



Interpretative Document of the Implementation of Council Directive 89/391/EEC in relation to Mental Health in the Workplace

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INTERPRETATIVE DOCUMENT PROPOSED BY THE CONTRACTOR TO THE COMMISSION'S SERVICES¹

IMPLEMENTATION OF COUNCIL DIRECTIVE 89/391/EEC IN RELATION TO MENTAL HEALTH IN THE WORKPLACE

1. Introduction

Specific professions and/or work tasks may put workers under specific risks. For example, asbestos is a well-known cause of a range of specific forms of occupational ill-health, with construction workers being typically prone to incurring risks due to asbestos exposure. Any preventive measures should therefore be, as far as asbestos-exposure related risks are concerned, specific to such risk. Likewise, while some specific professions and/or working activities may put the respective workers at a higher risk of suffering mental ill-health (mental health in a general sense), for example health professionals and teachers, various forms of mental ill-health are generally ever more present in the workplace, irrespective of sector. Mental health is thus one of the 'dimensions' of workers' health that needs to be consideredⁱ.

Hence, in this respect, and in the absence of any 'mental health in the workplace' specific legal instrument², the provisions of Council Directive 89/391/EEC apply. It is the reference legal instrument for mental health in the workplace whenever risk assessment is being carried out, in particular by employers, of the workplaces for which they have responsibility.

This is all the more important as workplace related mental health problems are currently one of the most serious workplace related health concerns, as reflected by an abundance of data (e.g. on absenteeism, long-term sick leave, work-related suicides) due to, inter alia, stress at work (itself the consequence of, e.g., new forms of work organisation, harassment and violence in the workplace, insecurity of tenure, exposure to a poor physical work environment) and depression.

By resorting to an 'interpretative' approach, **this interpretative document aims, therefore, to reiterate, in particular to employers but indeed anybody with relevant responsibilities in concrete settings/companies, the fact that as regards the mental health of workers and in particular when it comes to taking any necessary risk prevention measures specific to this type of issue, the provisions of Council Directive 89/391/EEC are applicable. This document hence indicates the formal requirements of the Council Directive 89/391/EEC as regards mental health in the workplace.**

¹ This interpretative document is not legally binding. The ultimate interpretation of Community laws lies with the European Court of Justice.

² This is without prejudice to provisions under a number of framework agreements ratified between the Commission and a range of organisations, aiming to tackle and prevent a number of specific, workplace mental health-related, problems (e.g. stress, harassment and violence in the workplace).

2. Object and scope of Directive 89/391/EEC

Council Directive 89/391/EEC was introduced on 12 June 1989. The object of Council Directive 89/391/EEC is to introduce measures to encourage improvements in the safety and health of workers at work. It contains general principles concerning the prevention of occupational risks, the protection of safety and health, the elimination of risk and accident factors, the informing, consultation, balanced participation in accordance with national laws and/or practices and training of workers and their representatives, as well as general guidelines for the implementation of the said principles. The improvement of workers' safety, hygiene and health at work should not be subordinated to purely economic considerations.

The Directive applies to all sectors of activity, both public and private. It is not applicable where characteristics peculiar to certain specific public service activities, such as the armed forces or the police, or where certain specific activities in the civil protection services, inevitably conflict with it.ⁱⁱ Member States are to take the necessary steps to ensure that employers, workers and workers' representatives are subject to the legal provisions necessary for the implementation of the Directive, and to ensure adequate controls and supervision. Whereas the Directive does not justify any reduction in levels of protection already achieved in individual Member States, the Member States are committed under the Treaty on the Functioning of the European Union – (Article 151 TFEU), to encourage improvements in conditions in this area and to harmonizing conditions while maintaining the improvements made.

On the basis of this Directive, a series of individual directives were adopted. This 'Framework Directive' with its general principles continues to apply in full to all the areas covered by the individual directives, but where individual directives contain more stringent and/or specific provisions, these special provisions of individual directives prevail.

3. Definitions

The following key definitions are included in the Framework Directive:

Worker: "any person employed by an employer, including trainees and apprentices but excluding domestic servants".

Employer: "any natural or legal person who has an employment relationship with the workers and has responsibility for the undertaking and/or establishment".

Workers' representative with specific responsibility for the safety and health of workers: "any person elected, chosen or designated in accordance with national laws and/or practices to represent workers where problems arise relating to the safety and health protection of workers at work".

Prevention: "all the steps or measures taken or planned at all stages of work in the undertaking to prevent or reduce occupational risks".

4. Provisions of Council Directive 89/391/EEC and interpretation in relation to mental health in the workplace

The Directive contains basic obligations for employers and workers. However, workers' obligations do not affect the principle of the responsibility of the employer (Article 5 (3)).

According to Article 5 (1), *"the employer shall have a duty to ensure the safety and health of workers **in every aspect related to the work**"*.^{iii iv v}

The Directive also states that:

"...employers shall be obliged to keep themselves informed of the latest advances in technology and scientific findings concerning workplace design, account being taken of the inherent dangers in their undertaking, and to inform accordingly the workers' representatives exercising participation rights under this Directive, so as to be able to guarantee a better level of protection of workers' health and safety".

While Article 5 (4) of the Directive states that:

"This Directive shall not restrict the option of Member States to provide for the exclusion or the limitation of employers' responsibility where occurrences are due to unusual and unforeseeable circumstances, beyond the employers' control, or to exceptional events, the consequences of which could not have been avoided despite the exercise of all due care".

The Directive is underpinned by the principles of **prevention** which include the following (Article 6 (2)):

- *"avoiding risks"*^{vi}
- *evaluating the risks which cannot be avoided*
- *combating the risks at source*
- *adapting work to the individual, especially as regards the design of work places, the choice of work equipment and the choice of working and production methods, with a view, in particular to alleviating monotonous work and work at a predetermined work-rate and to reducing their effect on health*
- *adapting to technical progress*
- *replacing the dangerous by the non-dangerous or the less dangerous*
- *developing a coherent overall prevention policy which covers technology, organization of work, working conditions, social relationships and the influence of factors related to the working environment*
- *giving collective measures priority over individual protective measures*
- *giving appropriate instructions to the workers"*.

Employer obligations

Article 9 (1) further states that the employer shall:

- *be in possession of an assessment of the risks to safety and health at work, including those facing groups of workers exposed to particular risks*
- *decide on the protective measures to be taken and, if necessary, the protective equipment to be used;*
- *keep a list of occupational accidents resulting in a worker being unfit for work for more than three working days;*
- *draw up, for the responsible authorities and in accordance with national laws and/ or practices, reports on occupational accidents suffered by his workers"*.^{vii}

The above principles of prevention and employer obligations also apply to the prevention of risks in relation to mental health in the workplace.^{viii} Firstly, employers should keep themselves informed of the latest advances in technology and scientific findings concerning workplace design as well as the inherent dangers in their workplace that might affect the mental health of workers. They should inform accordingly the workers' representatives on these issues. **Employers should conduct risk assessments in relation to mental health of workers, placing particular attention to any groups of workers particularly facing risks to their mental health. Priority should be given to combating risks to mental health at source, and implementing collective protective measures to affect the majority of the workforce, over individual protective measures.** Prevention policies should include the assessment and management of risks in relation to mental health in the workplace, taking into account workplace design, work equipment, work and production methods and processes, work organization, working conditions, social relationships and any other relevant factors in the working environment.^{ix x}

In line with the above principles of prevention, the Directive (Articles 6 (1-2) states that the employer shall:

*"- Take the measures necessary for the safety and health protection of workers, including prevention of occupational risks and provision of information and training, as well as provision of the necessary organization and means
- Be alert to the need to adjust these measures to take account of changing circumstances and aim to improve existing situations".^{xi xii}*

Article 6 (3) of the Directive further states that while taking into account the nature of the activities of the enterprise and/or establishment, the employer shall:

- evaluate the risks to the safety and health of workers, inter alia in the choice of work equipment, the chemical substances or preparations used, and the fitting-out of work places
- implement measures which assure an improvement in the level of protection afforded to workers and are integrated into all the activities of the undertaking and/or establishment at all hierarchical levels
- take into consideration the worker's capabilities as regards health and safety when he entrusts tasks to workers
- consult workers and/or their representatives on the planning and introduction of new technologies as regards the consequences of the choice of equipment, the working conditions and the working environment for the safety and health of workers
- take appropriate steps to ensure that only workers who have received adequate instructions may have access to areas where there is serious and specific danger.^{xiii}

In line with these provisions, **employers must evaluate risks to the mental health of workers, implement measures to assure an improvement in the protection of the mental health of workers into all activities, while taking into account workers' capabilities in assigning work tasks and consulting workers and/or their representatives on planning and introducing new technologies, equipment, and working conditions so as to protect workers' mental health. Employers must also provide information and training, as well as provision of the necessary organization and means, in relation to mental health in the workplace.**

Article 7 of the Directive specifically refers to protective and preventive services requiring that the employer shall designate one or more workers to carry out activities related to the protection and prevention of occupational risks for the undertaking and/or establishment without placing them at any disadvantage because of their activities

related to the protection and prevention of occupational risks, and allowing them adequate time to enable them to fulfil their obligations arising from this Directive. In addition, the Directive states that if such protective and preventive measures cannot be organized for lack of competent personnel in the undertaking and/or establishment, the employer shall enlist competent external services or persons, and where the employer enlists such services or persons, he shall inform them of the factors known to affect, or suspected of affecting, the safety and health of the workers and they must have access to information. Member States may define, in the light of the nature of the activities and size of the undertakings, the categories of undertakings in which the employer, provided he is competent, may himself take responsibility for the activities related to the protection and prevention of occupational risks.^{xiv} According to Article 7 (8) of the Directive Member States have the obligation to define the necessary capabilities and aptitudes which the workers must have and may lay down further objective criteria to guide employers in their assessment of the competence within their undertaking.

According to the above provisions, **workers designated to carry out activities related to the protection and prevention of occupational risks should also consider risks in relation to mental health in the workplace and the employer should allow them adequate time to do so and not place them at disadvantage.** If competent personnel is lacking in the undertaking and/or establishment to contribute to the organization of protective and preventive measures to tackle risks in relation to mental health, the employer shall enlist competent external services or persons and shall inform them of the factors known to affect, or suspected of affecting, the mental health of workers, while providing them with access to this information.

In all cases the workers designated must have the necessary capabilities and the necessary means, the external services or persons consulted must have the necessary aptitudes and the necessary personal and professional means, and the workers designated and the external services or persons consulted must be sufficient in number to deal with the organization of protective and preventive measures, taking into account the size of the undertaking and/or establishment and/or the hazards to which the workers are exposed and their distribution throughout the entire undertaking and/or establishment. The protection from, and prevention of, the health and safety risks shall be the responsibility of one or more workers, of one service or of separate services whether from inside or outside the undertaking and/or establishment. The worker(s) and/ or agency(ies) must work together whenever necessary.

Article 5 (2) of the Directive further specifies that: "*Where...an employer enlists competent external services or persons, this shall not discharge him from his responsibilities in this area*".^{xv}

In line with these provisions, appropriate capabilities and means, both internally in the organization and in external services, are important for the prevention of mental ill-health in the workplace. **Competence of workers and external services is important in addressing mental health in the workplace. The provision of information, training and adequate resources can be useful in developing appropriate competence.**^{xvi} The workers designated and the external services or persons consulted must be sufficient in number to deal with the organization of protective and preventive measures in relation to mental health in the workplace, taking into account the size of the undertaking and/or establishment and/or the hazards in relation to their mental health to which the workers are exposed and their distribution throughout the entire undertaking and/or establishment. The worker(s) and/ or agency(ies) must work together whenever necessary to promote mental health in the workplace.

The Directive highlights the responsibility of the employer to take measures to provide workers with health and safety information and also consult with and facilitate the participation of workers. Article 10 (1) states that:

"The employer shall take appropriate measures so that workers and/or their representatives in the undertaking and/or establishment receive, in accordance with national laws and/or practices which may take account, inter alia, of the size of the undertaking and/or establishment, all the necessary information concerning the safety and health risks and protective and preventive measures and activities in respect of both the undertaking and/or establishment in general and each type of workstation and/or job".

The obligations also extend to contract workers; Article 10 (2) states that:

"The employer shall take appropriate measures so that employers of workers from any outside undertakings and/ or establishments engaged in work in his undertaking and/ or establishment receive, in accordance with national laws and/ or practices, adequate information concerning the points referred to in paragraph 1 (a) and (b) which is to be provided to the workers in question".

Article 10 (3) further states that:

"The employer shall take appropriate measures so that workers with specific functions in protecting the safety and health of workers, or workers' representatives with specific responsibility for the safety and health of workers shall have access, to carry out their functions and in accordance with national laws and/or practices, to

(a) the risk assessment and protective measures referred to in Article 9 (1) (a) and (b);

(b) the list and reports referred to in Article 9 (1) (c) and (d);

(c) the information yielded by protective and preventive measures, inspection agencies and bodies responsible for safety and health".

Article 11 specifies that:

"Employers shall consult workers and/or their representatives and allow them to take part in discussions on all questions relating to safety and health at work. This presupposes: the consultation of workers, the right of workers and/or their representatives to make proposals, balanced participation in accordance with national laws and/or practices".

The above principles of provision of information to workers as well as consultation and participation of workers also apply to the provision of information and consultation and participation of workers in relation to mental health in the workplace. **Employers must inform and consult employee representatives in advance and in good time on risk assessments and measures taken in relation to mental health in the workplace and make available to them any relevant information and reports, including those from inspection agencies or other bodies responsible for safety and health, and they must be given the opportunity to submit their observations during inspection visits by the competent authority.** They should not be placed at disadvantage because of their activities, and they are entitled to appeal, in accordance with national law and/ or practice, to the authority responsible for safety and health protection at work if they consider that the measures taken and the means employed by the employer are inadequate for the purposes of ensuring safety and health at work.^{xvii xviii}

Article 12 of the Directive outlines the responsibility of the employers to provide workers and their representatives with health and safety training during working hours at no expense to them. The Directive states that:

"The employer shall ensure that each worker receives adequate safety and health training, in particular in the form of information and instructions

specific to his workstation or job (...) The training shall be adapted to take account of new or changed risks, and repeated periodically if necessary". "Workers' representatives with a specific role in protecting the safety and health of workers shall be entitled to appropriate training" and "the training may not be at the workers' expense or at that of the workers' representatives".

The provision of **training to workers and their representatives during working hours should also include factors relevant to mental health in the workplace and account for new or changed risks.**^{xix xx}

Articles 14 and 15 of the Directive further specify that health surveillance should be provided for workers according to national systems. Particularly sensitive risk groups must be protected against the dangers which specifically affect them.

These provisions on health surveillance also apply in relation to the mental health of workers. Especially **vulnerable groups^{xxi} such as those affected by mental health problems or those exposed to risks in relation to their mental health must be protected against dangers which specifically affect them.**

Worker obligations

Article 13 of the Directive specifies worker obligations stating that:

"it shall be the responsibility of each worker to take care as far as possible of his own safety and health and that of other persons affected by his acts or omissions at work in accordance with his training and the instructions given by his employer". Workers must "immediately inform the employer and/or the workers with specific responsibility for the safety and health of workers of any work situation they have reasonable grounds for considering represents a serious and immediate danger to safety and health and of any shortcomings in the protection arrangements", "cooperate, in accordance with national practice, with the employer and/or workers with specific responsibility for the safety and health of workers, for as long as may be necessary to enable any tasks or requirements imposed by the competent authority to protect the safety and health of workers at work to be carried out", and "cooperate, in accordance with national practice, with the employer and/or workers with specific responsibility for the safety and health of workers, for as long as may be necessary to enable the employer to ensure that the working environment and working conditions are safe and pose no risk to safety and health within their field of activity".

According to these provisions, **workers have a responsibility to take care as far as possible of their own mental health and that of other persons affected by their acts. In addition, they should inform the employer and/or workers with specific responsibility for the safety and health of workers of any work situation that may pose a threat to the mental health of workers or to any shortcomings in protective measures. Furthermore, they must cooperate with the employer and/or workers with specific responsibility for the safety and health of workers for as long as necessary to ensure that the working environment and working conditions pose no risk to the mental health of workers and to implement protective measures for the mental health of workers.**^{xxii}

ⁱ COM/2004/0062, 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) states: "...the risks addressed by the Framework Directive 89/391 and its five first individual Directives 89/654, 89/655, 89/656, 90/269 and 90/270 are present in the public sector at the same levels as in the private sector. It cannot be disputed that the risks linked to ergonomic aspects, workplace conditions, the handling of loads, the use of display screen equipment or the organisational aspects including the psychosocial risks, are widely present in the public sector. The complaints received by the Commission from workers from the public sector confirm the poor working conditions related to these risks and the poor level of implementation".

ii The European Court of Justice (entrusted with ensuring that in the interpretation and application of the Treaties the law is observed – Article 19 (1) TEU) pertaining to the interpretation of the provisions of Directive 89/391/EEC has held, in Case C-303/98 (SIMAP), that the interpretation to be given to the exception in Article 2 (2) must be restrictive –

"34. it is clear both from the object of the basic Directive (89/391/EEC), namely to encourage improvement in the safety and health of workers at work, and from the wording of Article 2 (1) thereof, that it must necessarily be broad in scope."

"35. It follows from the exceptions to the scope of the basic Directive, including that provided for in Article 2 (2) must be interpreted restrictively."

In case C-397/01-403/01 (Pfeiffer v Deutsches Rotes Kreuz, Kreisverband Waldshut eV) the Court held that:

"39.... as regards the Directive's scope, ... Article 2 of Directive 89/391, excludes from that scope a number of areas to the extent to which characteristics peculiar to certain specific activities inevitably conflict with it. However, in the referring court's view, that exclusion is intended to cover only those activities which aim to secure public safety and order, which are indispensable to the common good or which, owing to their nature, do not lend themselves to planning. It mentions, by way of example, major catastrophes. By contrast, emergency services should not be excluded from the scope ... even though emergency workers must be ready to respond round the clock, since the duties and working time of each of them remain amenable to planning".

iii The European Commission 'Guidance on Risk Assessment at Work' published in 1996 in Annex 1A provides some illustrative examples of work situations and activities requiring a risk assessment. Among them are physical and biological agents, environmental factors, human factors, psychological factors and work organization. It further states that a risk assessment can include a review of psychological, social and physical factors which may contribute to stress at work, how they interact together and with other factors in the work organization and environment.

iv The European Social Partner Framework Agreement on Work-related Stress (2004) which is an autonomous, or non-binding, agreement refers to an "...analysis of factors such as work organization and processes (working time arrangements, degree of autonomy, match between workers skills and job requirements, workload, etc.), working conditions and environment (exposure to abusive behaviour, noise, heat, dangerous substances, etc.), communication (uncertainty about what is expected at work, employment prospects, or forthcoming change, etc.) and subjective factors (emotional and social pressures, feeling unable to cope, perceived lack of support, etc.)" (p.2).

v The European Social Partner Framework Agreement on Harassment and Violence at Work (2007) which is an autonomous, or non-binding, agreement states that: "the work environment can influence people's exposure to harassment and violence" (p.2).

vi The European Commission 'Guidance on Risk Assessment at Work' published in 1996 in Section 1 includes the following key definitions: "*Hazard*: The intrinsic property or ability

of something (e.g. work materials, equipment, work methods and practices) with the potential to cause harm. *Risk*: The likelihood that the potential for harm will be attained under the conditions of use and/or exposure, and the possible extent of the harm. Risk assessment: The process of evaluating the risk to the health and safety of workers while at work arising from the circumstances of the occurrence of a hazard at the workplace”.

^{vii} With particular relevance to SMEs, in what regards the obligation in Article 9 (1) of the Framework Directive, the European Court of Justice held in Case C-5/00 (Commission v. Germany) that the obligation on the employer to be in possession of an assessment of the risks to safety and health at work, including those facing groups of workers exposed to particular risks, applies to employers of 10 or fewer workers in all circumstances. It is clear that the assessment of all risks, including psychosocial risks, must also be performed by employers in small and micro enterprises.

^{viii} The European Social Partner Framework Agreement on Work-related Stress (2004) states that: “Under framework directive 89/391, all employers have a legal obligation to protect the occupational safety and health of workers. This duty also applies to problems of work-related stress in so far as they entail a risk to health and safety” (p.2).

^{ix} The European Social Partner Framework Agreement on Work-related Stress (2004) states that: “Preventing, eliminating or reducing problems of work-related stress can include various measures. These measures can be collective, individual or both. They can be introduced in the form of specific measures targeted at identified stress factors or as part of an integrated stress policy encompassing both preventive and responsive measures”. “Addressing problems of work-related stress may be carried out within an overall process of risk assessment, through a separate stress policy and/or by specific measures targeted at identified stress factors”. “If a problem of work-related stress is identified, action must be taken to prevent, eliminate or reduce it” (p.2).

^x The European Social Partner Framework Agreement on Harassment and Violence at Work (2007) states that “Enterprises need to have a clear statement outlining that harassment and violence will not be tolerated. This statement will specify procedures to be followed where cases arise. Procedures can include an informal stage in which a person trusted by management and workers is available to give advice and assistance” (p.2).

^{xi} The European Social Partner Framework Agreement on Work-related Stress (2004) states that anti-stress measures can include: “management and communication measures such as clarifying the company’s objectives and the role of individual workers, ensuring adequate management support for individuals and teams, matching responsibility and control over work, improving work organization and processes, working conditions and environment; training managers and workers to raise awareness and understanding of stress, its possible causes and how to deal with it, and/or to adapt to change; provision of information to and consultation with workers and/or their representatives in accordance with EU and national legislation, collective agreements and practices” (p.2).

^{xii} The European Social Partner Framework Agreement on Harassment and Violence at Work (2007) states that: “Raising awareness and appropriate training of managers and workers can reduce the likelihood of harassment and violence at work” (p.2).

^{xiii} In what concerns the duty on the employer to evaluate risks, the European Court of Justice held, in case C 49/00 (Commission v. Italy) that this includes all risks). The Court held as follows:

"12. It must be noted, at the outset, that it follows both from the purpose of the Directive, which according to the 15th recital, applies to all risks, and from the wording

of Article 6 (3) a) thereof, that employers are obliged to evaluate all risks to the safety and health of workers.

"13. It should also be noted that the occupational risks which are to be evaluated by employers are not fixed once and for all, but are continually changing in relation, particularly, to the progressive development of working conditions and scientific research concerning such risks".

^{xiv} In case C-441/01 (Commission v. Netherlands) the European Court of Justice held that:

"54..., the aim of the Directive is to promote balanced participation of workers in activities related to protection against and prevention of occupational risks. It is therefore by giving precedence to the internal organization of such activities that the best possible effectiveness of the Directive can be ensured".

^{xv} The European Commission 'Guidance on Risk Assessment at Work' published in 1996 in Section 2 states that the employer should aim to avoid: "turning to outside help on matters which should or could be handled within the employer's business by its own staff; trying to cover for lack of essential training or of management or supervisory skills within the enterprise".

^{xvi} The European Social Partner Framework Agreement on Work-related Stress (2004) states that: "The responsibility for determining the appropriate measures rests with the employer. These measures will be carried out with the participation and collaboration of workers and/or their representatives". "Where the required expertise inside the work place is insufficient, competent external expertise can be called upon, in accordance with European and national legislation, collective agreements and practices" (p.2).

^{xvii} The European Commission's Guidance on Risk Assessment at Work (1996) states that "Risk assessments should be made, not just by the employer or the employer's representative working in isolation, but also by involving the employees or their representatives. They should be consulted as part of the assessments and given information concerning the conclusions of assessments made and the preventive measures to be taken". It further states that "Sometimes the conclusion of an assessment will concern employees of an outside undertaking who will potentially be affected by activities at the workplace when they visit to carry out their work. The employer should arrange that the employer of the outside undertaking and their workers are informed of particular risks, protective measures to be taken, and protective equipment to be used".

^{xviii} The European Social Partner Framework Agreement on Work-related Stress (2004) provides examples of measures to prevent, eliminate or reduce problems of work-related stress including "Management and communication measures such as clarifying the company's objectives and the role of individual workers, ensuring adequate management support for individuals and teams (...)", and also "provision of information to and consultation with workers and/or their representatives in accordance with EU and national legislation, collective agreements and practices" (p.2).

^{xix} The European Social Partner Framework Agreement on Work-related Stress (2004, p.2) highlights the importance of training provision, stating that "Training managers and workers to raise awareness and understanding of stress, its possible causes and how to deal with it, and/or to adapt to change", is amongst measures which an employer should implement to prevent, eliminate or reduce problems of work-related stress.

^{xx} The European Social Partner Framework Agreement on Harassment and Violence at Work (2007) states that "Raising awareness and appropriate training of managers and workers can reduce the likelihood of harassment and violence at work" (p.2).

^{xxi} The European Commission 'Guidance on Risk Assessment at Work' published in 1996 in Annex 2A specifies workers who may be at risk as: employees engaged in production, manufacturing, distribution, retailing and R&D activities, etc., ancillary or support-services employees, contractors, self-employed workers, students, apprentices and trainees, office and shop workers, visitors emergency services and laboratory workers; and those that may be at increased risk as: staff with disabilities, young and old workers, pregnant women and nursing mothers, untrained or inexperienced staff, people working in confined or poorly ventilated spaces, maintenance workers, immunocompromised workers, workers with pre-existing ill health, workers receiving medications which may increase their vulnerability to harm.

^{xxii} The European Social Partner Framework Agreement on Work-related Stress (2004) states that "All workers have a general duty to comply with protective measures determined by the employer" (p.2).

ANNEX

Other Directives complementing the provisions of Council Directive 89/391/EEC in relation to mental health in the workplace

A number of additional Directives also include provisions, concerning the prevention of occupational risks, the protection and promotion of mental health, consultation, participation and training of workers and their representatives, which complement the provisions of Council Directive 89/391/EEC. The Directives complementing the provisions of Council Directive 89/391/EEC in relation to mental health in the workplace and an explanation of their relevance is presented in the Table below.

Focus	Instrument	Content / Selected Excerpts	Relevance to Mental Health in the Workplace ^{xxiii}
General workplace requirements	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)	This Directive, "lays down minimum requirements for safety and health at the workplace". It covers aspects of the physical working environment which include, "Ventilation of enclosed workplaces (...), room temperature (...), Natural and artificial room lighting (...)".	The physical work environment can also have an impact on the mental health of workers. This may be direct or interact with exposure to psychosocial risks.

	<p>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]</p>	<p>The Directive highlights the employers obligation to, “take the measures necessary to ensure that the work equipment made available to workers in the undertaking or establishment is suitable for the work to be carried out or properly adapted for that purpose and may be used by workers without impairment to their safety or health”.</p> <p>Article 7 of the Directive covers ‘ergonomics and occupational health’, which states that, “The workplace and position of workers while using work equipment and ergonomic principles shall be taken fully into account by the employer when applying minimum health and safety requirements”.</p>	<p>Equipment used at work should be suitable both for the tasks to be performed and for worker abilities according to ergonomic principles. They should also protect workers from potential risks to their health and safety. If this is not the case, execution of tasks may put workers under distress, considering also other factors such as, for example, working to deadlines or in an assembly line.</p>
	<p>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)</p>	<p>The Directive specifies that, “All personal protective equipment must: (a) be appropriate for the risks involved, without itself leading to any increased risk; (b) correspond to existing conditions at the workplace; (c) take account of ergonomic requirements and the worker's state of health(…)”</p>	<p>Equipment used at work should be suitable both for the tasks to be performed and for worker abilities according to ergonomic principles. They should also protect workers from potential risks to their health and safety. If this is not the case, execution of tasks may put workers under distress, considering also other factors such as, for example, working to deadlines or in an assembly line.</p>

Sector specific workplace requirements	<p>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)</p>	<p>The Directive “lays down minimum safety and health requirements applicable to work on board [fishing] vessels”.</p> <p>It stipulates that, “the workers' living quarters and facilities, (...) should be such as to provide adequate protection against weather and sea, vibration, noise and unpleasant odours from other parts of the vessel likely to disturb the workers during their period of rest”.</p>	<p>This sectoral Directive highlights the importance of providing a safe work environment of adequate quality that does not interfere with workers’ rest. Adequate rest from work is important to maintain good mental health.</p>
	<p>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)</p>	<p>This Directive “lays down minimum requirements for the safety and health protection of workers in the mineral-extracting industries through drilling”.</p> <p>“Workplaces must be so organized as to provide adequate protection against hazards. (...). Workstations must be designed and constructed according to ergonomic principles taking into account the need for workers to be able to follow operations taking place at their workstations. Where workstations are occupied by lone workers, adequate supervision or means of communication must be provided”.</p>	<p>This sectoral Directive highlights the importance of a well-designed work environment, suitable both for the tasks to be performed and for worker abilities according to ergonomic principles. They should also protect workers from potential risks to their health and safety. If this is not the case, execution of tasks may put workers under distress, considering also other factors such as, for example, working to deadlines or in an assembly line. Lone working often characterises the mineral-extracting industries and may affect worker mental health negatively. Communication and the provision of support are important for this group of workers.</p>

	<p>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)</p>	<p>This Directive lays down minimum requirements for the safety and health protection of workers in the surface and underground mineral-extracting industries.</p> <p>“Workplaces must be so organized as to provide adequate protection against hazards. (...). Workstations must be designed and constructed according to ergonomic principles taking into account the need for workers to be able to follow operations taking place at their workstations. Where workstations are occupied by lone workers, adequate supervision or means of communication must be provided”.</p>	<p>This sectoral Directive highlights the importance of a well-designed work environment, suitable both for the tasks to be performed and for worker abilities according to ergonomic principles. They should also protect workers from potential risks to their health and safety. If this is not the case, execution of tasks may put workers under distress, considering also other factors such as, for example, working to deadlines or in an assembly line. Lone working often characterises the mineral-extracting industries and may affect worker mental health negatively. Communication and the provision of support are important for this group of workers.</p>
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	<p>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)</p>	<p>This Directive, “lays down minimum safety and health requirements for temporary or mobile construction sites”.</p> <p>It states that, “Where the safety or health of workers, in particular because of the type of activity carried out or the presence of more than a certain number of employees as well as the remote nature of the site, so require, workers must be provided with easily accessible rest rooms and/or accommodation areas. Rest rooms and/or accommodation areas must be large enough and equipped with an adequate number of tables and seats with backs for the number of workers concerned”.</p>	<p>This sectoral Directive highlights the importance of providing a safe work environment of adequate quality that does not interfere with workers’ rest. Adequate rest from work is important to maintain good mental health.</p>
<p>Physical work environment - hazard specific</p>	<p>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)</p>	<p>This Directive lays down the minimum safety and health requirements for work with display screen equipment. It states that, “Employers shall be obliged to perform an analysis of workstations in order to evaluate the safety and health conditions to which they give rise for their workers, particularly as regards possible risks to eyesight, physical problems and problems of mental stress”.</p>	<p>Work with display screen equipment may result to mental stress if not appropriately designed. Risk assessment for such jobs must also consider this dimension.</p>

	<p>Directive 2010/32/EU implementing the Framework Agreement on prevention from sharp injuries in the hospital and healthcare sector concluded by HOSPEEM and EPSU</p>	<p>This Directive implements the Framework Agreement on prevention from sharp injuries in the hospital and healthcare sector. One of its principles states that "The employer has a duty to ensure the safety and health of workers in every aspect related to the work, including psycho-social factors and work organisation".</p> <p>It further specifies, that "Risk assessments shall take into account technology, organisation of work, working conditions, level of qualifications, work related psycho-social factors and the influence of factors related to the working environment."</p> <p>"Prevent the risk of infections by implementing safe systems of work, by: (a) developing a coherent overall prevention policy, which covers technology, organisation of work, working conditions, work related psycho-social factors and the influence of factors related to the working environment (...)"</p>	<p>This sectoral Directive clearly recognises the employer's duty to include psychosocial factors in risk assessments and in designing appropriate policies and interventions.</p>
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	<p>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)</p>	<p>This Directive lays down minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers. It places responsibility on the employer to, "take care to avoid or reduce the risk particularly of back injury to workers, by taking appropriate measures, considering in particular the characteristics of the working environment and the requirements of the activity (...)".</p>	<p>Back pain (as well as other musculoskeletal disorders) are multifactorial in nature. Risk assessment in relation to manual handling should take into account various characteristics of the working environment since physical aspects can interact with psychosocial aspects resulting in unfavourable outcomes.</p>
	<p>Directive 2002/44/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (Vibration) Directive 2003/10/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (Noise) Directive 2004/40/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (Electromagnetic) Directive 2006/25/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (Radiation) Directive 1999/92/EC on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work Directive 98/24/EC on the protection of workers from the risks related to chemical agents at work Directive 2009/148/EC on the protection of workers from the risks related to exposure to asbestos at work Directive 2000/54/EC on the protection of workers from risks related to exposure to biological agents at work</p>		<p>These Directives refer to aspects of the physical work environment that can affect health and safety of workers. The physical work environment can also have an impact on the mental health of workers. This may be direct or interact with exposure to psychosocial risks.</p>

Working time	<p>Directive 2003/88/EC concerning certain aspects of the organisation of working time (consolidates and repeals Directive 93/104/EC)</p>	<p>“This Directive lays down minimum safety and health requirements for the organisation of working time”. It applies to, “minimum periods of daily rest, weekly rest and annual leave, to breaks and maximum weekly working time; and certain aspects of night work, shift work and patterns of work”.</p>	<p>Working time, including working hours, shift work, and working schedules, are recognised psychosocial factors that may have adverse outcomes on mental health of workers if not properly organised.</p>
	<p>Directive 97/81/EC concerning the framework agreement on part-time work</p>	<p>The purpose of this Directive is to implement the Framework Agreement on part-time work. The agreement provides, “for the removal of discrimination against part-time workers and to improve the quality of part-time work”.</p>	<p>Employers should consider the health and safety of all workers, including part-time workers. This includes their mental health. Part-time workers may be affected more by job insecurity or additional demands in other spheres of their lives. Employers should ensure these workers are not discriminated against when it comes to the provision of a healthy and safe work environment and their quality of work is not adversely affected.</p>
	<p>Directive 99/70/EC concerning the framework agreement on fixed-term work</p>	<p>The purpose of the Directive is to put into effect the framework agreement on fixed-term contracts. The agreement seeks to, “improve the quality of fixed-term work by ensuring the application of the principle of non-discrimination; establish a framework to prevent abuse arising from the use of successive fixed-term employment contracts or relationships”.</p>	<p>Employers should consider the health and safety of all workers, including those with fixed-term contracts. This includes their mental health. Fixed-term contract workers are affected more by job insecurity. Employers should ensure these workers are not discriminated against when it comes to the provision of a healthy and safe work environment and their quality of work is not adversely affected.</p>

	<p>Directive 2000/79/EC concerning the European Agreement on the Organisation of Working Time of Mobile Workers in Civil Aviation</p>	<p>The purpose of this Directive is to implement the European Agreement on the organisation of working time of mobile staff in civil aviation. It requires employers to take necessary measures, "to ensure that an employer, who intends to organise work according to a certain pattern, takes account of the general principle of adapting work to the worker".</p>	<p>Mental health at work is important across all sectors and sizes of organisations. In specific sectors, the nature of work may exacerbate particular risks. In aviation, working time patterns should be designed appropriately to ensure they are adapted to the worker and do not adversely affect their health and safety. Working time, including working hours, shift work, and working schedules, are recognised psychosocial factors that may have adverse outcomes on mental health of workers across all sectors if not properly organised.</p>
	<p>Directive 2002/15/EC on the organisation of working time of persons performing mobile road transport activities</p>	<p>This Directive establishes, "minimum requirements in relation to the organisation of working time in order to improve the health and safety protection of persons performing mobile road transport activities".</p>	<p>Mental health at work is important across all sectors and sizes of organisations. In specific sectors, the nature of work may exacerbate particular risks. In transport, working time patterns should be designed appropriately to ensure they are adapted to the worker and do not adversely affect their health and safety. Working time, including working hours, shift work, and working schedules, are recognised psychosocial factors that may have adverse outcomes on mental health of workers across all sectors if not properly organised.</p>

Discrimination	<p>Directive 2000/43/EC prohibiting direct or indirect discrimination on grounds of racial or ethnic origin</p>	<p>“The purpose of this Directive is to lay down a framework for combating discrimination on the grounds of racial or ethnic origin, with a view to putting into effect in the Member States the principle of equal treatment”.</p>	<p>Discrimination at work is linked to issues such as harassment, bullying and workplace violence. All workers should be treated equally on grounds of racial or ethnic origin.</p>
	<p>Directive 2000/78/EC prohibiting direct or indirect discrimination on grounds of religion or belief, disability, age or sexual orientation</p>	<p>“The purpose of this 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”.</p>	<p>Discrimination at work is linked to issues such as harassment, bullying and workplace violence. All workers should be treated equally on grounds of religion or belief, disability, age or sexual orientation.</p>
Equal treatment for men and women	<p>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)</p>	<p>The Directive states that, “Member States shall actively take into account the objective of equality between men and women when formulating and implementing laws, regulations, administrative provisions, policies and activities”, “conditions for access to employment (...) including promotion”, “access to all types and to all levels of vocational guidance (...)” and as regards, “employment and working conditions, including dismissals, as well as pay as provided for in Directive 75/117/EEC (...)”.</p>	<p>The provision of equal opportunities to staff, irrespective of gender, are among employer responsibilities. Career development and balance of efforts with appropriate rewards an important dimension of the psychosocial work environment. This relates to access to employment, vocational training, promotion, pay, and working conditions.</p>

	<p>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</p>	<p>“The purpose of this Directive is to ensure the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation. To that end, it contains provisions to implement the principle of equal treatment in relation to: access to employment, including promotion, and to vocational training; working conditions, including pay (...).”</p>	<p>The provision of equal opportunities to staff, irrespective of gender, are among employer responsibilities. Career development and balance of efforts with appropriate rewards an important dimension of the psychosocial work environment. This relates to access to employment, vocational training, promotion, pay, and working conditions.</p>
<p>Maternity and related issues</p>	<p>Directive 92/85/EC on pregnant workers, women who have recently given birth, or are breast-feeding</p>	<p>The purpose of this Directive is to implement measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or who are breastfeeding.</p> <p>It states that, “In consultation with the Member States and assisted by the Advisory Committee on Safety, Hygiene and Health Protection at Work, the Commission shall draw up guidelines on the assessment of the chemical, physical and biological agents and industrial processes considered hazardous for the safety or health of workers (...). These guidelines shall also cover, “movements and postures, mental and physical fatigue and other types of physical and mental stress connected with the work done by workers (...).”</p>	<p>Employers need to ensure non-discriminatory treatment of workers while at the same safeguarding their health and safety adapting the work environment and practices to suit the abilities of workers. This also applies with reference to specific groups of workers such as pregnant workers and workers who have recently given birth or who are breastfeeding. Chemical, physical and biological agents and industrial processes considered hazardous for their safety or health, movements and postures, mental and physical fatigue, and other types of physical and mental stress should all be considered and appropriate adaptations made.</p>

	<p>Directive 2010/18/EU implementing the revised Framework Agreement on parental leave (repealing Directive 96/34/EC)</p>	<p>This Directive puts into effect the revised Framework Agreement on parental leave concluded on 18 June 2009 by the European cross-industry social partner organisations (BUSINESSEUROPE, UEAPME, CEEP and ETUC). "This agreement lays down minimum requirements designed to facilitate the reconciliation of parental and professional responsibilities for working parents".</p>	<p>Work life balance issues are important considerations in the psychosocial work environment and promoting mental health at work. This applies to all workers and also to specific groups such as parents.</p>
<p>Young people at work</p>	<p>Directive 94/33/EC on the protection of young people at work</p>	<p>This Directive stipulates that the Member States, "shall ensure in general that employers guarantee that young people have working conditions which suit their age. They shall ensure that young people are protected against economic exploitation and against any work likely to harm their safety, health or physical, mental, moral or social development (...)".</p> <p>It includes provisions relating to the employer's general obligations, such as protection of the health and safety of young people, and assessment and monitoring of the, "risks to the safety, the physical or mental health or development of young people".</p>	<p>Employers should consider all risks relevant to the safety, the physical and mental health of all workers, including young workers. These should not adversely affect their physical, mental, moral or social development and conditions of work should be suitable for their age and not result in discrimination or exploitation.</p>

Temporary workers	<p>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</p>	<p>“The purpose of this Directive is to ensure that workers with an employment relationship (<i>governed by a fixed-duration contract of employment or temporary employment relationships</i>) are afforded, as regards safety and health at work, the same level of protection as that of other workers in the user undertaking and/or establishment”.</p> <p>The Directive acknowledges that “research has shown that in general workers with a fixed-duration employment relationship or temporary employment relationship are, in certain sectors, more exposed to the risk of accidents at work and occupational diseases than other workers”.</p>	<p>Employers should consider the health and safety of all workers, including those with fixed-term contracts. This includes their mental health. Fixed-term contract workers are affected more by job insecurity. Employers should ensure these workers are not discriminated against when it comes to the provision of a healthy and safe work environment and their quality of work is not adversely affected.</p>
Informing and consulting employees	<p>Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community</p>	<p>The purpose of this Directive is to establish a general framework setting out minimum requirements for the right to information and consultation of employees in undertakings or establishments within the Community. It states, “Information and consultation shall cover (...) information and consultation on decisions likely to lead to substantial changes in work organisation or in contractual relations (...)”.</p>	<p>Employers are obliged to keep workers informed and to consult them on decisions likely to lead to substantial changes in work organisation or in contractual relationships. Communication, consultation, and participation in decision making are important aspects of the psychosocial work environment. Lack of information and consultation is relevant to lack of control which is linked to poor mental health at work, especially during organisational restructuring.</p>

	<p>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)</p>	<p>The main aim the Directive is to make sure that management informs and consults with members of European Works Councils (EWCs) in exceptional situations that affect the interests of workers, especially in terms of relocation, closure or mass layoffs.</p>	<p>Employers are obliged to keep workers informed and to consult them on decisions likely to lead to substantial changes and in exceptional situations that affect the interests of workers, such as relocation, closure or mass layoffs. This includes members of European Works Councils. Communication, consultation, and participation in decision making are important aspects of the psychosocial work environment. Lack of information and consultation is relevant to lack of control which is linked to poor mental health at work, especially during organisational restructuring.</p>
<p>Restructuring</p>	<p>Directive 98/59/EC on the approximation of the laws of the Member States relating to collective redundancies</p>	<p>The Directive states that “Where an employer is contemplating collective redundancies, he shall begin consultations with the workers’ representatives in good time with a view to reaching an agreement”.</p> <p>“These consultations shall, at least, cover ways and means of avoiding collective redundancies or reducing the number of workers affected, and of mitigating the consequences by recourse to accompanying social measures aimed, inter alia, at aid for redeploying or retraining workers made redundant”.</p>	<p>Lack of information and consultation is relevant to lack of control which is linked to poor mental health at work, especially during organisational restructuring. Employers should consult with workers and their representatives. Consultations should at least cover ways and means of avoiding collective redundancies or reducing the number of workers affected, and of mitigating the consequences by recourse to accompanying social measures aimed at aid for redeploying or retraining workers made redundant.</p>

	<p>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</p>	<p>The purpose of the Directive is to protect employees' rights in case of a 'transfer of an undertaking, business or part of a business to another employer as a result of a legal transfer or merger'. The aim of the Directive is to ensure, as far as possible, that the employment relation continues unchanged with the transferee and that the workers are not placed in a less favourable position solely as a result of the transfer.</p>	<p>In case of transfers and mergers, it should be ensured that the employment relation continues unchanged and that workers are not placed in a less favourable position solely as a result of the transfer or merger. Employees should be kept informed about these changes and their rights should be protected. Failure to do so can adversely affect their mental health.</p>
	<p>Directive 2008/94/EC on the protection of employees in the event of the insolvency of their employer (repealing Directive 2002/74/EC and Directive 80/987/EEC)</p>	<p>This Directive aims, "to provide a minimum degree of protection for employees in the event of the insolvency of their employer. To this end, it obliges the Member States to establish a body which guarantees payment of the outstanding claims of the employees concerned".</p> <p>"It should be ensured that the employees referred to in Directive 97/81/EC concerning the Framework Agreement on part-time work (...), Council Directive 1999/70/EC concerning the framework agreement on fixed-term work (...) and Council 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 are not excluded from the scope of this Directive".</p>	<p>In the event of insolvency of the employer, payment of outstanding claims of the employees concerned should be guaranteed. This includes part-time and temporary workers and those workers with fixed-term contracts. Workers should be kept informed and their rights should be protected to avoid adverse effects on their mental health.</p>

^{xxiii} For further information, see the Guidance Document *Promoting mental health in the workplace: Guidance to implementing a comprehensive approach* and other key pieces of guidance referenced in that document.