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UEAPME response to the Commission's second stage consultation of the Social Partners on work-related musculoskeletal disorders (MSD)

Introduction

The European Commission has in accordance with article 138 of the EU Treaty consulted with the European Social Partners on 15 March 2007 for the second phase **on work-related musculoskeletal disorders**. As part of this second stage consultation the Commission asks the social partners for their opinion or recommendation on the content of the envisaged regulatory and non regulatory initiatives and whether the social partners are ready to start negotiations.

UEAPME would like to recall its response to the first stage consultation¹ which is still valid. While principally supporting the aim of reducing the cases of MSD across Europe, the European craft small and medium sized representative does not agree with the need for further legislation in this area.

Moreover, UEAPME regrets that the Commission did not take up the issue of addressing more specifically providers of packaging and machinery as a crucial target group. Providers too often do not take the needs of the individual and enterprises into account when designing machinery and deciding on the packaging of products. If providers are not sufficiently informed on this issue, they do not take appropriate measures to help preventing MSD, leaving the sole responsibility for prevention to the employer, which not always has the means for being successful.

Concerning the content of the Commission's proposal

a) Need for a new legislative initiative

European craft, small and medium sized enterprises do not agree with the Commission on the need for a new legislation. MSD is already covered by various pieces of legislation as mentioned by the Commission. **The main issue at stake is not the lack of legislation but the lack of its practical implementation**, as the real challenge for companies is to find a workable solution adapted to the specific work situations. Therefore the emphasis should rather be put on the **prevention** principle that on the curative one. Better information and support for enterprises, in particular SMEs, as well as for sectors through awareness raising campaigns, practical guidelines, technical support and other measures such as the exchange of good practises would be more successful than additional legislation.

¹http://www.ueapme.com/docs/pos_papers/2004/UEAPME%20pp%20MSD%201st%20consul%20final.en.doc

MSD is a phenomenon caused by multiple factors. In many cases MSD is not caused by work carried out by the individual but originates outside of the work environment during leisure time and recreational activities such as extreme sport or the lack of physical exercise and overweight. Therefore it would not be justified to hold the employer responsible for all incidents of MSD but rather to strengthen the self responsibility of people for their health, as it is also a public health issue.

b) Form and scope of a potential new legislative initiative

UEAPME sees no added value in a new legislation on this topic, but if the Commission insists to continue with its aim of proposing a new piece of legislation it seriously should reconsider the scope of this initiative.

UEAPME questions the practicality of defining overarching quantifiers applicable for all sectors and all types of companies irrespective of their size. One general overarching directive would be inappropriate and unrealistic as MSD varies significantly across different sectors and professions and should be therefore addressed in a more specific way and not for everyone and every company. This was also identified in the opinion of the Advisory committee for safety and health at work (ACSSH) which stated that “MSD are very varied and may differ greatly from company to another or even from one work station to another.” Such a proposal would also contradict the *better regulation initiative* of the European Commission despite of the argument put forward in the consultation document of the Commission, as it should lead to a simpler application and less burden for the companies. The present proposal would not achieve this in its current form.

Therefore one should focus on the sectoral level for tackling this topic. One way could be that the sectors where MSD may become a significant problem could find tailored made solutions through social dialogue just as in the case of the social partners in agriculture. In any case a thorough socio-economic impact assessment is essential. Additionally, the “think small first approach” should be the guiding principle for any further work.

Conclusion

- No further legislation is needed because the existing legislative framework is sufficient and appropriate. Emphasis should be instead put on awareness raising campaigns and on technical tools helping to better implement existing legislation.
- MSD has multiple causes, many which lie outside of the work environment. Therefore this debate should also take a public health dimension
- A general directive on MSD covering all sectors and all types of enterprises is inappropriate and unrealistic. The focus should lie on practical instruments at the sectoral level focusing on the specific needs of each sector and well adapted to SMEs. Here MSD can be dealt with in a more appropriate manner, depending on the specific risks of the relevant occupational group
- UEAPME regrets the fact that no activity is foreseen concerning the providers of packaging and machinery
- Based on the above outlined explanation, UEAPME does not consider it appropriate to launch the negotiation procedure according to articles 138 and 139 of the EC Treaty.

23 April 2007