



Council of European Employers
of the Metal, Engineering and
Technology-based industries

CEEMET – COMMENTS ON THE COMPROMISE PROPOSAL FROM THE POLISH PRESIDENCY

General comment

While some of the changes in the Presidency Compromise Proposal are welcome, we believe that it does not solve the remaining issues in the Commission's proposal (compliance with non-measurable values) and would complicate further the situation for MET companies by removing the relative flexibility that is provided in the commission's proposal with the distinction of health and safety effects especially when it applies to low frequency range. Further the high complexity of this dossier requires that it is carefully and thoroughly evaluated and discussed between experts and policy makers without rushing thus making sure that unintentional consequences are avoided.

The progress that had been achieved with the Commission's proposal need to be reinstalled in the text and remaining issues of non-measurable values that cannot be complied with by equipment which do not cause adverse health effects still need to be addressed.

Specific remarks on the Polish proposal for a revised directive:

Scope

The scope of the directive should be restricted to addressing risks due to known short-term adverse effects, and not long-term effects. There is no conclusive, substantial scientific evidence establishing a causal relation between long-term exposure to EMF and health effects.

The need to consider long term effects could put obligations on employers to assess and monitor the impact of exposure to EMF on their employees over an unspecified length of time.

The distinction between health and safety effects has been removed

The distinction has been removed from the article 2 on definitions. The text that was part of the definitions in the Commission's proposal is now included within the article on the risk assessment. It has also been removed from the annexes where it was the foundation in the Commission's proposal

for a crucial flexibility, by allowing the exposure limit for CNS effects of the head to be exceeded in the low frequency range only (from 0 Hz to 100 KHz), provided suitable controls are in place. Such a feature is explicitly included as part of the ICNIRP 2010 guidance.

Article 3 - Derogations

Derogations are maintained in the compromise proposal. Whereas the text for Medical applications and armed forces remains unchanged, the flexibility clause allowing for limited derogations for companies has been amended and now includes further caveats including a requirement for increased health surveillance. The text of the Commission proposal should be retained.

Article 4 - Assessment of risk and determination of exposure

As a consequence of the removal of the distinction between health and safety effects, the Polish proposal has restructured the risk assessment requirements section and does not appear to follow the original concept of a two stage risk assessment. The focus appears to be again on measurement and calculation: *“If any of the action values referred to in annexe II is exceeded, the employer shall further assess and calculate whether the exposure limit values are exceeded”*

Article 4 - Definitions of effects

It is questionable whether some of the elements included under ‘**adverse health effects**’ are appropriate, i.e. mental well-being or general well-being. These are affected by a wide range of factors and are very subjective, making it difficult to identify the cause as exposure to EMF.

The inclusion of headaches and vertigo as a **direct effect** of exposure to EMF may cause confusion, as both can be caused by many different factors. Further it may not be clear to companies what the term “temporary annoyance” (with regards to **adverse safety effects**) means in practice.

Regarding indirect effects, the Commission’s proposal rightly precises that it covers “workers **who have declared** to the employer that they wear an active implanted medical device and women who **have declared** that they are pregnant”. This precision is missing in the compromise proposal and needs to be reintroduced.

Further the compromise proposal includes an addition in article 4 of d (v) ‘*contact or limb currents*’ which need to be explained.

The emphasis should be on following the risk assessment requirements of the Framework Directive. The original Risk Assessment structure in the Commission’s proposal based on a clear distinction of health and safety effects should be reinstalled.

Article 4 (Clause 6) Third Paragraph

“When provided safety–related data is insufficient to assess electromagnetic fields exposure level at particular workplace the assessment shall be undertaken in particular in case technologies applied in the devices or installations affecting work place of interest involve in particular: microwave heating, inductors, antennas emitting power exceeding 5 watt, voltage expressed in volts exceeding action

values of relevant frequency expressed in volts per meter, currents expressed in amperes exceeding action values of relevant frequency expressed in microteslas.”

This is unclear. Clarification is needed.

Article 5 – Provisions aimed at avoiding or reducing risks

This article is in general putting excessive burden on employers.

Article 5(2).

This article requires employers to implement an action plan to prevent exposure if any of the action values is exceeded. This is excessive since risk exist only when the exposure limit values are exceeded. For this situation, the Commission’s proposal rightly adds *‘unless the assessment carried out in accordance with Article 4.2 demonstrates that the exposure limit values are not exceeded and that safety risks can be excluded’*. This precision is missing in the compromise text.

Article 5(2) (ca).

This text is effectively contained within Article 5(3) covering signage and 5(2) (e) covering the design and layout of workplaces and workstations.

Article (5) (2a).

This paragraph appears to require an action plan for person at particular risks and ‘indirect’ effects even if action values are not exceeded (even below the “orientation values” as defined in the Commission’s proposal. This is an unnecessary burden on employers.

Article 8 – Health Surveillance

This as redrafted would appear to place less obligations on employers and reflects Health surveillance requirements as outlined in the Framework Directive on Health and Safety.

Article 10 – Technical amendments

Article 10 (c) removes reference to the lists of activities, workplaces and equipment in Annexes IIC and IIIC. This makes sense as it would be very difficult to ensure that lists remain accurate and complete. It will be necessary to include this information in guidance documents.

Article 14 – Review and reporting.

The Polish proposal omits a requirement for a report on the effectiveness of the Directive in reducing exposure to EMF and the percentage of workplaces that required corrective action. This should be reinstated.

Annex II

1. Like the Commission proposal, the Polish Presidency proposal includes non-measurable values: **exposure limit values expressed as electric fields “in the body”**. These values are not directly measurable; they require measurements and calculations, the results of which need to be compared with models.

This process is highly technical, costly and there is no consensus among scientists about methodologies. For the same situation, different experts, using different models and different methods would come to different results.

This cannot be the basis for a binding limit which companies would have to comply with. The purpose of the Directive should be to provide tools that companies can use to demonstrate that potential risks are properly identified and adequately addressed on the basis of the recommendations from ICNIRP. For the Directive to be workable it is crucial that it provides directly measurable values to be compared. Limit values and action values need to be carefully evaluated by MS experts with particular attention to their practicality in enterprises of all sectors potentially affected.

2. The compromise text introduces a new set of **exposure limit values for static fields** (electric and magnetic) which was not included in the Commission proposal. The impact of this change needs to be further assessed.

3. Whereas the set of values proposed reflect the content of the Commission’s proposal, their respective status has been adapted making the functioning of the Directive even more difficult for companies. Whereas the values included in the Commissions’ proposal are maintained in the Polish Presidency text, their status has been adapted. The set of values that is constituting the orientation values in the Commission proposal, is renamed “action values for head exposure to electric fields” in the Polish proposal. Since according to the compromise proposal, *“if any of the action values referred to in annexes II is exceeded, the employer shall further assess or calculate whether the exposure limits values are exceeded”*, there is a risk that it is interpreted in such a way that companies would have to make calculations of the ELV for all situations where the orientation values/action values for the head are exceeded. This is not the case in the Commission’s proposal.

4. A new section on exposure limit values for health and safety effects due to thermal effects in tissues has been included. The fact that it starts at 9 KHz is questionable and it is not clear whether these are measurable values or not.