

## 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<br>the 10<br>Conventions<br>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