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**COMMISSION RECOMMENDATION**

**of XXX**

**concerning the European schedule of occupational diseases**

## COMMISSION RECOMMENDATION

of **XXX**

### concerning the European schedule of occupational diseases

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) With Commission Recommendation 2003/670/EC of 19 September 2003 concerning the European schedule of occupational diseases<sup>1</sup>, the Commission recommended to the Member States that they implement a series of measures with the objective of updating and improving various aspects of their policies relating to occupational diseases. These measures relate to the recognition of, compensation for, and prevention of occupational diseases, the setting of national objectives for the reduction of occupational illnesses, the reporting and recording of occupational diseases, the collection of data concerning the epidemiology of diseases, the promotion of research in the field of ailments linked to an occupational activity, the improvement of diagnosis of occupational diseases, the dissemination of statistical and epidemiological data on occupational diseases, and the promotion of an active role for national public health and healthcare systems in preventing occupational diseases.
- (2) The outbreak of COVID-19 has affected all Member States since early 2020, causing major disruptions to all sectors and services, and affecting the health and safety of workers across the European Union (EU). Today, the epidemiological situation in the EU linked to COVID-19 has improved, thanks mainly to the wide availability of vaccines, but it remains challenging, particularly in view of possible new waves of COVID-19 and the emergence of variants of the SARS-CoV-2 virus, as well as of long COVID cases.
- (3) In this context, the Commission, among other measures, announced, in its Communication ‘EU strategic framework on health and safety at work 2021-2027 - Occupational safety and health in a changing world of work’<sup>2</sup> (the ‘EU Strategic Framework’), that it would update Commission Recommendation 2003/670/EC to include COVID-19, with a view to promote the recognition of COVID-19 as an occupational disease by Member States and encourage convergence.
- (4) Following the adoption of the EU Strategic Framework, the Advisory Committee on Safety and Health at Work (ACSH) set up a dedicated Working Party with the mandate to prepare a draft opinion for adoption by the ACSH on the subject of the update of Commission Recommendation 2003/670/EC to include COVID-19. On 18 May 2022, the ACSH adopted the related opinion, which recommends the inclusion of COVID-19 in Annex I of Commission Recommendation 2003/670/EC by adding a new entry No 408 referring to COVID-19 caused by work in disease prevention, in health and social care and in domiciliary assistance, or, in a pandemic context, in

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<sup>1</sup> OJ L 238, 25.09.2003, p. 28.

<sup>2</sup> COM(2021) 323 final.

sectors where there is an outbreak in activities in which a risk of infection has been proven.

- (5) The present Recommendation takes into account the opinion of the ACSH and inserts COVID-19 in Annex I of the Recommendation. The term ‘health and social care’ should be understood as referring to the economic activities under section Q of the NACE Rev. 2 statistical classification<sup>3</sup>. As regards the economic activities apart from those falling under section Q of the NACE Rev. 2 statistical classification, the conditions laid down, i.e. the existence of a ‘pandemic context’ and the existence of an ‘outbreak in activities in which a risk of infection has been proven’, should be understood as being laid down cumulatively. In this regard, a ‘pandemic context’ should be understood as when competent international bodies, such as the World Health Organization (WHO), declare certain disease outbreaks a global pandemic. An ‘outbreak’ in the sense of the new provision of the Recommendation should be defined by Member States in accordance with national law or practice. A ‘proven’ risk of infection exists in activities for which, in accordance with national law or practice, a causal link has been established between work in these activities and increased exposure to SARS-CoV-2.
- (6) In line with the principle of subsidiarity and in view of the respective competences of the EU and of the Member States in the areas of public health and social policy under the Treaties, the determination of the public health measures to be taken in the context of any pandemic, including those applying to workplaces and companies, as well as the finding of the existence of an outbreak in activities in which a risk of infection has been proven, should be up to the Member States, acting in full compliance with EU law, including EU occupational safety and health legislation. In this context, account should be taken in particular of Regulation (EU) 2022/XXXX of the European Parliament and of the Council on serious cross-border threats to health and repealing Decision No 1082/2013/EU (2020/0322(COD))<sup>4</sup>.
- (7) Eurostat’s 2021 report ‘Possibility of recognising COVID-19 as being of occupational origin at national level in EU and EFTA countries’<sup>5</sup> shows that most Member States recognise COVID-19 as an occupational disease or as an accident at work, in line with the conditions defined at national level.
- (8) Even though the recognition of occupational diseases is a matter closely linked to the design of social security systems, which is a Member State competence, the Commission promotes the recognition of occupational diseases listed in the European schedule of occupational diseases by Member States. As stated in the EU Strategic Framework, there remains a need to increase focus on occupational diseases. In line with the general principles of prevention which form the core of the 1989 Framework Directive on Safety and Health at Work<sup>6</sup> and the related health and safety at work directives, this Recommendation should be a principal instrument for the prevention of occupational diseases at EU level. Moreover, it is also important to support workers infected, especially by Covid-19, and families who have lost family members because of work exposure.

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<sup>3</sup> <https://ec.europa.eu/eurostat/documents/3859598/5902521/KS-RA-07-015-EN.PDF>

<sup>4</sup> Not yet published in the OJ.

<sup>5</sup> <https://ec.europa.eu/eurostat/documents/7870049/13464590/KS-FT-21-005-EN-N.pdf/d960b3ee-7308-4fe7-125c-f852dd02a7c7?t=1632924169533>

<sup>6</sup> 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 (OJ L 183, 29.6.1989, p. 1).

- (9) In line with the EU Strategic Framework, Member States should be called on to actively involve all players, in particular social partners, in developing measures for the effective prevention of occupational diseases.
- (10) The EU Strategic Framework refers to the need for a strengthened evidence base to underpin legislation and policy, and for research and data collection, both at EU and national level, as a pre-condition for the prevention of work-related diseases and accidents. Cooperation and exchange of information, experience and best practice is critical for improved analysis and prevention across the EU.
- (11) The recommendation to the Member States to forward to the Commission and make available to interested parties statistical and epidemiological data on occupational diseases recognised at national level remains relevant, taking into account Regulation (EC) No 1338/2008 of the European Parliament and of the Council of 16 December 2008 on Community statistics on public health and health and safety at work<sup>7</sup> as well as in light of developments linked to the pilot works on European Occupational Diseases Statistics (EODS).
- (12) The role of the European Agency for Safety and Health at Work, established by Regulation (EU) 2019/126<sup>8</sup>, is, inter alia, to supply the Union institutions and bodies and the Member States with the objective technical, scientific and economic information available and the qualified expertise they require to formulate and implement judicious and effective policies designed to protect the safety and health of workers, and to collect, analyse and disseminate technical, scientific and economic information in the Member States. Accordingly, the Agency should also play an important part in the exchange of information, experience and best practice on the prevention of occupational diseases.
- (13) National public health and healthcare systems can play an important part in improving prevention of occupational illnesses, for example by raising awareness among medical staff with a view to improving knowledge and diagnosis of these illnesses.
- (14) In view of the above considerations, and taking into account, on the one hand, the fact that the inclusion of COVID-19 in Annex I of this Recommendation is time-sensitive, especially in light of possible new waves of COVID-19 and the emergence of variants of the SARS-CoV-2 virus, and, on the other hand, the fact that Commission Recommendation 2003/670/EC remains largely relevant and fit for purpose, this Recommendation should include COVID-19 in its Annex I and reiterate the content of Commission Recommendation 2003/670/EC, without prejudice to further updates to this Recommendation at a later stage,

RECOMMENDS:

#### *Article 1*

Without prejudice to more favourable national laws or regulations, it is recommended that the Member States:

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<sup>7</sup> OJ L 354, 31.12.2008, p. 70.

<sup>8</sup> Regulation (EU) 2019/126 of the European Parliament and of the Council of 16 January 2019 establishing the European Agency for Safety and Health at Work (EU-OSHA), and repealing Council Regulation (EC) No 2062/94 (OJ L 30, 31.1.2019, p. 58).

1. introduce as soon as possible into their national laws, regulations or administrative provisions concerning scientifically recognised occupational diseases liable for compensation and subject to preventive measures, the European schedule in Annex I;
2. take steps to introduce into their national laws, regulations or administrative provisions the right of a worker to compensation in respect of occupational diseases if the worker is suffering from an ailment which is not listed in Annex I but which can be proved to be occupational in origin and nature, particularly if the ailment is listed in Annex II;
3. develop and improve effective preventive measures for the occupational diseases mentioned in the European schedule in Annex I, actively involving all players and, where appropriate, exchanging information, experience and best practice via the European Agency for Safety and Health at Work;
4. draw up quantified national objectives with a view to reducing the rates of recognised occupational illnesses, in particular those included in the European schedule in Annex I;
5. ensure that all cases of occupational diseases are reported and progressively make their statistics on occupational diseases compatible with the European schedule in Annex I, in accordance with the work being done on the system of harmonising European statistics on occupational diseases, so that information on the causative agent or factor, the medical diagnosis and the sex of the patient is available for each case of occupational disease;
6. introduce a system for the collection of information or data concerning the epidemiology of the diseases listed in Annex II and any other disease of an occupational nature;
7. promote research in the field of ailments linked to an occupational activity, in particular the ailments listed in Annex II and the disorders of a psychosocial nature related to work;
8. ensure that documents to assist in the diagnosis of occupational diseases included in their national schedules are disseminated widely, taking account in particular of the notices for the diagnosis of occupational diseases published by the Commission;
9. forward to the Commission and make available to interested parties statistical and epidemiological data on occupational diseases recognised at national level, in particular via the information network set up by the European Agency for Safety and Health at Work;
10. promote an active role for national healthcare systems in preventing occupational diseases, in particular by raising awareness among medical staff with a view to improving knowledge and diagnosis of these illnesses.

#### *Article 2*

The Member States shall themselves determine the criteria for the recognition of each occupational disease in accordance with the national laws or practices in force.

#### *Article 3*

This Recommendation replaces Recommendation 2003/670/EC.

*Article 4*

The Member States are requested to inform the Commission, no later than 31 December 2023, of the measures taken or envisaged in response to the new item No 408 of this Recommendation. The Member States are requested to inform the Commission whenever any new measures are taken in relation to the implementation of this Recommendation.

Done at Brussels,

*For the Commission*  
*Nicolas SCHMIT*  
*Member of the Commission*