

HOSPEEM (European Hospital and Healthcare Employers' Association) response to the second-stage of consultation on the protection of workers from the risk related to exposure to electromagnetic fields at work under Article 154 of the TFUE

> About HOSPEEM

The European Hospital and Healthcare Employers' Association (HOSPEEM) was formed in 2005 to represent the interests of European Hospital and Healthcare Employers on workforce and industrial relations issues. HOSPEEM was created by the members of the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEP) who felt that there was a need for a separate, distinct voice on health workforce issues at European level. As CEEP has a remit covering the whole public sector, CEEP's hospital and healthcare members established HOSPEEM as a sector association. CEEP has an observer status within HOSPEEM. HOSPEEM is a full member of CEEP. Since July 2006 HOSPEEM has been officially recognised by the European Commission as a European Social Partner in the Hospital Sector Social Dialogue alongside the European Federation of Public Service Unions (EPSU).

HOSPEEM has members across the European Union (EU) both in the state or regionally controlled hospital sector and in the private health sector. HOSPEEM members are health employer organisations with the power to negotiate on pay and on terms and conditions of service with their respective Trade Union partners. HOSPEEM members are also concerned with ensuring good employment practice for the healthcare workforce.

> Introductory comments

The European Commission, following the provisions of article 154 of the Treaty, has launched a second stage social partner consultation on the protection of workers from the risk related to exposure to electromagnetic fields at work. HOSPEEM responded to the first stage consultation underlining its support for an approach to the issue based on risk assessment and emphasising the strong health and safety culture which characterises the healthcare sector, stressing that the safeguard of workers and patients is guaranteed through several practices already in place in the sector.

Moreover, HOSPEEM expressed deep concern with regard to the exposure limit values established in Directive 2004/40/EC that would have ruled out certain Magnetic Resonance Imaging (MRI) practices, leading to the unwelcome consequence of requiring the use of different medical imaging techniques, based on ionising radiation, which has serious potential long term effects on health.

HOSPEEM welcomes the European Commission's second stage consultation document and in particular the proposed approach it sets out in relation to the use of MRI in the healthcare sector.

> Questions to the social partners

Opinion or, where appropriate, a recommendation on the content of the envisaged legislative and non-legislative initiatives pursuant to Article 154(3) of the TFEU, giving particular attention to the topics identified in section 4 above

HOSPEEM is of the opinion that the approach proposed by the European Commission goes in the right direction. In particular, we welcome the European Commission's intention to exempt *the medical MR sector and activities related to the use and development of MR techniques from the binding exposure limit values*. HOSPEEM considers the Commission's proposal as set out in section 4 of the document represents a good starting point for a legislative proposal to revise Directive 2004/40/EC.

As already stated in its response to the first stage consultation, HOSPEEM emphasises there is no scientific evidence of adverse health effects for workers and patients regarding the clinical use of magnetic resonance imaging. Moreover, the existing safeguards that are already in place and the strong safety culture in the healthcare sector are sufficient to protect healthcare workers whose activities involve exposure to electromagnetic fields. For example, the magnetic resonance security standard IEC/EN 60601-2-331 (as amended), defines thresholds for time-varying magnetic fields that completely rule out any sort of danger for workers or patients.

HOSPEEM fully supports the qualitative approach proposed in the consultation document rather than an approach based on quantitative exposure limits that would threaten the use of this fundamental method of medical examination. In view of this, HOSPEEM could support an approach based on the EU-wide implementation in medical MR facilities of appropriate and commonly agreed qualitative prevention and protection measures, with these measures applying in place of the requirement to comply with binding exposure limit values.

Finally, HOSPEEM takes the view that the consultation document over-estimates the impact of measures for "slightly adjusting working practices", indicated in section 4.8. Consequently, we disagree with the assertion that by implementing these measures, compliance with the provision of the Directive would be assured in more than 90% of MRI procedures. For example, the recommendation "*walking normally in the MRI room (~ 4km/h)*" is not sufficient to respect the quantitative exposure limits indicated in the directive. This because a much lower walking speed (approximately 0.6-1.0 km/h) would in fact be required and this obviously would lead to inefficient working practices. The derogation proposed by the European Commission for the medical MR sector is therefore fundamental in order to allow a well functioning system.

To inform the Commission about alternative solutions in particular for the expression of exposure limit values in the range of 0 to 100 kHz and for ways to foster and concretise the aspects linked to the implementation of sound and efficient protection of workers exposed to electromagnetic fields during their work. Alternative solutions for the range from 100 kHz to 300 GHz are also welcome

Whilst the approach to exposure limit values (discussed in section 4.3 of the consultation paper) would not be relevant to the medical MR sector if the proposal to exempt these activities from ELVs is adopted, this is of course, not guaranteed. In addition, the revised ELVs could have an impact on the healthcare sector in relation to other activities where there may be a significant exposure to EMFs, such as the use of diathermy.

HOSPEEM agrees with the proposed "zoning" system introduced in section 4.2 but has concerns with regard to the limits indicated and how they would be defined.

The exposure limits indicated for zone 1 and 2 are referred to the levels proposed by ICNIRP in 2009; these limits should be replaced in 2010 with a new communication. Therefore, we would expect different data to be made available shortly.

Moreover, the definition of zone 3 it is not clear; it contains two contradictory assertions “no access should be allowed or even possible” and “if access is required it must take place under strictly controlled conditions, never in routine work”.

Finally, taking into consideration once again the absence of evidences of long-terms effects, and the infrequency of short-term effects, a complete prohibition on activities where exposure would fall within zone 3 seems disproportionate.

More generally, it should be noted that, in the hospital and healthcare sector workers’ exposure to EMFs generally occurs as a side effect of a medical intervention, where a patient is exposed to the same or greater effects. As explained above, the design of medical devices is such as to minimise risks to patients. It might, therefore, be argued that the Commission’s proposed definition for ‘Zone 0’: “where the situation is deemed similar to what is acceptable for the public”, would almost always apply to workers’ exposure to EMFs in the hospital and healthcare sector.

Where applicable, to indicate their willingness to enter into negotiations on the basis of the proposals described in this document under the terms of Article 154(4) and Article 155 of the TFEU

HOSPEEM is willing to contribute to the development of guidelines or other initiatives that would help, for example, to increase workers awareness of incompliance with measures to avoid, mitigate or minimise any risk associated with workplace exposure to EMF.

With regard to the possibility of starting a social dialogue process, HOSPEEM does not envisage a negotiation under the terms of article 154(4) and article 155 of the TFEU on this highly technical matter. Therefore, in this instance, HOSPEEM would prefer a legislative proposal from the European Commission on the revision of Directive 2004/40/EC.