Protection of workers from the risks related to exposure to carcinogens, mutagens or reprotoxic substances at work. Codification

2023/0421(COD) - 27/11/2023 - Legislative proposal

PURPOSE: to codify Directive 2004/37/EC of the European Parliament and of the Council on the protection of workers from the risks related to exposure to carcinogens, mutagens or reprotoxic substances at work.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: Directive 2004/37/EC of the European Parliament and of the Council has been substantially amended several times.

In the interests of clarity and rationality, Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens, mutagens or reprotoxic substances at work (Sixth individual Directive within the meaning of Article 16 (1) of Council Directive 89/391/EEC) should be codified.

The new Directive will supersede the various acts incorporated in it; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

CONTENT: this Directive has as its aim the **protection of workers** against risks to their health and safety arising from or likely to arise from exposure to **carcinogens, mutagens or reprotoxic substances at work** , including the prevention of such risks. It lays down particular minimum requirements in this area, including limit values.

In the case of any activity likely to involve a risk of exposure to carcinogens, mutagens or reprotoxic substances, **the nature, degree and duration of workers' exposure** should be determined in order to make it possible to assess any risk to the workers' health or safety and to lay down the measures to be taken.

The assessment should be renewed regularly and in any event when any change occurs in the conditions which may affect workers' exposure to carcinogens, mutagens or reprotoxic substances.

When assessing the risk, account should be taken of all other routes of exposure, such as absorption into and/or through the skin. When the risk assessment is carried out, employers shall pay particular attention to any effects concerning the health or safety of workers at particular risk and should, inter alia, take account of the desirability of not employing such workers in areas where they may come into contact with carcinogens, mutagens or reprotoxic substances.

Employers' obligations

Employers must:

- **reduce the use** of a carcinogen, mutagen or reprotoxic substance at the place of work, in particular by replacing it, in so far as is technically possible, by a substance, mixture or process which, under its conditions of use, is not dangerous or is less dangerous to workers' health or safety;

- apply, in all cases where a CMR agent is used, measures such as: **limiting** the quantities of a CMR agent in the workplace; limiting to the lowest possible level the number of workers exposed or likely to be exposed; removing CMR agents at source; hygiene measures, in particular regular cleaning of floors, walls and other surfaces; collective protection measures; informing workers; demarcating risk areas;

- make available to the competent authority, on request, appropriate **information** on: the activities and/or industrial processes carried out, including the number of workers exposed; the preventive measures taken; the type of protective equipment to be used; the nature and degree of exposure;

- inform the worker in the event of **unforeseeable events** or accidents likely to lead to abnormal exposure of workers;

- determine, after consultation of the workers and/or their representatives in the undertaking or establishment, without prejudice to the employer's responsibility, the measures necessary to reduce the **duration of workers' exposure** to the minimum possible and to ensure protection of workers while they are engaged in such activities;

- ensure that workers and/or workers' representatives in the undertaking or establishment receive sufficient and appropriate **training** concerning: potential risks to health, including the additional risks due to tobacco consumption; precautions to be taken to prevent exposure; hygiene requirements; wearing and use of protective equipment and clothing; steps to be taken by workers, including rescue workers, in the case of incidents and to prevent incidents.

Appropriate measures must be taken to ensure that workers and/or their representatives in the undertaking or establishment can check that the provisions of the directive are being applied.

Health surveillance

Member States should establish arrangements for carrying out relevant health surveillance of workers for whom the results of the risk assessment reveal a risk to health or safety. The doctor or authority responsible for the health surveillance of workers may indicate that health surveillance must continue after the end of exposure for as long as they consider it to be necessary to safeguard the health of the worker concerned.