



Screening: Explanatory Meeting Occupational Safety & Health

February 2014

DG EMPL Unit B3

Health, Safety and Hygiene at work



Competence for H&S based on Article 153 of the TFEU

- Improvement of the working environment in order to protect workers' health and safety (the aim: **reduction of occupational accidents and diseases**)
- To this end, it foresees the adoption of **directives setting minimum requirements**
- Member States are allowed to maintain or introduce more stringent protective measures



Framework Directive

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
Official Journal L 183, 29/6/1989



Member States shall take the necessary steps to ensure that

- employers,
- workers,
- workers' representatives

are subject to the legal provisions necessary for the implementation of this Directive.

Member States shall ensure **adequate controls and supervision.**
(**Article 4** of the Directive)



The Directive introduces measures to encourage improvements in **the safety and health of workers** at work and to that end it contains **General principles**:

- concerning the prevention of occupational risks;
- the protection of safety and health;
- the elimination of risk and accident factors;
- the informing, consultation and participation of workers and their representatives;
- the training of workers and their representatives.

The Directive sets out the minimum requirements
Member States are allowed higher levels of protection.

Section I General provisions

Article 1, Object

Article 2, Scope

Article 3, Definitions

Article 4, Enforcement

Section II Employers' obligations

Article 5, General Provisions

Article 6, General obligations on employers

Article 7, Protective and preventative services

Article 8, First aid, fire-fighting and evacuation of workers

Article 9, Various obligations on employers

Article 10, Worker information

Article 11, Consultation and participation of workers

Article 12, Training of workers

Section III Workers' obligations

Article 13, Workers' obligations

Section IV Miscellaneous provisions

Article 14, Health surveillance

Article 15, Risk groups

Article 16, Individual Directives



Scope of application

The Directive applies to **all sectors of activity**, both **public and private** (industrial, agricultural, commercial, administrative, service, educational, cultural, leisure, etc.).

The Directive is not 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.

(C-303/98, Simap)



Definitions

Worker – any person employed by an employer, including trainees and apprentices but excluding domestic servants

Employer – any natural or legal persons who has an employment relationship with a worker

Workers' representative with specific responsibility for the safety and health of workers – any person elected to present workers in H&S matters

Prevention – all steps or measures taken to prevent or reduce occupational risks

Employer's obligations is based on the following:

- he has **a duty to ensure the H&S of workers** in every aspect related to the work
- enlisting **competent external** services or persons charged with the protection and prevention activities does not discharge him from his responsibilities
- the **workers' obligations** do not affect the principle of the responsibility of the employer
- *Force majeure*- employers' responsibilities may be limited

General obligations of employers

- to take measures necessary for the safety and health protection of workers, including
 - ✓ the prevention of professional risks
 - ✓ the provision of information and training
- in taking these measures due account shall be taken of **changing circumstances**

Article 6(2) enlists general principles of prevention:

avoiding risks;

- evaluating the risks which cannot be avoided;
- combating the risks at source;
- developing a coherent overall prevention policy;
- giving collective protective measures priority over individual protective measures;
- giving appropriate instructions to workers

Article 7 Protective and preventative services

The employer shall

- designate workers or (**Art. 7 (1)**)
- enlist external services or persons (**Art. 7(3)**) to carry out activities related to the protection and prevention of occupational risks
- In all cases the persons concerned must have the necessary capabilities, aptitudes and means
- Member States may define the categories of which employer may himself take responsibility for the protective and preventative measures

Article 7(8) requires Member States to define the necessary **capabilities and aptitudes**

In Case C-49/00, *Commission v Italy*, the State entrusted to the employer to determine the capabilities and aptitudes.

The Court did not consider that this satisfied the requirements of Article 7(5) and (8) of the Directive:

"Member States must adopt laws or regulations which comply with the requirements of the directive and which are brought to the attention of the undertakings concerned by appropriate means, so as to enable them to be aware of their obligations in the matter and the competent national authorities to check that those measures are complied with."

Article 8 First aid, fire-fighting and evacuation of workers, serious and imminent danger

The employer shall:

- take the necessary measures for **first aid, fire-fighting** and **evacuation** of workers;
- arrange contacts with **external** services;
- **designate** workers to implement measures;
- inform workers; take action/give instructions; not ask workers to resume work;
- **ensure** that all workers are able to take the appropriate steps to **avoid** the danger;
- No **disadvantage** for workers who leave in case of danger;

Article 9 Various obligations on employers

- be in possession of a **risk assessment**;
- **decide on protective** measures and protective equipment;
- keep a list of **occupational accidents** (+ 3 days);
- draw up **reports** on occupational accidents.



In Case C-5/00 Commission v Germany, there was an exemption in German law for employers with 10 or fewer employees from the duty to keep documents showing the results of the assessment of risks to workers

The Court stated that that provision seemed to be clearly contrary to Articles 9(1)(a) and 10(3)(a) of the Directive, inasmuch as undertakings employing **10 or fewer workers** may thereby be absolved of the obligation to keep a risk assessment in documentary form.



Article 10 Worker information

Workers or/and their representatives are entitled to information on

- the safety and health risks and protective and preventative measures
- measures taken in respect of first aid, fire-fighting and evacuation of workers

Workers or their representatives with specific functions are entitled to information on

- the risk assessment and protective measures
- the list of occupational accidents and relevant reports

Article 11 Consultation and participation of workers and their representatives

They shall be consulted on

- any measure which may substantially affect safety and health
- the designation of workers or enlistment of external services
- risk assessments, information and training of workers
- Workers' representatives with specific responsibility on H&S matters have the right to ask the employer to take measures to mitigate hazards for workers
- Workers' and/or their representatives have the right appeal to the authority responsible if they consider that the measures taken are inadequate for the protection of health and safety

Article 12 Training of workers

The employer is responsible that each worker receives adequate H&S training

- on recruitment
- in the event of transfer or change of jobs
- in the event of the introduction of new work equipment or a change in equipment
- in the event of the introduction of any new technology

The training must not be at worker's expense and must take place during working hours.

Article 13 Workers' obligations

- Make correct use of work equipment
- Make a correct use of personal protective equipment
- Refrain from removing arbitrarily safety devices fitted
- Cooperate with employer

Article 14 Health surveillance:

- Each worker, if he so wishes, may receive health surveillance at regular intervals.
- In accordance to national law and/or practices;

Article 15 Risk groups

- Particularly sensitive risk groups must be protected against the dangers which specifically affect them

Article 16 Individual Directives



Practical implementation

Article 17 & Article 17a (inserted by Directive 2007/30/EC)

Committies and Reports on practical implementation

Every **five years** Member States shall submit a single report to the Commission on the practical implementation of this Directive and individual directives

The reports shall follow the **Outline** on the practical implementation of the directives, indicating the points of view of employers and workers, which is prepared by the Commission

- Carcinogens
- Biological Agents
- Chemical Agents
- Physical Agents:
 - Noise
 - Vibrations
 - EMF
 - Optical Radiation

- Workplaces
- Work Equipment, Scaffolding
- Personal Protective Equipment
- Display Screen Equipment
- Safety Signs

- Manual Handling of Loads

- Asbestos



Framework Directive
89/391/EEC

- Construction Sites
- Mineral-extracting Industries
- Drilling in Mineral-extracting Industries
- Fishing Vessels
- Medical treatment on board vessels
- Explosive Atmospheres
- Sharp injuries

to encourage improvements in health and safety at work



Council Directive 89/654/EEC: minimum safety and health requirements for the workplace (First Individual Directive)

Relation between Individual Directives and Framework Directive?
The provisions of the Framework Directive remain
fully applicable without prejudice to more restrictive
and/or specific provisions contained in the individual directives.

Directive 89/654/EEC minimum safety and health requirements for the workplace

1. Objective

- Prevention of work accidents and occupational diseases
- Ensure minimum safety and health requirements related to working conditions



Directive 89/654/EEC minimum safety and health requirements for the workplace

2. Key provisions

Scope of application: **no application** to

- Means of transport outside establishment and workplaces in transport means
- Temporary and mobile work sites
- Extractive industries
- Fishing boats
- Land, fields and woods of agricultural/forestry undertakings



Directive 89/654/EEC minimum safety and health requirements for the workplace

- **Wide definition of "workplace"** comprising any place intended to house workstations on the premises of an undertaking or establishment AND any other place within the area of the undertaking/establishment to which the worker has access in the course of his/her employment
- **Technical maintenance and cleaning** of workplace and equipment, checks of safety devices ... (See Article 6)
- The **annexes** provide for detailed rules regarding a number of issues (stability, emergency routes, doors, fire-fighting equipment, ventilation, room temperature, lightning...)



Directive 89/654/EEC minimum safety and health requirements for the workplace

- Annex I for all workplaces used first time after 31/12/1992 AND all modifications, extensions and conversions of existing workplaces after that date
- Annex II refers to workplaces in use before January 1993. Contains upgrading duty to the needs of handicapped.



Directive 89/654/EEC minimum safety and health requirements for the workplace (VI)

3. Implementation

- Many different aspects
- Practical implementation will require major support to companies, in particular SME, and require the mobilization of financial resources
- Technical expertise and guidance to be developed (reference values, technical standards)



Directive 2009/104/EC - minimum safety and health requirements for the **use of the work equipment** by workers at work (2nd Individual Directive)

1. Key objective

Improve the level of protection of workers and prevent accidents occurring from the use of work equipment

2. Key provisions

- Wide scope: covers any machine, tool, apparatus, installation
- Employer to ensure suitability of work equipment
- Selection of work equipment according to specific working conditions and hazards in the undertaking and additional hazards caused by the use of work equipment
- Work equipment: must comply with EU standards on work equipment and must be adequately adapted and maintained.



Directive 2009/104/EC - work equipment (II)

Annexes - I specific requirements; II provisions on the use of work equipment.

3. Implementation

Information and assistance to enterprises for the choice of equipment

Competent bodies for an efficient inspection which can require technical assistance



Directive 89/656/EEC - minimum health and safety requirements for the use of personal protective equipment (PPE) – (3rd Individual Directive)

1.Key objective

To prevent risks at work by the use of adequate personal protective equipment

2. Key provisions/definitions

Definition of PPE

- Use of PPE as a LAST resort: technical means and measures of work organization and collective protection measures prevail
- Assessment of PPE, training and demonstration of PPE
- Establishment of general rules for use of PPE



Directive 89/656/EEC - minimum health and safety requirements for the use of PPE (II)

2. Key provisions (cont.)

Indicative Annexes I (specimen of risk), II (list of items), III (list of activities and sectors) provide guidance for establishing such rules on use

Annexes – I risk survey template; II non-exhaustive list of PPE items; III non-exhaustive list of activities and sectors that may require use of PPE

3. Implementation

- Raising workers' awareness on use of PPE
- Assistance to undertakings (SME) for the selection of adequate PPE



Directive 92/58/EEC - minimum health and safety requirements for the provision of safety and health signs at work (9th Individual Directive)

1. Key objective

- To prevent accidents at work and occupational diseases by using adequate signs; standardization of signs

2. Key provisions

- Signs where hazards cannot be adequately reduced by collective protection or means of work organisation
- Annex provides details as to use and characteristic of different types of signs and contains pictogram models

3. Implementation

- Positive impact of the introduction of safety signs in the light of workers' movement within the EU.

Council Recommendation of 18 February 2003 - improvement of the protection of the health and safety at work of self-employed workers (I)

1. Objective

To improve the health and safety of self-employed who are, as a general rule, not covered by the EC health and safety legislation (except to a certain extent under Directives 92/57/EEC and 92/29/EEC), but exposed to similar risks. In a number of high-risk sectors (agriculture, fishing, construction and transport) the number of self-employed is very high. This category can also be a risk for other workers/persons present at the same workplace.

2. Key provisions

- Non-binding instrument
- Suggests different measures like legislation, incentives, information campaign
- Recommends access of self-employed to training and health surveillance



Commission Recommendation of 19 September 2003 - European schedule of occupational diseases (ESOD)

1. Key objectives

- Improve knowledge at the European level – comparability and collection of data
- Improve prevention of occupational diseases
- Provide assistance to workers to facilitate the proof of an existing link between their occupation and a disease



Commission Recommendation of 19 September 2003 – ESOD

2. Key provisions

- Introduce diseases contained in Annex I into national legislation (diseases scientifically recognized to have an occupational origin)
- Introduce into national rules the right of workers for compensation for diseases contained in Annex II (diseases suspected of being occupational in origin) where an occupational link can be proven
- Fixing quantified objectives for reduction of occupational diseases