Groupe Pompidou
Pompidou Group

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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AD HOC EXPERT GROUP ON THE PREVENTION OF DRUG USE IN THE WORK PLACE

SYNTHESIS

(based on the written national contributions)

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Questions submitted for consideration after the meeting in Paris on 30 June 2011

1. What are the foundations on which a prevention strategy acceptable to all concerned can be based?

2. The stakeholders' roles and responsibilities.

3. The production of legislative and regulatory texts, including conventions (are there initiatives to take the problem into account? Is there reflection on the process of social change the phenomenon reflects?)

4. Through which methods should the problem be taken into account: health plan, disciplinary plan, role of the enterprise, role of the working community, etc?

Consolidated report

A matter of perspective

Overall, from a cross-reading of all the contributions submitted, it is easy to see that **thinking and action in this field are for the most part based on common acceptance of:**

- the values to be upheld. Respect for individual freedom, which depends on transparency of rules and procedures; promotion of a sense of individual responsibility; solidarity; respect for anonymity; treatment.
- the primacy accorded to prevention.
- recognition of different types of use: occasional use, excessive or not, and chronic use.
- the fact that problem use is linked not only to the substance, but also to the environment in which it takes place and to the individual concerned.

Nevertheless, some appreciable differences emerged. We need to work on them and find answers to them. They have to do with the way this question is tackled and addressed. How it is viewed is a matter of perspective:

- the perspective adopted is specific to each country's culture and depends on whether the primary goal is protection of the health (or well-being) and safety of the employee/citizen or protection of the enterprise;
- the sharpness of this perspective depends on how far our societies and our enterprises are prepared to go. Where the cursor is placed differs according to how freely it is possible to talk on this subject. It can still cause unease in the workplace. For a long time it was masked by male or professional bravado (especially where alcohol is concerned) and by denials regarding the impact of psychoactive substances. But nearly everywhere people have begun to talk more freely, the media have taken up the subject and exchanges of practice have made it possible for the risks to be addressed more clearly.

This perspective determines the state of co-operation between corporate partners committed, or not, to clarifying their positions.

There is a relative consensus on the following points:

- Because of the effects associated with the various psychoactive substances, drug use can alter the employee's behaviour in the workplace, even if the drug use takes place during the employee's private life. Performance may be impaired and the employee may potentially become a source of danger to himself, his colleagues, third parties and/or corporate property.
- The obligation on the employer to ensure effective safety in the workplace leads him to take up this issue. Many of the countries represented on this group started from this premise and put the focus on disciplinary action.
- Disciplinary action based on the prohibition of drug use contained in various codes (public health code, labour code, criminal code) and regulations is insufficient. While drug use may in some cases originate in the work context, it may also be individual behaviour falling entirely within the scope of private life and unconnected with the person's employment.

The two consultants commissioned by the Pompidou Group, Mr J P PARQUET, psychiatrist and addictologist, and Mr P WINDEY, Chair of the Belgian National Labour Council, will use their expertise to shed light on these

two aspects and we will need to discuss the possible links.

- Preventive action, as a collective, non-stigmatising response to this specific risk, must be prioritised in conjunction with the occupational health services, whatever their official title and status in the countries represented.

This approach needs to be adopted at all stages of the risk: at its source, in order to avert it (observing health and safety rules, putting procedures in place, awareness-raising measures, etc) or when it occurs (removing an employee who is manifestly not in a state to do his job, etc). It is where the term "manifestly" is concerned that there may be some debate as between "spotting signs" and "screening".
This approach must be guided by the principles of respect for the individual under which "*No one may place restrictions on the rights of persons and individual and collective liberties which are not justified by the nature of the task to be accomplished and proportional to the objective sought*".

A policy of this kind makes it possible at one and the same to pursue a collective prevention strategy and address an identified individual situation.

Characteristics specific to each country

1. Foundations
What are the foundations on which a prevention strategy acceptable to all concerned can be based?
The divisions between countries are reflected more in the priorities set than in the goals pursued, which, in practice, are shared. These priorities shape the policy line adopted. That is why I have chosen in this synopsis to focus mainly on this point (foundations), from which your replies to the other three questions logically follow on.

1. Either a choice is made not to tackle drugs directly but to base prevention primarily on safety, thus opening the way to risk assessment. The tool used for this is analysis of dysfunctions, proceeding on the basis of observed dysfunctions; the enterprise has the function of detecting and identifying dysfunctions. In this category we find, among others, by way of example, and not exclusively:

1. Belgium, where explicit procedures have been put in place. The recommended approach is to question persons with a possible alcohol or drug problem based on how they function, ie on their performance and their working relations. Problems of functioning can be identified more easily and with greater certainty than the problem alcohol or drug use which may be their cause.
2. The Republic of Cyprus, which has chosen to include this issue in its general risk prevention legislation, with all that entails in terms of goals and tools.
3. Lithuania, for which it is a societal problem requiring the adoption of appropriate measures (specific prohibitions, system of penalties), for which responsibility lies clearly with the employer and close colleagues.

→ **Points for discussion**: Is it possible to produce descriptions of functions that are accepted by all and can be used as a reference framework? Should the alcohol and drug risk be considered as a different problem in safety terms from those with other causes?

NB: If the problem is confined to the workplace, there should be no argument over aspects relating to private life.

2. Or prevention is based primarily on the health aspect, account being taken of the effects of substance use on, consecutively, the individual, the citizen and the employee.

From this perspective, behavioural disorders have medical causes. Testing can therefore form part of a prevention policy.
In this category we find, among others, by way of example, and not exclusively:

1. Italy, which, as part of its health policy, includes testing for workers with "risky jobs" in its legislation and considers that substance use is a medical condition which can occur in the working environment in the same way as other types of human conduct. A medical perspective predominates.

→ **Points for discussion**: the justification for testing, use of testing only by occupational health doctors as an additional tool forming a counterpart to an overall prevention policy aimed at all personnel, as in the case of Sweden/ use of testing by other corporate stakeholders/ An approach that can be extended to all working environments? To all categories of personnel?/ The goal of testing: compulsory treatment, punishment, prevention in the form of increased awareness of the risks incurred by users?

3. Or prevention may seek to combine all the factors. In this category we find, among others, by way of example, and not exclusively:

- Luxembourg, whose national strategy combines public health, public safety and social cohesion aspects under the umbrella of the Ministry of Health. Luxembourg has chosen not to produce legislation targeting the workplace only, but to authorise testing of workers in certain jobs in order to end a potentially unsafe situation.
- Croatia, which seeks to strike a balance between respect for individual freedom, employers' rights and their obligation to protect staff health and guarantee a work-friendly environment. To achieve this, Croatia has chosen to analyse and take into account both individual and organisational factors and to make a distinction between jobs with special working conditions and sensitive occupational settings.
- Portugal, whose approach, centred on the promotion of healthy behaviour, combines health and safety and brings together all stakeholders in the world of work. Both types of determinant – individual and organisational – are taken equally into account.
- France, which developed a policy granting health and security of the employees at work. Even if the question of illicit drugs is not explicitly treated in the labour code, a set of good practices and procedures based on the application of the European Directive and relevant ILO Conventions completes the regulatory body comprising the health code, the traffic code, the sea code and related jurisprudence (…) to frame rights and obligations of each and respective control measures.

→ **Points for discussion**: when assessing risks, how does one choose between those related to the performance of work, those related to the individual performing the work and those related solely to the substance?/ When determining responsibilities in the event of an accident, or also in the area of prevention? What are the differences between at-risk jobs, safety jobs, sensitive jobs, etc?

2/4. Approach and responsibility of the different stakeholders
Through which methods should the problem be taken into account: health plan, disciplinary plan, role of the enterprise, role of the working community? What are the stakeholders' roles and responsibilities?

The approach advocated exhibits significant differences depending on whether substance use is regarded as being linked specifically to the individual or to the enterprise.

None of the countries represented on this group claims to have found the solution: many are seeking a prevention policy that is at one and the same time coherent, transparent and effective, whose mechanisms are tailored to the practical reality of the workplace and which

is in tune with the dominant culture; most are seeking to remedy the shortcomings they see in prevention practices and to give the different stakeholders greater legal and administrative security.

This approach involves using prevention as a lever to show each stakeholder in the world of work what he can or cannot do, help him to clarify his obligations and determine what may fall within the sphere of shared responsibility. Thus conceived, prevention requires co-ordination between all concerned and ensures that thinking on drug use is not limited to its specific components, be they technical, epidemiological, health and safety-related or economic.

In this spirit of co-operation and shared responsibility, **Norway** offers an example of a broad strategy permeating all layers of the enterprise and its environment. All stakeholders play a part in developing prevention tools and strategies. The respective roles are as follows:

- employers and managers must foster a climate of openness and trust. They have a statutory responsibility for promoting a culture of prevention. They are required to intervene from the first suspicion in accordance with a precise protocol which, depending on the circumstances, may range from a personal interview to a warning, or even sending the employee home.
- trade unions are required to promote a favourable environment, ensure compliance with procedures when individual prevention measures are taken, and provide assistance.
- the occupational health services act as advisers and resource persons, operating independently at all levels of prevention.
- safety representatives have a statutory responsibility for protecting the working environment. Alcohol and drug problems fall within their remit.
- HR departments have a specific role in promoting collective drug and alcohol prevention.
- health and safety departments have a statutory responsibility for drug prevention in the wider context of risk assessment.

→ **Points for discussion**: this way of approaching the issue, in its totality and its different manifestations, raises questions about what the procedure might be for early reporting and how it might be implemented for everyone, from the top to the bottom of the hierarchy in order to ensure the credibility and acceptability of the policy.
→ It also raises questions concerning the need to be pragmatic about how we operate in widely varying situations: a standard approach would be ineffective and go against the process advocated. How can we develop instruments and procedures tailored to each type of situation?

Viewed from a different angle, because the focus is on the organisation of work, working conditions and requirements, **Slovenia** emphasises the joint responsibility of employers and employees for assessing the working context and the effects of substance use, drafting a prevention plan and identifying situations contributing to addiction and possible remedial action.

This approach combined with a National Prevention Programme directed at all spheres of public life offers enterprises a prevention module which takes into account the effects of substance use on the individual, the working community and the enterprise. It is used as a management tool for assessment of the effects of information and awareness-raising on job performance and absenteeism. **Sweden**, for its part, gives employers primary (but not sole) responsibility for safe and healthy working conditions, which therefore includes prevention of addictive behaviour. But above and beyond the statutory obligation, employers, employees and unions are fully aware that it is in their interests to show solidarity.

Because the world of work interacts with different environments, some countries opt for a specific policy, others place the issue in the framework of their health policy or an anti-drug policy, and others still make it a component of personnel policy and deal with it at the level of each enterprise's human resources department. In this category we find, among others, by way of example, and not exclusively, **Belgium**, where the two potential sources of dysfunction and malaise are combined in this way. This means that both the employer and the workers are responsible for prevention and/or management of problem substance use in the workplace. This leads to a systemic approach incorporating technical aspects, the organisation of work, working conditions, social relations and the factors surrounding work.

→ **Points for discussion**:
- In such cases, what can be done to ensure feedback, and how can feedback be shared? How can it be used at enterprise, sector or country level?
- What can be done to ensure that alcohol and drug prevention becomes an issue within the enterprise, that no enterprise neglects it and that it becomes, as it were, "part of its genetic heritage" in all fields: health and safety, but also ethics, social responsibility, the economy, etc?
- Where this issue is concerned, can one talk about a societal responsibility?

3. A societal or an entrepreneurial process?
The production of legislative and regulatory texts, including conventions (are there initiatives to take the problem into account? Is there reflection on the process of social change the phenomenon reflects?)

At least two scenarios and their variants are submitted to us for consideration: starting from the bottom, the workplace, and moving up or, conversely, introducing legislation and applying it on the ground.

A perfect example of the first scenario is the case of **Belgium** (deliberately described here in condensed form in order to emphasise its spirit), where consultation between enterprises led to the signing of a collective agreement for the private sector, subsequently officialised by a Royal Decree. This process involves at least two strands, defining the employer's responsibility and that of the other stakeholders.

The second scenario takes on a particular consistency in **Sweden**, where the workplace is regarded as a setting to be prioritised for drug prevention in society as a whole. There is accordingly a need to secure the commitment of all concerned to have a chance of achieving an effect within the enterprise or in people's everyday lives. This process calls for a combination of different approaches based on a written protocol encompassing, in terms of action and targeting, all categories of personnel and providing for testing and treatment. But, in contrast to the situation in Belgium, this process is initiated at governmental level: **the obligation is set down in legislation**. A new process is under way, covering the period 2011-2015. It is managed by the occupational health services and the trade unions using such tools as early identification.

The situation is almost the same in **Norway** where, on the basis of a White Paper showing the interaction between social life and working life, the process currently under way gives the **national level** a clear responsibility for supporting early intervention approaches and mounting prevention campaigns. The recent Work Environment Act specifies the conditions for drug screening. **Enterprises** have the possibility to set out clear rules and to promote a specific prevention policy for illicit drugs which clearly targets the work-related consequences of substance use and clearly reflects the employer's point of view, whatever the circumstances of substance use. Legislative and regulatory processes are currently under way in other countries. For example, Italy recently gave its legislation greater coherence with a presidential decree on testing supplementing an agreement signed by the local and regional authorities.

→ **Points for discussion**:
While many countries use a European Directive as the basis for risk prevention in the workplace, it may be seen that there is a plethora of texts with differing goals. The perspective may be societal (Sweden), economic (Lithuania), strictly preventive (Slovenia), or general and embracing a range of issues. How can we move towards a recommendation supported by states, worker representatives and employers (one of the end-purposes of the project).
In cases where the texts are very broad in scope, it may be observed at the same time that few initiatives are taken in enterprises to introduce measures geared specifically to alcohol and drug prevention. How can this be remedied?
To maintain a certain degree of objectivity on the question, should surveys be conducted? Are figures needed to stimulate reflection?
Is it conceivable, as suggested by Cyprus, to have prevention campaigns implemented at national level under the umbrella of the Council of Europe?