Key messages from the Peer Review on "Legislation and practical management of psychosocial risks at work"

3-4 October 2019, Stockholm (Sweden)

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1   Introduction

1.1   Background and purpose of the Peer Review

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

This Peer Review provided an opportunity to share experiences and information on the different legislative and enforcement approaches implemented by Member States to prevent and protect workers from psychosocial risks, particularly among micro, small and medium-sized enterprises (MSMEs). During the Peer Review participants also discussed how gender aspects and the self-employed are addressed within such approaches, and how awareness about the topic can be raised in order to inform and engage enterprises.

The event was hosted by the Swedish Ministry of Employment and the Swedish Working Environment Authority (SWEA) and brought together government representatives and independent experts from the host country and nine additional countries, namely Austria, Belgium, Denmark, Estonia, France, Germany, Ireland, Lithuania and Slovenia. Representatives from the European Commission, the European Agency for Safety and Health at Work (EU-OSHA), the Senior Labour Inspectors' Committee (SLIC) and social partners were also present.

1.2   The EU legal and policy context

Psychosocial risks are among the most challenging occupational safety and health concerns in Europe. Such risks could be defined as risks that arise from unfavourable overall work design, organisation and management, poor social context of work and can result in negative psychological, physical or social outcomes[1]. Work-related stress is closely related to psychosocial risks and affects a great number of workers in Europe: 25% of workers experience work-related stress for all or most of their working time while 80% of managers are concerned about work-related stress[2]. Psychosocial risks and work-related stress have negative implications not only for the individual (health) but also for the organisation and national economies overall (through sickness absence, health care costs and productivity losses). Nonetheless, less than a third of enterprises implement measures to prevent and overcome psychosocial risks at work[3].

At the EU level, several legally binding and non-binding instruments shape the legal and policy framework with regards to psychosocial risks at work. The Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work (or 'OSH Framework Directive') lays down employers' general obligations to ensure workers' health and safety in all aspects related to work, addressing and managing all types of risk, including psychosocial risks. However, the Directive is meant as a framework, giving the Member States the space for more detailed specification at national level to enable them to follow an approach that best suits their national context and situation. Accordingly, the degree to which psychosocial

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

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

[3] Ibid.

risks are explicitly mentioned in the OSH legislation of the Member States varies significantly[4].

A number of additional directives complement the OSH Framework Directive and cover more specific aspects of safety and health at work (e.g. specific worker groups, specific hazards, specific sectors), including the Council Directive 90/270/EEC on the minimum safety and health requirements for work with display screen equipment (which specifically refers to mental stress in relation to the analysis of workstations). There are also several directives that are indirectly related to psychosocial risks such the Employment Equality Framework Directive 2000/78/EC that establishes the general framework for equal treatment in employment and occupation.

The OSH Framework Directive 89/391/EEC recognises the need to protect particularly vulnerable groups from risks that specifically affect them. Notably, psychosocial risks tend to affect more workers in traditionally female-dominated sectors (e.g. education, health care) and occupations. A number of directives seek to address some of the challenges posed by gender segregation such as Directive 2002/73/EC on equal treatment for men and women. Other directives are more focused on issues related to maternity and parental leave, for example Directive 2010/18/EU on parental leave and Directive 92/85/EC concerning the basic rights of workers before and after pregnancy. All these legislative initiatives are also supported by a general framework of action on gender equality such as the European Commission's 'Strategic Engagement for Gender Equality 2016 – 2019' that establishes the framework towards full gender equality and reaffirms its commitment to gender mainstreaming.

Another 'at-risk' group that are facing increasing challenges in dealing with psychosocial risks is the self-employed. Despite the fact that 32.6 million persons aged 15 to 74 in the European Union (EU) were self-employed in 2018 (representing 14% of total employment)[5], they are largely outside the scope of the EU Directives on safety and health at work and not covered by the legislation on OSH in some Member States. In 2003, the Council Recommendation 2003/134/EC on self-employed was adopted and since then, about half Member States have made some provisions for the self-employed in their legislation. However, the scope of the legislation, the definition of a self-employed worker and the extent of their obligations vary between Member States[6].

Apart from EU and national legislation, there are also ILO Conventions governing this area (after ratification by countries). For example, with regards to psychosocial risks, ILO adopted the Occupational Safety and Health Convention C155 in 1981 and the Promotional Framework for Occupational Safety and Health Convention C187 in 2006. More recently, Convention C190 concerning the elimination of violence and harassment in the world of work was adopted.

In addition to this comprehensive body of legislation that delineates employers' legal obligations, soft law initiatives have also been developed and implemented at the EU level and offer additional guidance and tools. The framework agreements on 'work-related stress' (2004) and on 'harassment and violence at work' (2007), signed by the European social partners, are the two key legally non-binding instruments in the EU. The European Commission has also published a guidance document for employers,

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[4] Ibid.

[5] Eurostat (April 2019) Self-employed persons, available at:
https://ec.europa.eu/eurostat/web/products-eurostat-news/-/EDN-20190430-1

[6] The Advisory Committee on Safety and Health at Work (2014) Improvement of the protection of the health and safety at work of self-employed workers, Opinion, Doc. 524-01/2014, available at:
https://circabc.europa.eu/webdav/CircaBC/empl/ACSH%20(public%20access)/Library/06%20Opinions%20adopted/2014/ACSH%20Working%20Party%20Self-Employed/Doc.%20524-14-EN%20ACSH%20WP%20Self-employed%20opinion%20adopted%2022.05.2014.pdf

employees and other stakeholders on the management of mental health issues in the workplace[7].

1.3   The Peer Review: headline messages and policy implications

The key learning messages from the Peer Review are summarised below:

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

- In recent decades there have been a lot of changes in the structure and content of work, leading to new work patterns and new forms of employment, and thus new psychosocial risk factors.

- There are different legislative and enforcement approaches to address psychosocial risks. This diversity reflects the varying national situations and contexts and highlights that there is no unique model to address this issue. There is, however, a common view that there is a need to support the application of the legal requirements in relation to psychosocial risks. In particular, there is a need to ensure continuous dialogue with relevant stakeholders, raise awareness and provide guidelines and supporting tools for inspectors, employers and employees.

- One of the most important challenges in the implementation and enforcement of legislation in relation to psychosocial risks is the lack of knowledge and expertise among managers, safety representatives and inspectors. Employers need further support in order to obtain the right information and understand what actions should be taken.

- Moreover, to overcome the social stigma of mental health problems, address the knowledge gaps and provide a safe work environment, there is a need to demystify the concept of psychosocial hazards and risks. This can be done through large-scale information campaigns to raise awareness, as well as supportive guidance documentation and smaller-scale workshops and events to provide practical support.

- To gain legitimisation and successfully implement and enforce legislation in relation to psychosocial risks, dialogue between relevant stakeholders, including employer organisations, trade unions and public authorities, is critical. Social partners have an important role in shaping policies as well as ensuring effective implementation. A dialogue between relevant stakeholders can also help in terms of developing a common language which will help demystify psychosocial risks.

- To effectively assess and manage risk factors, there is a need for clear objectives from the authorities and clear key performance indicators to monitor change. Notably, top-level direction from the government and/or its authorities can facilitate and inspire bottom-up approaches and solutions.

- Employers are best placed to develop and implement measures to prevent and manage psychosocial risks. There is no clear scientific support for specific solutions to be imposed on employers. However, employers need information and tools to conduct risk assessment and implement suitable measures. These tools should be free of charge, easy to use and available online. They could also be used to bridge the gap between risk assessment and risk management.

- Another challenge identified by the participants is the difference between individual and organisational perspectives regarding psychosocial risks. A big change in Sweden has been the shift away from an individual perspective to the organisational

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[7] European Commission (2014), Promoting mental health in the workplace: Guidance to implementing a comprehensive approach, available at:
http://ec.europa.eu/social/BlobServlet?docId=13879&langId=en

and social work environment. This change has made it much more concrete for employers and safety representatives in Sweden to handle the preventive work.

- Addressing psychosocial risks at work should be an integral part of the business culture and strategy and should be seen as an investment supporting the productivity and sustainability of enterprises. However, when making the business case for addressing psychosocial risks at work it is important to make it relatable to all stakeholders. For example, it should not only focus on productivity gains but also on well-being aspects. A shift towards a more positive approach and language could lead to a more constructive attitude in relation to psychosocial risks and work-related stress.

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

- Participating countries have different approaches to address gender aspects and the self-employed in relation to psychosocial risks.

- Gender aspects are not typically addressed within legislative and enforcement approaches, but they are usually covered by legislation related to discrimination. Some countries have developed more specific and in-depth approaches to address gender aspects, including Sweden and Austria (through MEGAP[8] – see Box 3), whilst other countries focus more on specific female-dominated sectors and occupations (e.g. Ireland and Denmark).

- Addressing gender aspects has become even more important as a result of the increasing proportion of women in the workforce. In order to be effective, OSH legislation, implementation and enforcement need to be based on accurate information about the relationship between psychosocial risks and gender roles. Introducing a gender perspective in the legislation and enforcement is not about favouring a specific gender, but rather to ensure equality and that the work environment is adapted to both genders.

- A gender-neutral approach results in less attention and resources for the prevention of psychosocial risks affecting women. As such, there is an argument that employers need knowledge about the role gender has in organisations in order to be able to reveal the structures that drive health/ill-health. Moreover, women and men work within different sectors with different pre-requisites and different occupational health and safety risks. A deeper understanding of OSH risks affect female and male workers is a first step to a gender mainstreaming approach.

- Rather than focusing exclusively on gender aspects, it was also recognised that it may necessary to consider diversity aspects more broadly, by also covering age and other demographic characteristics. Labour inspectors and safety representatives should be well trained to take into consideration the particularities of different groups of workers (e.g. young people, older workers, women and disabled). In response to this, SLIC recently published a guide document to help national labour inspectorates develop inspection procedures and to increase the confidence of labour inspectors when addressing diversity-sensitive risk assessment. Also, it is intended to enhance the effectiveness of labour inspectors' workplace interventions, particularly regarding age and gender issues[9].

- Only about half the Member States cover the self-employed within their OSH legislation, albeit with some variation in the definition of a self-employed, the

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[8] Menschengerechte Arbeitsplätze durch Anwendung von Gender und Diversity im ArbeitnehmerInnenschutz (Healthy workplaces by applying gender and diversity principles in occupational safety and health)

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

scope of the relevant legislation and the extent of their obligations[10]. The self-employed are also covered in certain cases such as in the Council Directive 92/57/EEC on the implementation of minimum safety and health requirements at temporary or mobile construction sites. It is important to acknowledge that the self-employed is an increasingly diverse group, with new forms of self-employment (including bogus self-employment) being created as a result of new technologies and new ways of organising work. Future legislative and enforcement approaches will need to reflect this growing segment of the labour market. Given the diversity among the self-employed, an important first step is to gain a better understanding of the composition of the self-employed as a group and how, and through which channels, they can be protected from psychosocial risks.

- One potential advantage of including the self-employed in OSH legislation would be that it would offer a basic level of protection for both workers and the self-employed. Nevertheless, there was also a view that adding a new group to OSH legislation could have an impact on the existing legislation which is founded on a traditional employer and employee relationship. Furthermore, it would be necessary to involve additional social partners, representing the self-employed, which could create a new dynamic within the social dialogue.

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

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

- Establishing effective communication channels is essential to ensure that employers and inspectors have all the information that they need to fulfil their roles and responsibilities. Employers also need to be better informed about the purpose and the focus of labour inspections before the actual inspection happens. A more focussed and thematic approach is an important element for successful inspections.

- New companies should receive a "road map" or a "how-to" information package to help them with the implementation of measures to prevent psychosocial risks. Providing information could be also accompanied by online training on OSH issues.

- Cooperation and continuous dialogue between stakeholders and relevant actors are a steppingstone to raise awareness and engage more enterprises. Large scale information campaigns (including through videos/films) can raise awareness about OSH and psychosocial risks more widely, whilst bespoke events, workshops, roadshows, awards and networks can provide more practical guidance and support.

- Reaching out to and engaging enterprises, particularly micro and small enterprises, has proven to be challenging. Microenterprises and SMEs often do not have the necessary information and resources to address psychosocial risks. In this regard, making better use of multipliers/influencers, such as local employer organisations, accountants, customers, suppliers and local business networks, was identified as an important success factor for outreach and effective and efficient implementation and enforcement. It was also noted by some participants that a "think local" approach is

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[10] European Commission Communication (2017), Safer and Healthier Work for All - Modernisation of the EU Occupational Safety and Health Legislation and Policy, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017DC0012

often more appropriate when reaching micro and small enterprises. Funding for OSH initiatives and measures targeting microenterprises and SMEs can be secured through EU funds (e.g. ESF+).

- Microenterprises and SMEs are not a homogenous group and the challenges faced in relation to psychosocial risks cannot be addressed using a single approach. Information packages and tools therefore need to be tailored in order to better engage microenterprises and SMEs. More intensive and targeted inspections can contribute to further engagement and implementation of OSH measures.

2   Host country practice: New regulation on organisational and social work environment[11]

Sweden has been focusing on psychosocial risks at work since 1978 when the Work Environment Act was first introduced. The Work Environment Act broke with the traditional Swedish approach to OSH and widened the concept of the work environment to cover all risk conditions, including psychosocial risks:

> *'Working conditions must be adapted to people's differing physical and mental capabilities…Technologies, the organisation of work and the content of work must be designed in such a way that the employee is not subjected to physical strain or mental stress that may lead to illness or accidents. Forms of remuneration and the organisation of working time must also be taken into account in this connection.'*

Since its adoption, the Work Environment Act has been complemented with a range of additional initiatives, including guidance documents and additional regulations. For example, general guidance on psychological and social aspects of the working environment was issued already in 1980. In addition, specific regulations were issued on victimisation at work and on systematic work environment management during the 1990s and the early 2000s.

However, despite such efforts it became increasingly clear that existing regulations were not sufficient to cope with the growing work environment problem in Sweden. Indeed, during the period 2010-2016, the reported number of work-related ill health and occupational diseases caused by psychosocial factors in Sweden increased by 70%[12]. Moreover, SWEA's work environment inspectors struggled to effectively use the existing legislation, as it did not offer a clear basis to formulate requirements for improvements in individual cases. Trade unions also demanded clearer regulations on this. Employers did not have much direction either. To a large extent, the general requirements for risk assessment and action plans, contained in the regulations on Systematic Work Environment Management, were used instead, which meant that it was difficult for the inspectors to concretise the requirements.

As a result, SWEA issued a new regulation on the organisational and social work environment in 2015 (implemented in 2016). This new regulation was developed in close collaboration with the social partners and represented a paradigm shift in Sweden. The concept of psychosocial risk was abandoned, as it was perceived as too individualised, and instead the concept of organisational and social work environment was introduced. The new regulation particularly highlights three aspects that are considered to be most significant in relation to the organisational and social work environment: 1) workload, 2) working hours, and 3) victimisation.

An overall provision is that the employer must ensure that managers and supervisors have knowledge of:

- how to prevent and manage an unhealthy workload; and

- how to prevent and manage victimisation.

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[11] Nilsson, B. (2019) How new legislation can change the approach to psychosocial risks at work, Host Country Discussion Paper – Sweden. Peer Review on 'Legislation and practical management of psychosocial risks at work'. Stockholm, Sweden, 3-4 October 2019. European Commission, DG Employment, Social Affairs and Inclusion.
[12] Swedish Work Environment Authority (2019), Occupational accidents and work-related diseases [Arbetsskador 2018], Arbetsmiljöstatistik Rapport 2019:01, available at: https://www.av.se/globalassets/filer/statistik/arbetsskador-2018/arbetsmiljostatistik-arbetsskador-2018-rapport-2019-1.pdf

Sweden is also at the forefront of integrating a gender perspective in the assessment and monitoring of the organisational and social work environment.

2.1 Success factors in introducing the new regulations

Based on the experience of Sweden, and in terms of developing and introducing the new regulations on organisational and social work environment, several success factors can be identified:

- Demystify the area. Make sure that these issues are treated in the same way as other work environment risks. They are solvable.

- Public opinion and awareness of the problems is an essential factor in finding effective solutions.

- A broad and comprehensive information initiative is necessary. Tools and other support should be readily available to those employers who work specifically with organisational and social work environment risks.

- The social partners can do much to support and disseminate information to workplaces and develop tools for the concrete work.

- Support for individual workplaces may be needed for the concrete improvement work (e.g. through the occupational health service). Micro and small enterprises are particularly in need of support.

- Make sure that this is not a question only for specialists in the supervision. All inspectors can come into contact with these risks and should be able to handle them in a supervisory perspective.

- Invest in broad supervisory campaigns so that uniformity and approaches are develop throughout the supervisory activities.

- Be clear about what the authority will not demand (i.e. what the scope of the legislation and regulations are).

- Connect the regulation to current research.

3 Key Peer Review discussion outcomes

This section summarises the discussion during the Peer Review on the key issues related to the legislation and practical management of psychosocial risks at work, including the main challenges and success factors in the implementation and enforcement of legislation, as well as how gender aspects and the self-employed are addressed. It also summarises the main elements or success factors to raise awareness about the topic and engage enterprises, particularly micro and small enterprises.

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

Psychosocial risks at work are broadly acknowledged by the countries that participated in the Peer Review as an important issue that requires a holistic approach, using a range of both direct (e.g. general or specific regulations and guidelines) and indirect (e.g. awareness raising campaigns, changing attitudes) policy measures. Psychosocial risks at work are already addressed in OSH legislations (generally, specifically or, in some cases, also as part of other safety and health risks), however the approaches followed and the systems in place can be very different, reflecting the various national situations and contexts of each country.

To successfully implement and enforce legislation in relation to psychosocial risks, dialogue between relevant stakeholders, including employer organisations, trade unions and public authorities, is essential. In some countries, like Austria and Germany, for

instance, the collaboration with the social partners is part of the National OSH Strategy. In Belgium, Estonia and Ireland, cooperation with the social partners has also been crucial in the development of different methodologies related to psychosocial risks at work. It was agreed among the participants at the Peer Review that the cooperation and collaboration between all the different stakeholders needs to be enhanced further, as it is a crucial element when developing different risk assessment and risk management tools.

One of the main challenges, related to the implementation and enforcement of legislation in relation to psychosocial risks at work is the misconception of psychosocial hazards and risks. Some countries have undertaken different initiatives to help demystify the area among the general public and among employers. Further details about this aspect is included in Box 4 in section 3.3. Information campaigns can also help define the culture of enterprises, so that protecting workers and preventing psychosocial risks become an integral part of organisations' strategies, which could lead to increased productivity and sustainability.

The structure and content of work has changed dramatically in recent decades. Not only has the sectoral and occupational structure drastically changed towards more knowledge-intensive services, but the work tasks within occupations have also changed. It now involves greater interaction with customers, more computer use/information processing and increased social and cognitive complexity/load. Changes in the structure and content of work has led to work intensification, new work patterns and new forms of employment. These changes create new psychosocial challenges that call for an increased focus on approaches to prevent exposure to psychosocial risks.

In some countries, extensive research has been undertaken to establish the most common psychosocial risks at work. For example, scientific research has been conducted by the Belgian Federal Public Service Employment, Labour and Social Dialogue, including on burnout , the relationship between psychosocial risks at work and (serious) accidents at work and, more recently, the realisation of a collection of good practices in organisations to prevent psychosocial risks at work[13]. In Ireland, the Institute of Occupational Safety and Health (IOSH) commissioned the '*Irish Work Behaviour Study'*, on the exposure to workplace 'ill-treatment' using the '*Negative Acts Scale'*, including bullying, incivility, psychological harassment, abusive supervision and the experience of witnessing such acts[14]. In Denmark, the understanding of psychosocial risks is based on research performed by the National Research Centre, including two major national surveys: '*Work and Health*' and '*OSH effort on company level'*[15].

It is important to connect legislative and enforcement approaches with this growing body of research, as well as adapting them to changing trends in the structure and content of work. Indeed, an important success factor for Sweden regarding the new regulation on organisation and social work environment was to connect it to current research. Similarly, in Lithuania (Box 1) the '*Methodological Guidelines for Assessing Psychosocial Occupational Risk Factors'* were revised in 2018 to take into account

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[13] van Hoof, E., (2019) Tackling psychosocial risks in a complex political structure, Peer Country Comments Paper – Belgium. Peer Review on 'Legislation and practical management of psychosocial risks at work'. Stockholm, Sweden, 3-4 October 2019. European Commission, DG Employment, Social Affairs and Inclusion.

[14] Greiner, B., (2019) Working positively in a service economy, Peer Country Comments Paper – Republic of Ireland. Peer Review on 'Legislation and practical management of psychosocial risks at work'. Stockholm, Sweden, 3-4 October 2019. European Commission, DG Employment, Social Affairs and Inclusion.

[15] Limborg, H., (2019) Progress and obstacles – a comparative view on the Swedish approach from Denmark, Peer Country Comments Paper – Denmark. Peer Review on 'Legislation and practical management of psychosocial risks at work'. Stockholm, Sweden, 3-4 October 2019. European Commission, DG Employment, Social Affairs and Inclusion.

changes in working conditions and the needs and possibilities of enterprises, particularly small enterprises.

Box 1: Revision of 'Methodological Guidelines for Assessing Psychosocial Occupational Risk Factors' (Order, 2005) in Lithuania

- In Lithuania, to carry out the assessment of psychosocial risks, companies have to assess psychosocial factors in accordance with the 'Methodological Guidelines for Assessing Psychosocial Occupational Risk Factors', approved in 2005.

- In view of changing working conditions and in order to enable small enterprises to carry out self-assessment of psychosocial risk factors, a working group of representatives of public authorities, employers' and employees' organisations, and universities was set up in 2018 to prepare an updated version of the Guidelines. The update takes into account changes in working conditions and refines the list of psychosocial factors that can be assessed in the companies (five factor groups): 1) working conditions, 2) job requirements, 3) work organisation, 4) job content, and 5) in-company relations among employees and/or between the employer and employees and/or relations with third parties.

- In light of progress in science and technology, instead of the obsolete list of recommended methodologies for assessing psychosocial factors, it is stated that psychosocial factors should be assessed using best practices and research-based methodological guidelines and/or those recommended by international organisations. An example of such a methodology is the UK HSE Stress Management Standards, adapted in Lithuania by the Institute of Hygiene.

- Requirements for professionals conducting assessments of psychosocial factors have been revised taking into account the needs and possibilities of small enterprises (i.e. it is stipulated that these professionals should complete a 16-hour training on given issues (instead of the previously required 36-hour training courses) and the higher-education requirement has been removed). In addition, the updated Guidelines state that persons conducting assessments of psychosocial factors should ensure the confidentiality of the information obtained during the assessments.

- The amended guidelines came into force on 1 May 2019 after being previously presented to the Occupational Safety and Health Commission of the Republic of Lithuania (tripartite commission for balancing the interests of social partners).

Source: Peer country comments paper - Lithuania

Another challenge commonly encountered is the lack of knowledge and expertise about psychosocial hazards and risks among managers, safety representatives and inspectors. It was generally agreed among the participants at the Peer Review, that there is a need to consistently support employers, so they can obtain the right information and understand what actions need to be taken. Apart from guidelines and information, employers also need tools that are easy to implement. Ideally, these should be free of charge and easy to use. It was noted during the Peer Review, that in some cases, employers might not use the tools made available by the enforcement authorities, if they are too complicated, require extensive training or specialist knowledge.

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

Participating countries have different approaches in addressing gender aspects and the self-employed in relation to psychosocial risks and OSH more generally.

Gender aspects are not typically covered within the legislative and enforcement approaches but are usually included in legislation or policy measures related to discrimination. It was agreed during the Peer Review that it is important to address not only gender aspects, but diversity aspects more broadly. To achieve this, employers, as

well as labour inspectors and safety representatives, need training and a deeper understanding of the psychosocial risks that different groups of workers (e.g. women, young people, older workers, disabled) could be exposed to. Furthermore, it should also be considered that women and men work within different sectors with different pre-requisites and different occupational health and safety risks.

To address these matters, SLIC recently published a guidance document to help national labour inspectorates develop inspection procedures and to increase the confidence of labour inspectors when addressing diversity-sensitive risk assessment (Box 2).

Box 2: A gender perspective on OSH and risk assessment

- A 'gender-neutral' approach to risk assessment and prevention can result in risks to female workers being underestimated or even ignored altogether. Recognising and taking into account gender differences is a first step.

- Key issues in gender-sensitive risk assessment include having a positive commitment and taking gender issues seriously; looking at the actual working situation; using evidence-based risk assessment tools to visualise risks that are difficult to identify; involving all workers, both women and men, at all stages of the assessment; considering risks prevalent in both male- and female-dominated jobs; avoiding presumptions about what the risks are and who is at risk; and avoiding presumptions about what is considered 'trivial'.

- Good practices in gender-sensitive risk assessments include:
  - mixing work groups so they include both men and women, as this can often increase productivity;
  - reducing the monotony of repetitive jobs by rotating work tasks between individuals of both sexes, so that all have variation in their work;
  - designing workstations so that they are ergonomically and easily adjusted to suit both women and men;
  - asking both women and men if they experience stress or harassment, including sexually oriented harassment, to the same extent;
  - supplying tools and personal protective equipment suitable for both men and women; and
  - involving workers of both sexes to the same extent in efforts to improve the work environment.

- The labour inspector's role is important in raising the awareness of OSH stakeholders about the benefits of applying a gender perspective in risk assessment. During an inspection there are several questions that can be asked to identify and assess risks and shortcomings in the work environment, specifically related to gender. Such questions include:
  - How are the workers distributed in terms of age and gender?
  - Do women and men do the same jobs? Do their exposures differ?
  - To what extent can the employees govern their working pace themselves? Are there differences between women and men in this regard?
  - Are there any work tasks for which workers are bound to a certain place or workstation? If so, what is the proportion of women and men in these tasks? If they differ, what is the reason?
  - How are safety equipment, protective clothing, protective equipment, work clothing, tools, and machinery individually adapted to women and men? How has the employer investigated this?
  - What do work-related sick leave and accident statistics indicate when broken down by gender? What diagnoses dominate for women and men, respectively?
  - Has the employer conducted some form of staff survey about psychosocial risks? If so, are there any statistics broken down by gender available? And if so, are

> there any differences in how women and men experience stress, threats, violence, harassment, bullying, victimisation, and support at work?
>
> - Answers to these types of questions are expected to lead to ideas about how such risks and shortcomings can be addressed.

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

Some countries have developed more specific approaches to address gender aspects. For example, in Austria, a specific programme (Box 3) has been set up to address gender and diversity issues. In Germany there are also initiatives that address the gender issue, such as the preparation of a report that shows how far gender aspects play a role in risks and strain at work and how they can be addressed in OSH risk management, along with recommendations for labour inspectors. In France, recent changes in the legislation (in 2014), stipulate that genuine equality between women and men requires an evaluation of occupational risks that reflects the difference in impact of exposure to risks based on gender.

Box 3: *Menschengerechte Arbeitsplätze durch Anwendung von Gender und Diversity im ArbeitnehmerInnenschutz* (MEGAP, healthy workplaces by applying gender and diversity principles in occupational safety and health)

- MEGAP has been set up by the Labour Inspectorate to promote gender and diversity issues.

- It developed a guideline for inspectors to check work conditions for gender issues and produced information material, partly based on videos and other material provided by the Swedish Work Environment Authority (SWEA) and translated into the German language.

- The aim of the programme is to deal with all relevant gender issues in occupational health and safety and, also, to consider psychosocial risks.

- Focussing on gender and diversity aspects, 249 labour inspectors investigated work conditions in over 600 companies from October 2017 to February 2018. In early 2019 a guideline on MEGAP was developed and examples of good practices provided for companies and OSH suppliers.

- The MEGAP project itself is a very good example of how the Labour Inspectorate picks up current issues and developments. The MEGAP project is also part of the National Occupational Safety and Health Strategy 2013–2020.

Source: Peer country comments paper - Austria

Another 'at-risk' group are the self-employed. Only about half the Member States cover the self-employed within their OSH legislation, albeit with some variation in the definition of a self-employed, the scope of the relevant legislation and the extent of their obligations[16]. The self-employed are also covered in certain cases such as in the Council Directive 92/57/EEC on the implementation of minimum safety and health requirements at temporary or mobile construction sites. . However, even when covered by OSH legislation, self-employed workers are not usually the focus of attention for most OSH inspectors and enforcement bodies. This, together with the fact that self-employed workers are not covered by OSH legislation in many countries,

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[16] European Commission Communication (2017), Safer and Healthier Work for All - Modernisation of the EU Occupational Safety and Health Legislation and Policy

means that there is a risk that some workers are classified as 'self-employed' by their employers in order to avoid their OSH responsibilities.

Notably, with new forms of work and new technologies, there has been an increase in the number of self-employed workers on the EU labour market, as well as more diversified forms of self-employment (including bogus self-employment). To implement effective measures to protect the self-employed in terms pf psychosocial risks, there is a need to better understand the composition of the self-employed as a group and how, and through which channels, they can be protected from psychosocial risks.

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

It was agreed during the Peer Review that both enforcement authorities and employers need to gain a better understanding of psychosocial risks at work. In this regard, the 2018 SLIC guide for assessing the quality of risk assessments and risk management measures with regard to prevention of psychosocial risks can act as a useful reference document. Establishing effective communication channels is also essential to ensure that inspectors and employers have all the information that they need to fulfil their roles and responsibilities.

Some of the main elements to raise awareness about the enforcement of legislation in the context of psychosocial risks at work and engage enterprises include: developing a 'road map' or a 'how to' guide for employers; providing online training on the topic; maintaining continuous cooperation and dialogue between all stakeholders; developing large scale information campaigns, including videos/films; organising workshops and conferences; making better use of multipliers/influencers, such as local employer organisations, to reach microenterprises and SMEs. It was also noted that microenterprises and SMEs are not a homogenous group and the challenges faced in relation to psychosocial risks cannot be addressed using a 'one-size-fits-all' approach.

To demystify the concept of psychosocial hazards and risks and to raise awareness of the issue, most participating countries have undertaken different initiatives. Some of these initiatives are summarised in Box 4.

Box 4: Selected examples of awareness raising initiatives undertaken by participating countries

- A national awareness-raising campaign took place in **Austria** in 2012, supported by the Austrian Chambers of Labour, the Economic Chambers and the social partners, which included different events for companies, workshops for OSH experts, and information material that was disseminated to companies.

- In **Belgium**, a 'Federal Truck-campaign' was conducted in 2017 about the prevention of psychosocial risks at work: the federal truck visited multiple companies and informative sessions were organised about the role of various actors, their responsibilities and possible solutions to address psychosocial risks at work. Furthermore, a film about psychosocial risks at work has been developed, in which basic information is given about the legislation, the role of the employer and other actors and the realisation of a prevention policy, as well as two TV adverts and a radio advert.

- In **Germany**, the work programme 'PSYCHE' started in 2013 as part of the Joint German OSH Strategy with the aim of improving the level of prevention of psychosocial risks in companies. It included inspections, advice and promotion of instruments for risk assessment of psychosocial risks at the workplace. 12 000 inspections were carried out, 85 000 employers, OSH stakeholders and workers were addressed. 130 000 instruments were distributed. The programme was evaluated and showed positive results, especially in improving risk management of psychosocial risks in those companies which completely lacked preventive actions.

> The programme also showed that there is still room for improvements and that only about a third fully complied with legal requirements.
>
> • Between 2014 and 2015, the Ministry of Labour, as an EU-OSHA focal point for **Slovenia**, conducted an EU-OSHA Campaign 'Managing stress and psychosocial risks at work'. In addition to a series of media activities, an international conference 'Managing stress and psychosocial risks for a healthy workplace' was held as part of the campaign. The campaign also involved a national competition in the field of safety and health at work, where two awards were given for good practices in implementing effective measures to manage stress and other psychosocial risks related to work.

Source: Peer country comments papers

In Sweden, there are three work environment agencies jointly owned and funded by the social partners - Prevent (private sector), Suntarbetsliv (municipal sector) and Partsrådet (state sector). These organisations are rather unique in a European context and have been instrumental in the implementation of the new regulation on organisational and social work environment in Sweden. Among other things, they produce information and training material that can be used by the member organisations. For example, Prevent created an overall site with tools and guidance on the organisational and social work environment containing training courses, handbooks and tools for risk assessment (www.prevent.se/osa).

4   Conclusions and next steps

The conclusions and priorities emerging from the Peer Review are as follows:

• One of the main steps related to the implementation and enforcement of legislation in relation to psychosocial risks is to demystify the concept of psychosocial risks. Information campaigns, workshops, conferences and trainings can be used to raise awareness on the topic. Some countries have already undertaken or are undertaking substantial actions in this regard, but in other countries such initiatives still need to be developed.

• The chosen terminology can also have an impact on the perception of psychosocial risks. A more positive approach could be considered, with emphasis on the work environment rather than the response of the individuals. Furthermore, awareness-raising campaigns should try to reach the public more broadly, not just employers.

• Cooperation with social partners and continuous dialogue between all stakeholders is essential. Social partners, in particular, should be consulted when developing new regulations, risk assessment tools and guidelines, setting up training programmes for inspectors and safety representatives and when conducting information campaigns.

• Employers might be reluctant to use tools that are too complicated and require specialist knowledge. Developing easy to understand and easy to use tools and materials could encourage more companies to assess psychosocial risks.

• In some countries there is a need to develop specific measures to reach and engage microenterprises and SMEs. One approach would be to reach them at the local level, for instance, by involving 'multipliers/influencers' (e.g. local employer organisations, accountants, customers, suppliers and/or local business networks).

• Diversity aspects should be considered in relation to the implementation and enforcement of legislation related to psychosocial risks at work, as different groups of workers (such as women, young people, older workers, disabled) could be exposed to different risks.

• In recent decades, new forms of self-employment have arisen, which require a better understanding of the self-employed as a group. In most countries it remains

a challenge to include the self-employed in OSH legislation. Nevertheless, doing so would offer a minimum level of protection for both workers and the self-employed. A first step should be to better understand the composition of the self-employed as a group and how, and through which channels, they can be protected from psychosocial risks.

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