



MAKING SURE PROTECTIVE EQUIPMENT AGAINST COVID-19 IS AVAILABLE AT YOUR WORKPLACE

Argumentation for trade union representatives

EMPLOYERS HAVE TO PROVIDE ADEQUATE MEANS TO PROTECT WORKERS AGAINST COVID-19.

When your employer refuses to provide the essential protective equipment, it can seem difficult to find the right sources to base your arguments on. Fortunately, there are three EU Directives on the protection of health and safety that can help you out. All three directives have been transposed into national legislation – the links for more on that are provided below.

This is a short overview of legislation prepared by the ETF – check the documents linked below for detailed information on the different provisions.

1. FRAMEWORK DIRECTIVE ON HEALTH AND SAFETY AT WORK (89/391/EEC)

Follow the link and find your country to learn where you can find these protections in national legislation

→ <https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:31989L0391>

ARTICLE 6 describes the employer's general obligations.

The improvement of workers safety, hygiene and health at work should not be subordinated to purely economic considerations.

The employer has to provide adequate means to protect workers against COVID-19. **Workers cannot be asked to pay for protective equipment.**

The employer has to take new circumstances – like COVID-19 – into account in organising and providing the safety and health protection of workers.

The employer has to give collective protective measures priority over individual protective measures. This means that:

- a) **Activities should be avoided if they are not necessary for society and could not be carried out in a safe way;**
- b) Activities which have to be carried out – like transport of food, medical devices, etc. - work should be organised differently, taking the new circumstances – like COVID-19 - into account; and
- c) **In all cases, adequate protective equipment, regular and efficient cleaning of the workplace and work equipment, etc. must be guaranteed.**

ARTICLE 8 is about the serious and imminent danger and is an important tool for industrial action when employers do not adopt adequate measures. It says that **workers who leave their workstation when there is serious, imminent, and unavoidable danger, cannot be retaliated against and must be protected against any harmful and unjustified consequences.**

On the basis of this article, workers in Amazon logistic centres have stopped the work in several EU countries!

CAN A MEMBER STATE TAKE AWAY EMPLOYER'S RESPONSIBILITIES?

Yes, in some cases.

ARTICLE 5(4) affirms that a Member State *can* – but is not in any way automatically obliged to – adjust the responsibility of the employer. **The employer is therefore responsible as long as the relevant Member State has not committed to anything else.**

2. DIRECTIVE ON THE MINIMUM HEALTH AND SAFETY REQUIREMENTS FOR THE USE BY WORKERS OF PERSONAL PROTECTIVE EQUIPMENT AT THE WORKPLACE (89/656/EEC)

Follow the link and find your country to learn where you can find these protections in national legislation

→ <https://eur-lex.europa.eu/legal-content/en/NIM/?uri=CELEX:31989L0656>

PERSONAL PROTECTIVE EQUIPMENT = all equipment designed to be worn or held by the worker to protect him against one or more hazards likely to endanger his safety and health at work, and any addition or accessory designed to meet this objective.

The protective equipment must be provided free of charge, and the employer must ensure that it is in good working order and hygienic condition. Detailed information is available in **ARTICLE 4.**

Workers and/or their representatives have to be informed of all measures to do with the health and safety of workers when personal protective equipment is used by workers at work.

3. BIOLOGICAL AGENTS AT WORK DIRECTIVE (2000/54/EC)

Follow the link and find your country to learn where you can find these protections in national legislation

→ <https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32000L0054>

The basic provisions of this directive apply whether the biological agent has been classified or not! – COVID-19, for example, is not classified in the annex of the directive.

When it is likely that workers are exposed to biological agents at work, employers must do an assessment of risk. If the assessment shows a risk to workers' health and safety, the exposure must be prevented.

Where the exposure cannot be prevented, the risk of exposure must be reduced to as low as necessary to protect the health and safety of workers. Actions that employers need to take to ensure this include collective and individual protection measures, and hygiene measures.

Detailed information is available in **ARTICLES 3 and 6**.

4. LEGISLATION OF WHICH MEMBER STATE IS RELEVANT IN THE CASE OF POSTING OF WORKERS?

[DIRECTIVE ON POSTING OF WORKERS](#) describes the obligations of employers.

Follow the link and find your country to learn where you can find these protections in national legislation

→ <https://eur-lex.europa.eu/legal-content/en/NIM/?uri=CELEX:31996L0071>

ARTICLE 3(1)(E) says that the sending company is responsible for following the terms and conditions regarding among others “health, safety and hygiene at work” in the Member State where the work is carried out.