

UEAPME response to the first-stage consultation of the European social partners on the amendment of certain EC directives on health and safety at work as a result of adoption of Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures

Introduction

UEAPME gives the following responses to the questions posed by the European Commission in its first-stage consultation of the social partners on the amendment of certain EC directives on health and safety at work as a result of the adoption of Regulation (EC) No 1272/2008 on classification, labelling and packaging of substances and mixtures.

Preliminary remarks

Due to the adoption of Regulation (EC) No 1272/2008 the European Commission considers it necessary to adapt the references and employment protection laws which still refer to the regulations prior to the CLP. The amendments are to notably concern the following five directives:

- Directive 98/24/EC – chemical agents
- Directive 2004/37 – carcinogens or mutagens at work
- Directive 92/85 – provision of safety and/or health signs at work
- Directive 92/85 – pregnant workers
- Directive 94/33 – young people at work

On the specific questions

1 - Do you consider that the five existing directives on health and safety at work should be amended to reflect adoption of the Regulation on classification, labelling and packaging that implements the UN Globally Harmonised System within the EU?

UEAPME expresses its support to the adaptation of the references in the five current health and safety at work directives in line with the CLP Regulation. The adoption of the CLP Regulation aims at bringing the EU system in line with international standards on the classification and labelling of substances and mixtures, as well as ensuring harmonisation within the EU. In order to provide legal certainty and transparency the individual health and safety directives therefore need to be amended.

2 - In particular, do you agree with the approach of amending the five existing directives by adopting a single amending directive under Article 137 of the Treaty?

For reasons of efficiency and better regulation it makes sense to adapt the references in a single amending directive. We expect that due to the necessary codification the references will have to be incorporated into the respective health and safety at work directives at a later date.

3 - Should this amendment be designed to have a neutral effect on the requirements of the existing directives, i.e. should its overall objective be to maintain the level of worker protection provided by the five directives?

UEAPME emphasises that the new requirements should be designed in such a way as to have a neutral effect on the protection of workers and therefore focus on the purely technical dimensions. This should not lead to an extension of employment protection legislation creating additional administrative burdens for companies. In this context the scope of the carcinogens directive 2004/37 should not be extended to cover reproduction aspects as has been previously suggested by the European Commission.

Instead particular attention should focus on ensuring that references in the current directives also refer to the respective requirements in the annex of the CLP directive and hence allow compliance. For instance, regarding the directive 2004/37 there should be a concrete reference to point 3.5 and 3.6 of the CLP annex. In technical terms this presents a considerable challenge due to the fundamental changes required regarding the classification of substances and mixtures.

Furthermore, the adoption of the CLP regulation creates new hazard classes which are not relevant to endangering workers health at the workplace. Consequently they should be exempted from the term of dangerous chemical work substances. More specifically this concerns the hazard classes of “gas under pressure” and “corrosive effect on metals”. In the case of gas under pressure there already are adequate regulations on how to handle pressurised containers and regarding metal corrosion no negative effects whatsoever can be assumed on workers.

UEAPME points out that with regard to transitional provisions it is only reasonable to have one common date, i.e. 01.06.2015 by which the definitions of the chemical legislation should be incorporated into the employment protection regime. The reason being that legal certainty in the use of new definitions in the field of employment legislation protection can only be provided once the chemical legislation has been fully implemented.

Creating a distinction between substances and mixtures is solely relevant for bringing chemicals into the market. In addition, companies which already implement the new requirements according to the CLP regulation before the deadline are required to incorporate the specifications as before in the security data sheet.

This mechanism should ensure that there are no gaps in the field of workers protection.

4 - Do you agree that the Annex to Directive 94/33 on young people at work should be updated to reflect the changes to a number of pieces of EC legislation referred to in the Annex to the directive?

In line with other areas the protection of young workers should be adapted out of principle to correspond to the annexes according to current legislation for reasons of transparency and legal certainty. Once again it should be purely limited to technical considerations and not extended to the protection of young workers thereby causing a possible negative impact on the employment of young persons.

Conclusions

- UEAPME expresses its support to the adaptation of the references in the five current health and safety at work directives to provide legal certainty and transparency in view of the adoption of the CLP regulation to comply with international standards.
- For reasons of efficiency and better regulation it makes sense to adapt the references in a single amending directive.
- The new requirements should have a neutral effect on the protection of workers and therefore focus on the purely technical dimensions.
- Regarding the transitional provisions there should be one common date, i.e. 01.06.2015 by which the definitions of the chemical legislation should be incorporated into the employment protection regime in order to allow sufficient legal certainty in the use of new definitions in the field of employment legislation protection.

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