STUDY

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Minimum health and safety requirements for the protection of mental health in the workplace



Policy Department for Economic, Scientific and Quality of Life Policies
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Minimum health and safety requirements for the protection of mental health in the workplace

Abstract

The study focuses on the analysis of national legislation and best practices across the EU Member States that address health and safety requirements for the protection of mental health at work. The study reveals that efforts at EU and national level are currently insufficient to protect employees from psychosocial risks. EU-level legislation on work-related psychosocial risks is therefore needed to set the minimum health and safety requirements for mental health at work. This would compel Member States to take action to protect employees and to ensure minimum standards and equality across the EU.

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LIST OF ABBREVIATIONS

AI	Artificial intelligence
ArbSchG	Occupational Safety and Health Act, Germany
ASGA	the Committee on Safety and Health at Work
AXA	Global health insurance provider
BauA	Federal Institute for Occupational Safety and Health, Germany
BDA	Confederation of German Employers' Associations, Germany
BKKDV	Company Health Insurance Funds Umbrella Association, Germany
BMAS	Federal Ministry of Labour and Social Affairs, Germany
CBS	Statistics Netherlands
CCOO	Trade Union Confederation of Workers' Commissions
CNV	Christian Trade Union Federation, Netherlands
DGB	German Trade Union Confederation
DG SANTE	Directorate-General for Health and Food Safety
DGUV	German Statutory Accident Insurance
EC	European Commission
ENWHP	European Network for Workplace Health Promotion
ESF+	European Social Fund Plus
EP	European Parliament
EU	European Union
EU-LFS	EU Labour Force Survey
EU-OSHA	European Agency for Safety and Health at Work
EWCS	European Working Conditions Survey
FNV	Netherlands Trade Union Confederation

GDA	Joint German Occupational Safety and Health Strategy
GDP	Gross domestic product
HSA	Health and safety authority, Ireland
ICT	Information and communication technology
ILO	International Labour Organization
INQA	New Quality of Work Initiative, Germany
INSST	National Institute for Safety and Health at Work
JArbSchG	Act for the Protection of Young Workers, Germany
MS	Member State
MSCBS	Spanish Ministry of Health, Consumer Affairs and Social Welfare
MSPSI	Spanish Ministry of Health, Social Services and Equality
MuSchG	Maternity Protection Act, Germany
NACE	Statistical Classification of Economic Activities in the European Community
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
OSH	Occupational safety and health
PICO	Participatory Intervention on Culture and Undesirable Behaviour programme, Netherlands
PPE	Personal Protective Equipment
PSA	Psychosocial Workload Programme
PTSD	Post-traumatic stress disorder
RI&E	Risk Inventory & Evaluation
SAK	Central Organisation of Finnish Trade Unions
SLIC	Committee of Senior Labour Inspectors

SMEs	Small and medium-sized enterprises
SZW	Ministry of Social Affairs and Labour, Netherlands
UGT	General Union of Workers, Spain
UN	United Nations
VCP	Trade Union Federation for Professionals, Netherlands
WG EMEX	The working group for emerging risks
WHO	World Health Organization
WRC	Workplace Relations Commission, Ireland

EXECUTIVE SUMMARY

Background

Psychosocial risks in the workplace are recognised as having a profound impact on workers, employers, and the economy. Factors such as high workload and work intensity, long working hours and lack of work-life balance, difficult interactions with clients or customers, a lack of support and opportunities for career progression, harassment and bulling have been associated with a range of negative health outcomes, both physical and mental. Exposure to psychosocial risks in the workplace may reduce productivity and increase rates of absenteeism and presenteeism, with associated costs to employers and the wider economy.

The EU legal framework developed over the past thirty years addresses different aspects of occupational safety and health at work and well-being in the workplace. However, it neither explicitly mentions psychosocial risks and issues relating to mental health in the workplace, nor imposes legal obligation for Member States to take measures dealing with these risks. The most recent policy developments – the legislative proposal on a new Platform Work Directive and resolutions of the European Parliament point to the importance of challenges related to the existing and emerging psychosocial risks in the workplace and the need to address them.

Aim

The aim of this study is to provide a comparative analysis of legislation regarding psychosocial risks in the workplace and best practices in EU Member States, with a view to making recommendation for how the EU can best support Member States in this area. The study considers the extent to which there is a need for new legislation on psychosocial risks or other supplementary initiatives at the EU level.

The objectives of this study, outlined by the European Parliament, are as follows:

- To present an overview of the scale and evolution of mental ill-health/psychosocial risks in the workplace, giving special consideration to identifying vulnerable groups of workers and/or sectors.
- To provide an overview of the state of play with regard to relevant legislation in EU Member States and to identify good practices.
- To identify the minimum requirements for effective legislation in this area, and the ways in which the national and European levels of legislation can be coordinated effectively.
- To present conclusions and policy recommendations at EU level.

Key findings

Exposure to psychosocial risks is uneven across the working population

The prevalence of psychosocial risks varies across EU Member States and different areas of the labour market. The public sector, in particular health, social work and education, have been highlighted as areas of the labour market where there is high exposure to psychosocial risks, particularly emotional labour and dealing with difficult patients, pupils or customers. Other sectors with a high prevalence of psychosocial risks include the financial and transport sectors. Workers in precarious or non-standard forms of employment, particularly the gig economy, may be particularly exposed to psychosocial risks. New and emerging psychosocial risks have been associated with the shift to telework/hybrid work, as well as with digital technologies such as algorithmic management.

EU and national legislation seeks to mitigate psychosocial risks in the workplace

The most important legislation at EU level protecting employees' health and safety, including mental health, is **Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work** (henceforth the **Framework Directive 89/391/EEC**'). This directive requires all Member States to have in place measures to protect employees' health and safety, and to carry out inspections to ensure that these measures are adhered to by employers. However, the Framework Directive 89/391/EEC does not refer specifically to psychosocial risks. Although no EU directive is specifically dedicated to protecting employees from psychosocial risks, other supportive initiatives and legislation include **Directive 90/270/EEC on minimum safety and health requirements for work with display screen equipment**, **Directive 2003/88/EC on the organisation of working time**, **Directive 2019/1152 on transparent and predictable working conditions** and **Directive 2019/1158 on work-life balance for parents and carers**. Also, four framework agreements on telework, work-related stress, harassment and violence in the workplace and on digitalisation were introduced in the context of European social dialogue (EU Social Dialogue 2002, 2004, 2007, 2020).

At national level, while every Member State has in place legislation to protect employees from discrimination, regulate their working hours, and support the most vulnerable groups such as people with disabilities and young workers, the degree to which there is legislation covering all psychosocial risks varies across Member States. Aspects relating to employees' mental well-being and the protection of employees' health are usually addressed in national labour codes and occupational health and safety acts, national health strategies, and equal opportunities acts. In the case study countries (Spain, Finland, Lithuania, Germany, the Netherlands), current legislation obliges employers to have in place internal policies and measures to assess and address psychosocial risks in the workplace. To support such legislation, these Member States have developed various mental health and occupational health strategies and complementary programmes with concrete objectives, timelines and measures, as well as toolkits to help employers comply with the regulations.

The bodies responsible for policymaking and implementation in this area commonly include the relevant government ministries (i.e. health, labour and education), health and safety authorities, labour inspectorates and trade unions. These main responsible bodies also cooperate with various partners, such as NGOs, and private enterprises. However, the main responsibility for implementing the legislation lies with employers. Labour inspectorates or other occupational health and safety bodies are responsible for monitoring workplaces and their compliance with regulations, and sanctions can be imposed in cases of non-compliance.

Regulation of good mental health practices in the workplaces of Member States

Some of the most valuable practices with regard to safeguarding employees' mental health among the Member States include the right to disconnect, the recognition of burnout as an occupational disease and the provision of clear guidelines and standards for employers and inspectors on how to assess mental health risks in the workplace. According to interviews carried out for this study, universal legislation that applies to all areas of the labour market is important to ensure that all sectors regard mental health as a priority. Other valuable measures include short therapy, private companies providing occupational health and safety care, telephone consultations, information campaigns, questionnaires for inspectors, and various toolkits to support employers.

Gaps in the regulation of mental health in the workplace among the Member States

There is still room for improvement with regard to legislation in the Member States, as well as more practical programmes and measures aimed at addressing psychosocial risks in the workplace. European countries still lack a unified concept of mental health and psychosocial risks in the workplace. There is also a lack of enforcement and a lack of education for employers, as well as a lack of guidelines for occupational health and safety inspectors. As a result, the translation of current legislation into practice is incomplete, and problems remain with regard to non-compliance. Moreover, some of the case study countries have not yet recognised burnout as an occupational disease, and neither have some countries legislated on the right to disconnect. Furthermore, some vulnerable groups such as migrants are insufficiently protected, and there is a lack of recognition regarding new and emerging risks such as robotisation, digitalisation and the use of artificial intelligence (AI) at work. Furthermore, the impact of digital monitoring of employees has thus far been insufficiently addressed.

Recommendations to strengthen the legislative framework

New EU legislation in this area could create greater uniformity across the EU, setting minimum standards and ensuring that legislation covers new and emerging psychosocial risks. The European Parliament has called on the Commission to introduce a new directive on psychosocial risks and well-being at work, developed in consultation with social partners (**European Parliament resolution 2022/C 347/10 of 10 March 2022**). Based on the analysis conducted for this study, an EU directive on work-related psychosocial risks should:

- distinguish between 'psychosocial risks' and 'mental health';
- refer to psychosocial risks in concrete and specific terms;
- address psychosocial risks related to telework and digitalisation of workplaces; and
- recognise the right to disconnect.

The legislation should be universally applicable to all workplaces, whatever the sector or size of company. Different sectors and small and medium-sized enterprises can be given additional support through the provision of specific guidelines. Legislation must also be supplemented with support for awareness raising and training. Moreover, the directive should address new and emerging psychosocial risks that are linked to the new ways of working, including telework and digitalisation of the workplaces.

The minimum standards for Member States laid down by the Directive could include the following elements:

- Employers should be obliged to internally assess the psychosocial risks, in cooperation with their employees, or employees' health and safety representatives.
- Employers should be obliged to also pay special attention to potentially vulnerable employees.
- External health and safety inspectors should be given clear guidelines for psychosocial risk assessments.

Establishing a Directive on work-related psychosocial risks on the EU level would require all Member States to transpose minimum standards into their national legislation. This would ensure that all workers across the EU have access to basic protection and support for their mental health. Implementation of the legislation will require national bodies such as labour and health ministries, labour inspectorates, various health and safety authorities and social partners to join forces. Governments – in consultation with workers' and employers' organisations – will play a critical role in

enabling interventions to support the legislation. The introduction of a new Directive will also require additional funding. Areas that will require additional funding at both EU and national levels include:

- support for small and medium-sized companies;
- further funding of mental health support in community-based services;
- training of employers and managerial staff;
- increasing the number of labour inspections, as well as the number of physicians and psychologists; and
- funding for evidence-based research.

1. INTRODUCTION

KEY FINDINGS

The occupational mental health and psychosocial health challenges experienced by workers are amongst the biggest health concerns facing the EU. The **common risk factors** with regard to mental health in the workplace include high workload, stressful, monotonous or unclear work content, 'toxic' work culture and work organisation, discrimination and others. Psychosocial risk factors and work-related stress can lead to **burnout** and other mental disorders, and negatively affect physical health. Poor mental well-being can **reduce employees' productivity and increase absenteeism**. Therefore, mental health is not only important for employees' personal well-being, but also the success of enterprises and the economy overall.

Various pieces of **legislation** and **initiatives** are in place at EU level which contribute to combatting mental health risks in the workplace and to ensure employer compliance. Among other objectives, these require employers in all Member States to protect their employees from work-related stress, to monitor their working time, to protect them from harassment and violence, and to ensure a good work-life balance and transparent working conditions. Bodies at EU and national levels also provide support to employers and workplaces in fulfilling their obligations.

Nevertheless, data show that among employers there remains a lack of concern for and involvement in improving employees'mental health across the Member States. This study therefore seeks to understand what more can be done on the EU level to improve this situation. To achieve this goal, **desk research** and a **literature review** have been undertaken, and **case studies** have been carried out in five countries (Germany, Finland, Lithuania, Spain and the Netherlands).

Psychosocial factors refer to 'the way work is organised, the working time arrangements, the social relationships, the content of the job and the workload' (Eurofound and EU-OSHA, 2014: p. 10). **Psychosocial risk factors** refer to aspects of work design and organisation that might lead to negative physical, social or psychological outcomes (Eurofound and EU-OSHA, 2014). More specific risk factors found in the literature are listed in Table 1 below.

Table 1: Psychosocial risk factors in the workplace discussed in the literature

Psychosocial risk factors	Source
Job content and the nature of the tasks to be completed (e.g. complex tasks, monotonous tasks)	(Eurofound and EU-OSHA, 2014)
Interactions with difficult clients, customers, etc.	(Eurofound and EU-OSHA, 2014)
High workload and work intensity	(Eurofound and EU-OSHA, 2014)
Lack of job autonomy	(Eurofound and EU-OSHA, 2014)
Poor working time arrangements and/or lack of work-life balance	(Eurofound and EU-OSHA, 2014)
Social relationships at work, including a **lack of support**	(Niedhammer et al., 2012)

Psychosocial risk factors	Source
Experience of **harassment/bullying**	(Eurofound and EU-OSHA, 2014); (Niedhammer et al., 2012)
Job insecurity	(Eurofound and EU-OSHA, 2014)
Discrimination	(Niedhammer et al., 2012)
Lack of opportunities for career progression	(Eurofound and EU-OSHA, 2014)

Source: authors' own elaboration.

According to the World Health Organization (WHO), mental health 'is a state of mental well-being that enables people to cope with the stresses of life, realise their abilities, learn well and work well, and contribute to their community' (WHO, 2022a). Research has shown that psychosocial risk factors are linked to **poor mental well-being** (Eurofound and EU-OSHA, 2014) and to a higher risk of **mental health conditions**, including depression (Leka and Jain, 2016; Murcia, Chastang and Niedhammer, 2013; Niedhammer et al., 2022; Ardito, d'Errico and Leombruni, 2014; Harvey et al., 2017; Bonde, 2008; Wieclaw et al., 2008) and anxiety (Eurofound, 2018; Murcia, Chastang and Niedhammer, 2013; Harvey et al., 2017; Wieclaw et al., 2008). Eurofound and EU-OSHA (2014) conducted logistic regression analysis to estimate the relationship between psychosocial risk factors and health outcomes. Psychosocial risk factors linked to poor mental well-being include **monotonous tasks**, **high work intensity**, **irregular working hours** and **job insecurity**. Psychosocial risk factors linked to depression and anxiety include **low decision latitude**, **overcommitment** and **emotional demands** (Murcia, Chastang and Niedhammer, 2013).

Using the WHO definition of mental health outlined above, this study approaches **work-related stress** and **burnout** as manifestations of mental ill-heath. Stress is classified as a mental disorder according to the WHO International Classification of Diseases (ICD-11) on mental and behavioural disorders (WHO, 2022b). Since 2002, the WHO have classified burnout as "a syndrome conceptualized as resulting from chronic workplace stress that has not been successfully managed." Burnout is not recognised as a mental disorder according to the ICD-11, but is included under the code 'Problems associated with harmful or traumatic events' (WHO, 2022b). Stress and burnout have been identified as outcomes linked to a range of psychosocial risk factors in the workplace (e.g. Eurofound and EU-OSHA, 2014; Eurofound, 2018; Lindblom et al., 2006; Borritz et al., 2005). Studies have also shown that stress (Leka and Jain, 2016) and burnout (Eurofound, 2018) increase the risk of mental health conditions including anxiety and depression.

Psychosocial risk factors are also associated with a higher risk of **physical health conditions**, including cardiovascular problems (Niedhammer et al., 2022; Eurofound 2018; Leka and Jain, 2016), diabetes (Leka and Jain, 2016) and musculoskeletal issues (Vanroelen, Levecque and Louckx, 2010).

The impact of psychosocial risk factors on mental ill-health not only affects individuals, but also impacts employers, national economies, and the global economy as a whole. In terms of their social and economic impact, psychosocial risk factors have been associated with higher levels of **absenteeism** and **presenteeism** and lower levels of **productivity** (Leka and Jain, 2016). For example, according to an OECD study, mental ill-health cost EU economies more than 4% of Gross Domestic Product (EUR 600 billion) in 2015 (OECD, 2018). Recent WHO estimates suggest that mental health conditions such as depression and anxiety have an 'estimated cost to the global economy of USD 1 trillion per year in lost productivity' (WHO, 2022a). Data from 2014 indicate that, in Europe, 'the total cost of mental ill-health [...] is EUR 240 billion/per year' (EU-OSHA, 2014). According to the same research, an estimated 'EUR 136 billion per year is the cost of reduced productivity' – caused, for example, by absenteeism or reduced

performance. The costs of work-related mental health conditions also include approximately EUR 104 billion per year in medical treatment. To the individual and their social environment, the costs of mental health problems can also be significant, in some cases even including suicide (OECD, 2021). The prevention of mental ill-health at work and better support for mental health in the workplace can not only improve an individual's health and well-being, but also lead to economic gains (Russo et al., 2019).

In addition to safety and health being fundamental principles and rights at work (ILO, 2022), the right to well-being is a fundamental human right (Khan and Boardman, 2017). Nevertheless, despite widespread concern about psychosocial risks in the workplace and the clear individual, organisational and economic benefits associated with mental well-being, 80% of managers from EU workplaces who were surveyed expressed concerns about work-related stress within their organisations (Eurofound and EU-OSHA, 2014), while fewer than one-third (between 25% and 30%) had implemented policies and procedures to mitigate psychosocial risks (Eurofound and EU-OSHA, 2014). The proportion of establishments that have put in place policies relating to psychosocial risks varies between EU Member States, with the highest proportions being seen in Ireland, Sweden, Belgium and Finland, while the lowest were found in Greece and Hungary (Eurofound and EU-OSHA, 2014). Many EU Member States have implemented legislation related to protecting the mental health of workers (Eurofound and EU-OSHA, 2014). However, a 2015 OECD study found that there was still room for improvement since, despite the high costs to society resulting from mental ill-health, stronger synergy could be achieved between labour market policies and policies relating to the protection of mental health in the workplace (OECD, 2015).

1.1. EU policy context

The need to acknowledge the issue of mental health in the workplace has been among the EU's public health agenda priorities since the Commission's Green Paper on Improving Mental Health in 2005 (Leka and Jain, 2016). The EU has taken measures aimed at prevention, treatment, and rehabilitation, including occupational integration. Regulatory instruments related to psychosocial risks and mental health apply to all EU Member States. However, despite the fact that these regulations address some aspects of psychosocial work environment and/or mental health, the terms "psychosocial risks", "stress" and "mental health", are not explicitly mentioned in most EU legislation (Leka et al., 2011).

Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (hereafter **Framework Directive 89/391/EEC**) lays down obligations for employers to ensure all aspects of employees' health and safety in relation to health and safety risks at work. It introduces general principles concerning the prevention of occupational risks; the protection of health and safety; the elimination of risks and accident factors; the consultation, informing and training of workers and their representatives; and includes general guidelines for the implementation of the Framework Directive's principles. The Framework Directive 89/391/EEC does not mention the terms "work related stress or psychosocial risks" per se, however it requires employers to "adapt the work to the individual, especially as regards the design of workplaces, the choice of work equipment, and the choice of working and production methods, with a view, in particular, to alleviating monotonous work and work at a predetermined work rate, developing a coherent overall prevention policy which covers technology, organization of work, working conditions, social relationships, and the influence of factors related to the working environment." In 2014, an interpretive document from the Commission on the implementation of the Framework Directive 89/391/EEC clarified that in the absence of any specific legal instrument relating to mental health in the workplace, the provisions of the directive would apply (European Commission, 2014). However, it has been noted that awareness of work-related psychosocial risks and approaches to legal regulation are quite fragmented across

Member States, indicating that there may be some misrepresentation and uncertainty when it comes to the implementation of the Framework Directive 89/391/EEC across EU Member States (Leka et al., 2015).

Furthermore, despite having a significant body of legislation relating to Occupational Safety and Health (OSH), the effects of technical changes in OSH monitoring on mental health in the workforce, are not explicitly addressed in EU legislation and remains a 'grey area' both in terms of practice and policy. Requested by the EMPL committee of the European Parliament, a 2019 briefing highlighted this gap in OSH legislation at the EU level, noting that the Framework Directive 89/391/EEC does not 'explicitly address the new challenges posed by digital technologies' including those on mental health (Cabrelli and Gravelling, 2019).

The **European Pillar of Social Rights,** announced in 2017, addresses aspects related to psychosocial risks in the workplace, work-related stress and mental well-being at work under Principle 9 'Work–life balance' and Principle 10 'Healthy, safe and well-adapted work environment and data protection' (European Commission, 2017). These principles of the European Pillar of Social Rights are further supported by the **Council conclusions on enhancing well-being at work** which call for well-being at work to be included as an aspect of relevant policies at both European and national levels (Council of the European Union, 2020). It acknowledged that well-being at work can lead to higher productivity and greater participation in the labour market, as well as reduced public health expenditure. The conclusions put emphasis on ensuring that all employees have equal rights and recognising how changing models of work are affecting employees' well-being (Council of the European Union, 2020).

Building on the Framework Directive 89/391/EEC and supported by a strategic framework provided by the European Pillar of Social rights, a series of individual directives have been adopted and several policy initiatives have been introduced at the EU level (outlined in Table 2). The EU-level legislative package addressing aspects relevant to mental health in the workplace consists of the following four directives that complement Framework Directive 89/391/EEC:

- **Council Directive 90/270/EEC** on minimum safety and health requirements for work with display screen equipment.
- **Directive 2003/88/EC of the European Parliament and of the Council** concerning certain aspects of the organisation of working time.
- **Directive 2019/1152 of the European Parliament and of the Council** on transparent and predictable working conditions in the European Union.
- **Directive 2019/1158 of the European Parliament and of the Council** on work-life balance for parents and carers.

Table 2: Main EU-level directives, policy initiatives and framework agreements that address aspects relevant to mental health in the workplace

Directives
Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work (Framework Directive)[1]
Directive 90/270/EEC on minimum safety and health requirements for work with display screen equipment[2]
Directive 2003/88/EC concerning certain aspects of the organisation of working time (Working Time Directive)[3]
Directive 2019/1152 on transparent and predictable working conditions in the European Union[4]
Directive 2019/1158 on work-life balance for parents and carers[5]
Legislative proposals
Proposal for a Directive of the European Parliament and of the Council on improving working conditions in platform work, 2021[6]
Policy and strategic documents
European Pillar of Social Rights, Principles 9 and 10, 2017[7]
Council's conclusions on Enhancing Well-being at Work, 2020[8]
Luxembourg Declaration on Workplace Health Promotion, 1997[9]
EU Strategic Framework on Health and Safety at work 2021-2027, 2021[10]
European Parliament resolution with recommendation to the Commission on the right to disconnect (2019/2181(INL))[11]

1 Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work. Available at: https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:31989L0391.

2 Council Directive 90/270/EEC of 90/270/EEC on minimum safety and health requirements for work with display screen equiptment. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31990L0270.

3 Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32003L0088.

4 Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019L1152.

5 Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L1158&qid=1681214151497.

6 European Commission, 2021b, *Proposal for a Directive of the European Parliament and of the Council on improving working conditions in platform work*. Available at: https://ec.europa.eu/social/BlobServlet?docId=24992&langId=en.

7 European Commission, 2017, *European Pillar of Social Rights Action Plan*. Available at: https://op.europa.eu/webpub/empl/european-pillar-of-social-rights/en/.

8 Council of the European Union, 2020, *Enhancing well-being at work: Council conclusions,* 8 June. Available at: https://www.consilium.europa.eu/media/44350/st08688-en20.pdf.

9 ENWHP, 1997, *Luxembourg Declaration on Workplace Health Promotion in the European Union*. Available at: https://www.enwhp.org/resources/toolip/doc/2018/05/04/luxembourg_declaration.pdf.

10 European Commission, 2021a, EU strategic framework on health and safety at work 2021-2027: Occupational safety and health in a changing world of work. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021DC0323&qid=1626089672913#PP1Contents.

11 European Parliament resolution of 21 January 2021 with recommendations to the Commission on the right to disconnect (2019/2181(INL)). Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021IP0021.

European Parliament resolution on a new EU strategic framework on health and safety at work post 2020 (including better protection of workers from exposure to harmful substances, stress at work and repetitive motion injuries) (2021/2165(INI))[12]
European Parliament resolution on mental health in the digital world of work (2021/2098(INI)[13]
Commission's non-legislative communication 'A comprehensive approach to mental health', 2023*(forthcoming)*[14]
European Social Dialogue
European social partners' framework agreement on telework, 2002[15]
European social partners' framework agreement on work-related stress, 2004[16]
European social partners' framework agreement on harassment and violence in the workplace, 2007[17]
European social partners' framework agreement on digitalisation, 2020[18]

Source: Authors' own elaboration.

The Framework Directive 89/391/EEC stipulates that "health surveillance should be provided for workers according to national systems. Particularly sensitive risk groups must be protected against the dangers which specifically affect them." There is hence an indirect provision for and reference to, mental health related risks in the workforce. **Council Directive 90/270/EEC on minimum safety and health requirements for work with display screen equipment** stipulates that employers are obliged to assess the health and safety of workstations, particularly "as regards possible risks to eyesight, physical problems and problems of mental stress" hence explicitly referring to "problems of mental health" in the context of risk assessment. The Annex to the Directive also lays down minimum health and safety requirements that employers must follow with regard to workstations. Employers should also plan workers' time in such a way that their work using screens is periodically interrupted.

Directive 2003/88/EC concerning certain aspects of the organisation of working time (Working Time Directive) sets minimum periods of daily and weekly rest, as well as annual leave, and regulates night work. The goal of the directive is to protect workers from overwork and from its short- and long-term negative effects on health, including mental health. Article 8 of the Working Time Directive states that 'work involving […] heavy […] mental strain should be defined by national legislation'. The element of measuring working time has become even more significant since the decision of 14 of May 2019 decision by the Court of Justice of the European Union's[19] where the Court consolidated the

[12] European Parliament resolution of 10 March 2022 on a new EU strategic framework on health and safety at work post-2020 (including better protection of workers from exposure to harmful substances, stress at work and repetitive motion injuries) (2021/2165(INI)). Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022IP0068.

[13] European Parliament resolution of 5 July 2022 on mental health in the digitalal world of work (2021/2098(INI)), Available at: https://www.europarl.europa.eu/doceo/document/TA-9-2022-0279_EN.html.

[14] More information available at European Commission, 2023, *A comprehensive approach to mental health*, Public consultation. Available at: https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13676-A-comprehensive-approach-to-mental-health_en.

[15] EU Social Dialogue, 2002, *Framework agreement on telework.* Available at: https://www.etuc.org/en/framework-agreement-telework.

[16] EU Social Dialogue, 2004, *Framework agreement on work-related stress*, 2004. Available at: https://resourcecentre.etuc.org/agreement/framework-agreement-work-related-stress.

[17] EU Social Dialogue, 2007, *Framework agreement on harassment and violence at work*. Available at: https://www.etuc.org/en/framework-agreement-harassment-and-violence-work.

[18] EU Social Dialogue, 2020, *European social partners framework agreement on digitalisation*. Available at: https://www.etuc.org/system/files/document/file2020-06/Final%2022%2006%2020_Agreement%20on%20Digitalisation%202020.pdf.

[19] Case C-55/18, 14.5.2019, *Federación de Servicios de Comisiones Obreras* (CCOO) v. *Deutsche Bank SAE*, ECLI: EU: C:2019:402.

protective function enshrined in Directive 2003/88/EC. Furthermore, on 21 February 2018 the Court of Justice of the European Union (CJEU)[20] ruled according to Article 2 of Directive 2003/88/EC that the "timeframe during which a worker at home is obliged to respond to employer calls in a short period must be regarded as working time". This ruling is important as it paved the way to create a 'right to disconnect' where there is no specific digital regulation at EU level yet.

Directive 2019/1152 on transparent and predictable working conditions in the European Union provides extensive rights for all EU workers. In addressing the issue of insufficient protection with regard to workers in more precarious jobs, including domestic workers, persons who are not employed full-time or under open-ended contracts, and workers in new forms of employment, such as on-demand workers and platform workers. Some of the rights to which all employees are entitled, and which have a direct impact on their mental health, include the right to be informed in advance about when work needs to be done and to have effective measures in place to prevent abuse.

Finally, **Directive 2019/1158 on work-life balance for parents and carers** aims to better support work-life balance for carers and parents. It also seeks to encourage a more equal share of parenting responsibilities between men and women. Measures include paternity leave and carer's leave, the assurance that two months of parental leave are non-transferable between parents, and the extension of the right to request flexible working arrangements for carers and working parents with children up to eight years old. Support for carers' mental well-being is also one of the aspects addressed by the Directive (EU) 2019/1158.

The EU-level legislative framework addressing occupational safety and health aspects relating to mental health in the workplace was closely linked to the developments in policy and strategic framework. Adopted in 1997, **Luxembourg Declaration on Workplace Health Promotion** aimed to promote the issue of occupational health and safety among European companies, and to encourage Member States to promote health in the workplace in their national legislation. The Declaration encourages employers to take responsibility for their employees' well-being by including them in workplace decision-making, helping them to balance work and life demands, and, among other measures, by implementing various measures to support employees' mental health (ENWHP, 1997).

Another regulatory initiative that addresses well-being at work is the **legislative proposal on the Directive on improving working conditions in platform work** presented by the European Commission in December 2021 (European Commission, 2021b). The aim of the proposal is 'to improve transparency and traceability of platform work to support competent authorities in enforcing existing rights and obligations in relation to working conditions and social protection (European Commission, 2021b). The proposal calls for the banning of constant monitoring and surveillance of workers at work, while providing guarantees with respect to algorithmic management in all European workplaces. The proposed directive for the first time specifically mentions psychosocial risks and requires digital labour platforms to evaluate these risks in the context of automated monitoring and decision-making systems (European Commission, 2021b). There is nothing in the directive, however, that provides the worker the right to disconnect from the platform, without undue penalties, after completing a number of working hours.

One of the most significant recent initiatives in this policy area is the **EU Strategic Framework on Health and Safety at Work 2021-2027**, adopted in 2021 (European Commission, 2021a). The Framework addresses the specific issue of psychosocial risks in the workplace. It states that it is important to address work-related stress and risks that arise due to remote work, such as a lack of social

[20] Judgment of the Court (Fifth Chamber) of 21 February 2018, *Ville de Nivelles* v. *Rudy Matzak*, Case C-518/2015, OJ C 414, 14.12.2015.

interactions and the increased use of information and communication technology (ICT). Through the Framework, the Commission calls on Member States to update their national legal frameworks in line with the green and digital transitions, and to ensure the use of digital tools to make labour inspections more efficient (European Commission, 2021a). It also calls on Member States to host 'peer reviews' addressing occupational mental health risks, and to strengthen the collection of data on and the monitoring of mental and psychosocial risks across sectors.

Another initiative of importance is the **European Parliament's resolution of 21 January 2021 with recommendation to the Commission on the right to disconnect (2019/2181(INL))**. The European Parliament has called for the following measures:

- Preventing employers from requiring workers to be available outside normal working times.
- Protecting employees who use their right to disconnect.
- Extension of the right to disconnect to all work-related activities, including remote learning and training which should not take place during days off or during overtime without adequate compensation.

The **European Parliament resolution of 10 March 2022 on a new EU strategic framework on health and safety at work post-2020 (including better protection of workers from exposure to harmful substances, stress at work and repetitive motion injuries) (2021/2165(INI)** also called for a directive on work-related psychosocial risks and well-being at work. Closely related to the aforementioned resolutions, the **European Parliament's resolution of 5 July 2022 on Mental Health in the digital world of work (2021/2098(INI)** points to the work-related mental health problems in the EU and calls for preventative action to protect workers' mental health and work-life balance in the context of digitalisation.

Recently, DG SANTE has also launched a 'have your say' call for evidence on the upcoming initiative '**A comprehensive approach to mental health**' (European Commission, 2023). The comprehensive approach aims to support EU Member States, stakeholders and citizens by providing the EU added value of a prevention-oriented approach that is based on incorporating mental health into all policies. Actions to tackle psychosocial risks at work and promotion of good mental health are among the key areas for attention.

Legislative and policy initiatives by EU institutions were also reflected in the process and a number of agreements reached in the framework of the European Social Dialogue[21], which addressed challenges and opportunities relating to telework and digitalisation of work, and, more specifically, work-related stress, and harassment and violence in the workplace. For example, the 2002 **European social partners' framework agreement on telework** seeks to achieve a balance between flexibility and security, especially for workers under flexible working arrangements (EU Social Dialogue, 2002). According to the framework agreement, employees should be provided with the same working conditions as employees working at the employer's premises – including with regard to data protection and privacy, necessary working equipment, access to health and safety protection, access to training, and the same collective rights. Also, the workload and performance standards expected of teleworkers should be equivalent to those required of employees working at the employer's premises.

[21] European social dialogue refers to discussions, consultations, negotiations and joint actions involving organisations representing the two sides of industry (employers and workers). It takes two main forms: a tripartite dialogue involving the public authorities and a bipartite dialogue between the European employers and trade union organisations. More information is available at: https://ec.europa.eu/social/main.jsp?langId=en&catId=329.

The 2004 **European social partners' framework agreement on work-related stress** aims to 'establish a framework within which employers and employee representatives can work together to prevent, identify and combat stress at work' (EU Social Dialogue, 2004). According to the agreement, if work-related stress is identified, employers 'must take actions to prevent, eliminate or reduce' these risks (EU Social Dialogue, 2004). The framework agreement also sets out a range of measures for employers to tackle the issue of work-related stress. Examples of these include management and communication measures, the training of management and employees, the provision of information to and consultations with workers and their representatives.

The 2007 **European social partners' framework agreement on harassment and violence in the workplace** aims to increase awareness and understanding among employers, workers and their representatives of workplace harassment and violence, as well as to provide them at all levels with an action-oriented framework, and to identify, prevent and manage problems of harassment and violence at work (EU Social Dialogue, 2007). The main elements of the agreement include recognising the responsibilities of employers, in collaboration with employees and their representatives, to determine, review and monitor procedures for preventing and dealing with harassment and violence in the workplace. The agreement also requires companies to put in place clear statements that harassment and violence will not be tolerated, and to specify what procedures will be used to respond to such an event.

Finally, the 2020 **European social partners' framework agreement on digitalisation** addresses the challenges relating to digital transformation of the economy and the need to adapt labour markets, education and training, and social protection systems, including different aspects of work organisation and working conditions (EU Social Dialogue, 2020). A number of measures address aspects relating to the psychosocial risks and mental well-being at work, including but not limited to respect of working time rules and teleworking and mobile work rules, commitment from management to create a culture that avoids out of hours contact, prevention of isolation at work. The framework agreement outlines that in case of deployment of AI systems, risks to workers' physical integrity, psychological safety, confirmation bias or cognitive fatigue should be assessed, while the risk of intrusive monitoring should be prevented by data minimisation, transparency and clear rules on the processing of personal data (EU Social Dialogue, 2020).

Furthermore, a number of important international initiatives are underway beyond the EU borders that are relevant to EU policy. The WHO and the International Labour Organization (ILO) have called for concrete measures to tackle mental health issues at work in two new publications – **WHO Guidelines on mental health at work**, and a **derivative WHO/ILO policy brief** (WHO, 2022a). These guidelines recommend better ways to accommodate the needs of workers with mental health conditions, as well as proposing interventions to support the return to work of such workers, and to facilitate the entry into paid employment of persons with severe mental health conditions (WHO, 2022a). The WHO/ILO policy brief translates the WHO guidelines into practical strategies for governments, employers, workers and their organisations, in the private and public sectors (WHO, 2022a). Other important international initiatives are the International Organization for Standardization (ISO) '**International Standard on Occupational Health and Safety Management**'[22] (ISO 45003, 2021), as well as the ILO's

[22] The standards give guidelines for managing psychosocial risk within an occupational health and safety management system. It is based on ISO 45001. When using the standards, organisations are enabled to prevent work-related injuries and ill-health of their workers, and to promote and ensure their well-being at work. The standards are applicable to organisations in all sectors and of all sizes. Available at: https://www.iso.org/standard/64283.html.

'**Inspection actions to deal with psychosocial risks**'[23] (2022), and '**Violence and Harassment Convention**'[24] (No. 190, 2019).

1.2. Scope and purpose of the study

The present study seeks to compare relevant legislation and best practice in EU Member States with a view to making recommendations on how the EU can support Member States in this area. It considers whether there is a need for specific legislation on psychosocial risks in the workplace or other supplementary initiatives at EU level.

The objectives of this study, outlined by the European Parliament, are as follows:

- To present an overview of the scale and evolution of mental ill-health/psychosocial risks in the workplace, based on available data. Special consideration should be given to identifying vulnerable groups of workers and/or sectors particularly at risk.
- To provide an overview of the state of play with regard to relevant legislation in EU Member States, and to identify examples of good practice.
- To identify whether there is a need for specific legislation on psychosocial risks in the workplace or other supplementary initiatives at EU level, what the minimum requirements for effective legislation could be in this area, and to discuss how the national and European levels could be effectively coordinated.
- To present conclusions and outline policy recommendations at EU level.

1.3. Methodology

The first component of the study focuses on the scale, evolution and differential impacts of psychosocial risks in the workplace in EU Member States. This is informed by **desk research and a literature review** looking at the prevalence of psychosocial risks in the workplace over time and across all 27 Member States, including the emergence of new and evolving risks. Alongside the literature review, an analysis was made of secondary data relating to psychosocial risks in the workplace in EU Member States, such as the European Working Conditions Survey (EWCS), the EU-OSHA European opinion poll on occupational safety and health, and the European Labour Force Survey (EU-LFS).

The second component of the study is an overview of legislation and various initiatives in each of the 27 EU Member States, informed by **desk research**. The study's aim in mapping legislation in all EU Member States is to acquire a broader knowledge regarding different national approaches, and to identify five countries for the good practices case studies.

These **case studies** provide an in-depth analysis of policies and legislation relating to mental health in the workplace in five EU Member States – Finland, Germany, Lithuania, Spain, and the Netherlands – which were identified during the desk research and literature review as showing examples of good practice. When selecting the case study countries, consideration was given to the availability of information, geographical coverage, the size of the country, and year in which countries joined the EU, to ensure a broad variety of practices in different social and cultural circumstances. The aim of the case

[23] The module explains the range of inspection actions (proactive and reactive) that inspectors can carry out, 'considering the specific characteristics of each national legislation and the design of inspection policies and strategies at national level' (ILO, 2021). Available at: https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---lab_admin/documents/genericdocument/wcms_856575.pdf.

[24] This convention is a convention to 'recognize the right of everyone to a world of work free from violence and harassment, including gender-based violence and harassment'. Available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190.

studies is to identify and explore initiatives, programmes and legislation relating to mental health in the workplace, in order to gain a better understanding of various successful policy options and scenarios. The case studies also provided an opportunity to analyse the feasibility of EU-level legislation and identify what the minimum requirements and main components of such legislation could be. To gather data to inform the case studies, in-depth analysis of countries' **legislative documents** and **academic literature** were carried out**,** as well as **semi-structured interviews** with relevant stakeholders, including representatives of labour inspectorates, trade unions, the scientific community, health ministries and others (see Annex 1). The main goal of these interviews was to supplement analysis of the legislative documents and to determine whether the current national legislative systems are adequate to tackle mental health risks in the workplace.

Additionally, **interviews** were conducted at the EU level (see Annex 1) to gain a better understanding of EU policies and priorities in this area and scope for future EU action. Efforts were made to conduct interviews with a range of stakeholders at the EU level, which included EU agencies and social partners representing both employees and employers. However, it should be noted that the findings are based on interviews with a small number of stakeholders (four in total).

The following chapters detail the findings of this research, beginning with a look at the most common mental health risks in the workplace, followed by an analysis of national legislation in five EU Member States. The report ends with its conclusions and a series of recommendations.

2. MENTAL HEALTH RISKS IN THE WORKPLACE

KEY FINDINGS

Nearly half of workers in the EU report exposure to risk factors that can adversely affect mental well-being. The highest exposure to psychosocial risk factors in the EU is reported in Sweden, Greece and Luxembourg, and the lowest in Germany, Lithuania and Czechia.

Time pressure and work overload is the most common psychosocial risk in the EU, although in many countries the prevalence of this risk factor has declined in recent years. Around a fifth of workers in the EU work long hours (48 hours or more per week), but the proportion is far higher in certain Member States, notably Greece.

Job insecurity affects less than ten per cent of workers in the EU (more in certain Member States) but is a key driver of work-related stress. Around a quarter of workers in the EU report being stressed at work most or all the time

Working in the public sector, particularly in health and social care or education, is associated with greater exposure to psychosocial risks. Different sectors are associated with greater prevalence of certain psychosocial risks, for instance, high emotional labour and work pressure in health and social care and education, long working hours and a lack of support from managers and colleagues in the agricultural sector, long and irregular hours in the transport sector, and high work intensity in the financial sector.

Workers in large enterprises are more exposed to psychosocial risks than those in small and medium-sized enterprises (SMEs), but larger organisations have more resources to support employees. Workers in precarious forms of employment and gig economy workers are subject to greater exposure to psychosocial risks as they lack typical employment security and support.

A number of **new and emerging risks** to mental health in the workplace have been identified in the literature. **Digital technologies** can enable greater autonomy and more connection, but may also disrupt work-life balance, cause work intensification, undermine social support and reduce job autonomy. **Telework** – which experienced rapid and sustained growth during the COVID-19 pandemic – can enable more flexibility and time autonomy but contribute to longer and more irregular working hours, greater work pressure and social isolation. **The COVID-19 pandemic** also affected psychosocial risks in other ways and was associated with an increase in work-related stress, work pressure and working hours for some workers.

2.1. Scale and evolution of psychosocial risks and mental ill-health in the workplace

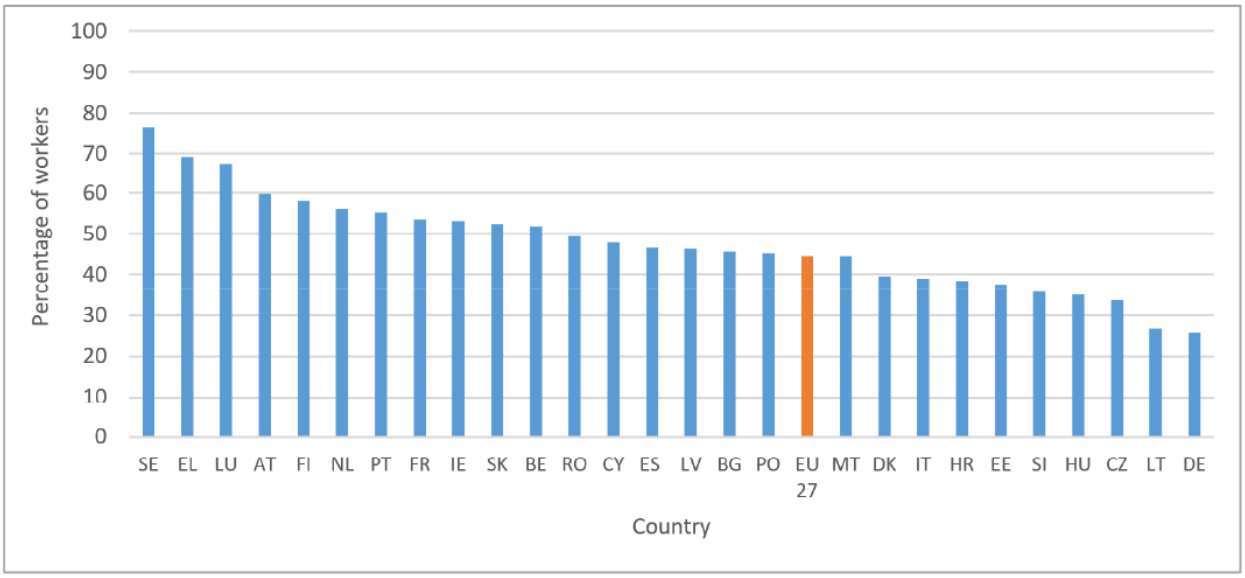
This section begins by summarising evidence on the scale of psychosocial risks (risk factors) in EU Member States, and how these risks have changed over time. It then moves on to consider these aspects in relation to mental ill-health (outcomes), focusing on stress and burnout.

2.1.1. Psychosocial risk factors vary widely between Member States

Estimating cross-national differences in the prevalence of certain psychosocial risk factors is complicated by the fact that data are often based on national surveys or administrative data, meaning that estimates are not fully comparable (Eurofound, 2018; Niedhammer et al., 2012). Harmonised data on psychosocial risk factors are, however, available from surveys, including the EU Labour Force Survey (EU-LFS) and the European Working Conditions Survey (EWCS), enabling comparisons to be drawn. International surveys highlight wide variation in the prevalence of psychosocial risks across the EU (Niedhammer et al., 2012). In the EU overall, almost half (45%) of workers report exposure to risk factors that can adversely affect mental well-being (Eurostat EU-LFS, 2020, see Figure 1). This figure ranges from 26% in Germany to 76% in Sweden (Figure 1).

Exposure to psychosocial risks is partly shaped by national policies and employers' practices. Some of the countries with the lowest exposure to psychosocial risks (for instance Lithuania (LT) and Germany (DE) in Figure 1) are those in which good practices have been identified in relation to national policies (see Chapter 3). The direction of causality is unclear, however, since national policies may be introduced in response to high levels of psychosocial risk factors. Other countries where exposure to psychosocial risks is relatively high (for instance, Finland (FI) and the Netherlands (NL) in Figure 1) also possess extensive legislation in this area. The fact that reported exposure to psychosocial risks is higher in Sweden than in any other EU Member State is surprising, given that Sweden is often characterised as a country in which working conditions are comparatively good (Tutak and Brodny, 2022). High rates of exposure in a country may be driven by the prevalence of certain psychosocial risk factors. For instance, exposure to time pressure and work overload is comparatively high in Sweden and Finland – 40% and 31%, compared with an EU average of 20% (Figure 3). A lack of communication or cooperation within the organisation is comparatively high in the Netherlands (12%) and Sweden (9%) compared with the EU average (4%), and a lack of autonomy at work is relatively common in the Netherlands (5%, compared with the EU average of 1%). Cross-national differences in survey responses may also be driven by cultural and social factors such as national differences in openness to discussing mental health issues (Eurofound and EU-OSHA, 2014). There is evidence to suggest that social and cultural factors (as well as employment policies and practices) affect workers' willingness to disclose mental health conditions to managers (Evans-Lacko and Knapp, 2014), and these factors may also affect survey responses (Eurofound and EU-OSHA, 2014).

Figure 1: Persons of working age (15-64) reporting exposure to risk factors that can adversely affect mental well-being in 2020, by Member State

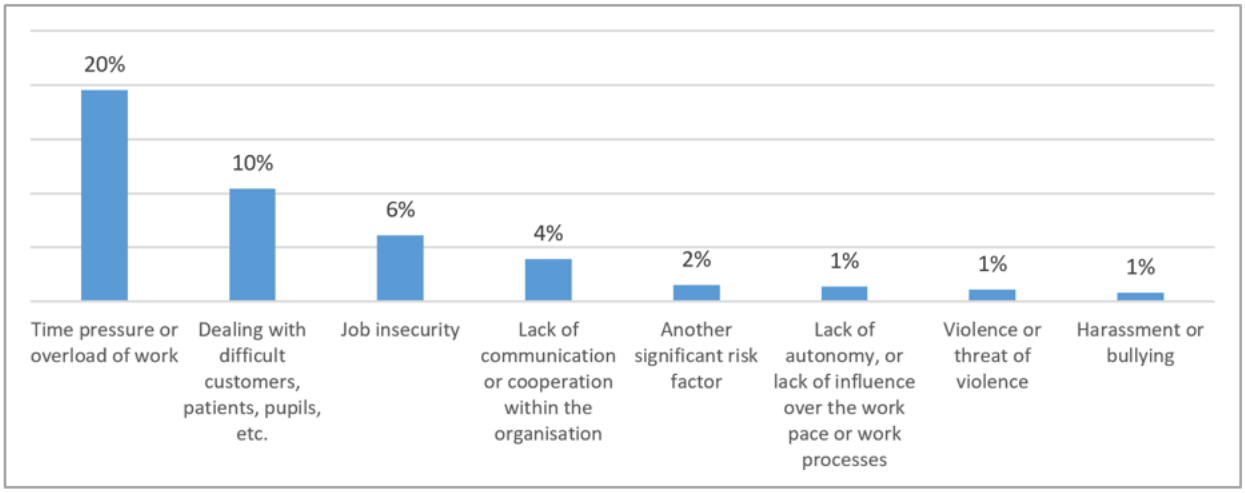


Source: Eurostat (EU-LFS), 2020 (HSW_EXP1).

2.1.2. Time pressure and work overload is one of the most common risks

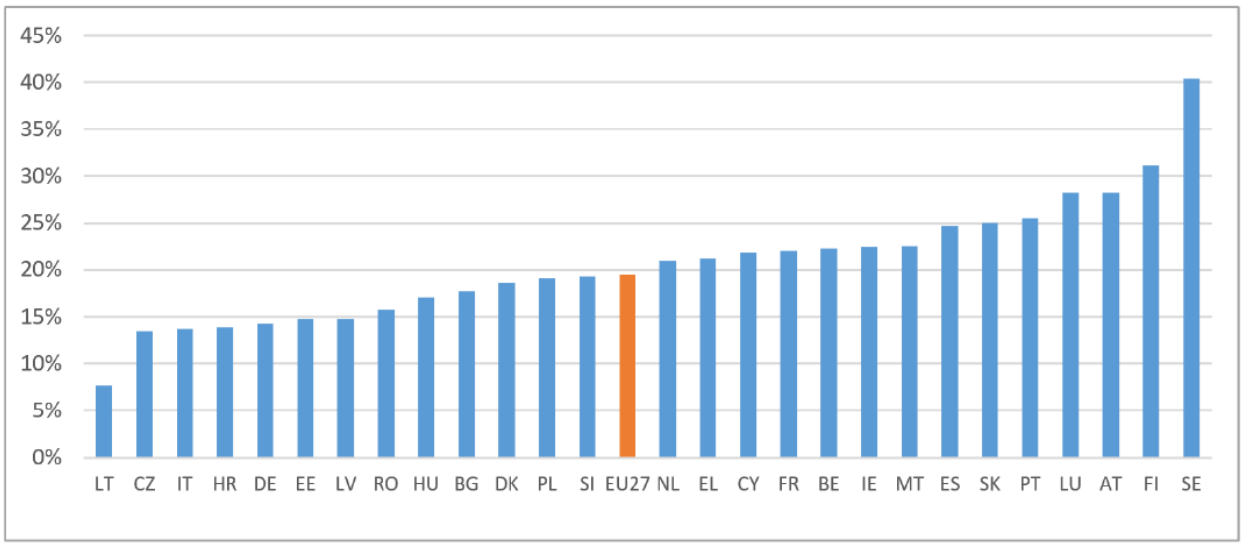
As measured by the EU Labour Force Survey (Eurostat EU-LFS, 2020), the most common psychosocial risk in the EU is **time pressure and work overload**, which was reported by 20% of workers in 2020 (Figure 2). The proportion of workers who reported being affected by **time pressure and work overload** ranged from 8% in Lithuania to 40% in Sweden (Figure 3). Cross-national differences may relate to differences in the structure of the labour market (i.e. the prevalence of sectors such as finance, where this risk is more common) and working time regulations, as well as differences in working time norms and culture (i.e. what is considered to constitute 'excessive' workload). In most (but not all) EU Member States, the proportion of workers affected by time pressure and work overload decreased between 2013 and 2020 (Figure 4). This could be related to the impact of the COVID-19 pandemic on work intensity and working hours, which was complex and varied between sectors and employers. While some establishments reduced working hours in response to the pandemic, for many workers, this period was associated with an intensification of work and longer working hours (see subsection 2.3.3). Other factors may also contribute to this trend, for example, legislation designed to limit work pressure (e.g. the 'right to disconnect' – see Chapter 3) or efficiencies associated with new technologies.

Figure 2: Employees aged 15-64 reporting exposure to risk factors at work that can adversely affect mental well-being (EU average) in 2020



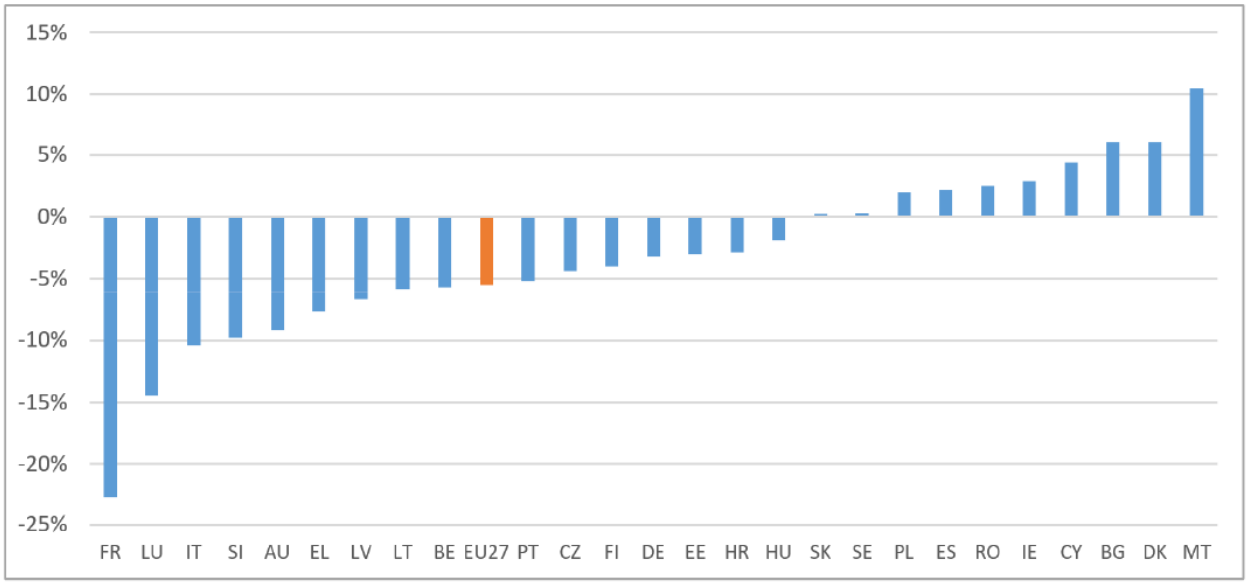
Source: Eurostat (EU-LFS) 2020 (HSW_EXP3).

Figure 3: Employees aged 15-64 reporting exposure to time pressure and work overload in 2020, by Member State



Source: Eurostat (EU-LFS) 2020 (HSW_EXP3).

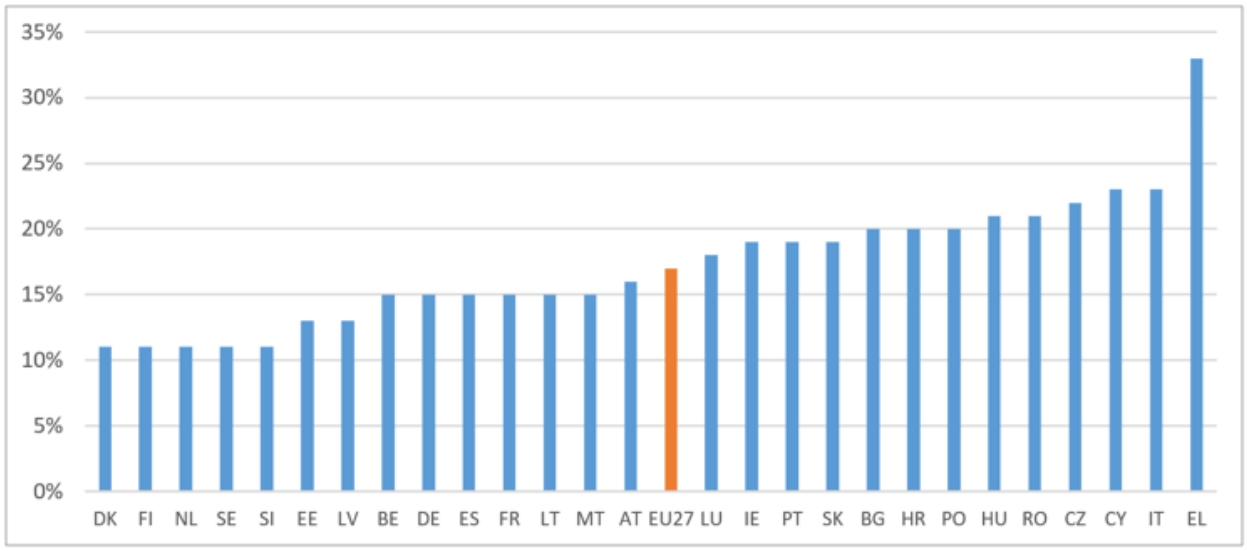
Figure 4: Change in the proportion of working-aged persons (aged 15-64) reporting exposure to time pressure or work overload 2013-2020, by Member State



Source: Eurostat (EU-LFS) 2013, 2020 (HSW_EXP3).

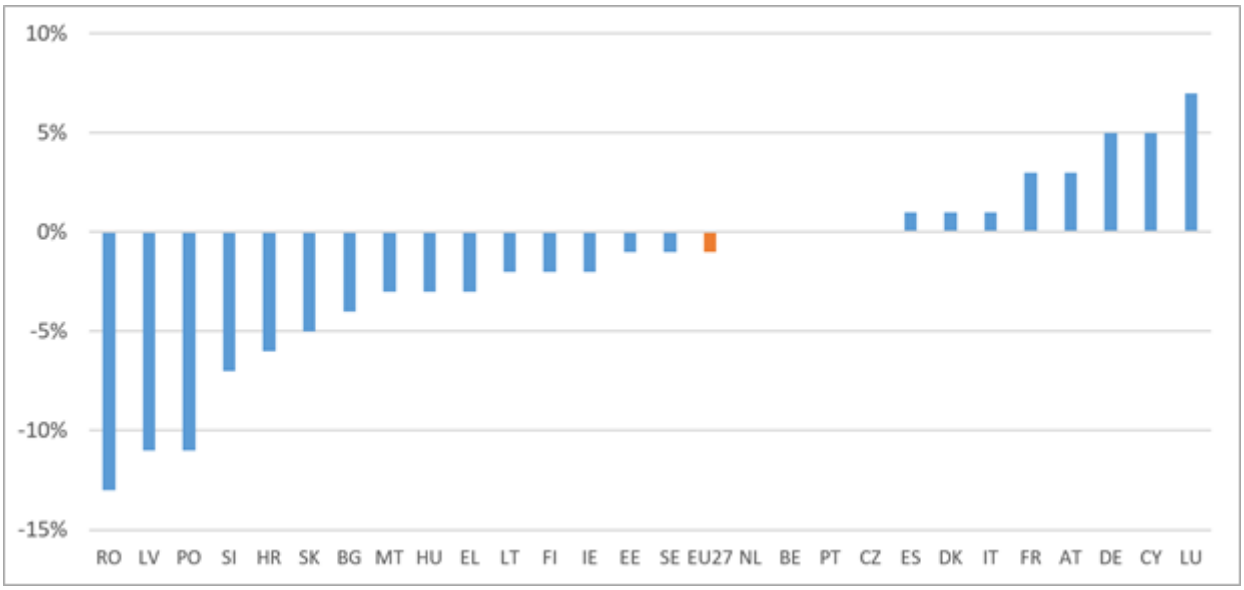
According to the 2021 European Working Conditions Survey (EWCS 2021), the proportion of workers in the EU who **work long hours** (defined as 48 hours per week or more) is 17% – with wide variation between Member States, ranging from 33% in Greece to 11% in Denmark, Finland, the Netherlands, Sweden and Slovenia (Figure 5). In most EU Member States, the proportion of people working long hours declined between 2015 and 2021 (Figure 6), despite concerns about an increase in long working hours associated with the growth in telework due to the COVID-19 pandemic (see subsection 2.3.3).

Figure 5: Percentage of workers who report working long hours (48+ hours per week), by Member State



Source: EWCS 2021.

Figure 6: Change over time (2015-2021) in the percentage of workers who report working long hours (48+ hours per week), by Member State

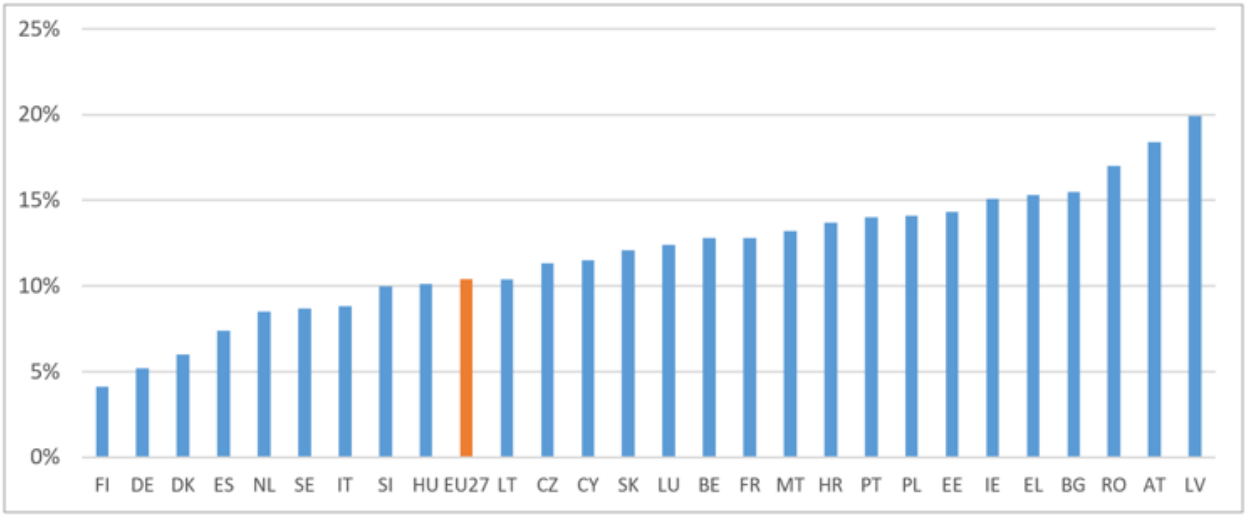


Source: EWCS 2015, 2021.

2.1.3. Around one in 10 workers deal with difficult customers or stakeholders

Dealing with difficult customers/patients/pupils affects around one in 10 workers (10%) across the EU, ranging from 4% in Finland to 20% in Latvia (Figure 7)[25]. This may be affected by the structure of the labour market and the proportions of jobs in the service sector (Eurofound and EU-OSHA, 2014).

Figure 7: Employees (aged 15-64) reporting exposure to dealing with difficult customers, patients, pupils, etc. in 2020, by Member State



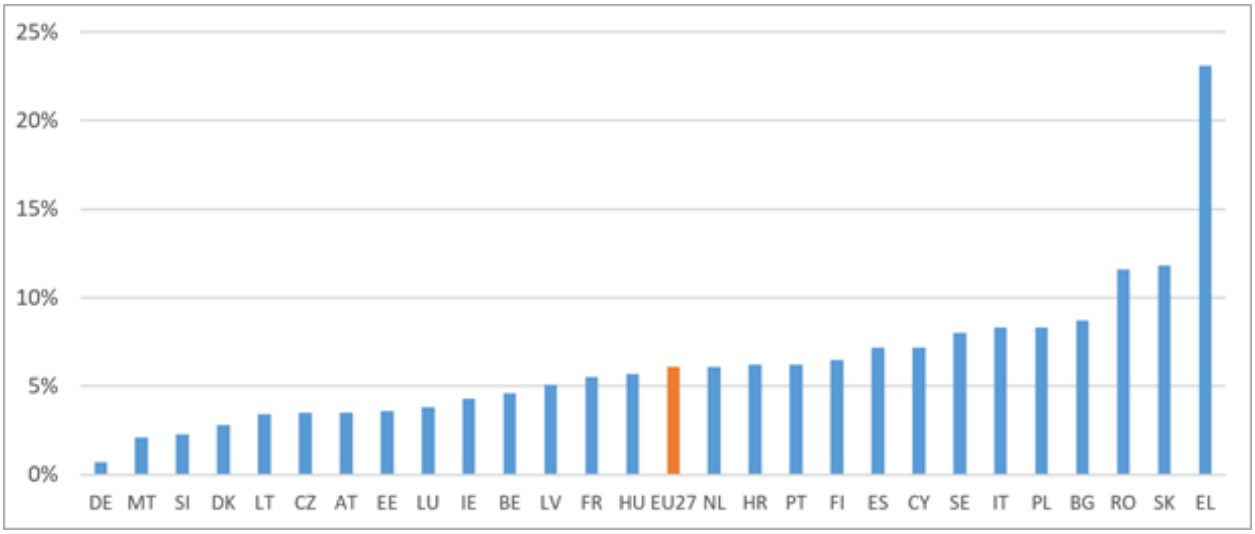
Source: Eurostat (EU-LFS) 2020 (HSW_EXP3).

[25] These data are limited to the year 2020, and do not provide insights into long-term trends.

2.1.4. Job insecurity affects a relatively small proportion of workers in the EU

Job insecurity was reported to affect an estimated 6% of workers in the EU in 2020 (Figure 20)[26]. Job insecurity is much more common in certain Member States, notably Greece (23%), Slovakia (12%) and Romania (12%), than it is in others (Figure 8). In Germany, it is estimated that only 1% of workers are affected by job insecurity. Workers in countries with weaker economies are more likely to be concerned about job insecurity/losing their job; in stronger economies, workers are more likely to focus on other aspects such as meaningful work and social relationships at work (EU-OSHA, 2022a).

Figure 8: Employees (aged 15-64) reporting exposure to job insecurity in 2020, by Member State



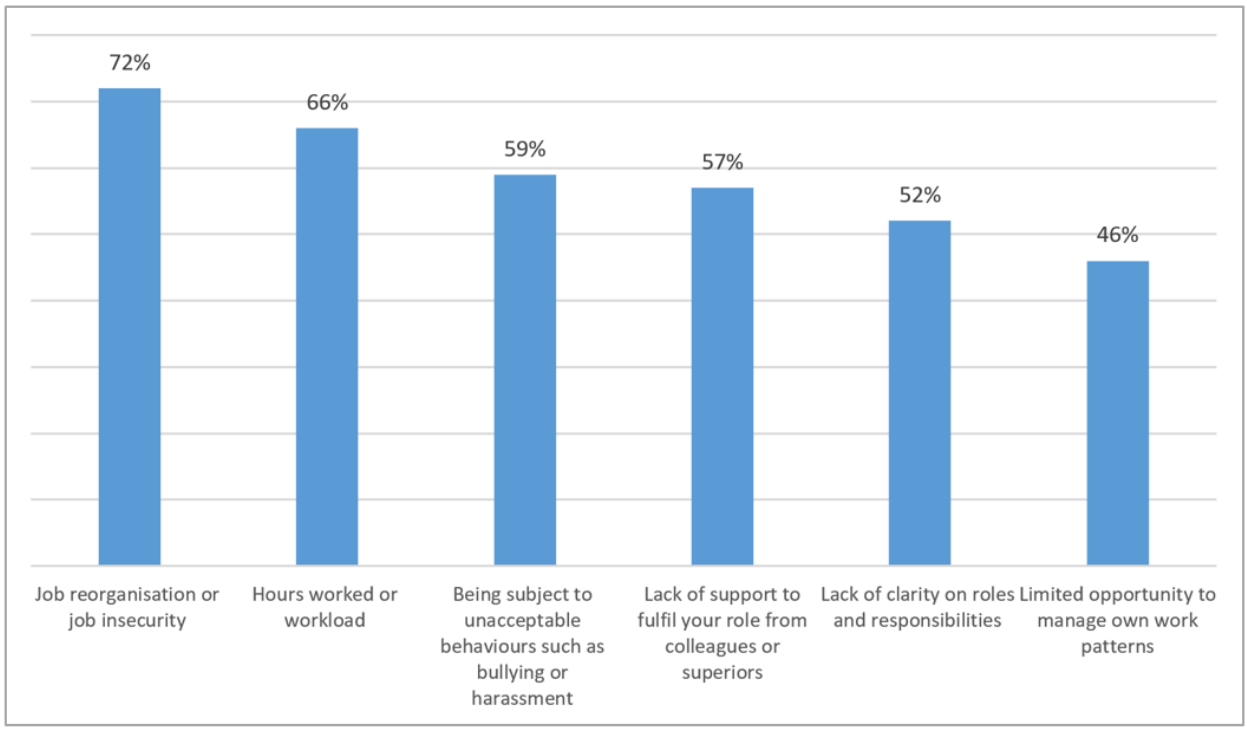
Source: Eurostat (EU-LFS) 2020 (HSW_EXP3).

While **job insecurity** is not one of the most common psychosocial workplace risks in the EU, it is the commonest cause of **work-related stress** identified in the pan-European opinion poll on occupational health and safety (2013 – Figure 9). Other causes of work-related stress identified in the poll were high workload/working long hours, bullying and harassment, and lack of support.

Harassment and bullying are relatively uncommon in the EU, affecting an estimated 1% of workers according to EU-LFS data (Figure 2). Data from a different survey of employees (Table 3) indicates a higher prevalence of harassment and bullying at work (5%-8%, depending on establishment size), as well as relatively high rates of violence or verbal abuse from customers, patients, pupils etc. (14%-17%, depending on establishment size). These discrepancies may be due to sampling differences or variation in question wording. However, it is clear that exposure to harassment and bullying is a factor contributing to work-related stress, as shown in Figure 9.

[26] These data are limited to the year 2020, and do not provide insights into long-term trends.

Figure 9: Factors perceived to be the most common causes of work-related stress in European countries in 2013



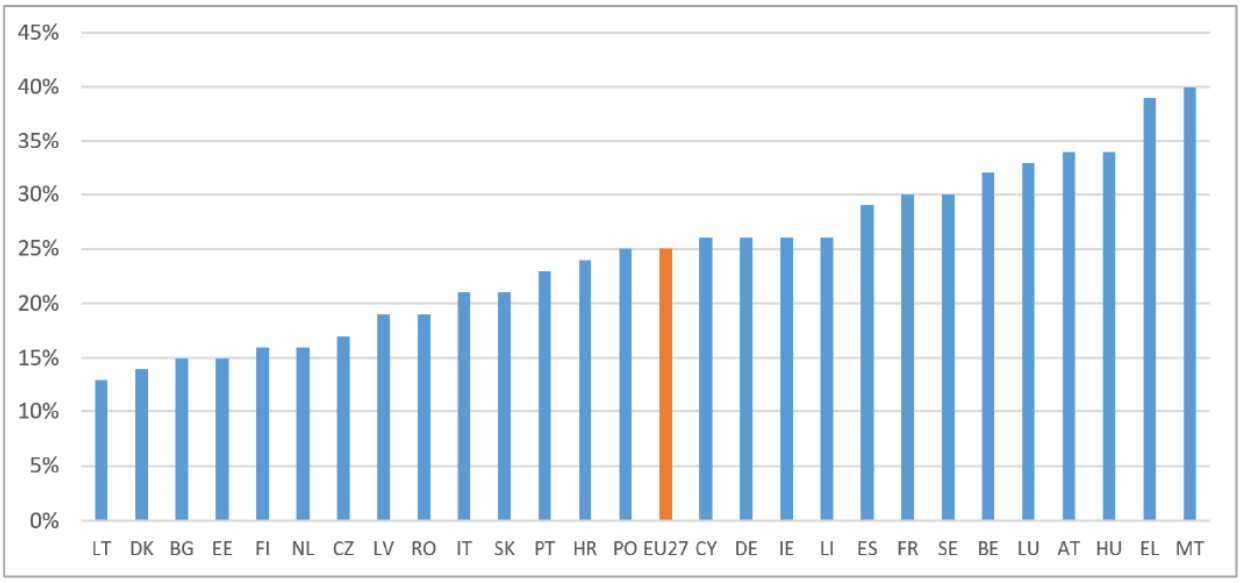
Source: EU-OSHA pan-European poll on occupational safety and health 2013. Note: sample includes the UK, CH, IS, LI and NO, as well as EU-27 Member States.

2.1.5. Work-related stress affects almost half of workers in the EU

In addition to psychosocial risk factors, the ECWS contains data on specific outcomes associated with mental ill-health, namely stress (2015 wave) and burnout (2021 wave). Data from the 2015 EWCS[27] show that across the EU, around a quarter of workers report experiencing **stress** in their work either 'always' or 'most of the time' (Figure 10). The proportion varies widely between EU Member States and is close to half of all workers in some countries (EL, MT). The prevalence of **emotional burnout**, as measured in the EWCS 2021 (feeling emotionally exhausted by work often or always) is 18% across the EU (Figure 11), ranging from 6% in the Netherlands to almost a third of workers (33%) in Cyprus.

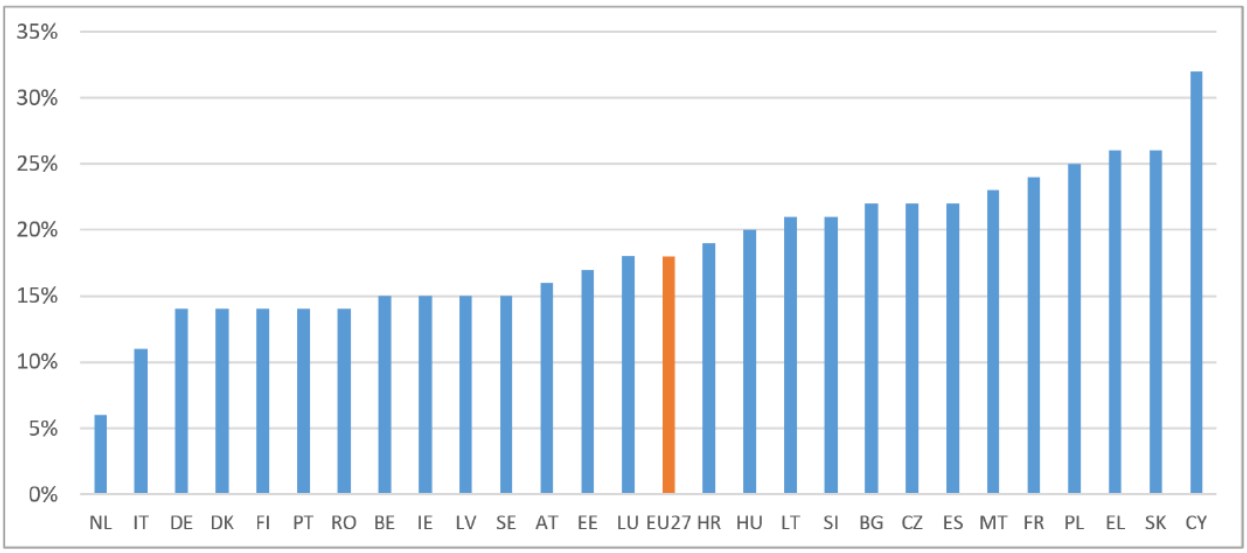
[27] Variable not available in the 2021 EWCS.

Figure 10: Percentage of workers who reported experiencing stress in their work 'always' or 'most of the time' in 2015, by Member State



Source: EWCS 2015.

Figure 11: Proportion of workers who reported experiencing emotional burnout (feeling emotionally exhausted by work 'often' or 'always') in 2021, by Member State



Source: EWCS 2021.

2.2. Vulnerable groups, occupations and sectors

This section outlines evidence from EU Member States about those areas of the labour market and types of employment in which psychosocial risks are more common, and how these risks vary according to workers' socio-demographic characteristics. Before this evidence is presented, it is important to note that some sources (including secondary data analysis conducted for this study) rely on descriptive statistics, which highlight associations but do not reflect how different factors interact, and therefore should not be interpreted as suggesting causal relationships. To cite one example, differences observed between men's and women's exposure to psychosocial risks may reflect occupational and vertical segregation in the labour market (Bettio and Verashchagina, 2009) rather than the effect of gender *per se*. However, where possible, based on the data and available evidence,

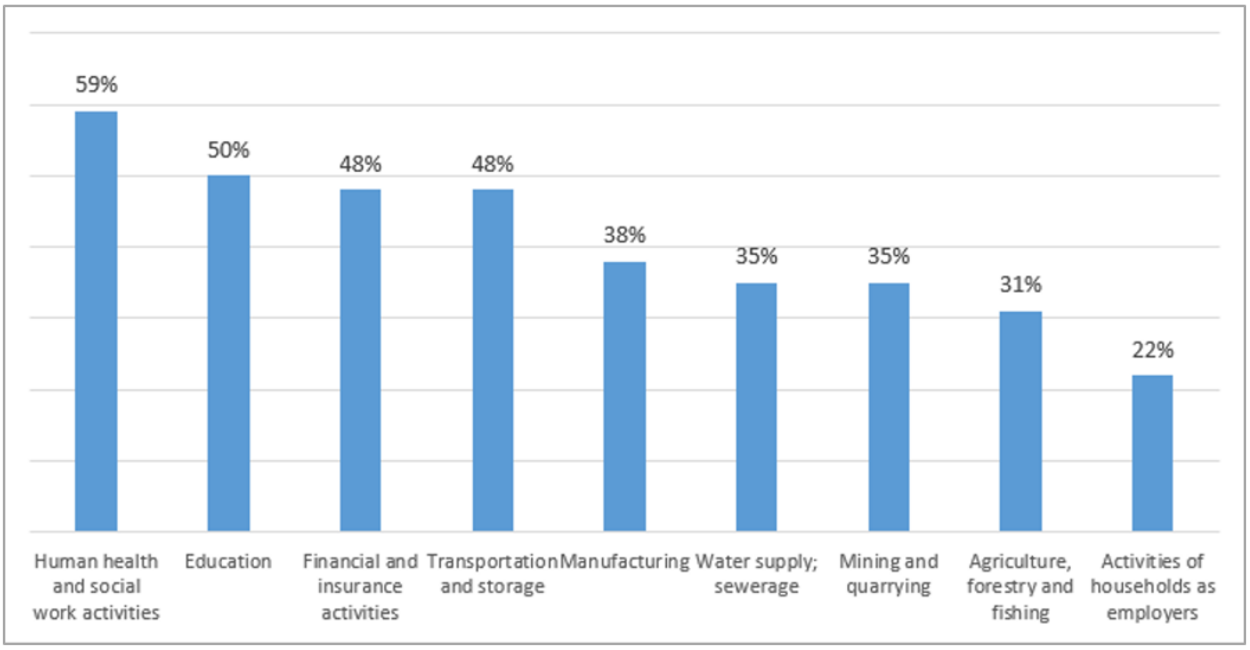
we reflect on how different factors interact to shape exposure to psychosocial risks.

2.2.1. Exposure to psychosocial risks is relatively high in the public sector

International surveys highlight considerable variation between sectors and industries in terms of exposure to psychosocial risks. Working in the **public sector** has been associated with high levels of work-related stress (EU-OSHA, 2022a) and indeed, as shown in Figure 12, **health and social work** (59%) and **education** (50%) were the industries with the highest reported exposure to risk factors that can adversely affect mental well-being in EU countries in 2020. The **health and social care sector** is renowned for its high levels of emotional labour, which requires individuals to manage and conceal their emotions while dealing with the demands of the job. This is especially true in light of the increasing competition for jobs (EU-OSHA, 2007); frequent skills mismatches (Eurofound and EU-OSHA, 2014); rising patient quotas, which result in an increase in workload (EU-OSHA, 2022a); as well as high job pressure and long working hours (Pisljar, van der Lippe and den Dulk, 2011). Exposure to violence or verbal abuse is relatively common for workers in the education (20%) and health/social care sector (30%) compared with the average across all sectors (16%) (EU-OSHA, 2022a). However, perhaps because of this increased exposure, employers in the health and care sector offer psychosocial risk training to their employees more frequently than do some other sectors (EU-OSHA, 2022a).

The **education sector** has also been found to be associated with skills mismatches, high emotional labour (Eurofound and EU-OSHA, 2014; EU-OSHA, 2008) and a high level of work-related stress (EU-OSHA, 2022a). Teachers in particular are identified as one of the occupational groups with the highest levels of work-related stress, linked to dealing with challenging behaviour from pupils, lack of support from schools, lack of training and career development, and heavy workloads (EU-OSHA, 2008). Alongside this, understaffing leads to extensive overtime being assigned to teachers, combined with the stress and worry that proper care is not being provided to pupils (EU-OSHA, 2022a).

Figure 12: Working age (15-64) persons reporting exposure to risk factors that can adversely affect mental well-being in 2020, by industry (NACE)



Source: Eurostat (EU-LFS) 2020 (HSW_EXP5B).

Another industry with a high reported prevalence of exposure to factors that might adversely affect mental well-being is the **financial sector** (48%). One reason for this that is highlighted in the literature is the high work intensity in this industry (Eurofound and EU-OSHA, 2014), which leads to high levels of workplace stress, emotional exhaustion, and an increased risk of burnout (Giorgi et al., 2017). Moreover, major organisational and restructuring changes, particularly following the economic crisis, have increased psychosocial disorders in this sector; for example, many employees are expected to constantly update their skills in order to cope with new models of work organisation (Giorgi et al., 2017). Lack of skills, along with discrimination and lack of organisation support, are particularly prominent among older banking workers. Combined, these factors cause increased work-related stress (Giorgi et al., 2017).

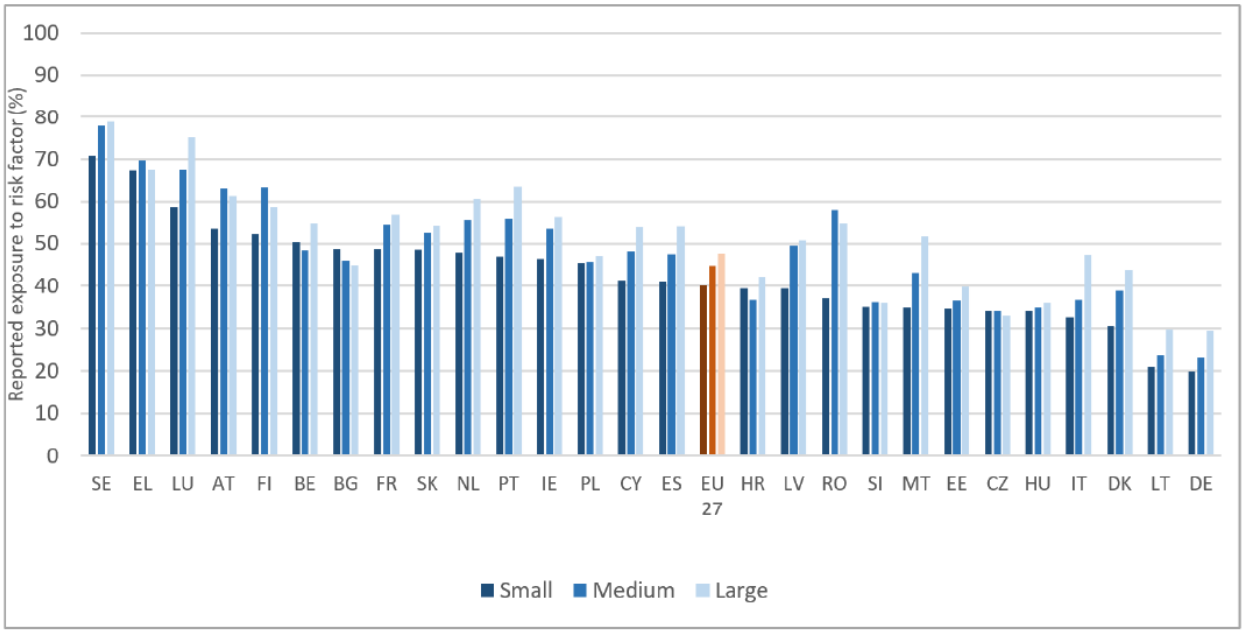
A similar level of psychosocial risk is reported in the **transportation** sector (48%). This sector has the highest percentage of workers with irregular hours (along with agriculture) (Eurofound and EU-OSHA, 2014), as well as long working hours; disrupted sleep patterns; chronic fatigue; social isolation (including antisocial work and extended and regular time spent away from family); work pressure associated with delivery urgency (with just-in-time delivery requirements); job strain and low rewards (Garbarino et al., 2018); weak support systems (Apostolopoulos et al., 2016); and low levels of job autonomy (Eurofound and EU-OSHA, 2014).

Workers in other industries such as manufacturing (38%), water and waste management (35%), mining and quarrying (35%) and agriculture (31%) less frequently report exposure to factors that might adversely affect mental well-being (Figure 12). However, specific psychosocial risks may still be particularly prevalent in these industries. For instance, **agriculture** has a high percentage of workers with irregular hours (Eurofound and EU-OSHA, 2014), seasonal peaks in workload (EU-OSHA, 2022a), and the largest proportion of staff working long hours (defined as days of more than 10 hours occurring more than five times within a month) (45% in skilled agricultural and fishery, and 38% in agriculture) (EU-OSHA, 2007). In **construction and manufacturing**, few measures are in place to manage psychosocial risks (Eurofound and EU-OSHA, 2014). More industrial and labour-intensive jobs also showed a trend that these workers have a tendency to have less decision-making authority and job control (Wieclaw et al., 2008), with plant and machine operators also showing high job strain and low work autonomy (Eurofound and EU-OSHA, 2014). In the **hospitality** sector, risks to mental health have been highlighted in the literature as being linked to poor work-life balance and stress due to excessive workload and long working hours, often at unsociable hours (EU-OSHA, 2022a).

2.2.2. Workers in smaller organisations are less exposed to psychosocial risks

Exposure to psychosocial risk factors in the EU is more common for workers employed by **large organisations** (50+ employees) compared with smaller organisations. However, in certain Member States (EL, BG, PL, SI, CZ, HU), the differences according to organisation size are relatively small (Figure 13). A recent survey conducted by EU-OSHA (2022b) in EU Member States found that workers in micro-companies in particular reported lower exposure to psychosocial risks such as work overload, poor communication and a lack of autonomy (Table 3).

Figure 13: Persons of working age (15-64) reporting exposure to risk factors that can adversely affect mental well-being in 2020, by size of workplace



Source: Eurostat (EU-LFS) 2020 (HWS_EXP9). Note: 'small' is defined as a workplace with between one and 10 persons; medium, 11 to 49 persons; large, 50 persons or more.

Table 3: Exposure to psychosocial risks in the workplace in EU Member States in 2022, by size of establishment

	Severe time pressure or work overload	Violence or verbal abuse from customers, patients, pupils, etc.	Harassment or bullying	Poor communication or cooperation within the organisation	Lack of autonomy, or lack of influence over the pace of work or work processes
Company size					
Micro (0-9)	39%	14%	5%	18%	12%
Small (10-49)	46%	16%	8%	26%	17%
Medium (50-249)	50%	17%	8%	31%	21%
Large (250+)	50%	16%	8%	31%	22%

Source: EU-OSHA, 2022a, based on a survey of employees from EU-27 Member States.

Compared to those in smaller workplaces, workers in **larger workplaces** are more likely to have complex tasks, to be exposed to restructuring and other organisational changes, and to experience work-related stress, violence and harassment (Eurofound and EU-OSHA, 2014). However, the size of larger businesses does afford them greater resources and points of support for employees. For example, many larger employers have procedures in place for both bullying and harassment and external violence as well as greater levels of institutionalised worker representation (EU-OSHA, 2022a). Larger workplaces also typically hold more training events and presentations for workers to develop the skills necessary to cope with their work, and often provide better career prospects and job security (Eurofound and EU-OSHA, 2014; EU-OSHA, 2022a).

In general, **smaller workplaces** have fewer available resources, are limited in terms of the availability of staff, and often lack formal procedures to manage psychosocial risks (EU-OSHA, 2022a; Leka and Jain, 2016). According to Eurofound and EU-OSHA (2014), workers in smaller workplaces generally face fewer challenges compared with those in larger organisations. Specifically, they have lower exposure to irregular working hours, work-related stress, violence or threats, and harassment. The same source states that 75% of workers in small workplaces with 10-19 employees are concerned about work-related stress, while 90% of workers in larger workplaces with 250 or more employees share the same concern (Eurofound and EU-OSHA, 2014). Similarly, 50% of workers in larger workplaces report facing violence or the threat of violence, compared with only 30% of workers in small workplaces. Meanwhile, 60% of workers in larger workplaces experience harassment, compared with 30% of workers in small workplaces (Eurofound and EU-OSHA, 2014).

2.2.3. Precarious employment is associated with psychosocial risks

Research has shown that certain job characteristics are linked to an increased likelihood of exposure to certain psychosocial risks. For instance, the literature highlights the high prevalence of psychosocial risks associated with **precarious forms of employment** (non-standard forms of work such as casual, temporary, or on-call contracts) (EU-OSHA, 2007; Kvart et al., 2021), which are more common among small and medium-sized enterprises (SMEs) with fewer than 250 employees (Peycheva et al., 2014).

Compared with workers on permanent contracts, precariously employed workers are subject to greater job insecurity (which increases the level of work-related stress), income insecurity, and economic vulnerability; poorer overall job conditions; lower career progression; higher job demands; a low level of workplace protection and rights (including lack of access to OSH training that results in more occupational accidents; a lack of social protection, unemployment protection and discrimination and protection from bullying); and more stress-related tension and exhaustion (EU-OSHA, 2007; Kvart et al., 2021). There is also a negative correlation between temporary forms of employment and control over work-life balance, because these types of workers often have non-standard working hours or unpredictable working hours that cannot be altered to suit their personal needs (EU-OSHA, 2007; Kvart et al., 2021). These increased risks may be attributable to employers of precarious workers being unaware of their legal obligations to ensure a safe work environment, or because these types of employees do not report any bullying or discrimination to their employers due to their perceived vulnerability (Kvart et al., 2021). Often, younger workers and those with lower levels of education are those most likely to be in precarious employment (Julià et al., 2017).

One group of workers identified as facing high levels of psychosocial risks, and being at particular risk of poor mental health, are workers in the **gig economy**[28], many of whom work under zero-hour

[28] The gig economy refers to a market system in which companies or individuals hire workers to carry out short-term assignments (Bérastégui, 2021).

contracts or as self-employed workers (European Parliament, 2021). Due to much of their work being performed alone, with few opportunities to engage with colleagues or supervisors, such workers face a high prevalence of both physical and social isolation and a concurrent lack of support (Bérastégui, 2021). In addition, studies highlight that platform gig workers are subject to constant algorithmic management and digital surveillance (see subsection 2.3.4), which contribute to a high pace of work, alongside power asymmetries between these workers and the platform owners and customers (Bérastégui, 2021). Gig workers are also often on fixed and short-term work assignments, causing greater feelings of job insecurity, emotional labour (from a high degree of transience in work, lack of career prospects, and constant customer ratings and monitoring) and work-life conflicts, compared with workers in more stable and permanent work (Bérastégui, 2021). For some workers, this type of work comes with a lack of legal protection, which can lead to increased exposure to psychosocial risks (European Parliament, 2021). The above risks are all noticeably more pronounced among novice gig workers (Bérastégui, 2021).

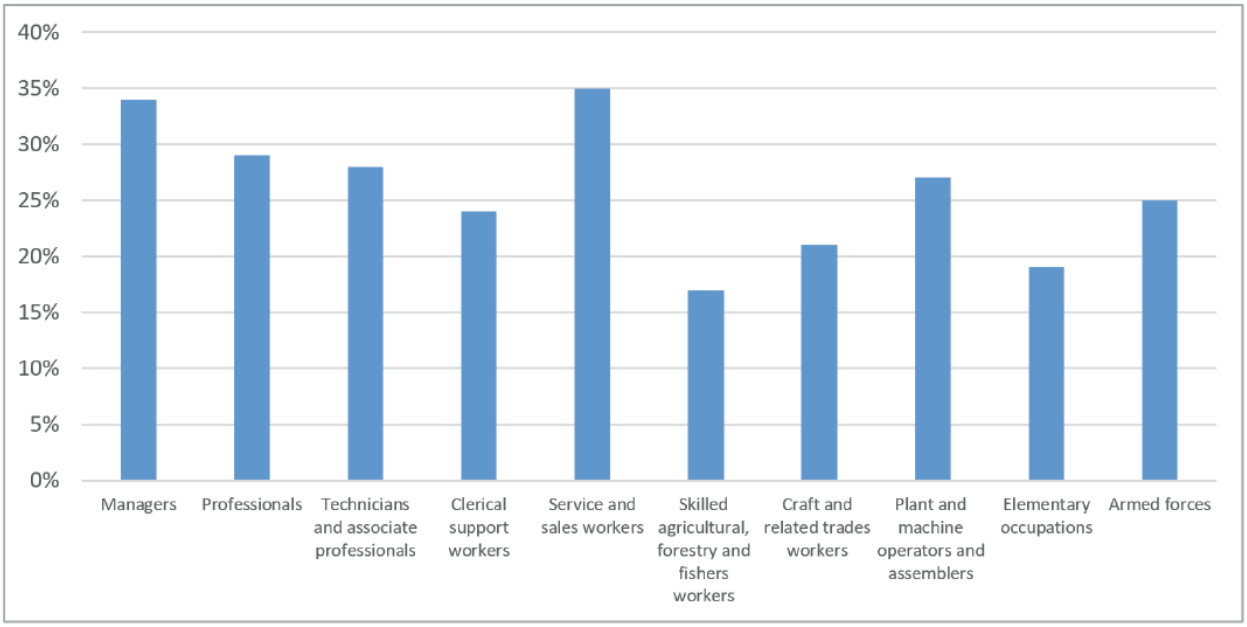
2.2.4. Differences in exposure to psychosocial risks between occupational groups

Different educational profiles and socio-economic positions are associated with different types of psychosocial risks (Eurofound and EU-OSHA, 2014). Workers in **higher-skilled occupations** tend to carry out more complex tasks (which can lead to higher experiences of stress, especially if workers lack the appropriate competences) (Eurofound and EU-OSHA, 2014), and face higher demands (Vanroelen, Levecque and Louckx, 2010). Analysis of EWCS data for 2015[29] shows that workers in higher-skilled occupations, such as managers and professionals, are on average more likely than those in lower-skilled occupations, such as elementary occupations, to report experiencing work-related stress 'often' or 'always' (Figure 14). However, the highest levels of stress are reported by service and sales workers (Figure 14). Other studies highlight the psychosocial risks associated with working in **lower-skilled occupations**. Psychosocial risks that are more common in lower-skilled occupations include monotonous and repetitive tasks (Eurofound and EU-OSHA, 2014; Vanroelen, Levecque and Louckx, 2010), higher levels of job insecurity (Eurofound and EU-OSHA, 2014), and low levels of job autonomy (Vanroelen, Levecque and Louckx, 2010). Analysis of EUWC data also shows that job insecurity is more commonly reported by workers in lower-skilled occupational groups such as service and sales workers, plant and machine operators, and those in elementary occupations (Figure 14).

When examining long working hours (Figure 15) and support from colleagues and managers by occupational group (Figure 16) **skilled agricultural workers** emerge as a specific at-risk group. Agricultural workers are more likely than any other occupational group (as defined according to ISCO-08) to report working long hours (48 hours or more per week), and they are the least likely to feel well supported by their colleagues and managers. However, agricultural workers are less likely than other occupational groups to report experiencing work-related stress 'often' or 'always' (Figure 14).

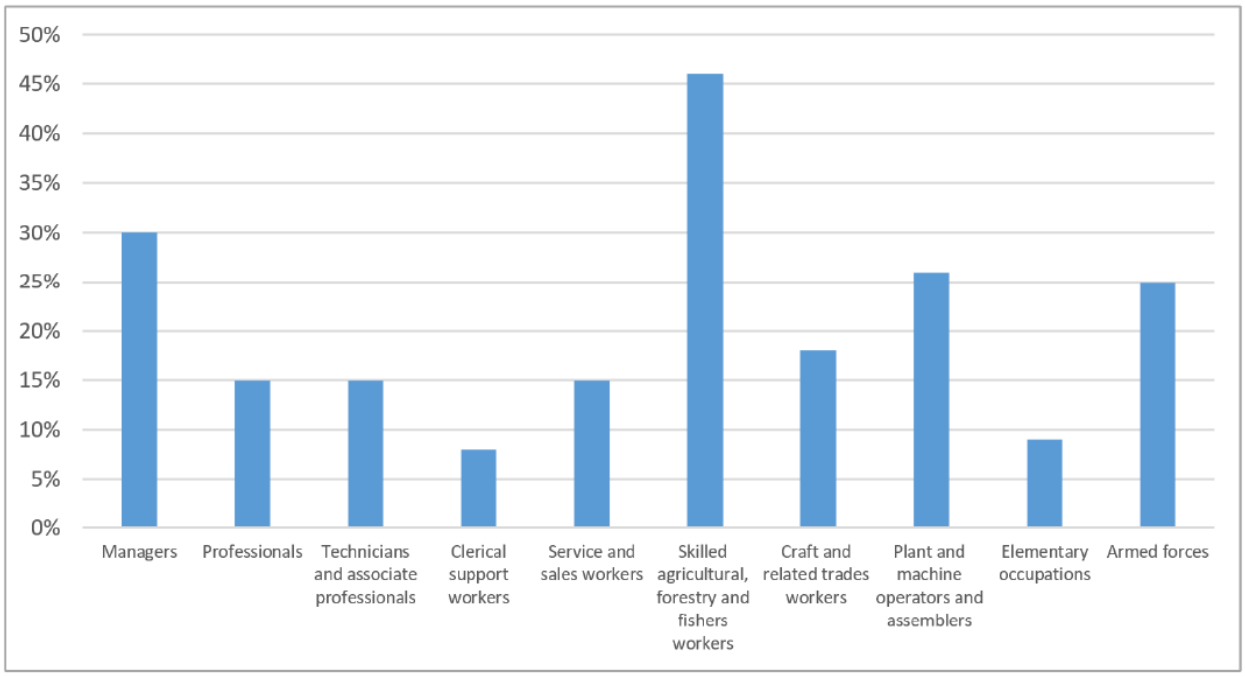
[29] Variable not available in the 2021 EWCS.

Figure 14: Percentage of workers who report experiencing stress in their work 'always' or 'most of the time' in 2015, by occupation



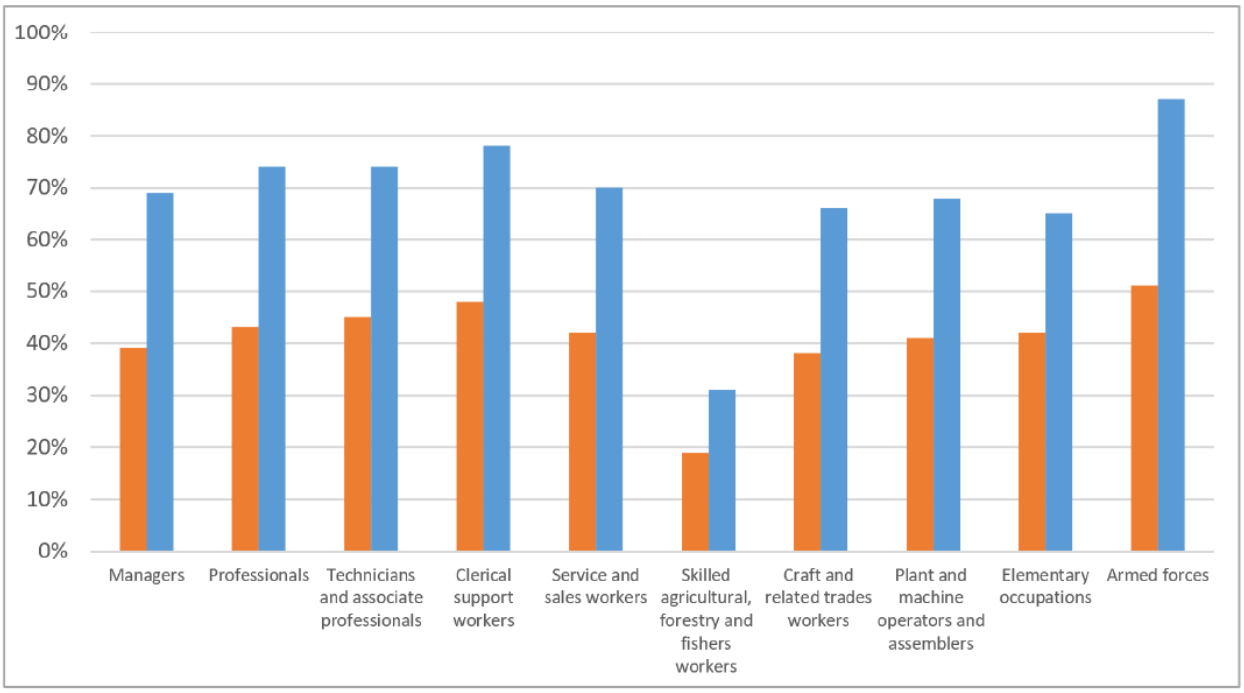
Source: EWCS 2015 (not available in the EWCS data set). Note: occupations defined according to ISCO 2008.

Figure 15: Percentage of EU workers working long hours (48+ hours per week) in 2021, by occupation



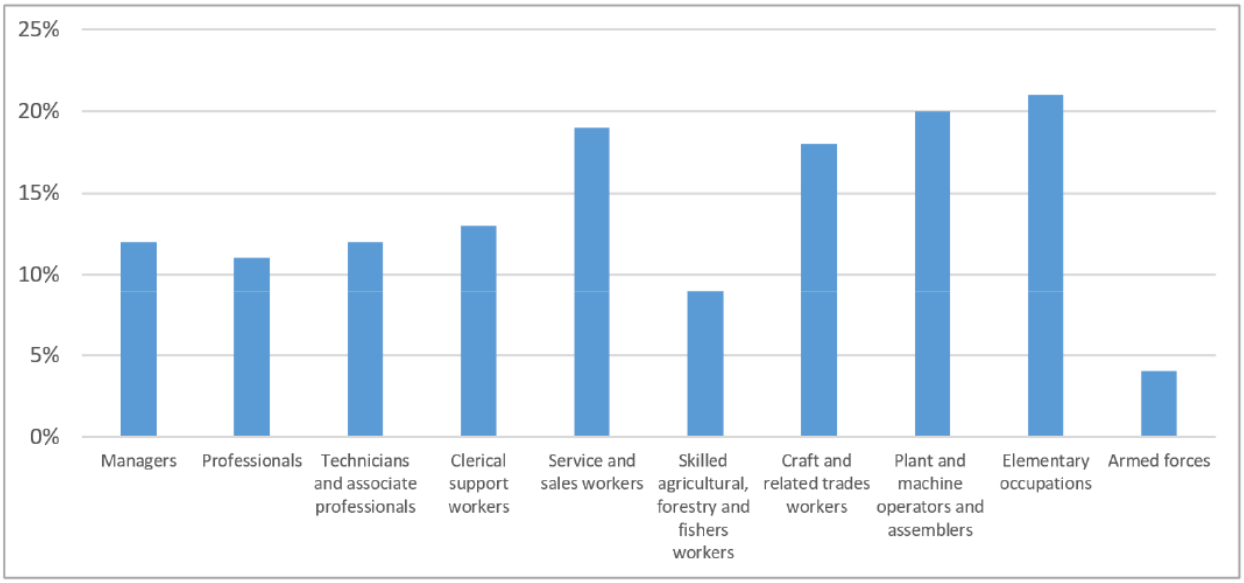
Source: EWCS 2021. Note: occupations defined according to ISCO 2008.

Figure 16: Percentage of EU workers reporting that their colleagues/managers support them 'often' or 'always' in 2015, by occupation



Source: EWCS 2021. Note: occupations defined according to ISCO 2008.

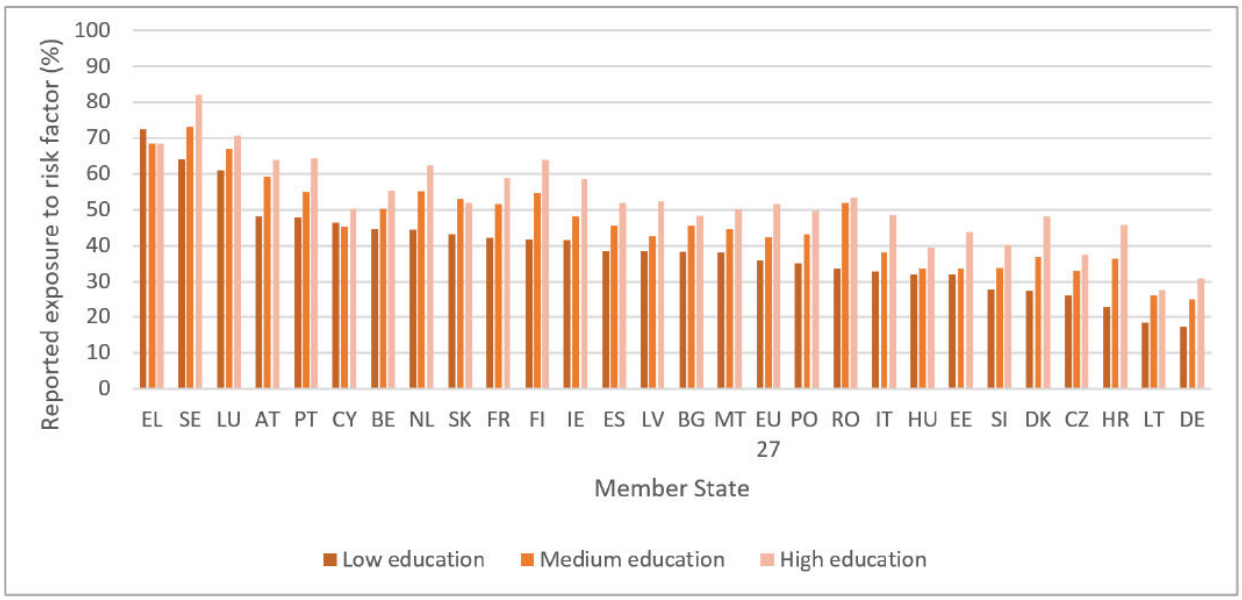
Figure 17: Percentage of EU workers who said that they might lose their job in the next six months in 2021, by occupation



Source: EWCS 2021. Note: occupations defined according to ISCO 2008.

Occupation is closely related to education (Katrňák and Doseděl, 2021), and on average in the EU, **workers with a high level of education** are more likely to report exposure to risk factors that can adversely affect mental well-being (53%), compared with those with a medium (42%) and low (36%) level of education (Figure 18). As shown in Figure 18, this trend is fairly consistent across EU Member States.

Figure 18: Persons of working age (15-64) reporting exposure to risk factors that can adversely affect mental well-being in 2020, by level of education



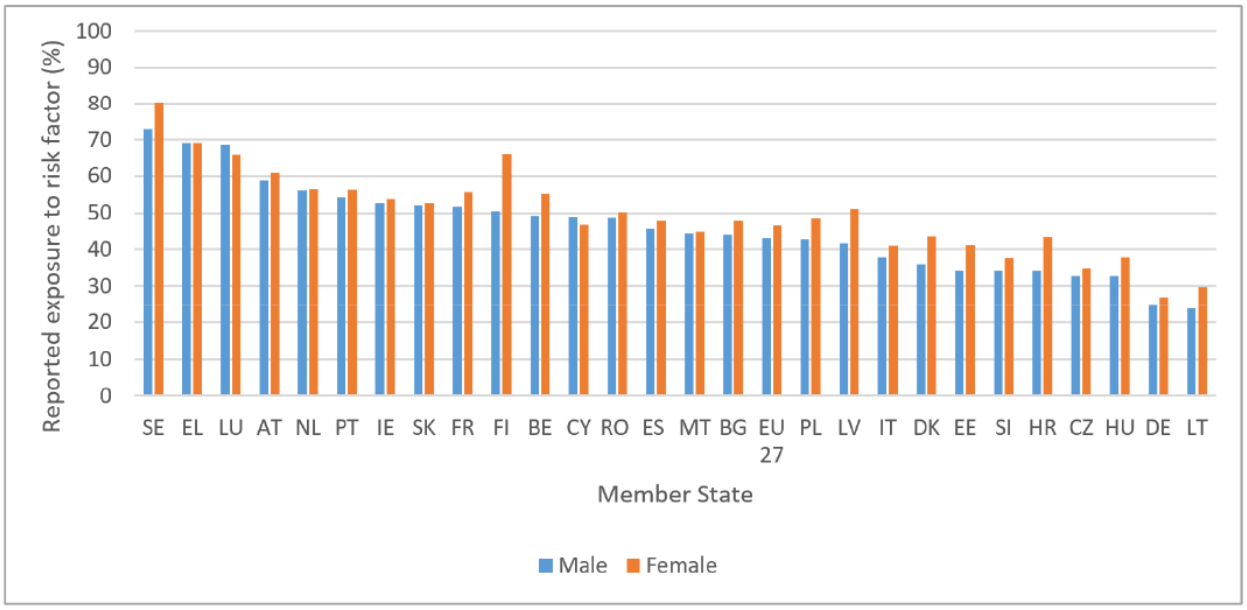
Source: Eurostat (EU-LFS) 2020 (HSW_EXP1). Note: 'low education' is defined as less than primary and lower-secondary education (levels 0-2); 'medium education' is defined as upper-secondary and post-secondary non-tertiary education (levels 3 and 4); and 'high education' is defined as tertiary education (levels 5-8) (ISCED 2011).

2.2.5. On average, women and men are exposed to different psychosocial risks

Across the EU, **women** are more likely than men to report exposure to psychosocial risk factors (Figure 19) (Campos-Serna et al., 2013). Studies have found that women are more likely than men to be exposed to angry clients (Eurofound and EU-OSHA, 2014; EU-OSHA, 2022a); to experience workplace bullying, violence, harassment, and discrimination (Niedhammer et al., 2012; Niedhammer et al., 2022; Ardito, d'Errico and Leombruni, 2014; EU-OSHA, 2022a); and to have a lack of job control and autonomy (Niedhammer et al., 2012). Compared with men, women averagely have lower opportunities for job promotion (Niedhammer et al., 2012; EU-OSHA, 2022a) and receive lower rewards (relative to effort-reward balance) (Murcia, Chastang and Niedhammer, 2013).

One explanation is that traditional gendered roles still contribute to differences in working time and sectoral segregation, with women being more likely to have a 'dual career' (EU-OSHA, 2007) in which they have to adapt and juggle work and family responsibilities. This may include doing more unpaid household work and caring for children and/or the elderly, which can increase exposure to work-related psychosocial hazards (Campos-Serna et al., 2013; Eurofound and EU-OSHA, 2014; Norlund, 2011). This might also explain why more women experience a greater amount of burnout than men (EU-OSHA, 2007; Lindblom et al., 2006). It could also be that women more often work in sectors that involve greater levels of exposure to work-related psychosocial hazards – for example, the service sector (Campos-Serna et al., 2013).

Figure 19: Persons of working age (15-64) reporting exposure to risk factors that can adversely affect mental well-being in 2020, by gender



Source: Eurostat (EU-LFS) 2020 (HSW_EXP1).

However, previous studies have shown that men are more often exposed than women to other psychosocial risks. In particular, **men** are exposed more often than women to long working hours (more than 48 hours; or more than 10 hours a day, more than five times per month), causing poorer work-life balance (EU-OSHA, 2007; Eurofound and EU-OSHA, 2014; Niedhammer et al., 2012; Niedhammer et al., 2022); higher levels of work intensity and work speed (Eurofound and EU-OSHA, 2014); higher psychological and cognitive demands (Niedhammer et al., 2012; Murcia, Chastang and Niedhammer, 2013; Ardito, d'Errico and Leombruni, 2014); lower support (Niedhammer et al., 2012); and higher levels of client-related burnout (EU-OSHA, 2007).

On balance, however, gender differences in exposure to psychosocial risks at work appear to be relatively small, as illustrated by data from a recent survey by EU-OSHA (2022a – see Table 4).

Table 4: Exposure to psychosocial risks in the workplace by gender in EU Member States in 2022

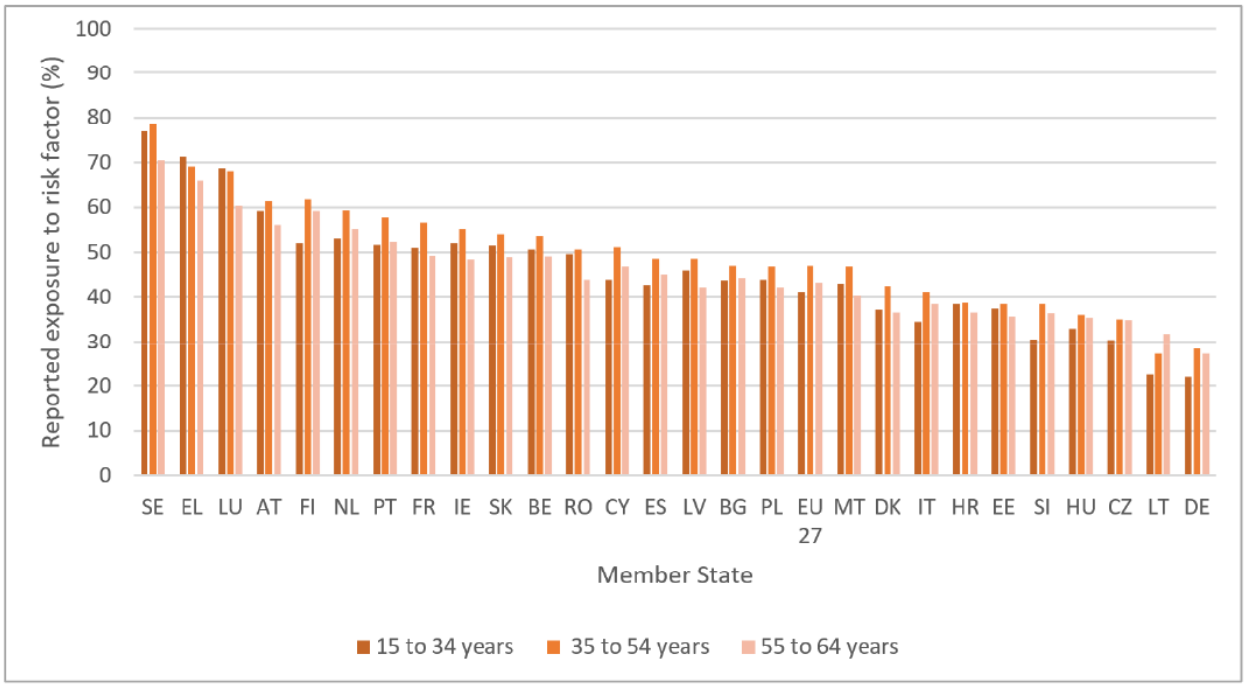
	Severe time pressure or overload of work	Violence or verbal abuse from customers, patients, pupils, etc.	Harassment or bullying	Poor communication or cooperation within the organisation	Lack of autonomy, or lack of influence over the work-pace or work processes
Gender					
Male	44%	13%	6%	25%	16%
Female	48%	19%	8%	27%	19%

Source: EU-OSHA, 2022a, based on a survey of employees from the EU-27 Member States.

2.2.6. Younger workers are more exposed to certain psychosocial risks

Age also contributes to differences in exposure to psychosocial risk factors. **Young workers**, although they have better support and career prospects than older workers, are more likely to need further training to be able to cope with their work (Eurofound and EU-OSHA, 2014). Younger workers are also subject to greater job insecurity than their older counterparts (Eurofound and EU-OSHA, 2014). In certain EU Member States (SE, NL, CZ AT), younger workers are also subject to higher levels of burnout (Eurofound, 2018) and greater work strain. Younger workers are also more likely than older workers to be precariously employed (Eurofound and EU-OSHA, 2014), which is a risk factor for exposure to psychosocial risk factors (see subsection 2.2.3). Older workers, by contrast, have a better work-life balance and less irregular work schedules (those between 55 and 64 are less likely than younger age groups to carry out atypical work, such as night work, shift work and weekend work, to have irregular work schedules) and lower work intensity than younger workers (EU-OSHA, 2007; Eurofound and EU-OSHA, 2014). In addition, levels of burnout typically decrease with age, declining in women after the age of 50 (Norlund, 2011). However, **older workers** have fewer learning opportunities compared with younger workers and are less confident about their employment prospects if they were to lose their job (EU-OSHA, 2007).

Figure 20: Persons of working age (15-64) reporting exposure to risk factors that can adversely affect mental well-being in 2020, by age



Source: Eurostat (EU-LFS) 2020 (HSW_EXP1).

2.3. New and emerging psychosocial risks

2.3.1. Psychosocial risks are exacerbated by digital technologies

Most workplaces in the EU use some form of **digital technology**, most commonly personal computers, laptops and smartphones (EU-OSHA, 2022a). While digital technologies offer many advantages such as connection, autonomy and productivity (Eurofound, 2020b; Eurofound 2021b), they may also increase exposure to psychosocial risks (Eurofound and the International Labour Office, 2017; Palumbo, Casprini and Montera, 2022; Eurofound, 2021b). Concerns have been raised about how digital technologies blur the boundary between work and family life, forcing workers to be 'switched on' and responsive to work communications at all times of the day and evening (European Parliament, 2021; Palumbo, Casprini and Montera, 2022), thus undermining **work-life balance** (Eurofound, 2021b). While digital technologies may enable greater **autonomy** at work, this autonomy can often lead to **work intensification**, particularly in work environments that are highly competitive and performance-focused (Eurofound, 2020b). Employees may feel that they must put in more effort and work longer hours to demonstrate to their employer that working digitally has not affected their work ethic or productivity (Eurofound, 2020b; Delfino and van der Kolk, 2021). For small and medium-sized enterprises (SMEs) in the EU, greater use of digital technologies is associated with increased psychosocial risks, including **time pressure, poor relationships with peers**, and **irregular working hours** (Palumbo, Casprini and Montera, 2022).

2.3.2. Telework is associated with working longer and more irregular hours

One of the biggest changes that occurred during the pandemic was an increase in **telework/remote work** (henceforth referred to as telework) (Aloisi and De Stefano, 2021; OECD, 2021; Ahrendt et al., 2022; Vargas Llave et al., 2022; Eurofound 2020a). This trend predates the pandemic, but was vastly accelerated by it (Vargas Llave et al., 2022). At the peak of the COVID-19 pandemic in 2020 and 2021,

the number of employees teleworking in EU Member States doubled from 11% to 22%. This trend was generally consistent across all EU Member States (Vargas Llave et al., 2022). Telework is more common among women than men (a gap that grew during the pandemic), among older workers compared with younger workers, and among workers with a higher level of education (Vargas Llave et al., 2022). In terms of occupation, telework is predominantly undertaken by managers, professionals and technicians/associate professionals (Vargas Llave et al., 2022). Employees working for larger employers (those with 50+ employees) are more likely to work from home than those who work for small employers (Vargas Llave et al., 2022). As might be expected, there is considerable variation between sectors, with telework being less common in industries with less reliance on desk-based work, such as agriculture and construction (Vargas Llave et al., 2022).

The impact of telework on working conditions and the exposure to psychosocial risks is complex. Telework has been associated with working **longer and more irregular working hours** (Ahrendt et al., 2022; Vargas Llave et al., 2022; Eurofound, 2020b; Eurofound, 2021a; EU-OSHA, 2021; OECD, 2021), as well as greater **work pressure** (Ahrendt et al., 2022; Vargas Llave et al., 2022). While growth in irregular hours may result in greater **flexibility** and **time autonomy** (i.e. workers deciding for themselves when to work, and fitting it around their schedule), it can also be accompanied by long working hours (Vargas Llave et al., 2022). Concerns have been raised that telework blurs the boundaries between work and family life, thereby undermining **work-life balance** (Lott, 2017; EU-OSHA, 2021; EU-OSHA, 2022a; Ahrendt et al., 2022; Vargas Llave et al., 2022; OECD, 2021; Eurofound, 2021b). Telework may lead to an expectation that workers will work outside regular working hours, and evidence shows that during the COVID-19 pandemic, many workers felt unable to disconnect (Delfino and van der Kolk, 2021; Vargas Llave et al., 2022). However, studies show that for some employees, work-life balance actually improved when teleworking during the COVID-19 pandemic (Vargas Llave et al., 2022). Women were more likely than men to report that telework had a negative impact on their work-life balance during the pandemic, primarily due to the unequal distribution of responsibility for unpaid caring work (Vargas Llave et al., 2022). Difficulties in balancing paid work with other commitments – notably childcare and home-schooling – while teleworking during the COVID-19 pandemic, may have led to increased work pressure and irregular working hours, as well as more stress-related work interruptions (Carillo et al., 2021; Eurofound, 2021a).

Telework may also reduce contact with colleagues and increase the risk of **social isolation** (Delfino and van der Kolk, 2021; EU-OSHA, 2022a; Vargas Llave et al., 2022; Ahrendt et al., 2022; Eurofound, 2021a; Carillo et al., 2021; EU-OSHA, 2021), which is known to exacerbate mental health risks (EU-OSHA, 2022a). Many managers in EU establishments reported feeling ill-equipped to deal with the rapid shift to telework during the COVID-19 pandemic (Eurofound, 2021a), which may have resulted in workers being left without adequate **support**. Conversely, managers may have become more invested in monitoring staff, due to concerns about the potential for 'cyberslacking' (Aloisi and De Stefano, 2021). Overall, evidence suggests that telework during the pandemic did not have a large effect on the level of social support at work (Vargas Llave et al., 2022).

Evidence from France suggests that the psychosocial risks associated with telework lessened during the COVID-19 pandemic, suggesting some degree of adjustment and adaptation (Carillo et al., 2021). There may also be a positive side to telework, from the perspective of psychosocial risks. In addition to greater autonomy (Vargas Llave et al., 2022), teleworking during the pandemic resulted in greater productivity and efficiency for some workers (Vargas Llave et al., 2022), thereby reducing **work-related stress** (EU-OSHA, 2022a). Reductions in commuting time may also be associated with greater productivity and lower stress levels (Carillo et al., 2021).

Although the large-scale lockdowns associated with the COVID-19 pandemic in Europe have passed, many businesses have shifted towards telework or a hybrid working model. Rather than being a transient phase, widespread telework appears to have become an enduring feature of European labour markets, driven by both employer and employee preferences (Ahrendt et al., 2022; Vargas Llave et al., 2022). The implications of telework in terms of psychosocial risks such as long and irregular working hours and poor work-life balance are therefore of great concern, but this must be balanced against possible benefits such as greater flexibility, efficiency and autonomy.

2.3.3. The COVID-19 pandemic had a large effect on psychosocial risks

The COVID-19 pandemic had a profound impact on working patterns and experiences, increasing exposure to many psychosocial risks (Gaspar, Paiva and Gaspar Matos, 2021; EU-OSHA, 2022a; European Parliament, 2021; Ahrendt et al., 2022; Vargas Llave et al., 2022; Eurofound, 2021a). In particular, the COVID-19 pandemic had a pronounced impact on workers in the healthcare sector, who reported an increase in emotional demands during this period (Ahrendt et al., 2022). The risk of catching COVID-19 (or passing the virus on to others) became a cause of **work-related stress** for workers in the healthcare sector and in other public-facing roles during the pandemic, particularly since many workers did not have access to appropriate personal protective equipment (PPE) (Ahrendt et al., 2022).

Workplace closures in EU Member States during the COVID-19 pandemic were associated with an improvement in **mental well-being**[30] (in contrast to other COVID policies such as travel and social restrictions, which negatively impacted mental well-being) (Toffolutti et al., 2022). This finding is somewhat surprising, due to the strong positive effect of employment on mental health. In general, those in employment have better mental health than the unemployed, particularly the long-term unemployed (Buffel, Van de Velde and Bracke, 2015; Herbig, Dragano and Angerer, 2013). Workplace closures associated with COVID-19 may also have created financial stress for workers (although this may have been mitigated by financial subsidies), which could also be expected to negatively affect mental well-being. It may be that the negative effect of being out of work was attenuated or even reversed because this was a *temporary* condition, providing more leisure time (Toffolutti et al., 2022) and giving respite from work-related stress without necessarily provoking concerns about job security (although this may have been the case for some workers). Workplace closures may also have reduced fears about being infected with COVID-19 (Toffolutti et al., 2022).

The impact of the COVID-19 pandemic on working hours varied. Many establishments in the EU, particularly in the hospitality and transport sectors, reduced employees' working hours (Eurofound, 2021a), which may have had negative implications for their financial security. However, for other workers, COVID-19 was associated with **work intensification** and **increasing working hours**, linked to increased workload (for instance, in the healthcare sector) and higher-than-normal levels of sickness absence (Gaspar, Paiva and Gaspar Matos, 2021; EU-OSHA, 2022a). For instance, in the Netherlands, weekly overtime increased from an average of 3.3 hours before COVID-19 in 2019, to 7.1 hours during the pandemic in 2021 (European Parliament, 2021). Some of this increase may have been associated with the previously discussed shift towards telework. During the COVID-19 pandemic, many workers – particularly women – found it more difficult to achieve a healthy **work-life balance** (Ahrendt et al., 2022). An increase in workload for workers during the pandemic was associated with insomnia, anxiety

[30] Mental well-being is defined in this study in accordance with the WHO-5 index, which is a tool used for screening depression (Toffolutti et al., 2022). This index is based on five items: 'I feel cheerful and in good spirits', 'I feel calm and relaxed', 'I feel active and vigorous', 'I wake up feeling fresh and rested' and 'My daily life is filled with things that interest me'. The authors of this study calculated the index using data from Eurofound 'Living, Working and COVID-19' (LWC) survey. Data was collected in 2020 and 2021.

and burnout, particularly among women (Gaspar, Paiva and Gaspar Matos, 2021).

Uncertain economic conditions during the pandemic resulted in greater **job insecurity** for workers (Gaspar, Paiva and Gaspar Matos, 2021; EU-OSHA, 2022a; Ahrendt et al., 2022) and increased the risk of experiencing unemployment and financial hardship (Ahrendt et al., 2022; European Parliament, 2021) – both risk factors for poor mental health (Ahrendt et al., 2022; European Parliament, 2021; OECD, 2021). The increase in unemployment during the pandemic was particularly large for young people, as noted by Eurofound (2021b). Certain sectors were disproportionately hit by job losses and reductions in working time, notably hospitality and other services, and SMEs were affected more than larger organisations (Eurofound, 2021a). For self-employed workers, the COVID-19 pandemic was associated with fewer work opportunities, greater insecurity, and reduced income (Ahrendt et al., 2022).

In summary, the impact of the COVID-19 pandemic on workers' mental health was complex, as indicated by a recent poll conducted by EU-OSHA (2022a), which found that 44% of EU workers agreed (or strongly agreed) that their work stress had increased as a result of the COVID-19 pandemic, while 55% disagreed (or strongly disagreed).

2.3.4. Digital monitoring and surveillance tools can exacerbate some risks

Another aspect of digitalisation that has implications for workers' mental health relates to the **digital tools used to monitor performance**, often facilitated by Artificial Intelligence (AI) (**algorithmic management**) (Deshpande et al., 2021). Algorithmic management can be defined as 'automated or semi-automated computing processes that perform one or more of the following functions: (1) workforce planning and work task allocation; (2) dynamic piece rate pay setting per task; (3) controlling workers by monitoring, steering, surveilling or rating their work and the time they need to perform specific tasks, nudging their behaviour; (4) measuring actual worker performance against predicted time and/or effort required to complete the task and providing recommendations on how to improve worker performance; and (5) penalising workers, for example, through termination or suspension of their accounts' (Ponce Del Castillo and Naranjo, 2022). A range of software programmes are available for monitoring, which include functions that analyse employees' web history or assess how much time they spend away from their desks, and even the facility to take photos of employees or screenshots of their computers at regular intervals (Aloisi and De Stefano, 2021). Some tools include dashboards to encourage employees to self-monitor their own performance (Aloisi and De Stefano, 2021). Data collected by digital monitoring and surveillance tools can be aggregated to create targets and benchmarks or to profile employees and predict their behaviour (Aloisi and De Stefano, 2021). At an organisational level, algorithmic monitoring may be used to predict how much labour is required and to maintain minimal levels of staffing, resulting in a form of **job insecurity** in which workers may be offered inadequate or unpredictable working hours (Nguyen, 2021).

Prior to the COVID-19 pandemic, just over one in 10 (11%) establishments in the EU used machines or systems for monitoring workers' performance (Urzi Brancati and Curtarelli, 2021)). In a recent survey by EU-OSHA (2022a), a quarter of workers (25%) reported that digital devices were used to supervise or monitor their work. The proportion of workers who reported experiencing this kind of digital surveillance varied between Member States, and was highest in Malta (46%), the Netherlands (43%) and Ireland (41%) (EU-OSHA, 2022a). Over a third (37%) of workers across the EU who took part in this survey indicated that digital technologies had increased surveillance of them at work (EU-OSHA, 2022a). Workers in low-paid jobs in sectors such as hospitality, retail and logistics may be more likely to experience digital monitoring, since their work is more easily measured and quantified (Nguyen, 2021). Digital monitoring is also common in the gig economy (Bérastégui, 2021). The growth in telework precipitated by the COVID-19 pandemic has been associated with the increased use of digital

monitoring and surveillance tools (Aloisi and De Stefano, 2021; Vargas Llave et al., 2022; Deshpande et al., 2021), including those designed to monitor working hours (Eurofound, 2021a). Across the EU, four in 10 managers reported that the management style in their organisation became more controlling during the COVID-19 pandemic (Eurofound, 2021a), perhaps reflecting concerns about a loss of oversight and control associated with the shift to telework. Qualitative research from Italy has found that during the COVID-19 pandemic, employees reported being invited to participate in more meetings than they had previously and felt that some of these meetings were intended to 'monitor' them (Delfino and van der Kolk, 2021).

Concerns have been raised about digital monitoring tools from the perspective of privacy and surveillance (Vargas Llave et al., 2022). Workers may not be fully aware of the nature and extent of monitoring activities (Deshpande et al., 2021; Nguyen, 2021). The may also be fearful of losing their jobs, and may not have a meaningful choice to opt out of such practices (Nguyen, 2021). Being aware of the possibility of monitoring and surveillance, even if – or perhaps, especially if–- the precise nature and parameters of this are unknown, can be a cause of **work-related stress** and **anxiety** (Deshpande et al., 2021). Digital surveillance can reduce **job autonomy** (European Parliament, 2021), and may increase **work pressure** and encourage **long working hours** (Deshpande et al., 2021). Qualitative research with employees working remotely in Italy during the COVID-19 pandemic found that increased monitoring and surveillance practices resulted in some workers refraining from taking lunch or coffee breaks in case their manager were to discover that they were not at their desks (Delfino and van der Kolk, 2021). In terms of social relationships at work, digital monitoring and surveillance can reduce social interaction and erode trust between managers and employees, undermining **social support** at work (Bérastégui, 2021; Deshpande et al., 2021).

3. NATIONAL LEGISLATION IN EU MEMBER STATES

KEY FINDINGS

EU Member States are endeavouring to improve employees' mental well-being. While some countries are in the nascent stages of addressing this matter, others (such as Finland, Germany, Lithuania, Spain and the Netherlands, which were selected for the case studies) have mature legislation that is well implemented. The latter group of countries stand out because:

- **Mental health is clearly defined** as one of the priorities in their respective occupational health and safety acts and national strategies. These countries have also adopted additional and supplementary legislation to address concrete psychosocial risks;
- Legislation and national strategies are supported by **programmes and concrete measures, instruments and tools** that help to translate legislation into practice;
- Successful policies recognise and **address the most vulnerable groups**, depending on sectors, the social characteristics of employees and types of work organisation. Moreover, such policies are kept up-to-date to respond to new and emerging risks;
- In each country, **the bodies responsible for policy implementation, such as government ministries, various committees and labour inspectorates, are clearly assigned**. Labour inspectorates are the most important monitoring bodies, ensuring the compliance with legislation of both employers and employees.

Across the Member States, examples of specific good practices can be identified, such as the **recognition of burnout as a legitimate medical diagnosis** and **legislating on the right to disconnect**. Nevertheless, certain notable gaps have been left unfilled, such as:

- Insufficient recognition of new and emerging risks;
- Insufficient recognition of certain vulnerable groups, especially migrants;
- Lack of guidelines for Occupational Health and Safety inspectors on which aspects should be assessed during inspections;
- Lack of compliance and enforcement, i.e. legislation is not translated sufficiently well into practice.

It is therefore important for the EU to encourage and guide Member States to improve their legislation and implement necessary measures regarding mental health in the workplace.

3.1. Key targets, initiatives, and instruments

This chapter of the study analyses those pieces of legislation, programmes and tools that stand out as being most successful in tackling mental health issues in the workplace across the EU's Member States. In the sections that follow, we provide an overview of initiatives across the EU-27, with more detailed information in relation to the countries selected as case studies. For each of the relevant initiatives, we also summarise their main target groups and coverage, and reflect on how well-aligned these are with the risk groups identified in the literature.

3.1.1. Legislation as the basis for protecting employees' mental health

Each of the 27 EU Member States addresses mental health in the workplace within its respective national legislation, and employees in all countries have a right to health, safety, and non-discrimination. In a similar manner to the minimum health and safety requirements implemented to protect the physical health of workers, legislation and policies exist that are aimed at safeguarding mental health. Such legislation has partly been promoted by the work undertaken by EU-OSHA over the past 20 years, which has collaborated with national authorities and social partners in the Member States to agree common objectives and support the implementation of relevant initiatives (European Commission, 2021b). Table 5 below outlines the main national initiatives relating to the management of psychosocial risks in all EU Member States.

Table 5: National initiatives relating to psychosocial risk management in the workplace

Member State	Legal framework	Policy framework
Austria	• Austria Health and Safety at Work Act, 2011 • Work and Health Act, 2010	• Occupational Safety and Health Strategy 2013–2020
Belgium	• Act on the well-being of workers in the performance of their work, 4 August 1996 • Act (Chapter 8) on the right to disconnect, 3 October 2022	• The Belgian National Strategy for Well-being at Work 2016–2020
Bulgaria	• Health and Safety at Work Act 1997, last amended in 2018	• National Programme for Occupational Safety and Health, 2018–2020
Croatia	• Occupational Health and Safety Act, 1999	• National Health Strategy, 2012–2020 • National Programme on Occupational Health and Safety for Persons Employed in Health Care for the Period 2015–2020 • The National Strategy for Mental Health Protection 2011–2016
Cyprus	• Law No. 33(I) concerning occupational safety and health (Amendment) (Art.13(1)), 2011 • Act No. 89(I) on occupational safety and health (Art.2(1)), 1 November 1996	• Strategy of Cyprus for safety and health at work 2021–-2027
Czech Republic	• Labour Code, No 26/2006 • Act Stipulating Further Requirements for Health and Safety at Work (Act No. 309/2006 Coll.)	• National Action Programme for Safety and Health at Work 2019–2020
Denmark	• Working Environment Act, 2013 • Danish Strategy on the Working Environment, 2019 • Regulation of the psychosocial working environment Executive Order no. 1406, 2020	• A strategy for working environment efforts up to 2020
Estonia	• Occupational Health and Safety Act, 1999	• Health Development Plan, 2016–2023
Finland	• Occupational Safety and Health Act 738/2002 • Occupational Health Care Act 1383/2001 • The Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces 44/2006 • Government Decree 708/2013	• WORK 2030 • Mental Health at work programme in the National Mental Health Strategy 2020–2030

Member State	Legal framework	Policy framework
France	• General health and safety Policy, codified in Article L. 4121-1 of the Labour Code, 2007 • Law No. 2008-789 on renewal of social democracy and reform of working time (right to disconnect), 20 August 2008	• Occupational Health Plan 2016–2020
Germany	• Occupational Safety and Health Act, 1996 • The Workplace Ordinance, 2004 • The Ordinance on Occupational Health Precautions, 2008	• Joint German Occupational Safety and Health Strategy, 2019–2024
Greece	• Employment law No. 4808/2021, as adopted on 16 June 2021, on the right to disconnect • 1568/1985 Coll. On Occupational Safety and Health, 1985	• National strategy for Health and Safety at Work 2016–2020
Hungary	• Act No. 93 concerning Occupational Safety and Health, 1993	• National Occupational Safety and Health Strategy 2016–2022
Ireland	• The Safety, Health and Welfare at Work Act, 2005 • Workplace Relations Commission/Health and Safety Authority (WRC/HAS) Joint Code of Practice on the Prevention and resolution of Bullying at Work, 2021 • The Code of Practice on the Right to Disconnect, 2021	• The Health and Safety Authority's Strategy 2022–2024 • Health Protection Strategy 2022–2027
Italy	• Article 88 on the right to disconnect, 14 June 2017 • Civil Code (Royal Decree no. 262, 16 March 1942), revised in 2016 • Legislative Decree no. 81, Law on health and safety at work, 9 April 2008	• The National Prevention Plan 2014–2018
Latvia	• Law on Occupational Safety, 20 June 2001	• Labour Protection Policy Strategy for 2016–2020
Lithuania	• Law on Safety and Health at Work (No IX-1672), 2003 • General Regulations of Psychosocial Occupational Risk Assessment, approved by Order No V-699/A1-241, 2005 • Legislation on the improvement of employees' competences regarding mental health (No. V-590), 2019	• Mental Health Strategy and Safety and health at work Action Plan for 2022–2027 • Programme regarding the approval of the 2021-2022 annual plan for actions to reduce the long-term negative consequences of the COVID-19 pandemic on individual and public mental health
Luxembourg	• Law on occupational safety and health, 17 June 1994	• Occupational Health and Safety Strategy, 2013
Malta	• Occupational Health and Safety Authority Act, 1964	• Strategic plan for occupational health and safety 2022–2027
Netherlands	• Working Conditions Act, 1999 • Working Conditions Decree, 1997	• the National Action Plan Sexual Misconduct and Sexual Violence, 2022 • The policy programme Tackling Bullying, 2018
Poland	• Labour Code and corresponding Ministerial order (Article 15, 78-86, 129), 1997	• Multiannual National Programme 'Improvement of safety and working conditions', 2014

Member State	Legal framework	Policy framework
Portugal	• Law No. 102/2009 regarding the Promotion of Health and Safety at Work, 2009 • Portuguese Law no. 83/2021 regarding the right to disconnect, 6 December 2021 • Labour Code and corresponding Ministerial order (Art. 15, 78-86, 129), 1997	• The National Strategy for Health and Safety at Work 2015–2020
Romania	• Law No 319 on Safety and Health of Workers and Work, 2006	• National Health Strategy 2014–2020
Slovakia	• Occupational Safety and Health Protection Act 124/2006 • Act No. 355/2007 Coll. On Protection, Support and Development of Public Health and on Amendments and Supplements to Certain Acts, Section 38, 2007	• Strategic Framework for Health 2014-2030 • Occupational Safety and Health Strategy in the Slovak Republic for the period 2016–2020
Slovenia	• Health and Safety at Work Act (ZVZD-1), 2011	• The National Programme of Health and Safety at Work 2018–2027
Spain	• Prevention of Occupational Risks Act, 1995 • Royal Decree 39/1997 (BOE-A-1997-1853), 1997 • Royal Decree 33/2011 (BOE-A-2011-15623), 2011 • Royal Decree 2/2015 (BOE-A-2015-11430), Article 13, 2015 • Organic Law 3/2018 on the Protection of Personal Data and Guarantee of Digital Rights (BOE-A-2018-16673), Article 88 on the right to disconnect, 2018 • Royal Decree 10/2021 • (BOE-A-2021-11472) on remote work, 2021	• Spanish Strategy on Safety and Health at Work, 2015–2020 • Action Plan on Mental Health and COVID-19, 2021–2024 • Mental Health Plan 2016–2022
Sweden	• The Swedish Work Environment Act, 1977	• A Work Environment Strategy for Modern Working Life 2016–2020

Source: Authors' own elaboration, based on a review of national legal acts, information provided on the websites of national authorities and guidance documents.

All 27 Member States recognise the importance of mental health in the workplace and mention it in various national legislative documents. However, legislation in some countries is more advanced than others. Although all countries have in place legislation to protect employees from discrimination, to ensure the regulation of their working hours, and to support the most vulnerable groups such as persons with disabilities and young workers, not all of them possess concrete regulations and measures dedicated towards protecting the mental health of all employees. The majority of countries entrust this responsibility solely to employers, stating that employers must protect employees from all hazards, both physical and psychosocial.

Aspects relating to employees' mental well-being and protection are typically addressed in the national **labour codes** and **occupational health and safety acts**, as well as **national health strategies** and **equal opportunities acts**. Examples of the steps taken by countries to manage psychosocial risks include inspections, training on psychosocial risks for employers and employees, public awareness campaigns, and collective bargaining initiatives (EU-OSHA, 2022a).

Some countries have in place more specific legislation and related initiatives directed at addressing the most urgent problems in their countries, including bullying and stress at work. Often, such legislation

is complementary to occupational health and safety acts. For example:

- In Ireland, the Joint Code of Practice on the Prevention and resolution of Bullying at Work and Workplace[31] states that bullying will not be tolerated in the working environment. Employers must establish preventive measures and take action whenever bullying occurs.
- Sweden has its Act (2002:293) prohibiting discrimination against part-time workers and workers with fixed-term employment[32].
- Denmark's Regulation of psychosocial working environment Executive Order no. 1406, 2020 on the psychosocial working environment[33] is intended to protect workers from psychosocial risks such as heavy workload and time pressure, unclear and conflicting demands at work, high emotional demands when working with people, and offensive behaviour (harassment, bullying and work-related violence).
- Lithuania has in place legislation on the improvement of employees' competencies regarding mental health (No. V-590), which states that all employees and employers should receive training on the main psychosocial health risks in the workplace, as well as prevention measures and support tools.
- A few EU Member States also possess legislation on the right to disconnect. This right refers to legislation that allows workers to disconnect from their work and not receive or answer any work-related emails, calls or messages outside of normal working hours. An example of such a law is Article 88 of Spain's Organic Law 3/2018 on the Protection of Personal Data and Guarantee of Digital Rights, which states that workers in both the private and public sectors have the right to disconnect in order to ensure respect for their rest, leave and holidays, as well as their personal and family privacy. Other Member States that have enshrined the right to disconnect in law include Portugal, France, Belgium, Greece, and Italy.
- In Ireland, the right to disconnect is presented in the Code of Practice on the Right to Disconnect (2021) which supports the provisions of employees' and employers' rights and obligations defined in the Organization Working Time Act (1997). Although the Act does not explicitly define the 'right to disconnect', there is an implication of the 'right to disconnect' which arises when the rules of the Organization Working Time Act are applied (e.g. employees are entitled to at least 11 hours of rest after the working day) (WRC, 2021).
- Spain also has Law 10/2021 on Remote Working, which among other measures, strengthens workers' privacy when making use of audio-visual or geolocation technologies at work, and additionally protects the right to digital disconnection outside of working hours for both salaried and public employees.

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31 The purpose of this Code is to provide employers, employees and their representatives with guidance on good practice and procedures for 'identifying, preventing, addressing and resolving issues around workplace bullying' Health and Safety Authority in Ireland, 2021, *Code of practice for employers and employees on the prevention and resolution of bullying at work.* Available at: https://www.hsa.ie/eng/workplace_health/bullying_at_work/codes_of_practice/.

32 The purpose of the Act is 'to combat discrimination of employees working part time and employees with fixed-term employment as regards pay and other terms and conditions'. Government Offices of Sweden, 2015, Prohibition of Discrimination of Employees Working Part Time and Employees with Fixed-term Employment Act (2002:293). Available at: https://www.government.se/contentassets/bf6cc61affe746dc9fff402361e4cfe5/sfs-2002293-prohibition-of-discrimination-of-employees-working-part-time-and-employees-with-fixed-term-employment-act.pdf.

33 The Danish Working Environment Authority, 2020, The Danish Working Environment Authority's Executive Order no. 1406 of 26 September 2020 on psychosocial working environment. Available at: https://at.dk/en/regulations/executive-orders/psychosocial-working-environment-1406/.

Current legislation in Finland, Germany, Lithuania, the Netherlands and Spain obliges employers to put in place internal policies and measures to assess psychosocial risks that are relevant to specific workplaces, as well as policies on where and how employees can seek help if they experience psychosocial strain, and measures to prevent potential risks and to rehabilitate employees when issues emerge. Finland has established occupational healthcare services to assist employers and their representatives in implementing these requirements (Ministry of Social Affairs and Health, 2023a). In Germany, there is legislation requiring employers to consider work-related mental strain that is specific to certain types of work, including people who work with machines (98/37/EG Maschinen-Richtlinie; Anhang 1), as well as certain groups of people who are protected under the Maternity Protection Act (MuSchG) or the Act for the Protection of Young Workers (JArbSchG). These pieces of legislation provide specific measures to protect women and children from physical risk, particularly in terms of working hours during pregnancy, to avoid exhaustion and mental stress (§ 9 MuSchG). Furthermore, it is not permitted to employ juveniles in work that "exceeds their physical or mental capacity" (§ 22 JArbSchG). In Spain, Royal Decree 39/1997 of 17 January 1997 outlines the psychosocial aspects that need to be considered in the workplace. The risk prevention measures in the Decree include taking into account factors of a psychosocial nature; mitigating stress and other psychosocial problems; evaluating and tackling the consequences of harmful psychosocial factors; and carrying out psychosocial interventions (BOE-A-1997-1853).

3.1.2. National strategies and programmes complement legislation

Most countries have also adopted **health and safety strategies** to address various aspects of psychosocial risks in the workplace, such as work-related stress, psychosocial workload, bullying and harassment, as well as new or emerging psychosocial risks. These strategies have usually been developed by governmental bodies working in the areas of health, labour and social security. The common goal of these strategies is to ensure workplaces are better equipped to support the mental health of employees, and to manage psychosocial risk factors.

- The Finnish National Mental Health Strategy seeks to increase well-being in the workplace and to reduce the frequency of sick leave and disability retirements for mental health reasons;
- The Joint German Occupational Safety and Health Strategy (GDA) supports employers by increasing their understanding of requirements, measures and their implementation with regard to mental health in the workplace (e.g. by establishing guidelines on implementing risk assessments of mental strain in the workplace);
- In the Netherlands, the National Action Plan on Sexual Misconduct and Sexual Violence aims to generate a necessary cultural shift in this area;
- In Lithuania, the Safety and Health at Work Action Plan for 2022-2027 was adopted in 2022. The goal of this plan is to manage changes in the labour market caused by demographic changes, digitalisation and the green economy. One of the measures included is the monitoring and improvement of employees' mental health. Under the plan, the State Labour Inspectorate has prepared methodological recommendations for enterprises on how to develop policies regarding mental health in the workplace, with guidance on what aspects such policies should include;
- The Mental Health Strategy of the Spanish National Health System 2022-2026 aims to ensure the promotion of good mental health in the workplace. The document provides new strategic guidelines, including recommendations regarding mental health. It proposes objectives and

lays out an evaluation system that has been developed in agreement with the country's autonomous communities; and

- Local governments in Spain also launch their own plans or strategies to support mental health in the workplace. One example is the Barcelona Mental Health Plan 2016-2022, launched by the Barcelona City Council (Barcelona City Council, 2018). This is a joint effort between organisations and communities to create initiatives that enhance mental healthcare, provide equal opportunities and rights without prejudice or discrimination against those affected, and to allow affected persons to engage in the life of the city. Psychosocial health considerations in the workplace can be seen under several of the strategic lines around which this plan is built. For example, one line of action is to 'Advise organisations to facilitate the handling of psychosocial risk factors in the workplace with programmes to promote occupational health and safety'. Another line of action, which targets people who are already affected by mental health conditions, 'Consolidate workplace insertion of people with mental disorders in the ordinary jobs market'. In addition, the plan also aims to develop instruments for the diagnosis and prevention of potential mental health problems, as well as to have an impact on the improvement of working conditions in organisations, and to make the city's mental health care services available to workers.

To achieve the goals laid out in national strategies and to ensure compliance with existing legislation, countries have implemented various **instruments and programmes** to support employers, employees and other bodies responsible for mental health in the workplace. Examples include:

- Finland's National Mental Health Strategy includes the Mental Health at Work Programme (2022), which seeks to develop a model for cooperation between workplaces and occupational healthcare services to spread messages concerning the measures and methods available to support mental health, as well as to boost skills and competences with regard to occupational healthcare and mental health in workplaces. Another progressive programme in Finland is WORK 2030, a development programme aimed at promoting well-being at work (Ministry of Social Affairs and Health, 2023c). This aims to reform companies' operating practices, make effective use of technologies such as artificial intelligence in workplaces. The objectives of the scheme are to make Finland a leading developer of innovations that improve working life, and the world leader of well-being at work by 2030;
- The Joint German Occupational Safety and Health Strategy (GDA, n.d.*b*) includes the PSYCHE work programme, which seeks to raise awareness among employers about the importance of mental health in the workplace, and encourages companies to meet their legal obligations. Another recent campaign in Germany dedicated to raising awareness and helping to fight stigma with regard to mental health issues is the Offensive Psychische Gesundheit ('Mental Health Initiative', INQA, n.d.*b*);
- The Netherlands has implemented campaigns to combat work-related stress, including the Broad Societal Cooperation on Burnout. This is a concerted effort involving social partners, industry and professional associations, as well as parties in (occupational) healthcare along with the Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*, SZW); of Health, Welfare and Sport; and of Education, Culture and Science. The programme aims to tackle the increase in burnout and its resulting impact on the economy in terms of absenteeism. Its activities focus on preventing workers from developing burnout, in particular those symptoms that emerged during the COVID-19 pandemic. In 2021, the SZW inspectorate began a Programme on Psychosocial Workload (Programma PSA), which aims to

increase the number of employers tackling psychosocial workload. The multi-year Programme to Improve Compliance with Risk Inventory & Evaluation (*Programma Verbetering naleving RI&E*) and the associated instrument 'Route to risk evaluation' (*Route naar RI&E*) aim to improve compliance with risk evaluations, both quantitatively and qualitatively. Other programmes in the Netherlands also target the stigmatisation of mental health issues, as well as the changes required to employers' mandatory risk evaluations in the event of the introduction of telework/hybrid working arrangements;

- In 2013, Spain introduced its Healthy Companies initiative (*Red Española de Empresas Saludables*, REES), drawing inspiration from the European Network for Workplace Health Promotion (ENWHP) and in response to the aim of the National Institute for Safety and Health at Work (INSHT) to acknowledge companies' efforts to enhance the health and well-being of their employees, while fostering a culture of health and knowledge-sharing among businesses (INSHT, 2015. Under this initiative, any company or organisation, regardless of its size, ownership or sector, can express its commitment by applying to join the Luxembourg Declaration[34] and, if it meets the quality criteria, request recognition for implementing good practices in health promotion at work. The initiative aims to safeguard workers' health through an integrated approach with actions at various levels (individual, collective, organisational, working conditions, living conditions, etc.) and coordinated programmes and projects based around a holistic concept of biopsychosocial health. According to data 2021 data, more than 800 Spanish enterprises were members of REES.

3.1.3. Measures and instruments to translate legislation into practice

Common instruments to achieve the goals of the strategies and programmes above include **guides and recommendations for employers and inspectors**, such as 'Work-related stress – a guide for employers' in Ireland, Swedish occupational health guidelines to support the prevention and treatment of work-related mental ill-health at the workplace, as well as Croatia's instructions for employers and employees on the handling and implementation of measures to protect safety and health (including mental health) in the context of the COVID-19 pandemic. Others measures include:

- Finland's Mental Health Support Toolkit, a set of **digital tools** developed in collaboration with workplaces, occupational healthcare providers and other relevant actors in the field of improvements to working life (Mental Health at Work Programme, 2022). This toolkit includes games, calculators, online courses, games and tests that address mental health risks in the workplace, including work-related stress, substance abuse, and lack of workplace community. The tools can be used by the entire work community to proactively support employees' working capacity. Of the nine digital tools, four are available in English: the recovery tool; 'Supporting mental health at work – material for supervisors'; the resilience test; and the substance abuse programme tool (Mental Health at Work Programme, 2022). The toolkit also includes **guidance** for supervisors, human resources, and occupational safety and health service providers on topics requiring stronger skills and competences.
- In the Netherlands, the policy programme Tackling Bullying (*Programma aanpak pesten*) includes a **toolbox** for managers to prevent bullying and tackle misconduct, as well as a prevention toolbox for use by officers and corporate councils. Tools include reporting and

[34] The Luxembourg Declaration was adopted by all members of the European Network for Workplace Health Promotion (ENWHP) in 1997 to promote health and occupational safety in companies in the EU, and to encourage Member States to attach greater importance to the promotion of health in the workplace. ENWHP, 1997, *Luxembourg Declaration on Workplace Health Promotion in the European Union*. Available at: https://www.enwhp.org/resources/toolip/doc/2018/05/04/luxembourg_declaration.pdf.

assessment forms, an anti-bullying policy template, a guide to good practice, examples of bullying behaviour, and advice for employers on tackling bullying issues in the workplace (Worksafe, 2023).

- The programme PSYCHE in Germany enables employers to follow up on their legal obligation of carrying out risk assessments (as foreseen by the Occupational Safety and Health Act) by providing a **platform for training and information**.
- In Lithuania, municipal health bureaus provide support for employers and employees. Across Lithuania, the Institute of Hygiene. Health Bureaus also provides **workshops** on improving employees' mental health (Geros Savijautos Biuras, 2021), particularly with regard to the challenges that emerged during and as a result of the COVID-19 pandemic, such as changes in work organisation, increased social isolation due to these changes, and more. Another ambitious initiative is the improvement of employers' mental health competencies carried out by various municipalities in Lithuania (an example of which is Kazlų Rūdos visuomenės sveikatos biuras, 2019). Workshops also take place across the country to help organisations improve their work organisation in a way that reduces mental health stressors. Some programmes implemented by the Institute of Hygiene include measures to prevent burnout, the prevention of conflicts in the workplace, recommendations on the management of psychological violence in the workplace, and standards for managing stress at work. The **workplace management standards** produced by the Institute of Hygiene address employee workload, as well as the structure and organisation of work (Higenos institutas, 2017). The standards state that employees have the right to realistic expectations from their managers, and to be able to control the pace of their work, to receive encouragement and support from their employer, to work in a conflict-free environment, and to be properly informed about their rights and responsibilities.
- The Spanish initiative Healthy companies, mentioned previously, seeks to spread the Luxembourg Declaration on Workplace Health Promotion to individual employers across Spain. The Declaration aims to prevent ill-health at work (including occupational and work-related diseases, accidents and injuries, and stress), and to promote health and well-being among the workforce.
- Denmark's Mentalsundhed.dk[35] **platform** is dedicated to the exchange of knowledge and best practices for stakeholders in Denmark.

3.1.4. Most vulnerable social groups, sectors and types of work organisation

As noted at the beginning of this chapter, certain categories of vulnerable employees are covered by legislation across all of 27 Member States. These include **employees with disabilities, pregnant women, and young workers**. The rights of these workers are recognised across all national labour legislation, and they are also specifically protected by equality and non-discrimination acts, youth employment directives, and other legislation. The countries selected for the case studies also distinguish vulnerable groups such as **immigrants, people working remotely, breastfeeding women, women raising children, women in general, and ageing employees** in their national legislation.

[35] The partnership's vision is to strengthen mental health in the workplace and reduce mental health problems among workers. Partnership seeks to make it easy for employees, colleagues, managers and organisations to find the right tools and use them to actively strengthen mental health of workers. Available at: https://mentalsundhed.dk/om-partnerskabet.

Finland currently has a tripartite group working until 31 December 2023 on improving legislation for **ageing employees**, especially those aged 55 years and older. The proposed legislation will state that employees age differently, and that work should be organised, and workload should be allocated accordingly. Its goal is to limit stress among ageing employees and reduce the risk of early retirement. Under the legislation, all employers will be required to provide measures for life-long learning, especially with regard to technological progress. Moreover, part of WORK 2030 in Finland includes the Work Ability Programme, which is dedicated to **people with partial working ability**. The objective of this programme is to educate employers about work organisation and to involve people with partial working abilities in order to improve their integration. The programme also provides for special support to vulnerable groups such **as young people, older people** and **immigrants**. One of the more specific objectives of the programme is to improve the mental health of **employees with disabilities**, young people, older people and immigrants – groups that, as previously described, are exposed to greater psychosocial risks.

In Spain, **persons with disabilities** receive special attention under Law 31/1995 on the prevention of occupational risks. This law is aimed at ensuring safety and hygiene at work and contains an article addressing the situation of workers who particularly sensitive to certain risks. Under this article, employers must include a worker's personal characteristics and known biological conditions into their risk assessments and must implement the required preventive and protective measures on the basis of such assessments.

In Lithuania, various programmes and measures exist at national level to support vulnerable groups. For example, the Institute of Hygiene has implemented a programme to improve the participation of **ageing workers** in the labour market (Higienos institutas, 2021). This programme pays particular attention to the mental health of ageing workers, and the Institute organises training sessions for enterprises on this subject. The Institute of Hygiene has also provided guidelines on **cancer patients'** return to work, including the protection of the mental well-being of these employees.

With respect to targeting vulnerabilities in particular sectors, interview data from the selected case studies show that policymakers tend to avoid drafting legislation in a way that differentiates between certain sectors, as the general goal of the legislation is to ensure that all sectors are covered with regard to psychosocial risks in the workplace (FI2; FI3; LT1; LT2; LT3; ES1). Measures in place at EU level, such as the European social partners' framework agreement on stress at work and the European social partners' framework agreement on harassment and violence in the workplace also state that all sectors must be protected from work-related psychosocial risks. These agreements state that all employees are at risk of work-related stress, harassment and violence, regardless of the field of activity, size of the company, or the form of employment contract. Under these agreements, all employers are obliged to assess the risks in their workplace and to develop internal policies and measures that are most relevant to the needs and the threats facing their employees. Nevertheless, certain programmes, usually implemented by trade unions and relevant government ministries, support professions that are recognised as having the greatest exposure to violence, harassment and burnout. Such professions include healthcare professionals, education professionals, police officers, prison guards and security personnel, social workers, public transport workers, and other professions that undertake intensive direct contact with the public. For example, Lithuania's Ministry of the Interior and the Prison Department under the Ministry of Justice have implemented programmes to support **police officers**, guards and similar professionals. Meanwhile, the Ministry of Education, Science and Sport has implemented support programmes for **teachers**, and the Ministry of Health has programmes dedicated to **healthcare professionals**. Legislation regarding the implementation of the Labour Code, No. 496, states that certain occupations such as health specialists and social workers have the right to

an additional five days of annual leave per year for wellness. Moreover, employees who work under extremely stressful conditions (as defined by parliament and assessed by the State Labour Inspectorate) cannot be required to work more than a limited number of hours.

3.2. Responsible bodies

This section identifies and analyses the stakeholders and bodies responsible for implementing the initiatives and instruments aimed at ensuring the protection of mental health in the workplace. These stakeholders and responsible bodies include **employers**, **ministries**, **trade unions** and **agencies** external to the workplace. In addition, the parties responsible for monitoring the implementation of such measures are also identified.

According to legislation in all 27 EU Member States, the main responsibility for ensuring employees' health and safety at work falls onto the **employer**. The Dutch government is especially clear about this and has repeatedly expressed that tackling psychosocial workload is mainly the responsibility of employers and employees, not of the government (Van Ark 2018; Van Ark, 2021). Nevertheless, responsibility for policymaking and legislation with regards to the enforcement of labour conditions does lie with the government.

The most common stakeholders and responsible bodies with regard to mental health risks in the workplace across the Member States include **national ministries of labour and health** and their various departments, as well as subordinate institutions established under occupational health and safety acts and other relevant legislation. Examples of such bodies include **health and safety authorities** (e.g. in Ireland and Malta), the **working environment authority** (Denmark), **occupational healthcare providers** (Finland), **labour inspectorates**, **trade unions** and **employers' associations**, as well as **research centres**. Such bodies are responsible for the implementation of legislation, and also take part in policymaking. The main responsible bodies also cooperate with various partners such as NGOs, local communities and private enterprises.

Below, we list the main organisations responsible for ensuring the protection of mental health in the workplace in the selected case study countries. In Finland, the main bodies responsible for mental health in the workplace include the Ministry of Health and Social Affairs, the Finnish Institute for Health and Welfare, the Finnish Institute of Occupational Health, and the Social Insurance Institution of Finland (Kela). The Ministry of Labour also runs workplace programmes that address issues conducive to employees' well-being and the quality of working life. The Finnish Social Insurance Institution (Kela) reimburses employers for the costs of preventive occupational healthcare. It also reimburses the costs of treatment at the level of general practitioners and other healthcare costs. The Finnish Institute for Health and Welfare runs the National Mental Health Strategy 2020-2030, and the Ministry of Social Affairs and Health runs the programme WORK 2030. One notable characteristic of the system in Finland is the close tripartite cooperation between government authorities, employers and employee representatives as members of the Ministry of Social Affairs and Health's advisory board on occupational health services, in which the Social Insurance Institution of Finland, the Finnish Institute of Occupational Health and other organisations representing occupational health professionals also participate. This tripartite group is an important policy influencer in Finland. As mentioned in the previous section, the tripartite group is currently working to improve legislation aimed at protecting ageing workers.

Tripartite cooperation also plays a special role in Lithuania, where the Commission on Safety and Health combines the interests of the state, of workers and of employers in the field of safety and health at work. The Commission's purpose is to represent, negotiate and align the interests of the government,

employers and employees Lietuvos Respublikos socialinės apsaugos ir darbo ministerija (Ministry of Social Security and Labour of the Republic of Lithuania), 2023). Other important bodies influencing policy in this area and who are responsible for the implementation of various programmes are the Mental Health Centre of the Institute of Hygiene and municipal health bureaus.

In Germany, key stakeholders involved in decision-making and/or the implementation of legislation relating to mental strain in the workplace include the Federal Ministry of Labour and Social Affairs (which also houses the Committee on Safety and Health at Work, which in turn advises the Federal Ministry and Social Affairs on matters relating to the Safety and Health at Work Act), the German Trade Union Confederation, the Confederation of German Employers' Associations, the Company Health Insurance Funds Umbrella Association, and the German Statutory Accident Insurance Umbrella Association.

In the Netherlands, the Broad Societal Cooperation on Burnout (*Brede Maatschappelijke Samenwerking Burnoutklachten*) was set up as a result of cooperation between social partners, industry and professional associations and parties involved in occupational healthcare, as well as the Ministry of Social Affairs and Labour, of Health, Welfare and Sport, and of Education, Culture and Science. Their cooperation targets those sectors in which employees are at the highest risk of experiencing burnout, such as healthcare and education. The bodies involved take preventive measures, implement and coordinate various initiatives, and monitor and research further opportunities to reduce burnout in those sectors relating to their particular field of competence.

In Spain, the key stakeholders involved in occupational safety and health, and particularly mental health in the workplace, are the Ministry of Employment, the National Institute of Safety and Hygiene at Work, and the Labour Inspectorate. Spain's autonomous regions also have certain competences with regard to OSH matters, which are carried out by regional employees, labour authorities and regional OSH centres or institutes (ILO, 2023). While the Ministry of Health plays an important role in developing strategic documents, its remit covers mental health in a broader context than merely the workplace.

3.2.1. Role of trade unions in policymaking and implementation

Trade unions represent another important stakeholder with regard to mental health in the workplace. They have been paramount in influencing legislation in all of the countries selected for case studies – Finland, Germany, Lithuania, Spain and the Netherlands. Trade unions are particularly active in Finland, where influencing policy and promoting the emotional and material welfare of workers is the prime concern of the trade unions and their confederations. Since the 1970s, trade unions have been among the main enforcers of employee well-being (Vartia-Väänänen, 2013). One of the most important and largest trade union organisations in Finland is the SAK – the Central Organisation of Finnish Trade Unions (SAK, 2023).

Trade union confederations in the Netherlands include the FNV[36], CNV[37] and VCP[38] (FNV, 2023), all of which participate in the tripartite Social and Economic Council, established in 1950. In addition, the STAR (*Stichting van de Arbeid,* 'Labour Foundation') is the most important consultative body, formed of the three largest trade union confederations (the FNV, CNV and VCP), and the central employers' organisations. It has recently addressed the excessive 'flexibilisation' of labour, as well as issues regarding the employment of people with disabilities, while advocating for a strengthening of the position of temporary workers. Excessive flexibilisation is perceived by trade unions as a threat to

[36] The Netherlands Trade Union Confederation.

[37] Christian National Trade Union Federation.

[38] Trade union federation for Professionals.

workers' security, as quickly changing forms of work provide insufficient stability. Although both trade unions and employers regard flexibility as necessary due to competitive pressures, they also recognise the 'need to limit the social impact of flexibilisation' by combating improper forms of flexible work (e.g. bogus self-employment), the evasion of social contributions, and so on (De Beer and Keune, 2013). Trade unions also argue that people working in flexible types of employment also tend to 'one-sidedly carry the burden of economic and labour market risks' (ibid.).

Meanwhile, in Germany, the German Trade Union Confederation (DGB) in 2013 published a Joint Declaration on Mental Health in the World of Work, together with the Federal Ministry of Labour and Social Affairs (BMAS) and the Confederation of German Employers' Associations (BDA), announcing that the three institutions would place greater emphasis on issues relating to mental health in the workplace (BMAS, 2013). In the same year, the Occupational Health and Safety Act was amended to oblige employers to consider mental strain in their risk assessments. Among other measures, it was announced that the Joint German Occupational Safety and Health Strategy (GDA) would examine the extent to which more regulation might be needed to address work-related mental strain.

Another demonstration of trade union influence on policymaking can be seen in Spain, where collective bargaining efforts have led to the recognition of the right to disconnect. In July 2017, representatives of the health insurance company AXA negotiated a new company-level collective agreement with the Confederation of Workers' Commissions (*Confederación Sindical de Comisiones*, CCOO), one of the biggest trade unions in the country, representing the largest share of the company's employees. The agreement recognised employees' right to turn off corporate phones and to not answer work-related calls after hours, meaning that AXA workers are not required to respond to work emails or communication outside their normal working hours. With the adoption of this unique policy, AXA became the first corporations in Spain to recognise this right (Eurofound, 2017). Furthermore, the CCOO and another trade union, the *Unión General de Trabajadores* (UGT[39]) have separately issued recommendations emphasising the importance of digital disconnection and compliance with existing laws to encourage work-life balance and prevent mental health issues arising from excessive remote work and constant connectivity (Eurofound, 2020b). This right was further established by Law 10/2021 on Remote Working in July 2021. Among other measures, this law strengthens workers' privacy with regard to audio-visual or geolocation technologies at work and protects the right to digital disconnection outside of working hours for both salaried and public employees.

3.2.2. Monitoring of compliance with occupational health and safety regulations by labour inspectorates

Occupational safety and health is regulated by **labour inspectorates** in the Member States (Hrymak, 2023), whose traditional role is to monitor and enforce workplace standards to ensure the health and safety of employees. State labour inspectorates usually operate under the auspices of the national ministry of labour or its equivalent. These inspectorates are responsible for safety and health at work; for the prevention of accidents at work, as well as occupational diseases; and for preventing violations of legal acts that regulate labour conditions, as well as compliance with national labour codes and other legal acts governing occupational safety and health and relations between employers and employees in enterprises, institutions or other types of organisations, irrespective of their legal form, type or area of operation. Some of the Member States selected as examples of good practice with regard to protecting employees' mental health (Finland, Lithuania, Spain) devote a section of their inspection plans to psychosocial risks, in order to ensure employers' compliance with legislation regarding mental

[39] General Union of Workers.

health in the workplace.

Labour inspectorates not only monitor health and safety in workplaces, but also take part in policymaking. In Lithuania, for example, the State Labour Inspectorate established the Department for the prevention of psychological violence at work. This department ensures compliance with laws relating to mental health and equal rights in the workplace and conducts various training sessions and assessments in workplaces across the country. As discussed in the previous section, Lithuania's State Labour Inspectorate has also prepared a methodological recommendation for enterprises on how to develop workplace policies and what aspects to include. In 2021 in the Netherlands, the national labour inspectorate launched its Psychosocial Workload Programme (*Programma PSA*), which aims to increase the number of employers tackling psychosocial workload. The multi-year Programme to Improve Compliance with Risk Inventory & Evaluation (*Programma Verbetering naleving RI&E*) and its associated instrument 'Route to risk evaluation' (*Route naar RI&E*) aim to improve risk evaluation compliance both quantitatively and qualitatively (Van Ark 2021; Wiersma, 2021). Moreover, as part of its multi-year plan for 2019-2022, the inspectorate established the policy programme Psychosocial Workload (*Programma Psychosociale Arbeidsbelasting*). The aim of this programme is to increase the proportion of employers addressing psychosocial workload (Koolmees, 2021; Wiersma, 2021).

The responsibilities of labour inspectorates with regard to the monitoring of workplaces and the sanctions imposed on employers in cases of non-compliance are discussed further in the next section.

3.3. Requirements, sanctions and flexibility

Having identified the stakeholders and bodies responsible for implementing measures to address mental health in the workplace, in this section we examine the requirements they are expected to follow. This analysis includes the importance of inspections and of infrastructure and management that supports the assessment and prevention of risks, as well as the sanctions imposed on employers in cases of non-compliance.

As previously discussed, employers have responsibility for protecting their employees' health and safety. While they may receive support from various institutions, such as municipal health bureaus in Lithuania, it is ultimately the responsibility of employers to ensure that the measures they have implemented properly protect employees. Employers are required to take necessary measures to prevent psychosocial risks at work, and to prevent or limit any harm that might result from these risks (e.g. Belgium's Act of 4 August 1996 on the well-being of workers in the performance of their work; Spain's Royal Decree 39/1997 of 17 January 1997 approving the Prevention Services Regulations and Article 2 of Law 31/1995 that establishes general principles relating to the prevention of occupational risks for the protection of safety and health). As already noted, in the case study countries, employers must carry out an **assessment of risks** in their workplace; create **policies** regarding the safeguarding of mental health in conjunction with employees' representatives; inform employees of the ways in which they can report incidents; and define the preventive and rehabilitative measures available measures. Moreover, if employees raise an issue that has not yet been identified in the internal policy of the workplace, or if an incident occurs, the policy must be revised and updated accordingly, with new measures being introduced and actions taken.

Some measures can be as simple and cost-free as creating a respectful work culture and maintaining an ongoing dialogue between managers and employees, while others require external resources, such as contracts with occupational healthcare providers in Finland. The Finnish Act on Occupational Health Services (1383/2001) obliges employers to organise and pay for preventive services for all workers, covering both the private and public sectors, regardless of the nature or size of the workplace. In Finland, every company must ensure that occupational healthcare professionals attend internal

workplace risk assessments and participate in the process of creating the company's policy, as part of a team comprising well-trained personnel such as psychologists and other professionals with a deep knowledge of mental health. In Lithuania, employers can follow the labour inspectorate's questionnaire which serves as a set of guidelines for the creation of internal policies. Purchasing mental health support and consultation services from private providers is a very popular option among the Member States. Such services can support employers in implementing internal policies and provide services to employees including workshops, seminars and psychological counselling services. In April 2021, Spain's Labour Inspectorate published a document of technical criteria for its actions with regard to psychosocial risks. The inspectorate offers technical criteria to inform interested parties about the governing body's interpretations of certain issues relating to labour regulations that concern psychosocial health. The document describes psychosocial risk factors at the workplace such as conflicts in work scheduling, a lack of effective occupation, monotonous or repetitive tasks, accidents at work, and sick leave due to anxiety or depression. The document states that the psychosocial risk factors can be present in all types of work without exception, regardless of the size of the company, the sector of its activity, the type of position held or its level in the organisation's hierarchy. Individual risk factors are seen as processes that do not act independently of each other, and that there is often a sequence and interaction between these various factors (Labour and Social Security Inspectorate in Spain, 2023).

As every company has a different risk profile, its policies must reflect the specific needs of its employees. In Lithuania, the protection of employees covers not only their working hours, but also trips to work and back, various work parties and events, and business trips. Moreover, employers are required to provide additional support to employees who belong to vulnerable groups such as breastfeeding mothers, persons with disabilities, etc. Every employee is entitled to equal rights, dignity, and the possibility to learn and develop. In Finland, The Occupational Safety and Health Act 738/2002 has also prompted organisations to develop and implement guidelines and policies to address workplace bullying. When they carry out an inspection in a workplace, safety and health inspectors are required to discuss inappropriate behaviour and harassment. A survey called 'VALMERI' is used, which includes a question about harassment and inappropriate behaviour.

Employers can also assign dedicated members of staff to be responsible for health and safety in the workplace, to ensure that the matter is addressed thoroughly. Such employees (as well as their employers) must undergo **training** on mental health risks in the workplace and on ways to combat such risks. In Finland, all workplaces with more than 10 employees are legally required to appoint an **ombudsman** for health and safety; workplaces with more than 20 employees must appoint a **health and safety committee**. Human resources specialists also play an important role in supporting employees' mental health.

3.3.1. Processes followed and sanctions imposed in cases of non-compliance

To ensure that employers comply with legislation, all Member States carry out planned and unplanned **external inspections**, organised by their respective labour inspectorates. Monitoring and enforcement by labour inspectorates are carried out in two main ways. The first is for labour inspectors to visit enterprises to assess the level of OSH; the second is to encourage employers to make improvements to OSH through the use of safety campaigns targeting specific categories of enterprises. The number of planned workplace inspections depends on the country and its yearly quota (for example, 30,000 inspections are carried out each year in Finland) (OSH wiki, 2022a). Workplaces are ranked and inspected in priority order, based on anticipated level of risk. Unplanned inspections are also undertaken. These are carried out in addition to the planned quota and preselected workplaces and are undertaken in cases where the inspectorate receives complaints or tip-offs from employees,

customers who have witnessed violations, and other sources. In Lithuania, most such complaints are received from employees working in the health, education, and social services sectors. As a consequence, the risks in these sectors are well known, and a large number of programmes have been set up to support employees working in these sectors (State Labour Inspectorate, 2022).

For labour inspectorates in the case study countries, inspectors also evaluate mental health risks in the workplace, and propose plans to remove or mitigate such risks. The Lithuanian government's Methodological Instructions for the Investigation of Psychosocial Risk Factors[40] state that inspections must include risks relating to the working environment (such as working in the presence of dangerous factors); workload (too heavy or too light, pace of work, etc.); work organisation (working hours, shift work, type of employment, etc.); work content (too large or too little influence on work content, monotony, lack of autonomy, etc.); and factors relating to social relationships in the workplace (harassment, bullying, mobbing, lack of influence over work decisions, etc.). The inspectors who conduct these risk assessments are well informed with regard to the identification and neutralisation of psychosocial risks. Prior to each inspection, the inspector prepares an inspection plan that is agreed with representatives of the employer and employees. This plan includes the psychosocial risks to be inspected, the methods used for the inspection (observation, document and data analysis, questionnaires for employees), and the estimated number of employees who will be interviewed. Such plans are based on the sector of the organisation to be inspected, the types of service it provides, the work environment and work tools, working hours, recent changes to the workplace, and the stress prevention measures in place in the workplace.

Following an inspection in Finland, Germany, Lithuania, Spain or the Netherlands, the inspector can provide written advice regarding minor deficiencies, or issue an improvement notice regarding observed practices that are non-compliant with legislation and which pose a risk that is more than minor (Website of the Occupational Safety and Health Administration in Finland, 2022; State Labour Inspectorate in Lithuania, 2023). This improvement notice will set a deadline by which the employer must comply with the law. If the employer fails to make the necessary changes within the deadline laid down, this leads to a decision by the occupational safety and health authority, imposing **obligations on the employer**. In addition, the employer may receive a **fine**. In the Netherlands, fines currently range from EUR 340 to EUR 50,000 for a single offence by an employer with more than 500 employees. Smaller companies are charged a percentage based on their number of employees. Individual employees can be fined a maximum of EUR 450 (Rijksoverheid, 2022). In extreme cases, occupational safety and health inspections may lead to **prosecution** if the OSH authority detects violations that are punishable under the country's criminal law (Website of the Occupational Safety and Health Administration in Finland, 2022; State Labour Inspectorate in Lithuania, 2023; Labour and Social Security Inspectorate in Spain, 2023. Occasionally, revisionary inspections may be carried out. However, these are uncommon, as although the measures must be implemented immediately to protect employees from the psychosocial risks, it usually takes a long time to see the results of these implemented measures and the effect that eliminating these psychosocial risks has on workers' mental well-being.

Although the procedures used for the inspections, as well as the sanctions available in the event of breaches being detected, are the same in all Member States, the content of inspections differs. Interviewees from Finland were concerned that no clear guidelines exist as to what aspects of mental health risks must be inspected, and how these should be evaluated (FI1; FI2; FI3; FI4). They also noted

[40] Full title: Methodological Instructions for the Investigation of Psychosocial Risk Factors as approved by Order No V-699/A1-241 of the Minister of Health of the Republic of Lithuania and the Minister for Social Security and Labour of the Republic of Lithuania of 24 August 2005 'On the approval of the Methodological Instructions for the Investigation of Psychosocial Risk Factors'.

that the 'VALMERI' questionnaire is insufficient to support inspectors and employers. According to interviewees, the process leaves too much room for inspectors' individual improvisation and interpretation, which results in a lack of systematic measures and harmonisation among Finnish workplaces. Lithuania's Methodological Instructions for the Investigation of Psychosocial Risk Factors stand out – according to interviewees for the national case study, these instructions have a great influence on both inspectors and workplaces. As a result, employers understand more clearly what is required of them with regards to internal policies and measures, and inspectors feel more confident when inspecting various types of workplaces irrespective of their sector. Nevertheless, interviewees from across the case study countries recognised the value of including an assessment of psychosocial risks in labour inspections and reported improvements among those enterprises that have undergone such inspections (FI1; FI2; FI3; FI4; LT1; LT3).

3.4. Examples of good practice in EU Member States

This section of the report focuses on good practices from the countries selected for the case studies, as well as drawing on examples from other Member States.

3.4.1. Most valuable aspects of legislation in EU Member States

Most of the legislation and initiatives in the Member States that relate to mental health in the workplace are still fairly new. As yet, therefore, little information exists with regard to their results. However, the Lithuanian labour inspectorate's report on the state of employees' health and the implementation of the requirements of the national labour code and Occupational Health and Safety Act suggests that legislation, national plans and programmes have achieved a positive overall effect on employees and workplaces in the country (State Labour Inspectorate of the Republic of Lithuania, 2022). The report states that since updates to the legislation were implemented and various campaigns were carried out in workplaces, the labour inspectorate has received a significant increase in complaints from employees (in 2020, 16 complaints concerning psychosocial risks were received; in 2021, this rose to 128 complaints), and more of these complaints were relevant. This trend suggests that employees are now better informed and educated about their rights and duties with regards to mental health in the workplace (five complaints were confirmed or partially confirmed in 2020, and 50 in 2021). According to the aforementioned report and interviewees from Lithuania (LT1; LT3), prior to national efforts and improvements in legislation, many complaints concerning mental health in the workplace related to employees' personal dissatisfaction with their work, without any real organisational grounds. Now, complaints are informed by policy and by measures to support mental health in the workplace. Moreover, the report states that companies which are visited by labour inspectors show improvements in ensuring workers' health and safety (State Labour Inspectorate of the Republic of Lithuania, 2022).

According to the interviewees, the most beneficial and influential aspects of the current legislation are:

- **The right to disconnect**, currently provided by legislation in Portugal, France, Spain, Belgium, Greece, and Italy. Meanwhile, Ireland has a Code of Practice for Employers and Employees on the Right to Disconnect (2021), which supplements the Organisation of Working Time Act (1997). Although the Act does not specifically talk about the right to disconnect, this right is implied by its provisions, such as a right to rest for at least 11 hours after a working day (WRC, 2021). The Netherlands is also making steps towards enshrining this right in law. With changes to work organisation meaning that more employees now work remotely, the boundaries of work and life have blurred, resulting in the inability of employees to relax, both mentally and physically. When employees can be contacted at all times, they tend to check their work emails during evenings and weekends, constantly placing themselves under pressure. The right to

disconnect therefore directs employers and employees to form agreements on being unreachable outside working hours. In this way, complaints relating to psychosocial risks such as stress and burnout can be reduced by placing limits on how and when workers can be contacted. Spain's Organic Law 3/2018 on the Protection of Personal Data and Guarantee of Digital Rights (BOE-A-2018-16673) and Law 10/2021 on Remote Working also ensures that employees working remotely do not only have a right to disconnect but are also protected when making use of audio-visual or geolocation technologies at work.

- **Recognising burnout as a legitimate occupational disease**. There is variation across EU Member States in whether burnout is recognised as an occupational disease. In Latvia and Italy[41], burnout is explicitly identified on the list of occupational diseases (Eurofound, 2018). In a wider set of countries including Denmark, Estonia, France, Hungary, the Netherlands, Portugal, Slovakia, Sweden, Cyprus and Malta burnout may be acknowledged as an occupational disease (Lastovkova et al, 2018; Canu et al, 2019). In Denmark, Estonia, France, Hungary, Malta, Slovakia and Portugal, burnout may be recognised as an occupational disease through an open or flexible item in the list of occupational diseases (Lastovkova et al, 2018; Canu et al, 2019). In the Netherlands and Sweden, which do not use formal lists of occupational diseaseses, any disease or injury can be recognised as occupational provided there is sufficient evidence of causality (Latovkova et al, 2018). The recognition of burnout as an occupational disease may mean that employees are entitled to benefits such as extended paid sick leave, as is the case in Denmark, France, Latvia, Portugal, and Sweden (Lastovkova et al, 2018)[42].
- **Clear guidelines and standards for employers and inspectors to assess mental health risks in the workplace**. Lithuania's Methodological Instructions for the Investigation of Psychosocial Risk Factors are very specific and provide clear steps for inspectors and employers to follow when assessing and improving working conditions with regards to mental health in the workplace. They encourage employers to assess their own workplace and assist inspectors in assessing workplaces more thoroughly. Germany is also developing a standardised model for risk assessment (Sträter et al., 2022). The model serves to standardise approaches to assessing mental strain in the workplace, which can then be adapted to the needs of specific sectors and situations. Just as in the Lithuanian Methodological Instructions, the basic model includes questions regarding types of work and employee tasks, communication and cooperation, work structure, etc. Additional modules in Germany include questions for persons working in the health sector, for those whose stress may be related to technology, or for those working from home. Other, optional modules include questions relating to short- and long-term strain (such as fatigue and stress, burnout and insomnia), and in relation to work-life balance. The Joint German Occupational Safety and Health Strategy (GDA) also outlines recommendations for employers to consider when putting the country's Occupational Safety and Health Act into practice and provides the basis for a bottom-up approach to addressing mental health issues in the workplace. This was highlighted as a good practice in particular due to its practice-oriented nature, and because it provides the opportunity to monitor how employers implement the Act for the Protection of Young Workers (ArbSchG). Spain's Labour Inspectorate's technical criteria for its actions with regard to psychosocial risks is another good

[41] In Italy, burnout is recognised in the list of occupational diseases from the National Institution for Insurance against Accidents at Work (Istituto nazionale per l'assicurazione contro gli infortuni sul lavoro, INAIL) (Eurofound, 2018). However, other sources state that burnout syndrome cannot be recognised as an occupational disease in Italy (Lastovkova et al, 2018; Canu et al, 2019). This is because in Italy, burnout can only be reported as possibly having an occupational origin, without any accompanying benefits (Lastovkova et al, 2018).

[42] This section was revised in November 2023 to remove Germany from the list of countries that recognise burnout as an occupational disease and to add further clarifications with regard to the situation in other Member States.

example, providing inspectors and employers with clear lists of psychosocial risk factors, that need to be considered and addressed. Spain, as well as other case study countries, also involve employees and their representatives in the process of internal policy creation regarding psychosocial risks. This is also recognised as a positive practice, as employees and their representatives know the realities of their work the best and can define what risks have to be monitored and addressed with particular attention (ES1; ES2).

- **Avoiding the specification of lists of vulnerable sectors**. Due to their subjectivity, psychosocial risks are more complicated to address than physical risks: some factors may be perceived as risks by some employees but not by others (e.g. remote work). Moreover, some risks may also be more prevalent in certain sectors compared with others (e.g. sexual harassment in the transport sector). For this reason, employees and their representatives are best placed to understand their own needs and the risk they face. Lithuanian and Finnish experts therefore advised against specifying lists of vulnerable sectors in legislation. According to these experts, such lists may be limiting, as every company faces its own unique challenges, and the mental health of all employees is equally important regardless of the sector. The absence of such lists ensures that employers (together with employees and their representatives) from all sectors are encouraged to assess their unique risks and select the most appropriate measures. Interviewees from Lithuania added that the most extreme vulnerabilities in certain sectors (e.g. health and education) are supported by various programmes, usually implemented by the relevant ministries, and that these measures are sufficient (LT1; LT2; LT3).

3.4.2. Concrete targets and measures for successful programmes, plans and tools

Most programmes target concrete mental health risks and/or sectors that are exposed to mental health risks or are directed towards providing goals and measures for the overall improvement of mental health in the workplace. One example of a **programme focusing on specific sectors** is the Programme regarding the approval of the 2021-2022 annual plan for actions to reduce the long-term negative consequences of the COVID-19 pandemic on individual and public mental health in Lithuania. This plan recognises the mental strain caused by the pandemic for essential workers and includes various measures to quickly rehabilitate essential workers and improve their mental health. According to interviewees (LT2; LT3), this programme proved very successful, and has already achieved positive results with regards to the mental well-being of essential workers such as nurses, doctors, social workers and others.

Similarly, in the Netherlands, the Broad Societal Cooperation on Burnout initiative was specifically tailored towards groups at high risk of developing burnout. The programme includes innovative ideas for extensive cooperation and is aimed at sectors in which workers have the highest risk of developing burnout, namely healthcare, education, ICT and manufacturing (Van Ark 2021; Wiersma, 2021).

Also in the Netherlands, the National Action Plan for Sexual Misconduct and Sexual Violence (*Nationaal actieplan Aanpak Seksueel grensoverschrijdend gedrag en Seksueel geweld*) represents an example of good practice, according to research undertaken by various government ministries (Dijkgraaf and Van Gennip, 2022; Uslu, 2022). One innovative and well-targeted aspect of the programme is its focus on the *vertrouwenspersoon*: a confidential advisor/intermediary to whom employees can turn with reports or complaints about inappropriate behaviour such as aggression and violence, sexual harassment, bullying and discrimination. To support the measure, a toolbox was developed for advisors (*vertrouwenspersonen),* as well as a code of conduct toolbox and an online platform professionalising the role. Sectors that are recognised as being the most vulnerable in terms of sexual harassment

include the transport sector, agriculture and the construction sector, where the presence of women workers are less common (EU4).

Successful programmes which target all employees include Mental Health Support Tools in Finland, PSYCHE in Germany, and Healthy Companies in Spain. Mental Health Support Tools were first introduced in Finland for the period 2021-2023, but due to the initiative's success, remain an important element of support for employees' mental health, and have been further developed to address additional risks. According to interviewees (FI3; FI4), the use of these tools has had a positive impact on employees' health, and their application has resulted in a demonstrably lower incidence of sick leave due to mental health issues. The tools can be used both by individuals and collectively in the workplace. For example, the 'Well-being at Work Test' helps users to identify their feelings and put them into words (Mental Health at Work Programme, 2022). The 'Recovery Calculator' helps users to assess their working environment, which is especially useful for roles such as shop stewards. The 'Substance Abuse Programme Tool' can be used by an organisation to draft a substance abuse programme tailored to its own needs. Similarly, the work programme PSYCHE in Germany can be seen as a good practice, as it enables employers to follow up on their legal obligation to carry out risk assessments by providing a platform for training and information. The Spanish Healthy Companies initiative has received positive reviews and gained even greater attention throughout the COVID-19 pandemic. Companies have complied with the quality criteria laid down by the government in order to receive a certification, which then helps them to attract potential hires, who are drawn to certified workplaces.

3.4.3. Other notable good practices

Other Other good practices exist that do not neatly fall into the previously described groups of measures. One example is the Finnish Ministry of Labour and Health's recently implemented pilot study on short therapy to alleviate the long waiting lists caused by a lack of available psychologists. Short therapy is intended to last only a few sessions and is aimed at helping employees to deal with pressing and especially burdensome matters. This form of therapy can also be used while people wait to receive longer-term, traditional therapy: its turnover is much quicker, allowing more people to receive help in a timely fashion. During the pilot, short therapy was found to be highly effective, and by 31 December 2023, it will be made available across Finland (FI4). Meanwhile, in Spain some employers offer employee support programmes, offering services such as **counselling and mental health support**, to help workers to address mental health issues and improve their overall well-being. Similar practices are to be found in Lithuania, but these are solely based on the employer's initiative.

Other measures such as **questionnaires for inspectors and occupational healthcare services** in Finland also good for supporting the implementation of policies to provide mental health support (FI1; FI3). While questionnaires for inspectors have been criticised as being insufficient and in need of further development, interviewees still recognised them as a good attempt to support the work of inspectors (FI1; FI3). As every workplace in Finland must have occupational healthcare providers and involve them in workplace assessments and policy creation, questionnaires ensure that internal policies are agreed upon together with mental health professionals, and do not rely merely on the judgement of employers. In Spain, some employers offer **training and education** for their employees and managers on mental health and well-being, thus improving their understanding of the issues and better equipping them to help their colleagues.

In Finland, a nationwide **telephone service** is provided by the occupational health and safety authority, which anyone can call if they have any questions, concerns, or have experienced incidents in their workplace. This phone number is usually used by employees to report issues in their workplace, or by clients to report an incident they have witnessed at a certain company. However, this number is

also used by employers and their health and safety representatives as a tool for consultation. It can be used anonymously in cases where employers do not wish to disclose their workplace for fear of punishment or reprisals. According to interviewees (FI3; FI4), this type of consultation is quite popular, and is used frequently. According to the interviewees, the main factor in its success is the anonymity available to employees and employers.

Campaigns targeting the general public have also been identified as an important tool in ensuring that employers and employees are well educated on the importance of mental health in the workplace. One good example is Finland's Better Sooner Than Later media and social media campaign, according to the interviewees (FI1). This campaign stressed the importance of using preventive measures rather than dealing with later consequences that are harder to solve and more costly – emphasising that some prevention measures are completely cost-free, such as support from employers and colleagues. Similarly, some employers in Spain have worked to create a culture of openness and support around mental health issues, encouraging workers to speak openly about their mental health and providing resources and support to help them cope with mental health issues.

3.5. Gaps in legislation in the EU Member States

Despite the widespread efforts of Member States to improve workers' mental health, there is still room for improvement even in those countries that have made the most progress. This section summarises the main shortcomings and policy gaps identified in the EU-27 Member States in relation to mental health in the workplace. This assessment is largely based on information obtained through semi-structured interviews. While these interviews primarily provided insights relevant to the case study countries, our literature review reveals gaps in legislation more widely across the EU.

3.5.1. Current legislation is imperfect, and gaps need to be addressed

Overall, most interviewees felt that legislation in their respective countries was adequate, and that efforts should focus instead on the practical implementation of the legislation. Nevertheless, 'holes' exist in current legislation that should be addressed.

First, the **concepts of mental health and psychosocial risks in the workplace** are understood differently by ministries, trade unions, employers and others. (LT2; LT3). The Federal Institute for Occupational Safety and Health (BauA) in Germany notes that the current rules and regulations lack uniformity with regard to the definition of key terms such as mental strain (Beck and Schöneich-Kühn, 2023). Different interpretations of concepts lead to confusion over what specific aspects of employees' health must be protected, and what tools should be selected to do so. Moreover, differing interpretations lead to uncertainty on the part of employers in terms of whether and to what extent employees' mental health is the personal responsibility of employees, and how much it is the concern of work organisation and the work environment (LT2; LT3). Interviewees at EU level suggest that when we talk about workplace, we talk about 'psychosocial risks' rather than mental health (EU3; EU4). Psychosocial risks are aspects that can be controlled, and their elimination reduces employees' exposure to mental ill-health. Meanwhile, mental health is a much broader concept that is a public health issue. Interviewees also believed that the terminology used should also refer to specific risk factors (FI2; FI3), such as workload, work organisation and control over work, rather than generic terms such as mental illness, which may be misunderstood by employers. The experts from Finland noted that because it takes time to update legislation, some of the terminology is outdated, while some novel and important concepts are not included, such as workload and work community (FI2; FI3; FI4). Lithuania is undertaking a programme to define mental health and psychosocial risks at work and unify them across all legislation and programmes by the end of 2023.

Moreover, current legislation leaves a considerable amount of **room for interpretation**, and although it clearly tasks employers with protecting their employees' mental health, the boundaries of these responsibilities are not clearly defined, and **employers remain in a position of power over their employees**. For example, if an employee has to leave work for an hour to attend therapy during the working day, or needs some other type of special working arrangement for a certain period (e.g. reduced workload) until their mental health improves, this depends entirely on negotiation with their employer, and their employer's willingness to support them (FI3; F4). The examples in our case study countries show that while health and safety legislation requires employers to create conditions to ensure their employees' mental well-being, the boundaries of this responsibility, as in the case presented, are sometimes unclear. Interviewees from Lithuania and Finland (LT2; LT3; FI2; FI) believed that this situation should be regulated at national level, and that employers should be obliged to provide better conditions for employees to improve their mental well-being. It is also important to foster the design of structured return-to-work policies and to promote a flexible and gradual return to work for those who have suffered from mental ill-health. The employment and income of employees affected by mental ill-health should be protected at all times.

Another important issue, according to interviewees from Finland (FI1; FI2; FI3; FI4), is that **occupational stress and burnout are not recognised as occupational diseases** in many countries, including Finland, Lithuania and Spain. In Finland, the only solely occupational disease recognised as an illness for which employees can receive sick leave and compensation is post-traumatic stress disorder (PTSD). Cases in which workers experience burnout are categorised as either 'anxiety disorder' or 'depression'. This prevents employees from gaining the necessary help, as anxiety and depression may be perceived by employers as being a personal issue rather than an issue of work organisation. In Germany, the Federal Institute for Occupational Safety and Health identifies a lack of consideration given in the current legislation to the impact on mental health of social relationships at work, emotional labour and work structure (Beck and Schöneich-Kühn, 2023). The DGB (German Trade Union Confederation) demands that stress in the workplace be included in an anti-stress regulation, to better protect employees from mental strain and to ensure better monitoring of employees (DGB, 2019).

3.5.2. Some vulnerable groups are insufficiently protected

While the legislation in all Member States pays particular attention to vulnerable groups such as pregnant women and young workers, there is a lack of recognition for the **ageing workforce**, **persons with (mental) disabilities**, and another particularly vulnerable group of workers – **migrant workers**.

Interviews with experts from Finland and the Netherlands suggest that **migrant workers** are more likely to experience poor treatment from their employers (NL1; F13; F14). Research from the Netherlands shows that migrant workers also have restricted access to healthcare, tend to work longer hours, and receive lower wages (Pharos, 2022). Migrant workers may be less familiar with local legislation, responsible entities and their rights, and therefore less likely to report discrimination, harassment, bullying or other incidents that negatively affect their mental health (FI1). Although WORK 2030 in Finland provides for special support for migrant workers, as yet it is unclear whether any relevant measures have actually been implemented.

Migrant workers are specifically considered a vulnerable group in Spain. According to studies carried out in the country, 'migrant workers are more likely to suffer from exposure to psychosocial risks at work due to a lack of social and family support in the country of relocation' (Ronda-Pérez et al., 2014). Furthermore, integration-related issues can also impact on the mental well-being of migrant workers - a factor also highlighted in the study: 'Lack of support from co-workers and supervisors is also common, mainly because of cultural and language barriers' (Ronda-Pérez et al., 2014). Another study provides

additional evidence that migrant workers constitute one of the most vulnerable social groups, claiming that they are 'exposed to poor employment and working conditions, especially during times of economic recession' (Torá et al., 2015). Such circumstances can lead to greater job insecurity, which has been linked to poor employee well-being, in the form of mild-to-moderate depressive and anxiety disorders (Probst and Jiang, 2017).

More measures should also be directed towards the **ageing workforce** (Irt.lt, 2021). In the global and technology-driven economy, ageing employees experience particularly high job demands and a lack of control over their work, both of which are predictors of early retirement (Elovainio et al., 2007). High job demands and a lack of control were identified as the main factors negatively affecting older workers' mental well-being and job satisfaction. Digitalisation is recognised as placing a significant burden on ageing employees, making it important to ensure possibilities for life-long learning that may help to reduce the stress experienced by ageing workers (Irt.lt, 2021; FI2; FI3; FI4).

In interviews, German experts noted a lack of attention to the mental stress experienced by mothers, with current legislation being neither age- nor gender-sensitive enough (DE3). This can be seen in terms of the hazards to which those in customer-facing roles are exposed, regarding which there are evident risks but as yet no binding regulations (DE3).

The Finnish case study shows that while the rights of **workers with disabilities** are protected under national legislation, in reality, employers may be reluctant to hire people with mental health problems or intellectual disabilities, and who may require special working conditions (FI3; FI4; YLE, 2022). It may be especially hard for young workers with disabilities to enter a labour market in which even young people with no disabilities face challenges (Mattila-Holappa, 2018). In Germany, employers who fail to meet disability quotas are penalised, which was highlighted by experts from Finland as a model to be followed by other countries (FI3; FI4; YLE, 2022). Moreover, more information and support should be provided to employers who hire people with disabilities and people suffering or recovering from mental ill-health (Kehitysvammaliitto, 2023). There is also a need for more job coaches, who are employed together with people with intellectual disabilities in Finland, in order to help to utilise the skills of these workers (Kehitysvammaliitto, 2023.). Necessary support should also be ensured for people who work part-time or under temporary contracts, as currently the most systematic inclusion and measures are only available to those in long-term, permanent employment (Mattila-Holappa, 2018).

3.5.3. New forms of employment and risks are insufficiently addressed

The interviews carried out for the case studies reveal a lack of tools to deal with new and emerging risks, such as those arising from **remote and hybrid work**. At national level, existing legislation pays insufficient attention to **precarious forms of employment, platform workers**, and workers in the **gig economy**. According to some interviewees (LT1; LT2; FI3; FI4), although national legislation mentions new forms of employment and new and emerging risks, there is a lack of supplementary documents that address these issues in detail and provide support measures. Research has shown that employees working in precarious forms of work and in the gig economy have an increased likelihood of exposure to certain psychosocial risks (EU-OSHA, 2007; Kvart et al., 2021). For example, they experience greater job insecurity, which is one of the most common psychosocial risks seen across the EU (OSH wiki, 2022b). Due to their form of work, such workers also enjoy a low level of workplace protection, and too few receive mental health support measures such as OSH training. This may be because people who work irregularly, who work entirely remotely, or who are self-employed, are harder to reach and are often overlooked. **Self-employed workers** have sole responsibility for taking care of their mental health, and when working from home they are at high risk of social isolation, and receive little to no

support (Bérastégui, 2021). People who work from home, especially those who are self-employed, are rarely contacted or visited by inspectors.

Remote work or telework poses additional challenges, such as the tendency to work long and irregular hours, and the blurring of boundaries between work and family life (Lott, 2017; EU-OSHA, 2021; EU-OSHA, 2022a). Teleworkers use digital technology as their main tool of work, which creates an increased risk that they will remain 'switched on' outside of working hours (European Parliament, 2021; Palumbo, Casprini and Montera, 2022). While debates are ongoing across Member States on the right to disconnect, in most countries no such right has yet been formalised. Spain is an outstanding example among case study countries regarding protection of remote workers. Spain pays particular attention to these workers' health and safety and seeks to ensure that they have the same rights and protection as workers who work in employers' premises. Spain provides workers with the right to disconnect and seeks to ensure their personal and family privacy with the Law 10/2021 on Remote Working.

3.5.4. Insufficient recognition of the impact of monitoring technology

The governments of the countries analysed in the case studies have acknowledged the fast pace of developments surrounding monitoring technology, often facilitated by AI, and its possible impact on the modern work environment. They are well aware of the fact that when organisations focus too intently on deploying workers as efficiently as possible using monitoring tools, this can lead to excessive work pressure. Such risks, however, have not been sufficiently well addressed (Koolmees, 2021 Das, De Jong and Kool, 2020). As explained previously in this study, stress due to technology is especially common among ageing employees (Irt.lt, 2021; FI1; FI3; FI4). Moreover, digital surveillance can reduce job autonomy and increase the pressure to work longer hours (European Parliament, 2021; Deshpande et al., 2021). Work pressure is defined as an aspect of psychosocial workload according to the national occupational health and safety acts in the analysed countries, which means that the use of monitoring technology should form part of risk assessments, and measures should be implemented to reduce this risk.

Beyond pre-existing legislation governing data protection and labour conditions, almost no legislation or policy yet exists to address the risks (and opportunities) arising from the use of monitoring technology in relation to work in any of the case studies countries. Only Spain as already mentioned in the previous section has Law 20/2021 on Remote Working and also Organic Law 3/2018 on the Protection of Personal Data and Guarantee of Digital Rights (BOE-A-2018-16673), which incorporated the European Union's (EU) 2016 General Data Protection Regulation (GDPR) into Spanish law. According to the laws, employees are protected against the use of video surveillance devices and sound recording and are provided with the right to privacy against the use of geolocation systems in the workplace. Meanwhile, in Finland, according to the interviews, there is a tripartite working group on improving labour legislation; one of the objectives of which is to address new and emerging risks, such as the risks arising from monitoring technology (FI3, FI4).

3.5.5. Challenges to compliance with legislation

The most prevalent criticism found in the literature and expressed by the experts interviewed is a widespread **lack of compliance with legislation** (FI4, ES1; ES2).

Inspections do not reach all workplaces, and the companies that are inspected are usually the largest ones which already have solid mental health policies in place. Smaller companies tend to have smaller budgets, fewer available resources, and limits on staffing, and thus tend not to invest in protecting the mental health of their workers (EU-OSHA, 2022a; Leka and Jain, 2016; DE1; LT2; FI3; FI4; ES1; ES2; ES3). One interviewee from Germany (DE3) spoke of the difficulties faced by smaller compares in complying

fully with legislation, emphasising that requirements placed on companies should be realistic and potentially, proportional to organisation size. Companies that are less visible and less well informed tend not to comply with legislation, and because they are inspected infrequently (if at all), they fail to improve. A study by Beck and Lenhardt conducted in Germany showed that only 27% of companies considered psychosocial risk factors in their assessments, despite being required to do so by law (Beck and Lenhardt, 2019). Interviewees stated that it is currently more worthwhile for many companies, especially smaller and less visible ones, to take the risk of not complying with legislation regarding mental health in the workplace, knowing that they are unlikely to be monitored (DE1; FI3; FI4). Moreover, because the first step with regard to sanctions for non-compliance (except for those acts punishable under the criminal law) is merely a written notice or a relatively small fine, it again makes more financial sense for employers to take such a risk.

As competition to attract talent in the workforce becomes more intense, large employers are increasingly motivated to implement mental health measures for their employees to make their workplace more attractive. According to experts from Lithuania, as the economy and labour market become more globalised and remote work becomes increasingly prevalent, employers must offer more than just a competitive salary to attract top talent (LT1; LT2; LT3). Consequently, many Lithuanian employers have implemented measures to protect their employees' mental health, placing it third on the list of reasons that are most important to employees in the workplace (LT3). This shift in priorities highlights the growing recognition of the importance of mental well-being in the workplace.

Research and the insights from the interviewees also suggest that **employers lack knowledge** and awareness of the importance of employees' mental health; indeed, this is among the most important factors resulting in non-compliance with legislation. A recent study by EU-OSHA showed that the majority of employers interviewed in the Netherlands were completely unaware of national legislation regarding psychosocial risks in the workplace (Wester and van der Valk, 2022; Broughton et al., 2022). Due to this lack of awareness, employers seldom acquaint themselves with the relevant guidelines and recommendations, and nor do they formulate internal policies (Wester & van der Valk, 2022; Broughton et al., 2022; NL1). It was found by researchers in the Netherlands that managers generally place greater emphasis on 'thinking logically' in certain situations, and that smaller organisations in particular do not deem it necessary to put in place formal actions on prevention (Wester and van der Valk, 2022; Broughton et al., 2022). Interview data show that, due to a lack of knowledge, employers in many cases rely on measures such as mindfulness and yoga, which may help to reduce the symptoms of stress, but certainly do not address issues such as micromanagement, bullying, etc. (EU3). Moreover, one interviewee from the Netherlands noted that managers and leaders across all sectors are generally not formally trained in managerial skills, making it harder for them to recognise and act on mental health issues in the workplace (NL1). Awareness raising and training also help to reduce stigma, especially in sectors where it is most prevalent, such as the construction and agriculture sectors (EU4). According to one interviewee from Finland, there is a need not only to educate employers, but also for stricter measures to ensure that all employers 'start to show interest in the available resources such as guidelines and recommendations at EU and national levels and take care of their employees' mental health' (FI3).

EU-OSHA reports that while labour inspections in the Netherlands and Germany are more frequent than in the other countries examined, such visits rarely focus on psychosocial risks (Broughton et al., 2022). According to interviewees from Finland, this is partly due to a **lack of standardised risk assessment tools** and **proper guidance** for inspectors on what mental health risks to assess, and how to properly assess these (FI1; FI2; FI3; FI4). Interviewees from Germany suggest that a lack of standardisation also has a negative effect on employers' interest in conducting internal assessments

and creating internal policies to protect employees' mental health (DE1; DE2).

4. CONCLUSIONS AND POLICY RECOMMENDATIONS

Psychosocial risks are a significant concern for occupational health and safety throughout Europe. Despite the efforts of the EU and national governments to improve employees' mental health, these risks remain prevalent among workers. Work-related stress and other mental health challenges are widespread across Europe, and arise from various factors such as workload, work organisation, and digitalisation. Moreover, certain groups, such as immigrants, persons with disabilities, aging workers and young people are more vulnerable to mental health issues in the workplace. Emerging forms of work, including the gig economy, present additional challenges, such as job insecurity and the use of digital tools for employee monitoring.

Mental well-being is a fundamental right of every employee, and is essential for their productivity, for the success of the organisation for which they work, and for economic development in general. It is therefore crucial to ensure that all companies take measures to protect their workers from psychosocial risks. However, currently, only a minority of enterprises implement measures to prevent such risks at work, (Eurofound and EU-OSHA, 2014). This situation highlights the need to analyse existing legislation and initiatives at EU and national levels, to draw conclusions, and to make recommendations as to how to improve them. This chapter aims to determine the minimum requirements needed to ensure all EU employees are protected from psychosocial risks in their workplaces.

4.1. Minimum requirements for legislation

Gaps exist in EU legislation, and inequalities exist between Member States

Across the EU Member States, significant variation exists in the exposure of workers to psychosocial risk factors in the workplace that negatively impact mental well-being. This disparity is influenced by multiple factors, such as the structure of the labour market in a given country, demographic patterns, social and cultural differences, and national policy. Although some countries have made progress in addressing this issue through national legislation, strategies and programmes, other countries lag behind, leading to inequality among the European workforce.

Emerging psychosocial risks associated with digitalisation and telework have added to the need for greater coordination and consistency in policy responses across the EU. A coordinated effort would ensure that workers receive the same mental health rights and protection, regardless of where in the EU they live and work. While all Member States have in place legislation that protects employees from discrimination, regulates working hours and supports vulnerable groups, not all countries have enacted measures specifically aimed at safeguarding the mental health of all employees.

A European Directive that specifically and explicitly mentions psychosocial risks

EU-level legislation makes it possible to create a framework and to lay down a certain amount of detail and minimum standards. Although non-legislative approaches such as collective bargaining or social dialogue could be also seen as a way to address mental health-related issues in the workplace, the progress made in several EU member states (e.g. Belgium, Denmark, Germany, Finland, Lithuania, Spain, Sweden and the Netherlands) provides evidence on the benefits brought by regulation in the area. The Strategic Framework on Health and Safety at Work 2021-2027 and the recognition of the right to a healthy and safe workplace - including protection of workers' mental health - as a fundamental right by the ILO (2022) represent a 'window of opportunity' to address gaps in relation to the protection of employees' mental well-being in the EU Member States.

Framework Directive 89/391/EEC requires Member States to introduce legislation to cover all OSH risks. However, this directive does not refer specifically to psychosocial risks. EU legislation that refers

specifically and explicitly to psychosocial risks may be more likely to result in positive action being taken at the Member State level (EU2). Research conducted by EU-OSHA has found that employers are more likely to consider psychosocial risks in their risk assessment if national legislation refers specifically to psychosocial risks (EU2). New EU legislation in this area could create greater uniformity across the EU, bringing all Member States in line with countries identified in this study as performing well in relation to protecting workers' mental health. In the **European Parliament resolution of 10 March 2022 on a new EU strategic framework on health and safety at work post-2020**, the Parliament called on the Commission to introduce a **new directive on psychosocial risks and well-being at work**, developed in consultation with social partners). Just as the Framework Directive 89/391/EEC provided a starting point for many other directives, enacting separate legislation on psychosocial risks could also begin a cascade of similar actions with regard to mental health, raising the importance of protecting mental health to the same level as that for physical health.

Necessary elements of the Directive

- First, it is important that **the legislation distinguishes between 'psychosocial risks' and 'mental health'** When we talk about prevention, we focus on psychosocial risks and their elimination; meanwhile, 'mental health' refers more to public health as a whole than to employment (EU3). Psychosocial risks can be controlled, and employers can protect their employees against them, while mental health is a more complex phenomenon.
- **Legislation should prefer to psychosocial risks in concrete and specific terms**. Phrases such as 'psychosocial risks' or 'risks to mental ill-health' in the workplace may not always be well understood by employers and other actors (EU2). Moreover, there is a risk that legislation may not cover the full spectrum of psychosocial risks if these are not named individually. Thus, the legislative terminology should also refer to specific risk factors (as in Sweden), such as workload, work organisation and control over work, rather than to generic terms such as 'psychosocial risks' (EU2).
- Moreover, **legislation should address psychosocial risks related to telework and digitalisation of workplaces**. Developments in work organisation that accelerated during the COVID-19 pandemic have added new risks, due to changed ways of working (e.g. teleworking) and the rapid uptake of digital technologies. In the context of telework and digitalisation, the actual risks (working hours, social interactions, demands, control, monitoring, job security, communication) remain the same, but the context changes (EU2). Therefore, EU-level legislation on work-related psychosocial risks should be worded in such a way that it reflects modern developments and digital ways of working (EU2). In addition, **the right to disconnect should also be recognised at EU level**, as proposed by the European Parliament (resolution (2019/2181(INL)).
- The Directive should look at both **prevention and rehabilitation**, but the majority of efforts should be concentrated on preventive rather than restorative measures. Investing in preventive OSH measures is a fundamental contribution to work productivity, stress management and employees' overall wellbeing. Research shows that there is a current lack of preventive measures to address psychosocial risks in the workplace. Instead, employers tend to rely on their own knowledge or competences in human resource management when implementing internal policy and preventive measures. This often results in measures being selected that do not effectively protect employees from psychosocial risks (Wester and van der Valk, 2022; Broughton et al., 2022). For example, many employers are currently focusing on measures such as yoga and mindfulness, which may help to reduce the symptoms of stress, but

do not address fundamental issues such as long working hours, micromanagement, bullying, etc.

- Rehabilitation and compensation are also necessary for those workers who experience mental ill-health. Therefore, it is also important to consider whether EU legislation should require Member States to **recognise occupational stress and burnout as occupational diseases**. Currently, these are not recognised by a majority of Member States, which results in limited possibilities for workers in such cases to receive sick leave, compensation, and appropriate treatment.
- Psychosocial risks can arise in any workplace, so the **legislation should be universal, applicable to all workplaces**, regardless of the sector or the size of company. Examples of good practice from the countries selected for the case studies in this report show that a universal approach would be welcomed and is the best approach to ensure that the safety and health of every employee are protected equally. According to the experts interviewed, explicitly listing vulnerable sectors could have a limiting effect – that is, it might discourage employers in non-listed sectors to believe that they or their employees are not subject to the legislation. This would be counterproductive: every company faces its own, unique challenges, and the mental health of all employees is equally important, whatever their sector. In addition, some sectors or groups of employees might be more resilient to certain psychosocial risks, and more vulnerable to others. Legislation that is universal would ensure that employers in all sectors are obliged to assess their unique risks and select measures that respond to the needs of their employees.

Minimum standards to be set by the Directive

- **Employers should be obliged to conduct internal assessments of psychosocial risks in the workplace** in collaboration with their employees, or employees' health and safety representatives. Based on the results of such assessment, corresponding objectives, mitigation and prevention measures should be outlined in the internal OSH policy and monitored on a regular basis.
- **Employers should be obliged to pay special attention to potentially vulnerable employees**, such as immigrants, people with disabilities, people returning to work after leave for mental ill-health, etc. Such workers should be provided with necessary individual measures and reasonable adaptations to their work organisation.
- **External health and safety inspectors should be given clear guidelines for psychosocial risk assessments**. Suitable guidelines are already available, such as the ILO's (2022) 'Inspection actions to deal with psychosocial risks', and the EU Senior Labour Inspectors Committee guidelines concerning inspections that cover psychosocial risks. Thus, the adaptation and application of existing tools should be enforced across the various EU countries.

Implementation of universal EU-level **legislation should be supported by guidance for employers in different sectors and enterprises of different sizes**. At EU level, such guidance could contribute to raising awareness among employers of the importance of mental health at work and disseminating good practices. At national level, guidance tailored to the needs of employers of different sizes and in different sectors should provide them with a practical tool to apply new legislation. National governments should draw on inputs from social partners representing both employers and employees in developing information and guidance.

Employers should be better informed about legislation regarding psychosocial risks and available resources. Many employers lack knowledge and awareness of the importance of employees' mental health, which is among the most common reasons for non-compliance with legislation. Employers' lack of awareness regarding the importance of mental health in the workplace may result in lack of compliance with legislation and low uptake and use of the available information and support. Access to training, as well as other incentives for employers to put the new requirements into practice, could also contribute to a faster uptake of new legislation at national level.

4.2. Coordination of EU and national legislation

Binding legislation at the EU level could activate political will and collective action within the Member States. Implementing such legislation would require national bodies such as ministries of labour and health, as well as labour inspectorates, various health and safety authorities, trade unions and employer representatives, to join forces. Governments - in consultation with organisations representing workers and employers - will play a critical role in enabling interventions to support the necessary measures. New EU-level legislation will have to be incorporated into existing and newly developed national legal and strategic frameworks across the EU. One way to ensure the proper transposition into national law is through the use of **national strategies and plans** in addition to normative acts.

When it comes to implementation, policymakers should provide **support for employers, trade unions, employer representativeness and other stakeholders** to promote awareness of the mental health at work issue and strengthen their capacities to apply the new legislation in practice. For example, these stakeholders could take part in training and other activities for employers.

In general, **greater cooperation is needed between public health bodies and workplaces**, through the efforts of various actors including employers and labour inspectors, and greater involvement of trade unions. Through cooperation, these different actors can help to reinforce one other's efforts.

It is also important to **provide support and a forum for Member States to collaborate and exchange good practices**. This can be initiated in the framework of already existing networks such as EU-OSHA's network of occupational safety and health agencies at national level and DG SANTE's network 'Mental Health in all Policies' or by establishing a new platform or community for peer learning and exchange of practice.

In the future, new legislation and initiatives should be developed on the back of **evidence-based research and views collected** from numerous stakeholders, including NGOs operating in the field of mental health, and other relevant stakeholders. According to the interview data collected during our study, evidence-based research is needed in order to better understand which measures work best to protect employees from psychosocial risks in the workplace, and what further support is needed (EU4). For such research to be based on reliable and comparable data, the development of a common **framework for monitoring the implementation** of interventions and programmes targeting issues relating to psychosocial risks and mental health at work could be initiated.

4.3. Funding opportunities

It is crucial to invest in support for mental occupational health and safety as a fundamental contribution to work productivity and employees' overall well-being. European funding for mental health in the workplace should match that dedicated to for the protection of physical health (EU3).

Areas in specific need of funding include:

- **support** for small and medium-sized companies;
- further funding of **mental health support** in community-based services;
- **training** of employers and managerial staff;
- increasing the **number of labour inspections,** as well as the number of physicians and psychologists;
- increase funding for **evidence-based research**; and
- funding for **cross-sectoral and multi-stakeholder partnerships**, such as those between public and private organisations.

The case studies show that while many initiatives exist at national level, no robust evaluations have been carried out. It is therefore currently not known 'what works' in terms of reducing psychosocial risks and protecting employees' mental health. EU funding could potentially be used for the **monitoring and evaluation of programmes** aimed at strengthening the evidence base to inform policy.

Examples already exist of EU investments in mental health in the workplace. One is the **Magnet4Europe**[43] project, a four-year Horizon 2020 EU-funded project (Grant Agreement 848031) that aims to improve mental health and well-being among health professionals in Europe.

Another project is the **European Platform to Promote Well-being and Health in the workplace (EMPOWER)**[44]. EMPOWER is a research and innovation project focusing on the development and implementation of an eHealth platform to address mental health in the workplace from a multimodal perspective. It is also funded under the Horizon 2020 Programme.

A third pilot investment project is **RESPOND**[45]. This project aims to identify which groups are most at risk for adverse mental health effects due to the COVID-19 pandemic, and to understand what factors determine that risk. The project aims to implement and adapt cost-effective programmes to help those in need, and to identify effective strategies to improve the preparedness of health systems in the event of a future pandemic.

Magnet4Europe, EMPOWER and RESPOND have clear targets that are based on the most pressing issues in relation to mental health and well-being. These projects address either specific sectors or specific mental health issues, with research questions targeted at identifying the most adequate tools to improve workers' mental well-being.

Based on the evidence outlined in this study, we recommend:

- **Increased funding for the improvement of mental health in the workplace**, by expanding the scope and budget of projects similar to those listed above. This could include increasing the number of countries and professions covered, as well as increasing the overall budget allocated to these types of projects.
- Furthermore, **looking into ESF+ funding could be advantageous**. This could be used to support companies that wish to make changes to improve mental health conditions in their workplaces, including training for employees. Alternatively, such funding could be used by

[43] Magnet4Europe, 2020, At a glance. Available at: https://www.magnet4europe.eu/at-a-glance.html.

[44] Empower, 2020, *Project*. Available at: https://empower-project.eu/project/.

[45] Respond, 2023, *Respond Project*. Available at: https://respond-project.eu/.

public bodies such as national public health centres or bureaus to establish new programmes and instruments for the improvement of conditions relating to workers' mental health.

- In addition, it would be beneficial to focus on **implementing and adapting cost-effective programmes addressing the challenges relating to psychosocial risks and mental well-being at work**. This could include providing resources and support to organisations that are already providing mental health services in the workplace, as well as investing in new programmes and services that have been proven to be effective. Similar measures could be established to support SMEs.

Moreover, interview data suggest that stakeholders and employers do not always understand what funding is available, what its source is, and how it can be obtained (EU1; EU3; EU4). They suggest that, in addition to more funding being made available to tackle psychosocial risks in the workplace, there is a need for information and guidance so that potential beneficiaries can make full use of the funding available.

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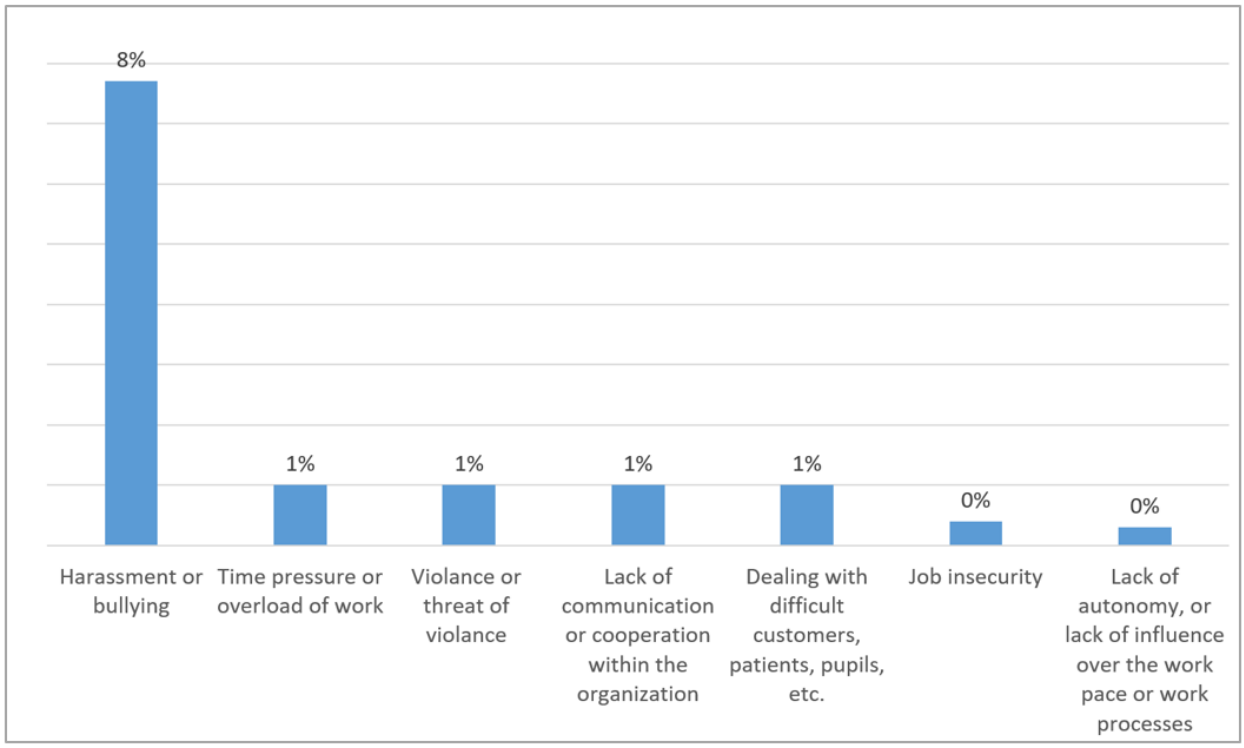
ANNEX 1. COUNTRY STUDIES

CASE STUDY: FINLAND

Introduction: psychosocial risks and vulnerable groups in Finland

In Finland, nearly 4% of the workforce report that they experience work-related stress, anxiety and depression due to their working conditions, while 58% report that they are exposed to risk factors that negatively affect their mental well-being (Eurostat, 2020). According to the country's Mental Health at Work Programme (2022), 5.2 million days per year are lost for mental health reasons and approximately 6,700 people retire prematurely – together costing Finland a total of EUR 2.5 billion per year. Analysis of EU-LFS data for 2020 (Figure 21) shows that time pressure or work overload is the most widely reported psychosocial risk in Finland.

Figure 21: Employees aged 15-64 in Finland reporting exposure to risk factors at work that can adversely affect mental well-being in 2020



Source: Eurostat (EU-LFS), 2020.

Mental health risks in the workplace

High or unclear job demands, information overload, monotony, a lack of control over one's job and **high job intensity** are among the factors that have the most negative effect on mental health (Virtanen et al., 2007). These factors are associated with **depressive** and **anxiety** disorders. The presence of even one psychosocial risk factor is associated with lower work engagement (Veromaa et al., 2017). Other important factors include **lack of social support** and experiences of **bullying** and **harassment** in the workplace. Physician-diagnosed depression and the likelihood of undertaking antidepressant treatment were 20-50% higher among employees with low self-reported levels of social support, than among those who reported a high degree of social support (Kouvonen et al., 2008). Social support and a feeling of belonging are among the most important factors determining employees' well-being (Oksanen et al., 2010). It is also important to ensure a healthy **work-life balance** to reduce

one's risk of burnout (Oksanen et al., 2010). Meanwhile, harassment and bullying have extremely negative effects, not only on the targets of harassment and bullying but also on observers. Research shows that both the targets of bullying and observers report stress and other negative mental reactions (Vartia-Väänänen, 2013). Bullying makes individuals afraid to express their opinions and creates a negative self-image. Bullying and harassment are often related to power relationships, with supervisors being less likely to be bullied than subordinates (Venetoklis and Kettunen, 2016).

Novel risks relating to mental health in the workplace have also emerged post-pandemic that affect all employees. New patterns of working, the globalisation of production, and the introduction of information technologies, all pose new challenges (Ervasti et al., 2021). In this rapidly changing working environment, management has been recognised as the most important factor in maintaining employees' mental health. There is a significantly lower likelihood of reporting stress, poor general health, exhaustion or sickness absence among workers who report satisfaction with their management and who report that differences of opinion are resolved through discussion, compared with workers who report that no such attempts are made in their workplace (Hyde et al., 2006). These results suggest that conflict resolution in the workplace is important for the health of employees, in addition to other traditional psychosocial work environment risk factors. Another important factor is to ensure that changes are introduced as smoothly and clearly as possible, without overloading employees. Research on working during COVID-19 shows that employees who worked from home during the pandemic had more favourable psychosocial work environments and health, whereas those who were exposed to team reorganisations and changes in work tasks experienced more adverse changes (Ervasti et al., 2021). The findings show that disruption affects employees negatively, and it is important for management to make changes as clearly and smoothly as possible. Organisations must take responsibility for maintaining an inclusive and caring work culture, and for providing technical and psychological support to workers during crises (Savolainen et al., 2021).

Vulnerable groups

Research also demonstrates that **women** are more likely than men to experience bullying (Savolainen et al., 2021). Women tend to be subjected to sexual harassment significantly more often than their male colleagues (Vartia and Hyyti, 2010). In general, women in Finland report more stress at work than men, especially with respect to life-work balance (Malik et al., 2017). Because of this, **pregnant women** and **feeding mothers** are defined by labour laws in Finland as vulnerable groups and are entitled to certain exceptions, including reduced workload and allowances for work interruptions.

Another group defined as vulnerable in Finland is the **ageing workforce** (Elovainio et al., 2007). Among this group, job demands and lack of job control are predictors of early retirement. These were identified as the main factors negatively affecting older employees' psychosocial well-being and job satisfaction. Interview data also show that digitalisation has become a great burden for ageing employees (FI2; FI3; FI4). It is therefore important to provide ageing employees with opportunities for life-long learning that can help to reduce stress with regard to new technologies.

Young employees, **employees with disabilities** and **immigrants** are also considered to be at higher risk of mental ill-health in the workplace, according to the interviewees in Finland (FI1; FI2; FI3; FI4). Young employees are therefore not permitted to work the same number of working hours, nor handle the same workload as adult employees; persons with disabilities have the right to special arrangements with regard to work organisation and the workplace, and employees who are immigrants must be informed of their rights and obligations clearly and in detail, as they may be unfamiliar with national legislation (Kehitysvammaliitto, 2023; SAK, 2023).

Vulnerable sectors

A number of professions in Finland are also identified as being particularly vulnerable with regard to mental health issues, including **healthcare professionals**. In particular, healthcare professionals are at high risk of encountering workplace violence (Heponiemi et al., 2014). Aggression in the workplace has overall negative consequences on the mental health of healthcare professionals (Urnberg et al., 2022). Physical violence reduces healthcare professionals' mental well-being and leads to increased turnover intentions (Heponiemi et al., 2014). It is very important for healthcare workers to feel safe and protected at work (Rantanen et al., 2022); moreover, the workload of healthcare workers should be carefully monitored and kept moderate to ensure sufficient recovery. Clinical supervision has also been found to be beneficial, especially in terms of the levels of job satisfaction and stress among mental health and psychiatric healthcare professionals (Hyrkäs, 2009). Adequate clinical supervision is also related to a lower risk of burnout. Other factors that have an effect on health professionals' well-being include employment relationships, working time, staffing, and the number of patients (Lyyra et al., 2021).

Another sector that requires particular attention is **care workers and social workers** (Ruotsalainen et al., 2020). Care workers and social workers suffer from significant stress and time pressure, as well as dealing with difficult clients and suffering from a lack of autonomy (Ruotsalainen et al., 2020). Time pressure and encounters with difficult clients are associated with psychological distress, while dissatisfaction with management practices leads to an overall decrease in job satisfaction. One study shows that greater autonomy at work is associated with higher job satisfaction (Ruotsalainen et al., 2020).

Other especially vulnerable professions include **police officers** and **security guards**. These workers are exposed to both psychological and physical violence, and experience more stress at work compared with other professions (Kerkkanen et al., 2004 Leino, 2013). Experiences of psychological and physical violence are more common among younger police officers, those working in metropolitan areas, and those who constantly experience time pressure at work. Among security guards, the corresponding risk factors were younger age, male gender, working in metropolitan areas, shorter tenure, working evening and morning shifts, and time pressure at work. Studies have also shown that physical violence is associated with psychological ill-health (i.e. symptoms of psychological distress) (Kerkkanen et al., 2004; Leino, 2013). Moreover, police officers reported that their alcohol consumption increased due to violent encounters or threats of encounters, and that this increase was associated with a lack of debriefing, lack of personnel to handle violent situations, and insufficient training on how to handle violent situations (ibid.). In addition to these factors, police officers and security guards who had sustained physical injuries as a result of work-related violence, or had experienced high risk of psychological distress, expressed fears of future violence and increased alcohol consumption (Kärkkanen et al., 2006; Leino, 2013).

Legislation and initiatives in place in Finland

Overview of legislation

The national mental health discourse in Finland has been influenced by political, cultural and organisational changes (Kuokkanen at al., 2020). During the 1970s, a movement took place to democratise the workplace, increasing the power of trade unions, defending employees' rights and promoting employees' physical and mental well-being. Subsequent moves to increase well-being in the workplace began in the early 1990s with the addressing of workplace bullying (Vartia-Väänänen, 2013).

Currently, employees' mental health is recognised as an important aspect of a successful economy, and it plays an important role in the programme of the Finnish government as a measure contributing to employment growth (Ministry of Social Affairs and Health, 2021). The main occupational healthcare acts are as follows:

- Occupational Health Care Act 1383/ 2001;
- Occupational Safety and Health Act 738/2002;
- Health Insurance Act, 1224/2004;
- The Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (44/2006);
- Health Care Act 1326/2010;
- Government Decree on the principles of good occupational health care practice, the content of occupational health care practice, the content of occupational health care and the qualifications of professionals and experts 708/2013;
- Act on Organising Healthcare and Social Welfare Services 612/2021, sections 8 and 10; and
- Government Decree on medical examinations in work that presents the special risk of illness, 1485/2001 (Finlex, 2001a).

The foundation for occupational health in Finland is the **Occupational Health Care Act 1383/2001** and the Government Decrees issued on the basis of this Act: the **Government Decree on the principles of good occupational health practice, the content of occupational healthcare and the educational qualifications required of professionals and experts 708/2013** and the **Government Decree on medical examinations in work that presents a special risk of illness 1485/2001**. The first of these decrees defines the principles of good occupational health practice (GOHP), as well as the content of occupational health services and the education and training of professionals and experts. It also determines working time arrangements, changes to working conditions and personnel, opportunities for individual work arrangements, and monitoring of the workplace. According to the decree, occupational health services constitute a continuous process that includes an assessment of workplace needs, operational planning, as well as actual operations, monitoring and assessment, and continuous quality improvements. The second decree lays down the requirement for medical examinations in relation to jobs that carry a special risk of illness.

Under the provisions of the **Occupational Health Care Act 1383/2001**, employers are obliged to arrange occupational healthcare services for all employees with occupational healthcare providers (Finlex, 2001b). Such services may be provided to entrepreneurs and companies by municipal health centres. Employers may independently arrange their own occupational health services ('integrated OSH'), or do so together with other employers (usually in the form of an association). Alternatively, employers can obtain these services from private clinics (Ministry of Social Affairs, 2023). Occupational healthcare providers provide internal assessments and support with the protection of employees' health, as well as issuing recommendations on how to formulate internal policies that ensure the well-being of employees. Overall, the statutory tasks undertaken by occupational health service providers include:

- assessment and monitoring of employees' health and working ability;
- the monitoring of employees with disabilities, with referrals for rehabilitation being made;
- assessment of the health and safety aspects of the work;

- the development of improvement initiatives and the monitor of their implementation;
- advice and guidance;
- participating in activities to maintain worker's working ability;
- co-operation with representatives from other healthcare services and social insurance; and
- monitoring the quality and impact of occupational health care activities.

These internal measures are intended to help employers to improve the working conditions of their employees. But there are also external occupational health inspectors, who organise inspections across Finland. In 2021, 20,500 inspections were carried out across Finland (Website of the Occupational Safety and Health Administration in Finland, 2022). These inspections are organised each year on the basis of random selection, complaints received or other tip-offs from employees, customers and others. After an inspection, written advice may be issued about any necessary corrective measures. With regard to aspects that the inspector observes to be non-compliant with the legislation and which pose a risk or hazard deemed greater than minor, the inspector issues an improvement notice. This notice sets a deadline by which the employer must bring the situation in line with the law. If the employer fails to comply with the improvement notice within the agreed deadline, this may lead to a decision by the occupational safety and health authority imposing obligations. In addition to imposing such obligations, an OSH inspection may lead to the OSH authority notifying the police. The OSH authority is obliged to notify the police in cases where there are grounds for suspecting that the employer has committed an act punishable under the Criminal Code of Finland. Financial penalties are also laid down for cases in which an employer does not comply with the requirements. Occupational healthcare service providers help employers to implement the measures to address issues identified by the inspectors.

The **Occupational Safety and Health Act 738/2002** has also prompted organisations to develop and implement policies and guidelines to address bullying in the workplace. When they are carrying out an inspection in a workplace, safety and health inspectors always discuss inappropriate behaviour and harassment. If no policy is currently in place, the inspector advises the organisation to draw one up. A survey called 'VALMERI' is used for inspections, which includes a question on harassment and inappropriate behaviour.

The Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces 44/2006 legislates with regard to the cooperation between employers and employees on safety and health issues. The goal of cooperation under the Act is to improve interactions between the employer and the employees, and to enable employees to participate in and influence of the ways in which matters relating to safety and health in the workplace are handled. The Act also lays down the responsibilities and powers of the OSH authorities with regard to the enforcement of occupational safety and health legislation.

In addition to the pieces of legislation discussed above are other, more general laws that do not focus solely on employees' mental health. Compliance with these laws is, however, very important in ensuring employees' well-being and mental health. These laws include the Working Time Act, the Annual Holidays Act, the Non-Discrimination Act, the Health Insurance Act, 1224/2004, and the Act on Organising Healthcare and Social Welfare Services 612/2021.

Some more specific legislation includes that which protects young workers – the Young Workers Act 998/1993, and Government Decree 475/2006 on work that is particularly harmful or dangerous for young people. These laws detail the restrictions on working time for young workers, oblige employers to ensure that working hours do not interfere with young people's education, and define those

occupations and working arrangements that are deemed unsuitable for young employees.

All of the above legislation is also applicable to employees working from home.

Overview of stakeholders, projects and initiatives

The main bodies responsible with regard to mental health in the workplace include the **Ministry of Social Affairs and Health**, the **Finnish Institute of Occupational Health,** the **Finnish Institute for Health and Welfare**, and the **Social Insurance Institution of Finland** (Kela). Trade unions have also become a major influencer with regard to the health and safety of employees in Finland. Historically, the activities of trade unions have paved the way for the recognition of the importance of employees' mental ill-health (Kuokkanen at al., 2020). Trade unions are strong in Finland, and trade union representatives – particularly those specialising in health and safety – are active players in addressing health and safety issues (Vartia-Väänänen, 2013).

The Ministry of Labour and the Ministry of Social Affairs and Health are vital to advancing good working conditions, improving and maintaining the working ability of the Finnish labour force, and providing mental healthcare services, occupational healthcare services, and rehabilitation services (Gabriel and Liimatainen, 2000). **The Ministry of Labour** conducts programmes that address issues conducive to employees' well-being as well as the quality of life in the workplace. The **Finnish Social Insurance Institution (Kela)** compensates employers for the costs of preventive occupational health care, treatment and other healthcare costs. The National Mental Health Strategy 2020-2030, run by the **Finnish Institute for Health and Welfare**, the national programme WORK 2030, run by the **Ministry of Social Affairs and Health** (2023c) are currently the two most important programmes with regard to mental health in the workplace in Finland.

WORK 2030 is part of the programme launched by the government of then Prime Minister Sanna Marin (Ministry of Social Affairs and Health, 2023). The Ministry of Social Affairs and Health has overall responsibility for the programme, while the Finnish Institute of Occupational Health is responsible for the operational implementation and practical arrangements of the programme. The programme is carried out in collaboration with the Confederation of Unions for Professional and Managerial Staff in Finland (Akava), Business Finland, the Confederation of Finnish Industries (EK), the Commission for Church Employers, Local Government Employers (KT), the Finnish National Agency for Education, the Ministry of Education and Culture, the Finnish Innovation Fund Sitra, the Finnish Confederation of Professionals (STTK), the Central Organisation of Finnish Trade Unions (SAK), the Ministry of Economic Affairs and Employment, the Finnish Institute of Occupational Health, the Federation of Finnish Enterprises, the Centre for Occupational Safety and the Office for the Government as Employer. The programme includes both sector- and region-specific projects. Sector-specific projects are carried out via collaboration between labour market organisations to improve working life, while region-specific projects are development projects coordinated by one or more Centres for Economic Development, Transport, and the Environment.

WORK 2030 is a development programme aimed at improving work and well-being at work, with the aim of reforming current operating practices, making effective use of technology in workplaces, and creating innovations that improve working life. The programme promotes the use of AI to automate various work tasks and support work requiring a high level of competence, for example, by utilising data in all sectors, improving systems in the public sector and deploying 5G across the whole of Finland. The objective of the programme is to make Finland a leading developer of innovations to improve working life, and the world leader in well-being at work by 2030.

WORK 2030 also includes the **Work Ability Programme** (Ministry of Social Affairs and Health, 2023b). This programme is aimed at benefitting people with partial working ability, with the objective of

educating employers to improve the integration of people with partial working ability. The programme also includes special support for vulnerable groups such as young people, older people and immigrants. According to the programme, employers must actively promote equality among their employees, promote gender equality, and prevent any discrimination from occurring in the workplace. Putting an end to harassment and other forms of inappropriate treatment referred to in the Occupational Safety and Health Act is also of primary importance.

Another important programme is the **National Mental Health Strategy**. This includes **The Mental Health at Work Programme**, which aims to support mental health in the workplace. The purpose of the National Mental Health Strategy 2020-2030 is to make workplaces better equipped to support the mental health of employees, and to manage risk factors for mental health issues. The aim of the Mental Health at Work Programme is to increase well-being at work and to reduce the amount of sick leave and disability retirements that occur for mental health reasons. According to the Strategy, supporting employees' working ability and ensuring that they can remain at work will hasten the achievement of the employment rate target set by the government programme. The Mental Health at Work Programme includes such measures as the development of a model for cooperation between workplaces and occupational healthcare, and spreading the message concerning mental health support methods and measures available to boost related skills and competences in workplaces and occupational healthcare. The programme also supports a change in attitudes towards mental health issues by increasing knowledge about how to support employees' mental health at work. The programme is implemented by the Ministry of Social Affairs and Health in cooperation with the Finnish Institute of Occupational Health, mental health organisations, and other partners.

The programme has also produced a free-of-charge **Mental Health Support Toolkit**, which includes various functional tools such as games, calculators and tests. These digital tools were developed in collaboration with workplaces, occupational healthcare providers and other relevant players (Ministry of Social Affairs and Health, 2021). All in all, the toolkit consists of nine tools, four of which are available in English – the Recovery tool, Supporting mental health at work – material for supervisors, the Resilience Test, and the Substance Abuse Programme tool (Mental Health at Work Programme, 2022). The entire work community can use these tools to proactively support employees' working capacity. The kit also includes guidance on those areas in which stronger competences and skills are required from supervisors, occupational safety and health service providers, and human resources professionals. These tools, first incorporated into the Working Life Mental Health Programme 2021-2023, have been well received and are to be continued and further developed (FI3; FI4).

Other current projects by the Finnish Institute of Occupational Health include an analysis of predictive methods for improving the sustainability of mental well-being at work (ENNAKKO); the collaborative promotion of mental health – solutions for social and health care workplaces; promoting mental health and work ability through the development of mental health expertise and regional co-operation (MYÖTE), and 'Mental health in work – different generations in the swells of work life' (Finnish Institute of Occupational Health, 2023). The input of **academic institutions**, **research centres** and **think tanks** is also very important in studying and addressing mental health issues in the workplace in Finland.

One notable characteristic of the system in Finland is the close **tripartite** co-operation between government authorities, employers, and employee representatives in the Ministry's of Social Affairs and Health advisory board on occupational health services (in which the Social Insurance Institution of Finland, the Finnish Institute of Occupational Health, and organisations representing occupational health professionals also participate). This tripartite body is an important policy influencer in Finland. According to interviews carried out for this case study, the tripartite body will be working until 31 December 2023 on making Finnish mental health policy, inspection requirements and workplace

measures more concrete and commonly understandable to all (FI3; FI4). It is also currently working on improving working conditions for the ageing workforce, especially for people of 55 years of age and older.

Gaps and limitations in the legislative framework in Finland

The concerns regarding mental health in the workplace legislation expressed by the interviewees include a discontinuity of programmes, a lack of precision and enforcement of legislation, burnout not being recognised as an occupational disease, and a lack of assessment of health and the safety of home workplaces.

With regard to the discontinuity of programmes, two experts (FI1; FI3) mentioned that too much focus was placed on narrow sub-components of mental health risks in workplaces, without making activities an integral and comprehensive aspect of human resource policy. Another issue with current programmes is that they often fail to address mental health issues directly, and there is a **lack of prevention measures**. The preventive measures available in Finland are deemed not sufficiently systematic. Moreover, even those measures that are laid down are not always attainable, for example, **there are too few psychologists** in the country, and people who seek help must wait long periods before receiving consultations (FI4).

Another gap is that legislation regarding mental health policy and protection against psychosocial risks in the workplace and mental health risk assessments at work is **not detailed enough** (FI1; FI2; FI3; FI4). The legislation does not clearly define what aspects should be taken into consideration in defining a workplace policy and during assessments, and no guidelines are provided to help inspectors and employers navigate the inspection process. Therefore, while there are laws requiring employers to have in place internal policies regarding employees' mental health in the workplace, **its application in practice is not sufficiently widespread**. Currently, employers tend to avoid investing in the implementation of mental health policy, as there is a lack of guidance and support for implementing such policies, while the risk of inspections and sanctions is relatively low, especially for small enterprises. It can be cheaper for employers to take the risk of not having an internal policy regarding employees' mental health than it is to invest in implementing one (FI3, FI4). Moreover, since inspectors themselves are not well-equipped to assess mental health risks, even where an inspection does take place, mental health aspects are likely to be overlooked. Moreover, a lack of knowledge on the part of employers regarding the benefits of good employee mental health also lessens their interest in developing internal policies. Usually, the largest companies – which are also ones inspected the most frequently and thoroughly – employ trained human resources specialists, are the best informed about the importance of mental health in the workplace, and have good policies and measures in place within their organisation. This demonstrates the need for measures to be enforced, combined with education for employers on the importance and benefits of a good employee mental health to ensure that legislation is translated into practice.

Another issue is that legislation it is **updated very slowly** in relation to mental health, psychosocial risks, and new and emerging risks (FI2; FI3; FI4). The last time such legislation was comprehensively updated was in 2002. The vocabulary used is therefore outdated and does not include such concepts as work content (e.g. how work may not fit well with employees' skills or may be very mentally straining), psychosocial workload (caused by factors that relate to work arrangements), and the social dynamics of the work community (a work community involves all people in the workplace, and its social dynamics include management style, the interpersonal relationships of employees, and other factors) (FI4). Legislation is typically reviewed every four years, based on government terms (FI3; FI4). Furthermore, consensus must be reached between trade unions, employers and policymakers, which

slows down the legislation process even further.

Current legislation is deemed to be not concrete enough and provides too much room for interpretation, granting employers too much power over their employees (FI3; FI4). Although the law requires employers to provide people experiencing or recovering from mental health issues with special working arrangements and exceptions, this may not always happen in practice, as it is not clearly defined exactly what special measures of dispensations employees experiencing health issues are entitled to (FI3; FI4). For example, if an employee wishes to attend a psychotherapy session during working hours, it is entirely within their employer's power to decide whether or not to permit it. According to interviewees from Finland (FI3; FI4), employers may even be reluctant to hire employees with mental or other health issues or disabilities, and in Finland no strict quotas are laid down regarding how many people with disabilities and other health issues must be employed by companies. The interviewees suggest that legal quotas should be introduced, and it should be obligatory for employers to adjust working conditions for employees with health issues to best meet their personal needs (FI3; FI4).

Furthermore, while many tools are available to support mental health in the workplace, there **is a lack of tools to deal with new and emerging risks** such as remote work. People who work from home are not contacted often enough, and home offices are not visited by inspectors. Also, while there is an ongoing debate in Finland regarding the right to disconnect, this is not yet been legislated upon.

One of the most pressing issues according to the interviewees (FI1; FI2; FI3; FI4) and trade unions is that **burnout is not recognised as an occupational disease** in Finland. The only solely occupational disease that is recognised and for which an employee can receive sick leave and compensation is PTSD. Cases of people who experience burnout are categorised either as 'anxiety disorder' or 'depression'. This prevents employees from receiving the help they need, as anxiety and depression may be perceived by employers as a personal issue rather than one of work organisation.

The interviewees highlighted that in future, it will be important not only to ensure that legislation is free from shortcomings, but also that concrete instructions are provided to stakeholders on how to implement it. Moreover, while enforcement is important, disseminating information is critical to order to avoid resistance. According to interviewee FI4, a space should be created for employers to share information among themselves concerning the benefits of good mental health among their employees, and providing positive examples. When an issue is promoted by the government, employers tend to regard it as another burden and are thus resistant to it, whereas when fellow employers share their good experiences, this tends to be better received.

Good practices in place in Finland

Despite the gaps identified above, many exceptionally good practices are also evident in Finland. Overall, the country has extensive legislation, and many prevention and rehabilitation tools are available to support employees' mental health. Nevertheless, there is a lack of assessment of the results of the legislation and measures, as these are still quite new, and thus we have identified good practices on the basis of the interviewees' experience.

- All interviewees mentioned the National Mental Health Strategy and the **Mental Health Support Tools**. As noted previously, these tools were first introduced for the period of 2021-2023, but due to their widespread adoption, they are being further developed and will continue to be made available. The implementation of these tools has had a positive effect on employees, who have taken fewer sick leave days as a result (FI2; FI3; FI4). Currently, four tools have been translated into English, but there is a plan to translate all of them in order to make

them accessible to all employees and employers in Finland. Moreover, according to interviewees FI2 and FI3, it is common practice in Finland to translate all legislation, programmes and measures into English to ensure that other Member States can access them for inspiration and to replicate relevant practices.

- **Occupational healthcare** is also recognised as a positive practice (FI1; FI3). Every workplace must have occupational healthcare providers, and must involve them in workplace assessments and in the creation of policies. This ensures that internal policies are determined together with mental health professionals (Ministry of Social Affairs and Health, 2023a). Moreover, enterprises with more than 10 employees are required to appoint an internal ombudsman, while companies with more than 20 employees must appoint an internal health and safety committee to keep in contact with occupational healthcare providers. It is desirable to assign responsible people from within the workplace: such people have better knowledge of the organisation's employees and their needs. They can also distribute various internal questionnaires, and can be given time to focus on these matters. According to the interviewees (FI1; FI2; FI3; FI4), workplaces which participate in risk assessments and various other programmes have shown progress with regard to mental health: employees experience fewer psychosocial issues, improvements are seen in workplace communities, and various mental health tools are more widely used in their day-to-day work.
- Finnish occupational health and safety authorities operate a nationwide **telephone service** that anyone can call if they have questions or concerns, or if they have experienced an incident in their workplace. This phone number is typically used by employees to report their workplace, or by clients to report an incident they have witnessed at a certain company. However, this phone number is also used by employers and their health and safety representatives as a tool for consultation. It can also be used anonymously in cases where an employee does not wish to disclose their workplace for fear of reprisals. According to the interviewees (FI3; FI4), this type of consultation is fairly popular and useful. Its main success factor is the anonymity given to employees and employers.
- There is a shortage of psychologists in Finland, and people needing therapy must endure long waiting times. To mitigate this, the Ministry of Social Affairs and Health implemented a pilot study on **short therapy**. Short therapy is limited to just a few sessions to help employees deal with pressing or urgent matters. This therapy can also be offered to people awaiting traditional therapy. It has proved very successful; as a result, short therapy should become available throughout Finland by 31 December 2023 (FI4).
- Because legislation in Finland lacks practical directives, the Finnish Institute for Occupational Health, the Research institute Education Institute and other public organisations have tried to bridge the gap by providing practical materials such as leaflets, a burnout assessment tool, a mental health risk assessment questionnaire, and various other tools. In addition, a great deal of attention has been dedicated to educating both employers and employees on the importance of mental health in the workplace. According to the interviewees, the most recent campaign, **Better sooner than later**, was visible on the streets, in the media, and on social media (FI1). This campaign stressed that it is preferable to prevent mental health issues before they occur – both in terms of cost and effort – than to deal with their harmful consequences. Meanwhile, some prevention measures, such as support from employers and colleagues, are completely cost-free.

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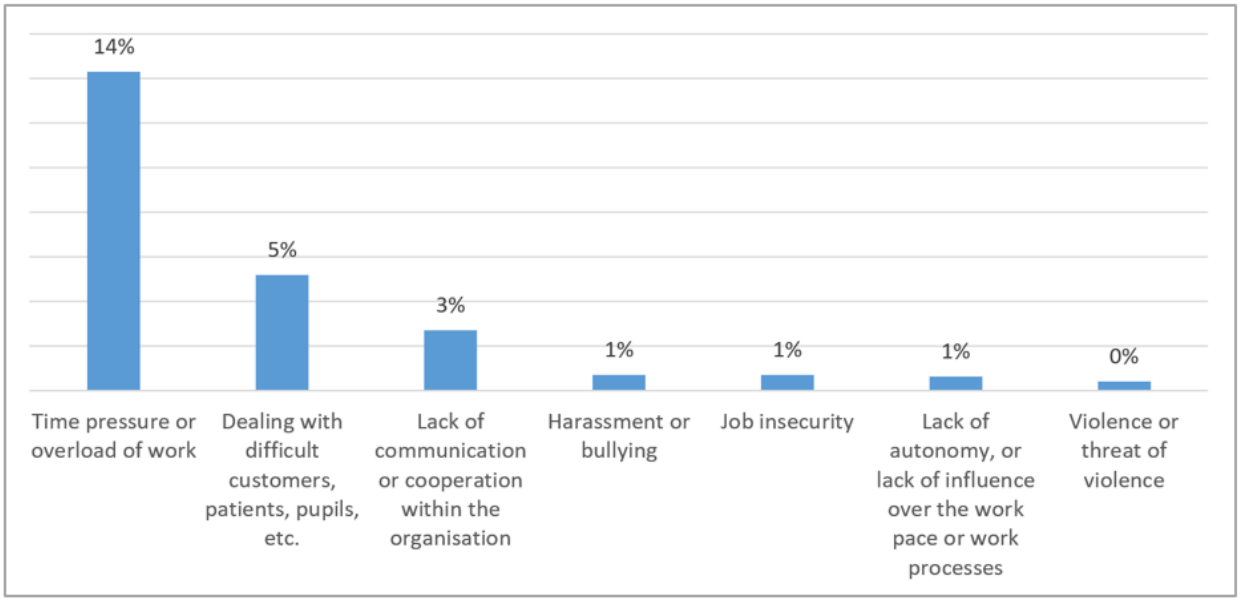
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CASE STUDY: GERMANY

Introduction: psychosocial risks and vulnerable groups in Germany

The number of people reporting mental health issues in Germany is steadily increasing (DE1; DE2). A recent report on mental health in the workplace by the BKK DV (*Betriebskrankenkassen Dachverband*, Company Health Insurance Funds Umbrella Association) found that mental health was the third most prevalent reason for employees missing work in 2019, with depression being the most frequently cited mental health issue (Knieps and Pfaff, 2019, p. 20). In fact, experts have identified mental illness as a leading reason for an observable increase in prolonged sick leave and early retirement (Sträter et al., 2022, p. 13; DE2)[46]. In addition to depression, particular issues relating to mental health and well-being that are currently receiving attention in public debates include burnout, stress, addiction, sleep issues, bullying, and the reintegration of workers after a prolonged, mental health related absence (GDA, n.d. a; psyGA, n.d.; DE1[47]; DE2). An analysis of EU-LFS data for 2020 (Figure 22) shows that time pressure or work overload is the most frequently reported psychosocial risk in Germany.

Figure 22: Employees aged 15-64 in Germany reporting exposure to risk factors at work that can adversely affect mental well-being in 2020



Source: EU-LFS 2020.

The groups who most frequently report being affected by mental illness include **female employees**, who tend to report suffering from a mental illness more often than male employees (24% vs. 16%) (Schomerus et al., 2020), as well as **younger employees** (21-23% vs. 15% of people over 65) (Schomerus et al., 2020). Certain sectors are especially prone to creating psychological risks for employees. These include **public transport**, **education**, the **public sector** (relative to the private sector), the **healthcare sector**, and the **service sector**, or more broadly, industries that require contact with customers (INQA, n.d. a; DE2, DE3[48]). **Immigration** is also a risk factor in terms of feeling disconnected from the receiving society, and in terms of perceived psychological safety in the workplace, such as being in an open and inclusive workspace. For Turkish immigrant employees in

[46] DE2 – interview with a policymaker (national government).

[47] DE1 – interview with an expert/academic.

[48] DE3 – interview with a policy researcher (national government).

Germany, for example, **social support** in the workplace is a defining factor in terms of psychological adaptation and well-being (Ulusoy et al., 2016). This may affect work engagement and mental health, as well as staff turnover (Ulusoy et al., 2016.).

Recently, researchers in academia and in the policy sector in Germany have begun to pay greater attention to mental health in the workplace, identifying specific psychosocial risk factors such as **job insecurity** (Fischer et al., 2019), **increasing work intensity**, and the **pressure to perform** (Demowanda, n.d.; DE2), as well as a lack of **work-life balance** (Demowanda, n.d.; Fischer et al., 2019, p. 3). **Information overload** at work and the **inability to switch off after work** are additional risk factors (Kersten and Junghanns, 2022; Demowanda, n.d.). These may be linked to digitalisation, to an increase in the use of digital tools and digital processes, and to an increase in new communication technologies (e.g. smartphones and tablets, as well as communication via social media). In addition, new mental strains associated with the COVID-19 pandemic and a shift to telework/hybrid work arrangements are also receiving increased attention (BauA, 2020; DE1, DE3).

Legislators in Germany are also taking notice. During the last decade, laws, regulations, rules, and standards have been introduced in relation to mental health in the workplace. These are discussed in further detail in the next section of this case study. Recent initiatives in Germany have focused on **preventative measures** that address mental strain ('*psychische Belastung*') in the workplace, such as mental health risk assessments (DE1). However, as one interviewee pointed out, preventive measures tend to focus on interventions at an individual or behavioural level rather than at the level of workplace conditions; this has the effect of shifting responsibility for reducing mental strain in the workplace from the employer to the employee (DE1). Thus, instead of employers taking measures to change stressful working conditions, employees are offered stress management training that is intended to help prevent burnout (DE1). However, interviewees for this case study disagreed as to how high mental strain in the workplace is on Germany's political agenda. While one interviewee believed that legislators are not necessarily interested in providing more standardised guidance on identifying and preventing psychosocial risks (DE1), another stated that mental health has indeed been of great interest to legislators over the past decade (DE2).

Existing legislation on mental health in the workplace and related projects and initiatives is examined in greater depth in the section that follows.

Legislation and initiatives in place in Germany

Overview of legislation

A wide variety of stakeholders, laws, rules, regulations, initiatives and projects address mental health in German workplaces (Rothe et al., 2017, p. 100)[49]. The next two sections of this case study present a selection of the legislation and initiatives that feature most commonly in the recent academic and grey literature.

Much of the legislation relating to health in the workplace in Germany is based on EU legislation, particularly the 1989 EU Directive 'on the introduction of measures to encourage improvements in the safety and health of workers at work' (89/391/EEC) (the Framework Directive) (DE1). Based on the EU directive, in 1996 Germany adopted its Occupational Safety and Health Act (*Arbeitsschutzgesetz*, ArbSchG), which is the county's main law regulating health in the workplace. Under the Act, all

[49] For a complete list of rules and regulations that require mental strain to be considered as part of workplace risk assessments, please refer to the recent BAuA publication: Beck and Schöneich-Kühn, 2023, *Vorschriften und Regeln zur Berücksichtigung psychischer Belastung in der Gefährdungsbeurteilung. Ergebnisse einer Bestandsaufnahme*, Sicher ist sicher, 74(1) pp. 6-10. Available at: https://www.baua.de/DE/Angebote/Publikationen/Aufsaetze/artikel3534.html.

employers in Germany, irrespective of sector or company size, are obliged to conduct workplace risk assessments that take into account employees' health, (Bundesministerium der Justiz, n.d.). This ensures broad coverage across the labour market. The Act was amended in 2013 (§ 5 Abs. 3) to specify that **employers are obliged to consider *mental strain* in their risk assessments**. The requirement for employers to take mental strain into account in their risk assessments is also found in several other regulations and rules, including the Occupational Safety Act (AsiG); the Workplace Ordinance (§ 3 ArbStättV); the Ordinance on Occupational Health Precautions (§ 2 ArbMedVV) and the Ordinance on Industrial Safety and Health (§ 3 and § 6 BetrSichV) (both of which focus in the technical aspects of mental health); and the Ordinance on Biological Substances (§ 4 BioStoffV) (Beck and Schöneich-Kühn, 2023, p. 7; Rothe et al., 2017, p. 103).

In addition, there is legislation regulating specific factors in the workplace that might affect an employee's mental health. This includes the Working Hours Act (ArbZG), which highlights the importance of working-hours guidance to ensure a low risk to mental health, as well as several very specific regulations concerning shift work, monotonous work, noise and office temperature (Beck and Schöneich-Kühn, 2023, p. 7). Lastly, legislation is in place that requires employers to take into consideration work-related mental strain that is specific to certain kinds of work, including people who work with machines (98/37/EG Maschinen-Richtlinie; Anhang 1), as well as certain groups of people who are protected under the Maternity Protection Act (MuSchG) or the Act for the Protection of Young Workers (JarbSchG). These pieces of legislation provide specific measures to protect against physical risks to pregnant women and their children, particularly in terms of working hours during pregnancy, to avoid symptoms of exhaustion and mental stress (§ 9 MuSchG). Further, juveniles are not permitted to be employed in work that 'exceeds their physical or mental capacity' (§ 22 JarbSchG).

Each state (or '*Bundesland*') is responsible for monitoring whether employers are indeed implementing risk assessments in accordance with these laws and regulations (DE2). In addition, employees also have the option of submitting anonymous complaints to their accident insurance institutions or to employers' liability insurance associations, which can trigger an inspection of their employer's risk assessment compliance (DE1). If an employer is found to be in violation of the law, they will receive a warning and are obliged to prove that the requisite changes have been made to their risk assessment. If they fail to provide such proof, fines can be imposed (DE2).

Overview of stakeholders, projects and initiatives

Key stakeholders involved in decision-making and/or the implementation of legislation relating to mental strain in the workplace include the BMAS (*Bundesministerium für Arbeit und Soziales*, Federal Ministry of Labour and Social Affairs); the BauA (*Bundesanstalt für Arbeitsschutz und Arbeitsmedizin*, the Federal Institute for Occupational Safety and Health), which houses the ASGA (*Ausschuss für Sicherheit und Gesundheit bei der Arbeit*, the Committee on Safety and Health at Work), which in turn advises the BMAS on matters relating to the ArbSchG (Safety and Health at Work Act); the DGB (*Deutscher Gewerkschaftsbund*, German Trade Union Confederation); the BDA (*Bundesvereinigung der Deutschen Arbeitgeberverbände*, Confederation of German Employers' Associations); the BKK DV; and the DGUV (*Deutsche Gesetzliche Unfallversicherung*, German Statutory Accident Insurance).

Below is a summary of some recent **projects and initiatives** introduced in Germany in relation to mental health in the workplace:

In 2013, the German Trade Union Confederation (DGB) published a **Joint Declaration on Mental Health in the World of Work** together with the Federal Ministry of Labour and Social Affairs (BMAS) and the Confederation of German Employers' Associations (BDA), announcing that the three institutions would place greater emphasis on issues relating to mental health in the workplace (BMAS,

2013). This was the same year in which the ArbSchG was amended, specifying that employers are obliged to consider mental strain in their risk assessments. Among other commitments, they announced that the Joint German Occupational Safety and Health Strategy (*Gemeinsame Deutsche Arbeitsschutzstrategie*, GDA) would examine the extent to which more regulation regarding work-related mental strain might be needed.

The **Joint German Occupational Safety and Health Strategy (GDA)** is a joint strategy by the federal government, the *Bundesländer*, and accident insurance institutions, aimed at promoting health in the workplace (BMAS, 2019). Among other responsibilities, the GDA committed itself to supporting employers in better understanding and implementing requirements of the ArbSchG, by providing guidance and training (DE2). For example, it recently published the fourth edition of its guidance on implementing risk assessments of mental strain in the workplace (Beck et al., 2022). This guidance summarises guidelines and best practices for ensuring that mental strain is kept to a minimum, focusing specifically on considering the effect on mental strain of work tasks, the organisation of work, working hours, social relations at work, work equipment, and work environment. It also provides suggestions concerning principles to ensure the quality of instruments and procedures for assessing the risk of mental strain.

As part of its 2019-2024 strategy, the GDA announced a focus on implementing 'appropriate workplace designs to counter mental stress' through its **PSYCHE** work programme (GDA, n.d. b). PSYCHE aims to raise awareness among employers (DE2) and thereby 'encourage companies to meet their legal obligation to compile risk assessments' (GDA, n.d. b). To achieve this, PSYCHE provides training to employers, and has a website providing information, guidelines and suggestions on implementing psychosocial risk assessments and ensuring low levels of mental strain in the workplace, as well as information for employees on mental health at work (GDA, n.d. a).

Another recent campaign dedicated to raising awareness about mental health in Germany and to lessening the stigma surrounding mental health issues is the ***Offensive psychische Gesundheit*** ('Mental Health Initiative'). This campaign, which ran from 2020 to 2021, was a joint initiative by the Federal Ministry of Labour and Social Affairs (BMAS), the Federal Ministry of Health (BMG), and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) (INQA, n.d. b). One of the aims of the campaign was to raise awareness among both employers and employees that mental strain is relevant to all types of work in all sectors (DE2).

During the last few years, **INQA** (the New Quality of Work Initiative), which was founded in 2002 by the BMAS, has supported several research projects focusing on mental strain in the workplace. INQA is a joint undertaking of the federal government, state governments, social insurance partners, social partners, foundations and enterprises aimed at improving psychological well-being (INQA, n.d. a). Among other activities, INQA provides information and resource guides on topics including stress in the workplace and mental health for people working in the healthcare sector, and on how to manage personal crises in the workplace (INQA, n.d. c).

Currently, INQA – together with the BKK DV supports the project **psyGA** (Mental Health in the Workplace). The aim of this project is to compile and conduct research on the prevention of mental illness in the workplace (psyGA, n.d.), including through the publication of so-called 'monitors'. Among others, recent monitors include one examining the stigmatisation of mental health issues in Germany (Schomerus et al., 2020); a monitor on working conditions and company culture, which can be used as a tool to forecast absenteeism (Fischer et al., 2022); and a monitor on mental health in the workplace (Fischer et al., 2019), which identifies factors that might support or impair mental health in the workplace.

However, there is a **lack of research on the impact and effectiveness** of the aforementioned laws, regulations, projects and initiatives. As a result, it is difficult to conclusively identify good practices regarding the regulation of mental strain in the workplace in Germany.

Gaps and limitations in the legislative framework in Germany

The most prevalent criticism of the current legislation on mental strain in the workplace identified both the literature and in the interviews carried out for this case study is not a gap in the current legislation, but rather a **widespread lack of compliance**. A recent study analysed survey data from 6,500 companies and found that only 21% of the companies considered psychosocial factors in their risk assessments (Beck and Lenhardt, 2019), despite being required to do so by law. However, one interviewee noted that organisations, particularly smaller ones in which processes may be less formalised, might still consider psychosocial factors, even if they do not have a formal procedure for doing so. (DE3). Moreover, one interviewee noted that it might be better to consider psychosocial risks in terms of assessing *standards* regarding mental health in the workplace, rather than *procedures* (DE3). A lack of knowledge among employers, as well as a lack of guidance on how to conduct risk assessments that take account of mental strain, is the reason most frequently cited to explain the current lack of compliance (Beck and Lenhardt, 2019; DE1; DE2). This lack of knowledge is exacerbated by a lack of standardised risk assessment tools and collection methods available to employers, who are currently responsible for creating their own (DE1; DE2). In fact, one interviewee suggested that there is an urgent **need for greater standardisation** when it comes to considering mental strain in workplace risk assessments (DE1). Smaller companies in particular have access to smaller budgets and fewer resources (DE1), which may explain why smaller companies are less likely than larger concerns to comply with current provisions (Beck and Lenhardt, 2019). As one interviewee suggested, the problem with the current legislation is less of a 'legal deficit' than it is an 'implementation deficit' (DE2). However, as noted above, although some qualitative research indicates that SMEs may have measures in place around compliance and risk assessments, these measures may occur outside of formal procedures, and thus remain unnoticed by research conducted on psychosocial factors in risk assessments. Moreover, among such SMEs, these measures may not be classified as or understood in terms of labour protection laws, but rather as management tasks (DE3). To close this gap, the BauA intends to collect more relevant empirical data on SMEs (DE3).

The lack of employer compliance in Germany is exacerbated by a **lack of enforcement**. As one interviewee explained, the supervisory authorities (*Aufsichtsbehörden*) responsible for monitoring compliance are not currently able to monitor each and every company on an annual basis, making it very unlikely that any particular employer will be monitored in any given year (DE1). As a result, many companies may decide that not complying with the regulations represents an acceptable risk. In addition, because of the lack of guidance available on how to adequately conduct risk assessments, it is unclear what exactly should be monitored, and what constitutes satisfactory compliance (DE1).

Moreover, there are also several **gaps in the current legislation**. The DGB, for example, is demanding that stress in the workplace be considered in anti-stress regulation, to better protect employees from mental strain and to ensure the better monitoring of employees (DGB, 2019). The BauA has identified a lack of consideration being given in the current legislation to the impact on mental health of social relationships at work, emotional labour and work structure (Beck and Schöneich-Kühn, 2023, p. 10). Furthermore, the BauA finds that the current rules and regulations lack uniformity with respect to the definition of key terms such as mental strain (Beck and Schöneich-Kühn, 2023). One interviewee also pointed out that there are currently no laws to address new working conditions in the aftermath of the pandemic, including hybrid work or working from home arrangements (DE1). Other areas singled out

for further development include legislation regarding especially vulnerable groups (e.g. the Maternity Protection Act could be enhanced in terms of mental stress), and making legislation age- and gender-sensitive (e.g. for customer-facing jobs, in which there are evident risks but no binding regulations (DE3). Lastly, there do not appear to be any targeted initiatives or rules focusing on vulnerable groups (including women, young people and immigrants).

Interviewees' views differed on how to best address the current gaps in legislation. Whereas one suggested that further EU legislation and guidance might help (DE1), another believed that the real issue is the generally poor translation of law into practice, which cannot be addressed merely by passing more legislation (DE2). DE2 added that further guidance should be provided to employers on how to comply with the existing legislation. At the same time, interviewees mentioned several topics they believe to be of future relevance, and which will need to be addressed by legislation at some point. These include the increased use of AI and the digitalisation of the work environment (DE2; DE3), along with making further progress on de-stigmatisation, and the continued transfer of knowledge from law to praxis (DE2). Moreover, due to the necessity for sector-specific regulations, it would be most beneficial if future laws and regulations were developed to fit the context in which they will be applied (DE3).

A number of stakeholders have recently made recommendations that confirm and address some of the above concerns. Some recommend that the capacities of supervisory authorities should be strengthened to ensure compliance with the current legislation (Beck and Lenhardt, 2019, p. 436). However, most recommendations are concerned with encouraging or supporting employers to become aware of and implement the current legislation (DE1; DE2). The ASGA, for example, suggests that requirements for employers on how to engage with mental strain at work should be defined in a governmental health and safety regulation (Beck and Schöneich-Kühn, 2023, p. 10). Furthermore, the ASGA will aim to define a new technical rule regarding mental health and mobile working in the future (DE3). BauA has added recommendations that include the further development of regulations concerning technical occupational safety and health, the limitation of working hours, and urged a more systematic approach to expanding and collating knowledge about mental health in the workplace (Rothe et al., 2017, pp. 122-135).

One study has formulated actionable recommendations derived from previous research and practice with regard to risk assessments across various industries and company sizes (Gilbert et al., 2020). The authors created a set of guidelines for companies carrying out risk assessments on mental health in the workplace, ultimately recommending company-wide agreements between employers and employees for recording mental strain within risk assessments (Gilbert et al., 2020). Moreover, because the responsibility for carrying out a risk assessment lies with the employer based on the Occupational Safety and Health Act (ArbSchG), it is crucial to appoint competent persons to carry out this task and to ensure it is supervised and controlled in accordance with the GDA (Gilbert et al., 2020).

A second study echoes the concerns described above – namely, the pervasive lack of implementation and enforcement of legislation relating to mental health in the workplace. The authors of this study found that, with regard to external support for employees, the issues mostly relate to a lack of information about their availability, and a lack of and cooperation between actors providing such services (Stange et al., 2022). More specifically, the authors insist that it is essential for the agents involved to initiate a discourse on mental health in the workplace across industries (Stange et al., 2022). However, the authors so note that a promisingly large number of actors (i.e. welfare providers) are already involved in delivering support, representing an opportunity to expand their influence by enlarging their networks (Stange et al., 2022).

Good practices in place in Germany

Prevention of psychosocial risks

Despite the aforementioned gaps and limitations in the legislative framework in Germany, interviewees expressed a general view that things are moving in the right direction (DE1; DE2). In relation to the legislative framework, the policy initiatives in place, and the stakeholders involved, one interviewee stated that, overall, Germany has good working conditions, a good welfare system, and was on the right path (DE1). However, no clearly good practices been identified by impact assessments with regard to German policy or the legislative landscape regarding mental health in the workplace.

Assessment of psychosocial risks by employers

In terms of specific good practices, the Joint German Occupational Safety and Health Strategy (**GDA**) is the most noteworthy. This outlines **recommendations for employers** to take into consideration when putting the Occupational Safety and Health Act (ArbSchG) into practice, and allows for a bottom-up approach to addressing mental health issues in the workplace. This was highlighted as good practice due to its practice-oriented nature, and because it provides the opportunity to monitor how employers implement the ArbSchG. This initiative is also well-placed to address the issue of employers' compliance in relation to conducting risk assessments. In addition, due to the country's complex dual system, which includes the federal government on the one hand, and states and accident insurance institutions on the other, approximately 81 stakeholders are involved. It can be challenging to find a consensus among these stakeholders when establishing guidelines to aid employers. However, the most effective approach is through the GDA (DE3). Furthermore, the work programme **PSYCHE**, discussed previously, represents an example of good practice in Germany. This programme helps employers to comply with their legal obligation to carry out risk assessments by providing a **platform for training and information**.

One instrument, yet to be implemented, has the potential to be an example of good practice. The BauA recently attempted to address the need for more **standardised guidelines and risk assessment tools** to be available to employers, by developing a basic model for risk assessment (Sträter et al., 2022). This model serves to standardise approaches to the assessment of mental strain in the workplace, which can then be adapted to the needs of specific sectors and situations. The basic model includes questions on the type of work and employee tasks, communication and cooperation, work structure, etc. Additional modules include questions for people working in the health sector, on stress relating to technology, or on working from home. Optional modules include modules on short- and long-term strain (such as fatigue, stress, burnout and insomnia), as well as work-life balance.

Given that the model was published only recently, there is currently no evidence on the impact of this model, although, if implemented, it could address some of the concerns relating to the current lack of standardisation in risk assessments.

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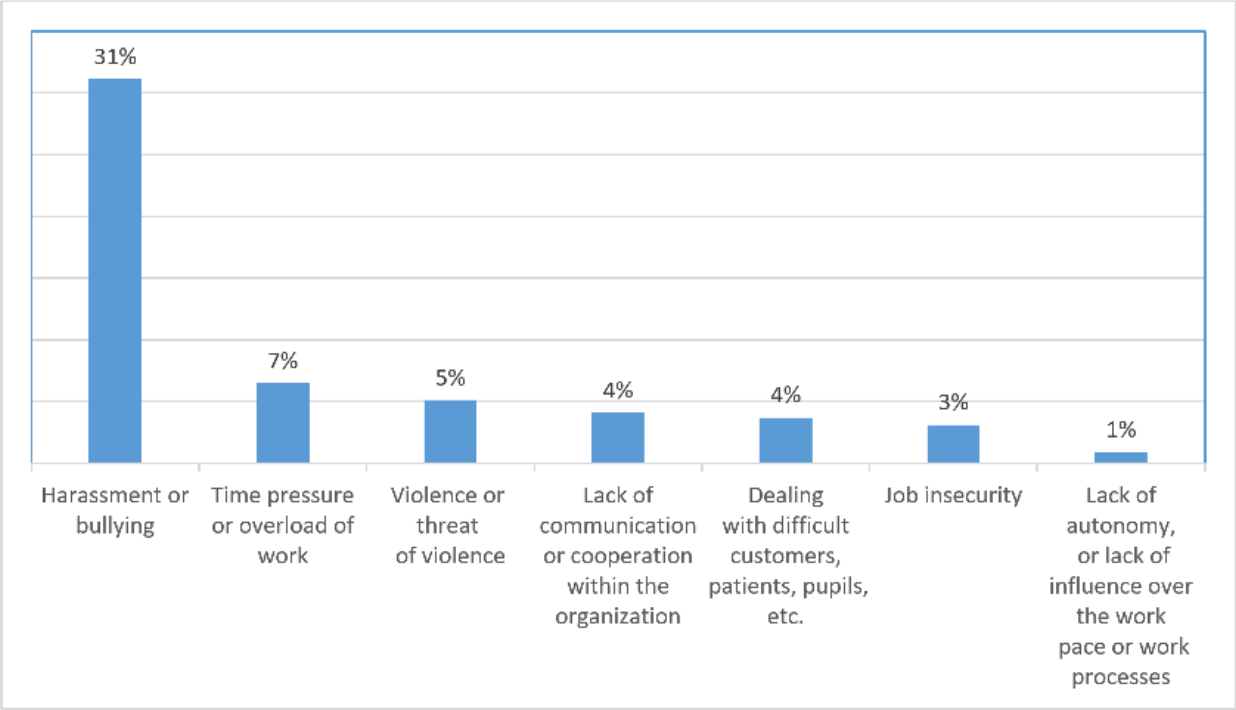
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CASE STUDY: LITHUANIA

Introduction: psychosocial risks and vulnerable groups in Lithuania

Fewer than 1% of the workforce in Lithuania report having mental problems such as work-related stress, depression and anxiety due to working conditions, but 28% report that they are exposed to psychosocial risk factors that could negatively affect their mental well-being (Eurostat, 2020). Just as in Germany and Finland, the most widely reported psychosocial risk in Lithuania is time pressure or work overload (Figure 23; Eurostat (EU-LFS), 2020). Furthermore, nearly half of Lithuanians experience emotional distress or anxiety for between 25% and 75% of their working time (Eurostat (EU-LFS), 2020).

Figure 23: Employees aged 15-64 in Lithuania reporting exposure to risk factors at work that can adversely affect mental well-being in 2020



Source: Eurostat (EU-LFS), 2020.

Some of the mental health stressors reported in Lithuanian workplaces include a **low level of control over work** (usually experienced by employees with lower qualifications), **lack of social interactions with colleagues** and lack of **social support**, experience of **conflict between family and working life**, **lack of time to complete one's work**, **pressure**, **monotony**, and a **lack of knowledge** about how to complete various tasks (Tarozė, et al., 2014; Žiedelis and Pajarskienė, 2015; Jankovskaja et al., 2019; Pajarskienė et al., 2005). Most of these stressors include aspects relating to work organisation and culture – in other words a subordinate hierarchical structure prevails in many Lithuanian workplaces (Ivleva and Pajarskienė, 2018).

Vulnerable groups

Women, **people with disabilities** and **immigrants** are among the groups that are most vulnerable and face the greatest mental health risks and challenges in the workplace in Lithuania (Žiedelis and Pajarskienė, 2015; Kuodytė and Pajarskienė, 2012).

Stress levels are highest among **women raising children** (Valackienė, 2002). These women are especially stressed during times when their children are ill. Consequently, stress becomes an obstacle

for women to maintain a positive attitude towards their professional careers.

Meanwhile, **persons with disabilities** tend to experience preconceived notions and discrimination (Kuodytė and Pajarskienė, 2012). Experience of discrimination has been linked to depression, anxiety, PTSD and other conditions. People with disabilities must typically expend more effort to form and maintain close relationships at work; they also tend to lack control over their work, and experience work as being less meaningful than employees without disabilities. In many cases, they are overqualified for the jobs they are undertaking.

Vulnerable sectors

Research by Lithuania's Mental Health Center of the Institute of Hygiene indicates that the most vulnerable groups of employees include those who interact with people (e.g. **teachers**, **social workers**, etc.), those who must make quick decisions (e.g. **doctors**, **nurses**), and those who work under extreme conditions (e.g. **police officers**, **fire fighters**) (Mental Health Center of the Institute of Hygiene, 2017). The State Labour Inspectorate – which investigates employees' complaints – receives the greatest number of complaints from employees working in the health, education or social services sectors (State Labour Inspectorate, 2022). Similarly, in the academic literature, the professions identified as being the most vulnerable include various types of health specialists such as doctors and nurses, as well as teachers, police officers, and prison and security guards (Žutautienė et al., 2014; Kuodytė et al., 2012; Žutautienė et al., 2019; Žiedelis and Pajarskienė, 2015).

Health professionals experience mental health challenges due to their long working hours, constant exposure to stressful situations (including aggression from patients), low salaries and high work requirements (Žutautienė et al., 2014; Dudutienė et al., 2020; Jotautis et al., 2022). Due to these factors, health professionals are among those who most frequently experience burnout, PTSD and psychosomatic illnesses (Kuodytė et al., 2012). Nearly half (48.7%) of doctors experience stress (Žutautienė et al., 2019) and one-third of all doctors experience burnout at some point in their careers (Žutautienė, 2021).

Research indicates that 51% of **teachers** experience stress at work, usually due to high workload, the fast pace of work, constant tension, a lack of prestige associated with the profession, constant change and innovation, and conflicts with children's parents (Bagdonas and Adaškevičienė, 2010; Jankovskaja et al., 2019).

Meanwhile, **police officers** are often exposed to traumatic events and encounter overwhelming stress (Kazlauskas et al., 2009). A correlation can also be seen in terms of age, with older police officers experiencing higher levels of stress.

Research carried out in 2014 shows that psychosocial working conditions of **prison guards** are poor: 32.8% of prison guards said that the demands of the job are high; 35.8% have little opportunity to take control of their work; 20.2% did not have social support at work, and more than one-third (31.8%) experienced psychological abuse at work (Čeponis, 2014). Due to this, many prison guards experience PTSD.

Stress is a common phenomenon among **security personnel** too. In one study, more than 75% of test subjects said they experienced the consequences of work stress in their everyday lives (Lankaitė, 2014). The dominant stressors include conflicts in the workplace, risks of attacks, burden of responsibilities, low wages, and poor work organisation.

Nevertheless, data from the interviews carried out for this case study (LT1; LT2; LT3) show that Lithuanian legislation does not concentrate on identifying certain vulnerable groups, and is instead intended to be applicable to all employees, regardless of sector. Only individual ministries support

specific sectors, with various programmes to strengthen them and improve workers' well-being. As in the other case study countries, Lithuanian legislation avoids concentrating on specific sectors primarily so that employers in other sectors do not resist or ignore the measures. When legislation does not determine priorities regarding a particular sector, every workplace must assess its own unique risks and develop workplace policies and measures most relevant to the needs of its employees.

Legislation and initiatives in place in Lithuania

Overview of legislation

Lithuania has in place legislation that entitles employees to healthy, safe and dignified working conditions. Mental health is one of the main concerns identified in the two main legal acts – the Labour Code and the Law on Safety and Health at Work (No IX-1672) (Lietuvos Respublikos Seimas, 2003a). Lithuanian legislation is based on the 1989 EU Directive 'on the introduction of measures to encourage improvements in the safety and health of workers at work' (Framework Directive 89/391/EEC) (Ministry of Social Security and Labour of the Republic of Lithuania, 2023).

The **Constitution of the Republic of Lithuania (No.220-0)** states that every employee has the right to dignity and safety, as well as suitable and healthy working conditions**.** The Constitution is the country's main legal document and provides the basis for all other legislation. Accordingly, the **Labour Code (No. XII-2603)** states that every employer must take all possible measures to prevent psychological violence, such as bullying and harassment, in the workplace. Every employee must be informed where to seek help and support if such incidents occur – and in the event that they do, the employer must ensure that the victim of psychological violence receives all necessary help. The employer is responsible for mental health monitoring, prevention, and technical measures to remove any mental health strains, as well as for ensuring that every employee's dignity and honour are protected. Ensuring the health and safety of employees is the sole responsibility of employers, who are also responsible for financing such measures (Ministry of Social Security and Labour of the Republic of Lithuania, 2023). Every organisation must have in place an internal policy regarding mental health, and this policy must be prepared together with employees or their representatives. A questionnaire is used by inspectors when carrying out workplace inspections. This questionnaire can also be used by employers and employees' representatives when determining workplace policy. Every company has different policies and measures, based on its employees' needs and the risks that are most relevant to that workplace. The protection of employees covers not only their working hours, but also trips to and from work, as well as various work parties and events, and business trips.

Lithuania's Labour Code contains additional legislation such as the **Legislation Regarding the implementation of the Labour Code, No. 496**, which states that certain occupations – such as health specialists and social workers – have the right to an additional five days of annual leave for 'wellness'. A government proposal is currently underway to make these five wellness days available to all employees, but at present it is not clear whether this will be approved. Moreover, employees such as social workers who work under extremely stressful conditions (as defined by the Parliament of the Republic of Lithuania and assessed by State Labour Inspectorate) work fewer hours.

Meanwhile, the **Description of procedure approved by Order V-590 of the Minister of Health of the Republic of Lithuania of 17 May 2019 on the approval of the description of procedure for building competences of mental health workers** which states that all employees and employers in the health sector should receive training on the main psychosocial health risks in the workplace, prevention measures, and support tools.

The **Law on Safety and Health at Work (No IX-1672)** states that risks must be assessed internally in

every workplace to ensure the well-being of employees. Every company must undertake an occupational risk assessment, irrespective of its size or number of employees. This occupational risks assessment can be carried out by the employer, a representative, or a person assigned as being responsible for health and safety in the workplace. The Law on Safety and Health at Work also specifically mentions young workers, pregnant women, women who have recently given birth, breastfeeding women and persons with disabilities as vulnerable groups. Part of the legislation is also dedicated to remote work, and states that employees working remotely have the same rights as those who work on-site.

External inspections also take place in workplaces across Lithuania, based on **National labour inspection Law (No IX-1768)** (Lietuvos Respublikos Seimas, 2003b)**.** Methodological instructions for inspectors are provided by the **Investigation of Psychosocial Risk Factors**, **approved by Order No V-699/A1-241**. Inspections can be planned (i.e. employers receive notification before the inspection) or unplanned (usually taking place after a complaint or tip-off). Risks that must be inspected include those relating to the working environment (such as working in the presence of dangerous factors), workload (too large or too small, working speed, etc.), work organisation (working hours, shift work, type of employment, etc.), work content (too much or too little, employees' influence over the work content, monotony, lack of autonomy, etc.), and factors relating to social relationships in the workplace (mobbing, bullying, harassment, lack of influence on work decisions, etc.). The inspectors who conduct these risk assessments must be well educated in the identification, and neutralisation of psychosocial risks. Prior to an inspection, inspectors prepare an inspection plan, which is agreed with representatives of the employer and employees. This plan includes the psychosocial risks that will be inspected, the methods used for the inspection (observation, various documents and data analysis, questionnaires for employees), and the expected number of employees to be interviewed. These plans are formed on the basis of the sector that will be inspected, the types of services the workplace provides, the work environment, work tools used, working time, recent changes to the workplace, and the existing stress prevention measures used in the workplace. Each inspection is followed by an action plan aimed at neutralising or reducing any risks identified. **Relative to other countries, Lithuania has fairly clear guidelines for the inspection of psychosocial risks in the workplace.** A four-step procedure is used when identifying psychosocial risks in the workplace:

1. Preparation work, which includes an analysis of the available data on common risk factors and statistics relating to the sector and the specific workplace;
2. An inspection of stress levels in the workplace;
3. Identifying psychosocial risks in the workplace that might be possible causes of stress; and
4. Identifying the number of employees who might be affected by these risks.

The legislation states that psychosocial risk factors should be identified on the basis of:

- Data on the number of employees and workspaces, technological processes in the workplace, the balance between working hours and rest/breaks, work tools used, and known risk factors in the workplace;
- Data on employees' complaints and suggestions;
- Data on staff turnover, sick leave, and the number of accidents in the workplace;
- Signs of stress at work;
- Research and analytical data; and

- Good examples from other EU countries.

After an inspection is carried out, inspectors provide recommendations that the employer must follow. If the employer does not comply with these recommendations, financial penalties are imposed. In cases punishable under the Criminal Code, the police may be involved. According to the interviewees (LT1; LT3) and State Labour Inspectorate's activity report (2022), labour inspections have a positive impact on companies, and there is an overall improvement in the understanding of the psychosocial risks and the importance of mental health in the workplace.

Certain important legislation does not relate directly to improving mental health in the workplace, but breaches of it can affect employees' mental well-being. For example, the **Law on Equal Opportunities (No VIII-947)** protects employees from discrimination that can occur due to sex, religion, race, etc. Employers must ensure that all employees have equal rights and opportunities, irrespective of differences in their backgrounds. In addition, specific legislation covers the rights and duties of young employees.

Overview of stakeholders, projects and initiatives

Stakeholders

In Lithuania, the **Ministry of Social Security and Labour** implements state policy in the field of occupational safety and health (together with the **Ministry of Health**). **The State Labour Inspectorate**, operating under the auspices of the Ministry of Social Security and Labour, is responsible for the prevention of occupational diseases and accidents at work, as well as for safety and health at work, and the prevention of violations of legal acts regulating labour. Moreover, this ministry enforces compliance with the Labour Code of the Republic of Lithuania and with the laws and standard legal acts regulating occupational safety and health (National Labour Inspection Law No IX-1768). To coordinate the interests of the state, as well as those of workers and employers in the field of safety and health at work, the Commission on Safety and Health of the Republic of Lithuania was established by means of a **tripartite** principle of cooperation between social partners. The tripartite Commission is established on the basis of the Occupational Health and Safety Law, and is formed of representatives of governmental institutions, as well as employers' and employees' organisations. The purpose of the Commission is to represent, negotiate and align the interests of the government, employers and employees (Ministry of Social Security and Labour of the Republic of Lithuania, 2023).

Oher important bodies that have an influence on policy in Lithuania and are responsible for implementing various programmes are the **Mental Health Centre of the Institute of Hygiene**, **municipal health bureaus**, and **trade unions**. The Institute of Hygiene is a budgetary institution under the Ministry of Health that carries out research, monitors the population's health, and develops occupational health initiatives and general health promotion activities. The main responsible bodies also cooperate with various partners such as NGOs, local communities and private enterprises. Some of the private organisations working with mental health at work improvement include 'Sabelija'[50], 'Personalas Jums'[51], 'Sveikata Darbe'[52], and 'Gijos'[53]. These enterprises can be hired by employers to help assess mental health risks in a workplace and formulate internal policy and/or conduct training for employees on topics such as psychosocial risks at work, managing stress, improving mental health an

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[53] Gijos, 2023, *Paslaugos.* Available at: https://gijos.lt/.

others.

Programmes, projects and initiatives

The most important current programmes in the field of mental health in the workplace in Lithuania are the national Mental Health Strategy, and the Safety and Health at Work Action Plan for 2022-2027.

The **Mental Health Strategy (No X-1070)** was first implemented in 2007. One of its goals is to strengthen mental health in the workplace. The strategy states that most mental health issues must be approached in accordance with the principles of public health, using the natural resources of the community, families, teachers, employers and employees. Every employee must have safe working conditions, irrespective of the type of employment in which they are engaged, the size of the enterprise, their nationality, race, gender, etc.

The **Safety and Health at Work Action Plan for 2022-2027** was approved by Order No A1-251/V-693 of the Minister for Social Security and Labour and the Minister of Health of the Republic of Lithuania of 5 April 2022 'On the approval of the Safety and Health at Work Action Plan for 2022-2027'. The goal of this programme is to manage changes in the labour market that occur due to demographic changes, digitalisation and the transition to a greener economy. One of measures undertaken under the plan is the monitoring and improvement of employees' mental health. To achieve this goal, the State Labour Inspectorate has prepared methodological recommendations for enterprises on how to design workplace policy, and what aspects this should include.

Another recent programme that addresses mental health in the workplace is the **Programme regarding the approval of the 2021-2022 annual plan for actions to reduce the long-term negative consequences of the COVID-19 pandemic on individual and public mental health**. This plan recognises the influence of the pandemic on employees' mental health, especially that of essential workers. One of its main goals is to improve the mental health of essential workers such as doctors and nurses, social workers, childcare workers, etc. According to interviews carried out for this case study (LT2; LT3), this programme is very successful and has already shown positive results on the mental well-being of employees.

Public municipal health bureaus across Lithuania also implement programmes to improve employees' mental health (Geros savijautos biuras, 2021). These programmes also cover changes and challenges brought about by the COVID-19 pandemic, such as changes to work organisation, increased social isolation due to such changes, and so on. Another major initiative focuses on the improvement of employees' mental health competences (a local example under this initiative is that of the Public Health Bureau of Kazlų Rūda, 2019). This initiative is based on the Lithuanian Health Minister's 2019 legislation No. V-590 'Regarding the approval of the description of the procedure for the employees' mental health competences improvement'. The programme takes 40 hours to complete, and includes 25 hours of practical exercises. The goal of the programme is to help organisations improve their work organisation in a way that reduces mental health stressors. The programme is implemented by a professional health specialist and a psychologist.

Another programme implemented by municipal health bureaus is aimed at improving teachers' mental health competences. This programme is based on the Lithuanian Health Minister's 2019 legislation No. V-523 'Regarding the approval of the description of the activity procedure for strengthening the abilities of employees of general education schools in the field of public mental health'. The programme takes 32 hours to complete, and is led by a psychologist and a social pedagogue. This is an example of one of the special programmes implemented by ministries, specifically targeted ay occupations identified as being vulnerable and in need of additional support. Most of these targeted programmes originate from the Ministries of Education, Labour, Health, and the

Interior. For example, the Ministry of the Interior, together with the Prison Department under the Ministry of Justice, have implemented programmes to support police officers, guards and similar professionals. Meanwhile, the Ministry of Education, Science and Sport has implemented support programmes for teachers.

The **Institute of Hygiene** has implemented a programme to improve **ageing workers'** participation in the labour market (Institute of Hygiene, 2021). The programme pays particular attention to the mental health of ageing workers. The Institute organises various training courses for organisations on the matter. The Institute of Hygiene also provides guidelines on the return to work of **cancer patients**, including monitoring their mental well-being. Among the Institute's other initiatives are measures for the prevention of burnout, the prevention of conflicts in the workplace, recommendations on the management of psychological violence in the workplace, support for employees who have newborn children, and standards for managing stress at work. **The workplace** stress management standards lay down requirements for employees' workload, work structure and organisation (Institute of Hygiene, 2016). These standards state that employees have the right to realistic expectations from their managers, to control their work speed, to receive encouragement and support from their employer, and to work in a conflict-free environment.

Gaps and limitations in the legislative framework in Lithuania

Despite the relative robustness of Lithuanian legislation and programmes, various gaps remain with regard to mental health in the workplace. The professionals interviewed for this case study (LT2; LT3) state that, to improve the legislation, there should be **clear regulation at the EU level**, particularly because remote work is becoming more and more common, and it is difficult to monitor the health and safety of employees who work from home. Moreover, the number of employees in Lithuania who work remotely for employers based abroad is also rising. These employees are not recognised by Lithuanian institutions, and consequently, there is scant information about their mental health. Therefore, requirements regarding mental health in the workplace should be understood equally among all countries, facilitated by a common directive. In addition, neither should different cultural backgrounds affect working relationships and attitudes towards employees' mental health.

Another suggestion is that more concrete **practical tools should also be created at EU level** and translated to different languages, so that all countries can apply them (LT1; LT2). Currently, many such documents exist, but their practical implementation is lacking. In addition, those workplaces that are already aware and conscientious about the importance of mental health in the workplace are the ones who read and apply EU recommendations; unfortunately, no measures are in place to encourage those companies that are less aware to do the same.

Moreover, interviewees (LT1; LT2; LT3) noted that employers in Lithuania are becoming increasingly aware of the importance of mental health in the workplace and its value to employees, with implications for staff recruitment and retention. Nevertheless, interviewees thought that **stricter measures and requirements** should be in place to ensure that employers take steps to mitigate psychosocial risks (LT1; LT2; LT3).For example, if an employee has to leave for an hour of therapy during the working day, or needs some other special working arrangement for a certain amount of time (e.g. reduced workload), whether or not this is granted depends entirely on negotiation with the employer, and on the employer's willingness to support the employee – which it is under no legal obligation to do. Some interviewees (LT2; LT3) thought that such situations should be regulated at both EU and national levels, with employers being obliged to provide conditions to ensure the improvement of mental well-being. Greater effort should also be directed towards enhancing employers' knowledge and education about the topic, as the imposition of an obligation alone might reinforce negative

attitudes.

More effort must also be directed towards the ageing workforce and the implementation of **support with digitalisation**: due to rapid changes, older employees may experience difficulty in 'keeping up', thus causing them additional stress (lrt.lt, 2021). Furthermore, while there are ongoing discussions regarding the right to disconnect, this has not yet been enshrined in law in Lithuania.

Another gap in provisions concerns the **concept of mental health** and **psychosocial risks** in the workplace, which are understood differently by government ministries, trade unions, employers, and others. These differing interpretations result in an overestimation of the extent to which mental issues are the employee's personal responsibility, and leads to an under appreciation of the extent to which mental issues are influenced by, and are thus the responsibility of, the workplace. Lithuania's Ministry of Health is therefore working on a programme to define mental health and psychosocial risks at work and to unify these concepts across all legislation and programmes by the end of 2023.

Good practices in place in Lithuania

A selection of good practices that support employees' mental health in Lithuania include:

- The 2021-2022 annual plan for **actions to reduce the long-term negative consequences of the COVID-19 pandemic** and **support for targeted groups** such as health personnel and social workers, who have been most adversely affected by the pandemic (LT2; LT3). One example of such measures is a series of online courses on mental health for medical staff. These were clear and short, containing only the most important information to ensure that medical staff use their time efficiently. Access to the courses was available at any time.
- In 2022, the State Labour Inspectorate established the **Department for the prevention of psychological violence at work**. This department ensures compliance with laws regarding mental health and equal rights in the workplace. It conducts various **training courses and assessments of workplaces**. The department keeps track of the most pressing issues with regard to mental health in the workplace, and implements various measures to reduce these risks. For example, it has developed guidelines for the procedures that must be implemented in cases of discrimination in the workplace. The department has also prepared clear guidelines and tools (such as various sector-specific questionnaires) for employers and inspectors to carry out mental health risk assessments in the workplace.
- The interviewees highlighted the importance of various **workshops** and initiatives organised by the Institute of Hygiene and municipal health bureaus. For example, on request, health bureaus provide workers with up to 30 psychologists' consultations free of charge every year for each worker. Free-of-charge workshops are also available for employers on improving mental health in their workplace, among other topics.
- With regard to therapy, one private initiative was also mentioned as an example of good practice: **Mindletic**[54] (LT2; LT3). Some employers have purchased services from Mindletic, a digital platform that can be used on a computer or as a phone app, via which employees can access tools such as meditation and breathing exercises and receive individual therapy sessions online.

[54] 'Mindletic' is a 'digital mental gym' for the workplace. The app provides various mental health tools, information on various mental health topics (such as emotional intelligence, work-life balance etc.), and one-on-one consultations with certified psychotherapists. Access to the tool is available at: https://www.mindletic.com/.

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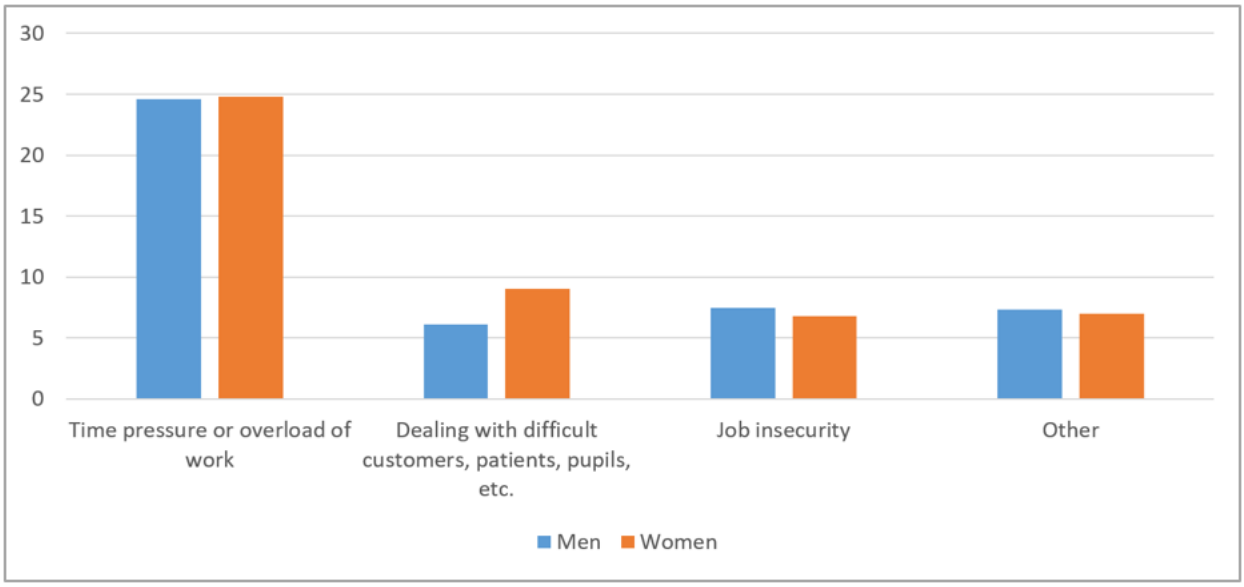
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CASE STUDY: SPAIN

Introduction: psychosocial risks in Spain

In 2020, 46.5% of people in Spain's working population reported facing risk factors for their mental well-being at work – a similar figure to the EU average of 44.6% (Eurostat, 2020). According to Eurostat, the most common problems relating to mental well-being among the working population in Spain include time pressure or work overload, dealing with difficult customers, patients, pupils, etc., and job insecurity (Figure 24).

Figure 24: Persons reporting exposure to risk factors that can adversely affect mental well-being by gender (% of working population)



Source: created by the researchers, based on Eurostat data from 2020.

Mental health issues are among the primary reasons for employees missing work in Spain. Anxiety and depression each affect approximately 6.7% of the population, according to data from the Spanish Ministry of Health, Consumer Affairs and Social Welfare (MSCBS, 2018). Furthermore, the Secretary of Mental Safety and Environment previously revealed that **work-related factors account for between 11% and 27% of mental health disorders** in Spain, according to the Spanish Ministry of Health, Social Services and Equality (MSPSI, 2011). Consequently, efforts are underway to reduce these negative effects and promote mental well-being in the workplace.

On 7 April 2022, Yolanda Daz Pérez, Spanish Minister of Labour and Social Economy, convened a committee of 12 experts to explore the impact of job insecurity on mental health, which she deemed an urgent priority to address. This committee will prepare a report on the issues affecting occupational health. Factors such as **job instability**, **lower income**, or **difficulties in obtaining social benefits**, when combined with extreme circumstances such as the pandemic, cause tension and anxiety that have become more acute in recent years. Other psychosocial risk factors in the workplace can include **meaningless work**, **repetitive tasks**, **monotony**, **work overload** and **having too little work**, together with issues with the **work schedule**, **poor interpersonal relationships at work**, **hyper-connectivity**, and lastly **violence** at the workplace (Sanz Tomás, 2019).

With regard to specific vulnerable groups, a study that evaluated psychological risks, level of engagement, and psychological well-being among **Spanish nurses** demonstrated that a large percentage of them perceived being exposed to a **high level of psychosocial risk** in the exercise of

their duties, with nearly 41% feeling in danger of suffering from some mental health-related problem. Primary care nurses showed higher levels of work engagement and a lower perception of psychosocial risks than emergency nurses. Furthermore, the study recommended that self-perceived health and job energy levels should be investigated as potential predictors of mental health status. (García-Iglesias et al., 2021).

Type of work and income level can also be contributing factors in a worker's mental health. According to a study from 2020, during the start of the COVID-19 pandemic, manual workers with insufficient salaries were more likely to suffer **sleeping problems**, were at **greater risk of poor mental health**, and their **consumption of tranquilisers and opioid analgesics** was consistently higher than those with a sufficient salary (Salas-Nicás et al., 2021).

As another study shows, **women are more vulnerable than men** to the effects of **employment (in)stability** on their psychosocial health. Women in situations of lower employment stability (i.e. working without a contract) were the most vulnerable. Compared with men, women were also more willing to take up jobs with poorer conditions (Cortès-Franch et al., 2018).

Another group requiring particular attention is **migrant workers**. Such workers are more likely to suffer from exposure to psychosocial risks at work, due to a **lack of social and family support** in their country of relocation. **Lack of support from co-workers and supervisors** is also common, mainly because of cultural and language barriers (Ronda-Pérez et al., 2014). There is also some evidence that suggests migrant workers constitute one of the most vulnerable social groups exposed to poor employment and working conditions, especially during times of economic recession (Torá et al., 2015). The vulnerability of this social group is also linked with increased job insecurity, which has been found to be associated with poor employee well-being, mainly including mild-to-moderate depressive and anxiety disorders (Probst and Jiang, 2017).

However, data from the desk research and interviews carried out for this case study show that vulnerable groups are not targeted in legislation or policy strategies in Spain. The only group that is protected by further legislation is that of persons with disabilities. As one interviewee pointed out, the responsibility for a worker's mental health often falls on the affected worker rather than on the employer, even if the person's working conditions are among the main negative factors leading to their mental health issues (ES1).

Legislation and initiatives in place in Spain

Overview of legislation

In Spain, there are numerous stakeholders, laws, rules, regulations, initiatives, and projects addressing mental health in the workplace. The two sections that follow are based on desk research carried out on academic and 'grey' literature sources, and describe the current legislation and initiatives that are in place in Spain.

Spain has developed a **complex OSH legal framework**. As a member of the EU, Spain is subject to EU legislation, meaning that Spain agrees to pursue the EU's ambition to gradually improve working conditions and achieve development through the harmonisation of these criteria in different European countries. With regard to EU legislation, the key document laying the foundation for national legislation in Spain is EU Directive 89/391/CEE related to the promotion of measures to improve the safety and health of workers. In addition, Spain has ratified a number of ILO Conventions on OSH (Conventions Nr. 013, 062, 115, 119, 120, 127, 136, 148, 155, 162, 176 and 187).

Most of the EU directives relating to this area have been transposed into national law by **Law 31/1995**, of 8 November 1995, on the prevention of Occupational Risks (BOE-A-1995-24292). According to the document, Article 40.2 of the Spanish Constitution entrusts public authorities, as one of the guiding principles of social and economic policy, to **ensure workplace safety and hygiene** and to guarantee adequate rest by means of a limited working day, periodic paid holidays, and the promotion of suitable training and retraining related to this. This constitutional mandate entails the need to develop a policy to **protect the health of workers by preventing the risks derived from their work, including psychosocial risks**.

Article 2 of **Law 31/1995** establishes general principles relating to the **prevention of occupational risks for the protection of safety and health**, the elimination or reduction of work-related risks, information, consultation, balanced participation, and the training of workers in preventive matters. This document governs the measures that must be taken to achieve these goals by governmental administrations, employers, employees, and their respective representative organisations. Article 25 (on the protection of workers especially sensitive to certain risks) also specifies that the employer must take a worker's personal characteristics and known biological states into account in risk assessments and, based on these, the employer must adopt any necessary preventive and protective measures.

In addition, the **Royal Decree 39/1997** of 17 January 1997, approving the Prevention Services Regulations, further **outlines those psychosocial aspects that need to be considered in the workplace.** The risk prevention measures in the Decree include taking into account factors of a psychosocial nature; mitigating stress and other psychosocial problems; evaluating and tackling the consequences of harmful psychosocial factors; and carrying out psychosocial interventions (BOE-A-1997-1853).

Another important Royal Decree dates from October 2011 (BOE-A-2011-15623). The purpose of this law is to establish, through various policies, programmes and services, a basis for the population to achieve and maintain the highest possible level of health. The document provides a comprehensive definition of occupational health in Spain, with a specific focus on achieving optimal physical, mental and social well-being for workers. According to Article 32, occupational health aims to achieve the **highest degree of physical, mental and social well-being for workers** in relation to the characteristics and **risks that derive from the workplace, the work environment** and its influence on their environment, as well as **promoting preventive measures, diagnosis, treatment, adaptation and rehabilitation** of the pathology produced by or related to work.

Another recent Royal Decree in 2015 (BOE-A-2015-11430) enacts new changes to the revised text of the Workers' Statute Law. Article 13 of this document **establishes rules regarding remote work**, which include:

- The worker can freely choose the location from which he/she works;
- The agreement establishing remote working shall be formalised in writing;
- Remote workers shall have the same rights as those who provide their services at the company's premises, except for those that are inherent to the performance of the work there in person;
- The employer shall establish the necessary means to ensure the effective access of these workers to vocational training for employment, in order to facilitate their professional promotion;

- Remote workers have the right to adequate health and safety protection, under the provisions of Law 31/1995; and
- Remote workers may exercise the right to collective representation.

Article 19 of the same Royal Decree states that the worker, in the provision of his services, will have the **right to effective protection in terms of safety and health at work**. Meanwhile Article 36 provides that night work **must be provided with the same level of protection in terms of health and safety** as day-time workers. Furthermore, an additional evaluation must be made regarding the state of a worker's health before they are allowed to start night work. The employer must also mitigate the negative effects of monotonous and repetitive work on the safety and health of workers, for example by appropriately scheduling rest periods during each shift.

On 6 December 2018, the government passed the new **Data Protection Act** (BOE-A-2018-16673), which not only incorporated the European Union's (EU) 2016 General Data Protection Regulation (GDPR) into Spanish law, but also established a new set of digital rights for individuals and employees. Thus, Article 88 states that workers in both the private and public sectors have the **right to disconnect** in order to ensure respect for their rest, leave and holidays, as well as their personal and family privacy. This right was further established by Law 10/2021 on Remote Working in July 2021. Among other measures, this law strengthens workers' privacy when making use of audio-visual or geolocation technologies at work, and protects the right to digital disconnection outside of working hours for both salaried and public employees.

Overview of stakeholders, projects and initiatives

In Spain, the key stakeholders concerned with occupational safety and health (OSH) and, more specifically, mental health in the workplace, are the Ministry of Employment, the National Institute of Safety and Hygiene at Work, and the Labour Inspectorate. Spain's autonomous regions also have certain competencies in OSH matters, which are carried out by the regional labour authorities and regional OSH centres or institutes. The Ministry of Health also plays an important role, however, as it covers mental health in a broader context than just in the workplace.

Multiple strategy documents covering mental health at work have been in place in Spain over the years. One was the **Spanish Strategy for Safety and Health at Work 2015-2020** (INSHT, 2015) This strategy was the outcome of negotiated improvements to the previous strategy document, given the need to continue progress in improving working conditions and reducing work accidents and occupational diseases. The document was agreed upon by the public administrations (the general state administration and the autonomous communities) and by social partners. The 2015-2020 strategy was based on two fundamental principles: prevention and collaboration. It aimed to improve the effectiveness of organisations dedicated to occupational risk prevention, to increase action in the public sector, and to expand collaboration with social partners to improve workplace health and safety. The strategy also targeted improvements to occupational safety and health conditions through the participation of the social partners and public institutions, paying particular attention to those groups and companies at the greatest risk.

More recently, Spain's Prime Minister launched a new **2022-2024 Action Plan on Mental Health and COVID-19** (MS, 2022), with a budget of EUR 100 million, to contribute to the improvement of mental health by addressing the effects on mental health of the health and social crisis generated by the COVID-19 pandemic, as well as the effects of other factors affecting mental health today. The Prime Minister also highlighted the importance of socioeconomic determinants in mental health, stating that **living conditions, job insecurity and uncertainty about the future** increase the risk of suffering from anxiety, anguish, depression and other disorders.

Another important strategic document is the **Mental Health Strategy of the Spanish National Health System 2022-2026** (MS, 2021). This strategy addresses mental health issues while protecting human rights. It includes six strategic lines, such as promoting mental health, and preventing mental illness. The strategy also proposes current recommendations and an evaluation system to measure progress in different fields agreed upon with autonomous communities. The strategy also examines the influence of COVID-19 on mental health, with a particular emphasis on the most vulnerable groups in the general population. Psychosocial health in the workplace is covered in multiple sections of the strategy, according to which the workplace should be seen as an ideal space for promoting the good mental health of workers and for the prevention of mental health problems that derive from work.

In April 2021, Spain's Labour Inspectorate published a document of technical criteria for its actions with regard to psychosocial risks. These technical criteria refer to the common technical and operational guidelines established by the Central Authority of the Labour Inspectorate for the development of the inspection function, in accordance with the general objectives laid down by the Ministry of Labour and Social Economy. The inspectorate offers technical criteria to inform interested parties about the governing body's interpretations on certain issues relating to labour regulations that concern psychosocial health. The document states that the psychosocial risk factors described below can be present in all types of work without exception, regardless of the size of the company, the sector of its activity, the type of position held or its level in the organisation's hierarchy. Individual risk factors are seen as processes that do not act independently of each other, and that there is often a sequence and interaction between these various factors (Labour and Social Security Inspectorate, 2023). The full list of risk factors can be found in the table below:

Table 6: Psychosocial risk factors according to the Spanish Labour and Social Security Inspectorate

Psychosocial factors	Psychosocial risk factors
Contents and characteristics of the work	Monotony, meaningless tasks, fragmentation, lack of variety, unpleasant tasks
Workload and pace of work	Excessive or insufficient workload, time pressure, tight deadlines
Working time	Very long or unpredictable hours, continuous connection to work, shift work, night work
Participation and control	Lack of participation in decision-making, lack of autonomy or control over work (e.g. regarding the method, schedules, environment or pace of work)
Organisational culture	Lack of communication, insufficient support for personal development, lack of goal setting
Environment and working teams	Provision of inadequate equipment or lack of maintenance of equipment, poor environmental conditions such as a lack of space, poor lighting or excessive noise
Personal relations at work	Isolation, inadequate relationships, poor relationships with coworkers, conflicts, inappropriate conduct (harassment), adverse relationships with clients, robbery

Psychosocial factors	Psychosocial risk factors
Role in the organisation	Ambiguity or role conflict, responsibility on individuals
Professional development	Low social value of work, insecurity at work, lack of professional promotion
Personal work-life interaction	Conflicting demands between these two areas, overload of roles (labour, staff and family)

Source: Labour Inspectorate.

The document outlines various circumstances that could lead to the Labour Inspectorate conducting preventive actions regarding the management of psychosocial risks. These can include campaigns for the prevention of psychosocial risks, specific complaints from workers, and inspections initiated by the Inspectorate themselves, such as when psychosocial risk factors are suspected to be present in a company during an inspection. Common examples of such risk factors include conflicts in work scheduling, a lack of effective occupation, monotonous or repetitive tasks, accidents at work, and sick leave due to anxiety or depression. The Labour Inspectorate's inspection procedure for assessing psychosocial risks involves identifying and assessing risk factors using a specific method or procedure. The identification of risk factors cannot be carried out intuitively, and requires a combination of objective data and worker perceptions obtained through appropriate techniques. The evaluator must protect data privacy and confidentiality, and must choose an evaluation procedure and method that generates confidence in its outcome. If a psychosocial risk is identified, the company is obliged to assess its likelihood and to take measures to avoid or reduce it. Non-compliance with all of a company's psychosocial risk management obligations can lead to the initiation of a sanctioning procedure, while partial non-compliance may result in a request for corrective measures. However, a warning or advice may be given instead of initiating sanctions, as long as no direct damage or harm is caused to the affected workers, and the circumstances of the case suggest this course of action.

Local governments in Spain also launch their own plans or strategies to address mental health in the workplace. One example is the **Barcelona Mental Health Plan 2016-2022**, launched by the Barcelona City Council (Barcelona City Council, 2018). This is a joint effort between organisations and communities to create initiatives that enhance mental healthcare, provide equal opportunities and rights without prejudice or discrimination against those affected, and to allow affected persons to engage in the life of the city. Psychosocial health considerations in the workplace can be seen under several of the strategic lines around which this plan is built. For example, one line of action is to 'Advise organisations to facilitate the handling of psychosocial risk factors in the workplace with programmes to promote occupational health and safety'. Another line of action, which targets people who are already affected by mental health conditions, 'Consolidate workplace insertion of people with mental disorders in the ordinary jobs market'. In addition, the plan also aims to develop instruments for the diagnosis and prevention of potential mental health problems, as well as to **have an impact on the improvement of working conditions** in organisations, and to make the city's **mental health care services available to workers**.

In 2013, Spain launched the initiative '**Healthy Companies**' (Red Espaola de Empresas Saludables), inspired by the work carried out by the European Network for Workplace Health Promotion (ENWHP) and in response to the National Institute for Safety and Health at Work's (INSST) own interest in **recognising the work of companies in the field of improving the health and well-being of their workers**, as well as promoting a culture of health and the exchange of business experiences. Under this initiative, any company or organisation, regardless of its size, ownership or sector, can express its commitment by applying to join the Luxembourg Declaration. If it wishes to do so and it meets the

quality criteria developed by the ENWHP, the company can request its recognition for good practice in health promotion at work. According to 2021 data, more than 800 Spanish enterprises are members of REES (INSST, 2023).

In July 2017, a new company-level collective agreement was signed between representatives of the management of the insurance company AXA and the CCOO[55], the main trade union representing the company's employees[56]. This agreement included the recognition of the right to turn off company phones or not answer work-related calls outside of working hours. This implies that AXA employees are also not required to answer work emails or messages outside of their normal working day. The approval of this innovative measure made AXA the first company in Spain to recognise this right (Eurofound, 2017). Another agreement, signed on 17 July 2019 between Telefónica and the trade unions CCOO and UGT[57], is among the most noteworthy recent company agreements related to the right to disconnect. Furthermore, the trade unions CCOO and UGT have separately issued recommendations emphasising the importance of digital disconnection and compliance with existing laws to protect work-life balance and prevent mental health issues arising from excessive remote work and constant connectivity. A specific recommendation has been made for parents with children at home. (Eurofound, 2020).

Gaps and limitations in the legislative framework in Spain

While the legislative framework in Spain with regard to mental health in the workplace includes multiple laws and regulations aimed at protecting the health and well-being of workers, there are some gaps and limitations in the current framework that may hinder its effectiveness. Based on desk research and the interviews (ES1; ES2; ES3), these include:

- **Lack of enforcement**: While laws and regulations exist, there is often a lack of enforcement of these regulations in practice, which can make it difficult for workers to access the protections and resources to which they are entitled. According to data from the Labour and Social Security Inspectorate (2023), 223,982 visits were made in 2021, which identified 78,686 cases of infringement and 671,336 of employees affected by these infringements. This high rate of infringements suggests that there may be many more infringements that are overlooked due to the lack of visits (Labour and Social Security Inspectorate, 2023). Not all companies are visited by the inspectors, as there is lack of human and financial resources (ES1; ES2; ES3). Therefore, usually the biggest companies are visited, while the small ones are the most overlooked.
- **Limited awareness of the importance of mental health in the workplace**: Interviewees also suggest that there is still lack of awareness on the importance of employees' mental wellbeing among employers and broader society. Lack of awareness about the issue of mental health in the workplace among workers and employers can make it difficult for individuals to access the resources and support they need to address mental health issues. Furthermore, the involvement and participation of workers and their representatives in decision-making processes related to psychosocial health protection is still rather low even though there are increasingly positive signs of change in recent years.
- **Limited access to mental health services**: There is a limited number of mental health professionals available, with only 6 clinical psychologists per 100,000 people in Spain,

[55] Confederación Sindical de Comisiones Obreras (Trade Union Confederaton of Workers' Commissions). More information is available at: https://www.ccoo.es/.

[56] According to the information provided on the website https://www.worker-participation.eu/, in Spain only around 14% of employees are members of trade unions.

[57] Unión General de Trabajadores (General Union of Workers).

compared to an OECD average of 20 per 100, 000. Also, Spaniards are one of the biggest benzodiazepines users in the world. There are long waiting times to see mental health specialist at public hospitals, and people of lower income who cannot afford private counselling are the most affected. Interviewee ES2 mentioned that access to mental health services in Spain is limited, particularly in rural areas, which can make it difficult for workers who need mental health support to access the services they need. Rural area workers also tend to be most affected by sudden shifts in the job market, e.g. the decrease in work opportunities experienced during the COVID-19 pandemic.

- **Vulnerable groups are not sufficiently protected**: In Spain, such workers as women and migrants are not sufficiently protected by the labour and health and safety law. Although it is recognised that these groups are particularly vulnerable and are more prone to experience discrimination and other violations, there are no laws and programmes targeted to protect these groups of people against psychosocial risks.
- **Burnout is not recognised as an occupational disease**: Interviewees from Spain (E2; E3), like the experts from Finland, highlight the need to recognise burnout and occupational stress as occupational diseases. Therefore, employees experiencing occupational stress or burnout are categorised as experiencing depression and/or anxiety. This may lead to employees not receiving support that they need. Moreover, they are not entitled to sickness benefits and paid extended sick leave due to work related stress and burnout.

Good practices in place in Spain

It is worth noting that the Spanish government is working on improving the legislative framework by updating the laws and regulations relating to mental health in the workplace and by launching new initiatives and programmes aimed at addressing this issue. Therefore, while gaps and limitations remain within the legislative framework, some good practices are already in place that aim to protect the mental health of workers. Based on the desk research and interviews (ES1, ES2), these good practices include:

- **Availability of a variety of preventive and rehabilitative measures at the workplace**:

- Many employers in Spain have implemented programmes and initiatives aimed at promoting mental health and well-being among their workers, such as stress management workshops and employee assistance programmes. Initiatives such as 'Healthy companies' encourage companies to proactively improve working conditions;
- Some employers in Spain offer employee counselling and mental health support services, to help workers address mental health issues and improve their overall well-being. Other employers in Spain offer training and education on mental health and well-being to their employees and managers, so that they can better understand the issues and be better equipped to help their colleagues;
- Other employers in Spain have worked to create a culture of openness and support around mental health issues, encouraging workers to speak openly about their mental health and providing resources and support to help them cope with mental health issues. However, more companies should pursue this approach;
- Many employers in Spain have implemented measures to address workplace stress and improve the overall work-life balance of employees. Such measures include flexible working hours, remote working options, and paid time off for mental health days.

- **Employee participation in creating mental health policy at the workplace**: some employers in Spain have actively sought the participation of employees in the design, implementation and evaluation of measures to improve the psychosocial health of the workplace, creating a sense of ownership among employees.
- **Defining mental health in legislation**: a Royal Decree in October 2011 (BOE-A-2011-15623) provided a comprehensive definition of occupational health in Spain, with a specific focus on achieving optimal physical, mental and social well-being for workers. This laid the foundation for the broader adoption of psychosocial health as a key aspect of a worker's health that the employer must ensure is protected.
- **Inspection of psychosocial risks**: Spain's Labour Inspectorate published technical criteria for actions with regard to psychosocial risks, to inform interested parties about its interpretations of labour regulations. The document highlights the fact that psychosocial risk factors can be present in all types of work, and outlines various circumstances that might lead to preventive actions. Risk factors include workload and the pace of work, participation and control, and personal relationships at work. The inspection procedure laid out by the Inspectorate involves identifying and assessing risk factors using a specific method or procedure. Non-compliance with psychosocial risk management obligations can lead to the initiation of a sanctioning procedure.
- **Extensive protection of employees working remotely**. Spain is among the countries which have established a set of digital rights for individuals and employees. Is Spain, employees have the right to disconnect in both public and private sectors, during the rest periods, leave, and holidays to respect their personal and family privacy (Article 88). Workers' privacy is also protected by the Data Protection Act (BOE-A-2018-16673) and Law 10/2021 on Remote Working. Among other measures, these laws protect workers' privacy by securing their private data and when making use of audio-visual or geolocation technologies at work. Royal Decree in 2015 (BOE-A-2015-11430) states that remote workers have the same rights as those working at the company'spremises, including right to adequate health and safety protection.

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CASE STUDY: NETHERLANDS

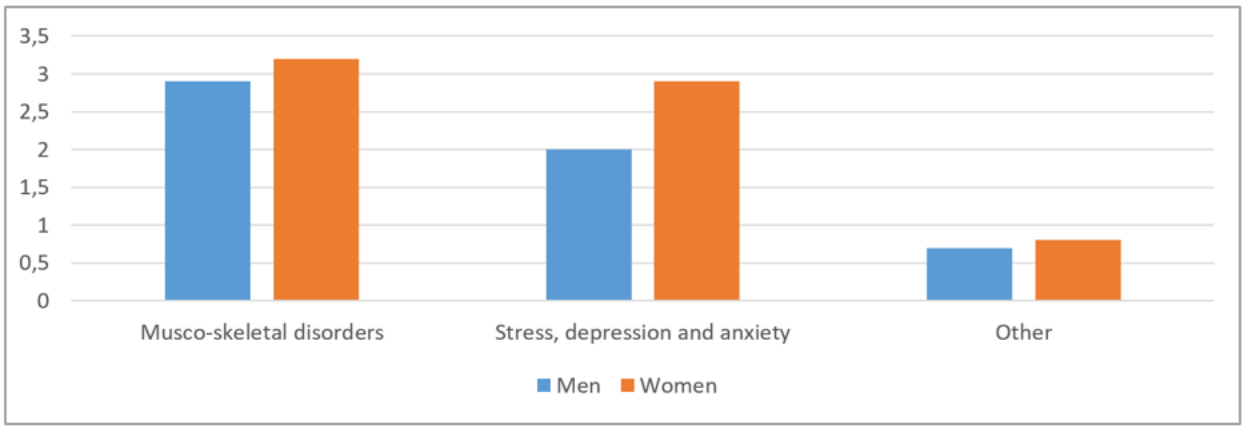
Introduction: psychosocial risks and vulnerable groups in the Netherlands

The Dutch government estimates that nearly half of all people in the Netherlands experience mental health issues at some point in their lives (Ministerie van Algemene Zaken, 2022). For people of working age, mental health issues due to work-related stress are prevalent (Wester and van der Valk, 2022). Stress and burnout are among the most common work-related mental health problems, followed by depression, anxiety disorders and substance abuse (Trimbos-instituut, 2022).

In 2022, an estimated 1.3 million employed people in the Netherlands experienced burnout-related symptoms (Trimbos-instituut, 2022). An increase in the percentage of people experiencing burnout related symptoms was also found between the years 2014 and 2018 (Venema et al. 2020).

Compared with the EU average of 44.6%, the percentage of workers self-reporting cases of work-related health problems in the Netherlands in 2020 (56.2%) was relatively high (Eurostat, 2022). According to Eurostat, the most common health problems among the working population in the Netherlands include mental health conditions such as anxiety and depression (Figure 25). Eurostat data show that women report such cases slightly more often than men, especially with regard to stress, depression and anxiety-related symptoms.

Figure 25: Most commonly reported work-related health problems in the Netherlands in 2020, by gender (in % of total employed and previously employed population)



Source: created by the research team, based on Eurostat data.

Statistics Netherlands (CBS) sheds some additional light on which employees in the Netherlands experience certain psychological strains at work. These strains are: 1) emotionally difficult jobs (e.g. dealing with terminally ill patients); 2) emotionally demanding workplaces (e.g. psychiatric care); 3) overall emotional involvement (e.g. working with students); 4) external misconduct (unwanted behaviour from external persons such as clients, patients, etc. This can include violence, harassment, and sexual intimidation); 5) internal misconduct (unwanted behaviour from colleagues, such as bullying, sexual harassment, etc.); and 6) extra hard work (having to work harder or longer than usual in order to complete tasks). The 10 highest-scoring occupations/professions across all six indicators are shown below in Table 7. A few occupations/professions stand out. Doctors, for example, score comparatively high, with five out of the six strains indicated. Overall, it appears that health and education professions such as nurses, psychologists and teachers are disproportionally affected by the abovementioned strains. (Pleijers, 2020).

Table 7: Psychologically stressful work, by occupation

	Emotionally demanding jobs	Emotionally challenging workplaces	Emotional involvement	External misconduct	Internal misconduct	Extra hard work
Doctors	×	×	×	×		×
Social workers	×	×	×	×		
Police and firefighters	×	×		×	×	
Specialised nurses	×	×		×		×
Group/ residential counsellors	×	×	×	×		
Psychologists and sociologists	×	×	×			
Primary school teachers	×		×	×		
Nursing staff (MBO education)	×	×		×		
Secondary school teachers	×	×	×			
Security staff		×		×	×	

Source: created by the research team, based on CBS data.

Furthermore, according to Venema et al. (2020), workers between 25 and 35 years of age are the most likely to report burnout, probably because this age group have more responsibilities, both at work (when building a career) and at home (due to starting a family). In addition, societal characteristics may play a role. Technological developments can, for instance, threaten work-life balance when work is always accessible online (Venema et al., 2020).

Mental health at work is a dominant feature on the political agenda in the Netherlands, with a specific focus on psychosocial workload (*psychosociale arbeidsbelasting*), an umbrella term for occupational risks that can lead to health complaints with a psychosocial cause, as well as to potential job loss (NVAB, 2018; Inspectie SZW, 2016). This focus on psychosocial workload is evidenced by the relatively long track record of the commission and the publication of a twice-annual national Working Conditions Report (*Arbobalans*). This report, published by the research organisation TNO, provides a broad overview of developments in working conditions in the Netherlands. The Working Conditions Report outlines the extent and consequences of exposure to occupational risks, which occupations and sectors are at risk, and what measures have been taken by companies in these areas. The report also highlights the extent of absenteeism, accidents at work, and the prevalence of occupational diseases (TNO; Koolmees, 2021b).

In addition, Statistics Netherlands (CBS) and TNO work together with the Ministry of Social Affairs and Labour (SZW) to carry out the annual National Working Conditions Survey (*Nationale Enquête Arbeidsomstandigheden*), which provides the data for the Working Conditions Report (Ministerie van Sociale Zaken en Werkgelegenheid; Van Ark, 2018a; Venema et al., 2020).

Policies implemented by governments in recent years in relation to these issues appear to focus predominantly on work-related stress, burnout, bullying, aggression and sexual misconduct in the workplace, the impact of new technologies on mental health in the workplace, telework/hybrid working, the enforcement of labour legislation, and identifying and de-stigmatising psychological conditions. In addition, one of the most recent and impactful events that has generated a lot of attention is **the COVID-19 pandemic**. According to one interviewee (NL1), the COVID-19 pandemic increased attention for psychosocial workload. The pandemic and the subsequent government restrictions changed conditions for many workers, especially since working from home was strongly encouraged by the Dutch government during its height. Even after the government discontinued its official advice on homeworking, it continued to encourage hybrid working[58]. However, while working from home can bring many benefits such as improved work-life balance, research shows that teleworking can also increase strains on psychosocial health. For example, workers working from home reported higher levels of burnout after a year of homeworking than before (Zoomer and Houtman, 2021). Moreover, according to Trimbos-instituut (2022), workers aged between 25 and 35 are among those most at risk of mental health problems due to the COVID-19 pandemic. This finding applies to both men and women, and the risks appear to increase when workers still have children living at home (Trimbos-instituut, 2022).

Lastly, another important area of focus in the Netherlands has been the economic impact of **absenteeism due to psychosocial workload** in general, and burnout specifically (see for instance CBS, 2022). A recent estimate from Broughton et al. (2022) shows that one-third of all cases of absence from work in the Netherlands are due to psychosocial stress. These figures are of great concern, thus explaining their place on the government's agenda (Broughton et al., 2022). The economic costs that result from absenteeism due to psychosocial problems are also worrying. It is estimated that in total, such absenteeism in the Netherlands may cost approximately EUR 3.9 billion per year (Venema et al., 2020). Government websites state that the focus should lie with getting back to work as quickly as possible, but also recognise that employers can reduce absenteeism and the risk of work-related health problems by adhering to legal safety standards and by paying attention to the personal circumstances of their employees, among other measures (Ministerie van Sociale Zaken en Werkgelegenheid, 2018).

Legislation and initiatives in place in the Netherlands

Overview of legislation

As previously mentioned, psychosocial health has been a key area of focus for Dutch policy, with explicit provisions with regard to psychosocial risks in the workplace and risk assessment. Psychosocial workload has also been enshrined in Dutch law. Specifically, Dutch labour law is largely governed by a body of working conditions legislation. This legislation includes regulations for both employers and employees, covering the protection of health and safety, and the welfare of employees and workers who are self-employed. Working conditions legislation in the Netherlands is made up of four components:

[58] See, for example, *Wanneer mag ik werken vanuit huis?* (2022), Rijksoverheid.nl. Available at: https://www.rijksoverheid.nl/onderwerpen/arbeidsovereenkomst-en-cao/vraag-en-antwoord/wanneer-mag-ik-werken-vanuit-huis.

- The Working Conditions Act (*Arbeidsomstandighedenwet*);
- The Working Conditions Decree (*Arbeidsomstandighedenbesluit*);
- The Working Conditions Regulation (*Arbeidsomstandighedenregeling*); and
- The Working Conditions Policy Rules (*Arbeidsomstandighedenbeleidsregels*).

These four components are listed from the highest-level and hardest to change (the Act) to the most practical rules on risks, which are also easiest to amend if the scientific consensus changes (the Policy Rules).

Thus, the **Working Conditions Act** is a framework law that lays down relatively high-level provisions. It contains the general provisions that apply to all places in which work is performed (Ministerie van Sociale Zaken en Werkgelegenheid, 2017). According to Article 1.3 of the Act, psychosocial workload (*psychosociale arbeidsbelasting*) is defined as factors that either directly or indirectly cause stress in the workplace. It explicitly includes sexual harassment, aggression and violence, bullying and work pressure. Stress is defined as a condition that has physical, psychological or social consequences that are perceived as negative. Under Article 3, the Act obliges the employer to pursue a policy aimed at preventing psychosocial workload or, if prevention is impossible, mitigating it. Article 5 of the Act obliges the employer to formulate a written inventory and evaluation of the risks (*Risicoinventarisatie en-evaluatie*, RI&E) of the work performed at the organisation, as well as any measures implemented to counter these risks. According to Articles 33 and 34, violations of certain parts of the Act (for instance, Articles 3 and 5, among others (can lead to fines. (Rijksoverheid, 2022a).

The **Working Conditions Decree** is an elaboration of the Act, which contains the rules that both employer and employee must comply with to counter occupational risks, as well as specific rules for various sectors and categories of employees (Ministerie van Sociale Zaken en Werkgelegenheid, 2017). Articles 2.15 and 5.9 of the Decree specify the obligations of the employer with regard to taking stock, preventing and mitigating risks relating to psychosocial workload by means of the mandatory risk assessment. The Decree stipulates that employees who perform work that exposes them to a risk of psychosocial workload must be given information and instruction on the risks of psychosocial workload, as well as measures aimed at preventing or reducing it. Lastly, Article 5.9 of the Decree requires that the risk evaluation should address the psychological strain resulting from working at a screen (Rijksoverheid, 2023a).

The **Working Conditions Regulation** lays down detailed obligations for specific types of employers and sectors, such as how an occupational health and safety service must perform its statutory duties. These regulations are mandatory for employer and employee (Ministerie van Sociale Zaken en Werkgelegenheid, 2017).

The original Working Conditions Policy Rules were rescinded in 2013 (Rijksoverheid, 2012). Parts of it were replaced by the **Policy rule on imposing fines under working conditions legislation**, which forms the most detailed and practical level within Dutch working conditions legislation. For example, this policy rule determines how fines are calculated (Articles 1.3-1.8). At the moment, fines can range from EUR 340 to EUR 50,000 for single offences by employers of more than 500 employees. Smaller companies are charged a percentage of the total fine, based on their number of employees. Employees can be fined a maximum of EUR 450 (Rijksoverheid, 2022b).

Overview of stakeholders, projects and initiatives

Inspectorate SZW is the labour inspectorate that forms part of the Ministry of Social Affairs and Labour (SZW). In the event of a violation of the working conditions legislation, the inspectorate can order

companies to implement a wide variety of science-backed interventions, and can impose a fine (Van Ark, 2018a). In 2021, the inspectorate programme 'Psychosocial Workload' (*Programma Psychosociale Arbeidsbelasting (PSA*)) was set up, with the aim of increasing the number of employers tackling psychosocial workload. The multi-year Programme to Improve Compliance with Risk Inventory & Evaluation (*Programma Verbetering naleving RI&E*) and the associated instrument 'Route to risk evaluation' (*Route naar RI&E*) aim to improve risk evaluation compliance, both quantitatively and qualitatively. (Van Ark 2021; Wiersma, 2021). As part of Inspectorate SZW's multi-year plan for 2019-2022, the policy programme 'Psychosocial Workload' was established. The aim of this programme is to increase the proportion of employers addressing psychosocial workload. (Koolmees, 2021a; Wiersma, 2021).

In 2014, a four-year public awareness campaign on work-related stress was set up by the Ministry of Social Affairs and Labour (SZW). Its goals were to raise awareness among a wide audience, to promote a culture shift that would facilitate conversations and action on work-related stress, to provide insights into the returns of a sound approach, and to make knowledge and tools available to both employers and employees. The activities related to this awareness-raising campaign extended into subsequent years –for instance, through thematic public-awareness campaigns focusing on a specific issue, as well as the annual Week of Work-related Stress (*Week van de Werkstress*), which continues long after the end of the programme. (Van Ark, 2018a).

The Broad Social Cooperation on Burnout (*Brede Maatschappelijke Samenwerking Burn-outklachten*) was set up as a concerted effort to tackle the increase in burnout and the resulting impact of absenteeism on the economy. It brings together social partners, industry and professional associations, as well as parties in (occupational) health care, and the Ministries of Social Affairs and Labour, of Health, Welfare and Sport, and of Education, Culture and Science. The programme focuses on activities that prevent workers from developing burnout symptoms (primary prevention), as well as activities aimed at the early recognition and management of burnout symptoms (secondary prevention), and limiting the effect of the COVID-19 pandemic on the development of burnout symptoms by workers.

The policy programme 'Tackling Bullying' (*Programma aanpak pesten*) includes a toolbox for managers to prevent bullying and tackle misconduct, and a toolbox for prevention officers and corporate councils. (Van Ark, 2018a, Van Ark, 2021). This programme included a pilot exercise to test the effectiveness of a behavioural and cultural intervention to address bullying at work: the 'Participatory Intervention on Culture and Undesirable Behaviour' (Participatieve Interventie op Cultuur en Ongewenste omgangsvormen, PICO). PICO focused specifically on the roots of undesirable behaviour (in order to reduce such behaviour), which is deemed to result from a lack of awareness, norms, culture, and the presence of risk factors within the organisation. If deemed effective, the intervention could be added to the set of interventions available to the Inspectorate SZW (inspectorate of the Ministry of Social Affairs and Labour) to impose on companies with unhealthy working environments. Due to the COVID-19 pandemic, the pilot was left incomplete, and its effectiveness can thus not be assessed (Van Ark, 2018a; Van Ark, 2021; Wiersma, 2021).

In February 2022, the government introduced the National Action Plan on Sexual Misconduct and Sexual Violence (*Nationaal actieplan Aanpak Seksueel grensoverschrijdend gedrag en Seksueel geweld*) and appointed a commissioner, with the aim of promoting a necessary cultural shift in this area. Furthermore, a variety of different ministries have undertaken research into sexual misconduct in the respective sectors for which they have responsibility (Dijkgraaf and van Gennip, 2022a; Dijkgraaf and van Gennip, 2022b; Uslu, 2022).

The Dutch government has acknowledged the impact of hybrid working arrangements on workers' mental health, and commissioned research on this topic. (van Gennip, 2022). In the resulting report,

mention is made of the legal requirement for employers to update their mandatory risk evaluations to accommodate changes to working arrangements, such as the introduction of telework/hybrid working (Capgemini, 2022).

Several policy initiatives have addressed the stigmatisation of mental health issues. One example is the policy programme/foundation 'Strong Together without Stigma' (*Programma Samen Sterk zonder Stigma*). This was a cooperative effort by Platform MIND, the Dutch mental health service, and the Dutch Association for Psychiatry. The programme was funded by the government, and undertook a wide array of activities aimed at destigmatising mental health conditions (Van Ark, 2021; Samen Sterk zonder Stigma); a social media campaign on identifying psychosocial workload (Van Ark, 2018b); the annual Week of Work-related Stress (*Week van de Werkstress*) (Van Ark, 2018a; Van Ark, 2021, Wiersma, 2021); and the 'Hey, it's okay' campaign (publiekscampagne '*Hey het is oké*') aiming to destigmatise psychological conditions such as depression, and anxiety and panic disorders. (Wiersma, 2021).

Gaps and limitations in the legislative framework in the Netherlands

While the focus on psychosocial health appears to be high on the political agenda, and a wide array of initiatives have been identified which address issues resulting from psychosocial workload, 'holes' still remain in the legislative framework in relation to new and emerging risks. Examples of such risks include those which affect certain vulnerable groups, the risks posed by technology and hybrid work, and issues of practical compliance. These gaps will be highlighted below.

The Dutch government has repeatedly stated that tackling psychosocial workload is mainly the responsibility of employers and employees, not of the government. (Van Ark, 2018a; Van Ark, 2021). However, the enforcement of labour conditions legislation does lie with the government, specifically with the Inspectorate SZW. As mentioned above, the government acknowledged that the issue of burnout cannot not be solved by employees and employers alone, which is why the Broad Societal Cooperation on Burnout initiative was set up. (Van Ark, 2021; Koolmees, 2021b). EU-OSHA reports that while the Netherlands (together with Germany) has more frequent labour inspections than the other EU countries examined (Spain, Croatia, Poland and Denmark), a survey of SMEs found that inspections often do not focus on psychosocial risks (Broughton et al., 2022), despite the fact that employers are required by law to protect employees from psychosocial risks. According to one interviewee (NL3), inspections in the Netherlands may look at whether there is a policy in place to mitigate psychosocial risks but are unlikely to consider how comprehensive or effective such a policy is. Another interviewee (NL1) found government compliance checks problematic, because such checks rarely lead to sanctions or other consequences. There is limited scope for the Ministry of Social Affairs and Labour to act on complaints. The most common course of action is to merely warn the company and revisit a year later.

The government's expectation that employers should take primary responsibility for mental health at work does not align with awareness of mental health among employers. In a recent study from EU-OSHA, a majority of the employers interviewed stated that they were not aware of the legal framework regarding psychosocial risks in the Netherlands. It was found that managers generally place greater emphasis on 'thinking logically' in certain situations, while smaller organisations especially do not deem it necessary to take formal actions on prevention (Wester and van der Valk, 2022; Broughton et al., 2022). One interviewee (NL1) also found it concerning that managers and leaders across all sectors are generally neither trained in nor possess managerial skills relevant to this issue, making it harder to recognise and act on mental health in the workplace.

An emerging theme in both the (international) media and in research is the high risk associated with a particularly vulnerable group of workers, namely **migrant workers**. According to one interviewee (NL1), migrant workers are more likely to experience poor treatment from employers. Pharos (2022)

also recently researched the health of migrant workers and their access to Dutch healthcare. Pharos concluded that living conditions for migrant workers are often very poor; that they are at risk of both physical and mental health problems (the latter due to stress, long working hours and low wages); and that migrant worker groups often report higher levels of substance abuse. At the same time, many workers continue to work while ill, for fear of losing their jobs, and are often unaware of their rights and about the healthcare system in the Netherlands – a situation that affects both workers and their families (Pharos, 2022). At the moment, several policy initiatives are underway to address this issue, but Dutch legislation does not focus on the protection of migrant workers as a distinct vulnerable group.

The government has acknowledged the fast pace of developments regarding monitoring technology and its possible impact on the modern work environment. It is aware of evidence that if organisations focus too heavily on deploying workers as efficiently as possible using monitoring tools, this can lead to excessive work pressure (Koolmees, 2021a; Das et al., 2020). Work pressure is one of the categories of psychosocial workload defined by the Dutch Working Conditions Act, which means that if monitoring tools might lead to a risk of psychosocial workload, this should be included in the mandatory risk evaluation and addressed through relevant measures. Outside of pre-existing legislation on data protection and working conditions, no legislation or policy is in place in the Netherlands regarding to the risks (or opportunities) arising from monitoring technology in relation to work. These will be mapped in the Labour Conditions Vision 2040[59], the long-term health and safety policy for the Dutch government, drafted in collaboration with social partners (Arbovisie 2040) (Koolmees, 2021a).

Good practices in place in the Netherlands

Prevention of psychosocial risks

Due to increased collaboration, as well as some relevant and well-targeted initiatives, the Netherlands presents a few examples of good practice. One is the aforementioned **Broad Societal Cooperation on Burnout** initiative to tackle the increase in burnout and the resulting impact of absenteeism on the economy. This programme has demonstrated innovative ideas for extensive **cooperation**, and targets those sectors most at risk of developing burnout, namely healthcare, education, ICT and industry (Van Ark, 2021; Wiersma, 2021). In this sense, it is an example of a **well-targeted** policy programme, specifically tailored to groups that are proven to be at high risk of developing burnout.

The previously mentioned **National Action Plan on Sexual Misconduct and Sexual Violence** also represents an example of good practice, **based on research** undertaken by different ministries (Dijkgraaf and van Gennip, 2022a; Dijkgraaf and van Gennip, 2022b; Uslu, 2022). Focus on this topic has increased due to societal outcry over sexual misconduct allegations concerning the popular TV singing contest *The Voice*, prompting a larger discussion about such misconduct in the media and other sectors. (BOOS, 2022; NOS, 2022). Another **innovative and well-targeted** aspect of policy regarding misconduct in the workplace is the focus on the *vertrouwenspersoon* (a confidential advisor/intermediary that employees can turn to with reports or complaints about inappropriate behaviour, such as aggression and violence, sexual harassment, bullying, and discrimination). Research was conducted into this position (Van Ark, 2018a), and a toolbox for *vertrouwenspersonen* was developed (Van Ark 2018b), as well as a code of conduct toolbox (Van Ark, 2018b). An online training platform for the role has also been developed (Van Ark, 2018b; Van Ark, 2021). This allows the exchange of knowledge, initiatives and best practices between partners in order to establish what is needed for

[59] Arbovisie 2040 (Labour conditions vision 2024). Available at: https://www.arboportaal.nl/campagnes/arbovisie-2040.

further professionalisation of the role.

Lastly, the Netherlands is making **relevant, innovative and well-targeted** steps towards a '**right to disconnect**'. While no 'right to disconnect' legislation exists in the Netherlands as yet, a legislative proposal has been tabled to amend the Working Conditions Act to regulate contact with workers outside of working hours. Gijs van Dijk, the proponent of this legislation in the Dutch parliament, argues that in modern Dutch society, the traditional working hours of 9am to 5pm have largely been abandoned. He notes that this has had an adverse consequence, in that a worker's ability to fully relax, both physically and mentally, can come under pressure when employees can be contacted at all hours of the day. The proposed amendment therefore aims to regulate such contact. To prevent psychosocial workload, employers and employees will have to make agreements regarding whether or not they are reachable outside of working hours. In this way, the risks of psychosocial workload, such as stress and burnout complaints, can be reduced by placing limits on how and when workers can be contacted (van Dijk, 2020).

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ANNEX 2. LIST OF INTERVIEWS

Country	Stakeholder	Interviewee Code	Interview Date
Finland	Ministry of Social Affairs and Health	FI1	2023-01-13
	The Occupational Health and Safety Agency	FI2	2023-01-13
	The Central Organisation of Finnish Trade Unions SAK	FI3	2023-01-18
	The Central Organisation of Finnish Trade Unions SAK	FI4	2023-01-19
Germany	RWTH Aachen University	DE1	2023-01-12
	Federal Ministry of Labour and Social Affairs	DE2	2023-01-13
	Federal Institute for Occupational Safety and Health	DE3	2023-01-19
Lithuania	Labour Inspectorate	LT1	2023-01-09
	Center for Mental Health	LT2	2023-01-18
	Ministry of Health	LT3	2023-01-19
Spain	International University of Valencia	ES1	2023-01-16
	Confederation Salud Mental España	ES2	2023-01-17
	Confederation Salud Mental España	ES3	2023-01-27
The Netherlands	MIND	NL1	2023-01-16
	Entrepreneurs' Organisation	NL2	2023-01-20
	Trade Union	NL3	2023-01-24
	Ministry of Social Affairs and Employment	NL4	2023-01-27
EU level	Eurofound	EU1	2023-01-27
	EU-OSHA	EU2	2023-03-01
	European Trade Union Confederation	EU3	2023-03-03
	Business Europe	EU4	2023-03-09

The study focuses on the analysis of national legislation and best practices across the EU Member States that address health and safety requirements for the protection of mental health at work. The study reveals that efforts at EU and national level are currently insufficient to protect employees from psychosocial risks. EU-level legislation on work-related psychosocial risks is therefore needed to set the minimum health and safety requirements for mental health at work. This would compel Member States to take action to protect employees and to ensure minimum standards and equality across the EU.

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