



September 2011
AK Position Paper

Proposal for a Directive concerning minimum requirements to protect the health and safety of workers against the risks arising from physical agents (electromagnetic fields)

About us

The Federal Chamber of Labour is by law representing the interests of about 3.2 million employees and consumers in Austria. It acts for the interests of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore the Austrian Federal Chamber of Labour is a part of the Austrian social partnership.

The AK EUROPA office in Brussels was established in 1991 to bring forward the interests of all its members directly vis-à-vis the European Institutions.

Organisation and Tasks of the Austrian Federal Chamber of Labour

The Austrian Federal Chamber of Labour is the umbrella organisation of the nine regional Chambers of Labour in Austria, which have together the statutory mandate to represent the interests of their members.

The Chambers of Labour provide their members a broad range of services, including for instance advice on matters of labour law, consumer rights, social insurance and educational matters.

More than three quarters of the 2 million member-consultations carried out each year concern labour-, social insurance- and insolvency law. Furthermore the Austrian Federal Chamber of Labour makes use of its vested right to state its opinion in the legislation process of the European Union and in Austria in order to shape the interests of the employees and consumers towards the legislator.

All Austrian employees are subject to compulsory membership. The member fee is determined by law and is amounting to 0.5% of the members' gross wages or salaries (up to the social security payroll tax cap maximum). 560.000 - amongst others unemployed, persons on maternity (paternity) leave, community- and military service - of the 3.2 million members are exempt from subscription payment, but are entitled to all services provided by the Austrian Federal Chambers of Labour.

Herbert Tumpel
President

Werner Muhm
Director

Executive Summary

The Federal Chamber of Labour is of the opinion that Only binding measures are an appropriate means of guaranteeing health and safety in the workplace

The Federal Chamber of Labour (BAK) makes the following comments regarding individual points in the proposal for a directive to protect workers against the hazards of electromagnetic fields (EMF) in the workplace of 14 June 2011:

The existing Directive 2004/40/EC is essentially an appropriate means of protecting workers and also the best way to ensure a high level of protection for workers.

The Federal Chamber of Labour is of the opinion that only binding measures are an appropriate means of guaranteeing health and safety in the workplace. It is our view that guidelines, information campaigns and training programs can provide support in the operational implementation of the provisions in the Directive, especially in the case of necessary evaluation of work areas. The commission should therefore offer such instruments in a way that is supportive and consistent for the member states.

The AK position in detail

The evaluation must not be machine-dependent, but rather workplace-dependent

On Article 3 Limits and MRI equipment:

The limits (exposure limits, reference values and action levels) should conform to current findings from ICNIRP in terms of limits. If compliance with limits is technically impossible, at least an equivalent level of protection must be ensured through other means.

For this reason, exceptions for operators of MRI equipment and all other medical applications that use magnetic resonance effects can only be considered if the protection of these workers is also ensured. After an evaluation (measurement, assessment ...) this could be ensured through

- a temporal limit on the maximum allowable duration of daily exposure,
- a temporal interruption of exposure by regulating breaks or a change in activities (a 30 minute break would be taken after 2 hours of exposure or another activity would be performed without MRI exposure),
- the observance of minimum distances from EMF sources and
- appropriate health surveillance through occupational health studies inasmuch as they are of preventative significance.

On Article 3, paragraph 6 and Annexes II.C and III.C:

The proposed exemption, which will allow work in "specific situations", is incomprehensible from an occupational standpoint, since the aforementioned measures would also need to be implemented here.

The list of work equipment and workplaces in Annex II.C and III.C does indeed provide an over-view of the presence of an EMF, however it cannot replace an evaluation of the on-site situation and the specific health hazards. The evaluation must not be machine-dependent, but rather workplace-dependent. The system that protects workers would be undermined by this since, for specific machines, a "carte blanche" would be issued. In terms of protection of workers, it must be assessed through this evaluation whether there is a hazard at the specific workplace.

The proposed initial implementation of a system, which allows for the "specific situations" in which the Member States might create their own guidelines that temporarily exceed exposure limits, is vehemently rejected. Thus far there are no precedents for such action. In connection with this, it must be remembered that the Union obliges Member States to observe primary law and has set, as a goal, the facilitation of the "improvement in particular of the working environment to protect workers' health and safety" (see Article 153 paragraph

For these reasons, the Federal Chamber of Labour has come to the conclusion that the existing Directive 2004/40/EC is essentially the appropriate way to protect workers and is also the best way to ensure a high level of protection for workers

1 TFEU). In addition, there is a concern that such specific exceptions could lead to competitive distortions. As was argued in the Council Working Group on Social Issues on 15/7/2011, there is also a fundamental legal question as to whether such exceptions might not violate the principle of equality.

In the documents accompanying the proposed Directive (SEK(2011)751 final) of 14/6/2011, item 3 discusses the “problem” of the sometimes serious health consequences from exposure to electromagnetic fields, which could affect approximately 1,639,500 workers in the EU. At the same time, the compliance and administrative costs of multiple options is presented, in which the difference between Option A “no change from 2004/40/EC” (total cost of 660.3 million euros) and Option C1 suggested by the Commission, “allow exceptions to EEC” (total cost of 511.7 million euros) is only 148.6 million euros. Optimal health protection therefore means a small additional cost of 91.00 euros for each potentially affected employee. This is compared with Option C1, which does not absolutely ensure the protection of health and, in comparison to the existing Directive 2010/40/EC, does not in any way lead to an improvement of the working environment to protect workers’ health and safety.

For these reasons, the Federal Chamber of Labour has come to the conclusion that the existing Directive 2004/40/EC is essentially the appropriate way to protect workers and is also the best way to ensure a high level of protection for workers.

At best, exceptions could be considered for the personnel operating MRI equipment and for all other medical applications that use magnetic resonance effects, if protection for these workers were ensured through the aforementioned alternative protective measures.

Finally, we note that too little is known about the long-term effects of electromagnetic fields and their possible mechanisms. We therefore ask that research in this area be further promoted and supported. Likewise there must be an option in the Directive to be able to immediately adapt the limits in light of new scientific findings.

The Federal Chamber of Labour asks that the comments and suggestions in their opinion be taken into account.

Should you have any further questions
please do not hesitate to contact

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