

The point of view of the European trade unions: It is urgent to revitalise the EU occupational health and safety policy

Laurent Vogel

Researcher at the European Trade Union Institute

Coordinator of the Workers' group in the European Advisory Committee on Health and Safety

Every year, some 160,000 people die in the European Union from the consequences of poor working conditions. Cancer caused by occupational exposure alone accounts for nearly 100,000 deaths a year. It is not only a reflection of the past. Different national surveys show that even today, a sizeable percentage of workers is exposed to carcinogenic agents as well as endocrine disruptors under conditions where collective prevention is short supply. Development in nanomaterials is progressing at a rapid pace, while the assessment of the risks relating to their use is in its infancy.

Beyond the issue of mortality, the European survey of working conditions in 2010 shows several worrying trends.

1°) Growing inequalities between the countries of the Union, and between categories of workers inside each country. These inequalities affect particularly workers in difficulties and workers in small and medium-sized companies who have fewer rights and fewer means in practice to look after their health than workers in big companies.

2°) For many workers, the working conditions are incompatible with remaining employed until retirement age. Between 2000 and 2010, the percentage of workers who thought that they could keep their job until the age of 60 has gone up slightly, from 57.1% to 58.7%. This is a slight progression, yet one that does not concern only clerical employees. On the contrary, the situation for blue collar workers has got worse. Less than half of such workers think that their working conditions will enable them to keep working until the age of 60. Among skilled manual workers, that figure was 52% in 2000, but only 49.3% in 2010. For their part, 46.2% of unskilled workers thought so in 2000. That figure was only 44.1% in 2010.

3°) There are serious inequalities between men and women. Women are concentrated in a relatively reduced number of sectors of activities and they generally hold lower positions in the hierarchy. Equal access for men and women to all the jobs necessarily goes through an improvement of the working conditions. In this field, the policies on occupational health and safety and on equality have complementary roles to play.

Beyond the figures, working conditions are the cause of a sizeable number of diseases and entail major social health inequalities. The deterioration of the working conditions is incompatible with the fundamental goals of Community policies such as the increase in employment rates against a demographic context of an ageing European population.

This deterioration is amplified by the current crisis. It is absurd to think that the occupation health policies have contributed to this crisis. We know that the causes lie elsewhere: In the failure of deregulation policies that have weakened public control over the financial players in the dramatic increase of social inequalities throughout all of Europe.

The 10 years of the preceding two Commissions headed by Mr Barroso were 10 lost years essentially in the field of Community policies on occupational health and safety. It is necessary to proceed to an honest assessment, without complacency, so as to be able to meet the fundamental social conditions for citizens in Europe: that their working conditions improve and do not prejudice their life or health.

The EU treaty reflects this requirement clearly. The former Article 118 A which was included in the current Article 153 of the Treaty on the Functioning of the European Union is precise. It adopts the objective of harmonisation in the progress of working conditions. It defines the most appropriate instrument for achieving that goal. Directives have to be enacted that define a common base of minimum rules to be implemented in all the Member States.

The ESENER survey conducted by the Bilbao agency confirms the importance of precise legislation in organising prevention. According to this survey based on a sample of 36,000 companies, the main factor that drives companies to develop a prevention policy is the existence of legislation: 90% of companies indicate that compliance with the legislation goads them to act. In 22 of the 27 countries, this factor is cited as the leading answer. The second factor cited most often as a driving force behind preventive action is a demand by workers and their representatives. It is cited by three out of four companies. In that respect, it is worth pointing out that half of the workers in Europe have no form of representation. This situation is particularly critical in small and medium-sized companies. There are nonetheless concrete solutions to tackling this problem. Encouraging examples of workers' representatives for safety who are appointed at territorial level can be cited in Sweden as well as in Italy.

The legislation adopted from the framework directive of 1989 has constituted an important positive factor in the different Member States. It has led to a considerable renewal in national legislations and in improving prevention in different fields. We would be wrong, however, to think that this legislation, the essence of which goes back some twenty years, provides final answers to all the current problems.

On the one hand, working conditions are changing and are revealing emerging risks. On the other, the very experience acquired from the directives makes it possible to identify a certain number of gaps and limitations therein.

The tripartite advisory committee on health and safety has identified priorities on many points in the opinion adopted unanimously in December 2011. The European Parliament also adopted a resolution in December 2011 which converges with the tripartite committee's opinion on many points. The Senior Labour Inspectors Committee has also made very useful proposals.

The Commission's communication on the strategic framework for the health and safety policy adopted in June 2014 does not meet the expectations expressed. It is a

document that makes observations on which we can agree but lacks dramatically concrete proposals when it comes to EU action. The EU policy on occupational health and safety cannot be revitalised on the basis of this document.

It is essential to determine the role of the different players, whether the EU institutions, the Member States, the trade union and employers' organisations or others.

From our point of view, the main role of the European Commission is related to two elements. For one, it holds a monopoly on legislative initiative. It should not abuse this privileged position by refusing systematically to submit proposals for directives to the Parliament and the Council. For more than 10 years, the two most important legislative projects have remained blocked because of the Commission. They pertain to the revision of a directive concerning the protection of workers against carcinogenic substances and the proposal for a directive on musculoskeletal disorders. On the other hand, it must ensure that EU directives are actually implemented. In that respect, it exercises multiple functions ranging from judicial procedures against shortcomings by the Member States to a coordinating and initiating role for a tripartite, concerted strategy with the trade unions and employers' organisations and the Member States. As trade union organisations, we are certainly not the only ones to be very frustrated about the actual level of a tripartite solution implemented in occupational health and safety policies. Our opinions are rarely heard, and our proposals are not followed up. Countless meetings are held, to be sure, but they do not bring much weight to bear in the actual definition of policies. The casual manner with which the Commission has dealt with the request of trade unions and employers' organisations to implement the agreement on prevention in the hair dressing sector by means of a directive is another reflection of this situation.

As regards the revision of the directive on carcinogenic agents, it is clear that the current legislative framework is ill suited, insufficient and based on a state of scientific knowledge that goes back to the 1970s, at a time when the role of endocrine disruptors and epigenetic processes in the development of cancer was widely unknown. This directive is not even consistent with the definition of very high concern substances in the REACH regulation because it excludes substances which are toxic for reproduction. This directive defines the restrictive limit values for only three substances, to which asbestos and lead should be added, for which the restrictive limit values have been defined in other directives. These limited values are far from the preventive requirements that techniques would afford nowadays. They cover fewer than 20% of the real situations in which workers are exposed to carcinogenic agents. Experience with prevention shows that the most dangerous situations are related to multiple exposures as well as to exposures caused by the production process, as is the case for crystalline silica or diesel fumes. Health surveillance, as provided by the directive, is not enough. We know that there are very long latency periods between the period of exposure and the development of cancer. It is therefore indispensable to provide health surveillance that extends throughout the life of workers who are exposed. This is not provided in the EU directive at this time and it has not been implemented in the majority of the Member States up to now. It has been more than 10 years that trade union organisations and a large number of Member States have been drawing the Commission's attention on the importance of this issue. And we have been coming up against insurmountable inertia for more than ten years too. And yet, the need to revise this directive was recognised

in the 2002-2007 strategy. This issue is no longer mentioned in the document of June 2014, whereas the revision has still not taken place. On 4 March 2014, the ministers for labour of Austria, Germany, the Netherlands and Belgium sent a joint letter to the Commission to ask that the directive on the prevention of occupational cancer be revised rapidly. In most European countries, the asbestos scandal has helped revitalise public occupational health policies, whereas the European Commission continues to neglect the issue (of occupational cancer) in dramatic fashion. And yet it is an area where European policy has important added value. In fact, efficient prevention of occupational cancers presupposes an overall strategy that concerns concurrently the internal market, environmental protection, the protection of workers and public health. We are at the very heart of EU competencies.

For their part, musculoskeletal disorders constitute a work related health problem that affects nearly one out of four workers in Europe. Efficient prevention of these musculoskeletal disorders requires an integrated approach that considers all the ergonomic risks as well as their interaction with psychosocial risks. The current legislation is fragmented and piecemeal. It is limited to work on a screen, manual handling of loads and vibration. It does not broach other factors such as repetitive movements, postural constraints, the content of the work activity, the margin for manoeuvre of operators and the intensity of work. The prevention deficiencies with regard to musculoskeletal disorders are flagrant. The social security system of each Member State assumes an increasing part of the expenses for incapacity for work, disablement and at times total withdrawal from the labour market by people who have been made incapable of working by these pathologies. There is a strong gender component in musculoskeletal disorders which are related to occupational segregation. Women are concentrated in sectors and activities where repetitive work is particularly widespread, while their autonomy to organise their work is limited.

The programme of this conference reflects the deadlock of the current policy. The central question asked presupposes that there could be a contradiction between an improvement of working conditions and the economy. It is a very old myth: from the beginning of the 19th century, it was alleged that the prohibition of child labour in the mines would cause a collapse in the economy of the countries concerned. No substantial question would be examined in depth. There would be no systematic treatment of cancer, musculoskeletal complaints, psychosocial risks, or even occupational accidents. We would be in a bubble of glass isolated from reality. There has not been a single conference in the last six years that has not focused on byzantine discussions about administrative burdens. This question is largely artificial. It is used as a pretext to paralyse occupational health and safety policies in the European Union. The previous Commission entrusted a part of this case to the Stoiber Group and allowed the Impact Assessment Board to delay or impede indispensable legislative initiatives for citizens and workers. It created a new incompetent bureaucracy that thinks it can assert its legitimacy through absurd promises. It has created a market of consultants whose reports can't stop accumulating. They give the impression that the number of pages is inversely proportional to the quality of the analyses. To believe the Stoiber group, it would suffice to follow these opinions in order to save more than €40 billion. The Commission has adopted methods for calculating "administrative burdens" that are subjective and biased. These methods consist of gauging the opinion of some employers and then extrapolating data in a fanciful manner. In all the years we have been discussing this issue, I have never heard a single relevant example that could

demonstrate that a directive on health and safety is the cause of an unnecessary administrative cost. The existing directives impose obligations that are proportional to the scope of the risks. They are based on risk assessment that makes it possible to adapt the prevention plans to actual problems encountered at the work place. The questioning, by the Stoiber group, of the need for a document on risk assessment threatens the overall efficacy of EU legislation. It is incomprehensible that this question continues to be agitated to the detriment of a serious policy to confront the risks at work. As trade union organisations, we will take part in the discussions on the evaluation of the existing directives which unfortunately risk taking up a lot of time in 2015. We will on such occasions endeavour to introduce the reality of the work place and the suffering caused by diseases and accidents, and to avoid the trap of endless documents that contain far more opinions and prejudices than facts.

For the trade unions, it is necessary to recognise above all the immense cost – human, social and financial – of impairments to health caused by work. The last elections for the European Parliament highlighted a growing disaffection with the European integration project on the part of citizens in many countries. It is up to the European institutions to show that their project rally does contribute to a harmonisation of living and working conditions for people in Europe. It is against that background that we call most urgently for a break with the previous policy. This entails adopting a real strategy for occupational health and safety that is decidedly more ambitious and more concrete than the communication presented by the Commission in June 2014.

Political scientists consider in general that the first 100 days of a policy team are decisive to judge its coherence and credibility. Aware of the slowness of the European decision-making process, we can be far more generous and extend the test over a period of twelve months. So we will be expecting concrete legislative initiatives from this Commission in the course of 2015. I hope that in a year's time we will be able to discuss far more substantial issues than those of today: how are we to prepare for the implementation of the revised directive on carcinogenic agents and the directive concerning musculoskeletal disorders?