

Chapter 3

Europe

April 1998

'Debate? What debate?'

On the train to London to attend the Health and Safety Commission's press launch on health and safety activities during the UK's presidency of the EU, my eyes alighted on that day's *Daily Telegraph* headline: "Blair urges 'patriotic alliance' for Europe." It quoted the PM as saying that the overriding priority of the UK Presidency would be to create a Europe which is "... working for the people to make them feel more prosperous, safe and free because of what the EU was doing".

The use of the word 'safe' was echoed, by Angela Eagle MP, the minister of health and safety, at the press conference. Both she and HSC Chairman, Frank Davies CBE OstJ set out an impressive range of very practical and positive measures which the UK would be pursuing during its time in the chair of the Council of Ministers.

What was immediately apparent from what the Minister had to say was the absence of the largely oppositional posture on European health and safety matters which has characterised the approach of the last administration. (That is not to say that there have not been some specific Euro safety proposals that have needed to be challenged - including the European Commission's almost fanatical opposition to the idea of 'reasonable practicability' which underpins practically all UK health and safety law). Instead there seemed to be a genuine desire to bring the UK's expertise to bear on getting improvement in relation to some major risk issues across the Union. This includes action on asbestos (to which Ms Eagle seems to be personally very committed) and a new UK initiative on scaffolding.

A very strong theme to emerge was the emphasis on finding new ways of influencing health and safety performance in small and medium sized enterprises (SMEs) - including campaigning for the HSC's idea of encouraging large companies to promote better health and safety standards through 'Good Neighbour' schemes with their contractors, suppliers and even with their SME customers.

SMEs will also feature as a key theme in an extensive series of seminars, conferences and other events in the UK bringing together experts and safety stakeholders from all over Europe.

This is all extremely positive stuff. Yet it still leaves unanswered a big question: 'what now will be the future overall direction of health and safety in Europe - especially post enlargement?'

The first and second 'Action Programmes' of the then EEC involved painfully slow progress on technical directives based on unanimity - not qualified majority voting. The Third Action Programme was quite different. It was based on a clear, understandable but nonetheless ambitious idea - namely standardisation of safety

requirements for products and equipment etc on the 'supply side'. This was to run 'back-to-back' with harmonisation of work protection legislation in all Member States to create a level playing field in terms of social policy for health and safety.

It was a great leap forward with many of the Southern States benefiting for the first time from the new, broad style duties in the Health and Safety Framework Directive which, in many respects, was based on the UK's *Health and Safety at Work Act* model.

Yet in 1998 it is not at all clear what the next 'big idea' will be. Clearly the Luxembourg/Brussels 'legislative tap' has been turned down (though certainly not off altogether) and there is to be a shift in future towards more non-legislative measures. At the same time, many Member States are still grappling with implementation of the so-called 'Six Pack'.

Clearly the challenge before the European Commission, and DGV in particular (whose resources have been cut considerably), is to concentrate on finding powerful ways of actually 'making health and safety happen' in workplaces across Europe, creating 'a level playing field' in reality and not just on paper.

On the positive side, the new European Agency for Health and Safety in Bilbao offers a marvellous prospect of creating an information network right across Europe. On the negative side, the Council of Ministers has continued to turn down long term funding for the SAFE (Safety Actions For Europe) programme which was to have been all about developing new kinds of 'outreach' to SMEs.

Given all this I pointed out in my question to Ms Eagle that many safety professionals at the 'sharp end' felt that they were, in practice, so remote from the process of European discussion that they simply had no option but to sit back and wait for UK regulations to emerge from implementation of particular EU Directives. The whole process of deciding the shape and direction of future strategy seemed opaque in the extreme - with bodies like the Luxembourg Committee remaining very much a cosy employers/employees/governments closed shop.

I suggested that major new initiatives were required at European level, not only the setting up of 'solutions' and 'lessons-learned' databases but: developing support to 'intermediaries' to help SMEs; developing economic incentives to promote better standards of health and safety management; defining standards of 'competence' for key personnel; and tackling major but, as yet, unaddressed questions such as occupational road risk (which probably accounts for more work related deaths in Europe than all other kinds of work accidents put together).

The Minister's reply made it clear that the UK had got its work cut out getting a common position on a very extensive series of dossiers and handing over the legislative programme in good order to the Austrians who will assume the Presidency next. She agreed that these strategic questions would need to be discussed - if only in the margins of the conferences and other events which the UK would be organising during its presidential term.

The question I feel safety professionals need to address is whether they are content to only be involved in this sort of vital debate 'in the corridors' or whether they are prepared to demand a stronger say by securing a direct line into such discussions at European level.

June 2002

‘Adapting to change: an EU strategy’

The Commission of the European Communities (CEC) has recently produced a valuable communication on future strategy for health and safety at work in the European Union, *Adapting to change in work and society: a new Community strategy on health and safety at work 2002-2006* (<http://europe.osha.eu.int/systems/strategies/future/#270>).

The document is very broad in scope. It accepts that high health and safety standards at work continue to be a fundamental objective in the European Project as well as being essential to the improvement of quality and competitiveness in European business. It points out that, every year across the whole EU, there are about 4.8 million occupational accidents resulting in more than three days absence from work - of which 5,500 result in fatality. There are over 500 million working days lost as a result of accidents or work-related ill-health and some 300,000 injured workers end up with a significant degree of disability.

Some particularly important trends identified are the increasing role of women in the workforce, the growing number of older workers and the large number of small firms. In many respects the main thrust of the Commission's strategy reflects what RoSPA said in November 2000 in its submission to the European Commission on the way ahead - namely further progress is not just a question of concentrating on legislation but of finding new ways 'to make health and safety happen' across all Member states.

Indeed, the strategy seems to resonate very closely with many of the themes that have emerged in the UK as part of the Health and Safety Commission's 'Revitalising Health and Safety' (RHS) strategy.

These include: setting national targets; concentrating on high risk sectors; tackling stress (and psycho-social issues); preventing musculo-skeletal disorders; using economic incentives to motivate employers; building health and safety criteria into all official procurement policies; and embedding safety and risk concepts in the school curriculum.

A major challenge is seen as building health and safety into the process of EU enlargement and bringing new Member States up-to-speed. Another theme is ensuring that questions of occupational safety and health (OS&H) are built into all relevant EU policies.

Main challenges

How then should health and safety professionals view this new strategy? Despite its breadth and vision, is it adequate? Is it fit-for-purpose?

The main challenges for health and safety in Europe can be said to be as follows:

1) Expanding the scope of OS&H, particularly to ensure that all significant risks and groups are covered and all players are included. On the face of it the CEC are being inclusive, talking about well being and not just preventing harm and bringing in all

the 'key players'. But at the same time they are still looking at the real world through the blinkers of EU law which, unlike UK health and safety law, does not cover the self employed (a huge slice of the EU workforce) and does not require employers to protect the public from work hazards.

Also, while a lot of emphasis is placed on addressing new and emerging risks (particularly, stress, violence, musculo-skeletal disorders - even sun related skin problems) it fails completely to address the biggest single work related accident problem in Europe, namely work related road risk. Over 10,000 workers are likely to be dying in work related road crashes in Europe - more than twice the number of all other work related accident fatalities put together. But this issue is not even on the CEC's health and safety 'radar screen' because it is seen purely as a road safety concern.

2) Motivating businesses is seen as important, particularly by focusing on the link with 'quality'. The CEC have also seen the importance of making health and safety a 'business performance' issue and not just a matter of regulatory compliance and they are proposing a regime for setting headline injury and ill-health reduction targets in Member States.

They have quite correctly sought to identify a range of 'drivers' that can be deployed to raise standards. They see common approaches to enforcement across the EU as critical but backed by 'business case for safety' incentives. Yet, despite the link with 'quality', there are no specific proposals for non-legislative health and safety management standards or benchmarks. The document talks about 'strengthening the prevention culture', 'raising awareness' and so on but perhaps the central challenge which has not been addressed is how to ensure that poor performers are penalised commercially for failing to address health and safety adequately. A way of stiffening the 'business case' so that the market and not just the regulator brings backsliders into line is required.

3) Providing support is fundamental. Where the strategy is perhaps quite weak is in its approach to ensuring that all Member States upgrade their various regimes for ensuring the delivery of health and safety services and support, particularly to small and medium size enterprises (SMEs).

This means not just setting standards and targets for access to training and consultancy but a whole range of technical services including occupational health and hygiene. If common standards of protection of workers are to be made a reality, there must be a programme for delivering some common standard of health and safety service provision right across the EU, starting with a baseline survey and looking forward to eventually create a truly pan-European health and safety services market.

4) Involvement and co-operation are clearly acknowledged as pre-requisites for moving forward. The CEC talk about the need to bring all the 'key players' (employers, unions, professionals, intermediaries etc) into the process but quite how this is to be achieved is not explained in any detail. Health and safety is essentially something that you do with people rather than to them. But what the strategy does not address is how do the Commission plan to strengthen the involvement of workers in safety management, particularly in the millions of businesses where employees are

not represented through formal channels like trades unions? How are they going to help to strengthen the promotional and support role of the thousands of employer and trade bodies which exist across the EU, for example, by providing development funding and linking such bodies up with their opposite numbers in other M.Ss, particularly the new ones?

5) Accountability is acknowledged as important, for example, in the context of corporate social responsibility - but this is limited in the main to ensuring health and safety are taken into account in considering the ethical implications of procurement, letting contracts etc. More emphasis is required at a European level on creating a common requirement for companies to report publicly on their health and safety performance to stakeholders (including not only shareholders, but employees, contractors, suppliers, insurers, regulators and the local community). Clear guidelines are needed on the various dimensions of performance (measuring 'inputs' and 'outputs' and not just 'outcome's like accident and ill-health rates). Guidance is also needed for institutional investors on how to assess performance.

Also a whole new approach is needed at European level on team based learning from accidents and incidents so that stakeholders can work together to identify immediate and underlying causes and embed lessons learned in corporate memories. Above all, Member States need to be made accountable for their performance against targets, perhaps with some sort of independent EU audit force charged with checking up to see whether what Member States say they have done actually corresponds to reality.

6) Building for the future is another key theme. As with RHS, the CEC strategy correctly emphasises the importance of embedding safety and risk concepts into the school curriculum so as to equip the working citizens of tomorrow with the right attitudes, knowledge, understanding and skills to allow them not just to act safely themselves but to participate effectively in safety significant decision making with others.

While it recognises the need for better co-ordination of health and safety focused research it does not suggest how this is to be achieved. Neither does it get to grips with the idea of developing the teaching of health and safety at under-graduate level or ensuring that health and safety at work forms a consistent part of the education of safety significant professionals, such as engineers and architects. This is all absolutely vital if Europe is to grow the intellectual seed corn required for the future of OS&H.

7) Links with the outside world are clearly seen as important but, as with other aspects of the document, the vision is still too narrow. It talks about setting EU health and safety in a global context but does not address fully the powerful role which the EU can and should play in helping to raise global standards of health and safety at work. A much stronger emphasis on this issue needs to be placed in all EU initiatives, such as including in aid packages to third countries, health and safety development aid.

All in all however the strategy is a very useful forward look but, because it is a 'view from the centre' rather than 'from the field', it misses a number of very important issues, for example, work related road safety. It is up to professionals and others working at ground level to educate the Commission (as well as their colleagues in the Agency in Bilbao www.osha.eu) about the realities of working to make life at work

safer in today's EU. The Commission should be pressed to tackle some of the truly strategic issues. Click on the appropriate website or contact your MEP and let them know what you think.