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Chemicals Strategy for Sustainability: Recommendations of the German Social Insurance on the Implementation of the Proposed Occupational Safety Measures

Statement by the German Social Insurance dated 11.10.2022

The German Federal Pension Insurance (DRV Bund), the German Social Accident Insurance (DGUV), the National Association of Statutory Health Insurance Funds (GKV-Spitzenverband) and the national associations of statutory health and long-term care insurance funds as well as the Social Insurance for Agriculture, Forestry and Horticulture (SVLFG) have joined forces to form the "German Social Insurance – Working Group Europe" (Deutsche Sozialversicherung Arbeitsgemeinschaft Europa e.V.) with a view to their common European policy interests.

The association represents the interests of its members vis-à-vis the bodies of the European Union and other European institutions and advises the relevant players in the context of current legislative projects and initiatives.

As part of a statutory insurance system, health and longterm care insurance, pension insurance and accident insurance offer effective protection against the consequences of major life risks.

I. Preliminary remarks

The European representation of the German Social Insurance (DSV) welcomes the Chemicals Strategy's goal of promoting safe, sustainable chemicals and protecting people and the environment from hazardous chemicals. As proposed in the European Green Deal, this can contribute to a sustainable, climate-neutral circular economy. According to the assessment of the top DSV organisations, the initiatives regarding a research and innovation agenda for chemicals with the promotion of timely legislative adoption of the research results are also a victory.

The Chemicals Strategy explicitly includes the protection of workers from exposure to hazardous substances in the workplace. In principle, this is to be welcomed. Nevertheless, the path indicated by the European Commission gives DSV cause for concern. If the measures announced in the Chemicals Strategy are



implemented as planned, this would have a significant impact on employees, especially in small and medium-sized enterprises. It would not only lead to different levels of protection for employee groups, but also make many activities impossible for service sector employees.

In the following, recommendations will therefore be made so that service sector employees can continue to perform their work while maintaining a necessary but also sufficient level of protection.

II. In detail

1 Proposed amendment for the protection of service sector employees

In addition to consumers, workers also come into contact with chemical agents that are potentially harmful to them. To protect employees, the Chemicals Strategy therefore explicitly envisages extending the level of protection for consumers to users in the service sector within the framework of Regulation (EC) No. 1907/2006 on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH).

1.1 Alignment of the level of protection of service sector employees and end consumers

The current version of the REACH regulation contains requirements to promote the safe use of chemicals. In it, companies or individual employees who use chemicals are referred to as "downstream users." These are therefore natural or legal persons residing in the European Union who use a substance as such or in a preparation in the course of their activities in the manufacturing or service sector. In contrast, stricter regulations apply to end consumers.

The Chemicals Strategy now stipulates that both users in the service sector and end consumers are to be protected alike in the future. In contrast, the level of protection for manufacturing sector employees is to be maintained. This leads to differences between the protection of employees in the manufacturing and service sectors. At the same time, in the future, service sector employees would no longer be allowed to work with carcinogenic, mutagenic, reprotoxic or other substances of equivalent risk.

Recommendation: From the DSV's point of view, neither the unequal treatment of employees from the service and manufacturing sectors nor the ban on activities



involving carcinogenic, mutagenic, reprotoxic and similar substances makes sense. Instead, there are alternative, less intrusive measures that result in a nearly comparable or at least sufficient level of protection. The central instrument for this is risk assessment, the benefits of which for companies should be given even greater attention.

In Germany, for example, both manufacturing and service sector employees are well trained to the same extent. With the risk assessment, the employer has identified all hazards, beyond those caused by hazardous substances, and has defined suitable protective measures. In addition, employees are prepared for working with hazardous substances through instruction and regular training. Employees know what hazardous substances they are working with and how to protect themselves from the hazards.

1.2 Establishing a purely hazard-based approach for service sector employees

The REACH regulation distinguishes between manufacturing and service sector employees, but all regulations apply equally to both groups. Up to now, a hazard-oriented approach has been followed here, which considers the hazard in the course of a risk assessment with the possible exposure and the resulting consequences. Risk management measures are taken on the basis of the assessment result. In the future, a hazardous property alone will mean that service sector employees will no longer be allowed to work with such substances. Again, this would result in a different level of protection for service and manufacturing sector employees.

For example, in the healthcare sector, surface disinfection with cleaners containing formaldehyde would no longer be possible, nor would sterilisation with ethylene oxide (e.g., of medical instruments or infusion tubing). Both substances are classified as carcinogenic to humans. However, in the first case, there is a maximum allowable concentration that makes it possible to work safely; in the second, the substance is used exclusively in closed systems. Nevertheless, with the hazard-oriented approach of the "general concept for risk management" and the ban for service sector employees, it would no longer be possible to use the substances.

Materials containing asbestos are frequently encountered in the construction industry and should be removed. Asbestos is also carcinogenic to humans. The expansion is carried out exclusively by service sector employees. If the approach



were implemented, removal of asbestos-containing materials would no longer be possible.

Recommendation: A hazard-based approach is already being taken in the consumer sector, and is rightly applied here. The consumers are not trained accordingly. In contrast, the risk-based approach should be maintained for employees who are trained and instructed.

Employers identify and assess the risk in the risk assessment and take measures to minimise it. At the same time, as mentioned above, employees are instructed for the activities and are aware of the risk.

2 Introduction of a generic extrapolation factor for mixtures

In the safety assessment of chemicals, individual substances are usually considered. However, people are exposed to a variety of substances both in their private lives (e.g., through diet, inhalation, skin contact, and accidental ingestion) and at work (inhalation, skin contact, ingestion). An assessment of - especially unintentional - mixtures¹ and their effect in the body is not and cannot be made due to the almost infinite range of possibilities. Also, the term of mixture is interpreted very broadly. This involves both simultaneous and delayed exposure, and there is no limit to this time offset.

However, the assessment and, if necessary, the introduction of suitable non-specific extrapolation factors, as announced in the Chemicals Strategy, would, in the DSV's view, mean a departure from the previous scientific derivation of hazards, towards a very blanket approach, without any scientific basis.

In addition, with a view to effective protection of employees, monitoring of specific values should be ensured.

If employees are only allowed to be exposed to a fraction of substances in the future due to the generic factor, this will at first sight lead to an improvement in the level of protection. However, if values are lowered to such an extent that concentrations at the workplace cannot be maintained and monitored, it would be feared that the intended improvement in the level of protection would be reversed and could lead to them being ignored. This would represent a significant deterioration compared to the current situation

¹ Mixtures can cancel the effect of individual substances, they can reduce them, the substances can act independently of each other, the effect can be complementary or even potentiated.



Recommendation: The introduction of the generic extrapolation factors is not useful due to the absence of a scientific basis for it and it is likely to create only apparent protection. It is suggested that the combination effect of hazardous substance mixtures be better investigated using these results in order to better protect employees in the area of prevention as well as in the area of occupational diseases.

3 Introduction of new hazard classes in the CLP Regulation

Regulation (EC) No. 1272/2008 on classification, labelling and packaging of chemicals (CLP) provides hazard information with the help of so-called hazard characteristics. It is based on the United Nations Globally Harmonised System (GHS) and implements it with the same content for the EU.

As part of the Chemicals Strategy, new hazard classes are to be introduced into CLP without having been previously adopted by the UN GHS. This would lead to an imbalance between the two otherwise parallel systems and seal off the single market. At the same time, contrary to its own intention as an important supporter of the UN GHS, the EU would weaken the system and send a fatal signal to those Member States that still want to introduce the system. The consequences for the ongoing, international implementation of GHS, and thus, for international occupational health and safety, would be unclear.

The DSV welcomes the aim of strengthening the protection of employees with regard to endocrine disruptors, but would like to point out that the introduction of a special hazard class will not necessarily lead to an additional benefit from the occupational health and safety point of view. Endocrine disruptors (EDs) act similarly to hormones in the body and can direct their effect in the wrong direction. If this hazard class were to be introduced, it would be a different view of hazardous substances. Up to now, substances have been classified in terms of their effect, e.g. as carcinogenic, regardless of which modes of action take place in the body and ultimately lead to cancer. Endocrine disruptors would represent a hazard class where the mode of action forms the important feature. A substance that would be classified accordingly could additionally be classified as a carcinogen or the like. In these cases, there would therefore be no additional benefit from an occupational health and safety point of view.

Recommendation: The introduction of new hazard classes is rejected because, for example, ED introduce a hazard class that describes a mode of action, not the effect. This would result in double labelling for substances with endocrine



disrupting effects that are carcinogenic. However, this does not increase the protection of employees.

III. Conclusion

The Chemicals Strategy pursues a worthwhile goal. It is intended to contribute to the zero-pollutant target of the European Green Deal and increase the protection of people and the environment from hazardous chemicals. However, the path outlined is problematic, as it will lead to different levels of protection for employee groups and would make many activities impossible for service sector employees. In addition, a unilateral approach to introducing new hazard classes into the CLP Regulation could jeopardise the EU's goal of establishing and promoting the UN's GHS as a global standard.