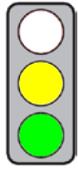


## Key Issues

**Objective of the Communication:** The Commission wants to improve health and safety in the workplace.

**Affected parties:** Employees, companies, social partners



**Pro:** (1) In view of the large number of fatal accidents at work and the loss of productivity due to illness, the consistent implementation and regular review of existing safety legislation is necessary in principle.

(2) Involving the social partners at European level is appropriate; they can develop tailor-made solutions because, as the parties directly affected, they are in a better position than the legislator to assess the costs and benefits of protective measures.

**Contra:** Using the European Social Fund to upgrade national inspectorates is in no way justified because the implementation of national law is a core task of the Member States and must therefore be funded from tax revenue.

## Content

### Title

**Communication COM(2014) 332** of 6 June 2014 on an EU Strategic Framework on **Health and Safety at Work 2014-2020**

### Brief Summary

#### ► Context and Objective

- Accidents at work
  - cause the deaths of more than 4,000 workers every year and
  - result in more than three million employees EU-wide being absent from work for more than three days every year.
- This gives rise to
  - costs for companies from production downtime and
  - costs for the public sector as a result of social security spending and tax losses.
- According to the Commission, spending on health and safety in the workplace is "cost-effective".
- This Communication contains a "strategic EU framework on health and safety at work 2014-2020". The Commission wants to use this to improve job quality and working conditions in the EU.
- The "strategic framework"
  - lists the "challenges" for health and safety at work, which are
    - improving implementation of the legislation,
    - improving the prevention of work-related diseases and
    - tackling the ageing society;
  - defines the Commission's "strategic objectives" and
  - highlights measures with which these "strategic objectives" can be achieved.
- Implementation of the strategic framework will involve:
  - the Member States,
  - the European Agency for Safety and Health at Work (EU-OSHA),
  - the Advisory Committee on Safety and Health (ACSH)
  - the Senior Labour Inspectorate Committee (SLIC)
  - the social partners.

#### ► Strategic Objective 1: Improving and updating national strategies

- The Member States will
  - bring their national strategies for health and safety at work into line with the new EU strategic framework and
  - designate "contact points" that are responsible for the national strategies.
- The Commission wants to
  - establish a database for all national strategies and
  - organise meetings for the national "contact points" to exchange good practice.

#### ► Strategic Objective 2: Facilitate compliance with legislation by small enterprises

- According to the Commission, implementation and compliance with legislation is difficult for small and medium-sized enterprises (SMEs) and particularly for micro-enterprises.

- The EU-OSHA has developed an "Online Interactive Risk Assessment" (OiRA) in order to carry out sector-specific risk assessments free of charge in small and medium-sized enterprises (SMEs).
- Together with the EU-OSHA, the Commission wants to
  - develop guidance documents for the implementation of legislation which take particular account of the distinctive features of SMEs and
  - provide the Member States with technical and financial support with the introduction of the OiRA.
- ▶ **Strategic Objective 3: Better enforcement of legislation**
  - Companies and workers often only become aware of the legislation on health and safety at work as a result of a visit from the labour inspector.
  - EU-wide there are approx. 9,000 inspectors who carry out 1.5 million inspections each year.
  - The Member States will – "given budgetary constraints" – use the European Social Fund (ESF) to provide more inspectors.
  - In conjunction with the Senior Labour Inspectorate Committee (SLIC), the Commission wants to
    - map the staffing capacity and resources of labour inspectorates,
    - evaluate the programme of exchange/training of labour inspectors and, where necessary, propose improvements and
    - assess the effectiveness of sanctions for non-compliance imposed by Member States.
- ▶ **Strategic Objective 4: Simplify existing legislation**
  - The Commission is currently evaluating the existing 24 EU Directives on health and safety at work to identify possible simplifications and reductions of unnecessary administrative burden. The focus is on SMEs in "low-risk sectors".
  - The Member States will also examine their national health and safety at work legislation to identify simplifications and unnecessary administrative burden.
  - The Commission will take the results into account when it carries out a review of the strategic framework in 2016
- ▶ **Strategic Objective 5: New health risks, prevention and an ageing workforce**
  - Technological changes, new products and materials - e.g. nanoparticles - can lead to new health risks in the workplace.
  - The Commission wants to
    - promote the exchange of good practice on ways to improve health and safety particularly for older workers and women,
    - identify and disseminate good practice on preventing mental health problems at work,
    - improve the dissemination of findings made by EU-OSHA about health risks and
    - promote rehabilitation and reintegration measures with a Healthy Workplaces Campaign in 2016-17.
- ▶ **Strategic Objective 6: Improve statistical data and information base**
  - Since 2013, Member States have had to transmit data, on an annual basis, to the Commission, about accidents at work [Regulation (EU) 349/2011].
  - The Commission wants,
    - together with the national offices of statistics,
    - to examine this data as to its reliability, comparability and timeliness,
    - by the end of 2016, to examine options to improve the availability of data on occupational diseases;
    - together with ACSH and national experts, to develop a database on the risks to health to which workers are exposed,
    - by the end of 2015, to examine how to improve information on the costs and benefits of measures relating to health and safety at work and
    - by the end of 2015, to develop a system ("scoreboard") to monitor, by way of "performance indicators", the implementation of the EU strategic framework by the Member States.
  - The EU-OSHA
    - will develop a good practices database in the area of health and safety at work and
    - carry out EU-wide awareness campaigns particularly by way of "social media".
- ▶ **Strategic Objective 7: Improve coordination at EU and international level**
  - The Commission sees itself as the international pioneer of health and safety at work.
  - The Commission wants to
    - support candidate countries and potential candidate countries in bringing their legislation into line with EU law,
    - strengthen cooperation with the International Labour Organisation (ILO), the World Health Organisation (WHO) and the Organisation for Economic Cooperation and Development (OECD),
    - work with the ILO on initiatives from the G20 - made up of the 19 largest developed and newly industrialised countries and the EU - to improve health and safety at work in the global supply chain,
    - take more account of health and safety at work in free-trade and investment agreements between EU and non-EU countries.

#### ► Use of EU funds

- Currently, only 13 Member States use the ESF to co-finance measures for improving health and safety at work.
- The Commission calls on the Member States to apply for funding from the European Structural and Investment Fund (ESIF), the programme for Employment and Social Innovation (EaSI) and the EU Framework Programme for Research and Innovation "Horizon 2020".

#### ► Social dialogue

- The social partners at European level have concluded both sectoral and multi-sector agreements on health and safety at work.
- The social partners will
  - make suggestions on "raising the awareness" of SMEs regarding health and safety at work,
  - develop "innovative solutions" for known risks and
  - support the Commission in the evaluation of applicable EU law.

### Statement on Subsidiarity by the Commission

The Commission does not consider the question of subsidiarity.

### Policy Context

An extensive body of legislation has been generated since the end of the 1970s laying down EU-wide minimum standards for health and safety at work. The Community Strategies 2002–2006 and 2007–2012 [COM(2007) 62; see [cepPolicyBrief](#)] aim to coordinate the improvement of health and safety at work EU-wide. The Strategic Framework 2014–2020 is based on an evaluation of the Community Strategy 2007–2012, the results of a public consultation, a Resolution of the European Parliament [[A7-0409/2011](#)] and contributions from the ASHC and the SLIC.

### Options for Influencing the Political Process

Directorates General:	DG Employment and Social Affairs (leading)
Committees of the European Parliament:	Employment (leading), Rapporteur Alejandro Cercas (S&D Group, E);
Federal Ministries:	Family (leading)
Committees of the German Bundestag:	Labour (leading); Economic Affairs; Family
Consultation procedure:	No consultation procedure is taking place.

## ASSESSMENT

### Economic Impact Assessment

#### Ordoliberal Assessment

**In view of the large number of fatal accidents at work and the loss of productivity due to illness** - despite existing legislation - **the consistent implementation and regular review of existing safety legislation is necessary.**

However, health and safety at work legislation must always strike a balance between the freedom to conduct a business, on the one hand, and, on the other hand, the right of the workers to the highest possible level of protection.

**Involving the social partners in the improvement of health and safety at work is appropriate; they are basically better than the legislator at striking this balance and can develop tailor-made solutions because, as the parties directly affected, they are in a better position than the legislator to assess the costs and benefits of protective measures.**

**The use of the European Social Fund to upgrade inspectorates** in the Member States, as suggested by the Commission, **is in no way justified** because monitoring compliance with national law is, firstly, a core government task and must therefore be funded from the tax revenue of Member States.

Secondly, the Commission's argument about "budgetary constraints" is unconvincing because better inspection leads to less illness-related absence from work and thus to lower social security spending and more tax revenue which more than compensates for the additional cost of setting up effective inspections. Thus it is cost-effective even without EU funds, to employ more inspectors. If EU funds were used for this, tax authorities, police forces and prosecution services would also have to receive EU funding based on similar arguments.

#### Impact on Efficiency and Individual Freedom of Choice

The freedom of choice of companies as to how they organise health and safety at work has not been curtailed by the Commission because the Commission refrains from legislative measures and even offers the prospect of a reduction of unnecessary bureaucracy. Solutions at the social partner level or at company level, which take account of individual local needs, are still possible. This increases efficiency.

The same also applies to the planned exchange of good practice. There is however no objective reason to give precedence to the protection of older workers and women and thus discriminate against other workers.

#### Impact on Growth and Employment

The high number of days lost through illness unnecessarily retards growth and employment and economic costs are incurred - some of which are avoidable. Effective health and safety measures can reduce these costs. Statutory solutions and costly investments by companies are often quite unnecessary, however, particularly for the prevention of mental illness - which is an increasingly large item of health expenditure. Thus basic principles of good employee management, flexible working hours and a good work/life balance relieve the load on employees without burdening companies with high regulatory costs. The Commission can support the Member States in this regard by identifying and exchanging good practice so that companies become aware of and implement such measures. Against the backdrop of demographic change, all these measures are essential to maintain a high level of employment and growth.

Insofar as the Commission and the Member States succeed, as planned, in simplifying the existing legislation on health and safety at work in order to relieve companies of the burden of bureaucracy - which does not run counter to any entrepreneurial benefit, at least not one of equivalent value - growth and employment will be strengthened.

#### Impact on Europe as a Business Location

Efficient and cost-effective health and safety protection increases Europe's attractiveness as a business location.

### Legal Assessment

#### Legislative Competency

The Commission's power to issue Communications arises from Art. 17 TEU. This states that it can take the measures which it considers necessary in order to promote the general interest of the EU.

In principle, the EU has the power to adopt measures on health and safety in the workplace (Art. 153 (1) (a)). This also includes measures on the safety of older workers and women. Legislative changes to existing law would have to have the same basis of competence as the act being amended.

#### Subsidiarity

Compatibility with the principle of subsidiarity depends on the actual content of possible legislative follow-up measures.

### Conclusion

In view of the large number of fatal accidents at work and loss of productivity due to illness, the consistent implementation and regular review of existing safety legislation is necessary in principle. Involving the social partners in the improvement of health and safety at work is appropriate; they can develop tailor-made solutions because, as the parties directly affected, they are in a better position than the legislator to assess the costs and benefits of protective measures. The use of the European Social Fund to upgrade inspectorates in the Member States, as suggested by the Commission, is in no way justified because the implementation of national law is a core task of the Member States and must therefore be funded from the tax revenue of Member States.