

GD no.1093/2006

regarding the protection of workers from the risks related to exposure to carcinogen or mutagen agents at work

Under art.108 of the Romanian Constitution, republished, and of the article 51 paragraph 1 point b) of the Law on health and safety at work no. 319/2006,

The Government of Romania adopts the following decision:

CHAPTER I GENERAL PROVISIONS

Section 1

Objective of regulation

Art. 1 - (1) The provisions of this decision has as objective of regulation the protection of workers against risks to their health and safety, including the prevention of such risks, arising or likely to arise from exposure to carcinogen or mutagen agents at work.

(2) The provisions of this decision are minimum requirements in this area.

(3) The limit values established by this decision are the maximum allowed values until the workers can be exposed at work.

Art.2. – The present decision shall not apply to workers exposed only to ionized radiation brought under regulation by the National Commission of Nuclear Activities Control.

Art. 3. – The Law of health and safety at work no.319/2006, shall apply to entire domain defined in article 1, paragraph (1), been completed with the provisions contained in this Decision.

Art.4. – In case of asbestos used at work, which is dealt with by *Government Decision no.1875/2005 on protection of workers' health and safety as regard to the risks due to exposure to asbestos at work*, published in the official Monitor of the Romania, First Part, no. 64 by 24 January 2006, the provisions of the present Decision shall apply whenever they are more favorable to health and safety at work.

Section 2

Definitions. Field of application - determination and assessment of risks

Art. 5. For the application of this Decision, the further terms and phrases mean as follows:

1. «carcinogen agent»:

(a) a substance which meets the criteria for classification as a category 1 or 2 carcinogen agents set out in Annex nr.1 to *the Methodological Norms for applying the Government Emergency Ordinance no.200/2000 on classifying, labeling and packaging of chemical dangerous substances and preparations, approved by the Government Decision no.490/2002*, with all its amendments;

b) a preparation composed of one or more substances referred to in point a) where the concentration of one or more of the individual substances meets the requirements for concentration limits for the classification of a preparation as a category 1 or 2 carcinogen set out either in Annex no.2 to *the Methodological Norms for applying the Government Emergency Ordinance no.200/2000 on classifying, labeling and packaging of chemical dangerous substances and preparations, approved by the Government Decision no.490/2002*, with all its amendments, or in Annex no.1 to *the Methodological Norms on classifying, labeling and packaging of chemical dangerous substances and preparations, approved by the Government Decision no.92/2003*, when the substance or substances are not included in Annex no.2 to *the Methodological Norms for applying the Government Emergency Ordinance no.200/2000 on classifying, labeling and packaging of chemical dangerous substances and preparations, approved by the Government Decision no.490/2002*, with all its amendments, or appear in it without concentration limits;

c) a substance, preparation or process referred to in Annex no.1 to the present decision, as well as a substance or preparation released by a process referred to in this annex;

2. «mutagen agent»:

a) a substance which meets the criteria for classification as a category 1 or 2 mutagen set out in Annex no.1 to *the Methodological Norms for applying the Government Emergency Ordinance no.200/2000 on classifying, labeling and packaging of chemical dangerous substances and preparations, approved by the Government Decision no.490/2002*, with all its amendments;

b) a preparation composed of one or more substances referred to in point a), where the concentration of one or more of such individual substances meets the requirements for concentration limits for the classification of a preparation as a category 1 or 2 mutagen set out in either:

Annex no.2 to *the Methodological Norms for applying the Government Emergency Ordinance no.200/2000 on classifying, labeling and packaging of chemical dangerous substances and preparations, approved by the Government Decision no.490/2002*, with all its amendments, or

Annex no. 1 *the Methodological Norms on classifying, labeling and packaging of chemical dangerous substances and preparations, approved by the Government Decision no.92/2003*, where the substance or substances do not appear in Annex no.2 to *the Methodological Norms on classifying, labeling and packaging of chemical dangerous substances and preparations, approved by the Government Decision no.490/2002*, with all its amendments, or appear in it without concentration limits;

3. «limit value» - unless otherwise specified, the limit of the time-weighted average of the concentration for a carcinogen or mutagen agent in the air within the breathing zone of a worker, in relation to a specified reference period as set out in this Decision

4. «substance» - the term defined by the article 6, point a) from *the Government Emergency Ordinance no.200/2000 on classifying, labeling and packaging of chemical dangerous substances and preparations, approved by the Law no. 451/2001*, with all its amendments;

5. «preparation» - the term defined by the article 6, point b) from *the Government Emergency Ordinance no.200/2000 on classifying, labeling and packaging of chemical dangerous substances and preparations, approved by the Law no. 451/2001*, with all its amendments;

6. «breathing zone of a worker» : hemispherical zone, at the worker face level, which has the radius equal with 0,3 m, metered from the middle of an imaginary line which meet both ears.

Art. 6. – (1) This Decision provisions shall apply to activities in which workers are or are likely to be exposed to carcinogen or mutagen agents as a result of their work.

(2) In the case of any activity likely to involve a risk of exposure to carcinogen or mutagen agents, is the employer obligation to determine the nature, degree and duration of workers' exposure, in order to make it possible to assess any risk to the workers' health or safety and to lay down the measures to be taken.

(3)The employer is obliged to renew the assessment regularly and in any event when any change occurs in the conditions which may affect workers' exposure to carcinogen or mutagen agents.

(4)The employer is obliged to supply the territorial work inspectorate and/or the territorial authority for public health, at their request, with the information used for making the assessment set out in paragraph (2).

Art. 7. – When assessing the risk, account shall be taken of all other routes of enter into organism of a carcinogen or mutagen agent, such as absorption into and/or through the skin.

Art. 8. – When is carried out the risk assessment set out in art.6 paragraph (2), employers shall give particular attention to all effects concerning the health or safety of workers at particular sensibility and shall, inter alia, take account of the desirability of not employing such workers in areas where they may come into contact with carcinogen or mutagen agents.

CHAPTER II

EMPLOYERS' OBLIGATIONS

Section 1

Reduction of use and replacement of carcinogen or mutagen agents at the work place

Art. 9. – The employer shall reduce the use of a carcinogen or mutagen agent at the work place, in particular by replacing it, in so far as is technically possible, by a substance, preparation or process which, under its conditions of use, is not dangerous or is less dangerous to workers' health or safety, as the case may be.

Art. 10. – The employer shall, upon request, submit the results of his actions to the territorial work inspectorate and/or the territorial authority for public health.

Section 2

Prevention and reduction of exposure to the carcinogen or mutagens at work

Art. 11. – Exposure shall not exceed the limit value of a carcinogen or mutagen agent set out in this Decision or in the regulatory acts mentioned in Art. 5 paragraphs 1 or 2, by case

Art. 12. – (1) Where the results of the assessment referred to in Art. 6 reveal a risk to workers' health or safety, workers' exposure must be avoided.

(2) Where it is not technically possible to replace the carcinogen or mutagen agent by a substance, preparation or process which, under conditions of use, is not dangerous or is less dangerous to health or safety, the employer shall ensure that the carcinogen or

mutagen agent is, in so far as is technically possible, manufactured and used in a closed system.

(3) Where a closed system is not technically possible, the employer shall ensure conditions that the level of exposure of workers to be reduced at the lower level as is technically possible.

(4) Wherever a carcinogen or mutagen agent is used, the employer shall apply all the following measures:

- (a) limitation of the quantities of a carcinogen or mutagen agent at the place of work;
- (b) keeping the number of workers exposed or likely to be exposed as low as possible;
- (c) design of work processes and engineering control measures so as to avoid or minimise the release of carcinogen or mutagen agents into the place of work;
- (d) evacuation of carcinogen or mutagen agents at source, by an appropriate ventilation system, local (exhaustation) or general, all such methods to be compatible with the need to protect public health and the environment;
- (e) use of existing appropriate procedures for the measurement of carcinogen or mutagen agents, in particular for the early detection of abnormal exposures resulting from an unforeseeable event or an accident;
- (f) application of suitable working procedures and methods;
- (g) collective protection measures and/or, where exposure cannot be avoided by other means, individual protection measures;
- (h) hygiene measures, in particular regular cleaning of floors, walls and other surfaces;
- (i) information for workers;
- (j) demarcation of risk areas and use of adequate warning and safety signs including «no smoking» signs in areas where workers are exposed or likely to be exposed to carcinogen or mutagen agents;
- (k) drawing up plans to deal with emergencies likely to result in abnormally high exposure;
- (l) means for safe storage, handling and transportation, in particular by using sealed and clearly and visibly labelled containers;
- (m) means for safe collection, storage and disposal of waste by workers, including the use of sealed and clearly and visibly labelled containers.

Section 3

Information for the competent authority

Art. 13. – Where the results of the assessment referred to in Art. 6 reveal a risk to workers' health or safety, employers shall, when requested, make available to the territorial work inspectorate and/or the territorial authority for public health appropriate information on:

Art.14. – The information foreseen at Art. 13 refer to :

- (a) the activities and/or industrial processes carried out, including the reasons for which carcinogen or mutagen agents are used;
- (b) the quantities of substances or preparations manufactured or used which contain carcinogen or mutagen agents;
- (c) the number of workers exposed;

- (d) the preventive measures taken;
- (e) the type of protective equipment used;
- (f) the nature and degree of exposure;
- (g) the cases of the carcinogen or mutagen agents' replacement.

Section 4

Unforeseen and foreseen exposure. Access in the risk zones

Art. 15. – (1) In the event of unforeseeable events or accidents which are likely to result in an abnormal exposure of workers, the employer shall inform the workers thereof.

(2) Until the situation has been restored to normal and the causes of the abnormal exposure have been eliminated, the employer must take the following measures:

(a) to permit to work, in the affected area, only those workers who are essential to the carrying out of repairs and other necessary work;

(b) to provide for the workers concerned with protective clothing and individual respiratory protection equipment; the exposure may not be permanent and must be kept to the strict minimum of time necessary for each worker;

(c) do not allow to unprotected workers to work in the affected area.

(3) The workers must wear the personal protective equipment and clothing which they are provided with.

Art. 16. – (1) For certain activities such as maintenance, in respect of which it is foreseeable that there is the potential for a significant increase in exposure of workers, and in respect of which all scope for further technical preventive measures for limiting workers' exposure has already been exhausted, the employer shall determine, after consultation of the workers and/or their representatives in the undertaking or establishment, without prejudice to the employer's responsibility, the measures necessary to reduce the duration of workers' exposure to the minimum possible and to ensure protection of workers while they are engaged in such activities.

(2) Pursuant to the first paragraph, the employer must provide for the workers concerned with protective clothing and individual respiratory protection equipment. The workers concerned must wear it as long as the abnormal exposure persists;

(3) Pursuant to the first paragraph, the exposure of workers must not be permanent and shall be kept to the strict minimum necessary for each worker.

Art. 17. – The employer must take the appropriate measures to ensure that the areas in which take place the activities referred to in the first paragraph of Art. 16 are clearly demarcated and indicated or for that unauthorised persons are prevented by other means from having access to such areas.

Art. 18. – Appropriate measures shall be taken by employer to ensure that access to areas in which the activities in respect of which the results of the assessment referred to in Art. 6 reveal a risk to workers' safety or health take place are accessible solely to workers who, by reason of their work or duties, are required to enter them.

Section 5

Hygiene and individual protection measures

Art. 19. – The employer shall be obliged, in the case of all activities for which there is a risk of contamination by carcinogen or mutagen agents, to take appropriate measures to ensure that:

- a) workers do not eat, drink or smoke in working areas where there is a risk of contamination by carcinogen or mutagen agents;
- b) workers are provided with appropriate personal protective equipment or other appropriate special equipment;
- c) separate storage places are provided for personal protective equipment or other special equipment, for one hand, and for street clothes, for the other hand;
- d) workers are provided with appropriate and adequate washing and toilet facilities;
- e) personal protective equipment is properly stored in a well-defined place and is checked and cleaned if possible before, and in any case after, each use;
- f) defective personal protective equipment is repaired or replaced before further use.

Art. 20. – Workers may not be charged for the cost of the measures set out in Art. 19.

Section 6

Information, training, consultation and participation of workers

Art. 21. – (1) The employer must take appropriate measures to ensure that workers and/or workers' representatives in the undertaking or establishment receive sufficient and appropriate training, on the basis of all available information, in particular in the form of information and instructions, concerning:

- a) potential risks to health, including the additional risks due to tobacco consumption;
- b) precautions to be taken to prevent exposure;
- c) hygiene requirements;
- d) wearing and use of personal protective equipment;
- e) steps to be taken by workers, including rescue personnel, in the case of incidents and to prevent incidents.

(2) The training foreseen to paragraph (1) must be:

- a) adapted to new or changed risk;
- b) repeated periodically if necessary.

Art. 22. – Employer must to inform workers of installations and related containers containing carcinogen or mutagen agents, ensure that all containers, packages and installations containing carcinogen or mutagen agents are labelled clearly and legibly, and display clearly visible warning and hazard signs.

Art. 23. – (1) For the information of workers, appropriate measures shall be taken to ensure that:

- a) workers and/or any workers' representatives in the undertaking or establishment can check that this Decision is applied or can be involved in its application.
- b) workers and/or workers' representatives in the undertaking or establishment are informed as quickly as possible of abnormal exposures, including those referred to in

Article 8, of the causes thereof and of the measures taken or to be taken to rectify the situation;

c) to keep an up-to-date list with the names of the workers engaged in the activities in respect of which the results of the assessment referred to in Article 6 reveal a risk to their health or safety, indicating, if the information is available, the exposure to which they have been subjected;

d) the occupational medicine doctor and/or the general/family medicine doctor which has competence in the enterprise medicine according to the law, territorial labour inspectorate and/or the territorial public health authority, as well as all other persons who have responsibility for health and safety at work have access to the list referred to in point (c);

e) each worker has access to the information on the list which relates to him personally;

f) workers and/or workers' representatives in the undertaking or establishment have access to anonymous collective information.

(2) In the situation that point a) of paragraph (1) refers to, the workers and/or workers' representatives in the establishment can check that this Decision is applied or can be involved in its application, in particular with regard to:

a) the consequences for workers' safety and health of the selection, wearing and use of protective clothing and personal protective equipment, without prejudice to the employer's responsibility for determining the effectiveness of protective clothing and equipment;

b) the measures determined by the employer which are referred to in the Article 16(1), without prejudice to the employer's responsibility for determining such measures;

Art. 24. – The employer must ensure the consultation and participation of workers and/or their representatives in aim to established the protection of workers measures against the risks related to their exposure to carcinogen and mutagen agents at work, in accordance with Section 6 of Chapter III from the Law no. 319/2006.

CHAPTER III

Provisions concerning the health surveillance of workers

Section 1

Health surveillance

Art. 25. – (1) The measures for the worker' health surveillance for whom the results of the assessment referred to in Article 6 reveal a risk to health or safety, shall be establish, in accordance with the regulations of the Ministry of Public Health.

(2). The measures for the worker' health surveillance referred to in paragraph 1 shall be ensure by the employer, such that each worker which have an activity with risk to his health and/or safety, shall be able to undergo, relevant health surveillance, if appropriate:

a) prior to his exposure to the action of carcinogen or mutagen agents,

as well

b) at regular intervals thereafter the action of carcinogen or mutagen agents,

(3) Those measures for the worker' health surveillance are such that it is directly possible to implement individual and occupational hygiene special measures.

(4) If a worker is found to have a clinic sign which is suspected to be the result of exposure to carcinogen or mutagen agents, the occupational medicine doctor and/or the doctor which

has competence in the enterprise' medicine may require that other workers who have been similarly exposed to undergo health surveillance.

(5) In the event referred to in paragraph 4, a new assessment of the risk of exposure shall be carried out by the employer, in accordance with Article 6.

Art. 26. – (1) For each worker that health surveillance is carried out, an individual medical file must to be kept by the occupational medicine doctor or the doctor which has competence in the enterprise' medicine responsible.

(2) The occupational medicine doctor or the doctor which has competence in the enterprise' medicine responsible for health surveillance shall propose all protective or preventive measures to be taken in respect of each individual workers.

Art. 27. – The workers must receive information and advice regarding the health surveillance which they may undergo following the end of exposure.

Art. 28. – Workers shall have access to the results of the health surveillance which concern them.

Art. 29. – (1) The workers concerned or the employer may request a review of the results of the health surveillance.

(2) The price for the review refers to in paragraph 1 shall be paid by the petitioner.

Art. 30. – The practical recommendations for the health surveillance of workers are given in Annex no. 2, as well in the regulations of the Ministry of Public Health.

Section 2

Record keeping

Art. 31. – All cases of cancer identified as result of the occupational exposure to a carcinogen or mutagen agent shall be notified to the territorial public health authority.

Art. 32. – (1) The list referred to in Article 23(1) c) and the medical record referred to in Article 26(1) shall be kept for at least 40 years following the end of exposure.

(2) In case where the undertaking ceases activity, the documents refer to in paragraph 1 shall be transfer by the employer to the territorial public health authorities.

Chapter IV

Final provisions

Art. 33. – (1) Based on the available information about carcinogen and mutagen agents, including the existing scientific and technical data, as well the European Council Decisions, the limit values, the necessary guides in use or the adjustments refers to in Article 35(2) are set out by a commission of representatives from Ministry of Public Health and Ministry of Labor, Social Solidarity and Family, and also of specialists designated by this two ministries, if case.

(2) The commission refers to in paragraph 1 elaborates its own rules of procedures, which will be approved by a common order of the minister of public health and minister of labour, social solidarity and family.

(3) The commission refers to in paragraph 1, when considers it's necessary and it proves scientifically, could propose to the involved institutions to adopt other directly related provisions.

Art. 34. – The limit values refers to in Article 1(2) and Article 11, the other directly related provisions, and also the period that refers to in Article 5 point 3, are set out in Annex no.3.

Art. 35. – (1) The Annexes no.1 – no. 3 are part of this Decision.

(2) Purely technical adjustments of Annexes no.1 – no. 3 shall be approved by common order of the minister of public health and minister of labour, social solidarity and family.

Art. 36. – The uses made by the different involved institutions of the information referred to in Article 31 shall be kept at the European Commission's access.

Art. 37. – The studies carried out in this field, on the basis of information referred to in Article 31, as well as the uses refers to in Article 36, shall be sent to the Ministry of Labor, Social Solidarity and Family to be made available to the European Commission, in case of demand.

Art. 38. – Ministry of Labor, Social Solidarity and Family shall communicate to the Commission the provisions of national law which will be adopted in the future in the field governed by this Decision.

Art. 39. – The present decision enters in force on 1st of October 2006

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The present Decision transposes the provisions of the Directive no. 2004/37/EC regarding the protection of workers from the risks related to exposure to carcinogens or mutagens at work (the sixth specific directive as referred to in article 16, paragraph 1 of Directive 89/391/EEC), published in the Official Journal of European Communities (OJCE) no. L 158 of 30.04.2004.

Bucharest, 16 August 2006

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ANNEX No. 1

TYPES OF AGENTS

with carcinogen or mutagen action

A. List of substances, preparations and processes which may cause cancer (refers to in Article 5 (1) c)

1. Manufacture of auramine.

2. Works involving exposure to polycyclic aromatic hydrocarbons present in coal soot, coal tar or coal pitch.

3. Works involving exposure to dusts, fumes and sprays produced during the roasting and electro-refining of cupro-nickel mattes.
4. Strong acid process in the manufacture of isopropyl alcohol.
5. Work involving exposure to hardwood dusts. A list of some hardwoods is to be found in Volume 62 of the Monographs on the Evaluation of Carcinogenic Risks to Humans «Wood Dust and Formaldehyde», published by the International Agency for Research on Cancer, Lyon, 1995.

B. Other types of agents with carcinogen action

Physical agents:

- a) solar radiation in excess;
- b) ionising radiations.

ANNEX No. 2

PRACTICAL RECOMMENDATIONS for the health surveillance of workers

1. The occupational medicine doctor and/or the doctor which has competence in the enterprise' medicine responsible for the health surveillance of workers exposed to carcinogen or mutagen agents must be familiar with the exposure conditions or circumstances of each worker.
2. Health surveillance of workers must be carried out in accordance with the principles and practices of occupational medicine; it must include at least the following measures:
 - a) keeping records of a worker's medical and occupational history,
 - b) a personal interview,
 - c) where appropriate, biological surveillance, as well as detection of early and reversible effects.

Further tests may be decided upon for each worker when he is the subject of health surveillance, taking account of the most recent progress of the occupational medicine.

ANNEX no.3

Limit values and other directly related provisions

A. LIMIT VALUES FOR OCCUPATIONAL EXPOSURE

Name of agent	EINECS ¹	CAS ²	Limit values	Notation	Transitional
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¹ EINECS: European Inventory of Existing Chemical Substances

² CAS: Chemical Abstract Service Number.

			(mg/m ³) ³	(ppm) ⁴		measures
Benzene	200-753-7	71-43-2	3,25 ⁵	1 ⁵	Skin ⁶	-
Vinyl chloride monomer	200-831	75-01-4	7,77 ⁵	3 ⁵	-	-
Hardwood dusts	-	-	5,00 ^{5,7}	-	-	-

B. OTHER LIMIT VALUES FOR POWDERS

Nr. crt.	Name of substance	Limit value 8 hours	Notation
0	1	2	3
1.	Quartz (powder)	0,1 mg/m ³	Respirable fraction ⁷
2.	Cristobalit (powder)	0,05 mg/m ³	Respirable fraction ⁷
3.	Tridimit (powder)	0,05 mg/m ³	Respirable fraction ⁷
4.	Asbestos (fibers mixture, including the one that contains crisotil) (powder)	0,1 fibers/cm ³	Respirable fraction
5.	Glass wool (powder)	1 fiber /cm ³	Respirable fraction ⁷
6.	Rock wool (powder)	1 fiber /cm ³	Respirable fraction ⁷
7.	Furnace wool (powder)	1 fiber /cm ³	Respirable fraction ⁷
8.	Glass fibers for special purposes	1 fiber /cm ³	Respirable fraction ⁷
9.	Wood (softwood)	5 mg/m ³	Total fraction
10.	Cedar wood (powders)	0,5 mg/m ³	Total fraction

³ mg/m³ = milligrams per cubic meter of air at 20°C and 101,3 kPa (760 mm mercury pressure).

⁴ ppm = parts per million by volume in air (ml/m³).

⁵ Measured or calculated in relation to a reference period of eight hours.

⁶ Substantial contribution to the total body burden via dermal exposure possible.

⁷ Respirable (Inhalable) fraction: if hardwood dusts are mixed with other wood dusts, the limit value shall apply to all wood dusts present in that mixture.