

OCCUPATIONAL HEALTH PREVENTION – A MISSING PIECE OF THE EU LEGISLATION

Would it be meaningful to demand the EU rules or law on occupational health prevention?

INTRODUCTION

At this moment, practically nothing in the European Directives is said about the role and position of the medical experts in the occupational health prevention. Amongst the trade union and the Workers Interest Group of the Luxembourg Advisory Committee for Safety and Health there is a growing need for demanding an European Framework (a new directive, a Commission recommendation) in which certain and quite fundamental aspects of the role, position and activities of occupational physicians are laid down. Apart from the alternative non-legislative measures or binding agreements of the European social partners, the WIG is convinced that the suitable solution should be based on the ILO Convention 161 from 1985 on Occupational Health Services.

The discussion on this issue was launched two years ago by a group of trade union activists and national experts – occupational physicians –who play a vital role in this field in the EU Member States. As the output from this discussion a first draft or very first working version of the directive is attached to this introduction.

The European trade union movement is inviting the occupational physicians, national experts, international and national organisations of the occupational health prevention specialists and other professionals in this field to share their opinion on such a proposal, to provide us with any suggestions, comments and recommendations as regards a decision to demand a new law and its contents.

Do not hesitate and e-mail your opinions on vkempa@etui.org. Your contribution would be valuable for us.

Best regards,

On behalf a Trade Union Task Force
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Proposal for a

DIRECTIVE on the minimum safety and health requirements for the aptitudes and competencies, role, functions and position of the occupational health services, the occupational physician and allied professionals

**PART I
GENERAL PROVISIONS**

Article 1

Object

1. The object of this Directive is to introduce measures to encourage improvements in the health of workers at work.
2. To that end it contains general principles concerning the prevention of occupational health, the protection of occupational health, the elimination of health risk factors, the informing, consultation and balanced participation in accordance with national laws and/or practices and training of workers and their representatives, as well as general guidelines for the implementation of the said principles.
3. This Directive shall be without prejudice to existing or future national and Community provisions which are more favourable to prevention of the health of workers at work.

Article 2

Scope

1. This Directive shall apply to all sectors of activity, both public and private (industrial, agricultural, commercial, administrative, service, educational, cultural, leisure, etc.).
2. This Directive shall not be applicable where characteristics peculiar to certain specific public service activities, such as the armed forces or the police, or to certain specific activities in the civil protection services inevitably conflict with it.

In that event, the health at work of workers must be ensured as far as possible in the light of the objectives of this Directive.

Article 3

Definitions

For the purposes of this directive, the following terms shall have the following meanings:

- (a) Worker: any person employed by an employer, including trainees and apprentices but excluding domestic servants;

(b) Employer: any natural or legal person who has an employment relationship with the worker and has responsibility for the undertaking and/or establishment;

(c) Workers' representative with specific responsibility for the safety and health of workers: any person elected, chosen or designated in accordance with national laws and/or practices to represent workers where problems arise relating to the safety and health protection of workers at work;

(d) Prevention: all the steps or measures taken or planned at all stages of work in the undertaking to prevent or reduce occupational risks.

(e) Occupational health services: services, referred to in Article 7 of Directive 89/391/EEC, entrusted with essentially protective and preventive functions and responsible for advising the employer, the workers and their representatives in the undertaking on -

(i) the requirements for establishing and maintaining a safe and healthy working environment which will facilitate optimal physical and mental health in relation to work;

(ii) the adaptation of work to the capabilities of workers in the light of their state of physical and mental health;

(f) Occupational medicine: the medical specialty dealing with the assessment of workers' health, linking working conditions and processes to workers' health, assisting in managing the health, skills and working capacity of the entire working population and managing individual cases in the context of working ability and production. It deals with primary, secondary and tertiary prevention of ill health in the workforce, with a potential influence on the health of the population as a whole. It is one of the fundamental disciplines in a multidisciplinary occupational health team.

(g) Occupational physician: one of the core professions in the occupational health multidisciplinary team.

Article 4

1. Member States shall take the necessary steps to ensure that employers, workers and workers' representatives are subject to the legal provisions necessary for the implementation of this Directive.

2. In particular, Member States shall ensure adequate controls and supervision.

PART II FUNCTIONS OF THE OCCUPATIONAL HEALTH SERVICES

Article 5

Without prejudice to the responsibility of each employer for the health and safety of the workers in his employment, and with due regard to the necessity for the workers to

participate in matters of occupational health and safety, occupational health services shall have such of the following functions as are adequate and appropriate to the occupational risks of the undertaking:

- (a) identification and assessment of the risks from health hazards in the workplace;
- (b) surveillance of the factors in the working environment and working practices which may affect workers' health, including sanitary installations, canteens and housing where these facilities are provided by the employer;
- (c) advice on planning and organisation of work, including the design of workplaces, on the choice, maintenance and condition of machinery and other equipment and on substances used in work;
- (d) participation in the development of programmes for the improvement of working practices as well as testing and evaluation of health aspects of new equipment;
- (e) advice on occupational health, safety and hygiene and on ergonomics and individual and collective protective equipment;
- (f) surveillance of workers' health in relation to work;
- (g) promoting the adaptation of work to the worker;
- (h) contribution to measures of vocational rehabilitation;
- (i) collaboration in providing information, training and education in the fields of occupational health and hygiene and ergonomics;
- (j) organising of first aid and emergency treatment; and
- (k) participation in analysis of occupational accidents and occupational diseases.

PART III ORGANISATION

Article 6

Provision shall be made for the establishment of occupational health services -

- (a) by laws or regulations; or
- (b) by collective agreements or as otherwise agreed upon by the employers and workers concerned; or
- (c) in any other manner approved by the competent authority after consultation with the representative organisations of employers and workers concerned.

Article 7

1. Occupational health services may be organised as a service for a single undertaking or as a service common to a number of undertakings, as appropriate.

2. In accordance with national conditions and practice, occupational health services may be organised by -

- (a) the undertakings or groups of undertakings concerned;
- (b) public authorities or official services;
- (c) social security institutions;
- (d) any other bodies authorised by the competent authority; and
- (e) a combination of any of the above.

Article 8

The employer, the workers and their representatives, where they exist, shall cooperate and participate in the implementation of the organisational and other measures relating to occupational health services on an equitable basis.

PART IV CONDITIONS OF OPERATION

Article 9

1. In accordance with national law and practice, occupational health services should be **multidisciplinary**. The composition of the personnel shall be determined by the nature of the duties to be performed.

2. Occupational health services shall carry out their functions in co-operation with the other services in the undertaking.

3. Measures shall be taken, in accordance with national law and practice, to ensure adequate co-operation and co-ordination between occupational health services and, as appropriate, other bodies concerned with the provision of health services.

Article 10

Personnel providing occupational health services shall **enjoy full professional independence from employers, workers, and their representatives**, where they exist, in relation to the functions listed in Article 5.

Article 11

The competent authority shall determine the qualifications required for the personnel providing occupational health services, according to the nature of the duties to be performed and in accordance with national law and practice.

Article 12

The **surveillance of workers'** health in relation to work shall involve no loss of earnings for them, shall be **free of charge** and shall take place as far as possible during working hours.

Article 13

All workers shall be informed of health hazards involved in their work.

Article 14

Occupational health services shall be informed by the employer and workers of any known factors and any suspected factors in the working environment which may affect the workers' health.

Article 15

Occupational health services shall be **informed of occurrences of ill health amongst workers** and absence from work for health reasons, in order to be able to identify whether there is any relation between the reasons for ill health or absence and any health hazards which may be present at the workplace. **Personnel providing occupational health services shall not be required by the employer to verify the reasons for absence from work.**

Article 16

All workers shall have free access to the personnel providing occupational health services.

PART V POSITION OF THE OCCUPATIONAL PHYSICIAN

Article 17

1. Occupational health practice must be performed according to the highest professional standards and ethical principles. Occupational physicians and other health professionals must serve the health and social wellbeing of the workers, individually and collectively. They also contribute to environmental and community health.

2. The obligations of occupational physicians and other health professionals include protecting the life and the health of the worker, respecting human dignity and promoting the highest ethical principles in occupational health policies and programmes. Integrity in professional conduct, impartiality and the protection of confidentiality of health data and of the privacy of workers are part of these obligations.

3. Occupational physicians and other health professionals are experts who must enjoy full professional independence in the execution of their functions. They must acquire and maintain the competence necessary for their duties and require conditions which allow them to carry out their tasks according to good practice and professional ethics.

PART VI ROLE OF THE OCCUPATIONAL PHYSICIAN

Article 18

The prime responsibility for the health and safety of workers rests with employers. The occupational physician's role is to advise them on how to:

- identify and assess the risks from health hazards in the workplace;
- protect and promote workers' health;
- carry out surveillance of factors in the working environment and working practices which may affect workers' health;
- improve working conditions and the working environment;
- maintain the health of the enterprise as a whole by providing occupational health services to workers and (through expert advice) achieve the highest possible standards of health and safety in the interests of a particular working community;
- strengthen workplace health promotion, a continuous process for enhancing the quality of working life, health and wellbeing of all working people through improving the physical, social and organizational work environment;
- develop work organization and working culture which supports health and safety at work and promotes a positive social climate and smooth operations, thus enhancing the productivity of the undertaking; and
- use human resources management to increase the working capacity and ability of workers to cope better with the demands of working life.

PART VII COMPETENCIES FOR THE OCCUPATIONAL PHYSICIAN

Article 19

The occupational physician is competent to carry out the following functions:

- identification and assessment of the risks from health hazards in the workplace;
- surveillance of workers' health based on legal requirements, the magnitude of occupational risks to workers' health or by voluntary agreement;
- surveillance of the factors in the working environment and working practices which may affect workers' health:
- advising on occupational health, safety and hygiene, ergonomics and on individual and collective protective equipment;
- organizing first aid and emergency treatment;
- advising on the planning and organization of work including the design of workplaces, the choice, maintenance and condition of machinery and other equipment, and on substances used in work;
- participating in and guiding the process of formulating health and safety policy based on sound ethical principles;
- promoting the adaptation of work to the worker; assessing disability and fitness for work;
- promoting work ability;
- advising on fitness for work and adaptation of work to the worker in the special circumstances of vulnerable groups and specific legislation, for example the EU Directive on Protection of Pregnant and Lactating Mothers 92/85/EC;
- collaborating in providing information, training and education in the field of occupational health, safety and ergonomics to management and the workforce;
- contributing to scientific knowledge regarding hazards to health and safety at work, by research and investigation into health and work ability problems at work, following the ethical principles attached to research work and to medical research and including an evaluation by an independent committee on ethics, as appropriate;
- advising on, supporting and monitoring the implementation of occupational health and safety legislation;
- recognizing and advising on hazardous exposure in the general environment arising from industrial activities;
- participation in workplace health promotion programmes;
- management of the occupational health services; and
- working as part of a multidisciplinary service.

PART VIII AREAS OF KNOWLEDGE FOR THE OCCUPATIONAL PHYSICIAN

Article 20

1. The professional competence of the occupational physician will be acquired through education, training and experience.
2. The areas of knowledge required will be built on basic and postgraduate clinical medical and scientific knowledge acquired prior to embarking on training and practice in occupational medicine.

3. Continuing medical education and self-directed learning in occupational medicine will cover advances in medicine (prevention, diagnosis and treatment of ill health) as well as advances in toxicology, hygiene, physical hazard management, ergonomics, environmental hazards control, epidemiology and changes in relevant legislation.

Article 21

1. The occupational physician should have sufficient knowledge and clinical skills to be able:

- provide high quality medical diagnoses and advice on treatment of occupational and environmental injuries and disease;
- advise on patient care with an understanding of workplace hazards and exposures;
- to provide best practice advice on care aimed at the patient’s functional recovery, which is the clinical aim;
- take a comprehensive history emphasizing occupation and exposure;
- carry out complete or focused physical examinations, as required;
- select appropriate diagnostic studies;
- identify the relationship between the complaint and the exposures;
- identify non-occupational/environmental factors contributing to the occupational disease or injury;
- refer or follow up patients with occupational injuries or disease;
- elicit patients’ concerns about exposures and establish a therapeutic relationship incorporating risk communication; and
- report all findings to affected individuals.