with trade union representation<sup>8</sup>, but remains highly active in the mining industry in the Czech Republic.

The International Labour Organisation (ILO) has often played an unclear role in relation to attempts in some countries to forge closer links between the labour inspection authority and the unions. In Luxembourg, for example, an ILO audit of the labour inspection service in 2002 criticised the appointment of labour inspectors on proposals from representative trade unions. ILO missions in Central and Eastern European countries have recommended that trade union inspection systems be dismantled on the basis of quite shaky reasoning<sup>9</sup>.

Far from being a quirk of former Soviet bloc countries, the worker inspection system could in many ways strengthen preventive strategies in the countries of Western Europe. Although lacking such wide-ranging powers, the district workers' safety reps in Sweden carry out some labour inspection-like tasks by running legislation enforcement campaigns in some areas. Generally, the right to stop work in case of serious and imminent danger has also been defined in some (mainly Nordic) countries as a collective right exercised by workers' reps. It is a power that has some similarities with labour inspection activity and is a very useful supplement to it in enabling very rapid action in circumstances where any delay may have serious consequences. The Australian system is informative here<sup>10</sup>. Workers' safety reps in a number of Australian States have the right to serve provisional improvement notices (PINs) on the employer. If he does not agree with the improvement notice, he can call in the labour inspection service. The scheme has yielded encouraging results. Surveys done by the Australian trade unions show that in the vast bulk of cases, a PIN has resulted in preventive measures being taken. In most of the cases where the employer has appealed to the labour inspection authority, it has upheld the PIN on the grounds of a real failing in prevention.

Relations with preventive services are also a key issue. Many replies describe them as unsatisfactory, either because the labour inspection service fails totally to inspect preventive service activities, or because it merely checks their nominal compliance with the conditions of approval. Generally, there is no real joined-up working between preventive and labour inspection services. The situation is certainly made worse by the fact that the framework directive has not been fully transposed in several countries where the necessary competencies of preventive services have not been defined at all or couched in much too general terms (Sweden, the United Kingdom and Ireland are particular cases in point). The fundamental questions are: How to define the public role of these services which are generally controlled by employers? How to collectivise the experience of these services so as to avoid fragmentation of their activities by individual workplaces? This is an issue that far transcends the bounds of the discussion on the strategy of labour inspection.

<sup>6</sup> See in particular Vincent Tiano's thesis, *Les inspecteurs du travail à l'épreuve de l'évaluation des risques : une profession sous tension*, sociology thesis, University of Aix-Marseille II, 2003. See also: V. Tiano, *Les inspecteurs du travail aux prises avec l'évaluation des risques*, *Travail et emploi*, No. 96, October 2003, p. 67-83.

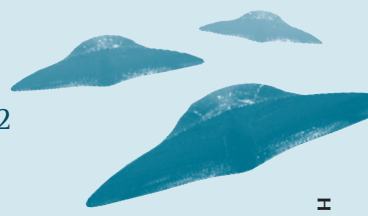
<sup>7</sup> See P. Aries, *Inspection du travail et Inspection ouvrière dans le discours de la CGT de la genèse de l'institution à l'entre-deux-guerres*, *Droit et société*, No. 33/1996, p. 389-404.

<sup>8</sup> See in particular: INTEPF, *Les relations de travail en Pologne : évolution et perspectives*, *Journal du voyage d'étude effectué du 4 au 11 juin 2000*, Institut national du travail, de l'emploi et de la formation professionnelle.

<sup>9</sup> See in particular: International Labour Organization, *The Role of Labour Inspection in Transition Economies*, Document No. 48, 1998.

<sup>10</sup> For a detailed review, see: S. Page, *Worker Participation in Health & Safety. A review of Australian provisions for worker health & safety representation*, HSE, 2002. This report is based on an analysis of the situation in the State of Victoria.





Italy is a case apart, with two very different types of preventive services existing alongside each other. One is the public prevention services established as part of the 1978 health reforms. These services are highly active in developing workplace health and safety and have the powers and competencies of a labour inspection authority in health and safety matters. The other is the preventive services set up under new legislation passed in 1996. These are company in-house services that may enlist external consultancy expertise. There are almost no private inter-company preventive services.

Belgian employers must appoint a specialized prevention advisor as part of their in-house service or enlisted from an external intercompany service specifically for prevention of the different forms of harassment and violence at work<sup>11</sup>. This prevention advisor must notify the labour inspection service of situations where the employer has not taken appropriate measures to put an end to situations of harassment or violence.

### On from lip-service recognition

Looking beyond the lip-service recognition of the importance of labour inspection, it is clear that there is a big gap in the comparative study of labour inspection in Europe. Quantitative indicators are sadly wanting. Systematic studies on the requirements for effective intervention are even thinner on the ground<sup>12</sup>. More sources and parliamentary reports are available at individual country level.

The survey done by our department was very limited in scope. The aim was to collect assessments from different participants on selected aspects of inspection activity. It enables only a few proposals to be sketched out for future research and for policy debates on preventive strategies.

Above all, the survey findings raise major issues of coherence.

1. There is a yawning gulf between the known health outcomes of work and the focus in practice on accidents. In areas like prevention of chemical hazards, action on psychosocial factors or the health impact of the spread of contingent employment, there is a big job of work for labour inspection to do in defining effective interventions. The lower visibility of the poor long-term health outcomes of working conditions is apt to weaken policy-makers' support for any such debate;
2. Even where work accidents are concerned, labour inspection activity seems much more reactive than preventive. And that reactivity is itself heavily undermined by the difficulty of achieving effective penalties;
3. Relations between labour inspection and the workplace participants in prevention – especially the trade unions – are haphazard. A major potential for joined-up working is not being put to use. ■

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<sup>11</sup> Protection against Violence and Psychological or Sexual Harassment at Work Act of 11 June 2002, *Belgian Official Gazette*, 22 June 2002.

<sup>12</sup> Notable exceptions are the following article and the odd studies cited in its bibliography: L. Lindblom and S.O. Hansson, *Evaluating workplace inspections, Policy and Practice in Health and Safety*, 2004, p. 77-91.

## Working conditions in Europe

### A big picture view

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Work is growing more intensive, new technology use and training opportunities are still limited, working hours are getting shorter but are still mainly set by employers with limited scope for change, health and safety at work still remain a big concern, working conditions differ widely between the “old” and “new” Member States, between women and men, and between different age groups. This is the evidence from the Fourth Working Conditions Survey done in 2005 by the European Foundation for the Improvement of Living and Working Conditions, following those of 1991, 1995 and 2000/2001. As the fourth survey, it is a rich seam of information on trends in European working conditions.

#### European working conditions surveys: 1991-2005

The European working conditions survey is the oldest of those done by the Foundation – the first dating from 1991, when Europe had just 12 Member States. It was repeated in 1995 (EU-15), 2000 (EU-15 plus Norway) then extended to 13 candidate and accession countries (12 of which are now Member States of the European Union). The 4<sup>th</sup> and most recent edition of the survey in 2005 covered 31 European countries (EU-25 plus Romania and Bulgaria – Member States since 2007 – Croatia, Turkey, Norway and Switzerland).

Over the different surveys, the questionnaire has changed to a great extent, and in 2005 comprised over 100 questions and sub-questions. Tightly-focused on industry in 1991, the survey has developed over the past 15 years to include a wide range of indicators for a more searching and thorough-going analysis of working conditions. The downside is that this affects the comparability of all the questions over the years.

#### Big changes over the past 15 years

The dominant trends of the last 15 years are the spread of non-traditional forms of employment (part-time and temporary work) and greater numbers of women

entering the labour market. Overall, the survey shows that economic growth does not automatically bring improved working conditions. Working conditions remain relatively stable despite changes in the sectoral composition of the labour force that might suggest the possibility of quality improvements.

An analysis of trends since the early 1990s evidences that the use of new technologies is increasingly widespread, average working time is steadily falling, imposed flexibility of working schedules is spreading, work is getting more intensive, work organisation has become more commercial, information on health and safety at work is slightly better, exposure to physical risks and violence is little changed, there is some progress on labour market segregation, but no greater access to training, some groups remain highly exposed and vulnerable to early exclusion from the workforce. This emphatically shows the vital need to continue pressing for improved working conditions in a context marked by the gradual but steady ageing of the workforce, and for the development of the European economy.

#### Work intensification

The survey measured the level of work intensification through four proxy indicators of work intensity – work to very tight deadlines, at high speeds, not enough time to do the job, interruptions. Indicators on factors of pace were also included.

The survey shows that work intensification in Europe and the number of pace constraints are continuing to grow. More and more people are working at high speeds and to strict deadlines. In 2005, 26% of workers in the EU-27 reported having to work at very high speeds all or nearly all the time, and 12% seldom or never had enough time to finish the job.

The determinants of work pace in the EU reflect the predominance of the service sector and commercial



European Foundation for the Improvement of Living and Working Conditions

The European Foundation for the Improvement of Living and Working Conditions is a tripartite EU body, whose role is to provide key actors in social policy making with findings, knowledge and advice drawn from comparative research. The Foundation was established by Council Regulation (EEC) No. 1365/75 of 26 May 1975. It is headquartered in Dublin, Ireland.

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organisations. For approximately 70% of workers, their work pace is directly determined by the demands of customers, patients, users, etc., while the automatic speed of a machine determines the work pace of 20% of the working population. Work pace determined by workmates or performance targets also appears to be on the rise.

Work intensification is not always compensated by autonomy and support in the work environment. Highly skilled white collar workers enjoy most autonomy in their work, while lower skilled blue collar workers have less. Level of education determines how much control workers have on how they do their job. In other words, only about half of workers with no more than primary education can choose how to perform their work, compared to 80% of those with tertiary level qualifications. Nor can workers always count on support from their workmates and line superiors to cope with this work intensification. About 67% of European workers can get help from workmates if they ask, and 56% from their line superior.

Work intensification has a clear negative impact on occupational health. Weekly working hours may have gone down, but work paces are steadily rising. Approximately half the workers surveyed say that their work involves painful or tiring positions, while more than half work at high speeds (60%) and to very strict and tight deadlines (62%). The considerably high level of stress in the EU-27 (22%) comes as no surprise, therefore.

## Working hours

Weekly working hours in the EU have got steadily shorter since 1991. This reduction is due to a set of factors (e.g. the spread of part-time working). Standard working hours remain the norm for most workers: 58% of workers work the same number of hours each day, 74% the same number of days each week, 61% have fixed starting and finishing times. The working hours are fixed by the employer in most cases: 56% of workers report that their working hours are fixed by their organisation and cannot be changed. Only 24% of employees can adjust their working hours to their needs, in some cases within set limits. Workers with regular working hours, approximately 40 hours a week, working the same number of days each week and hours each day, and starting and finishing work at fixed times, report the highest degree of satisfaction.

However, a goodish number of workers (15%) in Europe continue to work long hours – 48 hours or more a week. The survey shows that long working weeks and non-standard working hours have negative occupational health outcomes. Approximately 55% of respondents who work more than 48 hours a week say that their work is injurious to their health, and 45% report that their health and safety are at risk at work. Of the different non-standard working hours,

night work (after 10 p.m.) seems to be more associated with health problems – particularly insomnia.

## Paid and unpaid work

While men in all countries work more hours than women in paid employment, the survey findings show that when working time is calculated by adding together paid and unpaid working hours, commuting time and the hours of a second job, women – including part-time workers – work more than men. Women generally work part-time to spend more time on the family and home, while male part-timers spend even less time doing unpaid work than full-timers.

This does not mean that women are better paid for this “double duty” – if anything, the opposite. Most women fall into the lower income category, and a smaller proportion of women (20%) than men (40%) fall into the top income bracket in all countries. The gender gap between part-time workers is less wide. This shows the road still to travel on gender equality.

## Old and new Member States

While general trends can be picked out, working conditions still vary widely between Member States, and especially so between the new and old Member States.

New Member States (NMS) report less gender segregation, with a markedly higher proportion of women in supervisory/management posts than in the EU-15 (28% in the NMS against 24% in the EU-15).

Exposure to physical risks and work-related health disorders reveals a less positive picture. Approximately 40% of workers in the NMS consider they have been exposed to health and safety risks at work (against an average of 25% in the EU-15). Furthermore, the NMS (Bulgaria and Romania most of all) generally record the highest levels of exposure to work-related risks, especially those associated with heavy industry (e.g., noise, vibrations, breathing in fumes or using chemicals).

There are also striking differences between the EU-15 and the NMS where use of information technologies is concerned: 42% of workers in the EU-15 never use a computer at work versus 60% in the NMS.

Northern Europe often seems to set the European pace and perform “better” in terms of employer-provided training and flexible working hours.

## Older and younger workers

The gap between younger and older workers is particularly striking where computer use is concerned: almost 20% of workers in the 25-39 age bracket work all their time on computers, compared to 11%



of over-55s. Older workers also get a poorer deal on training opportunities. In 2005, approximately 29% of workers aged 25-39 received training from their employer, against 19% of over-50s.

On the other hand, older workers are less exposed than younger ones to fast-paced work: 37% of workers aged 50-plus report working at very high speeds against 46% of younger workers.

Younger workers aged 15-25 are more exposed than older workers to some physical risks (tobacco smoke, tiring positions, standing positions, heavy loads and repetitive hand and arm movements). Where sickness absence, whether or not work-related, is concerned, workers aged 15-25 (21%) report fewer absences than older workers (23%), and are off work for less time (approximately 3 days against an average 5 to 6 days for older workers).

### Exposure to physical risks and health outcomes

The number of workers who consider their health and safety to be at risk because of their work has declined over the last 15 years. However, while the share of the European workforce employed in traditional, physically demanding sectors (e.g., manufacturing and agriculture) is declining, the survey reveals that some physical risks are still prevalent – e.g., approximately 46% of workers report working in uncomfortable or tiring positions for at least a quarter of the time.

Men are more exposed than women to some risks and vice versa. Men report more exposure than women to traditional work-related physical risks (noise, vibrations, etc.), while women, especially in the education and health sectors, are exposed to other risks (e.g., work involving lifting or moving people).

Ergonomic risks (repetitive hand or arm movements, work in uncomfortable or tiring positions, etc.) are more evenly gender-balanced. In occupational terms, blue-collar workers are much more exposed than white-collar workers to almost all physical risk factors at the workplace.

Where the effects of work on health are concerned, some 35% of the workers surveyed reported that their work is bad for their health. The most commonly cited work-related health disorders are back-ache (25%) and muscle pains (23%) followed by fatigue and stress (22%). These are mainly problems for workers in agriculture, health care, education and the construction industry.

### Violence, harassment and bullying at work

Bullying, harassment, violence and threats, along with different kinds of discrimination, contribute to psychological ill-health and stress. Around 5% of

workers report having been subjected to instances of violence, bullying or harassment in their workplace in the twelve months preceding the survey. Variations between countries may be wide. For example, there is a difference between Bulgaria and Finland of 1 to 10 (in Bulgaria's favour) in the incidence of exposure to violence. This is due to a set of factors, like cultural differences, the centrality of this issue in public and political debate, the degree of public awareness of the problem, and the willingness to report it.

Women are more exposed (6%) to bullying and harassment than men (4%), especially young women (8% of women aged under 30). There is a higher incidence of women exposed to unwanted sexual attention in the Czech Republic (10%), Norway (7%), Turkey, Croatia (6%), Denmark, Sweden, Lithuania and the United Kingdom (5%), but a lower incidence (1%) in some southern European countries (Italy, Spain, Malta and Cyprus). As mentioned earlier, what constitutes an act of violence can vary from one country to another according to sensitivity to and awareness of the issue, so these percentages do not necessarily reflect the real incidence of the problem.

A higher level of bullying and harassment is reported in larger establishments (over 250 workers), in the education and health sectors, and in the hotel and catering sector. Significantly, rates of violence and harassment are generally lower in sectors where physical risks are high (especially construction and agriculture), although the converse is also true.

Workers who experience violence or bullying at the workplace have more work-related health problems than those who do not. Four times more report psychological health problems, sleep disorders, anxiety and irritability in particular, as well as physiological symptoms, like stomach ache. An above-average number of those exposed to bullying and harassment take time off work for work-related health problems (23% versus 7%) and also tend to take longer sick leave.

### Information on hazards

There has been a significant increase in the proportion of workers in the EU-15 who think themselves not well or not at all informed about workplace hazards (15% versus 9% in the NMS). There is also a notable significant correlation between company size and the level of information on workplace hazards. Workers in large firms broadly consider themselves to be well-informed. Permanent employees think themselves better informed about hazards than those with less steady jobs. One point to be made, however, is the minor change made in the wording of the question in the last survey. Up to 2000, the question referred to the "risks resulting from the use of materials, instruments or products which you handle in your job", while in 2005, it



referred more generally to risks related to the performance of the job.

The purpose of this change was to widen the scope of the original question, which was focused on the traditional notion of industrial workplace hazards. The question put in 2005 better reflects the reality of work in present-day Europe, and the real levels of information about workplace hazards.

## General considerations

The Foundation's working conditions survey is unique in Europe. Analysing the successive surveys since 1991 allows general trends to be picked out and gives a broad picture of how working conditions in Europe are changing over the years. The statistical data<sup>1</sup> are made available to the scientific community and researchers into the quality of work to help deliver even more searching outcomes: the important thing is to give the labour market participants access to the information to make their own interpretation and decide what needs to be done. Confronted with the many challenges besetting society, astute readers will be able to form a view of developments in hand in society, and reflect on necessary public policy measures.

## Methodology

A total of 29 680 workers were questioned for the 2005 survey in face-to-face interviews in their own homes outside the most common working hours, and for over half an hour on average. The survey was carried out simultaneously in 31 European countries using an identical questionnaire available in 27 languages and 11 local adaptations. The respondents (persons in employment as defined by the European Labour Force Survey – employees and self-employed) were selected by multi-stage random sampling in order to be representative of the population in employment. The 2005 Labour Force Survey (Eurostat) was used as the sampling and weighting basis. The interview questionnaire covers a series of aspects of working life: physical hazards, working time, work organisation, job satisfaction, health, workplace absences, whether the job is physically supportable long-term, work-life balance, violence and harassment, pay, time outside work.

Quality assurance<sup>2</sup> included external control of service providers, clearly defined tasks, responsibilities and functions for the actors, and performance indicators for each stage of production of the statistical data, and systematic checks on the work done by the different actors. A report on the quality of the data produced was written at the end of the survey<sup>3</sup>.

In 2006, the Foundation carried out its first ever comparative post test on aspects related to development at work and employability; the descriptive report has been published in October 2007<sup>4</sup>.

## The survey's strengths and limits

The survey's main defining attribute is to be the only Europe-wide survey on working conditions. This makes it a single source of harmonised data for European policy-makers on key quality of work and employment indicators. As such, it helps inform European policy-making on aspects of work. It also makes up for the lack of national data in many countries and creates a basis for international comparison.

The Foundation's working conditions survey has become a set standard for researchers into the quality of work, and its statistical data are used by many national and international organisations involved in the field. The survey data are also used for derived data analyses, in particular on gender equality in the workplace, work organisation, sectoral profiles, etc. This enables a more searching analysis of the survey findings, giving better insights into how different working conditions interact.

But it must be borne in mind that institutional and cultural differences between countries may influence the way in which the questions are understood and answered. So any between-country comparisons must be approached with caution. The survey describes respondents' own working conditions as they perceive them, working from the principle that workers are best placed to assess their own working conditions and give an easily-digestible big picture view of them. There is also a limitation stemming from the sample size in each country – 1000 per Member State and 600 in the 5 smaller EU countries –, which reduces the scope for subsequent disaggregation of the data. This means that the number of cases may be too small to derive relevant conclusions for a comprehensive analysis at the national or sectoral level. Furthermore, averages may mask between-country, between-sector and within-country differences. In a very real sense, the survey's main aim remains to provide a broad-brush view of working conditions, problems and trends on a European scale. ■

<sup>1</sup> The statistical data are available from the University of Essex ([www.esds.ac.uk/findingData/ewcsTitles.asp](http://www.esds.ac.uk/findingData/ewcsTitles.asp)). Details of how to register are available on [www.data-archive.ac.uk/aandp/access/access.asp](http://www.data-archive.ac.uk/aandp/access/access.asp).

<sup>2</sup> See: [www.eurofound.europa.eu/docs/ewco/4EWCS/4EWCSqualityassurancepaper.pdf](http://www.eurofound.europa.eu/docs/ewco/4EWCS/4EWCSqualityassurancepaper.pdf).

<sup>3</sup> See: [www.eurofound.europa.eu/docs/ewco/4EWCS/4EWCSqualitycontrolreportEU25.pdf](http://www.eurofound.europa.eu/docs/ewco/4EWCS/4EWCSqualitycontrolreportEU25.pdf).

<sup>4</sup> Fourth European Working Conditions Survey: Qualitative post-test analysis: [www.eurofound.europa.eu/publications/htmlfiles/ef07671.htm](http://www.eurofound.europa.eu/publications/htmlfiles/ef07671.htm). More detailed information on the post test is available on [www.eurofound.europa.eu/ewco/surveys/EWCS2005/post-testindex.htm](http://www.eurofound.europa.eu/ewco/surveys/EWCS2005/post-testindex.htm).

### The surveys of the European Foundation for the Improvement of Living and Working Conditions

- Fourth European Working Conditions Survey, 2006. Available in English on [www.eurofound.europa.eu/publications/htmlfiles/ef0698.htm](http://www.eurofound.europa.eu/publications/htmlfiles/ef0698.htm), to be published soon in German and French.
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## Discouraging check-up for Croatian workers

Data on health and safety at work are fairly rare for Croatia, a country that began negotiating its accession to the European Union in October 2005. To the best of our knowledge, there has never been a large-scale inquiry into working conditions at the national level.

Fortunately, Croatia was included in the wide survey carried out in autumn 2005 by the European Foundation for the Improvement of Living and Working Conditions, based in Dublin<sup>1</sup>. Just over 1000 Croatian workers were interviewed.

Before reviewing in detail the results of that opinion poll in terms of health and safety at work, it is important to look at a few key indicators for the Croatian labour market. These will allow for better understanding of the socio-economic context of Croatian working conditions.

In 2005, rising unemployment reached the rate of 14%, placing Croatia among the European countries with the most acute unemployment problem. Combating unemployment is particularly difficult because nearly one third of young people are concerned and because 36% of the jobless have been without work for over three years. Temporary contracts are the rule for 12.4% of the workforce, placing Croatia slightly below the EU-25 average (14%). Another 8.7% of the working population, i.e. 10% less than the European average, work part time.

The manufacturing industry remains by far the leading sector of the economy. It provides jobs for over 30% of the population. Unskilled workers make up nearly 30% of the labour force, a record in Europe. Croatia is also the European country with the highest percentage (30%) of low skilled blue collar workers.

The private sector is made up primarily of single-person companies or very small companies with no more than nine employees. Croatians work an average of 43 hours a week, one of the highest levels in Europe. Over 20% of the workforce work over 48 hours a week.

### 40% of workers suffer from repetitive strain injury

More than half of Croatia's workers say that their work has an impact on their health, a figure well above the EU-27 average (35%), and nearly 30% are "not at all satisfied" or "not very satisfied" with their working conditions. These two figures put Croatia in a relatively homogeneous group of countries, made up of a majority of new EU Member States, which could be described as countries not satisfied with existing working conditions.

Absenteeism is another element that reflects the difficult relationship certain categories of Croatian workers seem to have with their job. With just under 20% of those interviewed saying they had to stop working for health reasons over the past 12 months, Croatia is below the European average (23%). So that is nothing alarming. What is telling, however, is that the average length of absence for illness per worker comes to 9.5 days, whereas the European average is under five days. While Croatian workers take sick leave less often than their European colleagues, they apparently do so for particularly long periods.

Can this be ascribed to more difficult working conditions than elsewhere in Europe for an important part of the population who, as we saw above, have low skills levels and hold industrial jobs, often in very small companies? Answering that question would obviously require a more detailed study focusing more specifically on Croatia. The "health" and "work organisation" segments of the Dublin survey (see table) nevertheless provide an initial answer.

Indeed, health problems caused by "classic" work-related physical risks (exposure to noise, carrying heavy loads, breathing in dust, exposure to chemicals, etc.) are systematically higher in Croatia than in the EU-27. This is particularly the case for repetitive strain injury: nearly 40% of Croatian workers complain of back pain or muscular pain caused by their jobs, which is practically twice the European average. Given this over-exposure to traditional risk factors, it is quite surprising to note that only half as many Croatians complain about general fatigue compared to EU workers. Cultural element may come into play in explaining this paradox.

Could this perhaps be due to Croatia's relative imperviousness to new forms of work organisation? High rates of output and respect for tight deadlines are markedly below the European average and 80% of Croatian workers say they have enough time to complete the job assigned to them.

With regard to psycho-social risks, Croatian women seem particularly vulnerable: 10% of female workers say they are victims of intimidation or harassment at the workplace and 6% are victims of sexual harassment. These figures place Croatia among the European countries with the highest levels of psychological violence against women.

### Lack of political will and employer's indifference

The Law on Protection at Work is recent. It was adopted in 1996 and is obviously related to the

<sup>1</sup> *Fourth European Working Conditions Survey*, European Foundation for the Improvement of Living and Working Conditions, 2007, 139 p.

country's European ambitions, demonstrated immediately after the war by the Croatian government. While Croatian legislation is being harmonised with the Community acquis at a sustained pace, workers are seeing few changes at the workplace. The accession process has contributed to important developments, particularly in the legal and institutional spheres, but the hard reality of the world of work has evolved little since the 1990s, states a work co-published recently by the European Commission and the International Labour Office<sup>2</sup>.

The lack of interest of political circles, employers and trade unions, pinpointed in this publication, obviously does not contribute to promoting debate in companies on the challenges of health and safety at work. In addition, social dialogue on these subjects is the result of a young and fragile institutional base. Five years ago, a National Council for Work Protection was created on a tripartite basis. In its *National Programme for the protection of health and safety at work*, made public in 2005, that body drew up a list of shortcomings in this area<sup>3</sup>.

We would single out the following:

- non systematic follow-up on the health of workers exposed to specific risks: only 10% are regularly monitored;
- legislation that does not encourage employers to work towards prevention, since the costs of occupational accidents and illnesses are 100% covered by the community;
- the limited resources made available to the labour inspectorate: there were only 89 inspectors in 2006 for the entire country.

Against that backdrop, and without a reaction by a trade union movement weakened by its fragmentation – the country has no fewer than six trade union confederations –, the odds are that the legislative *aggiornamento* (updating) will continue without giving impetus to a real improvement in working conditions. ■

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The state of working conditions in Croatia	EU-27 (%)	Croatia (%)
<b>Health</b>		
Consider health or safety at risk because of work	28.6	38.9
Work affects health	35.4	51.8
How does work affects your health?		
– Hearing problems	7.2	10.2
– Skin problems	6.6	11.4
– Backache	24.7	41.5
– Muscular pains	22.8	37.6
– Respiratory difficulties	4.7	8.5
– Stress	22.3	35.2
– Overall fatigue	22.5	9.8
Absent for health problems in previous year	22.9	19.4
Average days health-related absence in previous year	4.6	9.4
<b>Physical work factors</b>		
Vibrations	24.2	29.1
Noise	30.1	33.9
High temperatures	24.9	29.9
Low temperatures	22	26.3
Breathing in smoke, fumes, powder or dust (such as wood dust or mineral dust)	19.1	29.6
Breathing in vapours such as solvents and thinners	11.2	17.1
Handling chemical substances	14.5	16.8
Radiation (X-rays, radioactive radiation, welding light, laser beams)	4.6	5.3
Tobacco smoke from other people	20.1	35.9
Tiring or painful positions	45.5	58.8
Carrying or moving heavy loads	35	37.4
Repetitive hand or arm movements	62.3	69.9
<b>Pace of work and work organisation</b>		
Short repetitive tasks of less than 1 minute	24.7	16.7
Short repetitive tasks of less than 10 minutes	39	33.8
Working at very high speed	59.6	23.2
Working to tight deadlines	61.8	43.6
Pace of work dependent on automated equipment / machine	18.8	22.6
Pace of work depends on boss	35.7	42.9
Has enough time to get the job done	69.6	79.9

Source: *Fourth European Working Conditions Survey*, 2007, 139 p.

<sup>2</sup> *Evolving World of Work in the Enlarged EU. Progress and Vulnerability*, ILO/ European Commission, November 2006, p. 91.

<sup>3</sup> *Evolving World of Work*, op.cit, p. 107.

## Health and safety in Croatia: a curate's egg

Jadranka Mustajbegovic is a Professor in the Department of Environmental and Occupational Health School of Medicine at the University of Zagreb. She helped organize the International Symposium on Occupational Health and Safety held in the Croatian town of Sibenik on 24-26 May 2007.

The conference brought together health and safety experts from a range of professional backgrounds – workers, health and safety reps and specialists from company and external preventive services, as well as representatives of government departments and academe. The conference was focused on the general state of health and safety at work in Croatia, and more specifically in the metal industry in neighbouring countries. The participants looked at whether OHS policy is up to scratch for when and if Balkan states join the European Union.

We asked Prof. Mustajbegovic about the main challenges faced by this EU candidate country.

### Could you point to the main factors that are holding back health and safety at work in Croatia?

First is the poor health and safety culture – that has a very negative impact. There are several reasons why I say this. Employers and employees have different and distorted views of health and safety at work. Workers see it as a way of getting better financial compensation for hard work and hazardous conditions, while employers are only concerned to tick the legal boxes. There is no law in Croatia that grants benefits to workers exposed to hazardous and strenuous working conditions. But such practices are clearly widely used by employers and accepted by workers. Globally, health and safety awareness is very poor.

Secondly, the Croatian government is not concerned to improve the situation. There are no programmes, projects or initiatives to drive change or increase awareness, just one or two measures to bring Croatian law into line with the *acquis communautaire* (framework of Community legislation and regulations).

Thirdly, those involved with health and safety at work feel hamstrung by their lack of power. One case in point is an unsuccessful *National Programme for the protection of health and safety at work* worked out by the tripartite National Council for OHS, which I in fact chaired for six years. The Council put a lot of effort into persuading politicians to get this on the

parliamentary agenda with a view to adopting the programme. In fact, it was nigh-impossible to get through to our MPs. The debate in Parliament never got off the ground. The national programme was never seen as an issue that required policy attention. In these circumstances, ordinary workers have little hope of claiming their rights to healthy and safe work.

### This evokes parallels in other countries. But is it all bad news for health and safety in Croatia? Is there anything positive happening in the field, any recent achievements or discernible positive trends in Croatia?

I am chiefly an academic, don't forget, so my knowledge of actual coalface practice is fairly limited. But I can point to some improvements, mainly in the ways we tackle the problem.

In the old days, there was a general approach to health and safety. Someone had overall responsibility, whereas nowadays, the responsibility has been shifted to individual workers and managers, not just as a duty but also as a consequence of a perception of potential health hazards. More effort has been put into looking for better solutions in health and safety. In the past, technicians, managers and also workers felt confident about applying established methods. This approach has now changed somewhat, but in the right direction. This may well be because we have a more democratic and more open society.

Building awareness of the lack of health and safety expertise is another big driver. Notwithstanding government inactivity, Croats are organizing more training courses and events, often with media support. Croatia has a long tradition of postgraduate studies in occupational health and safety, dating back to 1949. Occupational health was introduced as a specialization for medical doctors in 1961. Zagreb University recently opened its faculty of workplace safety to provide systematic training for safety specialists. Various students from the faculty attended this conference. It was extremely important for them to set what they had learned against practical experience reported from different countries and to identify common thinking with occupational health specialists. This was also important for the future of health and safety in our country. ■

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## The outlook for health and safety at work, policies and practices in Bulgaria

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The Republic of Bulgaria joined the European Union (EU) in January 2007. How far this will prove to be a good or bad thing will depend on the country's general readiness and what it has achieved in the economy, human resources development, social policy, institutional development, and especially in legislation and the control and monitoring of its application. Where occupational health and safety (OHS) is concerned, EU membership has certainly posed serious challenges to Bulgarian business and trade unions. Many Bulgarian firms still operate with a legacy of the recent past, as health and safety improvements are considerably slower than expected in coming through.

Throughout the pre-accession period we built up considerable experience in the development and coordination of laws and the preparation of sub-delegated legislation to come into line with EU legislation. The Bulgarian trade unions were key players in that process.

Raised and changing requirements for the implementation of health and safety at work gave new opportunities, but also brought new challenges for institutions, employers' organizations and organized labour.

### Cooperation and social dialogue

Bulgarian legislation is already aligned on EU health and safety at work laws. The Health and Safety (Working Conditions) Act (HSWCA) 1997 laid the groundwork for introducing regulations and reflected our clear agenda for change, development and progress. It covers the main principles of European occupational health and safety legislation: prevention, order of priority of safety measures, employer's duty of care, coherent company policy, information and consultation, coordination of actions, workers' medical surveillance, establishment of an efficient control and monitoring system, planning of measures and priorities (taking into account the limited financial resources) through constructive dialogue between all interested parties.

The bulk of sub-delegated legislation under the HSWCA giving effect to the requirements of the individual Directives under Framework Directive 89/391/EEC is contained in 24 health and safety at work regulations. The Bulgarian trade unions were actively involved in framing and coordinating these.

The Labour Code (Modification and Amendment) Act 2006 resolved the protracted controversy over the so-called hazardous work conditions compensation

system and set going an approach aimed at preventing health risks and motivating workers and employers around safe work. At the same time, trade union pressure achieved full compliance with the principles of the Social Charter on the right to decent working conditions, introducing reduced working time and/or additional paid leave for workers where the risks to their lives and health cannot be eliminated or substantially reduced.

This was brought about through three new Regulations:

- defining the types of work that qualify for reduced working time;
- for additional annual leave; and
- defining the terms and the order for provision of food vouchers and/or food allowances.

Some shortcomings notwithstanding, these regulations preserved some rights and focused their scope to an optimal extent. At the same time, they demonstrated to employers that not all risks had been eliminated, that much remained to be done to improve work conditions, and that workers' rights should be properly protected. The transition from a compensation to a risk prevention culture was extremely difficult for us as trade unions, because the proper balance of interests, reality and a modern vision of health and safety at work had to be struck.

The trade unions put great effort into getting differentiated social security payments introduced for work accident risks and occupational diseases, and the introduction of compulsory work injuries insurance.

Bulgarian health and safety at work legislation consists of a large body (over 100) of Health and Safety Regulations for different economic activities and branches adopted over the period 1960–1980. This body of subordinate legislation is currently being revised and updated in line with an approved model for their reform to comply with the European legislation and with the aim of becoming practical instruments for implementation of the system for evaluating and controlling specific occupational risks. This whole process is being run with participation by union officials from different branches and work groups.

The social dialogue between employers and trade unions was introduced after 1990 and enhanced on an institutional level as a major driver of the country's development. A specific model for health and safety at work was developed and has been implemented at a national, regional, branch and company level.

The activities of all actors in this process are based on the tripartite principle. The National Working Conditions Council was set up to handle coordination and consultation on framing state policies on health and safety at work. Representatives of state bodies, nationally representative employers' organizations and nationally representative workers' organizations – The Confederation of Independent Trade Unions in Bulgaria and the Confederation of Labour "Podkrepa" – sit on the Council.

What does it do?

- discusses current working conditions and suggests measures for improving them;
- discusses and expresses opinions on draft HSW regulations and suggests modifications and amendments;
- decides on the setting-up of sectoral and branch structures for tripartite cooperation on working conditions;
- sets up advisory bodies to the Council to deal with specific issues;
- coordinates the activity of bodies with supervisory responsibilities for working conditions;
- analyses and promotes national and international experience, organizes national contests, seminars, action days and other means of promoting activities;
- adopts programmes to identify and design projects to address occupational health and safety issues, financed by the "Working Conditions" Fund.

24 Branch Working Conditions Councils in all major sectors of the economy have been established so far in Bulgaria. They are composed of representatives from the national sectoral or branch federations and trade unions, representative workers' organizations from the sectoral or branch structures, representative employers' organizations and equal numbers of representatives from the relevant ministry or government agency.

68 Regional Working Conditions Councils (regional and municipal) have also been set up, composed of representatives from regional unions or organizations, representative workers'/employees' organizations and employers' organizations and equal numbers of representatives from regional or local government. To date, 28 Regional and more than 40 Municipal Working Conditions Councils are in operation.

Cooperation at company level is extremely important and has great potential. Company-level cooperation between employees and employers on health and safety at work has been implemented through the Working Conditions Committees and Groups (WCC/WCG), set up as a statutory requirement under the HSWCA. Figures produced by the "General Labour Inspectorate" Executive Agency ("GLI" EA) and trade union surveys estimate the number of companies that have established in-house Working Conditions

Committees and Groups at over 12 500. What does this mean in terms of national coverage?

Taking into account the legal requirement to set up Working Conditions Committees in enterprises with more than 50 employees, and the fact that most of the 180 000-plus registered companies are mainly small and medium, it can be said that Working Conditions Committees have been established in over 90% of the big and medium enterprises employing more than 60% of the country's working population.

The benefits to company health and safety policy of Working Conditions Committees and Groups being set up and operating are undisputable. Improvement of working conditions is much more effective when workers have a say in management's programmes. The trade union contribution to the establishment of these bipartite bodies is also undisputable, in that no major problems were encountered in setting up and improving WCs and WCGs in workplaces where trade unions are active.

The trade unions have played a major role in training workers' representatives to Working Conditions Committees and Groups in the last five years. CITUB and CL "Podkrepa" trained over 35 000 trade union representatives in Working Conditions Committees and Groups in the period 2003-2007, with co-financing from the "Working Conditions" Fund. We believe that more should and could be done if we had the necessary financial resources.

WCCs and WCGs have already proved their benefits, especially in enterprises where employers have introduced good practices and corporate social responsibility.

There are a number of issues regarding the operation of Working Conditions Committees and Groups:

- legislative protection for workers' representatives and members of WCCs and WCGs has not been fully developed;
- trade unions have a very limited influence on the establishment and functioning of WCCs/WCGs in small and medium enterprises as well as in the informal economy;
- figures suggest that most small and medium enterprises have not set up such forms of management/labour cooperation, and it is precisely in these type of enterprise that health and safety at work has been neglected;
- company restructurings and redundancies have caused considerable upset and change in the membership of WCCs/WCGs, which impacts on staff training.

The Bulgarian experience with cooperation and resource allocation for key priorities at national and company level bears special attention. A "Working Conditions" Fund was established in the Ministry of Labour and Social Policy to finance activities

and actions for the improvement of working conditions in line with HSWCA requirements. The fund's resources are allocated with the explicit decision of the social partners to funding projects and programmes for:

- training workers' and employers' representatives on health and safety issues;
- drawing up regulations, methods and methodologies on health and safety at work;
- co-financing company investment projects for improving working conditions. In the last 3 years, more than 65 companies have received over 4 million BGN financial support for the implementation of certain projects with clearly defined criteria and procedures. The results are more than encouraging and show that with proper funding, results can be achieved;
- from September 2006, the National Insurance Institute (NII) will through the "Working Conditions" Fund co-finance the activities of the National Clinics for Occupational Diseases with 3 million BGN for screening, prevention and treatment of occupational diseases, and strengthening expertise in occupational diseases;
- the social partners – the trade unions and the employers' organizations – received "Working Conditions" Fund assistance and support for the development and publication of newsletters, brochures, books, CDs, etc. on health and safety at work. This is a step in the right direction, but does not go far enough to meet needs and resources.

Apart from cooperation on getting changes to legislation and participation in the institutional forms of partnership, the trade unions follow specific approaches to developing a new occupational health and safety culture.

In 2005, a joint effort was made with NGOs and the State to assess the economic impact of introducing and implementing the requirements of the EU HSW Directives. It focused mostly on the additional cost to business of introducing the requirements and standards of the EU Directives into national law. The overall cost to business of implementing the new requirements was a paltry 90 million BGN (about 45 million Euros). An optimistic scenario that in no way reflects the real needs of the Bulgarian economy reports a figure in excess of 2.5 billion Euros. In the experts' assessment, too much focus is put on organizational activities, which require no substantial financial resources, while the technical and technological decisions have been disregarded. As trade unions we do not accept such an overly optimistic view, especially given the real state of OHS in Bulgaria.

In the last few years, good practice has spread in many Bulgarian enterprises. Firms in different branches and sectors have made serious headway with quality management, environmental issues and OHS in recent years through ISO 9000, ISO 14 000,



and OHSAS 18001 certification. Today, in excess of 1050 firms are up to European norms and standards. This approach delivers the results needed by participants in the work process – management has made substantial investments, and in so doing has prepared companies for a competitive business environment.

To clarify the real issues involved and promote compliance with labour, social security and health and safety at work laws, trade unions in Bulgaria have for 6 years been running a CITUB-instigated national campaign for protection of fundamental rights at the work place. The campaign has singled out companies that have seriously violated the right to healthy and safe work, as well as those that have implemented good practices and reached European and world standards.

The Confederation of Independent Trade Unions in Bulgaria (CITUB) initiated in 2007 the award of an annual "Prometeya" prize for contributions to improved working conditions in firms. The prize was awarded to five firms from different industry branches that have successfully implemented health and safety at work management systems. Through this prize we as trade unions want to acknowledge those employers who invest in and work to improve the working conditions and wellbeing of their workers. We are looking for this prize to help promote improved and more widespread good practices.

But the campaign has also raised serious issues of concern. Very many small and medium-sized enterprises have done too little or almost nothing. In a number of these, working conditions have remained either unchanged, or actually got worse. The reason for this is also related to the fact that many companies have been housed in unsuitable facilities; their equipment and technologies have been bought at rock-bottom prices and are worn out; employers are

*Sofia, Bulgaria, 12 April 2007. Some 3000 railroad workers protest against low salaries and pensions in Bulgarian national railroad company.*  
AFP Photo / Boryana Katsarova



unaware of health and safety issues and have left problems to worsen; there is no long-term approach or clear vision for business development, including the 'humanizing' of the working environment. There is clearly a considerable need for financing, but even more for a commitment to make crucial changes. We, as trade unions, have an obligation here. Our specific approach was also to write the so-called "black" and "grey" books on violations of labour and social security laws in the Republic of Bulgaria. They were worked out based on the campaign with the participation and cooperation of the "General Labour Inspectorate" Executive Agency.

The figures for work injuries and occupational diseases are clear pointers for safety and health at work. There has been a steady trend in recent years to a consistent reduction in work injury figures in Bulgaria. This makes us hopeful, but also more demanding about how the whole system works. Every accident that results in death or disability is cause not only for concern, but also for taking decisive measures. Bulgarian trade unions have for the past 10 years been duly honouring the 28<sup>th</sup> of April – International Commemoration day for dead and injured workers – with our social partners.

More than 35 memorials have been erected on our initiative for those killed in work accidents. Hundreds of media events have been staged on preventing work-related injuries. Those campaigns run jointly with our social partners are the Bulgarian contribution to strengthened European and world practice.

### Challenges to Bulgarian trade unions in the pre- and post-accession periods

The Bulgarian trade unions had to find the right, balanced approach to the reform of Bulgarian legislation, to be a constructive partner in strengthening the European principles, norms and criteria while at the same time taking account of the realities in the country and protecting the interests of its members. In working out the Health and Safety (Working Conditions) Act, the Social Security Code and other instruments, the conflict of interests was considerably less, and implementation of the changes in the legislation was comparatively untroubled. We can say today that the Bulgarian trade unions achieved a mutually acceptable and balanced resolution of that problem. The framework of legal rules was substantially reformed, while the rights of Bulgarian workers were protected to the maximum in line with the European Social Charter. No gross violation of Bulgarian workers' acquired rights was allowed and we successfully transformed them.

We preserved reduced working hours, and even secured further reductions, additional annual leave, food allowances for risk and specific working conditions, and the early retirement scheme by which

the highest-risk occupations retained their right to retire 5 or 10 years earlier under the early retirement funding scheme. Specific working conditions allowances have been transferred to the basic wage, so workers' interests have not been seriously harmed. On the minus side, some Bulgarian workers have lost some vested rights. Objectively, however, we feel we achieved more than expected and have no reason to feel ashamed at the compromises we negotiated.

In our view, harmonization of Bulgarian with EU legislation is not yet complete, especially as regards working out mainly new branch and company safety and health at work rules. We see the challenges brought to trade unions by full membership of the European Union as being:

- How and with what tools we can enforce the law?
- How to address the complex problems of health and safety at work through collective bargaining at national, branch and company level?
- How and with what resources should we work to boost the activity of both the trade union's structures and the Working Conditions Committees aimed at developing a new health and safety at work culture?
- What additional tools are needed to stimulate investment in occupational health and safety?
- With what resources (organizational, financial, human, etc.) will we be able to guarantee workers' right to information and consultation in health and safety at work matters?
- Will we manage to impose the working out and implementation of a unified national system for occupational health and safety training at all national levels and throughout working life?
- Will we manage, together with the social partners, to raise the work of the Occupational Health Services to new levels in order to make risk assessment a key tool for the management of health and safety at work?

Getting appropriate solutions to the closure of firms and production lines that fall well short of EU norms and standards is shaping up as one of the greatest challenges now and in future years. It is a challenge directly related to the corporate interests of the trade unions.

### The price of transition for Bulgarian workers

The enforcement of legislation is resulting and will result in the closure of whole firms or production lines that do not meet European standards. This is in no way the workers' fault, but they will pay most of the price. Bulgarian workers will be faced more acutely with the dilemma of work at any price or work in decent working conditions.

Recent years have seen migration by young specialists to big cities or abroad due to the lack of choices



in their home towns or low pay. This results in a lack of motivation to struggle for better working conditions on the one hand, and a loss of skilled young workers in the small towns and villages. This young worker brain drain and the ageing of workers in whole regions of the country will add to the health and safety risks at work, and deepen the demographic crisis.

Unemployment, seen in the context of the right to safety and health at work, reduces personal motivation to struggle for better working conditions. More, it will continuously generate conditions for social dumping, the existence of a "grey" sector in the economy. Bulgarian workers who are not socially secured and insured will pay the price with their life and health.

### Pay and benefits

Even now, average wages in Bulgaria are very low. At the same time, the urgent need of most Bulgarian firms to invest in new technologies and humanizing the working environment will hold down pay rises and improvements in hard-won social benefits.

### Training and qualifications

There is an acute nationwide shortage of skilled workers in whole branches and regions. This is a problem of clear and pressing concern to Bulgarian business. Bulgaria will have to import labour in the coming years. The implementation of modern technologies and information systems will increasingly make additional demands of manual and non-manual workers in terms of language, computer literacy, knowledge and skills in health and safety at work. The Bulgarian educational system at all levels, and the state as a whole, have an obligation to equip the rising generations and Bulgarian workers with knowledge in health and safety at work. This is undoubtedly a challenge and a problem which young workers will face. The operation of the

Bulgarian information and consultation system will be put to the test.

As during the transitional period, the coming years will find many Bulgarian workers still contending with traditional workplace risks:

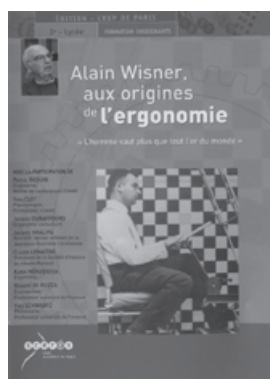
- about 20% will work in an unfavourable production microclimate;
- 15 to 18% will work in a dust-ridden environment polluted with aerosols;
- about 33% will work in noise which exceeds the permitted levels;
- strenuous physical labour will persist in a number of branches and activities because of the manual handling and physical work systems still in use.

These figures are borne out by both the sociological investigations done by the trade unions and the data supplied by the Occupational Health Services and the "General Labour Inspectorate" Executive Agency. Workers receiving allowance for work in high-risk and specific working conditions also confirm these figures.

The Bulgarian trade unions, as members of the greater European trade union family, have sought and received support and assistance from the Dublin Foundation, the Bilbao Agency, and not least from the ETUI-REHS Health and Safety Department. We, as a trade union, have responded to and participated actively in the projects run by all these bodies.

Our cooperation in recent years with ETUI-REHS has been very useful and productive. Today, more than ever, we need more information and more extensive participation in different expert groups and meetings. This will allow us to see what we are doing right and wrong, and the weaknesses in our work; the expertise of the ETUC will help us to address more successfully the challenges to the European trade union movement. ■

## Alain Wisner aux origines de l'ergonomie. "L'homme vaut plus que tout l'or du monde"



Our department received invaluable aid from Alain Wisner at the time it was set up in 1989-1990. In spite of his many commitments, he agreed to contribute to reflection on the role of ergonomics as part of a European trade union assessment. Wisner always argued that trade union initiatives in the field of health at the workplace played a decisive role in developing prevention. To understand Alain Wisner's fundamental contribution to the development of ergonomics, we recommend this original publication that groups a number of documentaries in a single DVD.

Born in 1923, Alain Wisner encountered the world of working people through his political commitment as part of the resistance during the second world war. A young ear, nose and throat specialist, he discovered the traces of occupational activity in the bodies of the workers he treated. As a result, he became interested in learning more about the connection between health and work. As he was to explain in an interview, "at the time, we were not taught much from the standpoint of bringing about changes [in working conditions]. We essentially studied pathologies." The limitations of academic science led Wisner to change drastically the relations between experts and workers and to recognise workers' huge potential of knowledge and experience for changing working conditions. In 1952, he joined Régie Renault to improve working conditions in the firm's workshops. The company, nationalised just after the second world war, briefly constituted an experimental laboratory. Alain Wisner's projects were

developed with workers' associations. At the same time, he launched an activity in the field of ergonomic vehicle design. The years spent with Régie Renault were to prove decisive for Wisner from two standpoints. They enabled him to focus attention on the tremendous gap between prescribed work and real work and, accordingly, to call into question the traditional division of labour between "designers" and "operators" or "users". His different experiments resulted in top-notch research and teaching activities at the Conservatoire national des arts et métiers (French national school of engineering and technology).

The DVD includes a documentary on Alain Wisner's role in the development of ergonomics, together with two thematic interviews, one on ergonomics and the other on anthropotechnology, and four interviews with people who worked closely with Alain Wisner.

Two other important documents are also available on internet: Alain Wisner's book, *Quand voyagent les usines* ([www.ergonomie-self.org/actes/voyagent.pdf](http://www.ergonomie-self.org/actes/voyagent.pdf)), and an article by Catherine Teiger, *Quand les ergonomes sont sortis du laboratoire... à propos du travail des femmes dans l'industrie électronique (1963-1973)* on the site [www.pistes.uqam.ca/v8n2/articles/v8n2a4s.htm](http://www.pistes.uqam.ca/v8n2/articles/v8n2a4s.htm).

**Alain Wisner aux origines de l'ergonomie. "L'homme vaut plus que tout l'or du monde", by Marcel Rodriguez and Marc Hofeltz**  
ISBN 2-86631-142-6

## La salud no se vende ni se delega, se defiende. El modelo obrero



Some 40 years ago, a new approach to health at the workplace emerged as part of the workers' movement in Europe and in other parts of the world. One of the essential references of this movement was the Italian "workers' model". It comprised a set of prevention practices based on direct intervention by workers' associations to eliminate risks. The model broke with two traditions rooted deeply in trade union history: the monetisation of risks and delegation to experts, who supposedly had a monopoly of technical and scientific knowledge. The risk map, drawn up on the initiative of workers, was one of the key instruments developed in Italy after 1968. The Italian workers' model was widely disseminated in other parts of the world. In Spain, with the fall of Francoism, the unions endeavoured to put it into practice. In hundreds of companies, activists were trained on the job and teams of union experts engaged in close cooperation with Italy. In Madrid alone, the workers' model was implemented in over 220 firms between January 1979 and September 1982. These initiatives nurtured demands for control over working conditions, which

resulted in a set of innovative collective agreements between end 1978 and 1983.

With this work, Angel Cárcoba, one of the pioneers in introducing the workers' model in Spain, combines historical testimony with reflections for the trade union movement of the 21st century. The book alternates historical essays on the workers' model in Spain and Italy, methodological reflections based on the Mexican experience, a tribute to one of the protagonists of the Italian experience, Gastone Marri, and an account of the creation of the first trade union associations for health at work in Uruguay, in 1983, with the country still under dictatorship. Cárcoba concludes with a discussion of the elements which today would allow a relaunch of the basic principles of the workers' model, whilst taking account of the new organisational context of production. This book enables present-day union activists to learn from the valuable contribution of the earlier generation of pioneers.

**Angel Cárcoba Alonso, La salud no se vende ni se delega, se defiende. El modelo obrero, Madrid, Ediciones GPS, 2007**  
ISBN 978-84-9721-254-0

## Challenging the Chip:

### Labor Rights and Environmental Justice in the Global Electronics Industry

What could be more familiar than a computer or a mobile phone? What daily activity takes place without the use of one or another electronic device built into various types of equipment? This familiarity with an ubiquitous technology makes its production processes that much more obscure. Everything seems light, almost playful and free of the hard realities of matter. Electronic devices appear to result from pure intelligence. Or, as Yves Lafargues puts it, mankind appears to have moved from the "labouring civilisation" to the "electronic failure civilisation". The illusion of dematerialised technologies masks the exploitation of manufacturers and the numerous threats to health that result.

This book has two important qualities. It is a collective work by researchers and a network of activists that took shape starting in the late 70s. From Silicon Valley, California, to Scottish workers in semi-conductor plants, from the "maquiladoras" who assemble television sets in Mexico to Taiwanese workers who fall victims to illnesses caused by chemical pollution, this work owes a tremendous debt to the obstinate determination of individuals who refuse to resign themselves to "paying the price of progress". The different contributions also show how the international division of labour in the electronics sector produces massive inequalities. Not all those involved in the production process run the same risk, nor do they have equal access to prevention and health protection systems. Readers can follow the entire cycle of a production process with unequal effects on men and women, or from one country to the next, in terms of political and social conditions and workers' capacity to resist.

The book is made up of 25 contributions divided into three parts: an analysis of the global electronics industry; the relationship between the electronics industry, labour rights and environmental justice; the problems raised by mountains of electronic waste. Indeed, the information technology sectors have implemented a strategy of

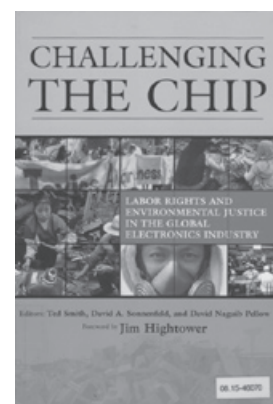
planned obsolescence that creates a colossal waste of resources. While such a strategy is nothing new in the history of capitalism, never has it been exacerbated to the point of destroying after just a few years the great majority of equipment that could function perfectly well for decades more. During the 1929 crisis, the public opinion was struck by the mountains of coffee burned to come to terms with overproduction. The same phenomenon occurs daily today on a much wider scale with electronic equipment. In many cases, destruction or recycling takes place in appalling working conditions in China or India, when not performed by prisoners in the United States. The impact of such activity on the environment and public health is also disastrous.

This stimulating reading opens up a very important debate. Some of the contributors seem confident that an alliance can be created between the most enlightened heads of multinationals and defenders of environmental protection and workers' rights. Others attach more importance to autonomous actions by workers, populations exposed to environmental risks and victims of illnesses caused by electronics production. It seems legitimate to think that the first group may be drawing hasty conclusions from the few cases where, in the developed countries, businesses put under pressure from the public opinion and the authorities have made concessions... often by simply moving the hazards to other parts of the world.

Additional reading on internet:

- Silicon Valley Toxics Coalition (<http://svtc.eto toxics.org>)
- Greenpeace, *Recycling of electronic waste in India and China*, ([www.greenpeace.org/international/press/reports/recyclingelectronicwasteindiachinafull](http://www.greenpeace.org/international/press/reports/recyclingelectronicwasteindiachinafull))

***Challenging the Chip: Labor Rights and Environmental Justice in the Global Electronics Industry***, edited by T. Smith, D. Sonnenfeld and D.N. Pellow, Philadelphia, Temple University Press, 2006  
ISBN 1-59213-330-4



## Travailler peut nuire gravement à votre santé

Choosing a title that is a take-off on the warning that has at last been made compulsory on cigarette packages, Annie Thébaud-Mony aims to stress the tremendous gap between, on the one hand, declarations of intent on defending public health and, on the other, employment policies and working conditions. Building on an overview of numerous concrete cases, this book analyses the paradox between the increasingly precise knowledge of an important number of occupational risks and the deliberate endangering of a huge number of people through choices in the area of work organisation. The author gives special attention to insecurity and sub-contracting. She also reviews ongoing "traditional"

risks such as asbestos, occupational accidents and the increasing range of so-called emerging risks. Thébaud-Mony discusses suicides at the workplace and offences against dignity in a social context of work reorganisation. She also demonstrates the harmfulness of scientific research when it is conducted under the influence of industry, and illustrates, with asbestos, the international relocation of occupational hazards. The merit of this work is that it translates theoretical debate into its concrete implications on the human body.

**Annie Thébaud-Mony, *Travailler peut nuire gravement à votre santé*, Paris, La Découverte, 2007**  
ISBN 978-2-7071-4847-6



## Recently adopted measures

<b>Directive 2007/30/EC amending Directive 89/391/EEC and its individual Directives with a view to simplifying and rationalising the reports on practical implementation</b>	
<b>Legal basis</b>	Article 137 of the Treaty.
<b>Background</b>	The 1989 Framework Directive obliges EU Member States to report to the Commission on practical implementation of the legislation and its individual Directives. Given the irregular frequency of such reports and the absence of harmonisation of their content, the Commission aimed to simplify and rationalise this evaluation mechanism. After consulting the European social partners, the Commission came forward with a proposal for a Directive amending Directive 89/391 and its individual Directives, along with a set of other OHS Directives (in particular on the protection of temporary workers and young workers). The text was adopted on 20 June 2007 by the European Parliament and the Council.
<b>Key provisions</b>	<ul style="list-style-type: none"> <li>■ The Directive requires that Member States submit every five years a single report on implementation of European OHS legislation. The national reports are to be drawn up on the basis of a questionnaire drafted by the European Commission after consulting the Advisory Committee on Safety and Health at Work, which brings together the governments and European social partners in Luxembourg (referred to hereafter as the Luxembourg Committee). Directive 2007/30/EC establishes that the national reports must include a general part as well as specific chapters relating to the aspects particular to each Directive.</li> <li>■ The Directive (Article 17a) broadens the reporting obligation to include biological agents, carcinogens and mutagens, which previously were not covered, as well as any new Directives based on the 1989 Framework Directive.</li> <li>■ Within 36 months of the end of the five-year period, the Commission must present its assessment of implementation in the Member States of European OHS legislation to the European Parliament, the Council, the European Economic and Social Committee, and the Luxembourg Committee. The Commission must also inform them of any initiatives to improve the operation of the European regulatory framework. The new evaluation mechanism covers the 2007-2012 period.</li> </ul>
<b>The union approach</b>	A working group has been set up within the Luxembourg Committee to prepare its participation in the drafting of the evaluation questionnaire.
<b>More details</b>	Directive 2007/30/EC is available from: <a href="http://eur-lex.europa.eu">http://eur-lex.europa.eu</a> ETUI-REHS contact: Laurent Vogel, <a href="mailto:lvogel@etui-rehs.org">lvogel@etui-rehs.org</a>

## Measures in the pipeline

<b>Revision of Asbestos Prohibition Directive 1999/77/EC</b>	
<b>Legal basis</b>	Council Directive 76/769/EEC of 27 July 1976.
<b>Background</b>	On 26 July 1999, the European Commission adopted a Directive banning asbestos in the EU as of 1 January 2005. The Directive included a provisional opt-out, however, allowing Member States to authorize the use of asbestos in "diaphragms for existing electrolysis installations until they reach the end of their service life, or until suitable asbestos-free substitutes become available, whichever is the sooner", with the proviso that this exception would be reviewed before 1 January 2008.
<b>Developments</b>	<p>DG Enterprise held a "closed-doors" consultation of Member States, deliberately shutting the unions out. Working on inaccurate information supplied by the chemical industry, the Commission has decided to keep the authorization to use asbestos in place – a position supported by the Polish, German and British governments in particular.</p> <p>On 14 September 2007, Kartika Liotard MEP put down a parliamentary question pointing out the inaccuracies in the industry case espoused by DG Enterprise.</p>



<b>The union approach</b>	There are no good grounds for authorizing the use of asbestos when replacements exist that can avoid workers being exposed to this carcinogen. The procedure followed is outrageous. Trade unions, and the Advisory Committee on Safety and Health at Work, were kept in the dark about the consultation which was based on erroneous information. The Commission's claim that workers are not at risk is not based on any independent assessment. It takes the industry case at face value.
<b>More details</b>	See "Undemocratic Action by Brussels Bureaucrats" on the IBAS website: <a href="http://www.btinternet.com/~ibas/Frames/f_lka_eu_asb_derog_07.htm">www.btinternet.com/~ibas/Frames/f_lka_eu_asb_derog_07.htm</a> ETUI-REHS contact: Laurent Vogel, <a href="mailto:lvogel@etui-rehs.org">lvogel@etui-rehs.org</a>

<b>Revision of the Carcinogens and Mutagens Directive (amending Directive 2004/37/EC)</b>	
<b>Legal basis</b>	Article 137 of the Treaty.
<b>Background</b>	In April 2007, the European Commission launched the second stage of consultation of the European social partners with a view to the revision of the Carcinogens Directive. The revision process had been launched three years earlier to adapt the text to changes in scientific knowledge, technical progress and the world of work.
<b>The union approach</b>	In its response to the second stage of consultation, submitted in late May 2007, the ETUC called for expanding the scope of Directive 2004/37/EC to include substances toxic to reproduction (categories 1 and 2). The ETUC considers that such inclusion would increase synergy between «health at the workplace» legislation and the REACH regulation, which entered into force on 1 June 2007. The ETUC further considers that the binding occupational exposure limit values (OELVs) for benzene, vinyl chloride monomer and hard wood dust must be made more restrictive. Binding OELVs should also be set for other substances that are carcinogenic, mutagenic or toxic to reproduction. In particular, the ETUC singles out crystalline silica, a carcinogen to which four million European workers are exposed and for which no limit value exists at European level.
<b>More details</b>	The complete ETUC response is available from <a href="http://hesa.etui-rehs.org">http://hesa.etui-rehs.org</a> > Main topics > Occupational cancers ETUI-REHS contact: Tony Musu, <a href="mailto:tmusu@etui-rehs.org">tmusu@etui-rehs.org</a>

<b>Commission proposal for a Globally harmonised system of classification and labelling of chemicals</b>	
<b>Background</b>	The Globally harmonised system of classification and labelling of chemicals (GHS) was developed by the United Nations with the aim of ensuring that identical criteria are used worldwide for the classification and labelling of dangerous chemicals.
<b>Developments</b>	On 27 June 2007, the European Commission adopted a proposal to bring the European system of classification, labelling and packaging of substances and preparations into line with the GHS. The proposal for the European regulation for the GHS is still awaiting adoption by the European Parliament and Council. After a transitional period, the new legislation will replace the current classification and labelling rules for hazardous chemicals at Union level (Directive 67/548/EEC for C&L of dangerous chemicals and Directive 1999/45/EEC for C&L of dangerous preparations).
<b>The union approach</b>	The ETUC is firmly opposed to the Commission's proposal to remove from the scope of the Chemicals Directive the additional substances to be classified as dangerous under the new GHS, and likewise opposes any declassification of the dangerous substances listed in Annex I of Directive 67/548/EEC without a thorough reassessment of the (eco)toxicological data.
<b>More details</b>	<a href="http://hesa.etui-rehs.org">http://hesa.etui-rehs.org</a> > Main topics > Chemicals ETUI-REHS contact: Tony Musu, <a href="mailto:tmusu@etui-rehs.org">tmusu@etui-rehs.org</a>

## Two questionable judgments handed down by the European Court of Justice

The European Court of Justice has issued two rulings that could bring down the level of protection of safety and health at the workplace imposed by EU directives.

The judgment of 17 April 2007 concerns the placing on the market of dangerous work equipment. The case was analysed in detail in our *Newsletter* 29 (March 2006). It concerns the publicity given by a Finnish labour inspector to a company's release on the market of dangerous vehicle lifts that do not comply with the safety requirements of the Machinery Directive. The lifts had been certified by an Italian notified body, ICEPI. The manufacturer brought proceedings against the Finnish State and the labour inspector, demanding compensatory damages for the market shares lost due to the publicity over the equipment's risks to safety.

The Court of Justice sided with the enterprise in its ruling. The European judges held that, provided a formal prohibition procedure has not been launched against a type of machinery bearing the EC marking of conformity, it enjoys a presumption of conformity with the essential safety requirements of the Machinery Directive. Accordingly, the Member States may not restrict its freedom of movement. The information provided by the labour inspectorate on the danger of the machinery is seen as an infringement of Community law as long as the equipment has not formally been banned. This interpretation is based on a superficial analysis of

the Machinery Directive, which does not harmonise the market supervision it places under the responsibility of each Member State. Only prohibition procedures have been harmonised. In practice, between the free movement of machinery and its prohibition, there is a wide range of control and information measures that constitute market supervision activities: tests, requests for information, warnings to users, requests for changes to the equipment, etc.

The paradoxical consequence of this ultra-liberal ruling is that it could prompt the Member States to prohibit machinery more frequently. Indeed, if their intervention can take no other form, they may be more prone to ban systematically any machinery not in conformity, including in cases where non-conformity concerns only minor elements that would be easy to correct. An absurd situation could well result: if a flaw is detected via a market inspection and the manufacturer corrects the flaw, an EU prohibition measure would nevertheless have to be taken to cover the control measures adopted on an ex post basis. In the absence of a prohibition measure, the manufacturer of dangerous equipment could demand compensatory damages, a premium, as it were, for endangering workers! The formalist and superficial nature of this judgment is reflected in the absolute silence observed on the fact – which was nonetheless recognised by all the parties – that the vehicle lifts in question were indeed dangerous and not in conformity with the safety requirements of Community law. That detail did not seem to shake the judges' convictions...

The ruling of 14 June 2007 concerns employers' safety obligations as laid down in the 1989 Framework Directive. We covered this question in detail in *Newsletter* 32 (March 2007). The Court of Justice rejected the European Commission's infringement proceedings against the United Kingdom for allowing limits on employers' safety obligations through a calculation of the economic costs and benefits of preventive actions. The ruling offers no analysis of the scope of the "reasonably practicable" clause of British law. It takes no account of case law in the United Kingdom, in particular the cases raised by the Commission at the hearing. The judgment simply states that the Commission has not provided sufficient evidence to establish that the United Kingdom has failed to fulfil its obligations. Such an argument does not really resolve the substance of the debate, but at least it offers the hope of a future reversal of EU case law. Indeed, it is likely that questions submitted for preliminary ruling on the basis of actual cases will end up forcing the Luxembourg judges to establish that there is a discrepancy between UK law and EU directives. The British government and the Health and Safety Executive read far more into the Court's decision than what it actually states. Speaking at the Yorkshire Branch of the Institute of Occupational Safety and Health, Bill Callaghan, Chair of the Health and Safety Commission (HSC) welcomed this decision. Mr Callaghan said: "I am pleased by this outcome. The Court has rejected the European Commission's claim that the use of "so far as is reasonably practicable" does not implement the Framework Directive. Quite

clearly we have been effective in protecting people as currently we have the best occupational safety record in Europe." There is absolutely nothing in the judgment, or especially in the facts, to justify such a complacent evaluation...

While these two decisions deal with different matters, what they have in common is an ideological approach that gives absolute priority to the economic objectives of EU legislation over its social objectives.

Ref.: Judgment of 17 April 2007, AGM-Cos.Met SRL vs Suomen valtio and Tarmo Lehtinen, Case C-470/03.  
Judgment of 14 June 2007, Commission vs United Kingdom, Case 127/05.

## Farmworkers badly at risk from pesticides

An article in the July issue of *Santé et travail* magazine sounds a warning about agricultural workers' exposure to pesticides. It reports two recent French studies' claims that farmworkers are at high risk of developing particular kinds of tumour from regular contact with pesticides, and that protective equipment is not helping keep them safe.

The first study, in the Gironde region of south-west France, found that people with the highest exposure to pesticides were at 2.2 times greater risk than the general population of developing a brain tumour. The risk of developing Parkinson's disease was also found to be high.

The findings of a second study done in the same region on a population of wine growers are more worrying still. They show that vineyard workers come into skin contact with significant

amounts of pesticides that enter their bodies. The study found that 99% of poisoning was through skin contact compared to just 1% through inhalation.

The study's authors go further, making the highly controversial claim that workers who wear "protective" one-piece overalls generally take higher doses of poison than those who do not! Surely some mistake? No, actually. The fault lies with the personal protective equipment (PPE), which the French researchers claim is unsuited to agricultural use. The one-piece overalls used by the vineyard workers were actually designed for industry, and tests have shown that although meeting legal leak-tightness standards they still allow the full range of weedkillers produced by a large laboratory to seep through in under ten minutes.

Thinking that they are effectively protected, wearers tend to take less care, argue the study's authors. Also, the PPE may be contaminated when put on due to poor maintenance or storage, or being kept in unclean conditions.

The French researchers argue that these failings make the case for PPE that are more suited to the reality of work situations, but even more so for replacing toxic products by others which are not or are less dangerous.

Ref.: Provost, D., *et al.*, Brain Tumors and Exposure to Pesticides: a Case-Control Study in Southwestern France, *Occupational and Environmental Medicine*, May 2007.

Baldi, I., *et al.*, Pesticides Contamination of Workers in Vineyards in France, *Journal of Exposure Analysis and Environmental Epidemiology*, March 2006.

## ETUC goes on offensive against MSDs

The European Trade Union Confederation (ETUC) and ETUI-REHS are waging war on musculoskeletal disorders (MSDs). The campaign kicked off with a conference held on 9 and 10 October entitled "ETUC - On the offensive against MSDs" attended by 80-odd mainly trade union participants.

# ACT NOW!



**OFFENSIVE  
AGAINST  
MUSCULOSKELETAL  
DISORDERS**

"More than one in three European workers across all sectors suffers from musculoskeletal disorders. We want to launch a mass trade union offensive focused on work organisation to stem these rapidly-spreading work-related illnesses", proclaimed John Monks, ETUC General Secretary, opening the conference.

MSDs are medical conditions that affect the muscles, tendons and nerves. It is Europe's most widespread occupational disease, and European workers' main health complaint.

"Current European legislation is not enough to tackle this problem. We need to get a draft MSD Directive back on the European agenda", urged Marc Sapir, Director of the ETUI-REHS. "It is very much in the in-tray", agreed Antonio Cammarotta, the European Commission official in charge of MSDs.

The social partner consultations on possible new European legislation which started in 2004 hit the doldrums before being given momentum last March with the launching of the second phase of consultations.

The unions and employers' representatives are at loggerheads. The unions want a general directive on MSDs that would give weight to the impact of work organisation and psychosocial factors. The European employers' organisation, *BusinessEurope*, is dead set against that, as its representative, Bob Koning, made clear. Arguing that "there is no scientific evidence that the rise in MSD is work-related", he called for a sectoral approach and the development of non-binding schemes like awareness-building and exchanges of "good practice".

The Commission seems to differ. "The Commission favours an overall approach that combines regulatory and non-regulatory measures. There is a case for a new initiative that could take the form of a directive based on the 1989 framework directive on the health and safety of European workers", said Antonio Cammarotta.

The two-day discussions also showcased various national trade union initiatives that will foster the development of a Europe-wide trade union strategy on MSDs.

More information on the European trade union anti-MSDs conference and campaign on:  
<http://hesa.etui-rehs.org> > Main topics > MSDs





### Musculoskeletal disorders An ill-understood "pandemic"

Roland Gauthy, Researcher, ETUI-REHS

2007, 56 pages, 17 x 24 cm, ISBN: 978-2-87452-100-3

Also published in French by the ETUI-REHS:

*Les troubles musculosquelettiques.*

*Une "pandémie" mal comprise*

ISBN: 978-2-87452-099-0

Available soon in Croatian, Hungarian, Italian, Slovene.

To order: <http://hesa.etui-rehs.org/uk> > Publications

These three letters – MSD – mask the leading cause of occupational illness in Europe. According to a wide European survey on working conditions, 25% of European workers suffer from back pain

and 23% from muscular pain. These particularly incapacitating pathologies seriously undermine the physical and psychological health of victims, to say nothing of their economic consequences at both individual and community level. Workers suffering from MSDs very often have to change profession or even quit working prematurely.

This brochure presents a summary of the current scientific knowledge of this complex group of pathologies, examines the connection between MSDs and changes in the organisation of work and proposes ideas for a necessary trade union mobilisation against this exploding health problem.



### The new look Documentation Centre

Most of the publications listed in this Newsletter can be consulted in the ETUI-REHS Documentation Centre.

The Centre has recently been refurbished and expanded. It holds a unique collection of documents on labour relations, economic and social issues, and health and safety at work.

The Centre is open to the public by appointment from Monday to Friday.

Contact: [doccent@etui-rehs.org](mailto:doccent@etui-rehs.org)

Tel.: +32 (0) 2 224 04 83

ETUI-REHS, Documentation Centre,  
5 bd du Roi Albert II, B-1210 Brussels

### Conference

**Brussels –11 and 12 February 2008**

Joint organisers: ETUC and ETUI-REHS

### Feedback from workers' health and safety reps: a vital asset for preventive strategies

Employee representation in health and safety is central to any workplace health policy. But in most European countries, large numbers of workers have no such representation. Structured worker representation is the precondition for workers to play into health and safety. Many surveys have shown that a direct connection exists between a company having a workers' representation body and the quality of workplace prevention policy.

But simply having representation is no sure-fire recipe for effective participation. In all but a very few cases, there is a general lack of knowledge and debate about the factors and conditions by which workers' reps can exercise a key role in a preventive strategy. The ETUI-REHS Health and Safety

Department has been researching what makes for effective workers' representation in health and safety for more than two years. The European Trade Union Confederation (ETUC) is sponsoring a Conference in Brussels on 11 and 12 February 2008 on the topic, "Feedback from workers' health and safety reps: a vital asset for preventive strategies" to take stock of the situation with researchers from different European universities and trade unionists.

Details of the programme and how to register:

ETUC

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