

RECOMMENDATIONS

COMMISSION RECOMMENDATION (EU) 2022/2337

of 28 November 2022

concerning the European schedule of occupational diseases

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 292 thereof,

Whereas:

- (1) With Commission Recommendation 2003/670/EC of 19 September 2003 concerning the European schedule of occupational diseases ⁽¹⁾, the Commission recommended to the Member States that they implement a series of measures with the objective of updating and improving various aspects of their policies relating to occupational diseases. These measures relate to the recognition of, compensation for, and prevention of occupational diseases, the setting of national objectives for the reduction of occupational illnesses, the reporting and recording of occupational diseases, the collection of data concerning the epidemiology of diseases, the promotion of research in the field of ailments linked to an occupational activity, the improvement of diagnosis of occupational diseases, the dissemination of statistical and epidemiological data on occupational diseases, and the promotion of an active role for national public health and healthcare systems in preventing occupational diseases.
- (2) The outbreak of COVID-19 has affected all Member States since early 2020, causing major disruptions to all sectors and services, and affecting the health and safety of workers across the European Union (EU). Today, the epidemiological situation in the EU linked to COVID-19 has improved, thanks mainly to the wide availability of vaccines, but it remains challenging, particularly in view of possible new waves of COVID-19 and the emergence of variants of the SARS-CoV-2 virus, as well as of long COVID cases.
- (3) In this context, the Commission, among other measures, announced, in its Communication 'EU strategic framework on health and safety at work 2021-2027 – Occupational safety and health in a changing world of work' ⁽²⁾ (the 'EU Strategic Framework'), that it would update Commission Recommendation 2003/670/EC to include COVID-19, with a view to promote the recognition of COVID-19 as an occupational disease by Member States and encourage convergence.
- (4) Following the adoption of the EU Strategic Framework, the Advisory Committee on Safety and Health at Work (ACSH) set up a dedicated Working Party with the mandate to prepare a draft opinion for adoption by the ACSH on the subject of the update of Commission Recommendation 2003/670/EC to include COVID-19. On 18 May 2022, the ACSH adopted the related opinion, which recommends the inclusion of COVID-19 in Annex I of Commission Recommendation 2003/670/EC by adding a new entry No 408 referring to 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.

⁽¹⁾ OJ L 238, 25.9.2003, p. 28.

⁽²⁾ COM(2021) 323 final.

- (5) The present Recommendation takes into account the opinion of the ACSH and inserts COVID-19 in Annex I of the Recommendation. The term 'health and social care' should be understood as referring to the economic activities under section Q of the NACE Rev. 2 statistical classification ⁽³⁾. As regards the economic activities apart from those falling under section Q of the NACE Rev. 2 statistical classification, the conditions laid down, i.e. the existence of a 'pandemic context' and the existence of an 'outbreak in activities in which a risk of infection has been proven', should be understood as being laid down cumulatively. In this regard, a 'pandemic context' should be understood as when competent international bodies, such as the World Health Organization (WHO), declare certain disease outbreaks a global pandemic. An 'outbreak' in the sense of the new provision of the Recommendation should be defined by Member States in accordance with national law or practice. A 'proven' risk of infection exists in activities for which, in accordance with national law or practice, a causal link has been established between work in these activities and increased exposure to SARS-CoV-2.
- (6) In line with the principle of subsidiarity and in view of the respective competences of the EU and of the Member States in the areas of public health and social policy under the Treaties, the determination of the public health measures to be taken in the context of any pandemic, including those applying to workplaces and companies, as well as the finding of the existence of an outbreak in activities in which a risk of infection has been proven, should be up to the Member States, acting in full compliance with EU law, including EU occupational safety and health legislation. In this context, account should be taken in particular of the Regulation of the European Parliament and of the Council on serious cross-border threats to health and repealing Decision No 1082/2013/EU (2020/0322 (COD)) ⁽⁴⁾.
- (7) Eurostat's 2021 report 'Possibility of recognising COVID-19 as being of occupational origin at national level in EU and EFTA countries' ⁽⁵⁾ shows that most Member States recognise COVID-19 as an occupational disease or as an accident at work, in line with the conditions defined at national level.
- (8) Even though the recognition of occupational diseases is a matter closely linked to the design of social security systems, which is a Member State competence, the Commission promotes the recognition of occupational diseases listed in the European schedule of occupational diseases by Member States. As stated in the EU Strategic Framework, there remains a need to increase focus on occupational diseases. In line with the general principles of prevention which form the core of the 1989 Framework Directive on Safety and Health at Work ⁽⁶⁾ and the related health and safety at work directives, this Recommendation should be a principal instrument for the prevention of occupational diseases at EU level. Moreover, it is also important to support workers infected, especially by Covid-19, and families who have lost family members because of work exposure.
- (9) In line with the EU Strategic Framework, Member States should be called on to actively involve all players, in particular social partners, in developing measures for the effective prevention of occupational diseases.
- (10) The EU Strategic Framework refers to the need for a strengthened evidence base to underpin legislation and policy, and for research and data collection, both at EU and national level, as a pre-condition for the prevention of work-related diseases and accidents. Cooperation and exchange of information, experience and best practice is critical for improved analysis and prevention across the EU.
- (11) The recommendation to the Member States to forward to the Commission and make available to interested parties statistical and epidemiological data on occupational diseases recognised at national level remains relevant, taking into account Regulation (EC) No 1338/2008 of the European Parliament and of the Council ⁽⁷⁾ as well as in light of developments linked to the pilot works on European Occupational Diseases Statistics (EODS).

⁽³⁾ <https://ec.europa.eu/eurostat/documents/3859598/5902521/KS-RA-07-015-EN.PDF>

⁽⁴⁾ Not yet published in the Official Journal.

⁽⁵⁾ <https://ec.europa.eu/eurostat/documents/7870049/13464590/KS-FT-21-005-EN-N.pdf/d960b3ee-7308-4fe7-125c-f852dd02a7c?t=1632924169533>

⁽⁶⁾ Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.6.1989, p. 1).

⁽⁷⁾ Regulation (EC) No 1338/2008 of the European Parliament and of the Council of 16 December 2008 on Community statistics on public health and health and safety at work (OJ L 354, 31.12.2008, p. 70).

- (12) The role of the European Agency for Safety and Health at Work, established by Regulation (EU) 2019/126 of the European Parliament and of the Council ⁽⁸⁾, is, inter alia, to supply the Union institutions and bodies and the Member States with the objective technical, scientific and economic information available and the qualified expertise they require to formulate and implement judicious and effective policies designed to protect the safety and health of workers, and to collect, analyse and disseminate technical, scientific and economic information in the Member States. Accordingly, the Agency should also play an important part in the exchange of information, experience and best practice on the prevention of occupational diseases.
- (13) National public health and healthcare systems can play an important part in improving prevention of occupational illnesses, for example by raising awareness among medical staff with a view to improving knowledge and diagnosis of these illnesses.
- (14) In view of the above considerations, and taking into account, on the one hand, the fact that the inclusion of COVID-19 in Annex I of this Recommendation is time-sensitive, especially in light of possible new waves of COVID-19 and the emergence of variants of the SARS-CoV-2 virus, and, on the other hand, the fact that Recommendation 2003/670/EC remains largely relevant and fit for purpose, this Recommendation should include COVID-19 in its Annex I and reiterate the content of Recommendation 2003/670/EC, without prejudice to further updates to this Recommendation at a later stage,

RECOMMENDS:

Article 1

Without prejudice to more favourable national laws or regulations, it is recommended that the Member States:

1. introduce as soon as possible into their national laws, regulations or administrative provisions concerning scientifically recognised occupational diseases liable for compensation and subject to preventive measures, the European schedule in Annex I;
2. take steps to introduce into their national laws, regulations or administrative provisions the right of a worker to compensation in respect of occupational diseases if the worker is suffering from an ailment which is not listed in Annex I but which can be proved to be occupational in origin and nature, particularly if the ailment is listed in Annex II;
3. develop and improve effective preventive measures for the occupational diseases mentioned in the European schedule in Annex I, actively involving all players and, where appropriate, exchanging information, experience and best practice via the European Agency for Safety and Health at Work;
4. draw up quantified national objectives with a view to reducing the rates of recognised occupational illnesses, in particular those included in the European schedule in Annex I;
5. ensure that all cases of occupational diseases are reported and progressively make their statistics on occupational diseases compatible with the European schedule in Annex I, in accordance with the work being done on the system of harmonising European statistics on occupational diseases, so that information on the causative agent or factor, the medical diagnosis and the sex of the patient is available for each case of occupational disease;
6. introduce a system for the collection of information or data concerning the epidemiology of the diseases listed in Annex II and any other disease of an occupational nature;
7. promote research in the field of ailments linked to an occupational activity, in particular the ailments listed in Annex II and the disorders of a psychosocial nature related to work;
8. ensure that documents to assist in the diagnosis of occupational diseases included in their national schedules are disseminated widely, taking account in particular of the notices for the diagnosis of occupational diseases published by the Commission;

⁽⁸⁾ Regulation (EU) 2019/126 of the European Parliament and of the Council of 16 January 2019 establishing the European Agency for Safety and Health at Work (EU-OSHA), and repealing Council Regulation (EC) No 2062/94 (OJ L 30, 31.1.2019, p. 58).

9. forward to the Commission and make available to interested parties statistical and epidemiological data on occupational diseases recognised at national level, in particular via the information network set up by the European Agency for Safety and Health at Work;
10. promote an active role for national healthcare systems in preventing occupational diseases, in particular by raising awareness among medical staff with a view to improving knowledge and diagnosis of these illnesses.

Article 2

The Member States shall themselves determine the criteria for the recognition of each occupational disease in accordance with the national laws or practices in force.

Article 3

This Recommendation replaces Recommendation 2003/670/EC.

Article 4

The Member States are requested to inform the Commission, no later than 31 December 2023, of the measures taken or envisaged in response to the new item No 408 of this Recommendation. The Member States are requested to inform the Commission whenever any new measures are taken in relation to the implementation of this Recommendation.

Done at Brussels, 28 November 2022.

For the Commission
Nicolas SCHMIT
Member of the Commission

ANNEX I

European schedule of occupational diseases

The diseases mentioned in this schedule must be linked directly to the occupation. The Commission will determine the criteria for recognising each of the occupational diseases listed hereunder:

1. Diseases caused by the following chemical agents:

- 100 Acrylonitrile
- 101 Arsenic or compounds thereof
- 102 Beryllium (glucinium) or compounds thereof
- 103.01 Carbon monoxide
- 103.02 Carbon oxychloride
- 104.01 Hydrocyanic acid
- 104.02 Cyanides and compounds thereof
- 104.03 Isocyanates
- 105 Cadmium or compounds thereof
- 106 Chromium or compounds thereof
- 107 Mercury or compounds thereof
- 108 Manganese or compounds thereof
- 109.01 Nitric acid
- 109.02 Oxides of nitrogen
- 109.03 Ammonia
- 110 Nickel or compounds thereof
- 111 Phosphorus or compounds thereof
- 112 Lead or compounds thereof
- 113.01 Oxides of sulphur
- 113.02 Sulphuric acid
- 113.03 Carbon disulphide
- 114 Vanadium or compounds thereof
- 115.01 Chlorine
- 115.02 Bromine
- 115.04 Iodine
- 115.05 Fluorine or compounds thereof
- 116 Aliphatic or alicyclic hydrocarbons derived from petroleum spirit or petrol
- 117 Halogenated derivatives of the aliphatic or alicyclic hydrocarbons
- 118 Butyl, methyl and isopropyl alcohol
- 119 Ethylene glycol, diethylene glycol, 1,4-butanediol and the nitrated derivatives of the glycols and of glycerol
- 120 Methyl ether, ethyl ether, isopropyl ether, vinyl ether, dichloroisopropyl ether, guaiacol, methyl ether and ethyl ether of ethylene glycol
- 121 Acetone, chloroacetone, bromoacetone, hexafluoroacetone, methyl ethyl ketone, methyl n-butyl ketone, methyl isobutyl ketone, diacetone alcohol, mesityl oxide, 2-methylcyclohexanone
- 122 Organophosphorus esters

- 123 Organic acids
- 124 Formaldehyde
- 125 Aliphatic nitrated derivatives
- 126.01 Benzene or counterparts thereof (the counterparts of benzene are defined by the formula: C_nH_{2n-6})
- 126.02 Naphthalene or naphthalene counterparts (the counterpart of naphthalene is defined by the formula: C_nH_{2n-12})
- 126.03 Vinylbenzene and divinylbenzene
- 127 Halogenated derivatives of the aromatic hydrocarbons
- 128.01 Phenols or counterparts or halogenated derivatives thereof
- 128.02 Naphthols or counterparts or halogenated derivatives thereof
- 128.03 Halogenated derivatives of the alkylaryl oxides
- 128.04 Halogenated derivatives of the alkylaryl sulfonates
- 128.05 Benzoquinones
- 129.01 Aromatic amines or aromatic hydrazines or halogenated, phenolic, nitrified, nitrated or sulfonated derivatives thereof
- 129.02 Aliphatic amines and halogenated derivatives thereof
- 130.01 Nitrated derivatives of aromatic hydrocarbons
- 130.02 Nitrated derivatives of phenols or their counterparts
- 131 Antimony and derivatives thereof
- 132 Nitric acid esters
- 133 Hydrogen sulphide
- 135 Encephalopathies due to organic solvents which do not come under other headings
- 136 Polyneuropathies due to organic solvents which do not come under other headings

2. Skin diseases caused by substances and agents not included under other headings

- 201 Skin diseases and skin cancers caused by:
 - 201.01 Soot
 - 201.03 Tar
 - 201.02 Bitumen
 - 201.04 Pitch
 - 201.05 Anthracene or compounds thereof
 - 201.06 Mineral and other oils
 - 201.07 Crude paraffin
 - 201.08 Carbazole or compounds thereof
 - 201.09 By-products of the distillation of coal
- 202 Occupational skin ailments caused by scientifically recognised allergy-provoking or irritative substances not included under other headings

3. Diseases caused by the inhalation of substances and agents not included under other headings

- 301 Diseases of the respiratory system and cancers
 - 301.11 Silicosis
 - 301.12 Silicosis combined with pulmonary tuberculosis
 - 301.21 Asbestosis

- 301.22 Mesothelioma following the inhalation of asbestos dust
- 301.31 Pneumoconioses caused by dusts of silicates
- 302 Complication of asbestos in the form of bronchial cancer
- 303 Broncho-pulmonary ailments caused by dusts from sintered metals
- 304.01 Extrinsic allergic alveolites
- 304.02 Lung diseases caused by the inhalation of dusts and fibres from cotton, flax, hemp, jute, sisal and bagasse
- 304.04 Respiratory ailments caused by the inhalation of dust from cobalt, tin, barium and graphite
- 304.05 Siderosis
- 305.01 Cancerous diseases of the upper respiratory tract caused by dust from wood
- 304.06 Allergic asthmas caused by the inhalation of substances consistently recognised as causing allergies and inherent to the type of work
- 304.07 Allergic rhinitis caused by the inhalation of substances consistently recognised as causing allergies and inherent to the type of work
- 306 Fibrotic diseases of the pleura, with respiratory restriction, caused by asbestos
- 307 Chronic obstructive bronchitis or emphysema in miners working in underground coal mines
- 308 Lung cancer following the inhalation of asbestos dust
- 309 Broncho-pulmonary ailments caused by dusts or fumes from aluminium or compounds thereof
- 310 Broncho-pulmonary ailments caused by dusts from basic slags

4. Infectious and parasitic diseases

- 401 Infectious or parasitic diseases transmitted to man by animals or remains of animals
- 402 Tetanus
- 403 Brucellosis
- 404 Viral hepatitis
- 405 Tuberculosis
- 406 Amoebiasis
- 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
- 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

5. Diseases caused by the following physical agents:

- 502.01 Cataracts caused by heat radiation
- 502.02 Conjunctival ailments following exposure to ultraviolet radiation
- 503 Hypoacusis or deafness caused by noise
- 504 Diseases caused by atmospheric compression or decompression
- 505.01 Osteoarticular diseases of the hands and wrists caused by mechanical vibration
- 505.02 Angioneurotic diseases caused by mechanical vibration
- 506.10 Diseases of the periarticular sacs due to pressure
- 506.11 Pre-patellar and sub-patellar bursitis

- 506.12 Olecranon bursitis
 - 506.13 Shoulder bursitis
 - 506.21 Diseases due to overstraining of the tendon sheaths
 - 506.22 Diseases due to overstraining of the peritendineum
 - 506.23 Diseases due to overstraining of the muscular and tendonous insertions
 - 506.30 Meniscus lesions following extended periods of work in a kneeling or squatting position
 - 506.40 Paralysis of the nerves due to pressure
 - 506.45 Carpal tunnel syndrome
 - 507 Miner's nystagmus
 - 508 Diseases caused by ionising radiation
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ANNEX II

Additional list of diseases suspected of being occupational in origin which should be subject to notification and which may be considered at a later stage for inclusion in Annex I to the European schedule**2.1 Diseases caused by the following agents:**

- 2.101 Ozone
- 2.102 Aliphatic hydrocarbons other than those referred to under heading 1.116 of Annex I
- 2.103 Diphenyl
- 2.104 Decalin
- 2.105 Aromatic acids – aromatic anhydrides or their halogenated derivatives
- 2.106 Diphenyl oxide
- 2.107 Tetrahydrophurane
- 2.108 Thiopene
- 2.109 Methacrylonitrile
- 2.110 Acetonitrile
- 2.111 Thioalcohols
- 2.112 Mercaptans and thioethers
- 2.113 Thallium or compounds thereof
- 2.114 Alcohols or their halogenated derivatives not referred to under heading 1.118 of Annex I
- 2.115 Glycols or their halogenated derivatives not referred to under heading 1.119 of Annex I
- 2.116 Ethers or their halogenated derivatives not referred to under heading 1.120 of Annex I
- 2.117 Ketones or their halogenated derivatives not referred to under heading 1.121 of Annex I
- 2.118 Esters or their halogenated derivatives not referred to under heading 1.122 of Annex I
- 2.119 Furfural
- 2.120 Thiophenols or counterparts or halogenated derivatives thereof
- 2.121 Silver
- 2.122 Selenium
- 2.123 Copper
- 2.124 Zinc
- 2.125 Magnesium
- 2.126 Platinum
- 2.127 Tantalum
- 2.128 Titanium
- 2.129 Terpenes
- 2.130 Boranes
- 2.140 Diseases caused by inhaling nacre dust
- 2.141 Diseases caused by hormonal substances
- 2.150 Dental caries associated with work in the chocolate, sugar and flour industries
- 2.160 Silicium oxide

2.170 Polycyclic aromatic hydrocarbons which do not come under other headings

2.190 Dimethylformamide

2.2 Skin diseases caused by substances and agents not included under other headings

2.201 Allergic and orthoallergic skin ailments not recognised in Annex I

2.3 Diseases caused by inhaling substances not included under other headings

2.301 Pulmonary fibroses due to metals not included in the European schedule

2.303 Broncho-pulmonary ailments and cancers associated with exposure to the following:

- soot
- tar
- bitumen
- pitch
- anthracene or compounds thereof
- mineral and other oils

2.304 Broncho-pulmonary ailments caused by man-made mineral fibres

2.305 Broncho-pulmonary ailments caused by synthetic fibres

2.307 Respiratory ailments, particularly asthma, caused by irritants not listed in Annex I

2.308 Cancer of the larynx following the inhalation of asbestos dust

2.4 Infectious and parasitic diseases not described in Annex I

2.401 Parasitic diseases

2.402 Tropical diseases

2.5 Diseases caused by physical agents

2.501 Avulsion due to overstraining of the spinous processes

2.502 Disc-related diseases of the lumbar vertebral column caused by the repeated vertical effects of whole-body vibration

2.503 Nodules on the vocal chords caused by sustained work-related vocal effort
