04 Chapter

Social Policies, Infrastructure and Social Dialogue in relation to Psychosocial Risk Management

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1. Introduction

This chapter further discusses the policy context to psychosocial risk management and in particular to work-related stress, violence and harassment at work. Therefore, existing social policies, legislatory frameworks and integrative infrastructures in relation to psychosocial risk management are reviewed and analysed. A central issue considered is 'Social Dialogue' as a relatively novel mode of regulation ('soft law') and how it can contribute to the effective management of psychosocial risks in the changing socio-political and economic context of the EU-27. The chapter combines an analysis of the literature with findings from a stakeholder workshop that was organised as part of the PRIMA-EF project where representatives from employers' organisations, trade unions, governmental institutions and scientific institutes shared their knowledge and experiences about current questions and challenges in the area of psychosocial risk management at work in the enlarged European Union (EU). The stakeholder involvement, on the one hand, allowed to confirm and complement the findings of the literature analysis and, on the other hand, provided room for social dialogue itself, where social partners and other important actors engaged in an open and fruitful discussion. Based on this analysis and considering recent activities on indicators in this area at EU level and by the International Labour Organization (ILO), a social dialogue indicator framework was designed in order to promote discussion on psychosocial risk management in the EU and to support its practical implementation.

2. The policy context of psychosocial risk management: status quo

2.1. Psychosocial risk factors: legal framework and regulations in the EU

In EU legislation, the terms 'stress' and 'psychosocial risks' are not mentioned explicitly. However, the Framework Directive 89/391/EEC lays down employers' general obligations to ensure workers' health and safety in every aspect related to work, "*addressing all types of risk*". In particular, it requires employers to adapt the work to the individual, "*...to alleviating monotonous work and work at a predetermined work-rate and to reducing their effects on health*". In this sense, there is an indirect reference to, and provision for, risks related to the psychosocial work environment. This is also the case for the Display Screen Directive 87/391/EEC, which refers to *"problems of mental stress"* in the context of risk assessment and to the Organisation of Working Time Directive (93/104/EC).

Other issues such as harassment and violence at work – in principle – are also covered under the general duty of the employer to assess, prevent and reduce risks to safety and health at work according to the provisions of the Framework Directive 89/391/EEC. A background paper from the European Foundation for the Improvement of Living & Working Conditions, summarised the policy context in the EU on these issues by stating that, "Despite calls in the past for a specific directive dealing with violence and harassment at work, the European Commission indicated its preference that the issue be dealt with through joint social partner action within the existing structures of the European Social Dialogue. Earlier this year (2007) the social partners at European level responded positively to this call and finalised a Framework Agreement on Harassment and Violence at Work (...) It should also be mentioned that EU "anti-discrimination" directives (Council Directives 2000/43/EC and 2002/73/EC) include new definitions of racial and sexual harassment applicable across the EU (…) In general, policymakers and public agencies at EU and national level have made serious efforts since the early 1990s to combat workplace harassment" (Hurley & Riso, 2007, p. 2).

The European Agency for Safety and Health at Work summarises the legal situation in this domain on country level in its publication on 'How to Tackle Psychosocial Issues and Work-related stress'. It states that, "None of the EU countries have specific regulations on work-related stress, but legal frameworks in all countries refer to psychosocial risk factors that are the cause of work-related stress. In some countries, the legal provisions go further than the framework directive by specifying the need for employers to act against factors considered to be psychosocial risks that cause work-related stress. This is the case in Belgium, Denmark, Germany, the Netherlands and Sweden. (…) In a few countries, revisions of the occupational health and safety laws are ongoing (e.g. Ireland, Austria and Sweden). While, in Finland, a new health and safety law was adopted in spring 2002 encompassing psychosocial work demands, violence and bullying" (EASHW, 2002, pp. 14-15).

Moreover, legal provisions in Sweden demand that employers have to conduct a risk assessment of health and safety impacts before introducing organisational changes. In the UK, the 'Management of Health and Safety at Work Regulations' of 1999 demand an assessment of 'psychosocial hazards' at the workplace (HSE, 1999). In the Czech Republic, a provision on work-related stress was enacted with the new Labour Code in 2006. According to Vogel (2002), new legislation on psychological harassment at the workplace is on the agenda in a number of EU countries. Sweden led the way with its 1993 regulations (Order on Victimization on Work). Also, France and Belgium have passed laws to stop workplace harassment (see e.g. Hirigoyen, 2002). Similar legislation was enacted in Spain, the UK, Portugal and Italy.

Another important aspect is that apart from differences in national compensation systems, no country in Europe expressly lists stress-related illnesses in its official schedule of occupational diseases, making it difficult for employees to claim compensation. Only in some countries (e.g. UK, Italy and Ireland) affected employees have been able to gain compensation for stress-related disorders through court decisions (Koukoulaki, 2002). These stress-related compensation claims were one of the factors that prompted the development of the 'Management Standards' approach on work-related stress in the UK (see section 4.2.4).

2.2. Prevention of work-related stress in the EU: developments, progress and challenges

The changing world of work (e.g. intensification of work due to competitive pressures, growing precariousness, rising levels of stress) brings up new challenges for governments, social partners and companies to protect health, to improve well-being of the workforce and at the same time to increase economic performance in Europe. These changes are highlighted by the opening of European frontiers to provide free flow of labour, products and services, against the background of different national realities and occupational health and safety infrastructures with different levels of protection. The EU community strategy 2007-12 on health and safety at work is to combine long-term economic growth, social cohesion and environmental protection; in short, to create more and better jobs in a growing Europe. This includes improving the quality of work including occupational health and safety. These developments make problems of work-related stress and psychosocial risks in general more important (see e.g. Hurley & Riso, 2007).

Over the past decade, considerable progress has been achieved in recognising the relevance of work-related stress in particular and of psychosocial issues in general. This is due to several factors, many of which are interrelated, such as: a) legal and institutional developments, in particular the common European Framework, starting with the EU Framework Directive on Health and Safety in 1989 and subsequent adaptation of national legal frameworks in EU member states, the development of infrastructures, the initiation of campaigns and initiatives (e.g. Schaufeli & Kompier, 2002), b) the growing body of scientific knowledge on stress and psychosocial factors and the dissemination of this knowledge (e.g. Levi, 2002) and c) complementary actions taken by social partners within the European Social Dialogue, e.g. the Framework Agreements on work-related stress in 2004 and on violence and harassment at work in 2007.

However, in spite of all progress that has been achieved, there is still a considerable science-policy gap, and an even broader one between (declared) policy and implementation with regard to stress prevention. On the one hand, there is a common European Framework, and the new EU culture of risk prevention which combines a broad range of approaches, in particular law enforcement, social dialogue, best practices, corporate social responsibility and building partnerships. On the other hand, the situation at the level of EU member states is quite diverse (Oeij & Morvan, 2004). There are rising levels of stress at work, but countries differ in acknowledgement, awareness and prioritisation of this problem. This situation is certainly accentuated by European enlargement, with the percentage of workers reporting stress at work ranging from 16% up to 55% in EU member states (Parent-Thirion, Macías, Hurley & Vermeylen, 2007). On average, workers in Central and Eastern European Countries report the highest level of work-related health impact.

In line with European and global developments (in particular changes in the division of labour and increased competition over the last years), a shift of emphasis in policies can be observed from improving the quality of work to increasing productivity and economic performance. In this context and referring to the policy-making process in the EU, questions are raised in the scientific and political discourse as to whether recently advocated 'softer' forms of regulation in occupational safety and health are appropriate to guarantee convergence in health and safety standards between new and old member states (Woolfson, 2006).

Challenges for governments and regulatory systems are also connected with current trends toward outsourcing, considering that "the regulatory response to outsourcing has been fragmentary and neither the development of instruments nor compliance measures have kept pace with emerging problems" (Quinlan & Mayhew, 2000, p.185). In terms of research infrastructure, a setback occurred with the closing down of the National Institute for Working Life in Sweden in 2007. This highlights the fact that occupational health and safety resources and infrastructures, which are vulnerable to societal and political developments, need support by stakeholders who have an interest in improving working conditions and in defending 'decent work'. This overarching context has to be considered when looking at the development of European Social Dialogue in more detail.

2.3. The increasing relevance of Social Dialogue indicators: accomplishments and challenges

Since Social Dialogue is a core element of the European social model (Weiler, 2004), there is a great interest to assess its prevalence and quality in the EU countries and to gain a deeper understanding of its strengths and weaknesses. In this context, social dialogue indicators play a decisive role. So far, a number of initiatives have been taken to develop social dialogue indicators and to collect data, internationally and EU-wide; however, with regard to psychosocial risk management, a systematic approach is still lacking.

According to the International Labour Organization, social dialogue is one of the four strategic objectives concerning 'Decent Work' (ILO, 1999). In the conceptual framework for measurement of decent work, two indicators especially deal with social dialogue: union density rate and collective bargaining coverage rate (ILO, 2003). These statistical measures are expected to help all parties involved to assess the current state and the level of progress of social dialogue. Lawrence and Ishikawa (2005) presented such an analysis of computed rates from the statistics collected from 36 countries on trade union membership and from 34 countries on collective bargaining coverage. The results provide an informative basis, but need to be interpreted with caution due to methodological difficulties. Moreover, these quantitative measures do not necessarily reflect diverse qualitative aspects of social dialogue (Lawrence & Ishikawa, 2005) such as 'balanced' conditions between employers' organisations and trade unions. A whole range of other measures exist, both quantitative and qualitative. However, relevant data often is not available for many countries and therefore trade union density and collective bargaining coverage are still the most common indicators used internationally.

In a working paper of the ILO Integration Department, Statistical Development and Analysis Group, a comprehensive review on social dialogue indicators has been presented. Four aspects of social dialogue are distinguished: 1) associational structure, 2) wage setting arrangements, 3) participation in public policy and 4) firm-level employee representation (ILO, 2003). Two indicators have been identified for each of these aspects. While the first two categories – in line with the indicators introduced earlier – deal with unionization and collective bargaining arrangements, the third and fourth cover a wider perspective: the influence of social parties on policy making on the one hand, and the premise for social dialogue at the company level on the other. A similar review in the EU context has been introduced by the European Foundation for the Improvement of Living and Working Conditions, which includes four dimensions of key indicators for industrial relations: a) context, b) actors, c) processes and d) outcomes (Weiler, 2004).

Concerning social dialogue in the area of psychosocial risk management – especially the framework agreements on work-related stress (European Social Partners, 2004) and on harassment and violence at work (European Social Partners, 2007) – no specific indicators have been developed to monitor the implementation progress on national level. The basic implementation steps that should be adapted to national industrial relations systems until October 2007 were: translation of the agreement, dissemination and information, discussion between national social partners and development of an actual implementation instrument (Müllensiefen, 2008). Social partners in EU member states were asked to report on the progress and difficulties of implementation in a yearly joint table, but there has been no standardised review of this process. Accordingly, as can be seen in the two interim implementation reports and the final implementation report (European Social Partners, 2006, 2007a, 2008), the reporting is very heterogeneous (for more detail see chapter 7).

In terms of two PRIMA-EF key concepts, convergence and minimum standards, laid down in the Framework (see chapter 1) indicators are needed to secure a good reporting standard in order to properly assess the implementation process across the EU nations. To this end, further considerations and recommendations for a social dialogue indicator system in the European context of psychosocial risk management are addressed in section 6, integrating existing approaches and drawing on the overall findings of this part of the PRIMA-EF project. Also a wider utilisation of indicators for purposes of benchmarking is discussed, referring to the innovative approach of social benchmarking (ETUI-REHS, 2008). In the ETUI-REHS report "Benchmarking Working Europe" (2008), it is understood as an appropriate instrument with which to mould social processes and social policy; the (ambitious) aim being not only to defend minimum standards but to promote rising standards through benchmarking.

2.4. Benchmarking national policies for implementing the European strategy on health and safety at work

In the context of developing social dialogue indicators focused on psychosocial risk management, relevant policy developments and initiatives in the EU on benchmarking national policies concerning health and safety at work should be considered. In 2007, the European Commission's "Advisory Committee on Safety and Health at Work" established a working group with the purpose to develop an instrument called "scoreboard" for monitoring the member states' performance in relation to the objectives provided by the new community strategy on health and safety at work 2007-2012. Once completed, this new European Occupational Safety and Health (OSH) scoreboard shall illustrate efforts and achievements of the participating countries in several focus areas covered by six scoreboard chapters, three of which being of particular importance with respect to the PRIMA-EF project. A chapter dedicated to "National OSH strategies", will provide indicators of the social partners' involvement in strategy-related decision making and implementation processes. Another chapter on "Work-related health problems and illnesses" will include information on how the EU member states deal with the problem of work-related stress. While the chapter on "Preventive potential" will refer to different components which form a country's potential for developing and maintaining a good working environment. One of these components will be addressed as "Partnership and cooperation". Here, the scoreboard will indicate a) if employers' and workers' organisations have developed (together or separately) autonomous initiatives to improve OSH at the enterprise level, b) if they have taken significant steps at national level for the implementation of European framework agreements on telework, work-related stress, or harassment and violence at work, and c) how closely OSH authorities are cooperating with social partners' organisations. The publication of the first completed European OSH scoreboard is planned for summer 2009. In the meantime, a similar project, dedicated to the preparation of a scoreboard monitoring the performance of regional OSH authorities, has been initiated in Germany. As in the European scoreboard, indicators of Social Dialogue in different areas of OSH, e.g. work-related psychosocial health risks, will be included here too.

3. Methodology

To tackle the issue of social policies, infrastructure and social dialogue in the area of psychosocial risk management, two different methods were used. First, a comprehensive literature review was conducted to capture relevant issues and trends. Second, the opinion of key stakeholders in the area of psychosocial risk management policies was obtained using the qualitative method of focus groups. This complementary approach was chosen to collect and to integrate viewpoints from a scientific as well as from a practical perspective.

3.1. Focus groups

In order to involve relevant stakeholders in the project, national and international stakeholders from trade unions, employers' organisations, scientific institutes and state agencies were contacted and invited to participate in a Stakeholder workshop. Overall, 45 stakeholders and experts from 7 countries participated in the workshop. Prior to the focus groups, the results of the PRIMA-EF stakeholder survey exploring their perceptions in relation to policies and practice in psychosocial risk management (for more detail see chapter 5) were presented to the participants to provide the basis for an in-depth discussion. Additionally, a representative from DG Employment of the European Commission was invited to give a presentation on the current state of implementation of the European social partners' framework agreement on work-related stress (the full schedule of the workshop can be found on the PRIMA-EF website: http://prima-ef.org/stakeholderworkshop.aspx). On the basis of this information, the discussions took place in focus groups on the following topics: a) regulations and initiatives, b) stakeholder perception of work-related stress, c) corporate social responsibility and d) social dialogue. For the purpose of this chapter, only the results from the focus groups on 'Regulations and Initiatives' and 'Social Dialogue' were considered.

Focus groups in this context were understood as a structured group discussion. Under conditions of confidentiality, participants were encouraged to engage in an open discussion. Before each group was held, information was delivered to participants outlining the topics of the focus group and the structure of the session; each focus group lasted approximately one and a half hour.

Each topic was explored in two concurrent focus groups with eight to ten participants. It was ensured that representatives of different stakeholder groups were represented equally in all four focus groups. This qualitative data collection method provided ways to discuss the relevant issues in-depth and to explore commonalities and differences in stakeholders' opinions. The following topics were discussed in detail: a) current state of social dialogue, regulations and initiatives in relation to psychosocial risks in the EU, b) achievements and implementation gaps, including the situation in the new EU member states and differences in problem awareness among different stakeholder groups, c) potential benefits and limits of various approaches (e.g. regulations versus 'soft law') and d) ways forward, suggestions for improvement, and priorities for action.

Participants could draw on their knowledge and experience and bring in detailed information. All focus groups were recorded and professionally transcribed. The transcripts were analysed through thematic analysis (Braun & Clarke, 2006), identifying key themes and core issues that were reported by the participants.

4. Findings

4.1 European Social Dialogue: review and analysis

4.1.1. Terminology and definitions

Social dialogue in a broader picture is part of the industrial relations system. According to Müller-Jentsch (1997: in Weiler, 2004), industrial relations comprise the relation of management and workforce and likewise of employer federations and trade unions. Other definitions also mention the state as a third actor. The issue of industrial relations is "the cooperative and conflictual interaction between persons, groups and organisations (actors) as well as the norms, agreements and institutions resulting from such interactions" (Weiler, 2004). Social dialogue in this industrial relations system can be seen as the part focussing on cooperative interaction.

In an ILO working paper (Lawrence & Ishikawa, 2005), social dialogue is defined as "all types of negotiation, consultation or simply exchange of information between representatives of governments, employers and workers, on issues of common interest relating to economic and social policy." As outlined previously, social dialogue as a central component of the European social model is highly important in the EU. In this context, social dialogue refers to "discussions, consultations, negotiation and joint actions undertaken by the social partner organisations" in two main forms: a bipartite dialogue between the two sides of industry (management and labour) and a tripartite dialogue involving social partners and public authorities (European Commission, 2002).

4.1.2. Stakeholder perceptions of Social Dialogue

In an online survey posted on the European social dialogue website, a broad stakeholder evaluation of the European social dialogue was conducted, concerning awareness, achievements and opinions in this area (European Commission, 2007). Most participants were representatives or members of social partner organisations, both on European and national level, with a majority of employers' organisations representatives (74%). The knowledge of participants was mostly 'medium' to 'good', measured by a self-assessment and knowledge test. However, knowledge was lower on more specific questions. As most important obstacles to effective social dialogue, the lack of commitment by social partners and a lack of communication between European and national social partners were named, followed by a lack of funding for social partners initiatives and language problems. No major differences between trade union representatives and employer representatives occurred in this point. However, concerning the most important issues to be addressed in the future, some differences were detected: trade unionists gave priority to working

conditions and social protection, while employers saw education and training as most important issues, followed by flexicurity and working conditions. The majority of all participants considered that they were contributing significantly to European Social Dialogue, whereas the impact of Social Dialogue on management at workplace level was perceived as less important by employers than by unionists. Social Dialogue in general was evaluated by respondents as a "good thing with some valuable results achieved, but a somewhat limited impact." This appraisal can consistently be found in statements on social dialogue.

In the PRIMA-EF stakeholders' survey, stakeholders' perceptions of work-related stress in the EU-27 states were explored (see chapter 5). Some of the questions concerned the role of Social Dialogue in combating work-related stress. The results show that 69.3% of all participants (EU-15: 74.4%; new EU countries: 62.5%) stated that they were familiar with the content of the framework agreement on work-related stress. In line with the survey described earlier, answers on more specific questions were less unanimous.

In terms of the implementation of the framework agreement on work-related stress, a relatively low percentage of all participants considered that the agreement had been implemented effectively (17.3%). Significant differences in perception occurred between stakeholders in the EU-15 (25.6%) and the new EU countries (6.2%). Furthermore, employers' representatives were much more convinced that the implementation has been effective (42.9%) than government representatives (12.5%) and trade union representatives (11.1%). Likewise, the impact of the agreement on actions taken to tackle stress was perceived higher by employers (50%) than by government representatives (31.3%) and by trade unions (18.6%). This can be interpreted in relation to the tendency of employers' organisations to aim for less binding and voluntary approaches to health and safety issues, which is also reflected in a BUSINESSEUROPE priority briefing on the reform of European social systems to respond to global challenges. There it is argued that "the European Commission policies to promote social dialogue must be based on a genuine respect for the autonomy of the European social partners" (BUSINESSEUROPE, 2008).

4.1.3. From regulations to soft law: changes in EU policy concerning psychosocial risk management

As mentioned before, on the issue of psychosocial risk management, two 'autonomous', non-binding framework agreements on work-related stress (2004) and violence and harassment at work (2007) have been signed by the European social partners. These form part of 'soft law' and are discussed in more detail in chapter 7. In an interview, deputy general secretary of the ETUC, Maria Helena André, spoke about changes in the general political framework concerning psychosocial risk management, which are developing towards less binding approaches. She stated that "the days of social directives may not be over, but are increasingly numbered". She underlined that it would be an oversimplification to say that autonomous agreements are inferior to legislation. There are of course some concerns that autonomous agreements might not offer the same protection as legislation would do, but agreements can be judged as far better than no regulation at all. "…if it's a choice between legislation that may not come in for years, or agreements that are implemented and improved by the social partners, than as the politics stand; I would opt for the latter" (Grégoire, 2007). Social dialogue in this sense can be seen as a learning process evolving with every new agreement. The implementation of the autonomous agreement on violence and harassment at work has just started. It is expected that more 'hard' implementation will be seen on this agreement, than has been the case with work-related stress. ETUC is trying to support social partners in working with this tool by providing guidance on how to interpret the agreement, conducting regional seminars and developing a checklist for the implementation of Social Dialogue instruments.

4.1.4. EU enlargement – a challenge to the EU social model

Support and capacity building is especially crucial in the new member countries in Central and Eastern Europe (CEE), which have to 'catch up' in terms of social dialogue structures. The social acquis on health and safety at the workplace was perhaps the most complex and difficult area where candidate countries were called upon to harmonise. Better occupational health and safety requires a significant investment that most employers in the new member states are not in a position or are not willing to make in the short term. Other problems have been considered more

urgent in the transition process. There has been a tendency that managers – especially of SMEs – also generally fear that upgrading health and safety standards will bring costs that may lower their competitiveness. Such problems have been identified on a large scale in traditional sectors such as construction, agriculture, but also in some high-tech sectors such as engineering.

Paradoxically, there is already significant legislation in place on health and safety standards in CEE countries. But these legislative items are generally not applied by enterprises. An "extremely complex and burdensome set of legal provisions governing industrial relations" is contrasted by a "total lack of influence on the development of industrial relations in the growing private sector" (Vaughan-Whitehead, 2003). Moreover, because of the comparatively low wages in CEE, workers have been ready to accept lower safety standards in exchange for higher wages through risk premiums. Only wage increases might shift the interests and concerns of workers towards safer working conditions and shorter working time in general. As a 'worst case' example, the situation in Lithuania was cited by Woolfson and Calite (2007), who stated that "the norm for work in Lithuania is based on a regime of intensification without participative working environment." This involved in particular "deteriorated working environments and serious defects in the processes of Social Dialogue" whereby "prospects for harmonization of working environments may recede with eastward expansion" (Woolfson & Calite, 2007).

Over the last years, the EU has tried to build the capacities of the new member countries for Social Dialogue on the national and European level, e.g. by financing programmes that increase the relevant competences of the social partners in these countries. The European Foundation has also carried out diverse capacity building activities (EuroFound, 2006), for example, a project on Social Dialogue capacity building at sectoral and company level in 2006 with all twelve new member states and the candidate countries Croatia and Turkey. Further, there are a number of initiatives by the European Agency for Safety and Health at Work (EASHW, 2007). In spite of such initiatives, Woolfson and Calite (2007), suggest that there are significant shortfalls in European policy approaching the problems of EU enlargement. Potential challenges of enlargement have been pointed out very early in the process.

In the European Commission (2004) "Report of the High-Level Group on the future of social policy in an enlarged European Union" some gaps were highlighted that could be a threat to the future implementation of the "acquis communautaire", e.g. a less efficient social dialogue process and a rather neo-liberal approach in most of the new member states. These threats were addressed in the EU OSH Strategy for 2002-2006 to some extent, but specific funded programmes of work involving concrete actions, implementation timetables and measurable outcomes were lacking. Woolfson and Calite (2007) further state that the current strategy for 2007-2012 still failed to take into account the need for significant improvements in this area and has given an even stronger emphasis on competitiveness, this according to them, marks a "retreat from any commitment to the preservation of a social dimension in the European project balancing economic development with social justice across the member states."

From an empirical point of view, qualitative studies suggest that there are some links between the presence of Social Dialogue and improvements in working conditions. Research also shows that the Social Dialogue process is active at all levels, but that it requires a long time to develop efficient Social Dialogue structures. In the new EU countries – as pointed out earlier – these structures are not so well established, but there is some evidence that the process is speeding-up (Broughton, 2008).

4.2. Stakeholder workshop: Focus groups findings

As described before, the topics 'Social Dialogue' and 'Regulations and Initiatives' were explored each in two concurrent focus groups. The key questions for both topics concerned achievements and gaps including differences between old and new EU member states, differences in problem awareness among stakeholder groups, potential benefits and limits of various approaches and ways forward. For practical purposes, the findings of all four focus groups are presented in the four themes that emerged in the focus group discussions.

4.2.1. Current state – achievements and gaps

As an overall result, it was emphasised that work-related stress has been established on the occupational health and safety agenda and is now largely accepted as an issue. There has been a

lot of research on the impact of stress on e.g. sickness leave, so that the problem cannot be ignored anymore. The amount of legislation was on the whole seen as adequate at EU level but should serve as the minimum level rather than as the 'ceiling'. The Framework Directive 89/391/EEC on occupational health and safety stipulates that employers are obliged to assess all types of risk, including psychosocial risks. However, the implementation, enforcement style, relevant resources and infrastructures vary in different EU member states and compliance is in part quite low. It is for instance more difficult to enforce in some new member states due to a lack of capacity, resources and expertise at national level. A new member state union representative said that, *"in the context of the EU enlargement, there seems to be a legal gap, as work-related stress is not explicitly mentioned as a risk factor for ill health in national legislation. Labour inspectors usually have other priorities than work-related stress. They are also rarely trained to deal with psychosocial issues and therefore cannot make a significant contribution"*. Stakeholders from old and new member countries agreed that education, guidance and tools are needed for all parties involved. An employers' representative pointed out *"that managers are quite familiar with the issue of work-related stress and even if it was not their top priority, they would try to address it, only if they knew how"*. The need for toolkits and best practice models was highlighted.

4.2.2. The role of legislation: starting point or "last recourse"?

A controversial point in the discussion was the role of regulations in the social dialogue process for psychosocial risk management. It was brought up that employers tend to oppose legal obligations in this context and focus on the business case, information and support for companies, while union representatives in addition to guidance also focused on the importance of binding regulations. In Poland, a trade union representative said, *"We would like to see stress as an obligatory part of risk management, enshrined in labour law. Polish employers on the contrary dissent from this, because from their perspective, raised awareness of stress would lead to more compensation claims like in the case of bullying, where there is a regulation in the labour code"*.

An employers' representative pointed out that globalisation is going to make a difference in social dialogue and if regulations become too strict, businesses could move their production. Some participants further argued that while a legislatory approach is appropriate for physical, chemical and environmental exposures, this is not the case for 'softer' psychosocial issues, which are difficult to define objectively. Others said that legislation can have quite positive effects, because it involves the allocation of manpower and funds by the government, reporting activities, media coverage and a base for prosecution. A participant from Finland gave an example of such an initiative, stating that, *"A special paragraph on harassment was introduced in 2003 in the legislation. It led to the development of two surveys and to a significant increase of the percentage of organisations with special policies concerning harassment"*. Participants generally agreed that, the existence of regulations per se did not necessarily mean that policies are also applied sustainably. In addition, the need for tools and training was also highlighted. In terms of transferability of example of best practice in legislation to new member states, it was indicated that prior to the law, a discussion should have taken place and that legislation should not be introduced too early, because a lack of problem awareness can cause significant problems in terms of acceptance and enforceability.

Participants also discussed the different role of the state as seen in the case of the Netherlands Covenants, which were developed though a combination of ministry initiative and sectoral social dialogue. The ministry provided a budget and actively approached sectors with a high level of psychosocial or physical risks. Targets for risk reduction were set and a plan of action was outlined, implemented and evaluated at sector level. The success rate varied in different sectors, but in general, a reduction of risks could be achieved. Again, problem understanding and problem solving had developed over decades and these conditions are not yet existent in new member countries.

4.2.3. A difficult situation in the new EU member states

In general, stakeholders observed a tendency for deregulation, especially concerning so called 'soft' issues like work-related stress. In line with this development, increasing importance is attached to European social dialogue. At the same time, the structure and quality of social dialogue were reported to be following a negative trend. A participant commented, *"Trade unions for example are losing members. This development is creating a paradox situation, because strong*

national social dialogue structures are needed when legal deregulation is progressing. This is particularly problematic in the new member states, where there is a weak tradition in social dialogue". The participants generally accepted that social dialogue is better developed in old EU member states than in new EU countries. Although the degree of social dialogue was also reported to vary among the old EU member states as well, the situation in the new EU member states was considered to be much more difficult and diverse. As a participant from a CEE country highlighted, *"The new countries find themselves in the situation that they have very little experience in social dialogue, but have to comply with the EU agreements and are expected to work with this new tool. When the new member states entered the EU, other problems, rather than social dialogue, where more pressing, in particular the political implementation of the enlargement and the adaptation to economic requirements of the common market, which involved the need to restructure the economy, social security systems, etc.".* The participants agreed that, in many cases, the conditions for social dialogue in the new member states were not very good. Some problems lie in the social partners' organisation and it was pointed out that in this context especially employers were not well organised.

The sectoral level was considered as the weakest level of organisation by the participants. The sectoral level is of great importance in the social dialogue process because a shared perception and awareness of sector specific problems can make a considerable contribution to the success of negotiations. Another problem was pointed out by a Polish trade union representative, who stated that *"Employers' organisations in new member states are rarely affiliated to the EU level and therefore important knowledge is not disseminated".* Another new member state trade union representative, said that *"Employers often see stress as an individual problem – not as much as an organisational problem and therefore are not willing to assume responsibility".* Some participants pointed out that, in general, high unemployment rates and job insecurity lead to a power imbalance between unions and employers which limits the social dialogue process in these countries. Under these circumstances, it was therefore considered that, more regulation could be necessary to bring about improvements. In either case, participants highlighted that improvements require significant financial investment, which were difficult to obtain in the new EU countries. Some positive signs were also discussed, an example was provided by a participant from Poland who stated that *"In the telework agreement in Poland, a consensus was achieved in a dialogue between trade unions and employers, and subsequently a change has been made in legislation. From the trade unions' point of view, the negotiating process on the telework agreement could work as a model for implementing the framework agreement on work-related stress, on which the negotiations have recently started".*

4.2.4. Combining 'soft' and 'hard law': the UK Management Standards – a pragmatic approach

A participant from UK provided some insight into the UK Management Standards approach which was further discussed by the attendees. He highlighted that *"legislation is in place and effective in the UK, with specific employer requirements enshrined in the Health and Safety at Work Act, but that there is a political decision to use as little enforcement as necessary, because enforcement as the only driver is more likely to generate merely short-lived results rather than sustainable changes in health and safety practices".* In the Management Standards approach, a great emphasis is put on an additional driving power: the benefits of proper health and safety management for employers (e.g. having a more adaptive and innovative organisation with healthier people, reduced sickness absence, better quality of work and good reputation). The Management Standards concern characteristics of the work that employers can relate to and that actually 'have to be managed in every enterprise', for example, support, control or change. Participants discussed the implementation process of the Management Standards which was reported to be a collaborative process with received support from the government, employers and unions and but was considered a costly process comprising national surveys, training, analysis tools, campaigns, evaluation programmes and a website. The participants also discussed the effectiveness of a method which was voluntary but also had some legal impact, as in the case of the Management Standards. A participant commented that *"If organisations start using these standards and assess risks, they will also have to manage these risks. If they don't, the risks assessed would be foreseeable risks and workers can bring up compensation claims. If employers are aware of the potential advantages, they would be much more interested to engage in risk management".* Still, it was pointed out that a barrier of this voluntary

approach is seen in the different levels of involvement among employers and underlined that some more enforcement could be useful; this was also reported by Mackay (2004).

5. Discussion

In this chapter, social dialogue structures across Europe were reviewed, with a special focus on CEE countries. A detailed literature review and focus groups with stakeholders were conducted to explore the relevance of these structures in relation to psychosocial risk management. The results illustrate that some groups of the scientific community and stakeholders (in particular trade unions) fear that existing social policies and practices in CEE countries are inadequate and may adversely affect the future of Social Europe. The weaknesses that still characterise the European Social Model – inadequately structured industrial relations in several countries, insufficient connection of the different levels of social dialogue – sectoral, regional, national, and supranational - could in their opinion become decisive within the framework of the EU enlargement, which is characterised by tremendous differences in socio-economic levels. Large discrepancies between levels of social protection would almost inevitably encourage workers in the new member states or neighbouring countries to seek more acceptable conditions in the EU-15 countries, and thereby making it more difficult to maintain established social rights in these countries, initiating a sort of a vicious circle. This could push EU enterprises to pursue social dumping to take advantage of the situation in the new member states. Woolfson (2007) warned that incoming Eastern European Labour is a potential threat to labour standards not just in terms of collectively bargained wages but also in terms of safety and health at work.

States as well as social partners are now facing major challenges: such as globalisation, innovation, the ageing population and the move towards a knowledge-based economy. These developments have, of course, had a tremendous effect on the world of work, especially on modern working conditions of individuals. A growing percentage of workers are affected by work-related stress and violence at work. The analysis demonstrated that due to sometimes diverging points of view of the social partners, which may also reflect conflicting interests, it is not easy to achieve progress in these areas. Trade unions e.g. are afraid of promoting the concept of corporate social responsibility because they fear this strategy might fuel ongoing trends of deregulation. Employers' organisations on the other hand want to emphasise the voluntary nature of corporate social responsibility and often tend to oppose binding regulations.

The findings of the stakeholder survey and the stakeholder workshop focus groups were largely similar. Differences between trade unions and employers concerning binding regulations were pointed out consistently: employers tended to favour softer, 'business-friendly' approaches and were therefore interested in social dialogue as a voluntary tool. Maybe this is also reflected in the clearly higher participation of employers' representatives than unionists in the online survey organised by DG Employment concerning social dialogue. Problems concerning EU enlargement were highly visible in the literature review and in the focus group discussion. The review provided some deeper understanding of background variables of the challenges concerning EU enlargement like EU policy decisions; these were supplemented by national examples and personal experiences in the focus group discussions. The issue of psychosocial risk management was specifically addressed, and it was highlighted that the "elusive" character of work-related stress generated some amount of uncertainty on how to deal with it effectively. It was underlined that training, information and tools are crucial to strengthen confidence.

The discussion among stakeholders from different member states showed that political and cultural differences have a great impact on social dialogue processes, as a result of which national approaches can differ significantly. This is the case not only in old and new member states, but also within EU member states. This means that it is not possible to have one single 'best' model; 'tailored' approaches – according to the specific context - are needed. In this context, choices have to be made between regulatory approaches in order to enforce compliance on the one hand and building a 'culture of prevention' by soft approaches on the other, according to the particular requirements of a nation. Both approaches have their benefits and limits. A voluntary approach is promising when social dialogue structures are well established and stakeholders can be convinced that they will benefit from the process. A lot of experience in this area is currently being gathered e.g. in the UK (Management Standards approach) but it seems that even there, the success of voluntary structures alone is limited. However, if social dialogue structures are weak and

there are imbalanced power relations between employers and unions, as is the case in a number of new member states, voluntary procedures are less likely to be effective.

Therefore, some level of regulation is needed to make a difference. Woolfson (2006) concluded that an intermediate period may be necessary during which alignment can take place with European norms and 'best practice', framed by strengthening more traditional regulatory instruments and compliance incentives. Still, a significant problem lies in partly quite low enforceability of regulations, especially in new member countries. This implies that enforcement capacities and strategies need to be addressed in particular. The role of labour inspectorates varies between different countries. In some countries, they are mainly enforcing and in addition providing studies and information. In other countries, they go beyond this role and actively encourage the initiation of social dialogue by organising seminars and forums, providing advice and guidance in order to train social partners in dialogue and negotiation techniques. This might be a promising future approach. In perspective and in an international context, social dialogue, in spite of all its deficiencies, is an important democratic achievement as a mode of negotiation where partners with equal rights cooperate on issues of common interest.

On the basis of the results and discussion, the next step will be to outline recommendations for a Social Dialogue 'action model' for the management of psychosocial risks. For this purpose, a framework of indicators will be presented which, upon further elaboration, aims at monitoring the 'successful' implementation of the social dialogue process and can also be used for benchmarking (Bevers, 2006), particularly in the domain of psychosocial risk management.

6. Way forward: development of a Social Dialogue indicator framework on psychosocial risk management in the EU

6.1. Foundation of the indicator framework

In this section, a summary of recommendations for social dialogue indicators in the context of psychosocial risk management is presented using a stepwise approach (in terms of methodology and content). It also makes reference to contributions from EU and ILO sources as well as to the findings from the review and focus group discussions.

Kuruvilla (1999) in a study commissioned by the ILO on 'social dialogue for decent work', laid down the conditions needed for indicator development. He pointed out that any new effort must be connected with old approaches to preserve some degree of continuity. He further highlighted that quantitative data is not sufficient to capture social dialogue. Qualitative data and subjective interpretation by national experts is a key to assessing social dialogue and experts should follow a basic framework of assessment and the assessment tools should be transparent. According to him, social dialogue indicators must have a dynamic focus to indicate the trend of development.

A conceptual framework for developing social dialogue indicators has to build on the accumulated experience of success factors for social dialogue. According to a recent study by the European Foundation, on "Working Conditions and Social Dialogue" (Broughton, 2008), important success factors for social dialogue are described. Most importantly, adequate structures are needed to enable social dialogue to develop – at national, sector and company/enterprise level. Sometimes social dialogue fails because of a lack of unity within the social partner organisations. Each side has the responsibility to ensure a united approach. Both parties need to have very clear ideas of their aims as well as strong commitment to working together and developing mutual trust and respect. Generally, some issues are less controversial than others – such as training and development. It is therefore recommended to start the dialogue process on these issues before moving to potentially contentious topics. If the social dialogue is on the verge of failing due to irreconcilable differences between the parties, appropriate mediation mechanisms should be introduced.

In the context of social dialogue and the quality of industrial relations, which features prominently in the European Social model, another European Foundation study on "Quality in industrial relations: Comparative indicators" (Weiler, 2004) explores European industrial relations and develops a draft set of multidimensional indicators applied to industrial relations in the context of the priorities set in the social policy agenda. Based on in-depth theoretical reflections,

the aim of the analysis is "to establish an operational and well-designed instrument to monitor and assess industrial relations and in this way contribute to the promotion of quality based on structured information" (Weiler, 2004, p.2). In the end, an integrated frame of reference for the conceptual analysis is presented, which offers a flexible framework in the endeavour to develop comparative indicators, considering the different levels and interactions as well as the context (p. 23-24). According to Figure 4.1, the key dimensions of industrial relations are here differentiated as follows: a) regulatory framework (e.g. labour law, litigation), b) actors (e.g. state, trade unions, employers), c) processes (e.g. collective bargaining, Social Dialogue), and d) outcomes (e.g. collective agreements, social pacts).
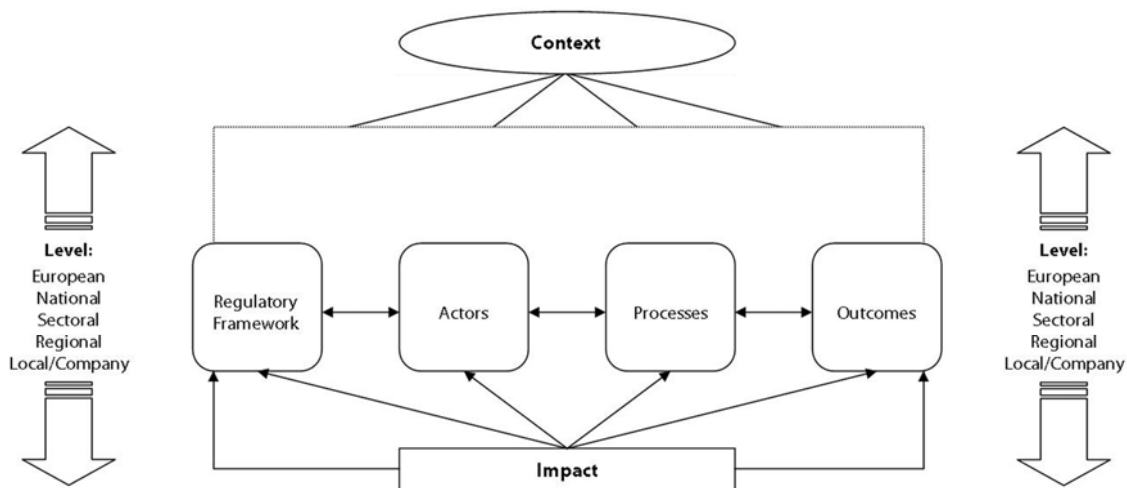

Figure 4.1.: Analytical framework of industrial relations models. Source: Quality in industrial relations (Weiler, 2004, p.23)

The identified and well-founded approach found in the above publications offers a solid base for the development of social dialogue indicators which consider the overall context and at the same time are specific for the area of psychosocial risks (and issues such as work-related stress, bullying, harassment and violence). This approach should be combined with the benchmarking approach of the European Scoreboard outlined in section 2.4.

In terms of content, when developing social dialogue indicators on psychosocial risk management, differences between work-related stress and bullying, harassment and violence should be taken into account. This is due to the different incidence of these issues at national (and company/branch) level in the EU, as well as the considerable susceptibility of bullying, harassment and violence to cultural and social patterns in the EU which goes hand in hand with different levels of risk perception and problem awareness.

When tracking progress in social dialogue, it is important to differentiate between the phases of a) the negotiating process (e.g. of framework agreements), and b) the implementation process itself, considering also the methods of implementation at national level – for example through collective bargaining or through legislation, c) the monitoring of the implementation and d) the assessment of the impact of the implementation (at national, branch and company level). A number of problems in this context seem to appear at an institutional level, e.g. the fact that European and national actors and routines of negotiations are relatively detached from each other. This lack in communication and cooperation leads to differences in problem awareness, in the prioritisation of issues, etc. European social dialogue in the field of work-related stress and violence and harassment meets with very different infrastructures, traditions and cultures in the member states, including already existing frameworks, strategies, etc. at national level. These circumstances do not seem to have been adequately considered so far when measuring – or estimating – the specific impact or added value of social dialogue at national level. In order to achieve convergence, as well as in terms of the monitoring process itself, a standardized reporting sheet, based on the indicator framework, should be developed and used for national social partners reporting activities.

As social dialogue develops over time – especially in a changing social, political and economic context - this dynamic quality has to be considered when designing adequate

indicators. Considering the dynamics of interacting partners with different interests, power resources and varying priorities - including learning processes – it may not be appropriate to simply contrast 'consensual' versus 'conflictual' orientations or 'soft law' versus 'hard law' (binding, enforceable regulations). Orientations may change in the process of negotiations and the question of whether 'soft law' (e.g. social dialogue) or binding regulations may be appropriate, is problem and situation, specific. However, on the basis of the current findings it should be clear that a relative power balance between actors at national, branch and company level (including e.g. strengthening employee representation at the workplace) is a necessary prerequisite for fruitful social dialogue (Neumann, 2007).

The development and the use of indicators in social policies – e.g. for benchmarking purposes - is a complex process with many possible pitfalls (e.g. Salais, 2006). Reflection on values and norms and a commitment of actors to open discussion is necessary to avoid these traps and to formulate and implement an indicator-based approach in a proper and consistent way. In the EU context, it is often overlooked that to think of indicators as apparently objective and neutral measures is a misconception, thus hiding political values and interests steering the process of indicator development (Thedvall, 2006). Moreover, qualitative aspects such as learning processes in countries and among actors have to be considered when applying benchmarking indicators and interpreting results.

6.2 Outline of the indicator framework

The following framework for social dialogue indicators in the area of psychosocial risk management (Table 4.1) comprises the core dimensions and aspects that need to be considered in order to ensure a high quality of indicators. Two basic components (content dimensions and levels of analysis) are adopted from the set of indicators for industrial relations of the European Foundation (Weiler, 2004) but the content of the dimensions is extended and accommodated to the issue of social dialogue in relation to psychosocial risk management.

Table 4.1. Social Dialogue indicator framework for psychosocial risk management

CONTENT DIMENSIONS OF INDICATORS

Context (general context factors that influence the Social Dialogue process):
  i. Economic context, e.g. unemployment rates, labour productivity, etc.
  ii. Freedom of association, union participation in public policy, Political climate
  iii. Availability and provision of resources
  iv. Regulatory framework, OSH infrastructure, e.g. Enforcing capability of labour inspectorates

Actors (this dimension refers to adequate structures for Social Dialogue):
  i. Traditional indicators like union density or company employee participation, etc.
  ii. Unity within social partners, and commitment to work together
  iii. Power relations between social partners
  iv. availability of adequate assistance for conflict settlement (e.g. mediation mechanisms) between social partners, activities to built mutual trust and respect

Processes (in order to tackle the dynamic quality of the process and to track progress)
  i. Information/ dissemination activities/ development of problem awareness
  ii. Negotiations
  iii. Implementation
  iv. Monitoring Processes
  v. Impact assessment

Outcomes:
  i. Collective agreements on different levels
  ii. Existence of policies on workplace level
  iii. Consideration of psychosocial issues in risk assessment
  iv. Public awareness of psychosocial issues

LEVELS OF CONSIDERATION
Company level Branch/ regional level

National/ political level

SPECIFIC ISSUES TO BE CONSIDERED FOR PSYCHOSOCIAL RISK MANAGEMENT
Different areas of psychosocial risks: work-related stress/ violence and harassment National, cultural and social differences in problem perception and problem awareness of relevant issues Gender issues Different enterprise sizes

Based on this framework, the development of concrete indicators requires the joint efforts of scientists and stakeholders. Also issues of data collection methods and ways to integrate different types of data need to be discussed in detail. The long term goal would be to develop a standardised reporting sheet for Social Dialogue indicators in the area of psychosocial risk management that is easily applicable as well as comprehensive and therefore allows monitoring of the progress of Social Dialogue in this area throughout the EU.

7. Conclusions

In summary, a few key issues have been highlighted in this chapter. Firstly, from the stakeholder perspective, there is a lack of consistent usage of the concept of 'stress', which can be an outcome as well as an exposure. Different perceptions about the causes of stress among different stakeholder groups were also found. Most stakeholders were also uncertain, on how to carry out a systematic risk assessment, in spite of the guidance available. The need for information, education, guidance and tools was consistently pointed out.

Despite the disagreement among stakeholders on the appropriate level of legislation, there was a tendency to favour a combined approach, comprising a legal framework based on evidence and complementing voluntary approaches. As in the HSE Management Standards approach, 'soft law' and binding regulations could act in a complementary way. Looking ahead, the implementation of the framework agreement on violence and harassment at work will probably involve more consensus on problem awareness and a willingness to find appropriate solutions to problems.

Risk management should be seen as a developmental process, where scientific evidence supported by guidance and consensus building plays an important role. Social dialogue has played a significant role in the development of initiatives to promote risk management. The situation of the new member states in terms of their capacity to support social dialogue is currently weak and therefore, there is an urgent need to assist the new EU member states to develop stronger social dialogue structures, for social dialogue will play a key role on the development, implementation and sustainability of initiatives, in the area of psychosocial risk management, that are based on voluntary approaches or on a combination of both 'hard' and 'soft' law.

The next chapter further explores stakeholder perceptions in relations to psychosocial risks and their management and identifies priorities for action in this area.

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