European Commission

Peer Review on "Legislation and practical management of psychosocial risks at work"

Thematic Discussion Paper

A critical evaluation of the EU policy context

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DG Employment, Social Affairs and Inclusion

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1   Introduction: Prevalence and impact of psychosocial risks at work

Psychosocial hazards are aspects of work organisation, design and management that have the potential to cause harm on individual health, safety and well-being. They have also been found to lead to other adverse organisational outcomes such as sickness absence, reduced productivity or human error. Psychosocial risk refers to the potential of psychosocial hazards to cause harm[1]. According to the European Agency for Safety and Health at Work (EU-OSHA)[2], psychosocial risks relate to the negative psychological, physical and social outcomes that arise from unfavourable organisation and management in the workplace, as well as a poor social context at work, including, but not limited to:

- excessively demanding work and/or not enough time to complete tasks;

- conflicting demands and lack of clarity over the worker's role;

- a mismatch between the demands of the job and the worker's competency — underusing a worker's skills can be a source of stress just as much as overstretching them;

- a lack of involvement in making decisions that affect the worker and a lack of influence over the way the job is done;

- working alone, especially when dealing with members of the public and clients, and/or being subject to violence from a third party, which may take the form of verbal aggression, unwanted sexual attention or the threat of or actual physical violence;

- a lack of support from management and colleagues, and poor interpersonal relationships;

- psychological or sexual harassment and bullying in the workplace — the victimising, humiliating, undermining or threatening behaviour of supervisors or colleagues towards an employee or group of employees;

- an unjust distribution of work, rewards, promotions or career opportunities;

- ineffective communication, poorly managed organisational change and job insecurity; and

- difficulties in combining commitments at work and at home.

Work-related stress is closely associated to exposure to psychosocial hazards. It is the response people may have when presented with work demands and pressures that are not matched to their knowledge and abilities and which challenge their ability to cope[3]. EU-OSHA states that "[p]eople experience stress when they perceive that there is an imbalance between the demands made of them and the resources, they have available to cope with those demands". In the framework agreement on work-related stress[4], stress is defined as a state, which is accompanied by physical, psychological or social

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[1] British Standards Institution (2011). PAS1010: Guidance on the management of psychosocial risks in the workplace. London: BSI. http://www.mtpinnacle.com/pdfs/Guidance-on-the-management-of-psychosocial-risks-in-the-workplace-1.pdf

[2] 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

[3] World Health Organization (2003). Work organization and stress. Protecting workers' health series, no. 3. Geneva: WHO. Available at: http://www.who.int/occupational_health/publications/stress/en/index.html

[4] European Social Partners (2004). Framework Agreement on Work-related Stress. Available at: https://osha.europa.eu/data/links/framework-agreement-on-work-related-stress

complaints or dysfunctions and which results from individuals feeling unable to bridge a gap with the requirements or expectations placed on them. The European Survey of Enterprises on New and Emerging Risks (ESENER)[5,6], showed that within the European Union (EU), nearly 80% of managers express a concern about work-related stress, and nearly one in five considers violence and harassment to be of major concern. Despite these concerns, fewer than one-third of establishments have procedures in place to deal with such risks.

A joint report on psychosocial risks in Europe by the European Foundation for the Improvement of Living and Working Conditions (Eurofound) and EU-OSHA[7], highlighted that 25% of workers say they experience work-related stress for all or most of their working time, and a similar proportion reports that work affects their health negatively. Furthermore, 4% of workers report having been subjected to bullying or harassment in the previous year; 2% report having been subjected to physical violence; and around 1% say they were subjected to sexual harassment. When looking at the prevalence of specific risks, it turns out that the most prevalent are those related to the type of tasks carried out (such as monotonous or complex tasks) and work intensity (such as working to tight deadlines or at high speed). Around half of the European workforce is exposed to some of these risks. Many workers report being affected by specific working time arrangements: one-third report working irregular schedules and one-fifth report working long hours.

In terms of sectoral and occupational differences, work intensity was found to be higher among workers in certain occupations, covering a broad range from plant and machine operators in industry to managers in financial services. The workers most affected by monotonous tasks are those at lower occupational levels, whereas managers and professionals more often report carrying out complex tasks, which can lead to the experience of stress, especially if they lack the appropriate competences. There are large differences between sectors in terms of emotional demands, with only a small percentage of workers in agriculture reporting that they have to hide their feelings, compared with a fairly large proportion of workers in health (38%). Psychosocial risks are of greatest concern to managers in the health and social work sector, followed by education. In general, it was found that companies in those sectors where psychosocial risks are of higher concern for employers also have more measures and procedures in place to deal with them[8].

With regard to age differences, young workers report better conditions in terms of social support and career prospects. However, they have a greater need for further training to cope with their duties, and they more often report job insecurity. Older workers, on the other hand, report better work–life balance, less irregular work schedules and lower work intensity[9].

Gender differences were found in exposure to psychosocial risks: for instance, women face more difficulties in relation to handling angry clients and career prospects. However, the comparative situation between men and women is more complex as

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[5] EU-OSHA (2010). European Survey of Enterprises on New and Emerging Risks: Managing safety and health at work. Luxembourg: Office for Official Publications of the European Communities. https://osha.europa.eu/en/tools-and-publications/publications/reports/esener1_osh_management/view

[6] EU-OSHA (2015). Second European Survey of Enterprises on New and Emerging Risks (ESENER-2). Luxembourg: Publications Office of the European Union. https://osha.europa.eu/nl/tools-and-publications/publications/second-european-survey-enterprises-new-and-emerging-risks-esener

[7] Eurofound and EU-OSHA (2014). Psychosocial risks in Europe: Prevalence and strategies for prevention. Luxembourg: Publications Office of the European Union. Available at: https://www.eurofound.europa.eu/publications/report/2014/eu-member-states/working-conditions/psychosocial-risks-in-europe-prevalence-and-strategies-for-prevention

[8] Ibid.

[9] Ibid.

regards other risks. More men are exposed to working long hours (more than 48 hours), and a larger share of women work very short hours (less than 20 hours). In most countries, men report a slightly higher level of work intensity than women, for example in relation to working at very high speed. Men also have a slightly higher level of autonomy. Men in agriculture, transport, other services, financial services and health experience a high degree of irregularity in working hours, while women in public administration, construction and industry report low irregularity. Data show that some 18% of workers indicate they have problems with work–life balance and on average men (21%) have more difficulties than women (16%)[10].

Verbal abuse is quite prevalent in the workplace, with 11% of workers reporting having experienced it within the previous month. Humiliating behaviour occurs less frequently, with 5% of workers reporting having been humiliated or threatened in the previous month. Unwanted sexual attention is the least prevalent form of adverse social behaviour, being reported by just 2% of workers, with women twice as likely as men to have received unwanted sexual attention. In health and education (sectors where female workers are in the majority), men are more likely than women to report having been subjected to adverse social behaviour; however, the same pattern is found in construction, which has more male workers. In agriculture and financial services, on the other hand, more women than men report having been subjected to adverse social behaviour[11].

Women are slightly more likely to report issues related to health and well-being, apart from the negative effect of work on health (of either a physical or psychosocial origin), which men (27%) are more likely to report than women (22%). For work-related stress, there is little difference in terms of gender: 27% of women and 26% of men report having that problem always or most of the time. Sleeping disorders are reported by 20% of women and 16% of men, and musculoskeletal disorders are experienced by 61% of women and 58% of men. Women are more likely to suffer from poor mental well-being (22%) than men (17%). As is the case with musculoskeletal disorders, the prevalence of poor mental well-being is higher among lower-skilled workers and it increases with age. Furthermore, lower percentages of workers with poor mental well-being are reported in Denmark (7%), Ireland (9%) and Spain (9%) and higher percentages in Lithuania (41%), the Czech Republic (32%), Latvia (32%) and Croatia (31%)[12].

A Eurofound[13] report on burnout in the workplace reported that the prevalence of burnout is more frequent among women than among men. While some work-related factors – such as exposure to psychosocial risks including heavy workload, long working hours and overtime – have been found to trigger burnout, the influence of other factors, such as autonomy, the degree of influence of management and the role of rewards, is more ambiguous, according to the results of different studies.

The 2014 Eurofound and EU-OSHA report[14] also highlights that almost half of European workers work in a small or medium-sized enterprise (SME): 28% work in a company of 10–49 employees, while 18% work in a company with 50–249 employees. SMEs are exposed to psychosocial risks, but to different extents depending on the

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[10] Ibid.

[11] Ibid.

[12] Ibid.

[13] Eurofound (2018). Burnout in the workplace: A review of data and policy responses in the EU. Luxembourg: Publications Office of the European Union.
https://www.eurofound.europa.eu/publications/report/2018/burnout-in-the-workplace-a-review-of-data-and-policy-responses-in-the-eu

[14] Eurofound and EU-OSHA (2014). Psychosocial risks in Europe: Prevalence and strategies for prevention. Luxembourg: Publications Office of the European Union.
https://osha.europa.eu/en/tools-and-publications/publications/reports/psychosocial-risks-eu-prevalence-strategies-prevention

psychosocial factor in question. Large companies are more likely to experience organisational changes, and the work can involve more complex tasks and, to some extent, more intensity. Nevertheless, bigger companies have better conditions in terms of skills to cope with the work, career prospects and job security. On the other hand, SMEs present better conditions in terms of more regular working time, but workers have fewer opportunities to influence their working time.

The biggest group of European workers (42%) work in microenterprises (with between 1 and 9 employees) and only 12% work in large companies (with more than 250 workers). Self-employed workers represent 33% of workers in microenterprises, while their number is almost negligible in aggregate data for bigger companies. Self-employed people without employees constitute 11% of the workforce, while 4% are self-employed with employees. Job autonomy is greater in microenterprises than in large companies, while work intensity rises slightly with establishment size. The increased autonomy in smaller companies is a result of the large proportion of self-employed people in these companies. Due to the large proportion of self-employed workers in microenterprises, more than double the percentage of workers in these companies work long hours (more than 48 hours) in comparison with workers in larger establishments. However, employees in SMEs are to some extent less exposed to working irregular hours than workers in large companies[15].

The working time pattern of the self-employed might influence the percentage reporting poor work–life balance: 22%, against 18% of employees. Despite these findings, there is no relevant difference by workplace size in terms of the extent to which workers are able to reconcile work and private life. Interestingly, self-employed workers are less affected by job insecurity (10%) than employees, and a higher percentage of self-employed people report doing useful work (92%) than the workforce average. When looking at self-employment, it is clear that, overall, the self-employed report somewhat better health and well-being than employees. Interestingly, the largest differences are found for the indicators of work ability: absenteeism and the ability to do the job at the age of 60 years. No significant effects are found for musculoskeletal disorders, poor mental well-being and work-related stress[16].

A report from EU-OSHA[17] on key trends and drivers of change in information and communication technologies and work location has forecasted that information and communication technologies (ICT), including ICT-enabled technologies (ICT-ETs) such as robotics and artificial intelligence (AI), are likely to have major impacts on the nature and location of work over the next ten years, referring to them as a "fourth industrial revolution". Occupational safety and health impact of trends and drivers of change in ICT and work location include mainly psychosocial risks (e.g. relating to the emotional and cognitive load associated with the 24/7 economy, permanent connectivity, loss of traditional working hierarchies and social interaction at work) and ergonomic risks (e.g. relating to the increase in the use of mobile devices and new human-machine interfaces). Issues such as work-related stress are expected to rise. Bullying and discrimination and whether the new types of jobs and working patterns will provide sufficient employment to provide workers with a living wage are additional concerns. There is also increasing workforce diversity, as reflected in new atypical contractual arrangements and work patterns, and a higher job turnover associated with shorter job assignments, especially for younger workers.

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[15] Ibid.

[16] Ibid.

[17] EU-OSHA (2017). Key trends and drivers of change in information and communication technologies and work location. Luxembourg: Publications Office of the European Union. Available at: https://osha.europa.eu/en/tools-and-publications/publications/key-trends-and-drivers-change-information-and-communication

Available evidence indicates that 50-60% of all lost working days can be attributed to work-related stress and psychosocial risks. It accounts for around half of lost working days as the absences are relatively long. Stress causes reduced performance at work and can lead to five times more accidents. About a fifth of staff turnover is related to stress at work[18]. In a review of studies that examined the total cost of work-related stress to society, Hassard and colleagues[19] reported that the estimated cost of work-related stress ranged from USD 221.3 million to upward of USD 187 billion (presented figures inflated to 2014 US dollars; EUR 166 million to upward EUR 140 billion) across identified studies from different regions of the world; with the projected cost per working person ranging from USD 17.79 to upward of USD 1 211.84 (EUR 13.11 to upward of EUR 909), while in the United Kingdom (UK), losses due to work-related stress, depression or anxiety amounted to the equivalent of 9.9 million days, representing 43% of all working days lost due to ill-health during the period 2014/2015. A study concluded that the "social cost" of just one aspect of work-related stress (job strain) in France amounts to at least EUR 2-3 billion, taking into account healthcare expenditure, spending related to absenteeism, people giving up work, and premature deaths[20]. The total costs of coronary heart disease and mental disorders attributable to job strain exposure ranged from EUR 1.8-3 billion, where medical costs accounted for 11% of the total costs, value of life costs accounted for 13-15% and sick leave costs for 74-77%[21].

A report prepared by Matrix[22] examined the cost-effectiveness of different types of interventions focusing on mental health promotion and mental disorder prevention in the workplace, including improvements in the work environment, stress management and psychological treatment. The findings based on figures obtained in selected European countries show that every 1 euro of expenditure in promotion and prevention programmes generates net economic benefits over a one-year period of up to EUR 13.62.

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[18] https://osha.europa.eu/en/themes/psychosocialrisks-and-stress
[19] Hassard, J., Teoh, K., Visockaite, G., Dewe, P., and Cox, T. (2017). The cost of work-related stress: a systematic review. Journal of Occupational Health Psychology, 23 (1), 1-17. https://www.researchgate.net/publication/313480340_The_cost_of_work-related_stress_a_systematic_review
[20] Sultan-Taïeb, H., Chastang, J. F., Mansouri, M., and Niedhammer, I. (2013). The annual costs of cardiovascular diseases and mental disorders attributable to job strain in France. BMC Public Health, 13, 748. https://www.ncbi.nlm.nih.gov/pubmed/23941511
[21] Trontin, C., Lassagne, M., Boini, S., and Rinal, S. (2007). Le coût du stress professionnel en France en 2007. INRS, Paris Tech. Available at: www.inrs.fr/dms/inrs/PDF/cout-stress-professionnel2007/cout-stress
[22] Matrix Insight (2013). Economic analysis of workplace mental health promotion and mental disorder prevention programmes and of their potential contribution to EU health, social and economic policy objectives, Matrix Insight, Research commissioned by the European Agency for Health and Consumers. Available at:
http://ec.europa.eu/health/mental_health/docs/matrix_economic_analysis_mh_promotion_en.pdf

2   The EU legal context on psychosocial risks

Article 151 of the Treaty on the Functioning of the European Union (TFEU)[23] states that Member States should work towards the promotion of employment and the improvement of working conditions. Ensuring the health and well-being of workers throughout their working lives is a prerequisite to achieving the Europe 2020 objective to increase employment across the EU. 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 all types of risk. Psychosocial risks and their management are among employers' responsibilities as stipulated in the Framework Directive 89/391/EEC as it obliges employers to address and manage all types of risk in a preventive manner, to implement preventive measures to guard against occupational accidents and diseases and to establish health and safety procedures and systems to do so. 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 legislation of the Member States varies significantly[24].

To target more specific aspects of safety and health at work, a series of individual directives were also adopted, although the Framework Directive continues to apply to all areas of work. Where the provisions in individual directives are more specific and/or stringent, these provisions prevail. Individual directives tailor the principles of the Framework Directive to specific tasks, specific hazards at work, specific workplaces and sectors, specific groups of workers, and certain work-related aspects. The individual directives define how to assess these risks. Any requirement established in individual directives are the minimum requirements deemed necessary to protect workers; however, Member States are allowed to maintain or establish higher levels of protection. Table 1 in Annex 1 shows occupational safety and health (OSH) hard law instruments of relevance to psychosocial risks.

It should also be mentioned that there are a number of additional directives that are indirectly related to psychosocial risks. For example, Directive 2000/78/EC establishes a general framework for equal treatment in employment and occupation. The purpose of the Directive is to lay down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, with a view to putting into effect in the Member States the principle of equal treatment. A European Commission report[25] published in 2014 provides a comprehensive list of directives and other hard law instruments of relevance to work-related psychosocial risks.

Furthermore, ILO Conventions are also legally binding instruments when ratified by countries. Apart from the Occupational Safety and Health Convention C155 and Promotional Framework for Occupational Safety and Health C187, the ILO adopted convention C190 concerning the elimination of violence and harassment in the world of work in 2019. A non-binding recommendation on the same matter was also adopted by ILO together with the abovementioned Convention.

Apart from hard law, i.e. legally binding instruments such as EU legislation, Directives, decisions, national pieces of legislation and ILO conventions, a number of non-

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[23] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:12012E/TXT
[24] Eurofound and EU-OSHA (2014). Psychosocial risks in Europe: Prevalence and strategies for prevention. Luxembourg: Publications Office of the European Union
https://osha.europa.eu/en/tools-and-publications/publications/reports/psychosocial-risks-eu-prevalence-strategies-prevention/view
[25] European Commission (2014). Evaluation of policy and practice to promote mental health in the workplace in Europe. European Commission, Directorate General for Employment, Social Affairs and Inclusion. Available at: https://ec.europa.eu/social/main.jsp?catId=716&langId=en

binding/voluntary or soft law policies of relevance to psychosocial risks have been developed. These include recommendations, resolutions, opinions, proposals, conclusions of EU institutions (Commission, Council, Parliament), the Committee of the Regions and the European Economic and Social Committee, as well as social partner agreements and frameworks of actions, and specifications, guidance, campaigns etc. initiated by recognised European and international committees, agencies and organisations, as well as voluntary standards adopted by businesses and civil society. While hard law clearly delineates employer legal obligations, soft law offers additional guidance and tools to implement good practice. The aforementioned European Commission report published in 2014 provides a comprehensive list of soft law instruments of relevance to work-related psychosocial risks[26].

Two key soft law instruments that have been developed within the context of European social dialogue are the framework agreements on "work-related stress"[27] and "harassment and violence at work"[28]. These agreements were signed by the European social partners and represent their recognition of the importance of psychosocial risks and their commitment to the development and application of the content of the agreements at national level.

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[26] European Commission (2014). Evaluation of policy and practice to promote mental health in the workplace in Europe. European Commission, Directorate General for Employment, Social Affairs and Inclusion. Available at: https://ec.europa.eu/social/main.jsp?catId=716&langId=en

[27] European Social Partners (2004). Framework Agreement on Work-related Stress. Available at: https://osha.europa.eu/data/links/framework-agreement-on-work-related-stress

[28] European Social Partners (2007). Framework Agreement on Harassment and Violence at Work. Available at: https://www.etuc.org/en/framework-agreement-harassment-and-violence-work

3   Implementation of EU hard and soft law

The European Commission first published a report on the "Practical Implementation of the Provisions of the Health and Safety at Work Directives" in 2004 [29], indicating that EU legislation has had a positive influence on national standards for occupational safety and health. However, it was also highlighted that there was hardly any consideration of psychosocial risk factors and work organisational factors. The findings of the evaluation indicated that much still needed to be done as regards psychosocial risks such as work control and work organisation, preventing unreasonably intense work pace and repetitive work. Less awareness of the obligations stipulated in OSH legislation and compliance action were also found among SMEs.

In 2017, a second evaluation of OSH Directives "Ex-post Evaluation of the European Union Occupational Safety and Health Directives" [30] was published. The review found that since the Framework Directive covers all workplaces and all risks, it remains relevant. Compliance with the Framework Directive provisions is good among undertakings in the Member States. Higher compliance is registered for large establishments than for SMEs. This is a finding that goes for the OSH acquis as a whole, but also a finding that should be seen in the context that SMEs and microenterprises in all Member States make up the majority of the enterprises. This good level of compliance is encouraged by a number of accompanying actions taken at both Member States level and EU level to encourage the achievement of the safety and health targets of the Framework Directive. These include guidance documents, support tools, awareness-raising campaigns, education and training activities, and financial incentives. However, there are indications of information gaps, particularly for SMEs, and of uncoordinated and unsystematic information. Furthermore, all Member States enforce the Framework Directive provisions through competent enforcement authorities and through criminal and administrative sanctions.

However, it was also found that it is not always clear what role some of the provisions of the Framework Directive play where no more specific implementing provisions have been developed, particularly in the context of constantly changing organisational settings, technological developments and scientific advances. Consequently, a need was identified to consider how to ensure clear, better understood and more effective outcomes from the application of the Framework Directive.

A key area identified in which further action at the EU level is recommended is psychosocial risks. There is widespread recognition and acceptance that such risks are a major cause of absence from work within all Member States and that they have a significant, wider impact on the well-being of workers. However, although a need for action is generally accepted, there is presently no consensus on the form and direction of such action. Nevertheless, it is clear that a dialogue needs to be initiated between

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[29] European Commission (2004). Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions on the practical implementation of the provisions of the Health and Safety at Work Directives 89/391 (Framework), 89/654 (Workplaces), 89/655 (Work Equipment), 89/656 (Personal Protective Equipment), 90/269 (Manual Handling of Loads) and 90/270 (Display Screen Equipment) (COM(2004) 62 final). https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52004DC0062
[30] European Commission (2017). Commission Staff Working Document: Ex-post evaluation of the European Union occupational safety and health Directives. SWD(2017) 10 final.https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwj_-4-j55XkAhVBUKwKHf1BC6MQFjAAegQIABAC&url=https%3A%2F%2Fec.europa.eu%2Fsocial%2FBlobServlet%3FdocId%3D16875%26langId%3Den&usg=AOvVaw3RtqDtLt3e58MUjwKXpg2M

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stakeholders on how best to address this issue. The evaluation report recommends that the Framework Directive addresses this topic in a future revision[31].

While psychosocial risks are covered by the Framework Directive, clarification is needed on what this means and the corresponding obligations for Member States and employers. While there is no EU OSH Directive which lays down detailed provisions on psychosocial risks, the Framework Directive covers such risks and there is a reference to mental stress in the Display Screen Equipment (DSE) Directive (90/270/EEC). The analysis of compliance shows some difficulties that establishments face in including these types of risks in risk assessments. It was concluded that further analysis and discussion would be required to establish whether and if further action would be necessary, and at what level. It would be important to analyse the situation at national level and to examine the effectiveness of existing national, sectorial and/or enterprise level initiatives to address these risks. At EU level, awareness raising activities and practical guidance e.g. by the EU-OSHA have shown promising results to date[32].

It is interesting to note that similar findings were reported in a report published in 2014 by the European Commission[33] that included the consideration of future scenarios of OSH policy making in the area of psychosocial risks. No clear agreed position emerged in that study either. However, the importance of clarifying EU legal obligations in this area was favoured. Following this review and consultation across Europe, and in order to address the issue of lack of awareness and understanding of the implementation of the Framework Directive 89/391/EEC in relation to psychosocial risks and mental health in the workplace, the European Commission published an interpretative document of legal obligations in 2014[34].

The latest review of OSH directives also highlighted that the scope of the Framework Directive could be considered in relation to the inclusion of self-employed and in particular those self-employed working alongside workers. Furthermore, trends such as an aging workforce, higher employment rates for women, more migrant workers, and more workers with temporary contracts suggest an increased need for addressing the specific issues affecting vulnerable groups. Similar points were raised both in the "EU Strategic Framework on Health and Safety at Work 2014-2020" [35], and the European Commission 2017 Communication "Safer and Healthier Work for All - Modernisation of the EU Occupational Safety and Health Legislation and Policy" [36].

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[31] COWI (2015). Evaluation of the Practical Implementation of the EU Occupational Safety and Health (OSH) Directives in EU Member States. Report by Directive: Directive 89/391/EEC on the Introduction of Measures to Encourage Improvements in the Safety and Health of Workers at Work. DG Employment, Social Affairs and Inclusion. Available at:
http://ec.europa.eu/social/BlobServlet?docId=16935&langId=en
[32] Ibid.
[33] European Commission (2014). Evaluation of policy and practice to promote mental health in the workplace in Europe. European Commission, Directorate General for Employment, Social Affairs and Inclusion. Available at: https://ec.europa.eu/social/main.jsp?catId=716&langId=en
[34] European Commission (2014). Interpretative document on the implementation of Council Directive 89/391/EEC in relation to mental health in the workplace. Available at:
https://osha.europa.eu/en/legislation/guidelines/interpretative-document-implementation-council-directive-89391eec-relation
[35] European Commission (2014). EU Strategic Framework on Health and Safety at Work 2014-2020. COM(2014) 332 final. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0332
[36] European Commission (2017). Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions on Safer and Healthier Work for All - Modernisation of the EU Occupational Safety and Health Legislation and Policy. COM(2017) 12 final. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2017:012:FIN

As concerns soft law, participants in European social dialogue – ETUC (trade unions), BUSINESSEUROPE (private sector employers), UEAPME (small businesses), and CEEP (public employers) - have concluded a number of "voluntary" or autonomous agreements including framework agreements on "work-related stress" (2004)[37], and "harassment and violence at work" (2007)[38]. An autonomous agreement signed by the European social partners creates a contractual obligation for the affiliated organisations of the signatory parties to implement the agreement at each appropriate level of the national system of industrial relations instead of being incorporated into a directive. Social partners then have to report implementation activities in each EU country to the European Commission. The European Commission published its "Report on the Implementation of the European Social Partners' Framework Agreement on Work-related Stress" in 2011 [39]. Table 2 in Annex 1 presents the key findings of this report. In summary, the main activities that followed the signing of the agreement were its translation in national languages and its use as an awareness raising tool. It is also interesting to note that additional activities took place mostly in countries where there was already high awareness in relation to the issue of work-related stress. The implementation of the agreement was reported to be a significant step forward and added real value in most Member States while some shortcomings in coverage, impact of measures, and the provision of a comprehensive action-oriented framework were identified[40].

Furthermore, the European Commission published the results of a study on the implementation of the autonomous framework agreement on "harassment and violence at work" in 2016[41]. Table 3 in Annex 1 presents a summary of key milestones achieved in Member States directly in relation to the implementation of the "harassment and violence at work" agreement.

The implementation actions in relation to the agreement on "harassment and violence at work" have slightly tended towards less "binding" activities (guidance, declarations, translation and dissemination) than it was the case for previous European autonomous framework agreements.

Following the autonomous agreement on "harassment and violence at work" in 2007, further European social partner initiatives have been undertaken in this area. For example, in 2009, European social partners from the commerce sector adopted a toolkit entitled "Preventing third party violence in commerce". One year later, multi-sectoral guidelines to tackle third-party violence and harassment related to work were signed at European level by social partners in the commerce, health care, local and regional government, private security and education sectors. In the European railway sector, a good practice guide and recommendations were adopted to promoting security and the feeling of security vis-à-vis third-party violence. More recently, the European Community Shipowners' Associations and the European Transport Workers' Federation agreed on guidelines to shipping companies for eliminating workplace

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[37] European Social Partners (2004). Framework Agreement on Work-related Stress. Available at: https://osha.europa.eu/data/links/framework-agreement-on-work-related-stress
[38] European Social Partners (2007). Framework Agreement on Harassment and Violence at Work. Available at: https://www.etuc.org/en/framework-agreement-harassment-and-violence-work
[39] European Commission (2011). Report on the implementation of the European social partners - Framework Agreement on Work-related Stress. SEC(2011) 241 final, Commission staff working paper.
http://www.europarl.europa.eu/registre/docs_autres_institutions/commission_europeenne/sec/2011/0241/COM_SEC%282011%290241_EN.pdf
[40] Ibid.
[41] European Commission (2016). Study on the implementation of the autonomous framework agreement on harassment and violence at work. Directorate General for Employment, Social Affairs and Inclusion. Luxembourg: Publications Office of the European Union. Available at: https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7922&furtherPubs=yes

harassment and bullying. In particular, the trade unions in the education sector have also been very active in this field, having drafted an implementation guide to the cross-industry autonomous framework agreement for teaching unions and practical guidelines for anti-cyber harassment measures in education[42].

Overall, this highlights the important role played by social partners in protecting workers and preventing psychosocial risks at work.

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[42] Ibid.

4   Considerations on psychosocial risks in female-dominated sectors and occupations

A large body of evidence indicates that a high level of gender segregation is a persistent feature of the employment structure in Europe[43]. Gender segregation takes place when women or men tend to be concentrated in different areas of the labour market and/or undertake specific types of jobs (often referred to as horizontal segregation), or when one gender is under/over represented in higher status and higher paid jobs (referred to as vertical segregation)[44]. The ILO[45] has highlighted that there is segregation of women in sectors which are characterised by low pay, long hours and often informal working arrangements and noted that women's work brings fewer gains (monetarily, socially and structurally) than typical male work. The evidence from Europe indicates that 60% of all employed women are concentrated in six sectors: healthcare and social services, retail, education, public administration, business activities and hotels and restaurants. Women are more likely than men to be subject to physical violence in half of EU Member States, largely because third party violence in particular is more prevalent in female-dominated sectors such health, social care, commerce and education. In 2005 and 2010, women were more likely than men to be subject to bullying/harassment at work in all European countries[46]. The increasing employment rate of women in the service sector also seems to indicate that women may be proportionally more exposed to psychosocial risks. This is because of the nature of jobs in the service sector which involves direct contact with clients[47].

Women are also more likely to work part-time as compared to men. The latest EU data shows that over 75% of all part-time workers in the EU-28 are women[48]. Part-time working women often have to face higher risks to their health and well-being because they tend to have fewer training opportunities and less control over their work. Their opportunities to participate in the company's decision-making processes are more limited and they have less access to OSH preventive services[49]. Women rarely reach the highest management positions, with only 6.3% of Chief Executive Officer (CEO) positions in major publicly listed companies in the EU being held by women. In the EU-28 in 2017, women's gross hourly earnings were on average 16% below those of men (EU-28)[50].

Gender mainstreaming, or the integration of gender into occupational safety and health policy and practice, was included in the "Community Strategy on Health and

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[43] European Commission (2019). Report on equality between women and men in the EU. Luxembourg: Publications Office of the European Union.
https://ec.europa.eu/info/sites/info/files/aid_development_cooperation_fundamental_rights/annual_report_ge_2019_en.pdf
[44] EU-OSHA (2003). Gender issues in safety and health at work - A review. Luxembourg: Publications Office of the European Union. https://osha.europa.eu/en/publications/reports/209
[45] International Labour Organization (2010). Women in labour markets: Measuring progress and identifying challenges. Geneva: International Labour Office.
https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_elm/---trends/documents/publication/wcms_123835.pdf
[46] European Commission (2016). Study on the implementation of the autonomous framework agreement on harassment and violence at work. Directorate General for Employment, Social Affairs and Inclusion. Luxembourg: Publications Office of the European Union.
https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7922&furtherPubs=yes
[47] EU-OSHA (2013). New risks and trends in the safety and health of women at work. Luxembourg: Publications Office of the European Union.
https://osha.europa.eu/en/publications/reports/new-risks-and-trends-in-the-safety-and-health-of-women-at-work
[48] Eurostat (2019). Gender Statistics - Data up to February 2019 [online]. Available at: https://ec.europa.eu/eurostat/statistics-explained/index.php/Gender_statistics
[49] Ibid, EU-OSHA (2013)
[50] Ibid, Eurostat (2019)

Safety at Work 2002-2006"[51] as a key objective in response to criticism of the EU's "gender neutral" approach to occupational safety and health policy, whereby, equality is actively promoted as the norm, and explicit gender differences (with the exception of sex differences; namely, reproductive health issues) are not acknowledged or directly addressed[52]. EU-OSHA has identified a number of gaps in policy with direct implications to women's occupational health and highlighted that taking a gender-neutral approach in policy and legislation has contributed to less attention and fewer resources being directed towards work-related risks to women and their prevention[53]. For example, European directives do not cover (predominantly female) domestic workers; or women working informally, for example wives or partners of men in family farming businesses, may not always be covered by legislation. These examples of a gap in policy highlight the importance and necessity of conducting gender impact assessments on all existing and future OSH directives, standard setting and compensation arrangements[54].

The Framework Directive 89/391/EEC creates a legal obligation for the employer to take the measures necessary for the protection of all workers and foresees that particularly sensitive risk groups must be protected against the dangers which specifically affect them. However, as regards gender, the European Commission in its Communication "Safer and Healthier Work for All - Modernisation of the EU Occupational Safety and Health Legislation and Policy" [55], acknowledged the evidence that work-related risks (including psychosocial risks) to women's safety and health have been underestimated and that the gender-neutral approach has contributed to less attention and resources being directed towards prevention of work-related risks experienced by women. In order to respond to these growing OSH challenges, it published a guidance document "Health and Safety at Work is Everybody's Business: Practical guidance for employers" [56] drawing attention to the need to make risk assessment diversity-sensitive and pay attention to specificities related to age, gender and other demographic characteristics. The risk assessment should consider work demands in relation to the individual's abilities and health. The document provides also practical tools for employers to reflect age-related and gender-related risks in risk assessments.

Improving women's occupational health, safety and well-being cannot be viewed separately from wider discrimination issues at work and in society[57]. An unjust distribution of work, rewards, promotion or career opportunities and difficulties in combining commitments at work and at home are recognised psychosocial risks in the

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[51] Commission Communication of 11 March 2002 on a Community strategy on health and safety at work (2002-2006) [COM(2002) 118 - Not published in the Official Journal]. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:c11147

[52] Hassard, J. (2014). Women at work: An introduction. OSHWiki – the Encyclopaedia of the European Agency for Safety and Health at Work. Available at: https://oshwiki.eu/wiki/Women_at_Work:_An_Introduction

[53] Ibid, EU-OSHA (2013)

[54] Ibid, Hassard (2014)

[55] European Commission (2017). Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions on Safer and Healthier Work for All - Modernisation of the EU Occupational Safety and Health Legislation and Policy. COM(2017) 12 final. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017SC0010&from=en

[56] European Commission (2017). Commission Staff Working Document: Health and Safety at Work is Everybody's Business: Practical guidance for employers. SWD(2017) 9 final https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=2ahUKEwjIsuPN6pXkAhVLbKwKHdUrBMIQFjAAegQIBBAB&url=http%3A%2F%2Fec.europa.eu%2Fsocial%2FBlobServlet%3FdocId%3D16876%26langId%3Den&usg=AOvVaw3L2IhAhRzSnSDoSsKpBt6B

[57] Ibid, Hassard (2014)

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workplace[58]. Therefore, it is important to consider occupational safety and health, as well as employment equality policies that address these issues and give due consideration to psychosocial risks which can have a negative impact on women's health and well-being.

Actions taken by social partners within the European social dialogue framework have concluded a number of agreements which have sought to address some of the challenges posed by gender segregation and its impact on the safety, health and well-being of workers, particularly women workers. Some of these agreements have been ratified by the Council of Ministers and are now part of European legislation such as parental leave (1996, revised in 2009), part-time work (1997 - Directive 97/81/EC) and fixed-term contracts (1999 - Directive 99/70/EC). A number of additional directives seek to promote gender equality generally, as well as specifically in relation to issues relating to maternity and parental leave. These include:

- Directive 2002/73/EC on equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (amending Directive 76/207/EEC).

- Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

- Directive 92/85/EC on pregnant workers, women who have recently given birth, or are breast-feeding.

- Directive 2010/18/EU implementing the revised Framework Agreement on parental leave (repealing Directive 96/34/EC)[59].

The social partners also signed a framework of actions on gender equality in 2005 to contribute to the implementation of the EU legislative framework on equal treatment between women and men. The European Commission's "Strategic Engagement for Gender Equality 2016-2019"[60] sets the current framework for EU action to promote one the Union's fundamental values of equality between women and men.

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[58] Ibid, EU-OSHA (2013)

[59] In 2017, the Commission proposed a Directive on work-life balance to modernize family leave and flexible working arrangements so that they're better adapted to people's private time needs in different phases of life (COM(2017) 0253 final - 2017/085). https://publications.europa.eu/en/publication-detail/-/publication/84205176-2b39-11e7-9412-01aa75ed71a1 Once adopted, this Directive will repeal the current Parental Leave Directive.

[60] European Commission (2015). Strategic engagement for gender equality 2016-2019. Luxembourg: Publications Office of the European Union. https://ec.europa.eu/anti-trafficking/eu-policy/strategic-engagement-gender-equality-2016-2019_en

5   Specific focus, measures and actions on the self-employed

Self-employed workers account for 16.4% of total EU employment. In 2017, in the EU-28, among the 33 million self-employed persons, 71.8% were self-employed without employees, 18.2% of the self-employed reported having just one client or a dominant client, while on the other hand, more than 3 in 5 self-employed persons (61.2%) reported having more than 9 clients in the last 12 months[61]. Particularly large proportions work in wholesale and retail, human health and social work activities, but also in high risk sectors such as agriculture, forestry, fishing and construction. A review of OSH challenges facing the self-employed has highlighted that being self-employed can be quite lonely and isolating and this can make self-employed workers a target for harassment and provides limited opportunities to discuss their concerns with others. Irregular working hours can make it difficult to achieve a healthy work-life balance. Workers may also be reluctant to take time off if they are sick; they may continue to work despite being unwell and struggle to find the time to seek medical advice. These factors can have a detrimental effect on the long-term health and well-being of self-employed workers[62].

The Commission in its Communication "Safer and Healthier Work for All - Modernisation of the EU Occupational Safety and Health Legislation and Policy"[63] highlights that because of the particular status of the self-employed working under his or her own supervision, it could be complex and burdensome to apply risk assessment, training and consultation to their situation as these principles build on a worker/employer relationship. The diversity that exists among self-employed persons has necessitated diverse forms of regulation. Two specific OSH Directives, the Construction Sites Directive 92/57/EEC and the Fishing Vessels Directive 93/103/EC, include provisions which cover the self-employed working alongside workers. The Working Time Directive 2003/88/EC does not apply to the genuinely self-employed, but it does apply to agency staff and freelancers who are categorised as "workers". While Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities imposed a 48-hour working week limit for all self-employed professional drivers[64]. Even though, many self-employed workers are not directly covered by the Framework Directive 89/391/EEC, the "Ex-post Evaluation of the European Union Occupational Safety and Health Directives"[65], pointed out that for most of the OSH Directives, some Member States implement more detailed or stringent requirements, with the result that the level of protection differs for some categories of workers such as domestic servants, self-employed persons and certain categories of vulnerable workers.

In 2003, Council Recommendation 2003/134/EC on the self-employed specifically identified the key OSH challenge as being the number of self-employed workers who are largely outside the scope of the EU Directives on safety and health at work. It set out a series of measures to improve OSH for self-employed workers. These were

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[61] Eurostat (2018). Self-employment statistics [online]. Available at:
https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Self-employment_statistics
[62] Liddle, M. (2013). Self-employed. OSHWiki – the Encyclopaedia of the European Agency for Safety and Health at Work. Available at: https://oshwiki.eu/wiki/Self-employed
[63] European Commission (2017). Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions on Safer and Healthier Work for All - Modernisation of the EU Occupational Safety and Health Legislation and Policy. COM(2017) 12 final. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017SC0010&from=en
[64] Ibid, Liddle (2013)
[65] European Commission (2017). Commission Staff Working Document: Ex-post evaluation of the European Union occupational safety and health Directives. SWD(2017) 10 final.
https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwj_-4-j55XkAhVBUKwKHf1BC6MQFjAAegQIABAC&url=https%3A%2F%2Fec.europa.eu%2Fsocial%2FBlobServlet%3FdocId%3D16875%26langId%3Den&usg=AOvVaw3RtqDtLt3e58MUjwKXpg2M

mainly focused around prevention policies as well as safety and health at work measures, such as awareness-raising campaigns, as well as providing access to training and health surveillance. The recommendation stressed the importance of understanding special risks (even though it does not explicitly use the term psychosocial risks) existing in specific sectors and the specific nature of the relationship between contracting activities and self-employed workers. It encouraged Member States to promote safety and health for self-employed workers through legislation, incentives, information campaigns and engagement of relevant stakeholders[66].

Before the adoption of the Council Recommendation, very few Member States included self-employed in their national occupational safety and health legislation. Since its adoption, about half the Member States have included them in their legislation with some variation in the definition of a self-employed person, the scope of the relevant legislation and the extent of their obligations[67]. In 2004, the European Court of Justice citing the legal basis for EU occupational safety and health legislation - Article 153 of the TFEU, which foresees that the EU can legislate to improve the working environment to protect workers' health and safety, held that the classification of a "self-employed person" under national law does not prevent a person being classified as an employee or worker within the meaning of EU law if his independence is merely notional, thereby disguising an employment relationship (Allonby, C-256/01)[68].

The European Commission, in its "Community Strategy 2007-2012 on Health and Safety at Work" [69], highlighted that improving OSH for self-employed workers is continuing to grow in importance and identified an increased involvement of labour inspectors and increased awareness on the difficulties associated with the working conditions of self-employed workers as an important goal. In 2017, the Commission, in recognition of the rapidly changing labour market and the emergence of new forms of work and increasing uncertainty over the status of workers and self-employed, reiterated the importance of improving OSH for self-employed workers, and called on Member States to apply health and safety rules for all workers to prevent accidents and occupational diseases[70]. This is particularly important for improving the implementation record of Member States, in particular by enhancing the capacity of micro and small enterprises to put in place effective and efficient risk prevention measures, which was identified as the first challenge in the "EU Strategic Framework on Health and Safety at Work 2014-2020" [71].

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[66] European Commission (2003). Council recommendation of 18 February 2003 concerning the improvement of the protection of the health and safety at work of self-employed workers (2003/134/EC). Brussels: European Commission. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003H0134&from=LV

[67] Ibid, COM(2017) 12 final

[68] Judgment of the Court of 13 January 2004, *Allonby*, C 256/01, ECLI:EU:C:2004:18 http://curia.europa.eu/juris/liste.jsf?language=en&num=C-256/01

[69] European Commission (2007). Community Strategy 2007-2012 on Health and Safety at Work. COM(2007) 62 final https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0062:FIN:EN:PDF

[70] Ibid, COM(2017) 12 final

[71] European Commission (2014). EU Strategic Framework on Health and Safety at Work 2014-2020. COM(2014) 332 final https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0332

6 Examples of national regulations addressing psychosocial risks across Europe

There is broad variety in the way legislation in the Member States refers to psychosocial risks. A number of Member States keep the text of their occupational safety and health legislation quite short and close to the EU Framework Directive and do not explicitly mention psychosocial risks (for example, Luxembourg, Poland, Romania, Slovenia and Spain). Others highlight in different ways in their legislation the need to take psychosocial risks or mental health into consideration when dealing with OSH (for example, Austria, Denmark, Estonia, Finland, France, Greece, Slovakia and Sweden). Some Member States specifically include the obligation to do a psychosocial risk assessment (for example, Belgium, Bulgaria, Cyprus, Germany, Hungary, Italy, Latvia, Lithuania, Portugal and the UK). Very few Member States (Austria and Belgium) highlight in their legislation the option or obligation to involve an expert for certain aspects of psychosocial risk. In some Member States (for example, Hungary, Lithuania and Slovakia) more detailed regulation not only mentions the obligation to take psychosocial risks into account but also gives a definition of what is meant by psychosocial risks and/or stress, and what has to be included in a risk assessment in order to ensure proper prevention of poor mental health[72]. Table 1 presents the different wording in EU Member States legislation specifically addressing psychosocial risks.

Table 1.   EU Member State legislation – wording on psychosocial risks

Country	Psychosocial risks specifically included	Description
AT	Yes	Employers are obliged to take measures to ensure the health and the "integrity and dignity" of the workplace. Workplace strain is defined explicitly as both physical and psychological.
BE	Yes	Psychosocial risks are defined as the probability that one or more employees may suffer psychological damage which can be due to exposure to components of the work organisation, job content, working conditions, work environment and interpersonal relationships in the workplace, which the employer has an impact on and which can be objectively regarded as a danger.
		Harassment: every abusive and repeated act of any origin (external or internal to the company or institution), including through conduct, verbal, intimidation, acts, gestures or writing, with the purpose or effect of violating the personal, dignity or physical or psychological integrity of a worker, jeopardises their employment or creates an intimidating, hostile, degrading, humiliating or offensive work environment.
BG	No	No
CY	No	No

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[72] Eurofound and EU-OSHA (2014). Psychosocial risks in Europe: Prevalence and strategies for prevention. Luxembourg: Publications Office of the European Union. https://www.eurofound.europa.eu/publications/report/2014/eu-member-states/working-conditions/psychosocial-risks-in-europe-prevalence-and-strategies-for-prevention

CZ	No	No
DE	Yes	General risks to psychological health need to be taken into account in risk assessment; mentions that psychosocial risks should be taken into account in the risk assessment.
DK	Yes	Legal provisions require that employers manage (prevent or control) psychosocial risks in the workplace. Risks of mental or physical health impairment should be assessed.
EE	Yes	Psychological risk factors are "monotonous work or work not suitable to the abilities of a worker, poor work organisation, working alone for an extended period of time, or other similar factors that may gradually cause changes in the mental state of a worker".
EL	No (indirect)	All kinds of risks to be included in the risk assessment.
ES	No	N/A
FI	Yes	The Occupational Safety and Health Act sets out the need to eliminate hazards to the "physical and mental health of employees" and refers specifically to workloads, violence and harassment. Employer must take action "if it is noticed that an employee while at work is exposed to workloads in a manner which endangers his or her healthy working conditions".
FR	Yes	Employers are responsible for evaluating the different types of risks affecting each employee and for taking measures to ensure their security and protect both their physical and mental health. No employee should suffer repeated acts of moral harassment aiming at or resulting in a degradation of his/her working conditions likely to affect his/her rights or dignity, alter his/her physical or mental health or compromise his/her professional development.
HR	(Yes, - stress only)	The Health and Safety Act states that the employer should prevent stress.
HU	Yes	Psychosocial risks are defined as: "the sum of impacts affecting a worker at the workplace (conflicts, work organisation, work schedule, uncertainty of employment, etc.) that influence his responses to such impacts, or in relation to which he may experience stress, suffer an accident at work or a physical illness caused by mental strain (psychosomatic illness)"
IE	No (indirect)	No specific reference in legislation. Guidance provided by the Health and Safety Authority states, "The Safety, Health and Welfare at Work Act 2005, requires employers to put in place systems of work which protect employees from hazards which could lead to mental or physical ill-health. There is an obligation on employers to risk assess all known hazards including psychosocial hazards, which might lead to stress".

IT	Yes	Health and Safety laws require employers to assess work-related stress as part of the risk assessment according to the contents of the European agreement on work-related stress. The assessment of psychosocial risks has to be done in line with guidelines developed by the Permanent Consultative Commission for Health and Safety at Work.
LT	No (indirect)	Indirectly the law includes "all risks", acts of violence are considered as accidents. Psychological violence is not covered.
LU	No	Moral harassment: occurs when a person within the company commits towards another company member, repeated and deliberate, wrongdoing whose object or effect are: either to undermine their rights or dignity; or damage their working conditions or jeopardize their professional future by creating an intimidating, hostile, degrading, humiliating or offensive environment; or affect their physical or mental health.
		Violence at work: assaulting a worker through deliberate acts that have the effect or purpose of impairing the other person's physical or mental integrity.
LV	Yes	The Labour Protection Law covers physical and psychological health. An employer must evaluate the workplace risks and compile a list of employers that are exposed to special risks (working environment risks related to such an increased psychological or physical load or such increased risks to the safety and health of an employee which cannot be prevented or reduced up to the permissible level by other labour protection measures, only by reducing the working hours during which the employee is exposed to such risks).
MT	Yes	Occupational Health and Safety Authority Act sets out the "measures that need to be taken by an employer to prevent physical and psychological occupational ill-health, injury or death".
NL	Yes	Psychosocial risks have to be assessed by taking into account a number of factors such as: stress, sexual harassment, violence, aggression, intimidating forms of teasing or bullying without the use of violence, high work pressures – there is physical violence and psychological harassment/harassment on discriminatory grounds/sexual harassment – difficult to qualify aggression – either violence or harassment
PL	No	It is expected that all risks are assessed however the term psychological or psychosocial risks are not mentioned.
		Labour Code defines mobbing as any action of persistent and long-term harassment or intimidating actions directed to the employee which have a negative impact on professional performance. These actions cause or aim at humiliating the employee and /or separating or excluding them from the team. The employee suffering

		from ill-health due to actions of mobbing may claim compensation from the employer.
PT	Yes	Health and safety legislation refer specifically to psychosocial risks, including the obligation "to reduce psychosocial risks" to the list of ways that the employer should adapt the work to the individual. Harassment is defined as "all unwanted behaviour, based on discrimination in the workplace which has the effect of disturbing or constraining the person with regard to his dignity, or creating an intimidating, hostile, degrading, humiliating or disruptive environment".
RO	No	N/A
SE	Yes	Swedish Work Environment Authority provisions on organisational and social work environment seek to promote a good work environment and prevent risks of ill health due to organisational and social conditions in the work environment. The provisions provide definitions for demands in the work, victimisation, unhealthy workload, organisational work environment, resources for the work, and social work environment.
SI	Yes	Some provisions on health and safety were included in the Employment Relationships Act. Harassment and sexual harassment defined as under Anti-Discrimination and Equal Treatment Directive. The "conduct" referred to in the Employment Relationships Act is further defined with the mention of "undesired verbal, non-verbal or physical action". Bullying at the workplace is any repetitive or systematic, reprehensible or clearly negative and insulting action or behaviour aimed at individual workers in the workplace or in connection with work.
SK	No (indirect)	The employer is required to identify dangers and threats, assess risks and elaborate a written document on risk assessment for all activities carried out by employees.
UK	No (indirect)	The employer has a legal duty to ensure the health, safety and welfare of the employee, but no specific clause on psychosocial risks. The UK Health and Safety Executive has published guidance on the management standards for work-related stress. Workplace harassment is unlawful under the Equality Act.
IS	Yes	Harassment at the workplace is understood as "amendable or repetitive unacceptable conduct, i.e. conduct or behaviour that may lead to humiliation, demean, insult, hurtfulness, discrimination or intimidation and cause bad feelings with the person in question."
LI	(Yes)	"risk assessment should take into account psychological risks"
NO	Yes	No definitions provided in the law - health and safety law simply provides that employers need to ensure prevention of harassment, violence and threats of

violence; cooperation of employers and employees with regard to the psychosocial work environment.

Source: Adapted from EC, 2016[73]

Some examples of national regulations addressing psychosocial risks are provided below:

- **Belgium** - Specific legislation in relation to psychosocial risks in Belgium includes the Royal Decree of 17 May 2007 concerning the prevention of psychosocial load caused by work, including violence, harassment, and sexual harassment at work". This is applicable to employers and workers and the assimilated persons as referred to in the Act of 4 August 1996 concerning the well-being of the workers during the execution of their work. It defines psychosocial load caused by work as any load of a psychosocial nature, caused by the execution of the work or arising as a result of the execution of the work, which has a detrimental effect upon the physical or mental health of the person. There is also the collective labour agreement within the National Labour Council on managing prevention of stress caused by work (CCT/CAO no. 72) on 30 March 1999. Whereas the Royal Decree of 1999 addresses collective problems of work-related stress, the Royal Decree of 2007 addresses collective and individual aspects of psychosocial risks. The rules of the Royal Decree of 1999 cannot therefore be imposed on employers in the public sector. The Royal Decree of 2007, however, applies to both the private and public sectors. Following the collective labour agreement no. 72, a large number of sector and sub-sector collective agreements were concluded, for example, in the joint committees for the metal, insurance, and banking sectors. Furthermore, the Royal Decree of 10 April 2014 which came into force on 1 September 2014, states in Article 3 that the employer in conducting risk assessments has to take into account situations that include psychosocial risks, and in particular situations that can lead to stress and burnout. The evaluation of psychosocial risks at work has to take into account risks linked to elements of work organisation, content of work, working conditions, and interpersonal relationships at work. The risk assessment has to be conducted by the employer in a participatory way, with the contribution of workers.

- **Hungary** - Act XCIII of 1993 on labour protection of the Labour Code covers psychosocial risks. It defines them as the sum of impacts of work organisation, work schedule, uncertainty of employment and other factors affecting the employee's behaviour, which may bring about stress, work-related accidents and psychosomatic illnesses. The Act also contains a definition for evaluations of work hygiene, which are procedures suited to exploring physical, chemical, biological, ergonomic, and psychosocial agents present in the work environment, establishing their level, and determining quantitatively the burden they pose (Article 87(5/A)). The Amendment to the Health and Safety at Work Act (Act XCIII. of 1993): Act CLXI. Of 2007 added stress as a risk factor, and also defines it. As a consequence, employers must explicitly pay attention to work-related psychosocial risks that may generate, among other things, stress.

- **Italy** - Decree No. 81, 2008 pertaining to reforms about health and safety in the workplace (aka consolidated law on health and safety protection of employees in the workplace), and Decree No. 106/2009 on integrative and remedial provisions of Decree No. 81/2008 for the protection of health and safety in the workplace, require employers to assess work-related stress as part of the risk assessment according to the contents of the European agreement on work-related stress. This article was later integrated and modified (Art 18, paragraph 1-bis, of the legislative

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[73] European Commission (2016). Study on the implementation of the autonomous framework agreement on harassment and violence at work. Directorate General for Employment, Social Affairs and Inclusion. Luxembourg: Publications Office of the European Union. https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7922&furtherPubs=yes

Decree No. 106 of 3 August 2009) and now stipulates that the assessment of psychosocial risks has to be done in line with guidelines developed by the Permanent Consultative Commission for Health and Safety at Work. This body is composed of an equal number of representatives of public administrations and regions and of social partners. The Civil Code also safeguards the physical and mental health of the worker. The Inter-regional Workplace Prevention Committee adopted an operational guide for the evaluation and management of risk of work-related stress in March 2010. The National Institute for Insurance against Accidents at Work (INAIL) also issued a methodological proposal for the assessment of work-related stress. This methodology is based on the UK Health and Safety Executive management standards for work-related stress which have been adapted for use in Italy as well as on PRIMA-EF guidance.

- *Slovakia* - The Labour Code, in Article 133 on standardisation, states that employees' physical and neuro-psychic abilities have to be taken into account when setting standards for the volume of work and work pace. In addition, it states that such standards must be agreed before work is started and that this must be done by collective agreement or other consultation with employees' representatives. If parties fail to reach such an agreement, the labour inspectorate can be involved to take further steps and decisions. The Occupational Safety and Health Protection Act (No. 124/2006 Coll.) obliges the employer to ensure that health of workers is not threatened by, among other factors, psychological workload (Article 6). Article 21 highlights psychosocial risks to be taken into account by preventive and protective services hired by the employer. Article 7 of the Labour Inspection Act (Act No. 125/2006 Coll.) sets out that, among other aspects of mental workload and social measures, labour inspection activities include the supervision of company requirements to protect their workers. Other legislation includes the Decree of the Ministry of Health (No. 542/2007 Coll.) on details of health protection against physical strain, psychical/mental workload and sensory load at work sets out a detailed framework for the management of work-related stress. Article 5 of the decree lists the risk factors that have to be taken into account by the employer when conducting a risk assessment with regard to mental workload. These include risks associated with the content of work, irregular working time and the working environment. The Decree also highlights the importance of taking subjective reactions to mental workload into account (mental overload, boredom and reduced ability to concentrate). Article 7 of the Decree defines the types of measures to be taken in order to prevent such risks. The measures, as well as the order in which they are described, respect the prevention principle of the Framework Directive, in other words first taking primary preventive activities such as technical and organisational changes.

- *Sweden* - The Swedish Work Environment Act clearly states that employers are obliged to prevent psychological health problems just like they are obliged to prevent accidents and physical illness. Yet while the Swedish Work Environment Authority provides detailed rules for how to prevent physical injuries, there was until recently no similar binding rules covering risks to psychological health. The new "Organisational and Social Work Environment" (AFS 2015:4) provisions, which came into effect on 31 March 2016, regulate knowledge requirements, goals, workloads, working hours and victimisation. The provisions have been developed in consultation with the labour market partners and have a focus on preventive work environment management. These regulations concretise the Swedish Work Environment Act, which is a general legislation, and clarify – as well as supplement – the systematic work environment management that all employers are obliged to carry out.

7   Enforcement actions and approaches

There have been various types of approaches aimed both at enforcing legal requirements, and promoting good practice in this area. This section will present an overview of these approaches at EU level before presenting some national level examples.

The former European "Community Strategy 2007-2012 on Health and Safety at Work" [74] highlighted the importance of workers' well-being by aiming to make the well-being of European workers a tangible reality. The evaluation of the 2007-12 strategy highlighted the need to more effectively address the impact of specific preventive actions on individual companies (especially SMEs), and the effective prevention of occupational and work-related diseases in which psychosocial risks have been found to contribute substantially (especially in relation to mental ill health). The European Commission's "Joint Action on Mental Health and Well-being" (2013-16)[75] and the "EU-Compass for Action on Mental Health and Well-being" placed specific focus on mental health in the workplace[76]. In addition, the "EU Strategic Framework on Health and Safety at Work 2014-2020" [77] has mental health identified as one of its priorities. It emphasises that there is no trade-off between quality and quantity of employment: high levels of job quality in the EU are associated with equally high labour productivity and employment participation. Working conditions and workers' physical and mental health need to be taken into account to address the demands of today's working careers, which are characterised by more transitions between more intense and demanding jobs and by new forms of work organisation.

In 2014, the European Commission published "Promoting Mental Health in the Workplace: Guidance to implementing a comprehensive approach"[78]. In the same year, the "Interpretative Document on the Implementation of Council Directive 89/391/EEC in relation to Mental Health in the Workplace" was also published. The 2017 Communication from the Commission "Safer and Healthier Work for All - Modernisation of the EU Occupational Safety and Health Legislation and Policy" [79] highlights psychosocial risks as an issue of growing concern. In the same year, the Commission published "Health and Safety at Work is Everybody's Business: Practical guidance for employers" [80].

The Commission works closely with EU-OSHA and Eurofound to disseminate information, offer guidance and promote healthy working environments – particularly

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[74] European Commission (2007). Community Strategy 2007-2012 on Health and Safety at Work. COM(2007) 62 final https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0062:FIN:EN:PDF
[75] http://www.mentalhealthandwellbeing.eu/the-joint-action/
[76] Leka, S., and Jain, A. (2017). Mental health in the workplace in the European Union: Consensus paper. EU Compass for Action on Mental Health and Well-being. Available at: https://ec.europa.eu/health/sites/health/files/mental_health/docs/compass_2017workplace_en.pdf
[77] European Commission (2014). EU Strategic Framework on Health and Safety at Work 2014-2020. COM(2014) 332 final. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0332
[78] European Commission (2014). Promoting mental health in the workplace: Guidance to implementing a comprehensive approach. European Commission, Directorate General for Employment, Social Affairs and Inclusion. Available at: https://ec.europa.eu/social/main.jsp?catId=716&langId=en
[79] European Commission (2017). Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions on Safer and Healthier Work for All - Modernisation of the EU Occupational Safety and Health Legislation and Policy. COM(2017) 12 final. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017SC0010&from=en
[80] European Commission (2017). Commission Staff Working Document: Health and Safety at Work is Everybody's Business: A Practical guidance for employers. SWD(2017) 9 final

in small enterprises. Besides conducting the ESENER, EU-OSHA has been dealing actively with psychosocial risks for years, including implementing an expert forecast on emerging psychosocial risks related to OSH, publishing overview reports (such as "OSH in Figures: Stress at Work" (2009)[81] and "Mental Health Promotion in the Workplace – A good practice report" (2011)[82]) and organising pan-European campaigns.

EU-OSHA's campaigns are one of the most significant tools for awareness-raising and disseminating information on the importance of workers' health and safety in Europe. Running since 2000, the Healthy Workplaces Campaigns[83] are one of EU-OSHA's principal tools for raising awareness of issues related to occupational safety and health, and promoting the idea that good health and safety is good for business. The campaigns, each of which is now two years in duration, involve hundreds of organisations from all of the EU Member States, the countries of the European Economic Area, candidate and potential candidate countries. EU-OSHA makes information, practical guides and tools, and publicity material freely available, translated into more than 20 European languages. The annual European Week for Safety and Health at Work[84] (in October every year) is a particular focus for these campaigns, which can include training sessions, conferences and workshops, poster, film and photo competitions, quizzes, suggestion schemes, advertising campaigns and press conferences. Other highlights of each campaign include the Healthy Workplaces Good Practice Awards competition, which recognises organisations that have found innovative ways of promoting safety and health, and the Healthy Workplaces Closing Summits, which bring health and safety professionals, policymakers, and employers' and employees' representatives together, to share best practice. Relevant campaigns for psychosocial risks by EU-OSHA include: "Turn your back on musculoskeletal disorders" (2000); "Working on stress" (2002); "Lighten the load (Musculoskeletal disorders)" (2007); "Working together for risk prevention" (2012–2013); and "Healthy workplaces manage stress" (2014-15). Several tools and guidance documents have also been developed, including for small enterprises. A multilingual guide was launched providing simple, evidence-based information on psychosocial risks, prepared for the employers and managers of micro and small enterprises. The guide aims to motivate employers to tackle work-related psychosocial risks by demonstrating that managing psychosocial risks in micro and small enterprises is not only possible but also very worthwhile. The guide encourages small enterprises across Europe to conduct systematic and effective psychosocial risk management using national or sectoral tools. Additionally, the online interactive risk assessment tool (OiRA) developed by EU-OSHA is a major contribution to facilitating SMEs' compliance with OSH requirements. An "E-guide to Managing Stress and Psychosocial Risks"[85] is now available as well as "Healthy Workers, Thriving Companies: A practical guide to wellbeing at work"[86] published in 2018.

Reports on the basis of the ESENER survey have provided important information on the management of psychosocial risks in European enterprises across sectors to supplement reports published by Eurofound detailing the perspective of the European workforce on their working conditions. One of the main monitoring systems of Eurofound, the European Working Conditions Survey (EWCS), has since its launch in

[81] EU-OSHA (2009). OSH in figures: Stress at work - facts and figures. Luxembourg: Office for Official Publications of the European Communities.

[82] EU-OSHA (2011). Mental health promotion in the workplace: A good practice report. Luxembourg: Office for Official Publications of the European Communities.

[83] https://osha.europa.eu/en/healthy-workplaces-campaigns

[84] https://healthy-workplaces.eu/en/get-involved/european-week

[85] https://osha.europa.eu/en/tools-and-publications/e-guide-managing-stress-and-psychosocial-risks

[86] EU-OSHA (2018). Healthy workers, thriving companies: A practical guide to wellbeing at work. Luxembourg: Publications Office of the European Union.

1991 provided an overview of working conditions in Europe, including psychosocial risk factors. Eurofound has developed comparative studies of all Member States on issues related to psychosocial risks (for example, work-related stress, violence and harassment, and the impact of the crisis on working conditions). Regular updates are published showing the latest information on trends and policies on working conditions.

In 2012, the Senior Labour Inspectors Committee (SLIC) ran an inspection campaign on psychosocial risks, supported by the European Commission. The SLIC has a mandate to give its opinion to the Commission, either at the Commission's request or on its own initiative, on all problems relating to enforcement by the Member States of Community law on health and safety at work. The campaign on psychosocial risks was led by Sweden. The campaign highlighted that inspections on psychosocial risks are possible in all Member States, however in some cases with some restrictions due to national systems and capacities. The results from the campaign indicated that the number of workplaces which have included psychosocial risks in the risk assessments has increased. Knowledge of psychosocial risks has also increased among labour inspectors in all countries, while awareness of psychosocial risks at work at the workplaces overall has also increased. A psychosocial inspection toolkit was developed that provides labour inspectors in all participating Member States with information and guidelines on how best to do an inspection with regard to psychosocial risks. In the framework of the SLIC campaign[87], more than 13,000 inspections on psychosocial risks were made in the 26 participating Member States as well as Iceland. SLIC has recently adopted the non-binding publication "Guide for Assessing the Quality of Risk Assessment and Risk Management Measures with regards to the Prevention of Psychosocial Risks"[88].

Various activities have taken place also in Member States. Examples include the "Management Standards for Work-related Stress" in the UK, which have been adapted and are used in Italy, and Work Positive in Ireland. In Germany, the psyGA "Taking the Stress out of Stress: Mental Health in the World of Work" programme was implemented, as well as the "Protection and Fortification of Health in the case of Work-related Mental Load" programme of the Joint German OSH Strategy 2013-18. In the Netherlands, many initiatives have been implemented including the Work and Health Covenants and Catalogues, Stress Prevention at Work (SP@w), and DISCovery: tailored work-oriented intervention to improve employee health and performance. The Copenhagen Psychosocial Questionnaire in Denmark, has been adapted by ISTAS in Spain; there is the SOBANE strategy and tools in Belgium, and the tools developed by INRS and ANACT in France[89]. Additional guidance and tools are available through the Psychosocial Risk Management – European Framework (PRIMA-EF)[90]. Indeed, Iavicoli et al.[91] called for a critical evaluation of efforts employed so far to address psychosocial risks and mental health in the workplace to be conducted in

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[87] SLIC (2012). Psychosocial risk assessments - SLIC Inspection Campaign 2012. Available at: http://www.av.se/dokument/inenglish/European_Work/Slic_2012/SLIC2012_Final_report.pdf

[88] SLIC (2018). Guide for assessing the quality of risk assessment and risk management measures with regards to the prevention of psychosocial risks. Non-Binding Publication for EU Labour Inspectors Senior Labour Inspectors' Committee - Working Group: New and Emerging Risks (EMEX). Available at: https://www.ispettorato.gov.it/it-it/Attivita/Documents/Attivita-internazionale/Guide-psychosocial-risks-EN-Final-Version.pdf

[89] Leka, S., Van Wassenhove, W., and Jain, A. (2015). Is psychosocial risk prevention possible? Deconstructing common presumptions. Safety Science, 71 (1), 61–67. http://eprints.nottingham.ac.uk/31892/1/Safety%20Science_Is%20psychosocial%20risk%20prevention%20possible_Leka%20et%20al.pdf

[90] PRIMA-EF: The European Framework for Psychosocial Risk Management. Available at: www.prima-ef.org

[91] Iavicoli, S., Leka, S., Jain, A., Persechino, B., Rondinone, B.M., Ronchetti, M., & Valenti, A. (2014). Hard and soft law approaches to addressing psychosocial risks in Europe: Lessons learned in the development of the Italian approach. Journal of Risk Research, 17(7), 855-869. https://www.tandfonline.com/doi/abs/10.1080/13669877.2013.822911

order to develop an approach at European level that will allow both flexibility at national level and a certain level of benchmarking across Member States in terms of relevant data and good practices applied.

8   Collaboration with social partners and other stakeholders

As discussed earlier, the EU cross-industry social partners have signed autonomous agreements in relation to psychosocial risks based on Article 155 of the TFEU, the framework agreement on "work-related stress" (2004)[92] and "violence and harassment at work" (2007)[93]. These agreements which are implemented not by legislation at EU level but rather by national social partner organisations in accordance with national procedures and practices, represent a commitment to the development and application of their content by social partners at national level. Moreover, several EU level social partners have developed multi-sectoral guidelines to tackle third-party violence and harassment related to work. Initiatives on psychosocial risks have been taken in several sectors, for example the railways sector, education, telecommunications and the steel industry. Joint declarations are found in construction, electricity, private security and telecommunications[94].

Both Eurofound and EU-OSHA studies provide evidence that, in order to be effective and to see real improvements in working conditions in general, different actors have to work together in their joint interests and to achieve a shared understanding of challenges and expectations of a win–win situation (i.e. benefits on both sides). In this regard, evidence has been found of the contribution of social dialogue at sectoral and company level to the improvement of working conditions[95]. Furthermore, ESENER data show that management commitment and worker participation are important for effectively managing psychosocial risks and stress at work[96].

Another way of engaging key stakeholders comes through standardisation work. An interesting recent development in this area is the launch of two standards of relevance to psychosocial risks at national level. The first was launched by the British Standards Institution in 2011, "Publicly Available Specification (PAS)" 1010[97] which is the first national guidance standard on the management of psychosocial risks in the workplace. The second was launched as a national standard on psychological health and safety in the workplace in Canada[98] in 2013 and it is the first standard that is auditable in this area. Both seek to support organisations in implementing psychosocial risk management as part of normal business operations. ISO45001[99] also covers psychosocial risk and there is currently ongoing work for the development of

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[92] European Social Partners (2004). Framework Agreement on Work-related Stress. Available at: https://osha.europa.eu/data/links/framework-agreement-on-work-related-stress

[93] European Social Partners (2007). Framework Agreement on Harassment and Violence at Work. Available at: https://www.etuc.org/en/framework-agreement-harassment-and-violence-work

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

[95] Eurofound (2008). Working conditions and social dialogue. Available at: https://www.eurofound.europa.eu/publications/report/2008/working-conditions-and-social-dialogue

[96] EU-OSHA (2015). Second European Survey of Enterprises on New and Emerging Risks (ESENER-2). Luxembourg: Publications Office of the European Union. https://osha.europa.eu/nl/tools-and-publications/publications/second-european-survey-enterprises-new-and-emerging-risks-esener

[97] British Standards Institution (2011). PAS1010: Guidance on the management of psychosocial risks in the workplace. London: BSI. http://www.mtpinnacle.com/pdfs/Guidance-on-the-management-of-psychosocial-risks-in-the-workplace-1.pdf

[98] BNQ, CSA Group and MHCC. (2013). Psychological health and safety in the workplace - Prevention, promotion, and guidance to staged implementation (CAN/CSA-Z1003-13/BNQ 9700-803/2013). Ottawa, Ontario: Standards Council of Canada. https://www.csagroup.org/documents/codes-and-standards/publications/CAN_CSA-Z1003-13_BNQ_9700-803_2013_EN.pdf

[99] International Standardization Organization (2018). ISO45001: Occupational health and safety. Available at: https://www.iso.org/iso-45001-occupational-health-and-safety.html

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ISO45003 on psychosocial risk management which is a guidance standard due to be launched in 2021.

9   Success factors and challenges in psychosocial risk regulation

Despite the plethora of guidance and tools developed in the area of psychosocial risk management, the EU-OSHA ESENER survey found that only about 20% of European enterprises inform their employees on psychosocial risks, let alone taking appropriate actions to tackle them. Less awareness and action were reported by SMEs. Lack of awareness, lack of resources, and lack of technical support, guidance and expertise were key needs in this area that were identified irrespective of enterprise size, sector or country[100],[101]. It should also be noted that limited awareness and expertise on how to conduct inspections on psychosocial risks associated with mental ill health were among the key drivers for the 2012 SLIC campaign[102]. As mentioned above, SLIC has recently adopted a "Guide for Assessing the Quality of Risk Assessment and Risk Management Measures with regard to the Prevention of Psychosocial Risks"[103]. It is expected that this guide will assist inspection efforts across all EU Member States.

In addition, EU-OSHA in its report on the determinants of workplace occupational safety and health practice[104] highlighted that psychosocial risk management might be considered as an "advanced subset" of OSH management which is influenced by the recognition of psychosocial risks and their significance to the safety, health and well-being of workers. Traditions of national level research into OSH both generally and specifically in relation to psychosocial risks and their management, national discourses on OSH definitions and priorities socially and politically, and the practical application of research knowledge to workplace practice were identified as important determinants of action in this area.

Findings suggest that although OSH legislation is seen by European employers as a key driver to address health and safety issues, it has been less effective for the management of psychosocial risks and the promotion of mental health in the workplace[105]. Binding policies are the outcome of lengthy negotiations among various stakeholders. Depending on the issue at hand and the extent to which it is considered controversial, the text of the policy will reflect this. In relation to psychosocial risks, there have been several calls for clarifying the text of EU legislation further through the inclusion of specific terms (such as work-related stress, psychosocial risks and mental health at work). Additionally, a regulatory approach is most likely to be effective in countries where a more advanced framework is available to effectively

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[100] EU-OSHA (2010). European Survey of Enterprises on New and Emerging Risks: Managing safety and health at work. Luxembourg: Office for Official Publications of the European Communities.https://osha.europa.eu/en/tools-and-publications/publications/reports/esener1_osh_management/view

[101] EU-OSHA (2015). Second European Survey of Enterprises on New and Emerging Risks (ESENER-2). Luxembourg: Publications Office of the European Union. https://osha.europa.eu/nl/tools-and-publications/publications/second-european-survey-enterprises-new-and-emerging-risks-esener

[102] SLIC (2012). Psychosocial risk assessments - SLIC Inspection Campaign 2012. Available at: http://www.av.se/dokument/inenglish/European_Work/Slic_2012/SLIC2012_Final_report.pdf

[103] SLIC (2018). Guide for assessing the quality of risk assessment and risk management measures with regards to the prevention of psychosocial risks. Non-Binding Publication for EU Labour Inspectors Senior Labour Inspectors' Committee - Working Group: New and Emerging Risks (EMEX). Available at: https://www.ispettorato.gov.it/it-it/Attivita/Documents/Attivita-internazionale/Guide-psychosocial-risks-EN-Final-Version.pdf

[104] EU-OSHA (2013). Analysis of the determinants of workplace occupational safety and health practice in a selection of EU Member States. Luxembourg: Publications Office of the European Union. https://osha.europa.eu/en/tools-and-publications/publications/reports/analysis-determinants-workplace-OSH-in-EU/view/

[105] EU-OSHA (2012). Drivers and barriers for psychosocial risk management: An analysis of findings of the European survey of enterprises on new and emerging risks. Luxembourg: Publications Office of the European Union. https://osha.europa.eu/nl/tools-and-publications/publications/reports/drivers-barriers-psychosocial-risk-management-esener

translate policy into practice[106]. A further issue is that nations might choose not to make use of legislative policy initiatives where available, for example many countries choose not to ratify ILO OSH Conventions. Furthermore, there is a desire to reduce the administrative burden on organisation, especially SMEs, in national legislation while maintaining workers' protection[107].

The evaluation of OSH directives confirmed that they remain relevant and have led to increased awareness and organisational action. However, some challenges remain. Comments and responses collected during the course of the evaluation of OSH directives[108], and supplemented by comments from OSH experts, suggest that there is less motivation for ameliorative action in the absence of legislation, implying that guidance alone is less likely to be effective. The complexities and interactions of different risk factors suggest that a prescriptive approach would not provide an effective tool for controlling psychosocial risks. However, the OSH culture in some Member States does not readily lend itself to a more goal-setting legislative path. It was suggested that a scientific assessment of the feasibility of generating prescriptive material (suitable for legislation) relating to psychosocial risks is conducted, to indicate whether or not such an approach could be viable. This could be used to inform a decision on the form and content of legislative developments in this important area of worker health.

It is important that further action is considered in light of new developments in new forms of employment arrangements, work organisation, information technology as well as a more diverse workforce. Psychosocial risks have been found to be particularly relevant to the self-employed and female workers, for example, and are expected to continue to have a significant influence in the future in line with these developments. On the other hand, voluntary policies are often developed by experts and usually do not involve negotiation but rather a review process (which could still involve all relevant stakeholders). They are more focused in terms of addressing specific issues and often aim at providing guidance on implementing good practice. As a result, terminology in these policies is more specific and inclusive and coverage of key elements is more extensive. Indeed, soft law has also been found to be more precise and user friendly than hard law in relation to psychosocial risks and mental health in the workplace[109].

However, in relation to voluntary policy instruments, there is the question of whether they have been effective in supporting the implementation of existing legislation and in guaranteeing quality with regard to the minimum requirements established by European binding policies. With a broader array of stakeholders, soft law may promote compromise, or even compromised standards, less stringent than those delivered by

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[106] Leka, S., Jain, A., Iavicoli, S., and Di Tecco, C. (2015). An evaluation of the policy context on psychosocial risks and mental health in the workplace in the European Union: Achievements, challenges and the future. BioMed Research International, Special issue on Psychosocial Factors and Workers' Health and Safety. http://dx.doi.org/10.1155/2015/213089

[107] European Commission (2017). Commission Staff Working Document: Ex-post evaluation of the European Union occupational safety and health Directives. SWD(2017) 10 final. https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwj_-4-j55XkAhVBUKwKHf1BC6MQFjAAegQIABAC&url=https%3A%2F%2Fec.europa.eu%2Fsocial%2FBlobServlet%3FdocId%3D16875%26langId%3Den&usg=AOvVaw3RtqDtLt3e58MUjwKXpg2M

[108] COWI (2015). Evaluation of the Practical Implementation of the EU Occupational Safety and Health (OSH) Directives in EU Member States. Report by Directive: Directive 89/391/EEC on the Introduction of Measures to Encourage Improvements in the Safety and Health of Workers at Work. DG Employment, Social Affairs and Inclusion. Available at: http://ec.europa.eu/social/BlobServlet?docId=16935&langId=en

[109] Leka, S., Jain, A., Iavicoli, S., and Di Tecco, C. (2015). An evaluation of the policy context on psychosocial risks and mental health in the workplace in the European Union: Achievements, challenges and the future. BioMed Research International, Special issue on Psychosocial Factors and Workers' Health and Safety. http://dx.doi.org/10.1155/2015/213089

governments acting with their full authority. Soft law can also lead to uncertainty, as competing sets of voluntary standards struggle for dominance, and as actors remain unclear about the costs of compliance or its absence and about when governments might intervene to impose a potentially different mandatory regime[110]. Unfortunately, very little evaluation exists in this area and it is difficult to draw meaningful conclusions, with the exception of available evaluation of the voluntary social partner agreements analysed earlier.

Policies are made and implemented in multi-actor contexts, and the various stakeholders frequently view problems and solutions differently, and some will try to influence the aim and direction of a policy all the way through the policy process. The context has a direct impact on the policy framework for health, safety and well-being, the actors who are included or excluded from the development of policies and their perception of associated risks, the process of negotiation, development and implementation of these policies, and policy outcomes. These have an impact on the actions taken by governments, regions, and organisations to manage health and safety issues. In order for balance to be achieved between different approaches to be implemented, it is important to align perspectives across key stakeholders and across different types of policies, and social and economic agendas[111].

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[110] Ibid.
[111] Jain, A., Leka, S., and Zwetsloot, G. (2018). Managing health, safety and well-being: Ethics, responsibility and sustainability. Dordrecht: Springer.

10   Summary of past experiences and future lessons

At the policy level, a number of approaches, both regulatory and voluntary, now exist, even though some, like the standards in this area, are too new to evaluate. The current "policy mix" is interesting but needs to be evaluated critically to conclude on what works and when, and divert efforts more strategically where needed. The basis for decisions made in policy making would also need to be evaluated on the basis of a new "value case" instead of solely an economic case while the use of evidence should play a key role in this process[112]. Furthermore, ongoing developments in terms of employment arrangements, the nature of work and new types of risk, as well as the workforce itself should be taken into account in order to relevant and meaningful policies to be developed.

The evaluation of OSH directives clearly concluded that compliance is more challenging for SMEs than large establishments and especially as concerns psychosocial risks. The causes of this are multiple and range from inherent difficulty in respecting regulatory and administrative provisions, often due to a lack of directly available expertise, to a lack of awareness of obligations, absence of guidance or deficient enforcement. Compliance costs are also higher for SMEs in relative terms. Specific support measures are therefore necessary to reach SMEs and help them increase their compliance in an efficient and effective way. In the implementation of the "Community Strategy 2007-2012 on Health and Safety at Work" [113], the Commission and EU-OSHA developed practical guides and materials on good practice to support implementation of OSH measures in SMEs. OiRA, developed by EU-OSHA, is a major contribution to facilitating SMEs' compliance with OSH requirements. However, a more concentrated effort is needed at EU and national level.

A major challenge for the application of employment and social security laws, as well as for education and training approaches, relates to a more diverse and less well-defined workforce and to changes introducing more flexible working patterns, which are expected to be brought about by an increase in the prevalence and spread of ICT-ETs. This is because ICT-ETs allow work to be done virtually anywhere and at any time, and it is expected to fundamentally change traditional employer-employee relationships[114]. Modern IT technologies and new forms of work such as platform work mean that an increasing number of workers occasionally or regularly work outside of the employers' premises. In this context, the findings of the evaluation of OSH directives indicate that a shift towards a more dynamic notion of "workplace" seems to be needed.

The self-employed are a group that often does not receive appropriate attention, as has been discussed earlier. Given the changing nature of work and employment arrangements, issues in relation to the self-employed should be given increased attention. There is also increasing workforce diversity, as reflected in new atypical contractual arrangements and work patterns, and a higher job turnover associated with shorter job assignments, especially for younger workers. Specific attention should be given to addressing the impact of changes in work organisation in terms of physical and mental health. In particular, women can face specific risks, such as

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[112] Leka, S., Van Wassenhove, W., and Jain, A. (2015). Is psychosocial risk prevention possible? Deconstructing common presumptions. Safety Science, 71 (1), 61–67.
http://eprints.nottingham.ac.uk/31892/1/Safety%20Science_Is%20psychosocial%20risk%20prevention%20possible_Leka%20et%20al.pdf
[113] European Commission (2007). Community Strategy 2007-2012 on Health and Safety at Work. COM(2007) 62 final https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0062:FIN:EN:PDF
[114] EU-OSHA (2017). Key trends and drivers of change in information and communication technologies and work location. Luxembourg: Publications Office of the European Union.
https://osha.europa.eu/en/tools-and-publications/publications/key-trends-and-drivers-change-information-and-communication

musculoskeletal disorders or specific types of cancer, as a result of the nature of some jobs where they are over-represented[115].

The case for psychosocial risk management is very strong. The same way psychosocial risk management can represent an opportunity for businesses at the organisational level, it can present an opportunity for nations at the macro level. However, policy making needs to be more strategic in this area[116].

Frameworks, tools and services that support businesses in the psychosocial risk management process, should clearly prioritise preventive approaches aiming at sustainable solutions. Psychosocial risk management should be linked to business and societal sustainability, recognising both potential negative and positive outcomes, and emphasising their important link to business strategy and policy making. Available guidance should be conceptualised more clearly within this thinking. As recent data still points out that European enterprises are in need of support to develop, implement and manage psychosocial risks, it is important that a critical evaluation of efforts employed so far to address them is conducted and that further sharing of experiences, practices, and tools across countries takes place[117].

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[117] Leka, S., Van Wassenhove, W., and Jain, A. (2015). Is psychosocial risk prevention possible? Deconstructing common presumptions. Safety Science, 71 (1), 61–67. http://eprints.nottingham.ac.uk/31892/1/Safety%20Science_Is%20psychosocial%20risk%20prevention%20possible_Leka%20et%20al.pdf

Annex 1

Table 1.   OSH Directives of relevance to psychosocial risks in the workplace at EU level

Directive 89/391/EEC the European Framework Directive on Safety and Health at Work
Directive 2003/88/EC concerning certain aspects of the organisation of working time (consolidates and repeals Directive 93/104/EC)
Directive 90/270/EEC on the minimum safety and health requirements for work with display screen equipment (fifth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
Directive 92/85/EC on pregnant workers, women who have recently given birth or are breast-feeding
Directive 94/33/EC on the protection of young people at work
Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community
Directive 2002/15/EC on the organisation of working time of persons performing mobile road transport activities
Directive 96/34/EC on the framework agreement on parental leave
Directive 2009/104/EC concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) [*replacing Directive 89/655/EEC*]
Directive 2008/94/EC on the protection of employees in the event of the insolvency of their employer (repealing Directive 2002/74/EC and Council Directive 80/987/EEC)
Directive 98/59/EC on the approximation of the laws of the Member States relating to collective redundancies
Directive 92/91/EEC - concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling (eleventh individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
Directive 92/104/EEC on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries (twelfth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
Directive 89/654/EEC concerning the minimum safety and health requirements for the workplace (first individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
Directive 89/656/EEC on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
Directive 90/269/EEC on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (fourth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
Directive 97/81/EC concerning the framework agreement on part-time work

Directive 99/70/EC concerning the framework agreement on fixed-term work

Directive 2000/79/EC concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation.

Council Directive 2001/23/EC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses

Directive 2009/38/EC on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (recast)

Directive 93/103/EC concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

Directive 92/57/EEC on the implementation of minimum safety and health requirements at temporary or mobile construction sites (eighth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

Directive 91/383/EEC supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship

Table 2. Results of the implementation of the European framework agreement on work-related stress

Social partners/ involvement instruments	Substantial joint efforts of social partners	Moderate or unilateral efforts of social partners	Limited social partners initiatives	No social partners initiative so far
National collective agreement or social partner action based on explicit legal framework	Netherlands, Finland, Sweden Belgium, Denmark, UK[3] France[4] Iceland, Norway	Italy	Greece, Romania	
Non-binding instrument based on general legal provisions	Spain (agreement), Luxemburg, Austria (recommendations)	Ireland (recommendations) Czech Republic, Germany[2]		
Mainly legislation	Latvia[1]	Hungary[1], Slovakia[1] (social partner initiated), Portugal[1]		Lithuania[1], Bulgaria, Estonia
No action reported or declaration with limited follow-up			Cyprus[5], Poland, Slovenia	Malta

Notes: Situation in early 2010. This overview necessarily simplifies differences within categories.

1 Regulation following European Framework Agreement

2 Joint action indirectly through statutory self-governed accident insurance bodies that have a preventive mission

3 Recognized as occupational health risk in common law

4 National agreement, persistent problems at company level led to government intervention

5 Formal, joint recognition of pertinence of the general legal framework

Source: Adapted from EC, 2011[118]

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[118] European Commission (2011). Report on the implementation of the European social partners - Framework Agreement on Work-related Stress. SEC(2011) 241 final, Commission staff working paper.
http://www.europarl.europa.eu/registre/docs_autres_institutions/commission_europeenne/sec/2011/0241/COM_SEC%282011%290241_EN.pdf

Table 3.   Main implementation actions with a direct link to the autonomous framework agreement on harassment and violence in the workplace

Country	Implementing actions	Date	Coverage	Binding/non-binding
AT	Joint guidance	2009	Members of signatory parties (all employers and employees)	Non-binding
BE	Assessment of national legislation led to decision that no further implementation action was needed	2007/8	N/A	N/A
BG	None	N/A	N/A	N/A
CY	Joint translation	2008	Whole economy	Non-binding
	Tripartite framework agreement on stress with a policy statement on violence and harassment	2009	Whole economy	Binding
CZ	Joint translation	2007	Whole economy	Non-binding
	Joint brochure on all 3 autonomous framework agreements	2007	Members of signatory parties	Non-binding
	Various sectoral collective agreements		Members of signatory parties	Binding
DE	Joint dissemination activity around translation of the agreement (including joint events)	2008	Whole economy	Non-binding
	Various sectoral collective agreements		Members of signatory parties	Binding
DK	Assessment of existing legislation and framework collective agreement (private sector) leading to joint declaration that existing provisions are sufficient	2006 (collective agreement) 2010 (joint statement)	Members of signatory parties, private sector	Non-binding
	Collective agreement ("Well-being agreement")		Public Sector	Binding
	Collective agreement on harassment and bullying in the industrial and	2008	Members of signatory parties;	Binding

	retail sector in implementation of above-mentioned private sector framework agreement)		industrial and retail sector	
EE	Translation dissemination on ministry and social partner websites	2008	Whole workforce	Non-binding
EL	None	N/A	N/A	N/A
ES	Cross-industry collective agreement requiring inclusion in sectoral collective agreements	2008	Members of signatory parties	Non-binding (but requiring members of signatory parties to take relevant actions)
FI	Joint translation Joint dissemination Drafting of joint leaflet on main messages of agreement; joint work with central government	2010	Whole workforce	Non-binding
FR	Cross-industry national agreement on harassment and violence at work (extended by ministerial decree)	2010	Whole workforce	Binding
HR	None	N/A	N/A	N/A
HU	Joint translation Joint dissemination through circulation of joint information note Consideration of the issue in the revision of the Labour Code (but no changes made)	2009	Members of signatory parties	Non-binding
IE	Joint Charter on Dignity in the workplace	2007	Whole economy	Non-binding
IT	None	N/A	N/A	N/A
LT	None	N/A	N/A	N/A
LU	Joint cross-sectoral agreement on harassment and violence at work; declared generally binding by Grand ducal decree	2009	Whole economy	Binding

LV	Joint declaration, followed by initiatives to support sectoral implementation	2008	Members of signatory organisations	Non-binding
MT	None	N/A	N/A	N/A
NL	Joint Recommendation on harassment and violence in the workplace	2008	Members of signatory organisations	Non-binding
	Various sectoral collective agreements and agreement of "risk catalogues"		Members of signatory organisations	Binding
PL	Joint translation and joint declaration by cross- industry social partners	2009 (joint translation)	Members of signatory organisations	Non-binding
		2011 (joint declaration)		
PT	Joint translation	2008	Whole economy	Non-binding
RO	None	N/A	N/A	N/A
SE	Joint translation	2008	Whole economy	Non-binding
	Joint dissemination			
	Publication of joint book on avoiding harassment at work	2008	Whole economy	Non-binding
	Various sectoral collective agreements		Signatory parties	Binding
SI	Amendments to health and safety legislation to include provision in line with framework agreement	2007 and 2013	Whole economy	Binding
SK	None	N/A	N/A	N/A
UK	Joint guidance	2009	Whole workforce	Non-binding
IS	Joint review of national legislation (and conclusion of no further action needed)	2010	Whole workforce	Non-binding
	Joint translation			
	Joint dissemination of agreement			
LI	None	N/A	N/A	N/A

NO	Joint translation and dissemination	2008	Whole economy	Non-binding
	Joint guidelines on bullying and harassment (together with the National Labour Authority)	2010		
	Tripartite agreement on a more inclusive working life (5th IA agreement)	2019 *First IA signed in 2001*	Whole economy	

Source: Adapted from EC, 2016[119]

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[119] European Commission (2016). Study on the implementation of the autonomous framework agreement on harassment and violence at work. Directorate General for Employment, Social Affairs and Inclusion. Luxembourg: Publications Office of the European Union. https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7922&furtherPubs=yes

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