

**FIEC** is the European Construction Industry Federation, representing via its 33 National Member Federations in 29 countries (25 EU, Norway, Switzerland, Ukraine, Turkey) construction enterprises of all sizes, i.e. small and medium-sized enterprises as well as “global players”, carrying out all forms of building and civil engineering activities.



# POSITION PAPER

11/02/2021

**FIEC contribution to the European Commission’s social partners’ consultation on the protection of workers from risks related to exposure to chemical agents (lead and di-isocyanates) at work and to asbestos at work (1<sup>st</sup> phase)**

*Reference: consultation document C(2020)8944 final, dated 17/12/2020*

## 1. Do you agree with the issues identified above?

**FIEC** shares the objective of pursuing constant improvements in this field in order to guarantee safer and healthier working conditions for all. It is indeed important to take into account new risks, alongside more traditional risks such as exposure to hazardous substances.

**FIEC** is convinced that it is important to ensure that risks to workers arising from exposure to chemicals at the workplace are effectively controlled, including, where appropriate, by establishing new EU limit values or revising existing ones. However, this must be based on sound scientific evidence and a thorough assessment of technical and economic feasibility and socio-economic impact, for which the role of the Advisory Committee on Safety and Health (ACSH) is central. It must also be based on the availability of common measurement methods, to ensure that there is a level playing field across the EU.

**FIEC** stresses that the revision of biological or binding occupational exposure limit values towards lower limit values does not always mean better protection for workers, as this depends on whether it is feasible to measure it, including on the basis of common and easily available measurement methods, and for employers to actually implement it. If companies are not able to apply limit values, they will not be able to protect workers as intended. Bearing in mind that many small and even micro construction enterprises will be affected by measures on these substances, it is important to ensure that the legislation can be implemented by companies of all sizes in all Member States, as this is how we make sure that there is a level playing field for worker protection across the EU. These points could have been better highlighted in the commission’s consultation document. It is also important to remember that the limit values are only part of the picture - they are in addition to other protective measures in the asbestos and CAD directives, as well as the more general measures in the EU health and safety framework directive.

Generally speaking, **FIEC** believes that the European Commission’s action should focus more on preventive measures to eliminate or minimise risks, rather than setting new binding limit values.

## 2. Are they accurately and sufficiently covered?

In general, **FIEC** considers that setting limit values only is not sufficient for effective protection. These limits must also be practicable to implement! For instance, **FIEC** regrets that the collection and exchange of good practices are not considered to be decisive elements in assessing the advisability of revising these limit values.

Also, **FIEC** notes that the consultation document does not address the possible consequences for the implementation of these new limit values, particularly within construction SMEs.

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A point not adequately addressed by the consultation document is regarding measurement methods for asbestos. Firstly, it is important to take into account that such measurement methods are very specific and can be expensive and time consuming. Secondly, at the workplace, conditions are generally not like in a clean room, which limits the possibilities for measurement at very low levels. Thirdly, there are different measurement methods in different member states, which has a negative impact on the possibility to have a level playing field. Common and readily available measurement methods/protocols are crucial in this respect. Going forward, it will be necessary to take into account that for some member states setting a lower limit value will require a change in measurement method. This will require an additional analysis at workplaces, bringing additional costs and particular challenges for SMEs. It will also be important to take into account whether the new requirements for PPE triggered by a lower limit value will be feasible in companies.

**1. If so, do you consider that the EU should address this issue through a binding instrument?**

FIEC considers that the current EU legal framework is sufficient. We do not support stricter occupational exposure limit values for the substances under consideration.

The EU should rather focus on accompanying measures, which would guarantee national conformity with EU law and help companies complying with the rules. For instance, we could promote the exchange of good practices, prevention campaigns towards companies, etc.

Moreover, concerning asbestos, there are a number of other important considerations which need to be taken into account if a lower limit value is proposed:

- This may trigger the need for more and/or different protective equipment, which may or may not be easily available to employers or feasible to use at the workplace;
- It may require staff with more or different expertise/knowledge;
- Both aspects could mean additional costs for employers;
- Depending on the type of equipment, it could cause other risks to health and safety;
- It could require use of a different methodology for determining the concentration of the fibres (e.g. electronic microscopy), which requires more specialised staff and may be more costly.

**2. Would you consider initiating a dialogue under Article 155 TFEU on any of the issues identified in this consultation?**

In principle, FIEC supports the idea of a specific dialogue between the EU social partners in the construction sector, as an extension to the existing dialogue between FIEC and EFBWW, in particular to promote the proper application of already existing limit values.

However, as the scientific, feasibility and socio-economic analysis still needs to be completed, we consider that it is too early to initiate a dialogue under Article 155 TFEU for the moment.