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DG Employment, Social Affairs and Inclusion

Working Conditions and Social Dialogue

Health and Safety at Work, EU OSHA

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The Advisory Committee on Safety and Health at Work

Opinion

Update of Commission Recommendation 2003/670/EC concerning the European schedule of occupational disease to include COVID-19

Adopted on 18/05/2022

Having regard to

1. The mandate adopted by the Advisory Committee on Safety and Health at Work (ACSH) on 24 November 2021;
2. The Commission Communication “Strategic Framework on health and safety at work 2021-2027 - Occupational safety and health in a changing world of work” (COM(2021) 323 final of 28 June 2021) that includes the requirement to “update the Commission Recommendation on occupational diseases to include COVID-19 by 2022”;
3. The fact that most Member States have already reported to Eurostat that they recognise COVID-19 as an occupational disease or accident at work, in line with the conditions defined at national level, as described in EUROSTAT statistical report “Possibility of recognising Covid-19 as being of occupational origin at national level in EU and EFTA countries”¹.
4. The EUROSTAT statistical report “Possibility of recognising Covid-19 as being of occupational origin at national level in EU and EFTA countries”;
5. The Commission Recommendation 2003/670/EC concerning the European schedule of occupational diseases ² that promotes the recognition and compensation of occupational diseases listed in its Annexes, with a view to encourage convergence in recognition of important occupational diseases

¹ See Eurostat report <https://ec.europa.eu/eurostat/documents/7870049/13464590/KS-FT-21-005-EN-N.pdf/d960b3ee-7308-4fe7-125c-f852dd02a7c7?t=1632924169533>.

² Commission Recommendation of 19 September 2003 concerning the European schedule of occupational diseases, OJ L 238, 25.9.2003, p. 28–34

between Member States.

ADOPTS THE FOLLOWING OPINION:

Background

The mandate of the Working Party “Update of Commission Recommendation 2003/670/EC to include COVID-19” states that there are significant adverse health impacts of COVID-19 on the workforce in Member States, in particular in the health sector and other public as well as private economic activity sectors, including those which pose a higher risk of infection to workers at work. While the focus should always be on prevention, it is of utmost importance to support workers and the families of workers who have lost a family member due to a COVID-19 infection at work.

Subsidiarity applies to support and compensation issues. However, the Commission Recommendation 2003/670/EC concerning the European schedule of occupational diseases³ promotes the prevention, recognition and compensation of occupational diseases listed in its Annex I, with a view to encourage convergence in recognition of scientifically recognized occupational diseases between Member States.

Most Member States have already reported to Eurostat that they recognise COVID-19 as an occupational disease or accident at work, in line with the conditions defined at national level, as described in EUROSTAT statistical report “Possibility of recognising Covid-19 as being of occupational origin at national level in EU and EFTA countries. Therefore, an update of the Recommendation will contribute to reaching a more consistent situation at EU level in this regard.

While it is clear that COVID-19 is a disease that is not only linked to occupational factors, it is also obvious that many workers, especially those exposed to infected persons, such as in the health care sector and the social care sector are at a higher risk of contracting the disease.

Recommendation 2003/670/EC has an annex of causal agents and occupational diseases directly linked to relevant occupations (Annex I). Item 407⁴ in this annex can be considered to include COVID-19 as an occupational disease. However, this inclusion may not be sufficiently clear and the update of the Recommendation should make the inclusion of COVID-19 more explicit.

During its last plenary on 24 November 2021, the Advisory Committee on Safety and Health at Work (ACSH) has set up a Working Party “Update of Commission Recommendation 2003/670/EC to include COVID-19”. The indicative deadline for the fulfilment of the mandate of this Working Party was set at May 2022 with a view to put forward a draft opinion for adoption in the first ACSH Plenary of the year.

³ Commission Recommendation of 19 September 2003 concerning the European schedule of occupational diseases, OJ L 238, 25.9.2003, p. 28–34

⁴ 407 Other infectious diseases caused by work in disease prevention, health care, domiciliary assistance and other comparable activities for which a risk of infection has been proven.

The Working Party "Update of Commission Recommendation 2003/670/EC to include COVID-19" discussed the inclusion of COVID-19 in the Commission Recommendation 2003/670/EC during its meetings held on January 26th, February 24th, March 23rd and April 12th. Afterwards, the final text agreed was finalized by e-mail exchange.

Recommendations

COVID 19 is a disease that has spread in a pandemic form and has affected the health of many persons throughout the European Union, including workers.

While it is clear that COVID-19 has raised general health questions, it is also clear that this disease can be contracted at the workplace. This is in general the case where workers assist people who have contracted the disease, such as in the health and social care⁵ sector. On the other hand, in the case of a pandemic situation, there may be other sectors where the nature of the activities carried out at work may also be the cause of the contagion. These sectors need to be considered if an outbreak of the disease appears in the sector.

Therefore, the ACSH considers that it is convenient to include COVID-19 specifically in the Commission Recommendation 2003/670/EC.

Based on the previous points, the ACSH recommends the Commission to modify Annex I of the Commission Recommendation 2003/670/EC concerning the European schedule of occupational diseases, by adding a new entry 408, using the following wording:

408 COVID-19 caused by work in disease prevention, in health and social () care and in domiciliary assistance, or in a pandemic context (**), in sectors where there is an outbreak (***) in activities in which a risk of infection has been proven.*

NOTES

(*) *For the purpose of this opinion, social care refers to the economic activities included under letter Q of the NACE Rev. 2 classification.*

(**) *It is up to Member States to define the practical measures to be taken against the pandemic at national level.*

(***) *It is up to the Member States to define the situation of an outbreak.*

The Recommendation should clarify, if possible in a recital of the Recommendation or in another appropriate way, what the reference "in a pandemic context" means and how social care should be interpreted in the new item 408.

⁵ Social care is understood as NACE Rev. 2 sector Q.