



Peer Review on
"Legislation and practical management of psychosocial risks at work"
Stockholm (Sweden), 3-4 October 2019

Executive Summary

The Peer Review provided an opportunity to share experiences and information on the different legislative and enforcement approaches implemented by Member States to prevent and protect workers from psychosocial risks, particularly among micro, small and medium-sized enterprises (MSMEs). During the Peer Review participants also discussed how gender aspects and the self-employed are addressed within such approaches. The event was hosted by the Swedish Ministry of Employment and the Swedish Working Environment Authority (SWEA) and brought together government representatives and independent experts from the host country and nine additional countries, namely Austria, Belgium, Denmark, Estonia, France, Germany, Ireland, Lithuania and Slovenia. Representatives from the European Commission, the European Agency for Safety and Health at Work (EU-OSHA), the Senior Labour Inspectors' Committee (SLIC) and social partners were also present.

According to EU-OSHA¹, psychosocial risks arise from unfavourable overall work design, organisation and management, as well as poor social context of work. Such risks can result in negative psychological, physical or social outcomes. In addition, workers face risks related to work-related stress that arise when there is a mismatch between job demands and available resources. Psychosocial risks and work-related stress are among the most challenging issues in the occupational safety and health area at the moment. They impact significantly on the health of individuals but also on organisations and national economies (through sickness absence, health care costs and productivity losses). In Europe, 25% of workers experience work-related stress for all or most of their working time, 80% of managers are concerned about work-related stress and 20% express a concern about violence and harassment. Nonetheless, less than a third of enterprises implement measures to prevent and overcome psychosocial risks at work.

Exposure to psychosocial risks varies across sectors and occupations and also differ by gender. For example, psychosocial risks affect more workers in traditionally female-dominated sectors (e.g. education, health care) and occupations. Moreover, there is a challenge in ensuring that micro and small enterprises have the capacity and resources to put in place effective and efficient risk prevention measures.

The Framework Directive 89/391/EEC on Safety and Health of Workers at Work lays down employers' general obligations to ensure workers' health and safety regarding work, addressing and managing all types of risk, including psychosocial risks. However, the Directive is meant as a framework, giving the Member States the space for more detailed specification at national level to enable them to follow an approach that best suits their national situation. Accordingly, the degree to which psychosocial risks are included or explicitly mentioned in the OSH legislation of the Member States varies significantly².

¹ EU-OSHA (2013). E-guide to managing stress and psychosocial risks. Available at: <https://osha.europa.eu/en/tools-and-publications/e-guide-managing-stress-and-psychosocial-risks>

² Eurofound and EU-OSHA (2014). Psychosocial risks in Europe: Prevalence and strategies for prevention. Luxembourg: Publications Office of the European Union

Several Directives complement the Framework Directive in order to target more specific aspects of safety and health at work. In addition to these regulatory instruments, a number of soft law initiatives have been developed and implemented at the EU level such as the framework agreement on "work-related stress" (2004) and the framework agreement on "harassment and violence at work" (2007).

More recently, in 2017, the European Commission adopted the Communication on "Safer and Healthier Work for All – Modernisation of the EU Occupational Safety and Health Legislation and Policy". The Commission Communication recognised that psychosocial risks and work-related stress are among the most challenging – and growing – occupational safety and health concerns, and that they can have serious impacts on workers' productivity.

The host country, Sweden, has been focusing on psychosocial risks at work since 1978 when the Work Environment Act was first introduced. Since its adoption, the Work Environment Act has been complemented with a range of additional initiatives, including guidance documents and additional regulations. For example, general guidance on psychological and social aspects of the working environment was issued in 1980. In addition, specific regulations were issued on victimisation at work and on systematic work environment management during the 1990s and the early 2000s. More recently, SWEA issued regulations on the organisational and social work environment in 2015 (implemented in 2016). This new regulation represented a paradigm shift in Sweden. The concept of psychosocial risk was abandoned, as it is often perceived as too individualised, and instead the concept of organisational and social work environment was introduced. Sweden is also at the forefront of integrating a gender perspective in the assessment and monitoring of the organisational and social work environment.

The key policy messages from the Peer Review can be summarised as follows:

Challenges and success factors in the implementation and enforcement of legislation in relation to psychosocial risks at work

- The structure and content of work has changed dramatically in recent decades. Not only has the sectoral and occupational structure drastically changed towards more knowledge-intensive services, but the work tasks within occupations have also changed. It now involves greater interaction with customers, more computer use/information processing and increased social and cognitive complexity/load. Changes in the structure and content of work has led to work intensification, new work patterns and new forms of employment. These changes create new psychosocial challenges that call for an increased focus on approaches to prevent exposure to psychosocial risks.
- There are different legislative and enforcement approaches to address psychosocial risks. This diversity reflects the varying national situations and contexts and highlights that there is no unique model to address this issue. There is, however, a common view that there is a need to support the application of the legal requirements in relation to psychosocial risks. In particular, there is a need to ensure continuous dialogue with relevant stakeholders, raise awareness and provide guidelines and supporting tools for inspectors, employers and employees.
- One of the most important challenges in the implementation and enforcement of legislation in relation to psychosocial risks is the lack of knowledge and expertise among managers, safety representatives and inspectors. Employers need further support in order to obtain the right information and understand what actions should be taken.

<https://osha.europa.eu/en/tools-and-publications/publications/reports/psychosocial-risks-eu-prevalence-strategies-prevention/view>

- Moreover, to overcome the social stigma of mental health problems, address the knowledge gaps and provide a safe work environment, there is a need to demystify the concept of psychosocial hazards and risks. This can be done through large-scale information campaigns to raise awareness, as well as supportive guidance documentation and smaller-scale workshops and events to provide practical support.
- To gain legitimisation and successfully implement and enforce legislation in relation to psychosocial risks, dialogue between relevant stakeholders, including employer organisations, trade unions and public authorities, is critical. Social partners have an important role in shaping policies as well as ensuring effective implementation. A dialogue between relevant stakeholders can also help in terms of developing a common language which will help demystify psychosocial risks.
- To effectively assess and manage risk factors, there is a need for clear objectives from the authorities and clear key performance indicators to monitor change. Notably, top-level direction from the government and/or its authorities can facilitate and inspire bottom-up approaches and solutions.
- Employers are best placed to develop and implement measures to prevent and manage psychosocial risks. There is no scientific support for specific solutions to be imposed on employers. However, employers need information and tools to conduct risk assessment and implement suitable measures. These tools should be free of charge, easy to use and available online. They could also be used to bridge the gap between risk assessment and risk management.
- Another challenge identified by the participants is the difference between individual and organisational perspectives regarding psychosocial risks. A big change in Sweden has been the shift away from an individual perspective to the organisational and social work environment. This change has made it much more concrete for employers and safety representatives in Sweden to handle the preventive work.
- Addressing psychosocial risks at work should be an integral part of the business culture and strategy and should be seen as an investment supporting the productivity and sustainability of enterprises. However, when making the business case for addressing psychosocial risks at work it is important to make it relatable to all stakeholders. For example, it should not only focus on productivity gains but also on well-being aspects. A shift towards a more positive approach and language could lead to a more constructive attitude in relation to psychosocial risks and work-related stress.

Addressing gender aspects and the self-employed within legislative and enforcement approaches

- Participating countries have different approaches to address gender aspects and the self-employed in relation to psychosocial risks.
- Gender aspects are not typically addressed within legislative and enforcement approaches, but they are usually covered by legislation related to discrimination. Some countries have developed more specific and in-depth approaches to address gender aspects, including Sweden and Austria (through MEGAP), whilst other countries focus more on particular female-dominated sectors and occupations (e.g. Ireland and Denmark).
- Addressing gender aspects has become even more important as a result of the increasing proportion of women in the workforce. In order to be effective, OSH legislation, implementation and enforcement need to be based on accurate information about the relationship between psychosocial risks and gender roles. Introducing a gender perspective in the legislation and enforcement is not be about

favouring a specific gender, but rather to ensure equality and that the work environment is adapted to both genders.

- A gender-neutral approach results in less attention and resources for the prevention of psychosocial risks affecting women. As such, there is an argument that employers need knowledge about the role gender has in organisations in order to be able to reveal the structures that drive health/ill-health. Moreover, women and men work within different sectors with different pre-requisites and different occupational health and safety risks. A deeper understanding of OSH risks affect female and male workers is a first step to a gender mainstreaming approach.
- Rather than focusing exclusively on gender aspects, it was also recognised that it may necessary to consider diversity aspects more broadly, by also covering age and other demographic characteristics. Labour inspectors and safety representatives should be well trained to take into consideration the particularities of different groups of workers (e.g. young people, older workers, women and disabled). In response to this, SLIC recently published a guide document to help national labour inspectorates develop inspection procedures and to increase the confidence of labour inspectors when addressing diversity-sensitive risk assessment. Also, it is intended to enhance the effectiveness of labour inspectors' workplace interventions, particularly regarding age and gender issues³.
- The self-employed as a group are not typically covered by OSH legislation (with the exception of Ireland), but they may be covered under certain contractual work arrangements (including within the construction sector). It is important to acknowledge that the self-employed is an increasingly diverse group, with new forms of self-employment (including bogus self-employment) being created as a result of new technologies and new ways of organising work. Future legislative and enforcement approaches will need to reflect this growing segment of the labour market. Given the diversity among the self-employed, an important first step is to gain a better understanding of the composition of the self-employed as a group and how, and through which channels, they can be protected from psychosocial risks.
- One potential advantage of including the self-employed in OSH legislation would be that it would offer a basic level of protection for both workers and the self-employed. Nevertheless, there was also a view that adding a new group to OSH legislation could have an impact on the existing legislation which is founded on a traditional employer and employee relationship. Furthermore, it would be necessary to involve additional social partners, representing the self-employed, which could create a new dynamic within the social dialogue.

Main elements or success factors to raise awareness about the enforcement of legislation in the context of psychosocial risks at work and engage enterprises

- There are already a range of information and tools available to employers and labour inspectorates in relation to psychosocial risks. However, more can be done in terms of integrating psychosocial risks in existing risk assessment tools and promoting good practices/examples. Moreover, in order to effectively disseminate the information and tools that are available, there is scope for local and national events, workshops, roadshows and networks to be established/extended. It was also noted by a few participants that OSH, including in relation to psychosocial risks, should become a more integral part in the education and training system (including for HR managers and in secondary/tertiary education).

³ SLIC WG EMEX. Principles for labour inspectors with regard to diversity-sensitive risk assessment, particularly as regards age, gender, and other demographic characteristics - Non-binding publication for EU labour inspectors

- Establishing effective communication channels is essential to ensure that employers and inspectors have all the information that they need to fulfil their roles and responsibilities. Employers also need to be better informed about the purpose and the focus of labour inspections before the actual inspection happens. A more focussed and thematic approach is an important element for successful inspections.
- New companies should receive a “road map” or a “how-to” information package to help them with the implementation of measures to prevent psychosocial risks. Providing information could be also accompanied by online training on OSH issues.
- Cooperation and continuous dialogue between stakeholders and relevant actors are a steppingstone to raise awareness and engage more enterprises. Large scale information campaigns (including through videos/films) can raise awareness about OSH and psychosocial risks more widely, whilst bespoke events, workshops, roadshows, awards and networks can provide more practical guidance and support.
- Reaching out to and engaging enterprises, particularly micro and small enterprises, has proven to be challenging. Microenterprises and SMEs often do not have the necessary information and resources to address psychosocial risks. In this regard, making better use of multipliers/influencers, such as local employer organisations, accountants, customers, suppliers and local business networks, was identified as an important success factor for outreach and effective and efficient implementation and enforcement. It was also noted by some participants that a “think local” approach is often more appropriate when reaching micro and small enterprises. Funding for OSH initiatives and measures targeting microenterprises and SMEs can be secured through EU funds (e.g. ESF+).
- Microenterprises and SMEs are not a homogenous group and the challenges faced in relation to psychosocial risks cannot be addressed using a single approach. Information packages and tools therefore need to be tailored in order to better engage microenterprises and SMEs. More intensive inspections can contribute to further engagement and implementation of OSH measures.