



Screening: Explanatory Meeting Occupational Safety & Health

Brussels, 8 February 2006





Directive 89/391/EEC – The "Framework Directive" (I)

1. Overview

- Establishes the general principles for the protection of workers' safety and health by setting minimum requirements
- Aims at a high level of protection of employed workers and at a broad scope of application (private and public sector, workers, trainees, apprentices...)
- Exemption: domestic workers, self-employed. Certain specific activities within armed forces, police, and civil protection where conflict with the application of the directive.





Directive 89/391/EEC – The "Framework Directive" (II)

2. Key provisions

- Obligations of the employer
 - Ensure safety and health of workers in every aspect related to work.
 - Assess risks to the health and safety
 - Appropriate measures to prevent injuries or accidents without cost involvement of the workers
 - Provision of necessary organization and means





Directive 89/391/EEC – The "Framework Directive" (III)

- Designate worker(s) for protective and preventive services or, if necessary, competent external services
- Provide appropriate information
- Training of workers
- Consultation of workers
- Report on occupational accidents





Directive 89/391/EEC – The "Framework Directive" (IV)

- Necessary measures for first aid, fire fighting and evacuation





Directive 89/391/EEC – The "Framework Directive" (V)

All actions based on general principles of prevention:

- Avoiding risks
- Evaluating risks
- Combating risks at the source
- Adapting work to the individual (e.g. design of workplace)
- Adapting to technical progress
- Giving priority to substitution of dangerous products
- Developing a coherent overall prevention policy
- Giving collective protective measures priority to individual ones.
- Giving appropriate instructions to the workers





Directive 89/391/EEC – The "Framework Directive" (VI)

- Obligations of the workers:
 - Take care of their own health
 - Correct use of means of production and of personnel protective equipment
 - Follow instructions given by the employer
 - Report on irregularity or a serious and immediate danger
 - Cooperate with the employer in OSH matters





Directive 89/391/EEC – The "Framework Directive" (VII)

- Important: The obligations of the workers shall not affect the principle of the responsibility of the employer
- Health surveillance system, under which workers may require regular checks
- Protection of particularly sensitive groups.





Directive 89/391/EEC – The "Framework Directive" (VIII)

3. Difficulties of transposition including case law of the European Court of Justice

- Consolidation and simplification. Transposition can require revision of the national system, as the directive requires a change from detailed, prescriptive, technical driven legislation to objective-driven law.
- Wide scope of application → public sector, restrictive interpretation of exceptions for certain activities within armed forces, police, and civil protection services (Article 2) (see C-303/98, C-397/01, C-132/04)
- Transposition must take into account dynamic aspects: evolution of risks, advances in science and technology
- Sufficiently clear and precise manner of transposition (see C-49/00)





Directive 89/391/EEC – The "Framework Directive" (IX)

3. Difficulties of transposition including case law of the European Court of Justice (con't)

- Establishment of the objective responsibility of the employer
- General principles of prevention (Article 6 (2))
- Evaluation of **all** risks, not only specific risks (Article 6 (3 a)) – see C-49/00
- Multidisciplinary approach for protective and preventive services (Art. 7) and precise definition of capabilities in provisions established by the Member State (see C-49/00 and C-335/02)
- Subsidiarity of recourse to external protective and preventive services (see C-441/01): precedence must be given to the internal organisation
- Documentation of risk assessment etc must be in place in all types of enterprises (see C -5/00)





Directive 89/391/EC – The "Framework Directive" (X)

4. Implementation problems

- **Major role of the labour inspectorate for control and supervision (Article 4)**
 - Lack of resources, particular for inspection of SME
 - sufficient expertise, training of labour inspectors
 - coordination of and cooperation between different inspection bodies
 - multidisciplinary approach: labour inspectorate must cover aspects reaching from work organisation to surveillance of technical risks, they will have to assume a preventive role





Directive 89/391/EEC – The "Framework Directive" (XI)

4. Implementation problems (cont'd)

– Public sector:

- necessity of a competent control authority, enjoying necessary hierarchical independence

– SME:

- insufficient awareness; lack of experience for young firms; informal organisation structures

– Weak risk assessment and documentation

- negligence of long-term effects and lack of continued risk assessment
- insufficient attention to psychosocial and organisational factors
- lack of integrated approach





Directive 89/391/EEC – The "Framework Directive" (XII)

4. Implementation problems

- Insufficient availability of competent (external) protective and preventive services
- General awareness raising – information campaigns to address workers, companies, social partners
- Different governmental bodies may be involved: e.g. ministry for labour, ministry for health, social insurance schemes → coordination to be ensured/improved





Council Directive 89/654/EEC: minimum safety and health requirements for the workplace (First Individual Directive) (I)

**Relation between Individual Directives and Framework Directive?
The provisions of the Framework Directive remain fully applicable without prejudice to more restrictive and/or specific provisions contained in the individual directives.**

**Adjustments of Individual Directives of a strictly technical nature:
the Commission shall be assisted by a Committee (regulatory committee) – Article 17 of Directive 89/391/EC**



Directive 89/654/EEC - minimum safety and health requirements for the workplace (II)

1. Objective

- Prevention of work accidents and occupational diseases
- Ensure decent working conditions



Directive 89/654/EEC - minimum safety and health requirements for the workplace (III)

2. Key provisions

Scope of application: **no application to**

- means of transport outside establishment and workplaces in transport means
- Temporary and mobile work sites
- Extractive industries
- Fishing boats
- Land, fields and woods of agricultural/forestry undertakings





Directive 89/654/EEC - minimum safety and health requirements for the workplace (IV)

- **Wide definition of "workplace"** comprising any place intended to house workstations on the premises of an undertaking or establishment AND any other place within the area of the undertaking/establishment to which the worker has access in the course of his/her employment
- **Technical maintenance and cleaning** of workplace and equipment, checks of safety devices ... (See Article 6)
- The **annexes** provide for detailed rules regarding a number of issues (stability, emergency routes, doors, fire-fighting equipment, ventilation, room temperature, lightning...)





Directive 89/654/EEC - minimum safety and health requirements for the workplace (V)

- Annex I for all workplaces used first time after 31/12/1992 AND all modifications, extensions and conversions of existing workplaces after that date
- Annex II refers to workplaces in use before January 1993. Contains upgrading duty to the needs of handicapped.





Directive 89/654/EEC - minimum safety and health requirements for the workplace (VI)

3. Implementation

- Many different aspects
- Practical implementation will require major support to companies, in particular SME, and require the mobilization of financial resources
- Technical expertise and guidance to be developed (reference values, technical standards)





Directive 89/655/EEC - minimum safety and health requirements for the use of the work equipment by workers at work (Second Individual Directive)

as amended by Directive 95/63/EC and Directive 2001/45/EC

(I)

1. Key objective

To improve the level of protection of workers and prevent accidents incurring from the use of work equipment



Directive 89/655/EEC - minimum safety and health requirements for the use of the work equipment by workers at work (II)

2. Key provisions

- Wide definition: covers any machine, tool, apparatus, installation
- Employer has to ensure suitability of work equipment
- Selection of work equipment according to specific working conditions and hazards in the undertaking and additional hazards caused by the use of work equipment
- Work equipment must comply with Community standards on work equipment





Directive 89/655/EEC - minimum safety and health requirements for the use of the work equipment by workers at work (III)

2. Key provisions (cont'd)

- Work equipment to be adequately adapted and maintained.
- Annex contains specific requirements
- Directive 95/63: provisions on inspection of work equipment, inclusion of ergonomic aspects, specification of annex
- Directive 2001/45: specific prevention requirements for scaffolding and other equipment to minimize risks in work at height





Directive 89/655/EEC - minimum safety and health requirements for the use of the work equipment by workers at work (IV)

3. Implementation

- Information and assistance to enterprises (SME!) for the choice of equipment
- Competent bodies for an efficient inspection which can require technical assistance
- Preparation on practical guidance on work at a height by Commission (publication in 2006) as support for implementation



Directive 89/655/EEC - minimum safety and health requirements for the use of the work equipment by workers at work (V)

4. Case law

- C-65/01: requirement (Annex I, paragraph 2.1) regarding the means to avoid hazards caused by the starting /stopping of the work equipment



Directive 89/656/EEC - minimum health and safety requirements for the use of personal protective equipment (PPE) – Third Individual Directive (I)

1. Key objective

To prevent risks at work by the use of adequate personal protective equipment





Directive 89/656/EEC - minimum health and safety requirements for the use of PPE (II)

2. Key provisions

- Use of PPE as a **LAST** resort: technical means and measures of work organization and collective protection measures prevail
- Assessment of PPE, training and demonstration of PPE
- Establishment of general rules for use of PPE
- *Indicative Annexes I (specimen of risk), II (list of items), III (list of activities and sectors) provide guidance for establishing such rules on use*





Directive 89/656/EEC - minimum health and safety requirements for the use of PPE (III)

3. Implementation

- Raising of workers' awareness regarding use of PPE
- Assistance for enterprises (SME!) for the selection of adequate PPE



Directive 92/58/EEC - minimum health and safety requirements for the provision of safety and health signs at work (Ninth Individual Directive)

1. Key objective

- To prevent accidents at work and occupational diseases by using adequate signs; standardization of signs

2. Key provisions

- Signs where hazards cannot be adequately reduced by collective protection or means of work organisation
- Annex provides details as to use and characteristic of different types of signs and contains pictogram models

3. Implementation

- Positive impact of the introduction of safety signs in the light of workers' movement within the EU.



Council Recommendation of 18 February 2003 - improvement of the protection of the health and safety at work of self-employed workers (I)

1. Objective

To improve the health and safety of self-employed who are, as a general rule, not covered by the EC health and safety legislation (except to a certain extent under Directives 92/57/EEC and 92/29/EEC), but exposed to similar risks. In a number of high-risk sectors (agriculture, fishing, construction and transport) the number of self-employed is very high. This category can also be a risk for other workers/persons present at the same workplace.

2. Key provisions

- Non-binding instrument
- Suggests different measures like legislation, incentives, information campaign
- Recommends access of self-employed to training and health surveillance





Council Recommendation of 18 February 2003 - improvement of the protection of the health and safety at work of self-employed workers (II)

3. Implementation

- May require financial resources for development of actions aiming at raising awareness
- Difficulties in the enforcement of national provisions





Commission Recommendation of 19 September 2003 - European schedule of occupational diseases (ESOD) (I)

1. Key objectives

- Improve knowledge at the European level – comparability and collection of data
- Improve prevention of occupational diseases
- Provide assistance to workers to facilitate the proof of an existing link between their occupation and a disease





Commission Recommendation of 19 September 2003 – ESOD (II)

2. Key provisions

- Introduce diseases contained in Annex I into national legislation (diseases scientifically recognized to have an occupational origin)
- Introduce into national rules the right of workers for compensation for diseases contained in Annex II (diseases suspected of being occupational in origin) where an occupational link can be proven
- Fixing quantified objectives for reduction of occupational diseases





Commission Recommendation of 19 September 2003 – ESOD (III)

2. Key provisions (con't)

- Ensure collection of data, make their statistics compatible with the ESOD and exchange information with Commission and in the network of the Bilbao Agency
- Promote research and develop effective prevention measures
- Promote an active role of the national healthcare systems by raising awareness among medical staff.
- Non-binding instrument but request to inform about measures by end of 2006.





Commission Recommendation of 19 September 2003 – ESOD (IV)

3. Implementation

- Creation of a **compensation scheme** can take considerable time, as well as introduction of new statistical system, IT tools, databases and involve different actors at national level
- Link with European statistical projects ESAW/EODS - Eurostat





Commission Recommendation of 19 September 2003 – ESOD (V)

3. Case law

C-322/88: (relates to earlier recommendation 66/462)

- Recommendation as such does not confer rights on individuals.
- However, national courts are bound to take recommendations into account where the provisions are capable to help interpret other provisions of national or Community law.