

Questionnaire concerning a proposed instrument or instruments on biological hazards in the working environment

Replies to the questionnaire have been sent to the following labour market organisations:

The Confederation of Finnish Industries (EK)
The Central Organization of Finnish Trade Unions (SAK)
The Finnish Confederation of Professionals (STTK)
The Confederation of Unions for Professional and Managerial Staff in Finland (Akava)
The Commission for Local Authority Employers (KT)
The Office for the Government as Employer (VTML)
The Federation of Finnish enterprises (SY)

Statements of the labour market organisations:

The Confederation of Finnish Industries (EK)

The Confederation of Finnish Industries is grateful for the opportunity to comment on the matter. In our view, it is not necessary to adopt a Convention on the matter. We consider the drawing up of a common international regulation very challenging, because regulation on the matter varies greatly from country to country and the regulation has evolved based on different national needs. Due to the regional and national differences mentioned above, we also find it challenging to issue Recommendations. Finland has a well-functioning legislation that considers different perspectives in the protection against biological risks.

Because we do not consider additional international regulation necessary, we have not answered the detailed questions on the content of any possible regulation in the questionnaire. We welcome the opportunity to comment on the matter in more detail once the Ministry of Economic Affairs and Employment has completed its draft response to the ILO.

The Office for the Government as Employer (VTML)

The Office for the Government as Employer considers that the current regulation in Finland covers, at least for the most part, the need to protect employees against such hazards at workplaces and the anticipation of such needs at workplaces, as presented in the report. Any additional value of a new separate instrument on protection against biological hazards should be carefully assessed when formulating a position on the need and form of the instrument.

Insofar a new separate instrument is considered necessary in the first place, the Office for the Government as Employer considers it more appropriate to issue a Recommendation that would leave sufficient national and workplace-specific freedom of movement than a detailed binding instrument.

If a new instrument is adopted, it is important that any inconsistencies and/or conflicting interpretations of its content and different definitions be avoided vis-à-vis existing regulation. In addition, consistency with data protection regulation should be taken into account with regard to the content. If the ILO supports a new binding regulation that would increase employers' obligations or, correspondingly, the rights of employees or their representatives in relation to employers, we would like to see a statement of reasons for the need for new regulation and an analysis of its economic effects on employers.

The Federation of Finnish enterprises (SY)

The Ministry of Economic Affairs and Employment has requested an opinion on the report of the International Labour Organization (ILO) on protection against biological hazards. The report includes a survey to determine whether the ILO should draw up a Convention and/or a Recommendation on the topic.

Biological hazards include bacteria, viruses and various pathogens that can cause health hazards and risks. Protection against biological hazards falls within the scope of occupational safety and health. Biological hazards can occur in very different tasks and occupations, especially in healthcare, laboratories, agriculture and waste management.

The preparations at the ILO are based on a decision made at the International Labour Conference in 2022, according to which Convention Nos. 155 and 187 on occupational safety and health were given the status of a fundamental convention. The decision emphasises the role of occupational safety and health in the ILO's work and the Member States must consider the content of the above-mentioned Conventions even if they have not been ratified. Finland has ratified both Conventions.

Despite the above-mentioned Conventions, there are no international regulations on protection against biological hazards specifically, according to the ILO report. The report compares legislative measures on protection against biological hazards in different countries and presents various measures and alternatives that could be included in a possible ILO Convention and/or Recommendation.

According to Suomen Yrittäjät, a high level of occupational safety and health is an important goal. Protection against biological hazards is important not only from the viewpoint of employees and employers but also from the viewpoint of the functioning of society. In particular, the pandemic caused by the coronavirus has highlighted the need to take health security into account more comprehensively in many situations, including in working life.

However, Suomen Yrittäjät does not consider it necessary to draw up a Convention to promote occupational safety and health. According to Suomen Yrittäjät, it is important that good practices, which are comprehensively presented in the report, be disseminated in the field of occupational safety and health. However, the promotion of occupational safety does not require a Convention. From a practical point of view, it would be more useful to ensure that countries where the level of occupational safety and health does not meet even the requirements of current ILO Conventions comply with such Conventions.

Finland and the EU have a high level of occupational safety and health. ILO's measures should aim at creating a global minimum level. There is a risk that the drafting of the Convention would cause problems of coordination with the approach and content of European regulation. It is likely that a possible ILO Convention would not improve the level of occupational safety and health in areas where it is most needed. The ILO should therefore primarily monitor and promote the implementation of Convention Nos. 155 and 187. If necessary, they could be specified with a recommendation.

An ILO questionnaire containing questions and options concerning the content of a possible ILO measure is appended to the request for comments. Although Suomen Yrittäjät does not consider a Convention necessary, we make the following general observations on the topics of the questionnaire:

Definition

Suomen Yrittäjät considers it appropriate that the definition of a biological hazard contained in any Convention or Recommendation be consistent with the definitions used in EU regulation. It is important to start with a risk-based approach in the assessment of biological hazards. Biological hazards are not commensurate and their risk varies. It is therefore important that the definition take into account different hazards and the differences in the risks they cause.

Purpose and target

Any Convention or Recommendation should aim at broad-based protection from biological hazards. The purpose should be to promote and disseminate existing good practices. Creating a regulation should not be an end in itself. Instead, all measures should be feasible in practice. Any Convention or Recommendation should therefore be general in nature. It should also be possible to derogate from it if it is justified for certain activities and/or professional groups.

General provisions

Any Convention or Recommendation should focus on supporting national occupational safety and health systems. Insofar as the national system already recognises biological hazards and protection against them has been adequately taken into account in existing national regulation, any Convention or Recommendation should not create new substantive obligations for States.

It is important that the prevention of and protection against biological hazards are based on scientific knowledge of the risks of different factors. A possible Convention or Recommendation should establish procedures to ensure that workplaces have sufficient comprehensive and up-to-date information to identify and protect against risks.

Protection against biological hazards is not a matter of workplaces alone, but a broader issue for society. For this reason, any ILO Convention or Recommendation can, as a rule, only be a general means for preventing biological hazards. It is important that societies prevent and protect against biological hazards comprehensively. In this respect particularly, it is important to disseminate good practices and to aim for a broad-based approach in any ILO action.

Suomen Yrittäjät does not consider it justified that a possible ILO Convention or Recommendation focus on or create special rules for the needs of certain employee groups and/or sectors. Any Convention or Recommendation should be general in scope. In particular, the type of employment relationship bears no importance for the risk that biological hazards may pose. Although it may be reasonable to create guidelines from the perspective of certain risk sectors, it is not justified to create actual obligations by sector at the international level.

Because protection against biological hazards requires sufficient information on the risk posed by them, it is reasonable to collect data on biological hazards. However, it is not justified to create detailed provisions concerning the details of data collection and utilisation. Any Convention or Recommendation should be based on existing national systems and competent authorities insofar as biological hazards must be taken into account in practical occupational safety and health activities.

Rights and obligations of employers and employees and their representatives

Above all, protection against biological hazards is a common concern. Therefore, any Convention or Recommendation should not create obligations for employers alone. In protecting against biological hazards, it is of paramount importance that employees are aware of their responsibility to act in accordance with the instructions and regulations and to use protective equipment appropriately. With regard to employers' liability, it should be noted that, with regard to biological hazards, it is of paramount importance that the risks posed by the hazards can be assessed on the basis of objective and reliable information.

However, employers cannot protect against biological hazards alone, as the employer's ability to manage and supervise work does not extend to all situations where biological hazards may arise. In discussions on a possible ILO Convention or Recommendation, it should be emphasised that the perspective must be global. It is therefore important that no obligations that are not realistic be proposed in any Convention or Recommendation, especially in countries where the level of protection against biological hazards is not the same as in EU countries or Finland.

Implementation

Suomen Yrittäjät considers it important that the national implementation of any Convention or Recommendation is carried out in accordance with national practices and legislation, and that the Convention or Recommendation does not take a stand on how the implementation should be carried out.

SAK, STTK and Akava

Statement of the Central Organization of Finnish Trade Unions (SAK), the Finnish Confederation of Professionals (STTK) and the Confederation of Unions for Professional and Managerial Staff in Finland (Akava) is included in a separate questionnaire form (Attachment II).