



# **Peer Review on “The efficient transposition, implementation and enforcement of EU OSH legislation”**

Copenhagen, Denmark, 19-20 June 2018

Written by ICF and the European Centre for Social Welfare Policy and Research

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Peer Review on “The efficient transposition, implementation and enforcement of EU OSH legislation” – Synthesis Report

Copenhagen, Denmark, 19-20 June 2018

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## **1 Introduction**

### **1.1 Background and purpose of the Peer Review**

Within the framework of the Mutual Learning Programme (MLS) a Peer Review on "The efficient transposition, implementation and enforcement of EU OSH legislation", was held in Copenhagen, Denmark, on 19 and 20 of June 2018.

The event was hosted by the Danish Working Environment Authority and the Ministry of Employment, and brought together representatives from responsible Ministries and Labour Inspectorates, as well as independent experts from seven peer countries, namely Austria, Cyprus, Germany, Ireland, Malta, Sweden and Slovenia as well as representatives from the European Commission, the Senior Labour Inspectors' Committee (SLIC) and the social partners.

The Peer Review focussed on processes and actors involved at national level in the transposition, implementation and enforcement of EU OSH legislation. The Host Country presented its model of 'orchestration' where different actors operate in a fully integrated system to ensure the most effective cooperation at all levels. The Danish Implementation Committee and Implementation Council presented their working method in guaranteeing that EU OSH legislation is effectively transposed and implemented, taking into account the national context and avoiding unnecessary administrative burdens.

Participating countries discussed their OSH Governance systems and presented different practices in transposing, implementing and enforcing (EU) OSH legislation. A full day of discussion was dedicated to sharing examples and good practices on different enforcement practices and the use of new data-driven models underpinning inspection strategies.

The remainder of the report is structured as follows:

- Section 2 provides an overview of recent OSH trends across countries
- Section 3 discusses the OSH Governance and the role of social partners in transposition, implementation and enforcement of OSH legislation
- Section 4 focusses on the transposition of EU OSH legislation
- Section 5 focusses on the implementation of EU OSH legislation
- Section 6 presents enforcement approaches and interlinkages between efficient transposition, implementation and enforcement
- Section 7 provides conclusions and recommendations

## 2 Recent OSH trends

This chapter looks at recent OSH trends across the EU and in particular summarises the main trends presented at the Peer Review in the host and peer countries. These trends should be seen against the background of the EU's OSH policy priorities, set out in the EU OSH Communication 'Safer and Healthier Work for All - Modernisation of the EU Occupational Safety and Health Legislation and Policy'<sup>1</sup> and in the EU Occupational Health and Safety (OSH) Strategic Framework for 2014-2020 the European Commission<sup>2</sup> as well as in the European Pillar of Social Rights. The OSH Communication mainly focuses on three priorities:

- the fight against occupational cancer;
- helping business (especially micro's and SMEs) to comply with OSH rules and
- updating outdated rules and ensuring better and broader protection, compliance and enforcement on the ground.

The EU Strategic Framework sets the following priorities:

- To improve the implementation of existing health and safety rules, in particular by enhancing the capacity of micro and small enterprises to put in place affective and efficient risk prevention strategies;
- To improve the prevention of work-related diseases by tackling new and emerging risks without neglecting existing risks;
- To take account of the ageing of the EU's workforce.

Principle 10 of the European Pillar of Social Rights affirms that:

- Workers have the right to a high level of protection of their health and safety at work.
- Workers have the right to a working environment adapted to their professional needs and which enables them to prolong their participation in the labour market.

### 2.1 OSH trends in recent years

As shown in Figure 1, the incidence rate of fatal accidents at work varies significantly across different member states. For example, in 2015 Romania had the highest rate (5.6 per 100,000 persons employed) followed by Lithuania (3.84) and the Netherlands the lowest (0.5) followed by Sweden (0.7). It should be noted that such incidence rates are influenced by the sectoral make-up of an economy as well as health and safety practices in the workplace.

Between 2014 and 2015<sup>3</sup> the incidence rate of fatal accidents at work has remained the same across EU-28. It is worth noting that from 2014 to 2015, in some countries there has been a reduction in the number of fatal accidents. This is for instance the case in Denmark, Norway, Cyprus, Sweden and Germany. However, when looking at incidence rates of fatal accidents it is always important to look at longer term trends, as the number of fatal accidents in the workplace is relatively low so that trends can significantly fluctuate from one year to the other.

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<sup>1</sup> European Commission (2017), COM(2017) 12 final; Safer and Healthier Work for All - Modernisation of the EU Occupational Safety and Health Legislation and Policy;

<http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=2709>

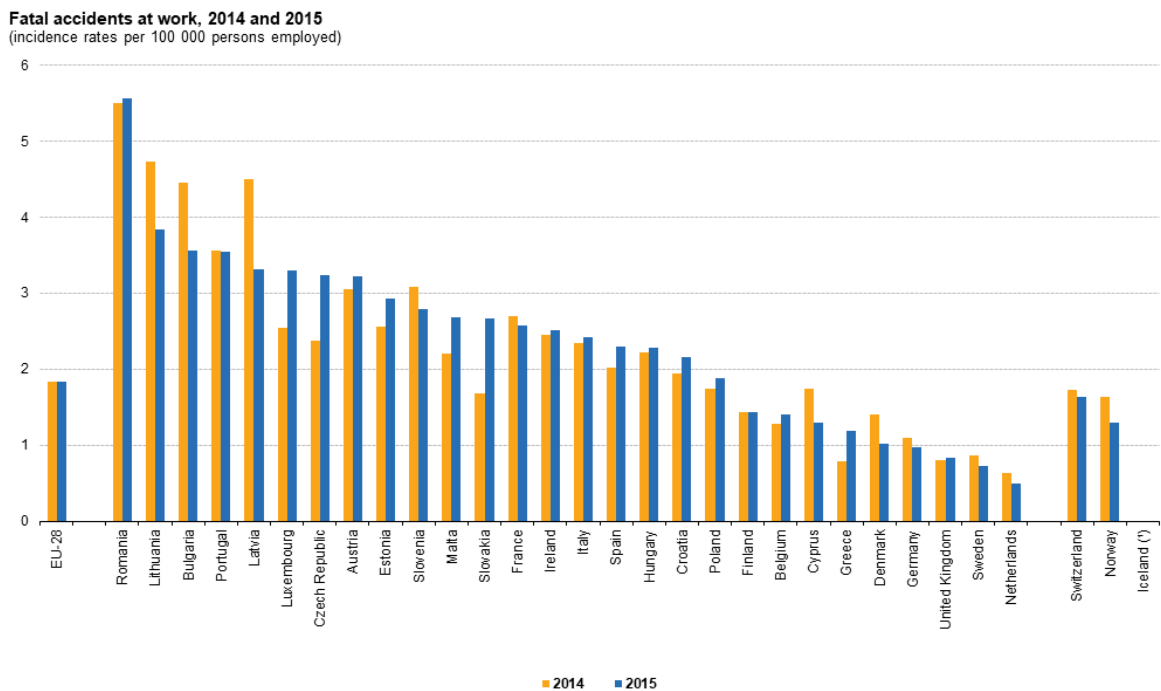
<sup>2</sup> <http://ec.europa.eu/social/main.jsp?catId=151&langId=en>

<sup>3</sup> This is the most recent data available on incidence rates of fatal accidents at work.

Despite improvements in some countries, in 2015 a total of 3,876 fatal accidents still occurred across Europe<sup>4</sup>.

The incidence rate of non-fatal accidents, on an EU average, has slightly dropped from 1,559 accidents per 100,000 persons employed in 2014 to 1,513 in 2015<sup>5</sup>. The Netherlands experienced the most significant decrease among the EU-28 countries (a decline from 1,256 in 2014 to 1,032 in 2015), followed by Malta (1,449 vs. 1,231) and Belgium (1,617 vs. 1,403).

Figure 1. Fatal accidents at work, 2014 and 2015<sup>6</sup>



(\*) 2013 instead of 2014. 2015: not available.

Source: Eurostat

Among the countries participating in the Peer Review, Cyprus, Denmark, Germany, Slovenia and Sweden recorded reductions in fatal accidents at work between 2014 and 2015 whereas increases were noted in Austria, Ireland and Malta.

One of the important challenges discussed at the Peer Review related to the collection of OSH data, including the issue of underreporting and the lack of comparability of available data. Notwithstanding the complexity of collecting OSH data some general remarks were made:

- **Cyprus** experienced a decline of approximately 27% in the incidence rate of work related accidents between the 2007 and 2012.
- In **Malta**, a downward pattern in work related accidents was observed. The accident rate dropped significantly (from 2,912 injuries per 100,000 workers in 2002 to 1,261 in 2016). It is important to note that the number of occupational injuries was decreasing until 2011, but levelled off in recent years.

<sup>4</sup> [http://ec.europa.eu/eurostat/statistics-explained/index.php/Accidents\\_at\\_work\\_statistics#Number\\_of\\_accidents](http://ec.europa.eu/eurostat/statistics-explained/index.php/Accidents_at_work_statistics#Number_of_accidents)

<sup>5</sup> [http://ec.europa.eu/eurostat/statistics-explained/index.php/Accidents\\_at\\_work\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Accidents_at_work_statistics)

<sup>6</sup> [http://ec.europa.eu/eurostat/statistics-explained/images/2/29/Fatal\\_accidents\\_at\\_work%2C\\_2014\\_and\\_2015\\_%28incidence\\_rates\\_per\\_100\\_000\\_persons\\_employed%29-AAW2018.png](http://ec.europa.eu/eurostat/statistics-explained/images/2/29/Fatal_accidents_at_work%2C_2014_and_2015_%28incidence_rates_per_100_000_persons_employed%29-AAW2018.png); Eurostat (online data code: hsw\_n2\_02)



- **In Austria**, work related accidents have been steadily declining and decreased by almost one third compared to the 1990s. In line with this, sick leave decreased substantially. In recent years the number of occupational diseases remained constant.
- **Ireland** has witnessed a decline in the number of worker fatalities between the 1998 and 2015. The same holds true for the injury rate.
- **Slovenia** has experienced a slightly different trend with the number of fatal accidents gradually increasing since the crisis until 2015, with a decline experienced during the years of the crisis.

### **3 OSH Governance and policy framework**

This chapter provides an insight into OSH governance in the countries participating in the Peer Review, and specifically the role of social partners in the transposition, implementation and enforcement of OSH legislation.

#### **3.1 Actors involved in the transposition, implementation and enforcement of OSH legislation**

Across countries a number of national actors are involved in the transposition, implementation and enforcement of OSH legislation. National governance structures as well as the role of the social partners vary significantly between countries. From complex systems where a variety of actors operate in formally established settings at national and local level, to less institutionalised governance systems.

Despite these differences, in all countries, the Ministry of Labour/Employment and the Labour Inspectorates play a pivotal role in OSH governance. The significance of the role of the social partners in OSH governance tends to be in line with the role played by social partners in wider policy making and collective bargaining, with the Nordic countries having a particularly significant role reserved for the social partners.

##### **3.1.1 Overview of OSH governance arrangements in the host country**

In Denmark the Ministry of Employment (Beskæftigelsesministeriet) is responsible for OSH legislation and programmes, as well as compensation for work-related injuries, in relation to all activities operating on land, while other ministries are responsible for work at sea and in the air.

The following bodies operate under the supervision of the Ministry of Employment:

- The Danish Working Environment Authority (Arbejdstilsynet, DWEA) which is responsible for enforcement. Specific tasks include definition of rules, information, inspections, enforcement and prosecution. The Council of Appeal on Health and Safety at Work is the managing authority dealing with appeals (complaints) against orders issued by DWEA.
- The National Board of Industrial Injuries (an agency of the Ministry of Employment) that treats workers' compensation claims.
- The National Research Centre for the Working Environment (NRCWE), a government research institute, provides research-based knowledge about occupational safety and health. The Working Environment Information Centre disseminates the research produced by NRCWE. The Working Environment Research Fund provides funding for research and development projects.

In addition, nine Occupational Health Clinics, which are part of the health system, assess the causal links between patient's diseases and working conditions. Occupational Health Clinics also perform research in occupational diseases and related treatment.

##### **3.1.2 OSH governance arrangements in the Peer Countries**

The table below provides an overview of the main actors in OSH governance in the Peer Countries.

Table 1: Overview of actors involved in transposition, implementation and enforcement of OSH legislation

Country	Actors
Austria	<p>The Federal Ministry of Labour, Social Affairs, Health and Consumer Protection is responsible for regulating labour policies and working conditions. The Federal Ministry is also the focal point for national strategies within EU OSH campaigns and events. Under this Ministry, the Labour Inspectorate is Austria’s largest authority responsible for monitoring employment conditions and implementing OSH legislation. Within the Labour Inspectorate an ombudsman office has been established in 2017 to deal with complaints. A number of other key stakeholders involved in the Austrian Occupational Safety and Health Strategy, include: the Austrian Trade Union Federation, Federation of Austrian Industries, Austrian Economic Chambers, Austrian Chamber of Labour; Social Security Institutions, Austrian Society for Occupational Medicine and Austrian Medical Chamber. The Austrian Advisory Board on Economic and Social Issues of the social partners is a think tank publishing studies, reports and advises the government on OSH matters.</p>
Cyprus	<p>The Ministry of Labour, Welfare and Social Insurance (MLWSI) regulates safety and health at work. The Department of Labour Inspection (DLI) is the body responsible for enforcement. The DLI in cooperation with the social partners (at national, regional and sectoral level) formulates proposals to the MLWSI on new programmes, strategies and legislation. National tripartite dialogue on OSH issues takes place at the level of the Pancyprrian Safety and Health Council (PSHC), a multipartite body established in 1965.</p>
Ireland	<p>At government level, the responsibility for OSH legislation lies with the Department of Jobs, Enterprise and Innovation (DJEI). The Health and Safety Authority (HSA) has primary responsibility for both implementation and enforcement as well as advising and assisting the DJEI on the initial drafting of legislation. The twelve member Board of the HSA includes representation from social partners, as well as nominees from the Minister of State for Employment and Small Business in the Department of Enterprise Jobs and Innovation. The HSA is the national centre for information and advice to employers, employees and self-employed on all aspects of workplace health and safety.</p>
Malta	<p>The Occupational Health and Safety Authority (OHSA) is the national governmental body responsible for OSH. It involves various stakeholders including the Minister, social partners, experts in OSH, health and economic affairs. OHSA is part of relevant boards such as the <i>Civil Protection Scientific Committee</i>, the <i>Radiation Protection Board</i> and the <i>Building Industry Consultative Council (BICC)</i>. The <i>COMAH (Control of Major Accident Hazards) Competent Authority</i>, also comprises OHSA, CPD, and the Environment and Resources Authority (ERA, Ministry for Sustainable Development, the Environment and Climate change).</p>

Slovenia	Two ministries are responsible for health and safety: the Ministry of Labour, Family, Social Affairs and Equal Opportunities and the Ministry of Health. The Ministry of Labour, Family, Social Affairs and Equal Opportunities is the main executive body. Key relevant bodies under the Ministry of Labour, Family, Social Affairs and Equal Opportunities include the Directorate General of Labour Relations and Labour Rights. The Labour Inspectorate is in charge of enforcement while the Council for Health and Safety at Work is the expert advisory body. The Council discusses priorities on health and safety, adopts recommendations, inputs strategies and implementation of common policies. The Ministry of Health is in charge of health at work.
Sweden	The Ministry of Employment is responsible for Swedish working environment policies and authorities involved in this area. The Ministry submits legislative proposals to the Swedish Parliament. The Work Environment Authority (SWEA) is the central authority responsible for health and safety activities. It issues regulations, collects national statistics, supervises workplaces and disseminates information and knowledge on risks and regulations. New regulations undergo a 'referral procedure', in which all interested stakeholders have the opportunity to submit comments. A centralised authority the Swedish Better Regulation Council examines and formulates official comments for each draft proposal. In 2018 a new authority charged with establishing and administering work environment knowledge the "Agency for Work Environment Knowledge" is tasked with centrally monitoring research and knowledge development in the field of health and safety, disseminating information and publishing research results.

## **3.2 Social dialogue and the roles of social partners in transposition, implementation and enforcement of OSH legislation**

The involvement of social partners is a key factor to ensure that OSH legislation is effectively transposed, implemented and enforced. Social partners bring to the table relevant knowledge and expertise taking into account challenges and solutions based on direct sectoral and workplace experience.

The countries participating to the Peer Review discussed different models and national approaches. In the Nordic countries social partners cooperate at all levels with formal procedures and tripartite bodies fully embedded in the system, in other countries social partners participate to the design and implementation of OSH legislation in a variety of more or less formalised ways.

### **3.2.1 Overview in the Host Country**

The Danish labour market is characterised by the so-called 'Danish Model' where social partners play a significant role in the regulation of the labour market via collective agreement. EU OSH Directives, however, are implemented via legislation, with the significant involvement of social partners in the legislative process, the design of strategies and programmes as well as the development of guidelines and tools.

The Working Environment Council is the highest level tripartite body with representatives from social partners and the DWEA. The Council advises the Minister of Employment on OSH regulation, coordinates all parties involved in OSH policy initiatives and plays a central role in designing initiatives for the Danish Parliament.

A number of Sectoral Working Environment Councils (SWEC), organized in five sector specific councils input into health and safety matters. In each sector, organizations for employees and employers appoint an equal number of members to the council. To provide specific support to companies SWECs develop and disseminate relevant information including guidelines, recommendations, tools and best practice examples.

In Denmark, all workplaces with 10 workers or more are required to establish a Work Environment Organization (WEO) comprised of at least one employee and a manager responsible for health and safety. Smaller workplaces with less than 10 employees are expected to implement an active cooperation between managers and employees.

Additionally, as a part of agreements between the social partners, employees in medium and large companies will often be represented by their shop steward in the Cooperation Committee (CC), a kind of Works Council comprising management and shop stewards for each category of staff.

### **3.2.2 Comparative assessment in Peer Countries**

In **Austria** social partners play a crucial role in defining working conditions, regulating wages, as well as developing OSH strategies. Key actors are the Austrian Trade Union Federation (employees' association), the Austrian Economic Chambers (employers' association), the Federation of Austrian Industries (employers' association) and the Austrian Chamber of Labour (employees' association). Social partners participate in the development of new regulations and in their implementation. Social partners provide inputs into the design of the OSH strategies.

At company level it is mandatory to inform and involve the employees' representatives. In companies with more than 10 employees, where there is no employee representative, a safety representative must be appointed on all issues related to occupational safety and health. Companies with over 100 employees (or 250 employees where no manual work is involved) have to establish an internal Work Environment Organisation, a committee for occupational health and safety which includes employer and employee representatives.

In **Cyprus** the technical tripartite committee, the PSHC, reviews national OSH policy and advises the Minister on health and safety at work issues. It consists of representatives from the MLWSI, the Mines Service of the Ministry of Agriculture, Natural Resources and Environment, the Cyprus Safety and Health Association (CySHA), the Cyprus Technical Chamber (ETEK) and the main social partners of Cyprus. The Committee submits recommendations for measures to the Minister of Labour, Welfare and Social Insurance, advises on efficient working methods, on prevention of accidents and the drafting or revision of legislation. All legislative proposals are also discussed at the Labour Advisory Board (LAB), a tripartite body under the Minister of Labour, Welfare and Social Insurance. In addition District Advisory Committees, with representatives of social partners at local level, convene twice a year at the District Labour Inspection Offices.

At the workplace level, the consultation between employers and employees is normally organized through Safety Committees as required by the legislation in workplaces with more than 10 employees.

In **Ireland** at present, worker representatives on the HSA Board are drawn from the Communication Workers Union, the Services, Industrial, Professional and Technical Union, and the Irish Congress of Trade Unions (ICTU). All of these are nominees of the ICTU. Two employers' representatives are nominees of IBEC (employers' association) and one from the Construction Industry Federation. At workplace level, safety representatives, chosen by the employees, are the main channel for representing employees in the area of health and safety. In addition, employees can also decide that a joint employer/employee safety committee should be set up. The safety committee should have least three members but no more than one for every 20 employees, up to a maximum of 10<sup>7</sup>.

In **Malta** the largest trade unions (the General Workers Union and the Union *Ħaddiema Magħqudin*), and employers' organisations (the Malta Employers Association and the Malta Chamber of SMEs) are represented on the OHSA's tripartite board.

Workers' health and safety representatives represent Maltese employees in the area of health and safety at workplace level. The legislation does not specify how many such representatives should be appointed, nor are their precise powers clearly defined. They should be selected by the employees in the first instance but, if the employees do not choose a representative, they can also be appointed by the employer.

In **Slovenia** social partners participate in the Economic and Social Council, which is a national tripartite body discussing a wide range of employment and social policy issues, including OSH.

At workplace level, OSH representation is assured via the works council. Works council can be set up in any company with more than 20 employees. If there is no works council, a separate health and safety representative is elected from among the employees.

In **Sweden** at national level there is a tripartite Dialogue Forum with representatives from the Ministry of Employment and the social partners. SWEA has a consultation body consisting of the senior management of the Authority and representatives of the social partners. This group meets once a month to discuss proposals for new regulations, for example, before the Authority decides on a new regulation, as well as other important operational issues or matters. Also a number of industry-specific work environment committees comprising relevant social partners discuss OSH issues and solutions, produce teaching materials and information-dissemination initiatives.

At enterprise level the Work Environment Act requires the establishment of a Work Environment Committee in all workplaces, consisting of at least 50 employees. In all

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<sup>7</sup> ETUI, *information on worker OSH representation at workplace level drawn from national industrial relations profiles on worker-participation.eu*

workplaces with more than five employees, a safety ombudsman can be appointed who is normally nominated by the local union organisation. In addition, Regional Safety Ombudsmen play a key role in solving in issues related to small businesses.

## 4 Transposition of EU OSH Legislation

This chapter provides an overview of the approaches to transposing EU OSH legislation in the countries participating in the Peer Review. A recent EU Evaluation of the Practical Implementation of the EU Occupational Safety and Health (OSH) Directives in the EU<sup>8</sup> found that the EU OSH legislation has been transposed, and implemented in the Member States, often using additional legislative guidance and tools, which can be sector specific. The same ex-post evaluation also found that Member States comply in general with the "Common Processes and Mechanisms" (CPMs)<sup>9</sup>, although compliance is better in large establishments compared to SMEs and micro-establishments and varies depending on the type of requirement considered.

### 4.1 Transposition of the Framework Directive

#### 4.1.1 Transposition process in the Host country

The first single framework regulation on the protection from and prevention of all OSH risks and hazards in Denmark is the Danish Working Environment Act adopted in 1975. Since then, the law has been amended extensively in particular to allow for the transposition of EU Directives.

The EU Framework Directive (89/391/EEC) was transposed in Denmark through an amendment to the Working Environment Act in 1994. Because the Danish Act is also a framework legislation, the transposition was straightforward. The Danish regulation was already in compliance with most of the articles of the Framework Directive, apart from the demand for the preparation of company level risk assessments. A second amendment to the Act was made in 1997 to formalize Work Place Assessments, although the choice of methodology and tools was left to the companies (Arbejdspladsvurdering 2016<sup>10</sup>).

Furthermore, an inter-ministerial Implementation Committee of eight ministers and an advisory Implementation Council comprised of organisations representing businesses, consumers and trade unions, were established in 2015 to discuss the transposition of EU legislation, to ensure a more systematic and uniform approach to implementing EU corporate legislation, to avoid unnecessary administrative burdens for Danish companies, to ensure transparency, and to strengthen the political involvement in the implementation process. The Implementation Council can perform 'neighbour check' to assess how other countries are implementing EU Directives and provide recommendations to the Implementation Committee who then decides on the best way to transpose EU legislation into Danish law.

#### 4.1.2 Comparative assessment in Peer Countries

In contrast to Denmark, the transposition of the Framework Directive in **Austria** meant the creation and passing of a completely new law (the Health and Safety at

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<sup>8</sup> Commission staff working document, 2017, Ex-post evaluation of the European Union occupational safety and health Directives. (REFIT evaluation). Accompanying the document: Communication from the commission to the European Parliament, the council, the European economic and social committee and the committee of the regions. Safer and Healthier Work for All - Modernisation of the EU Occupational Safety and Health Legislation and Policy. [PDF] Brussels: European Commission. Available at: [ec.europa.eu/social/BlobServlet?docId=16875&langId=en](https://ec.europa.eu/social/BlobServlet?docId=16875&langId=en)

<sup>9</sup> "The CPMs comprise risk assessment processes, training, consultation, participation and information of workers, preventive and protective services and health surveillance." Commission staff working document, 2017, Ex-post evaluation of the European Union occupational safety and health Directives. (REFIT evaluation). Accompanying the document: Communication from the commission to the European Parliament, the council, the European economic and social committee and the committee of the regions. Safer and Healthier Work for All - Modernisation of the EU Occupational Safety and Health Legislation and Policy (page 14)

<sup>10</sup> Arbejdspladsvurdering, 2016, Arbejdspladsvurdering (APV): At-vejledning D.1.1-3, Juli 2009 - Opdateret april 2016. Copenhagen: Arbejdstilsynet. Available at: <https://arbejdstilsynet.dk/da/regler/at-vejledninger/a/d-1-1-arbejdspladsvurdering>



Work Act) when the country joined the EU in 1995. After intensive negotiations, the 1995 Act included a rather verbatim transposition of the EU Directive 89/391 and of several other Directives among other 91/322/EEC; 83/477/EEC; 86/188/EEC; or 89/655/EEC. In the new law, Austria opted to introduce and maintain the stricter requirements, whether from the Directive or the pre-existing national legislation.

Similarly, **Cyprus** has transposed all OSH-related EU Directives and in few cases the national legislation sets more stringent or broader requirements than the respective directive, such as in terms of minimum requirements for the self-employed, more detailed requirements on risk assessment and health surveillance, a broader definition of 'workplace' to cover the whole area, including house workstations, activities and installations, and so on. Additional health surveillance regulation was passed in 2017, initially enforced on two categories of workers: asbestos workers and dock workers.

Like Denmark and Austria, **Ireland** also has a framework law on OSH, the Safety Health and Welfare at Work Act of 1989 (since updated). However, different from Austria, but similar to Denmark, the Irish law is a continuation of the existing Act with a few changes in requirements and amendments to incorporate the EU OSH Directives. In Ireland as in the case of Austria and Cyprus, more stringent or broader requirements beyond the minimum requirements of the EU regulation were applied, such as the extension of the definition of a 'worker' to include domestic workers and the extension of the scope of the Use of PPE Directive to include the emergency services.

In **Malta**, as in Austria, the existing law (the Act for the Promotion of Occupational Health and Safety of 1994) was replaced with a new OHS Act of 2000 to transpose the Framework Directive brought fully into force in the beginning of 2002. The application of the "Common Processes and Mechanisms" is enshrined in the Maltese OHS Act and subsidiary legislation in terms of preventative and protective services, information to workers, training of workers, worker consultation, and health surveillance.

The EU OSH legislation was transposed into the **Slovenian** legal framework by the Occupational Safety and Health Protection Act in 1999 as a prerequisite for its EU accession process. Further amendments were introduced in 2011, in terms of the definition of the employer (the issue of self-employed persons and farmers), the definition of the prevention principle among the basic principles, the unification of risk assessment methodologies, the nature of the first aid regime, the provision of professional OSH tasks, the provision of health protection (preventive medical examinations), the regulation regarding workers' trusts for OSH field, the organisation of OSH, the relevance of the institutional framework (chamber, council), the regulation of public authorisations (professional exams, granting work permits) and issues relating to risk prevention. Furthermore, to minimize administrative burden less obligations for self-employed persons with very low risk jobs were introduced (for example: no written risk assessment, no health examinations, no training, no inspections on the harmfulness of the working environment).

As in the case of Austria, Cyprus, and Ireland, Slovenia also opted for some additional requirements, which were not part of the EU Directives, as in the case of the transposition of Council Directive 92/57/EEC on the implementation of minimum safety and health requirements in temporary or mobile construction sites.

**Sweden** transposed the Framework Directive through amendments to its 1977 Work Environment Act as well as to an existing Regulation on Work Environment Work (Internal Control of the Work Environment). There were no major concerns about transferring relevant parts of the EU OSH Directive into the Swedish regulatory context. However, in response to the Commission's comments concerning the requirement of designated workers and the requirement for access to information on occupational health services, an additional amendment was introduced.

## 4.2 Further transposition and implementation of EU OSH Directives into the national system

### 4.2.1 Overview of the Host Country

Since the transposition of the Framework Directive in 1994, other EU OSH Directives have also been incorporated in Danish regulation as standard procedures with a few technical or other adjustments. For example, the Work Place Assessment rules were enhanced in line with the European Court judgement C-5/00 (issued on 7 February 2002) which stated that a risk assessment needs to be written (and the employer shall involve the work environment organisation or the workers in planning, organising, implementing and following up the workplace assessment).

The process of transposing EU Directives to Danish regulation is referred to as an ongoing 'incorporation process'. In a few cases the transposition of EU Directives has also led to new regulations to be included in the Danish framework law, such as the Directive 2013/35/EU of 26 June 2013 on Electromagnetic fields, which was not covered by Danish regulation (Bekendtgørelse 35). Overall, Denmark has transposed OSH-related EU Directives efficiently and without any discrepancies (EU Evaluation 2013).

### 4.2.2 Comparative assessment in Peer Countries

In **Austria**, along with the new Health and Safety at Work Act several related laws had to be adopted to align with the reform in the OSH regulation, such as the General Social Insurance Act (Allgemeines Sozialversicherungsgesetz), Employment Contract Adaptation Act (Arbeitsvertragsrechts-Anpassungsgesetz AVRAG) or the Law governing the Employment System (Arbeitsverfassungsgesetz ArbVG). Following changes in the working world that have brought new challenges for OSH, several other provisions and acts have been successfully released, such as the Austrian Safety and Health at Work Act Reform Law 2002 (Arbeitnehmerschutz-Reformgesetz), which provides occupational mental health services. In 2012, another amendment to the Austrian Safety and Health at Work Act was passed, which regulates the evaluation of psychological strains at work.

In **Cyprus**, the transposition and implementation of EU OSH legislation have led to changes in national provisions and guidance instruments, such as the two EU non-binding guides approved as code of practice in national legislation to help SMEs, a 2015 amendment on the increase of maximum penalties that may be imposed for breaches in safety and health at work, the expansion and consolidation of the External Protection and Prevention Services Institute, the preparation of a Guide on Organization and Management of Health and Safety issues in the Public Service, the signed joint Policy Declaration between the social partners and other interested professional bodies to reduce accidents and occupational diseases in the construction sector, the inclusion of OSH clauses in the procurement procedures in construction.

In **Malta**, the legal principles laid down in the OHS Act apply to all subsidiary legislation. Most EU OSH Directives are transposed as a specific piece of legislation, usually a legal notice, adopted on the basis of the OHS Act, with the exception of two Directives (Directive 92/29/EEC and Directive 93/103/EC) related to vessels (EC, 2017). Following discussions with social partners, a review of regulations by the Management Efficiency Unit (MEU) to reduce administrative burdens without compromising safety led to the amending various pieces of legislation which fall under the OHS Act. For example, following this exercise, whereas fire drills previously had

to be performed every six months, employers could now seek the advice of an individual competent in fire safety and reduce their frequency (OHSA, 2013<sup>11</sup>).

In **Slovenia**, in order to harmonise the Slovenian legislation with existing, new or amended European Directives, sub-laws were adopted, which transposed all individual Directives in the sense of Article 16 of the framework directive into the Slovenian legislation. The Directives were transposed in the form of single Regulations or Regulations governing specific areas.

Neither Slovenia nor Malta have special commissions or committees to oversee the transposition of the EU Directives and their implementation. Each ministry has the power to transpose the Directives within the field of its competence. Before the law enters into force, it must undergo a process which involves coordination with other ministries, and also the assessment of the Economic and Social Council, which consists of all social partners.

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<sup>11</sup> OHSA, 2013. *Report of activities for the period 1<sup>st</sup> November 2011 – 21<sup>st</sup> December 2012. Malta: OHSA. Available at: [http://ohsa.org.mt/Portals/0/docs/FINAL%20VERSION%201\\_1\\_.pdf](http://ohsa.org.mt/Portals/0/docs/FINAL%20VERSION%201_1_.pdf)*

## 5 Implementation of EU OSH Directives

This chapter provides an overview of OSH strategies and policies designed to implement transposed EU OSH legislation. The participating countries reported a long tradition of OSH policies and an overall trend of continuous update of policies and measures was reported. Similar to Denmark, all countries have national strategies on occupational safety and health, in which various stakeholders are involved in the implementation process.

### 5.1 OSH strategies and policies

#### 5.1.1 Overview of the Host country

In terms of strategies and policies, the DWEA launched 'a clean work environment 2005' Plan in the mid-1990s comprised of seven visions for the work environment based on the major risk factors such as 'no fatal accidents', 'no hearing losses', and 'no muscle skeletal disorder'. The plan did not include any particular policy instruments to reach these ambitious goals though, and social partners and other work environment stakeholders were not directly involved. However, it initiated the monitoring process of the work environment by DWEA (Arbejdstilsynet 2004, Arbejdstilsynet 2005).

The social partners were then included in the 2005-2010 Plan through the Work Environment Council. This strategy also set clear goals of reducing fatal accidents, for example, by 10–20% within the 5-year period. The goals influenced the debate about expected progress and the need to implement new initiatives.

A new course was set with the subsequent plan, now referred to as a strategy. The current *Strategy for the improvement of the working environment 2020* initiated by DWEA and the Social Partners focuses on three priority areas: (1) Serious accidents; (2) Psychological health and safety and (3) Muscular-skeletal overload and disorders. The goals include: a) 25% reduction in serious accidents; b) 20% reduction in psychological overload; and c) 20% reduction in overload of musculoskeletal strains. Differently from previous plans, nineteen concrete activities were designed to secure the accomplishment of these goals, such as: a) risk-based inspections by the DWEA; b) changes in practices regarding the issuing of fines; c) more dialogue between DWEA and companies; d) greater focus on the psychological work environment; and e) support for small enterprises. The strategy also focuses on coordination between different authorities doing inspections and included a targeted monitoring of the development of the work environment regarding the three general goals.

A Mid-term Evaluation of the development from 2011 to 2014 indicated that serious work-related accidents had been reduced by 18% and progress was considered satisfactory in relation to the 25% target. But sufficient progress towards the other two targets of a 20% reduction in psychological overload and in overload of musculoskeletal strains was not considered to have been achieved. In response to these results, in 2017/18 the Minister of Employment has tasked an 'experts committee' to propose a revision of the system that would lead to better results. The built-in mid-term evaluation also resulted in a new political agreement to reinforce the strategy by adding 15 new activities in 2015, the most important of which related to strengthening the risk-based inspection and increasing the fines for companies that do not comply with OSH regulations.

### 5.2 Comparative assessment in Peer Countries

The **Austrian** Occupational Safety and Health Strategy, 2013-2020, involves all national and regional actors in OSH and provides the overall framework for the development of new goals and discussions around implementation. In contrast to the

Danish strategy which set special targets for reducing risks, the Austrian strategy aims for a process of continuous improvement. The jointly-developed goals and prevention measures are the driving principles for the implementation of OSH policies. In Austria, employers are responsible for implementing the regulations of the Health and Safety at Work Act at the company level. Companies with 50 or more employees usually use private consultants such as occupational physicians, safety experts, psychologists and other experts. Larger companies are also increasingly including OSH professionals in their personnel. Smaller companies with fewer than 50 workers receive support free of charge from the prevention centres of the Workers' Compensation Board (AUVA). Additionally, social partners and several social insurance institutions support the implementation process by providing guidelines and training. Indirect support is also provided by fit2work-business consulting which assists companies in assessing their compliance with Austrian legislation, including OSH.

In **Cyprus**, the current Strategy for Safety and Health at Work, 2013-2020, pursues similar objectives as the previous one (2007-2012) in terms of reducing the frequency of accidents by 25% and the control and reduction of occupational diseases, which is similar to the first objective of the current Danish Strategy. The Cypriot Strategy focuses on micro-businesses of fewer than 10 employees, as the main type of businesses in the country. And it also emphasises the dangers of psychosocial factors and musculoskeletal disorders. The Action Plan of this strategy aims to improve, among other things, the quality and quantity of data, information dissemination, and awareness raising.

In **Ireland**, the HSA develops and publishes a three-year strategy that directs its actions, engagement and focus within that period, as well as annual programmes of work based on the strategy. The annual programmes cover compliance and preventative actions, including an annual programme of inspections, chemical audits, desk-based assessments and the investigation of prioritised complaints and incidents. Unlike Denmark and Cyprus, the last two Irish strategies (2013-2015 and 2016-2018) do not include any specific numerical goals although one of the expected outcomes is a reduction in the rates of work-related deaths, injuries and ill-health. The current strategy also prioritizes the active engagement of workers in protecting themselves and their colleagues at work. Similar to Denmark, while the Irish HSA provides some guidance material on OSH, most of the expert support is provided by the employers, with larger companies offering in-house support, and the smaller ones outsourcing the acquisition of such advice to OSH consultants.

In **Malta**, the OHSA is responsible for the implementation of OSH policies. It establishes the strategies, advises about relevant regulations, monitors compliance, collects statistics, and conducts investigations among other things. The social partners in Malta are included only as part of the tripartite Board of the OHSA, in which they can influence policy, however at lower levels of implementation their involvement is current more limited, which is something the government is seeking to address. OHSA's strategic plan (2014-2020) has five key objectives: 1) legislative compliance and enforcement; 2) capacity building of the Authority's staff through recruitment, training and information; 3) communication of OSH benefits via stakeholders' partnerships, awareness raising, training and dissemination of information; 4) promotion of health surveillance and the quality of OSH service providers; 5) evaluation of the effectiveness of authority's actions.

The **Slovenian** government issues resolutions on OSH, and the current Resolution on the National Program for Occupational Safety and Health for the period 2018-2027 just entered into force. The strategic objectives of this resolution include the reduction of the number of work-related accidents by 20% in the next ten years, guided supervision and counselling from the Labour Inspectorate related to quality and adequacy of risk assessment, various awareness raising campaigns on OSH targeting different categories of employers, workers, and industries, examining the possibility of providing incentives such as tax relief to promote OSH, training, and increasing the

evidence base with empirical data. The new resolution also aims to promote preventive actions in the working environment by taking into consideration the diversity of workers and new forms of work and employment, as well as the role of social dialogue.

The **Swedish** method is the same as the Danish in terms of implementation. Social partners are involved in drafting new regulations through consultation workshops or hearings. Before new regulations are proposed, a review or impact assessment of existing regulation is included in the proposal. The Swedish Better Regulation Council provides feedback only on administrative costs, impact and relevance. The Swedish Work Environment Authority is an independent entity responsible for issuing regulations, collecting national statistics, supervising workplaces and disseminating information and knowledge on risks and regulations. SWEA has now started work on creating a new regulatory structure. The aim is to achieve a regulatory framework that provides a better overview, is easier to consult and to find relevant information and resources. Although Sweden has a similar implementation practice to Denmark, Sweden does not apply numerical impact targets as Denmark does. The reason is that the outcome is often influenced by structural changes and other issues beyond the realm of policy. On the other hand, extensive reports on occupational health statistics are published annually.

## **6 Enforcement approaches and interlinkages between transposition, implementation and enforcement**

This chapter provides an overview of enforcement approaches across participating countries and national systems of coordination and interlinkages between actors. It also gives an overview of interesting cases of feedback loops between implementation, enforcement and the review of regulations.

### **6.1 Main enforcement approaches and measures**

Across participant countries enforcement procedures have a strong focus on inspections and prosecutions, with recent shifts towards more active collaboration with companies through information, campaigns and training. Incentives are rarely used to foster compliance. Similar to the Danish model in many countries risk-based systems underpin inspections strategies. In some cases recent strategies have shifted the system from the screening inspections approach to a risk-based approach.

#### **6.1.1 Overview of the Host country**

The three key policy instruments identified in the host country as the "Danish approach to enforcement" are the so called 'sticks', 'carrots' and 'sermons'. This approach includes all possible enforcement instruments:

- Sticks - inspections and prosecutions
- Carrots - incentives
- Sermons – information and training

These three approaches are designed and combined according to national contexts and priorities. The Danish approach is focused mainly on sticks and sermons with very few incentives.

The DWEA, which is responsible for workplace controls, uses a range of control and prosecution methods. These include different types of inspections and fines, recommendations and specific requests for improvements.

In 2011 a new risk-based inspection strategy was introduced with a twin-track screening strategy. The first track identifies the risk-profiles of companies on the basis of sector profiles and results from specific national surveys. The second track identifies companies for inspections on the basis of previous inspections. A mid-term evaluation of the Danish risk-based inspections lead to a new strategic approach to prioritise companies for inspections. Companies are clustered in: 'those who can and will'; 'those who will - but cannot'; and 'those who neither will nor can'. The new Risk Based Inspection (RBI) strategy focusses primarily on the third group of companies with a higher risk of non-compliance.

It is worth noting that in Denmark companies certified with OHSAS 18001<sup>12</sup> are exempt from regular inspections.

Knowledge transfer and training is a key element of the Danish approach to enforcement. Social Partners play a fundamental role in cooperation with DWEA. Sector-specific councils develop, produce and disseminate information and training materials (e.g. videos, pamphlets, web pages, apps) as well as practical tools.

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<sup>12</sup> OHSAS 18001, Occupational Health and Safety Assessment Series, (officially BS OHSAS 18001) is an internationally applied British Standard for occupational health and safety management systems.

### 6.1.2 Comparative assessment in Peer Countries

In **Austria** enforcement strategy focusses on prosecution and penalties. Inspections check whether a risk assessment has been carried out, in case of non-compliance companies have some time to comply before a fine is issued. In recent years the focus has shifted towards 'providing advice' rather than fines. Inspection strategies are based on a 'priority ranking' system based on high-risk areas revised each year. Ranking is done according to a traffic light system and companies are inspected on the basis of this risk-priority labelling.

In **Cyprus** both proactive and reactive inspections take place. Proactive inspections are carried out on the basis of the assessment of risk, informed for example by previous accidents, court cases and details of former inspections. Reactive inspections fully investigate in cases of fatal accidents or serious injuries occurring. Labour inspectors use different forms of sanctions i.e. improvement notices, legal charges, as well as using the possibility to issue guidelines for improvement. Support to companies is also provided through training, information and tools such as OIRA (Online Interactive Risk Assessment tool) specifically tailored to SMEs in several sectors.

Similarly to other countries, in recent years **Ireland** has seen a shift in its enforcement approach from a screening of all companies (regardless their risk profile) to a more focused risk-based inspection strategy. With this new strategy companies are inspected on the basis of a risk profiling, which is constructed on the sectoral risk profile and/or prior experience of the company. Similar to the host country, the HSA produces an extensive body of information and guidance material, including risk assessment templates, case studies, checklists etc. This includes the BeSmart online risk assessment tool, primarily aimed at SMEs<sup>13</sup>.

Unlike to other countries, in **Malta** the preferred method of enforcement is via increasing awareness and knowledge through campaigns, training, videos, advice, apps etc. Enforcement approaches include inspection and prosecution, incentives and knowledge transfer. However, enforcement is defined as any interaction with inspectors, thus including also the provision of advice and information. Inspections in Malta are driven primarily by complaints on possible infringements (an app is available to report such infringements). A number of incentive schemes support compliance among SMEs, for example 'Microinvest' which is run by the Malta Enterprise, provides tax credits for SMEs investing in their organisations, including OSH improvements.

More in line with the Maltese approach, in **Slovenia** labour inspectors focus on raising awareness among employers and workers. A range of sanctions are also used, which include administrative procedures without fines, fines and criminal prosecutions. The majority of inspections are carried out on the basis of previous inspections or sectorial analysis of OSH trends. In addition in a small number of inspections, companies are selected on the basis of sector (e.g. the majority of inspections take place in the construction sector which presents a high risk profile), size and time since the last inspection.

**Sweden** shares similar inspection methods with Denmark. Although there is a consistent use of bans, fines and prosecution, a recent revision of regulations imposing mandatory prosecution shifted to administrative sanctions. Sweden also applies a risk-based method to inspections. Unlikely in Denmark, although OHSAS 18001 certification is a factor in influencing frequency of inspection, companies holding such certificates are not fully exempt from inspection protocols. The list of certified companies is published in the website and accessible to the public. This can

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<sup>13</sup> In October 2017 a Peer Review was held in Dublin on the use of web-based tools for OSH risk assessment <http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=9025&furtherNews=yes>



be seen as an interesting approach to trigger motivation through peer pressure and profile-raising strategies.

## 6.2 Interlinkages between transposition, implementation and enforcement, role of feedback

In recent years there has been growing attention on the importance of working methods which maximise and capitalise on the effort of different actors. The Danish orchestration model is a good example of effective and efficient cooperation between different actors. Interlinkages between transposition, implementation and enforcement exist at different levels. Feedback mechanisms are embedded in several processes to ensure that changes and innovation can be achieved to enhance effective implementation and enforcement of regulations.

Countries participating in the Peer Review are characterised by different degrees of interlinkages and cooperation between actors. Feedback mechanisms exist in some countries, while in others important efforts are made to build a more coherent system.

### 6.2.1 Overview of the host country

The Danish model is characterised by strong coordination and interlinkages between national actors involved in transposition, implementation and enforcement. This model has been identified as 'orchestration' of actions and actors at all levels.

The social partners play a significant role in the practical implementation and enforcement of OSH regulations. The system works effectively as the involvement of social partners is strongly co-ordinated with the work of DWEA.

At all levels coordination mechanisms, interlinkages and embedded processes for feedback and cooperation between actors exist. For example:

- At national level in relation to the transposition and implementation of OSH legislation 'The Implementation Council', a tripartite advisory body, meets every three months to systematically assess and implement a uniform approach to the implementation of EU legislation.
- The social partners steer the design and development of OSH strategies and policies through the Work Environment Council. For example, a strong input from social partners is given in designing realistic targets for OSH strategies in relation to reduction of accidents, work-related diseases etc.
- Mid-term evaluations are carried out systematically and often lead to changes in strategies and plans. This was the case of the 2015 strategic plan, where the risk-based inspection and an increase in fines was included, following results from the evaluation. Similarly, in 2018, following a mid-term evaluation that reported a limited impact on the expected targets, an 'experts committee' was established to revise the system with a focus on ensuring a stronger impact.

### 6.2.2 Comparative assessment in Peer Countries

Although the processes are not as structured as in the host country, the Austrian Occupational Safety and Health Strategy takes a similar approach as the Danish orchestration model. In **Austria** social partners are regularly involved in debates before regulations are adopted. Social partners and Labour inspectors are part of permanent working groups of the 'Occupational health and safety strategies' where feedback is provided from inspection activities on implementation and enforcement. This feedback can lead to changes in regulations as well as changes in dissemination and training strategies.

In **Cyprus** the PSHC is the main body where linkages between different actors take the form of coordinated feedback mechanisms. The feedback from the PSHC on the transposition and implementation of OSH legislation has led to several changes in

national provisions including increase in penalties, integration of OSH topics into education reform, changes to tender procedures etc.

In **Malta** one mechanism of feedback includes the analysis of court cases and inspections carried out by the Authority to verify the effective implementation and enforcement of legislation. When analysis reveals shortcomings a process of amendments to the legislation starts, this process includes also feedback from relevant stakeholders and social partners on the possible revisions.

In **Slovenia** the Labour Inspectorate prepares annual reports on its activities which are then presented to the National Assembly in the Parliament and the Council for Occupational Safety and Health Protection. In these reports the Labour Inspectorate proposes amendments to legislation and suggestions for the revision of laws related to the field of occupational health and safety. The Labour Inspectorate and the Ministry of Labour also work closely on the preparation of national strategies and activities are harmonized between the two organisations. Social partners are involved at several levels in the legislative process, for example through representation in advisory groups that prepare the legislation. However, their impact within these groups is somewhat limited, as their opinion is not binding. In Slovenia interlinkages and cooperation between actors occurs mainly in informal settings.

As in Denmark, in **Sweden** cooperation with the social partners is a key success factor for effective implementation and enforcement of OSH regulations. The same is true for cooperation and coordination with different authorities, associations and professional organisations. Two key examples of interlinkages between different actors relate to the implementation of regulations and feedback system:

- Proposals for new regulations undergo a 'referral procedure', which is an extensive process of consultations where all relevant stakeholders have the opportunity to submit their comments. An impact assessment from the Swedish Better Regulation Council is also embedded in this process.
- SWEA's reviews the provisions of the regulations every four years. As part of this process a report from the labour inspectorate is prepared with inspectors' experiences and opinions. In addition, feedback from the Svarstjänsten's ("Helpdesk") on specific issues is also taken into account. Important stakeholders are also consulted in various forms.

### **6.3 Effectiveness of enforcement activities and implementation of legislation**

In a context of reduced budgets and new challenges (e.g. new forms of employment and new risks, globalisation, migration crises etc.) for policy makers, companies and societies in general, evaluation is critical to guide future policies and legislation. The knowledge and understanding of factors leading to a positive impact of OSH regulations and enforcement mechanisms can effectively input the design or new strategies and revision of existing instruments.

However, to disentangle the impact of EU OSH regulations and measures is particularly complex. Some countries participating in the Peer Review have developed relevant evaluation mechanisms and others have acknowledged the importance of monitoring and evaluation in their recent OSH strategies.

Recent evaluations have identified important mechanisms and success factors of national approaches.

#### **6.3.1 Overview of the host country**

The evaluation of OSH regulations and enforcement is a complex issue. It requires the full understanding and assessment of the entire process from EU Directives, transposition, implementation and enforcement. There is growing interest in

understanding 'what works and what does not work' as well as enabling mechanisms. Given the complexity of finding a causal link between regulations and impact outcomes such as work-related diseases, evaluations of OSH regulations and enforcement focus on 'Realistic Evaluation' methodologies which look for patterns and success factors.

In 2016 a mid-term evaluation of the risk-based inspection found that the majority of companies address workplace problems soon after an order from DWEA. The evaluation identified the most effective mechanisms leading to compliance. These were:

- Inspections as a deterrent mechanism and motivation to address the issues, as well as the recognition of the authority of the DWEA.
- A good dialogue between companies and inspectors enables companies to address relevant issues, while a good social dialogue at company level supports the continuation of the changes implemented.

Knowledge transfer and training is at the heart of the Danish strategy to encourage and support compliance. In 2016 a mid-term evaluation found moderate evidence that awareness and campaigns improve compliance. Social partners at sectoral level carry out information campaigns and provide tailored tools to support companies. The social partners also prepare the mandatory training aimed at personnel in the Working Environment Committee.

### **6.3.2 Comparative assessment in Peer Countries**

In **Austria** an evaluation of Labour Inspection activities was carried out in 2017, through interviews with employee representatives and safety representatives. The study reported that cooperation with labour inspectors was welcomed by the majority of interviewees. Similarly, the majority of interviewees reported that safety and health awareness in companies improved through inspections. In **Malta** the Authority evaluates its performance via a system of Key Performance Indicators (KPIs), examples include injury rates, workplace visit numbers, the number of administrative fines issued, number of judiciary proceedings initiated etc. Recent statistics on KPIs show positive results such as lower injury rates and more frequent inspections occurring. In **Cyprus** the new OSH strategy recognised the importance of understanding mechanisms leading to relevant changes. Therefore, evaluations and research will be undertaken over the coming years in collaboration with academic experts.

## 7 Conclusions and recommendations

From the discussion and analysis of the practices in the participating countries during the Peer Review in Denmark a number of conclusions and recommendations can be put forward in relation to the efficient transposition, implementation and enforcement of the EU OSH legislation.

In transposing EU OSH legislation:

- Member States need to ensure that the minimum requirements of the EU OSH Directives are transposed and often an initial 'verbatim transposition' of EU legislation onto national legislation is used. In the longer term this requires a **process of readjustment to the overall national framework** and national context without undermining the standards set.
- Transposition has to be followed by **implementation measures** that would shape OSH practices. National strategies, concrete action plans, and guidelines for labour inspectors and employers should provide the way and the means for an effective implementation and application and enforcement on the ground. It is vital for such tools to be designed in close alignment with the legislation whilst translating this into a language which makes it accessible and meaningful to different employers or sectors. **Ongoing training** for employers, inspectors and workers are fundamental in the application of such measures.

The implementation of OSH legislation requires:

- a **sustainable and flexible legal and regulatory framework** that would make it possible to detect and integrate new risks as they emerge in the changing world of work. The national systems should aim not only to guarantee minimum requirements as prescribed in EU legislation but also to improve working conditions throughout the European Union, fully acknowledging the benefits of good OSH.
- a **multi-stakeholder approach** to implementation and enforcement and **life-long education** in matters of OSH, in which social partners are actively involved. The **involvement of the social partners** means the commitment of employers and workers in the process, which can better guarantee the implementation of the OSH legislation.

Enforcement practices vary from one country to the other with some applying immediate sanctions prescribed in the national legislation and others favouring advisory mechanisms.

To increase effectiveness of enforcement:

- It is important to combine '**carrot**' and '**stick**' approaches for better results, with enforcement and sanctions being particularly important for companies not willing or able to see the business advantage in sound OSH practices. Various incentives could be used, such as offering grants and other financial incentives to companies with good OSH compliance records or including an OSH clause in procurement procedures. Although, the use of incentives needs to be carefully designed as compliance with OSH regulation still remains a legal requirement for companies.
- A key learning from the Peer Review was that appropriate enforcement requires **the use and analysis of data** (e.g. data on companies such as work-place accidents, court cases etc. to assess companies' risk profile). It was discussed whether a sector specific approach to data driven enforcement and inspection regimes is to be preferred to a universal approach. It was considered that the latter may lend itself more readily to being adapted to take account of new and emerging risks.
- Data should be used not only to improve the enforcement of OSH legislation but also to **share information** on implementation and enforcement practices

**among different countries and at the EU level**, which can be done through activities such as the peer reviews, the Senior Labour Inspectorate (SLIC) or the studying of neighbouring countries' practices. Issues such as confidentiality and other considerations need to be taken into account when data are shared and exchanged. Furthermore, in order for the sharing of statistical data on OSH processes and outcomes to be more valuable, a degree of **harmonisation of collecting and collating data at EU level** is necessary.

Finally, **systematic reviews** of the processes of transposition, implementation and enforcement should be used as **mechanisms for providing feedback** among public authorities, social partners, and policy-makers in order to assess national practices and improve them. In some countries the feedback loop already leads to policy change, while in others it just serves to better understand how the system works in practice. Efforts should be made to ensure evaluations and feedback mechanisms are embedded in national system and results are reflected in policy changes to ensure an effective implementation of OSH legislation.



