

ROADMAP	
TITLE OF THE INITIATIVE	Proposal for a EP and Council Directive on the minimum health and safety requirements on ergonomics at work particularly to prevent work-related musculoskeletal disorders (WRMSD) and display screen vision conditions and repealing Council Directive 90/269/EEC and Council Directive 90/270/EEC
TYPE OF INITIATIVE	ÜCWP (Simplification) • Non-CWP • Implementing act/Delegated act
LEAD DG – RESPONSIBLE UNIT	EMPL/B3
EXPECTED DATE OF ADOPTION	Month/Year: 11/2011
VERSION OF ROADMAP	No: 2 Last modification: Month/Year: 05/11

This indicative roadmap is provided for information purposes only and is subject to change. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content and structure.

A. Context, problem definition
<p>(i) What is the political context of the initiative? (ii) How does it relate to past and possible future initiatives, and to other EU policies? (iii) What ex-post analysis of the existing policy has been carried out and what results are relevant for this initiative?</p>
<p>(i) Political context</p> <p>Developing actions to improve health and safety at work, to contribute to the reduction of work accidents and injuries and to harmonise the health and safety working conditions in the European Union remains high on the political agenda within the Europe 2020 strategy. The Strategy makes notably reference to the importance of adapting the legislative framework, in line with 'smart' regulation principles, to new risks for health and safety at work.</p> <p>Key action 9 of the "Agenda for new skills and jobs" commits the Commission to initiating, wherever appropriate, actions to amend, clarify or simplify existing employment-related legislation, if justified by an impact assessment, and after consulting EU social partners.</p> <p>Since the beginning of 2000, improved prevention from ergonomic-related risk factors at the work place has been on the Commission's political agenda. The 2002-2006 Community strategy on Health and Safety at Work explicitly mentioned the need of a new initiative to adapt the existing legislation to the emerging problem of ergonomics and musculoskeletal constraints. Similarly, the 2007-2012 Community strategy "Improving quality and productivity at work" confirmed the intention of the Commission to improve risk prevention in this area.</p>
<p>(ii) Relationship with past and possible future initiatives etc.</p> <p>Ergonomic-related risks at the work place, potentially responsible for work-related musculoskeletal disorders (WRMSDs) and display screen vision problems, are among the major occupational safety and health problems facing the European Union today. They affect both women and men and all sectors of activity across the European Union and create considerable financial costs to businesses and society at large.</p> <p>Many initiatives have been taken both at EU and national levels, since the 1980s, to tackle ergonomic-related problems. These are currently covered by various individual Directives (in particular 2002/44/EC on "vibration", 90/269/EEC on "manual handling of loads", 90/270/EEC on "work with display screen equipment"), as well as by the general provisions of the "framework" Directive 89/391/EEC.</p> <p>Nevertheless, the current EU regulatory framework does not cover all types of work situations or address all risk factors leading to WRMSDs. Also, the technical development of the IT industry in the last twenty years suggests a revision and update of the provisions of Directive 90/270/EEC.</p> <p>For this reason, the European Commission has decided to explore the opportunity of new EU level initiatives in this area of prevention, with a view to reinforcing the existing provisions on ergonomics and WRMSDs.</p>
<p>(iii) Available evidence</p> <p>Ex post analysis of the existing policy is available from the Commission Communication COM(2004) 62 on the practical implementation of the framework Directive 89/391 and the first five OSH individual Directives, including Directive 90/269 (manual handling of loads) and Directive 90/270 (work with display screen equipment). Conclusions refer to the implementation of OSH legislation in the EU-15. As regards the "suggestions for</p>

improvement" made by MS (see section 6.3 of the above-mentioned Communication), they can be summarised as follows:

- as to Directive 90/269, a) several Member States are of the opinion that limit values should be set, since the margin for interpretation allowed as regards manual handling of loads is excessive; b) the Commission should provide details of assessment models and guidelines for the various Member States on handling loads manually, including the factors to be considered (of importance in international transport for co-ordination purposes); c) consideration should be given to the application of ergonomic principles of materials handling in the broadest sense, as part of the ergonomic development of tasks and organisation of work;
- as to directive 90/270, a) it would be advisable to specify the provisions on changes of activity or rest periods, as well as the persons to whom they should apply; b) the problems caused by electromagnetic radiation from terminals, lasers and magnetic fields should be examined; c) various Member States consider a review of the Directive to be appropriate, in order to adapt it to technological development.

Further evidence relating to the EU-27 is available from the a) the 2010 EU-OSHA report on "Work-related musculoskeletal disorders in the EU – Fact and figures", b) the information provided by MS in the framework of the activity of a technical group of experts in ergonomics set up in 2009 to assist the Commission in developing its initiative and consisting of members from all the 27 MS, c) the data available from the first 2008 preparatory study for IA, and d) the data on national situations available from the second preparatory study commissioned to an external consultant, which should be finalised in June 2011.

What are the main problems which this initiative will address?

Data on exposure to risk factors and on perceived work-related health risks available from recent Community surveys show that WRMSDs are on the increase in many Member States. In general, the need to address ergonomic risks gains importance in a context where demographic changes are expected to lead to an increasing number of aged workers in the EU.

Who will be affected by it?

Exposure to ergonomic-related risk factors virtually affect all sectors of activity, prevalence is the highest in the sectors of health and social work, construction, transport and communications, and agriculture. .

- (i) Is EU action justified on grounds of subsidiarity?
- (ii) Why can Member States not achieve the objectives of the proposed action sufficiently by themselves? (Necessity Test)
- (iii) Can the EU achieve the objectives better? (Test of EU Value Added)

The problems identified above concern the application of Community directives which establish common minimum standards at EU level for protecting workers' health and safety, in accordance with Art. 153 TFEU.

Current EU legislation only refers to a limited number of work situations, i.e. the "manual handling of loads" and the "work with display screen equipment", while fields of activity which are not explicitly covered by the legislation have become more important for WRMSD.

Action at EU level, could provide a common framework for MS to deliver their own policies in a consistent way in terms of compliance and enforcement measures; furthermore, the development of guidance tools at EU level could ensure the availability of a Europe-wide methodology to conduct risk assessment and implement prevention measures at the workplace. In general, an initiative at EU level could better contribute to ensuring a level playing field across Europe, without distortions due to different levels of OSH protection.

B. Objectives of the initiative

What are the main policy objectives?

Reinforce the prevention of WRMSDs and display screen vision problems in all sectors of activity at European level, providing for a coherent context of risk prevention and ergonomics measures which would facilitate their practical implementation and enforceability in comparison with the present situation, thus improving workers' health and improving productivity.

Do the objectives imply developing EU policy in new areas?

No

C. Options

(i) What are the policy options being considered?

(ii) What legislative or 'soft law' instruments could be considered?

(iii) How do the options respect the proportionality principle?

(i) policy options considered:

The Commission launched in 2004 the first stage consultation of the European social partners under Article 154 of the Treaty. The second consultation followed in 2007. Both consultations confirmed a divergence between employers and workers regarding the justification and feasibility of further EU legislation in this area. While all social partners recognised the magnitude of the problems related to the prevention of WRMSDs and their EU dimension, the views diverged in that employers emphasised the need for better implementing and making use of the existing legislation by improving awareness-raising activities, exchange of experience and dissemination of good practice, particularly at national level, whereas trade unions organisations advocated a more integrated EU-wide approach combining regulatory and non-regulatory measures. In view of this, the Commission finalised in 2008, with the support of an external consultant, a first study to assess a range of both regulatory and non-regulatory policy options regarding their socio-economic impact and their effectiveness in reducing occupational risks. A second preparatory study is currently under development by a contractor and will be finalised in June 2011.

Options currently considered are as follows:

1) No action - Status quo

Policy option 1 implies that the EU does not take new initiatives in the field of ergonomics, but sticks to its actual directives (i.e. Manual Handling of Loads Directive 90/269/EEC and work with display screen equipment Directive 90/270/EEC).

2) Non-binding initiatives at EU level

Policy option 2 implies that the EU sticks to its actual directives and takes initiatives of a non-binding nature for the Member States, i.e. dissemination of information, awareness-raising campaigns, community recommendations, encouragement of social dialogue at sectoral and/or trans-sectoral level.

3) Binding legislative initiative at EU level - Update of Directive 90/270/EEC (e.g. removing exemptions, updating annexes of the Directive as regards equipment, environment and the operator/computer interface) accompanied by non-binding initiatives.

Policy option 3 implies a technical update of Directive 90/270/EEC plus activities of non-binding nature, in particular the production of guidance tools and the possible organisation of awareness-raising campaigns.

4) Binding legislative initiative at EU level - Individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC, laying down minimum health and safety requirements on ergonomics at work particularly to prevent work-related musculoskeletal disorders and display screen vision conditions and repealing Council Directive 90/269/EEC and Council Directive 90/270/EEC, supported by non-binding initiatives.

Policy option 4 implies setting out a unified legislative instrument on ergonomics at the workplace, which would extend the scope of EU legislation in this area, while incorporating the two existing Directives on manual handling of loads (90/269/EEC) and work with display screen equipment (90/270/EEC). The new Directive would be accompanied by activities of non-binding nature, in particular the production of guidance tools and the possible organisation of awareness-raising campaigns.

(ii) There is a long-standing experience with soft instruments such as guidance documents and information campaigns in the area of health and safety at work. These are important elements in a comprehensive strategy. Taking into account experiences with previous campaigns, which also inform about the limitations of these soft instruments and the fact that the directives date back about 20 years, an update and modernisation is to be considered.

Legislative initiatives at Community level may be considered either to amend the existing Community legislation, in particular with regard to the update of Directive 90/270/EEC, or ("smart" option) to simplify the existing EU health and safety regulatory framework by setting out a new individual directive laying down minimum health and safety requirements for protecting workers from exposure to ergonomic risk factors in all workplaces while integrating the provisions of Council Directives 90/269/EEC and 90/270/EEC into the new legislative instrument.

(iii) Considering the scope and the impact of the problem in terms of both workers' health and social and economic costs, an action at EU level appears appropriate. The European level should help MS to develop more coherent policies and adopt more appropriate methodologies for risk assessment and prevention. In particular, the "smart" legislative option, while defining a common framework, would entrust the MS with defining their own tools for risk assessment and adapting preventative measures to the size and nature of enterprises. Non-regulatory initiatives should also be considered as supplements to national initiatives, in particular in the area of

guidance and compliance assistance. The proportionality of the costs of different options would be assessed in the impact assessment.

D. Initial assessment of impacts

What are the benefits and costs of each of the policy options?

Policy option 1 – No action - Status quo

Advantages of the status quo are: the current legislation has had an overall positive influence on occupational safety and health; the regulatory framework remains unchanged, so there are no costs for familiarisation/adaptation/change.

Disadvantages are that provisions of Directive 90/270/EEC are largely outdated; biomechanical risk-factors are only considered in relation to the manual handling of load and (in a no longer updated context) in relation to the work with display screen equipment; the consideration of psychosocial risk factors is almost completely absent; a large area of work activities is currently not covered by legislative provisions nor is it adequately addressed at EU level.

Policy option 2 – Non-binding initiatives at EU level

Advantages of non-binding initiatives are that EU campaigns are important for raising awareness; community recommendations may trigger national initiatives of different nature (both legislative and not); which more consistent guidance documents could facilitate prevention policies at company level as well as the work of the labour inspectorates; given the non-binding (voluntary) character of this option, one can assume that any additional effort is seen as cost-effective.

Disadvantages are that the structural problems of the status quo are not addressed; furthermore impact of EU non-binding activities on workplace policies is very limited; European or national campaigns only have short-term effects – there has already been a considerable number of such initiatives; efforts where profitability is not immediately obvious are not undertaken.

Policy option 3 - Binding legislative initiative at EU level - Update of Directive 90/270/EEC (e.g. removing exemptions, updating annexes of the Directive as regards equipment, environment and the operator/computer interface) accompanied by non-binding initiatives.

The advantage of a technical update is that it might facilitate labour inspections on ergonomic risks, and by that also allow an increase of the number of workplaces inspected without additional resources. Furthermore modernisation might increase acceptance.

Disadvantages are that an update will need to be transposed into national legislation, which will trigger costs of adaptation in the labour inspectorates and in companies; the removal of exceptions may have a major financial impact for some Member States and businesses.

Policy option 4 - Binding legislative initiative at EU level - Individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC, laying down minimum health and safety requirements on ergonomics at work particularly to prevent work-related musculoskeletal disorders and display screen vision conditions and repealing Council Directive 90/269/EEC and Council Directive 90/270/EEC, plus non-binding initiatives.

The advantage would be a more structured and coherent, risk assessment-based approach to ergonomic problems and a simplified legal framework. The combination of legislation and non-binding initiatives could also be conducive to more effective compliance assistance policies to help companies (including SMEs) conduct risk assessment and adopt prevention measures. Disadvantages could be, as for option 3, the need to transpose into national legislation, which may take some time and effort, and financial costs for Member States and businesses. A major impact on the latter could also be the extension of scope of new legislation, which will affect sectors that are not affected for the moment. The problem of SMEs will specifically be addressed in the final IA report to identify, where appropriate and based on the specific results of the analysis, which measures could be envisaged in this respect.

Could any or all of the options have significant impacts on (i) simplification, (ii) administrative burden and (iii) on relations with other countries, (iv) implementation arrangements? And (v) could any be difficult to transpose for certain Member States?

Option 4, and to some extent also option 3, might simplify European legislation by reducing exemptions and possibly by integrating two Directives into one (in the case of option 4). Proposal 4 may also have an impact in

<p>terms of increasing administrative burdens. DG EMPL will assess, via the IA process, the options for reaching the objectives in the lightest possible way.</p> <p>It might facilitate implementation by giving MS more latitude with the implementation of the Directives, while also suggesting a more generalised approach which facilitates more standardised approaches by labour inspectorates.</p> <p>None of the options is expected to have significant impacts on relations with third countries or to be particularly difficult to transpose for certain Member States.</p>
<p>(i) Will an IA be carried out for this initiative and/or possible follow-up initiatives? (ii) When will the IA work start? (iii) When will you set up the IA Steering Group and how often will it meet? (iv) What DGs will be invited?</p>
<p>Preliminary study was completed in 2008. New IA study under preparation. The Commission may finalise its IAR in the third quarter of 2011. IA Steering Group has been set up. DGs invited are SANCO, ENTR, ESTAT and SG.</p>
<p>(i) Is any of options likely to have impacts on the EU budget above €5m? (ii) If so, will this IA serve also as an ex-ante evaluation, as required by the Financial regulation? If not, provide information about the timing of the ex-ante evaluation.</p>
<p>No.</p>

E. Evidence base, planning of further work and consultation
<p>(i) What information and data are already available? Will existing impact assessment and evaluation work be used? (ii) What further information needs to be gathered, how will this be done (e.g. internally or by an external contractor), and by when? (iii) What is the timing for the procurement process & the contract for any external contracts that you are planning (e.g. for analytical studies, information gathering, etc.)? (iv) Is any particular communication or information activity foreseen? If so, what, and by when?</p>
<p>(i) to (iii) The IA will partly rely on the results of the 2004 Commission report (see section A). However, considering the limitation of this report, which only refers to EU-15, these results will be supplemented by a) the 2010 EU-OSHA report on "Work-related musculoskeletal disorders in the EU – Fact and figures", b) the information provided by MS in the framework of the activity of a technical group of experts in ergonomics set up in 2009 to assist the Commission in developing its initiative and consisting of members from all the 27 MS, c) the data available from the first 2008 preparatory study for IA, and d) the data on national situations available from the second preparatory study commissioned to an external consultant in 2011.</p> <p>(iv) Press release once the Commission proposal is adopted.</p>
<p>Which stakeholders & experts have been or will be consulted, how, and at what stage?</p>
<p>The advisory Committee on Safety and Health at Work (ACSH) adopted an opinion in December 2009. A group of national experts in ergonomics representing all the 27 MS has been set up and consulted since 2009. The activity of both the ACSH and the expert group will continue in 2011. European social partners which represent the stakeholders concerned were consulted twice, in 2004 and 2007 respectively, in accordance with article 154 of the Treaty. In view of this specific obligation set out by the Treaty and as the substance matter is in large parts quite technical, no public consultation is usually foreseen for initiatives in the area of OSH. Governmental authorities, national social partners and organisations representing SMEs at EU level are being consulted once again in the framework of the second preparatory IA study which is currently under preparation.</p>