

Consultation

UEAPME reply to the second stage consultation of the European Social Partners on the protection of workers from the risks related to exposure to electromagnetic fields

I. Introduction

UEAPME takes note of the second stage consultation of European social partners on the protection of workers from the risks related to exposure to electromagnetic fields launched by the European Commission on 20 May 2010.

UEAPME once again recalls its support to the necessary suspension of the current European directive 2004/40/EC, which posed disproportionate obligations on employers to assess and control the risks from worker exposure to physical agents (electromagnetic fields). UEAPME points out that any workable solution needs to take into account the specificities of SMEs from scratch according to the “Think small first”¹ principle.

II. General comments

UEAPME broadly welcomes the proposal provided by the European Commission on the exposure to EMF emphasising principles based on proportionality and flexibility for all workers and companies without exemptions. This could improve the current situation by addressing EMF exposure at the workplace in a more realistic and practical manner.

However, further clarification is required as to whether the new proposal will make the assessment of a workplace feasible by a non-specialist. A central aim must be to avoid having smaller companies faced with unnecessary financial and administrative burdens and in particular costly external consultancy in order to comply with the regulations.

In the majority of workplaces the threat of adverse effects of EMF exposure is low. It is rather some specific industrial activities or workplaces that are more typically affected and require specific provisions. Therefore the focus must be put on regulating the non-compliant exceptions and not vice versa. This requires a simple step by step procedure to make it easier for employers to understand their obligations and check compliance.

Effective non-binding measures and guidance continue to be crucial in particular for SMEs to help them implement appropriate protection measures in a userfriendly way.

¹ See EC „Small Business Act for Europe” 2008. It recognises the central role of SMEs in the European economy and puts in place a comprehensive framework for the EU and Member States.

UEAPME agrees that the main aim of a forthcoming initiative on EMF should be the protection of workers from the risks related to exposure of electromagnetic fields at the workplace in the short term. There is a lack of scientific data to extend this to any possible effects of long-term exposure.

III. On the questions asked by the Commission

QUESTION 1– submit to the Commission an opinion or, where appropriate, a recommendation on the content of the envisaged legislative and non-legislative initiatives pursuant to Article 154 (3) of the TFEU, giving particular attention to the topics identified in section 4 above;

4.1. Coverage of all sectors of activity

UEAPME agrees with the approach to have an initiative which is cross-sectoral by nature and equally covers all areas of activity. This is necessary in order to create a level playing field for all employers across Europe.

4.2. Precise definitions – Article 2

UEAPME reiterates its support to the European Commission's intention to limit the scope of the directive to possible adverse health effects arising in the short term, as opposed to the long-term. Moreover, we agree that a precise definition of short-term adverse health effects constitutes an improvement in that it would put the focus on prevention.

4.3. Exposure limit values

UEAPME welcomes the European Commission's aim to introduce new exposure limit values which should make it easier for employers to measure and are less restrictive. This is important to tackling the roots of the problem of the current directive as the exposure limits are too restrictive and most of the values cannot be measured directly.

We also appreciate the fact that the European Commission has looked into a more comprehensive and innovative proposal for a new measurement "zoning" mechanism, replacing the current system, and applying the following concept:

- i. Introduction of a new system for a lower frequency range from just above 0 Hz to 100 kHz. A multilayered "zoning system" would apply divided into different zones according to the potential health threat (zones 0 to 3).
- ii. For higher frequencies above 100 kHz to 300 kHz the old system would remain in place.

However, it seems the multilayer system is still rather complex and constraintful. It is not clear in how far it would cut administrative and financial burdens and we therefore need to verify more clearly the extent of simplification for Crafts and SMEs. In particular smaller companies would most likely still need to hire a

specialised consultant to check compliance with regulations. They would clearly be the ones most affected as the costs of acquiring expertise and equipment represent a much higher proportion of their turnover.

The central challenge continues to be that there is currently no simple method of measuring EMF exposure. Therefore a practical and easy to follow step by step procedure is required to help employers check compliance.

According to UEAPME the following key principles should apply:

- EMF exposure should be more easily identifiable in the first place by verifying the type of technical devices and industrial activities used at a workplace, instead of insisting on measurements, which are always more complicated and contain a high risk of uncertainty. The lists on a priori compliant and non-compliant workplaces contained in Standard EN 50499 facilitate this verification. In this regard we strongly support the Commission proposal to foresee a non-exhaustive list of non-compliant activities inserted into the annex of a directive.
- Firms in possession of “potentially at risk” equipments and applying certain factory processes should undertake a thorough risk assessment, measure actual exposure values etc, whereas all the other firms with a priori compliant equipment and factory processes should follow simplified risk assessment procedures avoiding measurement constraints.

Moreover, UEAPME would like to make some specific comments on the zoning system:

- It is not clear if the zoning system is also suited for areas with multiple EMF sources. It could be a more appropriate approach when dealing with large fixed installed transmitters or other large sources.
- The precise application of the zoning system should be established more clearly. For instance, it is not evident whether the zones from level 2 upwards are to be used for certain areas of an enterprise, which may not be entered by an employee once the upper limit is exceeded or whether it should be applied for a certain workplace activity.
- The number of zones should be reduced from 4 to 3. If the upper limit of zone 1 were to be amended for exposures below 1 Hz, zones 0 and 1 could be merged. This would help businesses to identify that no further action is required, provided the upper limit of zone 1 is not likely to be exceeded.
- The limits between the different zones should be simple to distinguish and have directly measurable reference values. The employer should be able to determine the range of obligations corresponding to the assessed exposure situation with a single measurement. In this regard we fully support the new “colour codes” for the zoning system which would make it visually easier to understand the different layers.

4.4 Measurements and calculations

Employers must not be held legally accountable for imprecise measurements or exposure limit values arising from technical measurements.

4.5. Guidance for risk assessments

UEAPME agrees that the main purpose of guidance on risk assessments should be to raise awareness of the EMF issue amongst employers. It must also contribute to simplification and proportionality according to the nature of industrial activity and size of the problem. The acknowledgement of proportionality presents a real improvement compared to the previous consultation.

However, further work is required on certain aspects. For instance, at present there is no clear guidance as to when a detailed risk assessment is required. Effective guidance has to be adapted to the use of notably smaller enterprises. It should be communicated clearly that for instance CENELEC standards and ACSH guides are voluntary instruments.

4.6. Due flexibility in a controlled working environment

We support the possible introduction of a “relative flexibility” which allows to override the upper limit of zone 2 under certain conditions. Whilst it is clearly more relevant for some industry sectors than for others, the principle of an “appropriate and proportional” approach should apply to all. Moreover, an effective implementation would certainly need to be accompanied with training of staff, organisation of work and other supportive measures.

4.7. Medical surveillance

As rightly pointed out by the European Commission EMF exposure may not lead to adverse health risks. In addition, with the exception of burns, acute exposure to EMF which stems from the workplace cannot be identified through routine medical examinations following the end of exposure.

On account of this Article 8 should be revised and defined in a way that corresponds in particular to the possible adverse effects stemming from overexposure. However, more work is needed to verify which specific cases may require medical health surveillance as there is no consensus yet regarding the precise type of health effects to look out for. We agree that a working party set up by the ACSH on this issue could contribute to establishing guidance and clarification in this area.

4.8. The specific case of medical applications and related activities (research, cleaning, maintenance) using nuclear magnetic resonance (MR) technology

As outlined by UEAPME in the first consultation, potentially risky industry processes and equipment, such as MR technology should be identified and addressed according to specific provisions.

4.9. Non-binding measures

As advocated by UEAPME previously effective non-binding measures are indispensable, as there is currently no clear guidance as to when a detailed risk assessment is necessary.

In this respect UEAPME wishes to re-emphasise the need for simplified sectoral specific guides with the close involvement of social partners and professional organisations. Some of those guides should be specifically

addressed to small firms to facilitate and promote good practice in EMF risk assessment. Therefore, the guide being produced by the Advisory Committee on Safety and Health at Work on prevention and good practice can be complementary.

As rightly pointed out by the European Commission, social partners should be strongly involved to encourage dissemination of information and awareness raising. Nevertheless, there is a real need to go further and step up efforts for enhanced cooperation and partnerships between executive authorities, employers' federations of small companies, in order to help SMEs to comply with regulations.

Finally, other stakeholders such as industry and manufacturers should facilitate overall transparency on EMF, by helping to provide equipment labeling and user-friendly product information. Thus a database at European level which allows sharing information on product emissions could strongly contribute to ensuring a safe working environment.

QUESTION 2 – to inform the Commission about alternative solutions in particular for the expression of exposure limit values in the range of 0 to 100 kHz and for ways to foster and concretise the aspects linked to the implementation of sound and efficient protection of workers exposed to electromagnetic fields during their work. Alternative solutions for the range from 100 kHz to 300 GHZ are also welcome;

As previously outlined, it is essential that the limits between the different layers are set in directly measurable values. Therefore, any alternative solutions for the expression of exposure limit values in the frequency range from 0-100 kHz should only be considered if they fulfill this criteria.

QUESTION 3 – where applicable, to indicate their willingness to enter into negotiations on the basis of the proposals described in this document under the terms of Article 154(4) and Article 155 of the TFEU.

Any measures in the field of EMF must be based on sound scientific evidence and require a considerable technical expertise. UEAPME believes the topic is not suited for social partner negotiations at interprofessional level.

05/07/10

For further information please contact:
Helen Hoffmann, Social Policy Adviser, email: h.hoffmann@ueapme.com