

CEEP RESPONSE

TO THE CONSULTATION OF THE EUROPEAN SOCIAL PARTNERS ON THE PROTECTION OF WORKERS FROM RISKS RELATED TO EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE AT THE WORKPLACE

I. Introduction

Smoking is an addictive habit which damages the health of the smokers and there is also a scientific consensus about the fact that passive smoking causes cancer.

At national level, in the majority of Member States, smoking is already banned in public spaces and/or workplaces.

CEEP believes that tobacco addiction and exposure to passive tobacco smoke is mainly a societal issue, so the action at EU level would be more appropriate in the public health area.

CEEP considers in this framework that the protection of workers from risks related to exposure to environmental tobacco is a consequence of this public health issue and not a protection due to a risk created by employers and its activities.

On the field of the general responsibility of the employers:

Concerning health and safety of their employees, CEEP considers that the existing regulatory requirements incumbent on employers does not require any added specific new regulations related to exposure to environmental tobacco at the workplace. Such a specific regulation would simply undermine the strength and scope of the general texts.

Employers are obliged to preserve the health of their workers at the workplace on the basis of the general prevention principles laid down in the 1989 European Framework Directive, and by implementing the necessary measures.

Elimination of the risk means avoiding the creation of dangerous situations linked to smoking. The employer must therefore ban smoking throughout the premises and work situation in order to prevent workers from being exposed to this hazard.

In fact, the employer's awareness of the danger linked to passive smoking means that he/she must take action based on his/her general obligation to ensure safety and the obligation to be prudent.

In the field of the Corporate Social Responsibility of the employers:

Smoking addiction can, because of the diseases it causes, deprive employers of the presence of their employees. This absenteeism, in this case not related to the employer's responsibility, creates a problem and a loss of earnings.

While not statutorily forced to take action in this respect, but because it is in its economic and societal interests to act as a civic-minded company that is satisfying its sustainable development commitments, an employer may question the pertinence of taking action to support its employees in reducing their addictive habits in keeping with the public health policy of the country or countries in which it is operating. This is true concerning smoking and also of other addictive habits.

To achieve this target, CEEP encourages employers to have a local social dialogue to find local solutions to take into account the addiction of their relevant employees.

II. CEEP Response to the consultation on exposure to environmental tobacco smoke at the workplace.

(1) Do you consider that the existing national and EU health and safety legislative framework is appropriate and sufficient to protect workers from health risks related to exposure to environmental tobacco smoke at the workplace?

CEEP considers that the consequence in the workplace of this public health issue has to be managed in the framework of the Directive 89/391 which obliges employers to carry out risk assessment of all risks associated with the workplace.

CEEP highlights the existence of numerous directives which lay down specific restrictions on smoking at work, as:

- Workplace Directive (89/654/EEC),
- Mineral and Extractive Industries drilling Directive 92/91/EEC,
- Mineral and Extractive Industries surface and underground works Directive 92/104/EEC,
- Carcinogens and Mutagens Directive 2004/37/EC,
- Pregnant and Breastfeeding Workers Directive 92/85/EEC.

(2) In particular, do you think that the absence of comprehensive legislative measures in this area has an adverse impact on the protection of workers' health?

(3) Do you consider a legislative initiative under Article 137 of the EC Treaty to be a more comprehensive and explicit way of protecting workers from health risks related to exposure to ETS at the workplace? AND

(4) If you consider such a legislative initiative at EU level appropriate, what form do you think it should take? (For example, the amendment of existing Directives, the adoption of a specific Directive or other approaches.)

CEEP refers to the objectives of the community strategy 2007-2012 which are proposed in order to achieve this ambitious goal, and to respect this framework, CEEP promotes the implementation of existing EU legislation, its simplification, the promotion of health and safety at national level with national strategies, etc...

CEEP considers that dealing with a new binding legislation concerning the protection of worker's health in relation to exposure to environmental tobacco smoke at the workplace could be in opposition to the objective and main instruments of the current health and safety at work strategy.

(5) Do you consider that non-binding measures would be a more appropriate means of tackling this issue? If so, can you identify such measures and say how they could be effective at Community level?

Given that this issue is a societal matter, non-binding measures could be useful to assist public health authorities and Member State governments, such as education and awareness-raising programmes.

Because it is in its economic and societal interests to act as a civic-minded company that is satisfying its sustainable development commitments, CEEP promotes the idea that employers may question the pertinence of taking action to support its employees in reducing their addictive habits in keeping with the public health policy of the country or countries in which they operate.

Conclusion

1. Exposure to environmental tobacco smoke is a societal and public health issue.
2. Public authorities and Member State governments have an integral role in combating this problem, for example through awareness-raising, information and education. Assisting and encouraging Member States in this process should be the focus of action at EU level.
3. Employers have to deal with this issue in the framework of the existing binding legislation.
4. Employers should examine the pertinence to support their employees in reducing their addictive habits in the framework of the public health policy of the country in which they operate.