

Health and Safety at Work International Framework

Work should be performed in conditions that are not dangerous and harmful for health of workers and for other persons.

This issue is connected with fundamental social rights. Various international treatments contain the right to safe or satisfying working conditions. For example:

1. International Covenant on Economic, Social and Cultural Rights (UN 1966)
2. European Social Charter (Council of Europe 1961 The Treaty on functioning of the EU makes references to this document in Article 136)
3. European Social Charter Revised (Council of Europe 1996)
4. ILO Conventions

Rights regarding working conditions are usually included in Constitutions of Member States, e. g. In the Czech Republic, the Charter of Fundamental Rights and Freedoms which is recognised as part of constitutional orders provides for right to satisfying working conditions, women adolescents and persons with disabilities are entitled to right to special working conditions and to promoted protection of health. Realisation of these rights requires from the State to approve laws and regulation concerning health and safety at work.

EU Law Development

First, Community had only limited power with respect to health and safety at work, only the Treaty Establishing EUROATOM (European Atomic Energy Community) contained provisions relating to protection, there were also some measures regarding transport.

Single European Act amending the EEC Treaty (1986) introduced the competence of Community institutions to act in the field of protection of health and safety at work. On the basis of this new competence various measures were taken.

Health and safety at work is now one of the most important and most advanced areas of EU social policy. Community action in this area is not limited to legislation. The European Institutions carry out several activities providing information and guidance and promoting a safe and healthy working environment in cooperation with the European Agency for Health and Safety at Work and the European Foundation for the Improvement of Living and Working Conditions.

Characteristic features

Health and safety at work is shared responsibility of both, Member States and Community

Health has quite broad sense. the case-law of ECJ (c- 383/92) Case Commission v. United Kingdom makes reference to the Constitution of World Health Organisation. Health is defined as state of complete physical, mental and social well-being that does not consist only in the absence of illness or infirmity.

This trend follows also from EC Directive 92/85 regarding pregnant workers, workers who are breastfeeding and workers after childbirth. It recognises the maintenance of income during maternity leave as form of pregnant workers health. The income may be in the form of remuneration or in the form of adequate allowance.

Working conditions – all factors involving an employee during the work performance

Working environment - relates to the place where work is performed (facilities in the undertaking, home, class, construction it depends on the type of work)

Adjustment of work to individual

Health and safety relate to:

- Machines and installations
- Introduction of new technologies, products and materials
- Lighting, temperature, electricity, gas, radiation
- Situation of workplace (class, construction site, home of worker)
- Organisation of work and work rhythm
Length of working hours, breaks at work shifts, night work
- Use of alcohol and drugs at the workplace
- Medical check ups
- Transport to and from work
- Possibility of refreshment
- Service for health and safety at work
- Providing information and training – in language that workers can Effectually understand foreign national persons with disabilities
- Supervision of state authority

Purpose of provisions

1. Prevention of damages (stress, industrial injuries, occupational diseases, material damages at peoples property)
2. Promotion of human integrity – physical and mental status of an employee
3. Promotion of health and safety in positive way that means creation of comfortable and agreeable workplace

Primary law

Article 136 and following of the EC Treaty.

The Community shall support and competent activities of Members States in the field of working conditions and improvement of working environment to protect workers health and safety. Article 137 par 2 letter b) gives the Council the competence to adopt by means of directive minimum requirements

Point 19 of Charter of Fundamental Social Rights of Workers.

Secondary law

There are many acts of secondary law in the area of protection of health and safety at work. The most important is so called framework directive 89/391 **on the introduction of measures to encourage improvements in the safety and health of workers at work**

It consists of:

1. General principles

Prevention of occupational risks

Elimination of risks when it is not possible to avoid them

2. Scope of application

- a) Material – all sectors of activities, both public and private.

It does not apply to

Civil protection service

Armed forces
Police

b) Personal – all persons employed by an employer including trainees, apprentices, it does not apply to domestic servants

3. Employers duties
4. Employees duties
5. Participation of employees

Individual directives

Are based on the framework directive, they lay down concrete provisions relating to e.g.

personal protective equipment

signs at workplace – should be clear for all workers

work with screens – e.g. safety breaks in the length of ten minutes after two hours of continuous work

handling of heavy loads

Exposure to chemical, biological or physical agents – asbestos, carcinogens, radiation, noise, vibration

Working hours

Directive no 2003/88 on certain aspects of organization of working time

Scope of application

1. Material - minimum periods of daily rest, weekly rest, annual leave,, breaks of work, maximum length of weekly working hours.
Aspects of night work, shift work, patterns of work
2. Personal – all sectors public and private, seafarers are excluded
Art 14 other provisions – transport, aviation

Definition of working hours