EUROPEAN PARLIAMENT 2009 - 2014

Committee on Employment and Social Affairs

2011/2147(INI)

19.7.2011

DRAFT REPORT

on the mid-term review of the European strategy 2007-2012 on health and safety at work
(2011/2147(INI))

Committee on Employment and Social Affairs

Rapporteur: Karima Delli

CONTENTS

Page

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the mid-term review of the European strategy 2007-2012 on health and safety at work
(2011/2147(INI))

The European Parliament,

– having regard to the Treaty on European Union, in particular the preamble and Articles 3 and 6 thereof,

– having regard to the Treaty on the Functioning of the European Union, in particular Articles 3, 6, 9, 20, 151, 152, 153, 154, 156, 159 and 168 thereof,

– having regard to the Charter of Fundamental Rights of the European Union, in particular Articles 1, 3, 27, 31, 32 and 33 thereof[1],

– having regard to the European Social Charter of 3 May 1996, in particular Part I and Part II, Article 3 thereof,

– having regard to the Declaration of Philadelphia of 10 May 1944 on the goals and objectives of the International Labour Organisation,

– having regard to the ILO conventions and recommendations in the field of health and safety at the workplace,

– having regard to Regulation (EC) No 1338/2008 of the European Parliament and of the Council of 16 December 2008 on Community statistics on public health and health and safety at work[2],

– having regard to Council 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 (framework directive) and to its individual directives[3],

– having regard to Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time[4],

– having regard to Directive 2007/30/EC of the European Parliament and of the Council of 20 June 2007 amending Council Directive 89/391/EEC, its individual Directives and Council Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC with a view to simplifying and rationalising the reports on practical implementation[5],

– having regard to Council Directive 2010/32/EU of 10 May 2010 implementing the Framework Agreement on prevention from sharp injuries in the hospital and healthcare

[1] OJ C 303, 14.12.2007, p. 1.
[2] OJ L 354, 31.12.2008, p. 70.
[3] OJ L 183, 29.6.1989, p. 1.
[4] OJ L 299, 18.11.2003, p. 9.
[5] OJ L 165, 27.6.2007, p. 21.

sector concluded by HOSPEEM and EPSU[1],

– having regard to the Commission communication on 'Improving quality and productivity at work: Community Strategy on Health and Safety at Work 2007-2012' (COM(2007) 0062),

– having regard to the Commission communication on a 'Renewed social agenda: Opportunities, access and solidarity in 21st century Europe' (COM(2008)0412),

– having regard to the Commission report on the implementation of the European social partners' Framework Agreement on Work-related Stress (SEC(2011)241),

– having regard to its resolution of 24 February 2005 on promoting health and safety at the workplace[2],

– having regard to its resolution of 6 July 2006 with recommendations to the Commission on protecting European healthcare workers from blood-borne infections due to needle-stick injuries[3],

– having regard to its resolution of 23 May 2007 on promoting decent work for all[4],

– having regard to its resolution of 15 January 2008 on the Community strategy 2007-2012 on health and safety at work[5],

– having regard to its resolution of 26 March 2009 on corporate social responsibility in international trade agreements[6],

– having regard to the Commission services' working document of 24 April 2011 entitled 'Mid-term review of the European strategy 2007-2012 on health and safety at work' (SEC(2011)0547),

– having regard to Rule 48 of its Rules of Procedure,

– having regard to the report of the Committee on Employment and Social Affairs and the opinion of the Committee on the Environment, Public Health and Food Safety (A7-0000/2011),

A. whereas the right to health is a fundamental right and whereas all workers enjoy a legal guarantee of working conditions which respect their health, safety and dignity,

B. whereas adequate worker prevention in turn promotes wellbeing, quality of work and productivity; whereas the cost to enterprises and social security systems of occupational

[1] OJ L 134, 1.6.2010, p. 66.
[2] OJ C 304E, 1.12.2005, p. 400.
[3] OJ C 303E, 13.12.2006, p. 754.
[4] OJ C 102E, 24.4.2008, p.321.
[5] OJ C 41E, 19.2.2009, p. 14.
[6] OJ C 117E, 6.5.2010, p. 176.

accidents and diseases is estimated at 5.9%[1] of GDP,

C. whereas the outsourcing of work through subcontracting and temporary agency work often involves less skilled labour and looser employment relationships,

D. whereas Framework Directive 89/391/EEC places the responsibility on employers to establish a systematic prevention policy covering all risks, irrespective of a worker's status,

E. having regard to the growing impact of chronic work-related health problems such as musculoskeletal disorders (MSD) and psycho-social risks,

F. whereas cancers are the primary cause of work-related deaths, followed by cardiovascular and respiratory disease, while accidents at work account for only a very small minority of deaths[2],

G. whereas 168 000 European citizens die every year from work-related accidents or diseases[3],

Mid-term review of the strategy

1. Points out that the European reference framework on occupational health and safety (OHS) does not automatically provide for improvement in working conditions, and that proper implementation, notably via employee participation, and supervision of the application of the legislation are crucial; calls on the Commission to take swift action when infringements are detected;

2. Notes that legal requirements and employee claims are the two main factors motivating employers to take action;

3. Takes the view that OHS policies, at European and national level, should be made consistent with other public policies: health, employment, industry, environment, transport, education and energy;

4. Stresses the importance of fully implementing REACH and the need for greater synergy between REACH and OHS policies, both at European level and in the Member States;

5. Calls for the next European strategy to set more measurable goals, together with binding timetables and a periodic evaluation; hopes to see the objective of one labour inspector per 10 000 workers, as recommended by the ILO, become binding;

6. Believes that the Member States and enterprises should invest more in risk-prevention

[1] Australian Government: The Cost of Work-Related Injury and Illness for Australian Employers, Workers and the Community. Australian Safety and Compensation Council, Commonwealth of Australia 2009, 41 p., March 2009.
[2] International Labour Organisation, 2005, estimate for the EU27; http://www.ilo.org/public/english/protection/safework/wdcongrs17/index.htm.
[3] Hämäläinen P, Saarela KL, Takala J: Global trend according to estimated number of occupational accidents and fatal work-related diseases at region and country level. Journal of Safety Research 40 (2009) 125–139. Elsevier B.V.

policies and ensure worker participation therein; considers that such investment would be repaid in the form of improved labour productivity and a reduction in social security expenses;

7. Regrets the unequal application across the EU of the Framework Agreement on Work-related Stress and calls on the Commission to present a legislative proposal on work-related stress;

8. Considers that EU policy on chemical risks and prevention of work-related cancers should be more ambitious and responsive;

9. Draws attention to the proliferation of non-standard forms of employment (temporary work, seasonal work, part-time work, teleworking), which require a specific approach to worker protection; calls for the Commission to develop a legislative instrument on joint and several liability of enterprises in subcontracting chains;

10. Considers it necessary to strengthen cooperation between the EU, the ILO and the WHO with a view to finding solutions to the issue of European workers and those in non-EU countries competing on social terms;

Collection of statistical data

11. Stresses that the Commission should develop statistical means to evaluate prevention not solely in terms of accidents but also in terms of pathologies and the percentage of workers exposed to chemical, physical or biological agents and to dangerous situations from the point of view of the organisation of work;

12. Calls for the European Agency for Safety and Health at Work (EU-OSHA) to compile national indicators on exposure to cancers and to review the knowledge on exposure of particularly vulnerable workers;

13. Highlights the difficulty of collecting data in many Member States; calls for the work of the EU-OSHA and Eurofound (European Foundation for the Improvement of Living and Working Conditions) agencies to be strengthened and disseminated very widely;

14. Notes the reduction in the number of accidents at work in the EU, which is probably due to lower employment levels and a continuing shift to the tertiary sector; hopes that the objectives set at European and national levels and the evaluation of their achievement take better account of this macroeconomic dimension;

15. Notes the results of the Commission's 'Scoreboard 2009' project illustrating the individual performances of the Member States; regrets that the data are not subject to any democratic control and are provided on a purely optional basis;

16. Believes there is a need to study the link between suffering at work and the organisation of work, rather than concentrating on statistical factors and detecting individual fragilities;

17. Questions whether rights to OHS are respected in the case of undeclared activities; stresses that OHS is a right irrespective of the worker's status, and that this right must be

made effective through legislation;

Fostering a prevention culture

18. Regrets the lack of information on risks among employees, employers, social partners and even health services; points out the positive role in this regard of employees' participation and representation;

19. Believes that all workers, including those in the public sector, should be covered by risk-prevention arrangements;

20. Believes that the independence of prevention services vis-à-vis the employer must be guaranteed; regrets that the management of occupational health services remains entrusted, in certain Member States, to employer associations, acting as both judge and defendant;

21. Points out that labour inspectors play a vital role in verifying the implementation of the legislation in force and, thereby, in prevention; encourages the Member States to strengthen sanctions against enterprises not complying with their obligations concerning fundamental rights (salaries and OHS, including working hours);

22. Is convinced that without assessing the risks it is impossible to properly protect workers; considers it important to helps SMEs put in place risk-prevention policies; stresses the positive role of simple, free and targeted initiatives, such as the OiRA;

23. Is concerned about the impact of subcontracting, for example in civil and military nuclear installations, as each employer tends to limit their preventive actions to their own employees; calls on the Commission to propose legislation on subcontracting;

24. Calls on the Commission to propose a directive protecting people who legitimately draw attention to and investigate unacknowledged risks in an enterprise;

Vulnerable workers and specific risks

25. Stresses that migrants, the young, old, women of child-bearing age, the disabled and low-skilled workers are particularly at-risk categories;

26. Regrets the lack of initiatives to tackle the situation of the self-employed, temporary workers, domestic workers and people working on short-term contracts, as they too have the right to have their OHS respected;

27. Is concerned about working conditions in the nuclear sector, which employs seconded workers, agency workers and subcontractors who are poorly informed about their rights; draws attention to the risks that a low level of social protection poses to these workers;

28. Calls for an impact assessment of the potential risks from nanotechnologies in the workplace;

29. Considers that excessive working hours and insufficient rest periods are major factors in the increased level of occupational accidents and diseases; hopes that the opt-out

provisions applicable to Directive 2003/88/EC will be removed; stresses that these provisions violate the fundamental principles of OSH;

30. Is alarmed at the increase in enforced part-time work, disjointed hours and night work; calls for the risks to the balance between work and private life posed by teleworking and multiple jobs to be assessed;

31. Hopes that the future legislative proposal on musculoskeletal disorders will cover all workers;

32. Reiterates its call for recommendation 2003/670 concerning the European schedule of occupational diseases to be transformed into a directive;

33. Is alarmed at the persistent number of cancers associated with the exercise of an occupation; regrets that a large number of workers are still exposed to the dangers of asbestos;

34. Calls on the Commission and the Member States to accelerate the implementation of REACH, and in particular the substitution of the most worrying chemicals;

35. Calls on the Commission to propose a revision of Directive 2004/37 on carcinogens and mutagens by the end of 2012 in order to enlarge its scope to include substances toxic for reproduction by analogy with the substances of very high concern under REACH, and to strengthen the application of the substitution principle; calls for the link to be made with reproductive health;

36. Believes that maximum exposure limits based on health effects and not on an evaluation of technical feasibility, as is currently the case, should be established at European level for the majority of carcinogenic substances;

37. Instructs its President to forward this resolution to the Council and the Commission, and to the national parliaments and Governments of the Member States.

EXPLANATORY STATEMENT

I. Improving implementation of the legislation

A consistent *acquis communautaire* exists on occupational health and safety (OHS) in the form of the 1989 framework directive and other directives on specific risks or sectors, and not forgetting REACH. This body of legislation, which makes it possible to implement the European Treaties and the Charter of Fundamental Rights in the field of occupational health, guarantees respect for the fundamental right to health.

However, the Strategy makes clear that this is not sufficient. This legislation needs to be developed to adapt it to new risks, such as psycho-social risks. Psycho-social risks are not sufficiently dealt with in the Community Strategy 2007-2012, nor in a number of Member States. Yet today they pose a major risk to occupational health.

Enterprises generally deal with psycho-social risks by providing training, but workers suffer first and foremost because the organisation of work and management style are poor. It is therefore the link between unhappiness at work and the organisation of the work that should be studied in greater depth if we want to find lasting solutions to the increase in psycho-social risks.

Harmonisation at European level should also be developed where relevant. Moreover, legislation cannot do everything. The Member States should fully comply with the letter and spirit of the framework directive and the sectoral directives when implementing this legislation. Labour inspectorates verify that OSH legislation is properly applied and therefore they have a crucial role in preventing and monitoring risks. Inspectors also play a positive role in improving the provision of information and the level of expertise in an enterprise. The Member States should strengthen the staff and resources of their labour inspection services and seek to achieve the objective of one inspector per 10 000 workers, in accordance with International Labour Organisation recommendations. This objective was included in the Wilmott report of the European Parliament on the Community Strategy 2007-2012. Moreover, the Commission also has a role to play through the infringement proceedings that it can launch against Member States. The actors directly involved, i.e. the workers and all the people at the workplace, should have the possibility of taking part in the process of identifying and preventing risks.

Finally, mention should be made of the positive role played by 'whistleblowers', who legitimately draw attention to the unacknowledged risks in an establishment. Whistleblowing should be protected, as it is in various countries in Europe and elsewhere in the world. In the United Kingdom since 1998 the Public Interest Disclosure Act has protected whistleblowers against dismissal and various forms of pressure. In the United States the protection of whistleblowers depends in particular on the subject of the whistleblowing and the status of the whistleblower, and is enshrined in the 1989 ***Whistleblower Protection Act.***

The rapporteur believes that there is a win-win logic to efforts to improve OSH. The implementation of policies and practices promoting health at work has beneficial results in

four areas: economic benefits, social benefits, staff benefits and benefits to do with the image of the enterprise.

II. Including all workers in prevention policies

First of all, it is important to identify the categories of workers at risk, as well as workers who are not covered, so as to determine the appropriate responses. Steps should be taken to ensure that all workers are covered by prevention policies and enjoy effective respect for their fundamental right to health.

In the first place there are groups of workers at risk: employees of SMEs, workers in particularly dangerous sectors such as construction, disabled workers and women. Women make up a far higher proportion of poor workers because they are offered unsuitable part-time work, working hours split into two or three shifts per day and insecure contracts, especially in sectors such as supermarkets, cleaning, personal services and retirement homes.

The protection of employees in SMEs is another challenge because there is a lot of room for improvement. One of the avenues for improvement is to simplify the procedure for assessing the risks for SMEs. The software distributed by the EU-OSHA and OiRA has a role to play. Also, the Esener European survey shows that employers recognise that they lack information and resources, and that it is mainly legal obligations which motivate them to put in place prevention measures.

Secondly, there are groups who are not covered by prevention policies because they are pushed beyond the scope of prevention: subcontracted workers, non-registered workers, domestic workers, the bogus self-employed, casual workers, etc. Outsourcing of jobs is on the increase in the European labour market: subcontracting chains, secondment of workers, agency contracts, etc. In the case of temporary contracts, for example, a certain percentage corresponds to the individual's own choice, but in other cases they are imposed on the individual. But in all cases there is a problem regarding information and training on the issue of risks. The nuclear sector is a case in point.

Given the potentially disastrous effects of human error in the management of radioactive waste and spent fuel, it is essential that rigorous standards are applied to training, safety at work and inspection by independent bodies. The workers themselves, or their representatives, must be consulted and involved in the development and implementation of safety procedures. On-going training should be provided for all workers on sites where hazardous material is stored or for those who are involved in the transportation of such material. This means not only the technical staff but all workers, whatever the length of their contract or their role on site.

III. Dealing with chemical and biological risks

Chemical and biological risks are complex, and while there is still insufficient data there is no doubt that they have a very negative impact on workers. Rapid action needs to be taken on asbestos, silica and other recognised carcinogens. Products that can substitute for these

carcinogens need to be identified and assessed, and control procedures need to be developed for those that cannot be replaced. REACH has a very important role to play in preventing cancers and other chronic work-related diseases. The REACH provisions need to be kept up-to-date and comprehensively implemented. And particular attention needs to be paid to women of child-bearing age because of the impact on the foetus.