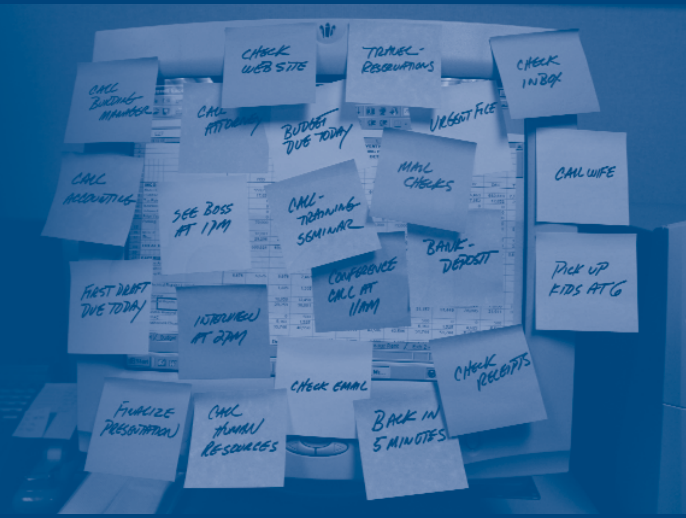
Framework agreement on work-related stress



work-related stress

Framework agreement on work-related stress

An ETUC interpretation guide

Contents

Preface

The negotiations on work-related stress are part of the Work Programme of the European Social Partners 2003-2005. Building on the conclusions of a joint preparatory seminar (25-26 February 2003 – Brussels); the negotiations started on 18 September 2003 and finished on 27 May 2004, in accordance with the 9 months period that the Treaty leaves to the European social partners to negotiate (Art. 138(4) EC Treaty).

ETUC, UNICE/UEAPME and CEEP then signed this framework agreement on 8 October 2004 after approval by the respective decision-making bodies of these organisations.

It must be implemented by all member organisations of ETUC, UNICE/UEAPME and CEEP in accordance with the procedures and practices specific to management and labour as specified in Article 139 of the Treaty and this within 3 years after its signature (i.e. before 8 October 2007).

This interpretation guide provides an overview on the content of the agreement, chapter by chapter, focusing on the main issues at stake and that were subject to discussions throughout the negotiations. Furthermore, this guide provides: 1) an overview of the Framework Directive 89/391/EEC and its "individual" Directives (Annex 1), 2) an analysis of some EU legislation and case law proving that stress at work is covered by them (Annex 2), 3) a non-exhaustive list of potential "stressors" (Annex 3), and 4) some examples of methods for screening the prevalence of stress at the workplace (Annex 4).

It is intended to support the ETUC member organisations in the implementation of the content of this agreement and to allow a better monitoring and evaluation of the results achieved[1].

[1] This ETUC interpretation guide was compiled by Maria Helena André (ETUC Deputy General Secretary and ETUC Spokesperson during the negotiations), Sinead Tiernan (ETUC Advisor) and Clauwaert Stefan, Gauthy Roland and Schömann Isabelle (ETUI-REHS Researchers and members of the ETUC "Stress at work" negotiation delegation)

1. Introduction

Text of the agreement

Work-related stress has been identified at international, European and national levels as a concern for both employers and workers. Having identified the need for specific joint action on this issue and anticipating a Commission consultation on stress, the European social partners included this issue in the work programme of the social dialogue 2003-2005.

Stress can potentially affect any workplace and any worker, irrespective of the size of the company, field of activity, or form of employment contract or relationship. In practice, not all work places and not all workers are necessarily affected.

Tackling stress at work can lead to greater efficiency and improved occupational health and safety, with consequent economic and social benefits for companies, workers and society as a whole. Diversity of the workforce is an important consideration when tackling problems of work-related stress.

Interpretation / Comment

This introduction emphasises the common concern of the European social partners the need to act together on this increasing and worrying phenomenon of work-related stress, as was foreseen in their joint work programme 2003-2005.

In fact, all companies and workers are concerned by this agreement:

It applies to all public and private companies/institutions/services, including SME's.
And, the diversity of the workforce in its multiple dimensions such as gender, age, racial and ethnic origin, qualification and hierarchical/managerial levels, different employment contracts/relationships, should also be considered throughout the implementation of this agreement.

The European social partners recognize the broad economic and social added value of jointly tackling work-related stress for the workers, the enterprises and society as a whole.

2. Aim

Text of the agreement

The aim of the present agreement is to
• increase the awareness and understanding of employers, workers and their representatives of work-related stress,
• draw their attention to signs that could indicate problems of work-related stress.

The objective of this agreement is to provide employers and workers with a framework to identify and prevent or manage problems of work-related stress. It is not about attaching blame to the individual for stress.

Recognising that harassment and violence at the work place are potential work related stressors but that the EU social partners, in the work programme of the social dialogue 2003-2005, will explore the possibility of negotiating a specific agreement on these issues, this agreement does not deal with violence, harassment and post-traumatic stress.

Interpretation / Comment

The ETUC considers this agreement as an action-oriented instrument. It must support employers, workers and workers' representatives in recognising and understanding signals of work-related stress. In order to efficiently prevent, manage and eliminate the causes of work-related stress, joint action must be taken!

Thereby, work-related stress has in first instance to be understood as a collective issue and not remain within the individual sphere of each worker.

Furthermore, work-related stress should not be considered as being solely a health and safety problem, but rather be looked upon within the whole context of work content, working environment and work organisation.

This agreement does not deal with harassment, violence at work and post-traumatic stress, as this will be dealt with as a separate issue as foreseen in the work programme 2003-2005.

3. Description of stress and work-related stress

Text of the agreement

Stress is a state, which is accompanied by physical, psychological or social complaints or dysfunctions and which results from individuals feeling unable to bridge a gap with the requirements or expectations placed on them.

The individual is well adapted to cope with short-term exposure to pressure, which can be considered as positive, but has greater difficulty in coping with prolonged exposure to intensive pressure. Moreover, different individuals can react differently to similar situations and the same individual can react differently to similar situations at different times of his/her life.

Stress is not a disease but prolonged exposure to it may reduce effectiveness at work and may cause ill health.

Stress originating outside the working environment can lead to changes in behaviour and reduced effectiveness at work. All manifestations

Interpretation / Comment

This part of the text (together with Chapter 7 on "Implementation and follow up") was the most difficult to negotiate. The employers' delegation insisted on the subjective and individual aspects of stress, while the ETUC wanted to concentrate on its collective and work related characteristics. They could thus not agree on their own joint definition or on merely using any of the existing international or other definitions (EU Commission, ILO, WHO, etc.).

The only way to overcome this deadlock was to agree on a common description that deals with stress in general and thus not with work-related stress as such. This description may thus seem too individually focussed, too subjective and may even be scientifically incorrect. For instance, short-term (repeated) exposure to stress can be as harmful and damaging to one's health and can affect effectiveness at work as much as prolonged exposure. Therefore, one has to read this description in conjunction with other parts of the agreement (e.g. last sentence of this chapter, second paragraph of chapter 4, etc.) which place the focus on the collective nature and causes of work-related stress. This repeated recognition by the European social partners of the fact that work-related stress is rooted, in particular in the work content, working environment and work organisation, is the core message laid down in this chapter and the agreement as a whole.

The European social partners also recognise that stress expressed at work does not necessarily originate in the workplace, but rather in the private sphere. It was understood by them that solving such situations is not directly an

Text of the agreement

of stress at work cannot be considered as work-related stress. Work-related stress can be caused by different factors such as work content, work organisation, work environment, poor communication, etc.

Interpretation / Comment

"employer obligation", but that the employer should assist/help/facilitate the concerned worker as much as possible in overcoming the situation as the longer it continues, the more and longer the work place can be negatively affected by it.

4. Identifying problems of work-related stress

Text of the agreement

Given the complexity of the stress phenomenon, this agreement does not intend to provide an exhaustive list of potential stress indicators. However, high absenteeism or staff turnover, frequent interpersonal conflicts or complaints by workers are some of the signs that may indicate a problem of work-related stress.

Identifying whether there is a problem of work-related stress can involve an analysis of factors such as work organisation and processes (working time arrangements, degree of autonomy, match between workers skills and job requirements, workload, etc.), working conditions and environment (exposure to abusive behaviour, noise, heat, dangerous substances, etc.), communication (uncertainty about what is expected at work, employment prospects, or forthcoming change, etc.) and subjective factors (emotional and social pressures, feeling unable to cope, perceived lack of support, etc.).

Interpretation / Comment

This chapter forms the heart of the agreement as it not only provides a non-exhaustive list of examples of signs and factors of work-related stress, but also obliges the employers and workers to jointly (re)act if such signs and factors are identified.

The list of signs and factors reflects the balanced concern of both workers and employers. For instance, the reference to high absenteeism and staff turnover counterbalances the employers concern to focus on more individual aspects such as complaints of workers.

An important aspect of this paragraph is (again) the clear statement that work organisation, working conditions and environment and communication, which are certainly not subjective aspects, can be potential stress factors and thus need to be analysed.
The terms “employment prospects” refer amongst others to the use of and relationship between non-standard employment and job security. The notion of “forthcoming changes” covers amongst others, aspects such as restructuring, mergers, outsourcing, and the introduction of new technology, which also can form potential stress factors.

Text of the agreement

If a problem of work-related stress is identified, action must be taken to prevent, eliminate or reduce it. The responsibility for determining the appropriate measures rests with the employer. These measures will be carried out with the participation and collaboration of workers and/or their representatives.

Interpretation / Comment

Actions of identification, prevention and management of stress at work should be taken with the participation (including information and consultation of course) and collaboration of workers and their representatives. The emphasis is placed on the active involvement of workers and workers' representatives in the elaboration, implementation and monitoring of anti-stress measures. However, without the willingness on the part of the employer to address stress in the company/service, little can and will be achieved!

5. Responsibilities of employers and workers

Text of the agreement

Under Framework Directive 89/391, all employers have a legal obligation to protect the occupational safety and health of workers. This duty also applies to problems of work-related stress in so far as they entail a risk to health and safety. All workers have a general duty to comply with protective measures determined by the employer.

Addressing problems of work-related stress may be carried out within an overall process of risk assessment, through a separate stress policy and/or by specific measures targeted at identified stress factors.

Interpretation / Comment

Creating a clear link between the Framework Directive (FWD) and this agreement was a key prerequisite and demand of the ETUC throughout the whole negotiations. Using the FWD as a basis, the ETUC thus wanted this agreement to form a complementary instrument to the rights and obligations embedded in the FWD and its individual Directives (see Annex 1), which specifically focuses on tackling work-related stress. In a way, this agreement could be considered as the first "individual agreement" which complements the FWD to ensure the health and safety at the work place of all workers!

This was however far from evident as certain employer representatives questioned the fact that the FWD covered stress at work merely because "stress" was not explicitly referred to in the text of the Directive, whereas this was considered to be self-evident on the ETUC side. See therefore our analysis in Annex 2.

It therefore needs to be recalled that Article 6 of the FWD describes a risk prevention model that is also applicable to the primary prevention of stress or, even better, to combat "stressors" at work. As the word "stressor" applies to different risk factors, a non-exhaustive list of such stressors is provided in Annex 3.

The application of this model in the prevention of stress at work means that measures are taken such as:

- Avoiding stressors which means their complete eradication
- Evaluating the stressors that have not been or can not be avoided
- Combating stressors at source can only be done if the actual stressors have been found and analysed. If for example noise is a stressor in situations where concentration is needed to perform one's task, the specific cause(s) of this noise and its characteristics

Text of the agreement

Interpretation / Comment

must be analysed and an inventory of possible solutions must be made. Tackling the actual cause is preferable to implementing secondary solutions such as noise insulation or insulting the workstation of the workers in question, which in itself would require that a noise-mapping exercise be carried out.

- Replacing stressing tasks by less stressing ones
- Prioritising collective preventive measures for stress over individual ones
- Adapting the work to the individual which requires applying ergonomic principles regarding e.g. the design of work stations, of jobs and tasks (avoidance of repetitive ones), of basic operations and of decisions to be taken

This stress prevention model is in fact very simple:

1. Potential stressors have to be eliminated in order to reduce the likelihood that they will cause stress. However those stressors should still be borne in mind in any future assessment as they may reappear at a later stage. It should once again be noted that stressors not related to the workplace may also provoke stress at work and should thus also be taken into consideration.

2. If, however, stressors can not be eliminated, they must be treated seriously , if necessary by specialised actions (E.g. from occupational psychologists or ergonomists, etc.), in order to:

- evaluate residual stressors and determine the stress level of the workers,
- search for solutions to eliminate those residual stressors or, if not possible, to try to reduce them,

Text of the agreement

Interpretation / Comment

- program a set of follow-up measures such as
  - information and training for workers and management on stress, its causes (the stressors), their effects, measures to be taken to cure or reduce the effects,
  - consultation of and participation by everybody in the stress-reduction policy
  - provision of appropriate support

Risk-management of stress is thus well phased within the overall risk-reduction model. Yet, the causative link for stress at the workplace is sometimes weak. It might take some time before stress in the workplace becomes visible via what we call in this agreement the "indicators". Therefore a pro-active stress prevention policy is crucial as a delay in identifying these indicators may actually worsen the situation and make the combat of these long hidden stressors even more difficult.

As said, stress caused by stressors that are present at the workplace could be worsened by external stressors that are not related to the workplace. This makes the phenomenon and its prevention even more complex. That is why the pro-active research of potential stress causes at work and the research of stress prevalence at work needs to be so fine-tuned. Many stress assessment methods do exist, those mentioned in Annex 4 are valid, but are not necessarily portable via a "drag & drop" from one situation to another or from one culture or region to another! That is why we do not recommend screening methods in any particular order of preference.

6. Preventing, eliminating or reducing problems of work-related stress

Text of the agreement

Preventing, eliminating or reducing problems of work-related stress can include various measures. These measures can be collective, individual or both. They can be introduced in the form of specific measures targeted at identified stress factors or as part of an integrated stress policy encompassing both preventive and responsive measures.

Where the required expertise inside the work place is insufficient, competent external expertise can be called upon, in accordance with European and national legislation, collective agreements and practices.

Once in place, anti-stress measures should be regularly reviewed to assess their effectiveness, if they are making optimum use of resources, and are still appropriate or necessary.

Such measures could include, for example:

Interpretation / Comment

Measures used to prevent, eliminate or reduce work-related stress can be diversified, collective and/or individual. They can be oriented to a specific situation or rather form part of an integrated stress policy. This provides a degree of flexibility to react to each situation of work-related stress. However, any anti-stress policy should not be construed as a static tool, but rather as a dynamic action plan whose motto should be "collective actions in essence, individual actions when necessary".
The European social partners hereby also wanted to remind that both employers and workers (representatives) can, according to several EU (See Annex 1) and national laws, collective agreements and practices, have recourse to external expertise when considered necessary. Note also that this paragraph refers to "expertise" rather than "expert(s)". This to highlight that depending on the identified problem(s)/solution(s), it might be necessary to bring in one or more specialised experts.

Given its dynamic nature, it is clear that any anti-stress policy and the measure(s) used/foreseen should be regularly reviewed in order to be and remain effective.

Given the diversity of potential instruments available, this paragraph only provides some examples without being exhaustive.

Text of the agreement

• management and communication measures such as clarifying the company's objectives and the role of individual workers, ensuring adequate management support for individuals and teams, matching responsibility and control over work, improving work organisation and processes, working conditions and environment,
• training managers and workers to raise awareness and understanding of stress, its possible causes and how to deal with it, and/or to adapt to change,
• provision of information to and consultation with workers and/or their representatives in accordance with EU and national legislation, collective agreements and practices.

Interpretation / Comment

This list of tools highlights again the recognised link between work-related stress and aspects of work content, working environment and work organisation. Furthermore, this list only pays particular attention to certain "anti-stress" instruments, such as training measures and information and consultation processes. The list thus has to be read in conjunction with similar or other obligatory measures as provided by Directive 89/391/EEC (such as risk assessments, use of internal and external expertise, etc.). As to information and consultation, the ETUC clearly highlighted throughout the discussions/negotiations that of course also regarding the tackling of work-related stress, everything stands or falls depending on the quality and timing of the information and consultation.

7. Implementation and follow-up

Text of the agreement

In the context of article 139 of the Treaty, this voluntary European framework agreement commits the members of UNICE/UEAPME, CEEP and ETUC (and the liaison committee EUROCADRES/CEC) to implement it in accordance with the procedures and practices specific to management and labour in the Member States and in the countries of the European Economic Area.

Interpretation / Comment

Despite initial resistance from the employers' delegation, ETUC was able to strengthen the implementation and follow-up procedures of this agreement compared to the provisions in the telework agreement and the experiences gained thus far in the implementation of the latter agreement.

The reference to Article 139 of the Treaty in relation to the word „voluntary" places the emphasis on the fact that the procedure to engage in an EU negotiation is voluntarily accepted by the EU social partners and characterises the autonomy of the social partners. The implementation of the autonomous agreement however is binding for all member organisations of the signatory parties. In sum, for ETUC only the decision to enter into negotiations is voluntary; any results achieved following these negotiations is however not at all voluntary. Any result fully commits, even contractually binds, the signatory parties and their affiliates to ensure an effective implementation!!!!

Therefore it contains a clear engagement on the part of these member organisations to commit themselves to implementing the agreement. This aspect clearly represents an added value compared to the telework agreement.

Text of the agreement

The signatory parties also invite their member organisations in candidate countries to implement this agreement.

The implementation of this agreement will be carried out within three years after the date of signature of this agreement.

Member organisations will report on the implementation of this agreement to the Social Dialogue Committee. During the first three years after the date of signature of this agreement, the Social Dialogue Committee will prepare a yearly table summarizing the on-going implementation of the agreement. A full report on the implementation actions taken will be prepared by the Social Dialogue Committee during the fourth year.

The signatory parties shall evaluate and review the agreement any time after the five years following the date of signature, if requested by one of them.

In case of questions on the content of this agreement, member organisations involved can jointly or separately refer to the signatory parties, who will jointly or separately reply.

Interpretation / Comment

Hereby, reference is made to member organisations in Bulgaria, Romania, Croatia, Turkey, and of course any other country which will be accepted as a candidate country to the European Union in the future.

This thus means that the final deadline for implementation is 8 October 2007.

Concretely, the reporting system entails the provision of a yearly overview on the implementation process to the Social Dialogue Committee and a final implementation report is foreseen in 2008.

Furthermore, an evaluation and a review of the autonomous agreement can be made after 5 years, if requested by one of the signatory parties.

As in previous agreements, the European social partners have the possibility to jointly or separately reply to questions on content and interpretation which are addressed to them

Text of the agreement

When implementing this agreement, the members of the signatory parties avoid unnecessary burdens on SME's.

Implementation of this agreement does not constitute valid grounds to reduce the general level of protection afforded to workers in the field of this agreement.

This agreement does not prejudice the right of social partners to conclude, at the appropriate level, including European level, agreements adapting and/or complementing this agreement in a manner which will take note of the specific needs of the social partners concerned.

Interpretation / Comment

While recognising the need to avoid unnecessary burdens for SME's, the agreement must thus also be implemented in these companies.

Learning from the experiences gained in the implementation processes of all previous social dialogue framework agreements, the ETUC felt it all the more important to reiterate this particular clause in order to bring it to the full attention of all actors involved in the implementation of this agreement.

Lastly, it should be noted that the ETUC tried to have a reference in this chapter to the positive role that national mediation, conciliation and arbitration processes could play in the implementation process, but this was finally not acceptable for the employer's delegation.

ANNEXES

ANNEX 1

Framework Directive (FWD):

Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work *(OJ L 183, 29.06.1989, p. 1)*
(*Consolidated version:* http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/consleg/1989/L/01989L0391-20031120-en.pdf)

"Individual" Directives based on the FWD:

Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (**First** individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC) *(OJ L 39,3 30.12.1989, p. 1)*
(http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&lg=EN&numdoc=31989L0654&model=lex)

Council Directive 89/655/EEC of 30 November 1989 concerning the minimum safety and health requirements for the use of work equipment by workers at work (**Second** individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) *(OJ L 393, 30.12.1989, p. 13)* (Amended by Directive 95/63/EC *(OJ L 355, 30.12.1995, p. 28)* and Directive 2001/45/EC *(OJ L 195, 19.07.2001, p. 46)*)
(Consolidated version: http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/consleg/1989/L/01989L0655-20010719-en.pdf)

Council Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (**Third** individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC) *(OJ L 393, 30.12.1989, p. 18)*
(http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&lg=EN&numdoc=31989L0656&model=lex)

Council Directive 90/269/EEC of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (**Fourth** individual Directive within the meaning of Article 16 (1)

of Directive 89/391/EEC) *(OJ L 156, 21.06.1990, p. 9)*
(http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&lg=EN&numdoc=31990L0269&model=lex)

Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment (**Fifth** individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) *(OJ L 156, 21.06.1990, p. 14)*
(http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&lg=EN&numdoc=31990L0270&model=lex)

Council Directive 90/394/EEC of 28 June 1990 on the protection of workers from the risks related to exposure to carcinogens at work (**Sixth** individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (Subsquent amendments were codified in 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 or mutagens at work - *OJ L 158, 30.04.2004, p. 50*)
(http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:32004L0037R(01):EN:HTML)

Council Directive 90/679/EEC of 26 November 1990 on the protection of workers from risks related to exposure to biological agents at work (**Seventh** individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (Subsequent amendments are codified in Directive 2000/54/EC of the European Parliament and of the Council of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work - *OJ L 262, 17.10.2000, p. 21*)
(http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&lg=EN&numdoc=32000L0054&model=lex)

Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites (**Eighth** individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) *(OJ L 245, 26.08.1992, p. 6)*
(http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&lg=EN&numdoc=31992L0057&model=lex)

ANNEX 1

Council Directive 92/58/EEC of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work (**Ninth** individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) *(OJ L 245, 26.08.1992, p. 23)*
(http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&lg=EN&numdoc=31992L0058&model=lex)

Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (**Tenth** individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) *(OJ L 34, 28.11.1992, p. 1)*
(http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&lg=EN&numdoc=31992L0085&model=lex)

Council Directive 92/91/EEC of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in the mineral- extracting industries through drilling (**Eleventh** individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) *(OJ L 348, 28.11.1992, p. 9)*
(http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&lg=EN&numdoc=31992L0091&model=lex)

Council Directive 92/104/EEC of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries (**Twelfth** individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) *(OJ L 404, 31.12.1992, p. 10)*
(http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&lg=EN&numdoc=31992L0104&model=lex)

Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (**Thirteenth** individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) *(OJ L 307, 13.12.1993, p. 1)*
(http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&lg=EN&numdoc=31993L0103&model=lex)

Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (**Fourteenth** individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) *(OJ L 131, 05.05.1998, p. 11)*
(http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&lg=EN&numdoc=31998L0024&model=lex)

Directive 1999/92/EC of the European Parliament and of the Council of 16 December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (**Fifteenth** individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) *(OJ L 023, 28.01.2000, p. 57)*
(http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&lg=EN&numdoc=31999L0092&model=lex)

Directive 2002/44/EC of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration) (**Sixteenth** individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) *(OJ L 17 , 06/07/2002, p. 13)*
(http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:32002L0044:EN:HTML)

Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise) (**Seventeenth** individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) *(OJ L 042, 15.02.2003, p. 38)*
(http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&lg=EN&numdoc=32003L0010&model=lex)

Directive 2004/40/EC of the European Parliament and of the Council of 29 April 2004 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (**Eighteenth** individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) *(OJ L 159, 30.04.2004; corrigendum OJ L 184, 24/05/2004, p. 1)*
(http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:32004L0040R(01):EN:HTML)

ANNEX 2

"Stress at work and EU legislation/case law: to be or not to be in?"

During a plenary meeting of the negotiations in April 2004, a representative of the employers' delegation questioned the fact that the Framework Directive 89/391/EEC (FWD) did cover stress at work because it was not explicitly referred to in the text of the Directive.

However, an analysis of, in particular the preparatory documents to the FWD, a number of its individual directives (such as the so-called" VDU Directive"[2] and the "Maternity Directive"[3]), and the Working Time Directive (93/104/EC)[4], reveals enough elements to prove otherwise. Case law of the European Court of Justice (ECJ) only seems to confirm it. In fact, all these preparatory documents, be it initial and/or amended Commission proposals, amendments submitted by the European Parliament or opinions of the European Economic and Social Committee (EESC), contain concrete references to "stress" and/or "physical and mental health status". Thus, even if the FWD does not mention explicitly the word "stress", it is clear that the EU legislator had the intention to cover all aspects of the health and safety of workers, i.e. their physical, mental and/or social wellbeing.

Indeed, the ECJ also confirms, firstly, in a judgement on the FWD (Case C-49/00 – see below) that the enumeration of health and safety risks in this Directive is not exhaustive and thus goes beyond those explicitly mentioned. Secondly, the ECJ confirms in its judgement in case C-84/94 (see below) on the Working Time Directive, that Article 118 EC Treaty is not only the appropriate legal basis for this directive. The ECJ also considers it to be the right legal basis for all directives which envisage to protect the health and safety of workers, be it the FWD, its individual directives or any other directive not based on the FWD but which focuses upon a specific health and safety problem. The very wide interpretation of the ECJ of the concepts "working environment", "health" and "safety", embracing all physical and other factors, can thus be extended to all the former mentioned directives.

[2] Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment (Fifth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) *(OJ L 156, 21.06.1990, p. 14)*
(http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&lg=EN&numdoc=31990L0270&model=guicheti)

[3] Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (Tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) *(OJ L 348, 28.11.1992, p. 1)*
(http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&lg=EN&numdoc=31992L0085&model=guicheti)

[4] Codified version: Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time *(OJ L 299, 18/11/2003, p. 9)*
(http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexdoc!prod!CELEXnumdoc&lg=EN&numdoc=32003L0088&model=guicheti)

Framework Directive 89/391/EEC (FWD)	
Nature of text	**Selection of interesting and relevant text proposals**
Initial Commission proposal for directive *(COM(88) 73 final of 7 March 1988, OJ C 141/88, p. 1)*	Article 2: proposed definition of "occupational risk" stating *"any work-related situation liable to damage the physical and psychological safety and/ or health of the worker, excluding accidents on the way to and from work."* Article 5(3)(f) on specific obligations of the employer states: *"The planning and introduction of new technologies shall be undertaken in close cooperation with the workers and/or their representatives, particularly in respect of the choice of equipment and the working conditions, including those aspects connected with the working environment and the physical and psycho-social well-being of the individual. Workers shall receive appropriate training."*
EESC Opinion *(28 April 1988, OJ C 175/88, p. 22)*	EESC proposes to insert a paragraph to article 5 in relation to "evaluation of safety and health risks to workers": *" In so doing [i.e. the evaluation], the employer shall assess the following risks in particular:* *-(...)* *- stress due to heat, cold, movement of air, humidity and lighting;* *- excessive physical, nervous and mental strain caused by heavy work, shift work, night work, fixed posture, monotonous and unvaried work processes, pressure of deadlines, high-speed work, working time and work organisation;* *- multiple stress resulting from of number or combinations of these stress factors."*
EP Amendments 1st reading *(16 November 1988, OJ C 326/88, p. 102)*	The EP proposes to amend the initial 10th recital into: *"Whereas safety and hygiene at the workplace and the physical and mental health of workers are rights which cannot be subordinated to economic considerations".* The EP proposes to add in article 2 a definition of health, i.e. *"health in the context of work shall encompass not only the absence of sickness or disease but also all physical and mental factors affecting health and directly related to safety and health at work".*

	As for article 5 (see above), the EP proposed the following amendment: " *In so doing [i.e. the evaluation], the employer shall identify and assess and draw up surveys of the following hazards:* • *(...)* • *stress caused by noise, heat, cold, damp, gases, vapours and other factors influencing the environment;* • *physical, nervous and mental strain caused by heavy physical labour, shift work, night work, the requirement to work in a specific position, monotonous work, piece-work, individual work carried out in isolation and similar pressures;* • *specific stress caused by overtime"*
Amended Commission proposal for Directive *(COM(88) 202 final of 05.12.1988l, OJ C 30/89, p. 19)*	
EP Amendments 2nd reading *(24 May 1989, OJ C 158/89, p. 131)* whereby, amongst others, the EP reiterates its proposal to add a definition of "health" (see above).	
Seconded amended proposal of Commission *(COM(89) 281 final of 12.06.1989, OJ C 172/89, p. 3)*	
ECJ Case law: Commission vs. Italy *(Case C-49/00; available at http://curia.eu.int/)*	In line with the argumentation of the Advocate General, the ECJ states in its judgment of 15/11/2001 the following: *"According to the Commission, Article 6(3)(a) of the directive requires employers to evaluate all the risks to the safety and health of workers at work. The three types of risk mentioned in that provision are only examples of particular risks which must be evaluated. (...) It must be noted, at the outset, that it follows both from the purpose of the directive, which, according to the 15th recital, applies to all risks, and from the wording of Article 6(3)(a) thereof, that employers are obliged to evaluate all risks to the safety and health of worker. It should also be noted that the occupational risks which are to be evaluated by employers are not fixed once and for all, but are continually changing in relation, particularly, to the progressive development of working conditions and scientific research concerning such risks."* (§§ 10-13)

Directive 90/270/EEC ("VDU-Directive")	
Nature of text	**Selection of interesting and relevant text proposals**
Initial Commission proposal for Directive *(COM(88) 77 final of 7 March 1988, OJ C 113/99, p. 7)*	A proposed Article 7 (2) states: *"Workers shall receive information on all aspects of health and safety relating to their workstation, including the possible effects on their eyes and physical and mental stress".*
EESC Opinion *(28 September 1988, OJ C 318/88, p. 32)*	As to point 9 of the annex of the Directive proposal (dealing amongst others with psycho-social factors), the EESC argues for the adoption of European and national standards for "software ergonomics" whereby software should be adapted to the *"characteristics of the persons using them in particular because of the constant stress/strain which is put on them due to conduct repetitive operations".*
EP Amendments 1st reading *(14 December 1988, OJ C 318/88, p. 32)*	The EP suggests to integrate in the proposed article 3 that *"member states shall take all necessary measures to ensure that functions which include work on VDU's cannot in the short or long term compromise the safety or mental and physical health of workers."* As to article 7 (see above), an EP amendment requires that *"in particular, information on physical and mental problems involved in work on screens (including problems relating to eyesight, pregnancy, fertility and stress), and ergonomic problems (including monotony and an unbalanced workload) shall be furnished on a continuous basis in order to reduce the problems caused by the work."*
Amended Commission proposal for Directive *(COM(89) 195 final of 28.04.1989, OJ C 130/89, p. 5)*	None of the proposed EP amendments are really taken into account.
EP Amendments 2nd reading *(4 April 1990, OJ C 113/90, p. 75)*	The EP suggests adding in article 6 the following: *"(...) pregnant workers using display screens shall not be required to perform stressful tasks".* As for the Annex 9 on software and VDU ergonomics, the EP suggests to insert that *"systems must provide feedback and information in a clear and simple manner and at a pace geared to the tempo of the user so as not to cause excessive mental strain and fatigue."*
Final text of Directive	Although little has survived the scrutiny of Council, Article 3(1) on the "analysis of workstations" states that: *"Employers shall be obliged to perform an analysis of workstations in order to evaluate the safety and health conditions to which they give rise for their workers, particularly as regards possible risks to eyesight, physical problems and problems of mental stress."*

Directive 92/85/EEC ("Maternity Directive")	
Nature of text	**Selection of interesting and relevant text proposals**
Initial Commission proposal for Directive *(COM(90) 406 final of 18 September 1990, OJ C 281/90, p. 3)*	The 16th recital reads *"whereas the risk of dismissal for reasons associated with their condition may have harmful effects on the physical and mental state of pregnant workers, workers who have recently given birth or who are breastfeeding".* The proposed 19th recital recalls even that *"night work may be harmful to the physical and mental health of pregnant workers undertaking work which has particular risks or significant physical or mental stress and alternative provisions should be made to avoid these risks".*
EP Amendments 1st reading (12 December 1990, OJ C 19/91, p. 165)	The EP suggests to amend the 20th recital on reproductive functions of both male and female workers by stating *""whereas, in addition, the exposure of male and female workers to certain physical, chemical or biological agents and processes and mental stress may impair the reproductive functions of men and women; (...)."* The EP also suggests to amend the annex listing agents and process to which pregnant women should not be exposed by including under the heading *"physical agents" "any work involving heavy lifting, pushing, pulling, heavy repetitive and stress work, etc"* and that in relation to *"conditions and organisation of work"* special account had to be taken of *"working time (including night work); conditions causing mental stress; risk of violence, (...)".*
Amended Commission proposal for Directive *(COM(90) 692 final of 08.01.1991, OJ C 25/91, p. 9)* whereby the proposals for 16th and 19th recital remain unchanged.	

EESC Opinion *(20 November 1990, OJ C 41/91, p. 29)*	
EP Amendments 2nd reading *(13 May 1992, OJ C 150/92, p. 99)*	
Final text of Directive	Recital 15 states that *"whereas the risk of dismissal for reasons associated with their condition may have harmful effects on the physical and mental state of pregnant workers, workers who have recently given birth or who are breastfeeding"* Furthermore, following article 3, the Commission should establish guidelines on the assessment of certain agents and processes considered hazardous for the safety or health of workers. These guidelines should *"also cover movements and postures, mental and physical fatigue and other types of physical and mental stress connected with the work done"* by such workers. (article 3, § 2)
ECJ Case law	This Directive has of course led to important case law by the ECJ over the past years. In relation to our topic, the relevant case mainly relates to the problem of dismissal of pregnant or breastfeeding women. In this case law, both Advocates General as well as the ECJ, cite of course the related 15th recital and the provisions of article 10 of the Directive. Examples of cases are: Webb (Case C-32/93), Melgar (Case C-438/99), and Tele Danmark A/S (Case C-109/00). (All cases available at http://curia.eu.int)

Directive 93/104/EC ("Working Time Directive") "The forgotten source ?"	
Nature of text	**Selection of interesting and relevant text proposals**
Initial Commission proposal *(COM(90) 317 , 20/09/1990, Brussels),*	In the explanatory memorandum to the proposal, the Commission states that, although the question of "systematic overtime" should be best left to the social partners and national provisions, the only reason for the directive proposal is the respect for workers' health and safety. (p. 3) It therefore bases itself on research indicating that longer working hours leads not only to a higher risk of work accidents, but also leads to *"a greater psychological burden, not merely the purely physical workload"*. The latter *"causes a feeling of harassment and stress which obviously has an adverse effect on the quality of work and on health in general"*. (p. 6) Further on, on the reasons why article 118A of the EC Treaty was chosen as basis, the Commission recalls the WHO definition whereby *"health is a state of complete psychic, mental and social well-being and does not merely consist of an absence of disease or infirmity"*.(p. 17)
EP amendments *(Doc A3-0378/90/Part A)*	In relation to overtime, the EP proposes to integrate new provisions which prohibit in principle overtime work for workers active during the day in *"occupations which entail specific risks or an important physical or mental burden."* The same for night workers and the Commission is asked to publish, within six months after the publication of the Directive, a non-exhaustive annexe containing which are these specific risks or important physical or mental burdens. Also interesting is that its in amendment 29 integrating a new article the EP requires that *"in case of a transfer for health reasons [of a night worker to day service], the employer must make a study of the causes the health problems linked to the night work (including "stress" and "fatigue") and takes measures to avoid other health problems,(...)"*.

EESC Opinion *(OJ C 60, 08.03.1991, p. 26)*	
Amended Commission proposal for Directive *(COM(91) 130 final of 23.04.1991; OJ C 124, 14.05.1991, p. 8)*	
Directive text	Although this health and safety Directive touches upon many aspects of the organisation of working time which might "trigger" stress if not properly implemented and applied, an explicit reference to it is to be found in the article 8 on "length of night work" which states: *"Member States shall take the measures necessary to ensure that:* *1. normal hours of work for night workers do not exceed an average of eight hours in any 24-hour period;* *2. night workers whose work involves special hazards or heavy physical or mental strain do not work more than eight hours in any period of 24 hours during which they perform night work.* *For the purposes of the aforementioned, work involving special hazards or heavy physical or mental strain shall be defined by national legislation and/or practice or by collective agreements or agreements concluded between the two sides of industry, taking account of the specific effects and hazards of night work."*
ECJ Case Law Case C-84/94 – UK vs. Council of the European Union *(European Court Reports 1996, p. I-05755)*	The UK government asked for an annulment of the Directive as it contested the legal basis of the Directive, i.e. article 118(a) EC Treaty. Main argument of the UK was *"that provision permits the adoption only of directives which have a genuine and objective link to the "health and safety" of workers. That does not apply to measures concerning, in particular, weekly working time, paid annual leave*

	and rest periods, whose connection with the health and safety of workers is too tenuous. That interpretation is borne out by the expression "working environment" used in Article 118a, which implies that directives based on that provision must be concerned ***only with physical conditions and risks at the workplace.*** *"* (§ 13) The ECJ hold however another view: *"There is nothing in the wording of Article 118a to indicate that the concepts of "working environment", "safety" and "health" as used in that provision should, in the absence of other indications, be interpreted restrictively, and not as embracing all factors, physical or otherwise, capable of affecting the health and safety of the worker in his working environment, including in particular certain aspects of the organization of working time. On the contrary, the words "especially in the working environment" militate in favour of a broad interpretation of the powers which Article 118a confers upon the Council for the protection of the health and safety of workers. Moreover, such an interpretation of the words "safety" and "health" derives support in particular from the preamble to the Constitution of the World Health Organization to which all the Member States belong. Health is there defined as a state of complete physical, mental and social well-being that does not consist only in the absence of illness or infirmity."* (§15) Further on in the judgement, the ECJ also argues that article 118a (and the interpretation given to it in this judgement) is not only the appropriate basis for the working time directive, but also for the FWD, its individual directives as well as directives which, whilst not based on Directive 89/391, clearly focus upon a specific health or safety problem in a specific situation. Thereby to note is that the ECJ also referred to the abovementioned paragraph 15 in SIMAP (Case C-303/98) and Jaeger (C-151/02) on on-call work.

ANNEX 3

Categorisations of "stressors"

1. Work content

- ➔ Worker knowledge of his
  - Role: unambiguous, clear, precise and understood
  - Responsibilities: unambiguous, clear, precise and understood
- ➔ Diversification & interest of work
  - Execution
  - Quality control
  - Final improvement
  - Alterations
  - Maintenance
- ➔ Development of knowledge, skills en capabilities
- ➔ Opportunities given to adaptation of
  - Working methods
  - Rate
  - Improvement of the product
- ➔ Degree of initiative
- ➔ Period of adaptation
- ➔ Technical and intellectual abilities required

2. Evaluation system of the work and the worker:

- ➔ Level of control on work
- ➔ Knowledge (vs. permanent monitoring of tasks and actions, e.g. via electronic devices or processes that are "unknown")
- ➔ Participation of the workers who know that they are evaluated and how

3. Mental load:

- ➔ Average level of concentration:
  - neither permanent
  - nor too occasional
- ➔ Number of decisions to be taken:
  - time of interval during which the decisions are taken
  - difficulty to make these decisions
  - number of possible choices
  - information to collect
  - required time to take action necessary
- ➔ Degree of attention required, as a function of
  - seriousness of the actions to be taken
  - unforeseeable character of the events such as breakdowns
  - work cycle time

4. Social environment & relationships

- ➔ Culture and social climate
  - ▪ Cooperation
  - ▪ Understanding
- ➔ Support to solve problems
  - ▪ Hierarchy
  - ▪ Colleagues
- ➔ Communication with
  - ▪ Hierarchy
  - ▪ Colleagues
  - ▪ Peripheral departments (maintenance, quality, book keeping)
  - ▪ Isolated work
- ➔ Quality of communication
  - ▪ Freedom to communicate on any subject during work
  - ▪ Systems (telephone, e-mail, etc.)
  - ▪ Policies of use
- ➔ Level of satisfaction
  - ▪ Who takes care and manages conflicts and how?
  - ▪ How are personal problems solved and who does it?
- ➔ Social premises
  - ▪ Facilities: cafeteria, copiers...
  - ▪ Policies of use

5. Time management system and work distribution system

- ➔ Overload (peaks) and sub-activity
- ➔ Schedules
  - ▪ Extra time
  - ▪ Holidays
  - ▪ Rest
- ➔ Qualities of schedules
  - ▪ Foreseeable schedules
  - ▪ Wideness (fragmentation) of working hours and interruptions
- ➔ Illness, absences (legal or others)
- ➔ Night work
- ➔ Atypical working hours
- ➔ Distribution of work
  - ▪ Pauses
  - ▪ Rotations
  - ▪ Vacations
  - ▪ Absent workers
  - ▪ Policies about temporary workers

6. Climate & Professional incertitude

- ➔ Professional development and perspectives for the future
- ➔ Promotions: opportunities
- ➔ Contract
- ➔ Salary
- ➔ Professional certitudes

7. Respect of personal integrity

- ➔ Harassment
  - ▪ Moral
  - ▪ Sexual
- ➔ Menaces
  - ▪ Physical
  - ▪ Psychological
- ➔ Intolerance
  - ▪ Racism
  - ▪ Religious
- ➔ Mobbing, isolation, differentiated treatment
- ➔ Violence

8. Relations between professional & private life

9. General work environment should be included, such as:

- ➔ Tools and equipment: ad hoc, comfort, liability, user friendliness
- ➔ Lighting
- ➔ HVAC, clothing and metabolic load
- ➔ Noise
- ➔ Vibrations
- ➔ Working surfaces
- ➔ Organisation between working surfaces
- ➔ Working stations
- ➔ Accident risks in relation with collective and personal protective equipment
- ➔ Command & signals (including their stereotypes, accessibility and usability, comfort, etc.)
- ➔ Manual handling of loads
- ➔ Repetition of tasks/actions

ANNEX 4

Some screening methods for stressors

Many stress assessment methods do exist, but are not necessarily portable via a "drag & drop" from one situation to another or from one culture or region to another! That is why we do not recommend screening methods in any particular order of preference. The following methods serve only to provide examples. They are all broadly used and follow rigorous validity, sensitivity and specificity criteria. The individual data collected via these methods are consolidated and compared to huge databases allowing further sophisticated statistical treatments.

1. Karasek, Job Content Questionnaire (JCQ) - USA

The JCQ is widely used and described in academic literature. It is designed to measure scales assessing psychological demands, decision latitude, social support, physical demands and job insecurity, across 49 questions.

2. COPSOQ, Copenhagen Psychosocial Questionnaire

Different versions of the COPSOQ exist (long, medium and short), it is also available in Danish and Spanish. The questionnaire measures 8 scales assessing quantitative demands, influence at work, predictability, role clarity, etc. across 44 questions, in the short version.

3. VT, Vécu au travail – The Netherlands

The VT is available in Dutch, English, French and German; it assesses different characteristics of work, work organization, social relations and working conditions. The short version consists of 93 questions.

4. QPSNordic – Nordic countries (Dk, Fin, N, S)

Two versions of the QPSNordic are available, one consists of 123 questions and the other of 37; it also exists in different languages. The QPSNordic was developed to measure essential psychological and social factors of work, work organisation and work environment such as quantitative demands, decision latitude, role clarity, etc.

Order form

Name:. . . . . .

Organization:. . . . . .

Address: . . . . . .

Town/city: . . . . . Country:. . . . . .

Tel.: . . . . . Fax: . . . . . E-mail:. . . . . .

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