

ETUC position on the response to the Social Partner Consultation on CMRD6

Adopted at the Executive Committee of 27-28 September 2023

Introduction

The European Trade Union Confederation (ETUC) welcomes the European Commission's intention to revise the Directive on the protection of workers from risks related to exposure to carcinogenic, mutagenic or reprotoxic substances at work (CMRD or Directive 2004/37/EC).

The aim of this 6th revision of this piece of legislation is to improve the relevance and effectiveness of the directive. This would be done by extending Annex I or establishing new limit values in Annex III for the following priority substances or groups of substances: welding fumes, polycyclic aromatic hydrocarbons (using benzo(a)pyrene as a marker), isoprene, 1,4-dioxane and cobalt and inorganic cobalt compounds.

Before submitting proposals in the social policy field, the Commission must consult management and labour on the need for, and possible direction of, Union action (Article 154(2) of the TFEU).

The European Commission has invited the Social Partners to answer the following questions in relation to its consultation documents dated 15/02/2023:

- (1) Do you agree that the issues identified above are accurately and sufficiently covered?
- (2) Do you consider that the EU should address these issues through a binding instrument?
- (3) Would you consider initiating a dialogue under Article 155 TFEU on any of the issues identified in this consultation?

ETUC is therefore pleased to contribute to this first phase consultation.

The ETUC recalls that elimination or substitution of hazardous chemicals with safer alternatives are the best preventative measures at work. ETUC also underscores that women workers are vastly underrepresented in research into the health risks that are associated with workplace exposures to chemicals. Likewise, wrong assumptions about the jobs that many women workers undertake can mean that their health and safety is overlooked. Therefore, it is essential that the Commission includes a specific focus on the gender differences in this and its future initiatives to improve workers' protection from chemical risks. As workers are often exposed to a cocktail of hazardous substances at work, multiple exposure should also be considered.

We would like to remind the Commission that there is still a need for improvements to the regulations concerning hazardous medicinal products (HMPs), to which more than 12 million health workers in Europe are exposed. According to Art. 18a introduced by the recent revision of the Directive: *Where appropriate and no later than 5 April 2025, taking into account the latest developments in scientific knowledge and after appropriate consultation of relevant stakeholders, the Commission shall develop a definition and establish an indicative list of hazardous medicinal products or the substances contained therein, which meet the criteria for classification as a category 1A or 1B carcinogen set out in Annex I to Regulation (EC) No 1272/2008, a mutagen or a reprotoxic substance* (Directive (EU) 2022/431 of the European Parliament and of the Council of 9 March 2022). To that end we would like to share a joint position of European social partners in the health and hospital sector: [EPSU](#) and [HOSPEEM](#), who call for establishing [the definition and the list of the HMPs](#).

Furthermore, given the recent re-classification of the occupational exposure by the [International Agency for Research on Cancer \(IARC\) of the WHO](#), from June 2022 in which firefighter occupation was classified as “carcinogenic to humans” (Group 1), the ETUC recommends that the Commission include firefighters as a protected occupation in the text of the Directive. The re- classification concluded that a causal association exists between occupational exposure as a firefighter and mesothelioma and bladder cancer, in particular that there was “sufficient” evidence in humans for mesothelioma and bladder cancer. There was “limited” evidence in humans for colon, prostate, and testicular cancers, and for melanoma and non-Hodgkin lymphoma. There was also “strong” mechanistic evidence that occupational exposure as a firefighter shows the following key characteristics of carcinogens in exposed humans: “is genotoxic”, “induces epigenetic alterations”, “induces oxidative stress”, “induces chronic inflammation”, and “modulates receptor-mediated effects”. Seven studies examining mesothelioma incidence among firefighters were included in the meta-analysis. For these combined studies, the Working Group meta-analysis estimated a 58% higher risk (95% CI 14–120%) for mesothelioma among firefighters compared with mostly general populations. Occupational exposure as a firefighter should be presumed to apply to all firefighters (including volunteers) and to both men and women. Occupational exposure as a firefighter is complex and includes a variety of hazards resulting from fires and non-fire events. Firefighters can have diverse roles, responsibilities, and employment (eg, full-time, part-time, or volunteer) that vary widely across countries and change over their career. Firefighters respond to various types of fires (eg, structure, wildland, and vehicle fires) and other events (eg, vehicle accidents, medical incidents, hazardous material releases, and building collapses). Wildland fires are increasingly encroaching on urban areas. Changes in the types of fires, building materials, personal protective equipment (PPE), and roles and responsibilities among firefighters have resulted in substantial changes in firefighter exposures over time.

The ETUC also stress that firefighters can be exposed to combustion products from fires (eg, polycyclic aromatic hydrocarbons [PAHs] and particulates), building materials (eg, asbestos), chemicals in firefighting foams (eg, perfluorinated and polyfluorinated substances [PFAS]), flame retardants, diesel exhaust, and other hazards (eg, night shift work and ultraviolet or other radiation). Uptake of fire effluents or other chemicals can occur via inhalation and dermal absorption and possibly via ingestion. Firefighters rely on PPE to reduce their exposure. Self-contained breathing apparatus is often worn during firefighting activities involving structures or vehicles, but less commonly during wildland firefighting, where firefighters can be deployed to wildfires multiple times a year and remain near the fire for several weeks. Dermal absorption of chemicals can occur even in firefighters wearing PPE due to limitations of its design, fit, maintenance, or decontamination. Furthermore, exposures can occur when firefighters are not actively fighting fires and are not wearing PPE.

As regard question (1), ETUC’s response is specific per (group of) substance(s) and complements the issues identified by the Commission with the following observations and demands:

1. Welding fumes

ETUC is of the opinion that welding fumes must be included in Annex I of CMRD because the International Agency for Research on Cancer (IARC) classified welding fumes (and UV radiation) from welding as “carcinogenic to humans” (Group 1). Moreover, exposure to welding fumes causes lung damage and various types of cancer, including of the lung, larynx and urinary tract. It is estimated that 2 million workers are potentially exposed to welding fumes in the EU (mainly welders).

As the CMRD covers substances meeting the criteria for classification as carcinogenic, mutagenic or reprotoxic substances category 1A/1B according to the CLP regulation,

ETUC demands that it is clarified in the 6th revision of the CMRD that the scope of Annex I not only covers carcinogens but also includes mutagens and reprotoxicants.

ETUC is also of the opinion that an entry in annex I is obvious and just a legal clarification that welding fumes containing CMR substances are automatically in the scope of the Directive. Therefore, the entry into Annex I is not enough and other measures are necessary to adequately improve the protection of the health and safety of workers exposed to welding fumes.

The scoping study on welding fumes prepared by ECHA has identified a number of additional measures that could complement an entry of welding fumes in Annex I. The following measures should therefore be assessed:

- Set a generic occupational exposure limit (OEL) for inhalable and respirable dust. This means setting a generic OEL for inhalable and respirable dust in addition to all the of the OEL requirements of the CMRD and CAD, specific to welding fumes.
- Set mandatory protective/control measures for welding techniques that lead to greater emissions of welding fumes, or promotion of low emission techniques
- Introduce Health Surveillance Programmes for welders under certain conditions

ETUC is of the opinion that they should be included in the legal text as soon as possible.

2. Polycyclic aromatic hydrocarbons (PAHs)

After the inclusion of complex PAHs in CMRD Annex I in Directive 2019/130 (second revision of CMD), ETUC finds it coherent and necessary to complement the entry into Annex I with a binding OEL for PAHs in CMRD Annex III (using Benzo-a-pyrene as a marker for exposure to PAHs). This complex mixture of carcinogens is produced during the combustion and pyrolysis of organic material and is therefore “process-generated”. Exposure to PAHs causes lung, skin and bladder cancers as well as leukaemia. It is estimated that 7 million workers are potentially exposed to PAHs in the EU.

ETUC would like to draw the attention of the Commission to the recent adoption of an opinion of the Advisory Committee on Health & Safety on a risk-based methodology to set limit values for non-threshold carcinogens. ETUC believes that this methodology should be applied for the first time to the CMRD6 (group of) substances and therefore considers that the residual risk of cancer associated with the future BOEL for PAHs must remain in the agreed risk boundaries. Moreover, ETUC demands that this residual risk of cancer be clearly mentioned in the legal text (new column in Annex III). Information related to residual risk, made publicly available at Union level, is valuable for future work to limit risks from occupational exposure to carcinogens, including by revising the limit values set out in this Directive. Transparency of such information should be further encouraged.

3. Cobalt and inorganic cobalt compounds

ETUC supports the adoption of binding OELs for cobalt and inorganic cobalt compounds in CMRD Annex III. These compounds are used in the metal industry to produce alloys, in the chemical industries as catalysts and for the production of batteries for electric vehicles, tablets and smartphones. Exposure to cobalt and cobalt compounds causes lung cancers, reproductive disorders and respiratory effects. It is estimated that more than 80,000 workers are potentially exposed to these compounds. Particular attention should be paid to workers in the waste and recycling sectors as these workers might be increasingly exposed in the future due to the energy transition and all measures to counter climate change and environmental degradation in the European Green Deal.

Several Member States already have a national OEL for cobalt and cobalt compounds. However, these OELs vary a lot from one country to another and there is a need to adopt an ambitious BOEL in Annex III CMRD which will help improve the protection of all exposed workers across the EU. The adoption of an ambitious EU BOEL for cobalt and cobalt compounds should be facilitated by the fact that these compounds are generally used in the industry with other heavy metals like nickel and cadmium compounds for which EU OELs have already been adopted under the CMRD. Since the risk management measures are common to many heavy metal compounds and they are already in place to comply with the existing OELs, no additional protection measures will be needed in many cases.

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4. 1,4-dioxane

ETUC is of the opinion that a binding OEL needs to be included in Annex III CMRD for 1,4-dioxane. This solvent is used in industrial settings and causes in exposed workers nasal and liver cancers on top of respiratory tract irritation, nephrotoxicity and hepatotoxicity. It is estimated that more than 35,000 workers are potentially exposed to 1,4-dioxane in the EU.

Most Member States already have a national OEL for 1,4-dioxane since an indicative OEL was adopted for this solvent in the Chemical Agents Directive. However, the national OELs vary a lot from one country to another with some Member States having a national OEL much more protective compared to the current EU indicative OEL.

ETUC would like to point out that for OEL setting what is feasible in one Member State is also feasible in the other Member States and therefore expects the future EU binding OEL on 1,4-dioxane to be at least as protective as the lowest national OEL already in place in the EU.

5. Isoprene

ETUC supports the adoption of a binding OEL for isoprene in the Annex III of CMRD. Isoprene is an intermediate in the chemical and rubber producing industry. The carcinogenicity of isoprene in animal studies has been clearly demonstrated and it is therefore important to set an EU limit value for the protection of workers potentially exposed to isoprene.

Moreover, a few Member States only have a national OEL for isoprene and it is therefore an additional argument to adopt an OEL for that carcinogen at EU level.

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risk of cancer is clearly mentioned in the legal text (new column in Annex III). Information related to residual risk, made publicly available at Union level, is valuable for future work to limit risks from occupational exposure to carcinogens, including by revising the limit values set out in this Directive. Transparency of such information should be further encouraged.

In response to questions (2) ETUC is of the opinion that **the European Union must take a legislative initiative that is binding on Member States**. This will reduce the harmful impact of exposure to welding fumes, polycyclic aromatic hydrocarbons, isoprene, 1,4-dioxane and cobalt and inorganic cobalt compounds on the health and safety of workers.

In response to question (3) on whether we would like to see the revision of CMRD taking place within the framework of the social dialogue procedures provided for under Article 155 TFEU, **ETUC is fully committed to social dialogue, but believes that binding EU legislative action is needed on these issues and therefore believes there is no need to start negotiations with the employers' organisations at EU level**.