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The Advisory Committee on Safety and Health at Work

Opinion

Revision of the Machinery Directive

Adopted on 10/12/2020

Taking into account that

- A. This opinion is written from the point of view of occupational health and safety (OSH). It should not be used to draw conclusions about other aspects of the envisaged revision of the Machinery Directive.
- B. The ACSH is of the opinion that the Machinery Directive has proven effective until to date as regards its OSH implications.
- C. It is important that the envisaged new Regulation remains technology-neutral.
- D. An 'Impact assessment study on the revision of Directive 2006/42/EC on machinery - Final report' was published by the European Commission on 31 August 2020¹.
- E. Further information of the Commission on relevant policy options and possibly changes in relation to a revised legal act on Machinery was provided in two meetings of the ACSH Working Party 'Review of Machinery Directive' on 30 September and 4 December 2020.
- F. The ACSH Working Party 'Review of the Machinery Directive' supports this opinion.

¹ <https://op.europa.eu/en/publication-detail/-/publication/57914c1d-ebfb-11ea-b3c6-01aa75ed71a1/language-en>

ADOPTS THE FOLLOWING OPINION:

Background

The Machinery Directive 2006/42 (MD) is one of the main legislations governing the harmonisation of essential health and safety requirements for machinery at EU level. The MD aims to promote the free movement of machinery within the single market and guarantees a high level of protection for EU workers and citizens. As it is a 'new approach' directive, it promotes harmonisation through a combination of mandatory health and safety requirements and voluntary harmonised standards.

After extensive consultations, the Commission Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW) published an Impact Assessment Study end of August 2020 (see whereas 'D' and related footnote above), and informed its stakeholders as well as the ACSH Working Party 'Review of the Machinery Directive' in two meetings about the progress and envisaged changes to the Directive, including to annex I of the MD (Essential Health and Safety Requirements - EHSR).

The Working Party discussed this opinion in two meetings on 4 and 8 December 2020 and reached a consensus regarding this draft opinion for adoption by the ACSH plenary on 10 December 2020.

Recommendations

1. Any new or amended provisions in the new Regulation – including those possibly introduced by implementing or delegated acts – should not have a negative impact on occupational health and safety (OSH), and should not hinder the effectiveness of the existing EU health and safety at work legislation under Article 153 of the Treaty on the Functioning of the European Union².
2. The new Regulation should remain technology-neutral. Risks likely to be generated by new technologies implemented in machinery must fulfil the requirements of the new Regulation. In addition, the safety related state of a machine must be controllable within a defined system boundary.
3. The new Regulation should foresee possibilities for more easy and quick updates of certain annexes which are subject to likely changes. This is particularly relevant in case new machinery with safety-related AI and machine learning capabilities and safety relevance would be available on the market, taking also into account relevant developments in harmonised standards.
4. Changes to annexes for the new Regulation should be kept to what is necessary in terms of legal clarity and some key issues necessary to improve its effectiveness in terms of safety. The importance of harmonized standards must be maintained.

² In particular Directive 2009/104/EC – use of work equipment

5. The 'Guide to the application of the Machinery Directive'³ should be updated to include more examples, including safety applications of new technologies. It should also be easy to understand and use, especially for SMEs, including making good use of digital tools.
6. The 'Guide to the application of the Machinery Directive' should clarify the obligations of machinery risk assessments and reduction of risks for manufacturers, and how to use the results of machinery risk assessments (through information on how to use) for end-users of machinery (employers).

Specific comments from the Workers Interest Group (WIG) and Employers Interest Group (EIG)

Although research is advancing fast in the area of Artificial Intelligence (AI) and its branches (like machine learning), there does not yet exist machinery using AI for safety-related functions on the market because such embryonic applications cannot yet comply with the basic principles of safety integration.

Broad concepts like AI, robotics, autonomy or cybersecurity should not be introduced in the new Regulation's requirements in order to maintain its technology-neutrality.

³ Edition 2.2 (update of the 2nd edition) of the guide to application of the Machinery Directive 2006/42/EC (4 MB) was endorsed by the machinery committee and issued in October 2019, see https://ec.europa.eu/growth/sectors/mechanical-engineering/machinery_en.