The EU legal and policy framework on health and safety at work and psychosocial risks

Alexandra Eftimie
Legal Officer
Health, Safety and Hygiene at Work Unit

SDC CGA, Well-being and occupational safety and health in central government administrations: tackling psychosocial risks at work

22 September 2016, Vilnius
Overview

• The EU legal framework in the area of occupational safety and health (OSH)

• EU actions to prevent work-related stress & psychosocial risks

• Ex-post evaluation of the EU OSH *acquis*

• The way forward
Health and safety - a fundamental right

- EU Charter of Fundamental Rights (Art. 31, *Fair and just working conditions*) - a fundamental right of every worker to:
  - working conditions which respect his or her health, safety and dignity
  - limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave

- The Social Pillar - OSH is a core principle of the EU social model
EU legal and policy framework in the area of occupational health and safety (OSH)

• A comprehensive body of EU legislation composed of the Framework Directive 89/391/EEC ("minimum requirements") and individual and related Directives:
  
  Workplaces Directive (89/654/EEC)
  Display screen equipment Directive (90/270/EEC)
  Working time directive (2003/88/EC)

• Council Directives implementing Social Partners Agreements concluded at EU level (Art. 155 (2) TFEU)

• A series of multiannual action programmes between 1978 and 2002, followed by European strategies (covering 2002-06 and 2007-12)

• EU Strategic Framework on Health and Safety at Work 2014-2020
Framework Directive 89/391/EEC (1)

- covers “all health and safety risks” (recital 15, Case C-49/00), i.e. including psychosocial risks
- no EU specific rules on psychosocial risks
- applies to all sectors of activity, both public and private
- the employer has the obligation to ensure the safety and health of workers in every aspect related to the work
- the words "working environment", "health" and "safety" embrace all factors, physical or otherwise, capable of affecting the health and safety
- health is a state of complete physical, mental and social well-being (ECJ, Case C84/94, UK v Council, para 15)

=> psychosocial risks are to be addressed in organizations’ health and safety strategies
Framework Directive 89/391/EEC (2)

• Employer's obligation to assess risks and take appropriate preventive and protection measures

• To inform, consult, ensure balanced participation of workers and provide adequate training

• Obligation of Member States to ensure effective implementation
Psychosocial risks, stress and health

**Psychosocial risks**
- time pressure, excessive demands, poor work organisation, job insecurity, role ambiguity, harassment, violence, lack of influence, lack of support, poorly managed organisational change, conflicting demands at work and home, etc.

**Work-related Stress**
- work **demands** are beyond **capacity** to cope with them due to organizational methods, use if IT

**Negative outcomes**
- **Emotional**
  - irritability, anxiety, low mood, sleeping problems
- **Cognitive**
  - difficulty in concentrating, learning new things, making decisions, negative thinking
- **Behavioural**
  - making errors, becoming withdrawn or aggressive, substance abuse
- **Physical and mental ill-health**
  - depression, burnout, musculoskeletal and cardiovascular diseases

**Non work-related factors**
- major life events, serious illness, bereavement, etc.
DG EMPL Study on mental health in the workplace (evaluation of policy and practice)

- **evaluate policy** and practice to promote mental health in the workplace in Europe
- develop a range of **scenarios** helping to consider policy options
- **interpretative document** of relevant EU directives
- a **guidance** document for the workplace

**Recommendations:**
- include clear reference to psychosocial risks in Directive 89/391/EEC
- promote the interpretative document of Directive 89/391/EEC
- promote the guidance document
- harmonize terminology
- consider inclusion of mental health disorders in the list of occupational diseases at EU level
- raise awareness and share good practice

- These are autonomous agreements (not part of the EU law) which are implemented in accordance with the procedures and practices specific to management and labour and the Member States

- They represent a commitment to the development and the application of their content at national level

- Evaluation of the Agreement (by the Commission)
Challenges:
- Implementation of OSH legislation
- Prevention of work-related diseases
- Demographic change

Key objectives:
- Consolidation of national strategies
- Compliance with OSH rules, MSEs
- Enforcement by Member States
- Simplification
- Ageing, new risks, work-related diseases
- Data collection
- International cooperation

EU instruments:
- Legislation
- EU funds
- Social dialogue
- Communication and information
- Synergies with other policies
Synergies with public health
Joint Action on Mental Health and Wellbeing

• Runs from 2013-2016
• Promotion of mental health at the workplaces – one of the five areas covered
• Aim - develop an action framework to support enterprises in adopting policies and practices which prevent mental ill-health and strengthen positive mental health
• Possibilities for the health care sector to support the promotion of mental health at the workplace
Healthy Workplaces Campaign 2014-2015

- Raise awareness of the growing problem of work-related stress and psychosocial risks
- Provide and promote the use of simple, practical tools and guidance for managing psychosocial risks and stress in the workplace
- Highlight the positive effects of managing psychosocial risks and stress in the workplace, including the business case
Ex-post evaluation of EU OSH acquis

• 24 EU Directives concerned
• Mains element for Commission Report:
  - National implementation reports (including social partners views)
  - Independent study by an external consortium (COWI (lead), Milieu Ltd and IOM Consulting Ltd)
  - Commission's own experience with Directives
  - ACSH Opinion in the Independent Study
• Results of the evaluation will be published by end 2016
Independent Study findings on psychosocial risks:

- A growing OSH concern, while the complex nature of psychosocial risks does not easily lend itself to a legislative response
- Companies face difficulties in including psychosocial risks in the risk assessment
- The cost of mental ill-health has a major impact on workplaces and will remain very for society
- Measures to prevent psychosocial risks are best implemented on the basis of traditional risk management framework
- At EU level, awareness raising activities and practical guidance have shown promising results to date
Facts and figures:

- European Survey of Enterprises on New and Emerging Risks (e.g. ESENER-2) – EU-OSHA

- Research projects of EU OSHA and Eurofound – joint report on *Psychosocial risks in Europe - prevalence and strategies for prevention*(2014)
The way forward:

- **Focus on improved compliance and enforcement in synergy with the EU OSH Strategic Framework** through guidance and other tools for risk assessment, prevention and control to ensure streamlined and efficient application, as well as **awareness raising partnerships** (Commission, EU OSHA and social partners).

- **Further assessment of policy options is required** to establish whether further action would be necessary, and at what level. There is a need to analyse the situation at national level and to examine the effectiveness of existing national, sectorial and/or enterprise level initiatives to address these risks.
Thank you!

More information available on:

EU OSH Strategic Framework 2014-2020


DG EMPL, Evaluation of policy and practice to promote mental health in the workplace in Europe

Report ‘Psychosocial risks in Europe: Prevalence and strategies for prevention’
www.eurofound.europa.eu/publications/htmlfiles/ef1443.htm and

Healthy Workplaces Campaign 2014-2015
https://www.healthy-workplaces.eu/en