ILO Curriculum on Building Modern and Effective Labour Inspection Systems
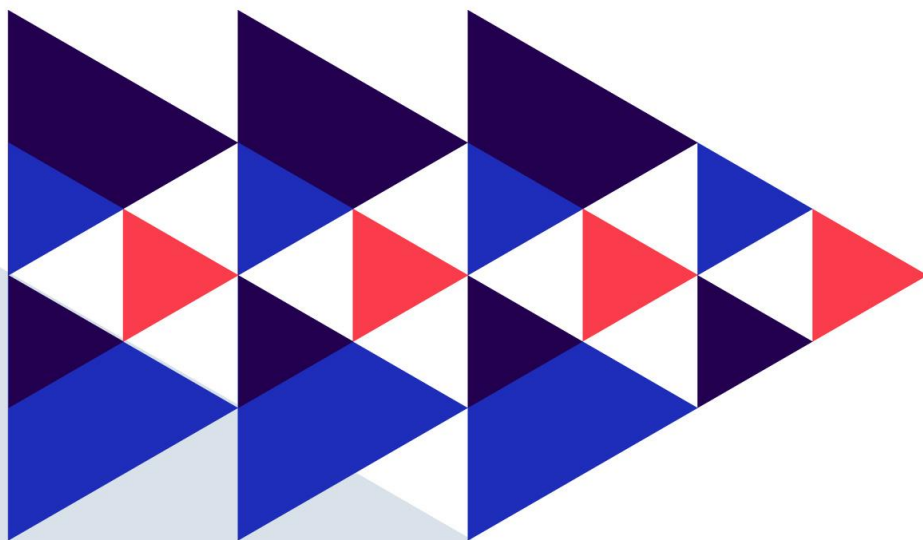
Module

14

▶ Ensuring compliance with legislation on psychosocial risks

ILO Curriculum on Building Modern and
Effective Labour Inspection Systems

▶ Module **14**

Ensuring compliance with legislation on psychosocial risks

► What this module is about

The purpose of this module is to explain the concept of psychosocial risks at work, the steps involved in psychosocial risk management, and the role of labour inspectors in ensuring compliance with labour legislation in this area.

► Objectives

The aim of this module is to provide a broad perspective on inspection actions relating to psychosocial risks at work, explaining the following issues to the participants:

▶ The concept of psychosocial risk at work and the steps involved in psychosocial risk management.

▶ The role of labour inspectors, taking into account different national legal systems.

▶ Table of <u>contents</u>[1]

---

[1]   The bibliography and annexes of Part II of this module are also relevant to this first Part.

Module 14 **Ensuring compliance with legislation on psychosocial risks**
1. Concept and scope of psychosocial risks at work

1

► 1. Concept and scope of psychosocial risks at work

1.1   From a scientific to a legal definition of psychosocial risks at work in labour law

The term "psychosocial" denotes the **interrelationship** and **interaction** between a person and his or her environment. According to an ILO definition dating from 1984:[2]

> *Psychosocial factors at work refer to **interactions** between and among work environment, job content, work organization and workers' capacities, needs, culture, personal extra-job considerations that may, through perceptions and experience, influence health, work performance and job satisfaction.*

However, legislation on occupational safety and health relates to the **duty of employers** to ensure the protection of workers in every aspect of work.[3] Therefore the legal concept of psychosocial risks should apply only to the features of workplace organization and environment that come within the scope of an employer's management powers, not to the specific conditions of an individual and his or her social context.

Events and circumstances relating to a **worker's private life** may have an influence on the work environment,[4] but they are outside the scope of labour law and employers' liability, and therefore of the regulatory authorities' activities, although in some countries psychosocial risks are covered by sanitary rules which are enforced by the health authorities.[5]

Adopting this approach, **Belgian legislation[6]** states that "psychosocial risks at work shall mean the probability that one or more worker(s) suffer(s) psychological damage, which may also be accompanied by physical damage, resulting from exposure to elements of work organization, job content, working conditions, living conditions at work and interpersonal relationships at work over which the employer has an influence and which objectively involve a danger".

---

[2] *Psychosocial factors at work: recognition and control*, Report of the Joint ILO/WHO Committee on Occupational Health, Ninth Session, Geneva, 18-24 September 1984, p. 3. (Bibliography 9).

[3] Article 5.1, European Framework Directive 89/391/EEC on safety and health at work.

[4] Paragraph 3 of the European Framework Agreement on Work-related stress (2004) states that "stress originating outside the working environment can lead to changes in behaviour and reduced effectiveness at work. All manifestations of stress at work cannot be considered as work-related stress". (Bibliography 2).

[5] In some countries, such as Colombia (Regulation 2646 of 2008) and Peru, psychosocial risks are addressed from a sanitary perspective involving both intra-labour and extra-labour risks.

[6] Article 32/1 of the Act of 28 February 2014 supplementing the Law of 4 August 1996 on the well-being of workers in the performance of their work; and Article 2.3 of the Royal Decree of 10 April 2014 on the prevention of psychosocial risks at work. (Bibliography 77).

Recently, ISO 45003:2021 "Occupational health and safety management — Psychological health and safety at work — Guidelines for managing psychosocial risks" has defined psychosocial risks at work as a combination of the likelihood of exposure to work-related hazards of a psychosocial nature (such as aspects of work organization, social factors at work and in the work environment, equipment and hazardous tasks) and the severity of injury and ill-health that can be caused by these hazards.[7]

1.2 Psychosocial risk management

The management of psychosocial risks at work involves several steps:

▶ First, identification and analysis or assessment of the **psychosocial factors** or labour conditions in the workplace and its social environment that could become **psychosocial hazards** and finally **psychosocial risks,** causing negative psychological, physical and social outcomes;

▶ Secondly, analysis of the **consequences** of exposure to psychosocial risks, mainly work-related stress and burnout, violence and harassment at work and their organizational consequences;

▶ Thirdly, description of the final **effects** on individuals and organizations.

In any case, psychosocial risks are part of a complex and interactive process in which such phenomena as stress, violence or harassment can be both factors and consequences, and the final effects are mainly a worsening of the former.

1.3 Psychosocial hazards

Psychosocial factors are organizational and social aspects of work that could become **psychosocial hazards** (or **psychosocial risk factors**)[8] and finally **psychosocial risks**. Preventive actions on the part of labour inspectors consist in monitoring this process for the purpose of assessment.

Researchers have identified different categories under which psychosocial hazards can be grouped. The following lists set out two classifications based on these categories: the ESENER list

---

[7] Injuries and ill-health caused by psychosocial risks can be of psychological and/or physical nature. In some countries, such as Canada, standards focus only on psychological health at work (CAN/CSA-Z1003-13/BNQ 9700-803/2013, *Psychological health and safety in the workplace*).

[8] The term psychosocial hazards is equivalent to the term hazard, defined as "the inherent potential to cause injury or damage to people's health", in the glossary of the Guidelines on occupational safety and health management systems, ILO-OSH, 2001.

Module 14 **Ensuring compliance with legislation on psychosocial risks**
1. Concept and scope of psychosocial risks at work

3

(2010) adapted from Cox (1993), [9] which was included in the SLIC Guide (2018), [10] and the classification included in ISO 45003. There follows an approximate matching of the two:

► **1) Organizational factors**

ESENER – COX		ISO 45003	
Job content	Lack of variety or short work cycles, fragmented or meaningless work, underuse of skills, high uncertainty, continuous exposure to difficult clients, patients, pupils, etc.	**Job demands**	Underuse of skills, continual work exposure to interaction with people (e.g. the public, customers, students, patients), having too much to do within a certain time or with a set number of workers, conflicting demands and deadlines, unrealistic expectations of a worker's competence or responsibilities, lack of task variety or performing highly repetitive tasks, fragmented or meaningless work, requirements for excessive periods of alertness and concentration, working with aggressive or distressed people and exposure to events or situations that can cause trauma
		Job security and precarious work	Uncertainty regarding work availability, including work without set hours, possibility of redundancy or temporary loss of work with reduced pay, low-paid or insecure employment, including non-standard employment and working in situations that are not properly covered or protected by labour law or social protection
		Remote and isolated work	Working in locations that are far from home, family, friends and usual support networks (e.g. isolated working or "fly-in-fly-out" work arrangements), working alone in non-remote locations without social/human interaction at work (e.g. working at home,), working in private homes (e.g. providing care or domestic roles in other people's homes)

---

9   *European Survey of Enterprises on New and Emerging Risks: Managing Safety and Health at Work* (ESENER-1), European Agency for Safety and Health at Work, 2010, (Bibliography 87); and Stress Research and *Stress Management: Putting Theory to Work*, Cox, T., HSE Books, Sudbury, 1993, (Bibliography 88).

10   (Bibliography 90).

Workload and work pace	Work overload or too little work, machine pacing, high levels of time pressure, and continual deadline pressure	**Workload and work pace**	Work overload or underload, high levels of time pressure, continually subject to deadlines, machine pacing and high level of repetitive work
Working time	Shift work, night shifts, inflexible work schedules, unpredictable hours, and long or unsociable hours	**Working hours and schedule**	Lack of variety of work, shift work, inflexible work schedules. unpredictable hours, long or unsociable hours, fragmented work or work that is not meaningful and continual requirements to complete work at short notice
Control	Low participation in decision-making, lack of control over workload, pacing, shift working, etc.	**Job control or autonomy**	Limited opportunity to participate in decision-making, lack of control over workload, low levels of influence and independence (e.g. not being able to influence the speed, order or schedule of work tasks and workload)
		Organizational change management	Lack of practical support provided to assist workers during transition periods, prolonged or recurring restructuring and lack of consultation and communication about workplace changes, or which is of poor quality, untimely or not meaningful
Role in organization	Role ambiguity, role conflict, and responsibility for people	**Roles and expectations**	Role ambiguity, role conflict, duty of care for other people, scenarios where workers do not have clear guidelines on the tasks they are expected to do (and not do), expectations within a role that undermine one another (e.g. being expected to provide good customer service, but also to not spend a long time with customers), uncertainty about, or frequent changes to, tasks and work standards and performing work of little value or purpose

Module 14 **Ensuring compliance with legislation on psychosocial risks**
1. Concept and scope of psychosocial risks at work

5

► **2) Social factors**

ESENER – COX		ISO 45003	
Organizational culture and function	Poor communication, low levels of support for problem solving and personal development, poor managerial support; lack of definition of, or agreement on, organizational objectives	**Leadership**	Lack of clear vision and objectives, management style unsuited to the nature of the work and its demands, failing to listen or only casually listening to complaints and suggestions, withholding information, providing inadequate communication and support, lack of accountability, lack of fairness, inconsistent and poor decision-making practices and abuse or misuse of power
		Organizational/workgroup culture	Poor communication, low levels of support for problem-solving and personal development, lack of definition of, or agreement on, organizational objectives, inconsistent and untimely application of policies and procedures, unfair decision-making
		Recognition and reward	Imbalance between workers' effort and formal and informal recognition and reward and lack of appropriate acknowledgement and appreciation of workers' efforts in a fair and timely manner
		Support	Lack of support from supervisors and co-workers, lack of access to support services and lack of information/training to support work performance
		Supervision	Lack of constructive performance feedback and evaluation processes, lack of encouragement / acknowledgement, lack of communication, lack of shared organizational vision and clear objectives, lack of support and/or resources to facilitate improvements in performance, lack of fairness and misuse of digital surveillance
Interpersonal relationships at work	Social or physical isolation, poor relationships with superiors, interpersonal conflict, lack of social support, harassment, bullying, poor leadership style, and third-party violence	**Interpersonal relationships**	Poor communication, including poor information sharing, poor relationships between managers, supervisors, co-workers, and clients or others that workers interact with, interpersonal conflict, harassment, bullying, victimization (including using electronic tools such as email

6

Module 14 Ensuring compliance with legislation on psychosocial risks
1. Concept and scope of psychosocial risks at work

			and social media), third-party violence, lack of social support, unequal power relationships between dominant and non-dominant groups of workers and social or physical isolation
		Civility and respect	Lack of trust, honesty, respect, civility and fairness and lack of respect and consideration in interactions among workers, as well as with customers, clients and the public
		Violence at work	Incidents involving an explicit or implicit challenge to health, safety or well-being at work; violence can be internal, external or client initiated, e.g. abuse, threats, assault (physical, verbal or sexual) and gender-based violence
		Harassment	Unwanted, offensive, intimidating behaviours (sexual or non-sexual in nature) which relate to one or more specific characteristic of the targeted individual, e.g. race, gender identity, religion or belief, sexual orientation, disability and age
		Bullying and victimization	Repeated (more than once) unreasonable behaviours which can present a risk to health, safety and well-being at work; behaviours can be overt or covert, e.g. social or physical isolation, assigning meaningless or unfavourable tasks, name-calling, insults and intimidation, undermining behaviour, undue public criticism, withholding information or resources critical for one's job, malicious rumours or gossiping and assigning impossible deadlines
Career development	Career stagnation and uncertainty, under-promotion or over-promotion, poor pay, job insecurity, and low social value of work	**Career development**	Career stagnation and uncertainty, under-promotion or over-promotion, lack of opportunity for skills development
Home–work interface	Conflicting demands of work and home, low support at home, and problems relating to both partners being in the labour force (dual careers)	**Work/life balance**	Work tasks, roles, schedules or expectations that cause workers to continue working in their own time, conflicting demands of work and home and work that impacts the workers' ability to recover

Module 14 **Ensuring compliance with legislation on psychosocial risks**
1. Concept and scope of psychosocial risks at work

7

► **3) Work environment and equipment**

ESENER – COX		ISO 45003	
Environment and equipment	Inadequate equipment availability, suitability, or maintenance; poor environmental conditions, such as lack of space, poor lighting, and excessive noise	**Work environment, equipment and hazardous tasks**	Inadequate equipment availability, suitability, reliability, maintenance or repair, poor workplace conditions such as lack of space, poor lighting and excessive noise, lack of the necessary tools, equipment or other resources to complete work tasks, working in extreme conditions or situations, such as very high or low temperatures, or at height and working in unstable environments such as conflict zones

1.4   Main consequences of exposure to psychosocial hazards

The most common outcomes or consequences of exposure to psychosocial hazards at work are stress and burnout, on the one hand, and harassment and violence, on the other, often with interactions between the two. Reactive labour inspection interventions are usually in response to these outcomes, normally as a consequence of complaints or work-related accident reports.

a) Work-related stress and burnout

Work-related stress is not one of the psychosocial hazards, but the main consequence of exposure to them.

Stress is a state of anxiety: the harmful physical and emotional response caused by an imbalance between perceived demands and the resources and abilities of a person to cope with them.

It occurs when the demands of the job do not match or exceed the capabilities, resources or needs of the worker.

It also takes place when an individual worker's — or a group's — knowledge and abilities to cope do not match the expectations of the organizational culture of an enterprise.

Work-related stress becomes a risk to safety and health when work exceeding a person's capacity and ability to cope is prolonged.[11]

We also need to consider the fact that stress can be caused by physical agents, such as noise and temperature, which are not considered psychosocial hazards.

---

[11]   EU-OSHA definition; see also Cox T., Griffiths A. and Rial-Gonzalez E. (2000), *Research on work-related stress*, Report to the Europea Agencyn for Safety and Health at Work, Luxembourg. (Bibliography 69).

Burnout is "a process defined as a feeling of progressive deterioration and exhaustion and an eventual depletion of energy. It is also often accompanied by a loss of motivation, a feeling that suggests 'enough, no more'. It is an overload that tends during the course of time to affect attitudes, mood and general behaviour".[12] Burnout can be the cumulative result of stress.

b) Harassment and violence at work

Article 1.1.a) of the Convention on Violence and Harassment, 2019 (No 190), states that "the term 'violence and harassment' in the world of work refers to a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment".

Work-related stress can be a cause of workplace violence, and harassment and violence in the workplace are potential work-related stressors.[13]

c) Organizational consequences

For the organization concerned, the negative consequences include poor overall business performance, increased absenteeism, presenteeism (workers turning up for work when sick and unable to function effectively), increased conflict and relationship-related friction, mistakes, work-related accidents and higher injury rates.

Absences tend to be longer than those arising from other causes, and work-related stress may contribute to increased rates of early retirement, particularly among white-collar workers.

1.5   Final effects on workers' health and the organization concerned

Workers suffering from prolonging exposure to psychosocial risks, in particular those who are suffering work-related stress,[14] can go on to develop serious mental, physical and social or behavioural disorders. This in turn can lead to disability and the need for workers to receive compensation or social security benefits. At the same time, the organizations for which they work can also suffer negative effects.

Labour inspectors may be required to carry out reactive interventions in accordance with their respective legal frameworks as a consequence of complaints or notifications of work-related accidents or disease. These are the most common harms and effects:

---

[12]   Herbert Freudenberger, "Stress and Burnout and their Implication in the Work Environment", ILO Encyclopaedia on Occupational Health and Safety (2011). Measurement of burnout can be facilitated by use of the Maslach Burnout Inventory, which measures cynicism, enthusiasm and efficacy.

[13]   Section 2 of the European Framework Agreement on Work-related Stress. (Bibliography 2).

[14]   Paragraph 3 of the European Framework Agreement on Work-related Stress states that "stress is not a disease but prolonged exposure to it may reduce effectiveness at work and may cause ill health". (Bibliography 2).

Module 14 **Ensuring compliance with legislation on psychosocial risks**
1. Concept and scope of psychosocial risks at work

9

a) Effects on workers' mental health

Research indicates that the most common effect of negative psychosocial working conditions is a detrimental impact on both affective and cognitive outcomes such as anxiety, depression, distress, burnout, poor decision-making and inattentiveness.[15]

b) Effects on workers' physical health

Workers suffering from exposure to psychosocial hazards can go on to develop serious physical health problems, such as cardiovascular and digestive diseases and musculoskeletal disorders, and recent evidence shows that such exposure may contribute to certain forms of cancer.[16]

Psychosocial hazards can also be the indirect cause of work-related accidents caused by human error, or they may interact with other types of hazards in the work environment, thus increasing their adverse effects at the same level of exposure. Moreover, exposure to other hazards can also contribute to psychosocial risks, as workers may worry about the possible implications of such exposure or experiences.[17]

c) Effects on workers' social or behavioural health

Exposure to psychosocial hazards has been linked to a wide array of unhealthy behaviours, such as physical inactivity, excessive drinking and smoking (addictions), poor diet and sleep disorders.[18]

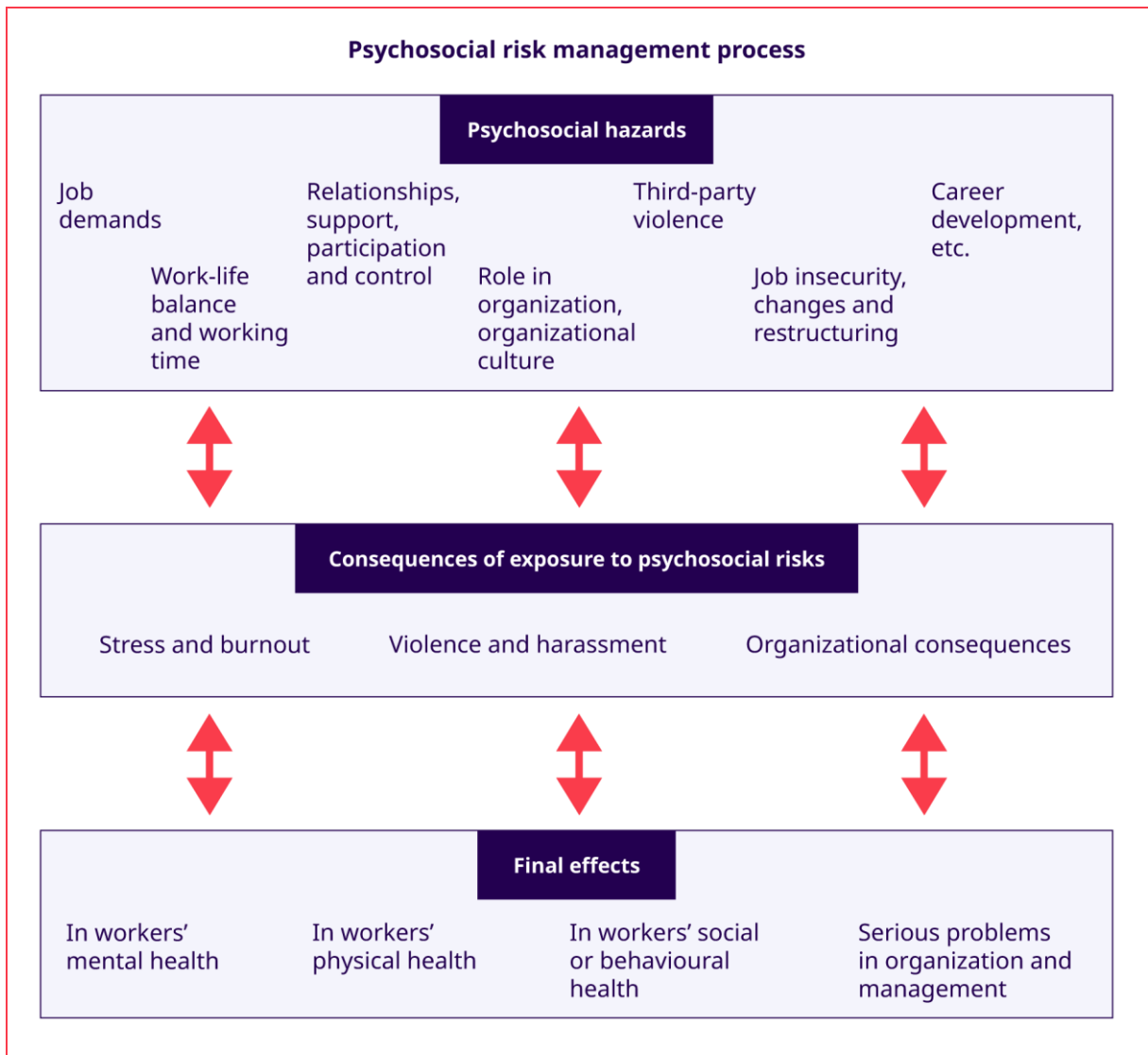### d) Effects on organization and management

For the organization concerned, the final effects could be deep-rooted conflicts and damaged personal relations, giving rise to such traumatic measures as transfer or dismissal.

---

[15] Cox, Griffith and Rial González, 2000*; Health impact of psychosocial hazards at work, an overview*, WHO, Stavroula Leka and Aditya Jain (2010), p. 65. (Bibliography 8).

[16] Sultan-Taieb H, Lejeune C, Drummond A, Niedhammer I., "Fractions of cardiovascular diseases, mental disorders, and musculoskeletal disorders attributable to job strain" in *International Archives of Occupational & Environmental Health*, 2011,84:911-25. (Bibliography 10).

[17] Paragraph 6.1.2.1, ISO 45003.

[18] Kouvonen et al., 2005, 2006 and Cox, Griffith and Rial González, 2000; *Health impact of psychosocial hazards at work, an overview,* WHO, Stavroula Leka and Aditya Jain (2010), p. 73. (Bibliography 8).

Psychosocial risk management process

Psychosocial hazards

Job demands

Work-life balance and working time

Relationships, support, participation and control

Role in organization, organizational culture

Third-party violence

Job insecurity, changes and restructuring

Career development, etc.

Consequences of exposure to psychosocial risks

Stress and burnout   Violence and harassment   Organizational consequences

Final effects

In workers' mental health

In workers' physical health

In workers' social or behavioural health

Serious problems in organization and management

Module 14 Ensuring compliance with legislation on psychosocial risks
2. The role of labour inspectors: ensuring compliance with the law in respect of psychosocial risks

11

▶ 2. The role of labour inspectors: ensuring compliance with the law in respect of psychosocial risks

2.1   The role of labour inspectors in respect of psychosocial risks

Pursuant to Article 3 of Convention No. 81, the main functions of the labour inspection system are:

▶ **to secure the enforcement** of the legal provisions relating to conditions of work and the protection of workers while engaged in their work; and

▶ **to supply technical information and advice** to employers and workers concerning the most effective means **of complying with the legal provisions.**

The main aim of the labour inspectorate's activities is therefore to secure the **enforcement of labour legislation**, which includes taking into account **psychosocial risks**. The specific feature of the inspectorate is that inspectors have the powers to ensure compliance with the law; this is the main difference between labour inspectors and other stakeholders/actors**.**

Inspectors' activities can be considered **proactive** when they are initiated by the inspectorate with a preventive aim in mind; **reactive** when undertaken as a consequence of complaints, work-related accidents, diseases or other events.

Activities for the enforcement of legal standards in relation to psychosocial risks may be applied in different ways in different countries, depending on the relevant legislation, and the competencies and powers of the labour inspectorate.

Some inspectorates are more focused on the enforcement of legislation relating to occupational safety and health (OSH), the working environment and workers' well-being, whereby they play a more active role in preventing psychosocial risks. Others are more concerned with the overall protection of labour rights and play a more reactive role where psychosocial risks are concerned, focusing on the repression of harassment and violent behaviours at work.

The role of inspectors can also vary. Sometimes they investigate psychosocial risks or bullying complaints themselves; in other cases, they require employers to do so with the assistance of advisors or other competent stakeholders, such as judges or public prosecutors.

2.2   Enforcement of legislation relating to psychosocial risks

The main role of labour inspectors is the enforcement of labour legislation (Article 3, Convention No. 81); therefore laws and regulations are a key tool for their actions.

In most countries, there are no specific regulations relating to psychosocial risks, and the occupational safety and health laws do not mention them explicitly. They may mention them in

passing, as occurs in Norway,[19] Hungary,[20] Portugal,[21] El Salvador,[22] Venezuela[23] and Peru, where OSH laws include an obligation to address psychosocial risks, but without specific regulations.

> ### Peru: Act No. 29757 on Occupational Safety and Health
>
> Articles 56 and 65 stipulate that psychosocial risk should be taken into consideration.
>
> **Article 103 of Supreme Court Decree 005-2012-TR** stipulates that exposure to psychosocial risks is deemed to exist when the health of workers is damaged, causing stress and, in the long term, such clinical symptoms as cardiovascular, respiratory, immune-system, gastrointestinal, dermatological, endocrinological, musculoskeletal and mental illnesses, among others. The clinical symptomatology must be supported by a medical certificate issued by a medical centre or duly qualified medical professional.

In any event, the application to these risks of general legal obligations in respect of occupational safety and health is generally admitted. Most legislation prescribes an obligation on employers to prevent **all** hazards and risks of any kind in order to protect workers' health by implementing preventive measures, and this should include psychosocial risks.

In particular, Article 3 (e) of the Occupational Safety and Health Convention, 1981 (No. 155) states that "the term **health**, in relation to work, indicates not merely the absence of disease or infirmity; it also includes the physical and mental elements affecting health which are directly related to safety and hygiene at work".

Apart from OSH legislation, **labour law** provisions may also address certain psychosocial risks, such as those relating to working time, violence and harassment at work, and discrimination.

Such forms of behaviour could entail violations of the rights to dignity at work, equal treatment, privacy, honour, and physical, psychological or moral integrity. Moreover, the implementation of labour law provisions on changes to working arrangements, salaries, dismissals and restructuring can cause stress and affect workers' health, as analysed below.

Other branches of law can also play a role in relation to psychosocial risks: criminal law in cases of violence at work (bullying and sexual harassment endangering the lives of others) or the legal rules on compensation for workers' diseases or accidents.

---

[19]   Working Environment Act (2005), §4-3.

[20]   Act XCIII of 1993 on labour protection of the Labour Code Article 87 (5/A), and amendment to the Health and Safety at Work Act (Act XCIII. of 1993) by Act CLXI of 2007.

[21]   Act 102/2009 (amended by Act 3/2014) on OSH promotion, Articles 15.1.f) g) and 48.

[22]   General Regulation on Hazard Prevention in Workplaces, Article 276 (2012).

[23]   Organic Law for Prevention, Conditions and Working Environment (2005), Arts. 56 and 69.

Module 14 **Ensuring compliance with legislation on psychosocial risks**
2. The role of labour inspectors: ensuring compliance with the law in respect of psychosocial risks

13

In addition to the application of general provisions on OSH and labour rights, there are many cases of specific legislation relating to psychosocial risks, or some specific risks or aspects thereof.

The development of a regulatory framework for a certain issue is a process that evolves according to need. The first aspects identified therefore usually relate to consequences (in this case, stress, violence, bullying, etc.), not to causes (psychosocial hazards). This is one of the reasons why regulations in the fields of OSH and labour law are now so fragmented. We shall be analysing them as follows.

2.2.1   Psychosocial risk management

Some countries, such as Belgium (2014),[24] Sweden (2015)[25] and Mexico (2014-18) have elaborated specific regulations relating to the management of psychosocial risks at work. Chile has also adopted regulations focused on psychosocial risk assessment.[26]

> **Mexico: Federal Regulation on Safety, Hygiene and Health at Work (2014)**
>
> **Article 43 – With regard to psychosocial risk factors in the workplace, employers should:**
>
> 1. Identify and analyse jobs with psychosocial risks, taking into account the nature of their functions and the type of working time;
> 2. Identify workers subject to severe traumatic events or acts of violence at work, and assess them clinically;
> 3. Adopt appropriate preventive measures to mitigate psychosocial risk factors;
> 4. Carry out examinations or clinical evaluations of personnel occupationally exposed to psychosocial risk factors, as required;
> 5. Inform workers about possible alterations to health from exposure to psychosocial risk factors; and
> 6. Keep records of preventive measures adopted and results of examinations or clinical evaluations.
>
> Aspects to be considered among the psychosocial risk factors deriving from the nature and functions of a job are: inherent dangers when the job is performed under unsafe conditions that demand a high degree of responsibility or require intense concentration and attention over long periods of time.

---

[24]   Act of 28 February 2014 supplementing the Law of 4 August 1996 on the well-being of workers in the performance of their work and on the prevention of psychosocial risks at work, in particular violence, bullying and sexual harassment; Act of 28 March 2014 amending the Judicial Code and the Act of 4 August 1996 on the well-being of workers in the performance of their work and regarding legal proceedings; and Royal Decree of 10 April 2014 on the prevention of psychosocial risks at work.

[25]   Organizational and social work environment (AFS 2015:4) provisions.

[26]   Resolution 1433 of the Ministry of Health, 24 November 2017.

> **Regulation NOM-035-STPS-2018 on Psychosocial Risk Factors at Work, identification, analysis and prevention.**
>
> NOM 035 aims to establish the elements to identify, analyse and prevent psychosocial risk factors, as well as to promote a favorable organizational environment in workplaces.
>
> According to its scope of application, NOM 035 applies throughout the national territory and in all workplaces. However, the provisions of this standard apply according to the number of workers working in the workplace. As a result, there are three levels: workplaces with up to 15 workers; workplaces with between 16 and 50 workers, and workplaces with more than 50 workers.
>
> https://www.gob.mx/stps/articulos/norma-oficial-mexicana-nom-035-stps-2018-factores-de-riesgo-psicosocial-en-el-trabajo-identificacion-analisis-y-prevencion

2.2.2 Work-related stress

Work-related stress is commonly recognized by most countries as falling within the scope of the legal framework governing occupational safety and health.

OSH legislation contains specific provisions relating to work-related stress in such countries as Austria,[27] Italy,[28] the Republic of Korea[29] and New Zealand.[30]

The principles and rules that apply to occupational risk management are equally applicable to work-related stress. Preventive and protective measures should be implemented following the standard hierarchy of control measures: eliminate the hazard/risk; control the hazard/risk at source, through the use of engineering controls or organizational measures; minimize the hazard/risk by the design of safe work systems, which include administrative control measures; and, where residual hazards/risks cannot be controlled by collective measures, provide appropriate personal protective equipment, including clothing, at no cost, together with measures to ensure its proper use and maintenance. [31]

2.2.3 Mental health at work

Mental health is usually associated with psychosocial hazards, though this is not always the case since damage to mental health can be caused by other kind of hazards, such as exposure to chemical agents, the labour environment or specific individual circumstances.

---

[27]   Amendment No 118/2012 to Workers' Protection Act § 68 (1).

[28]   Legislative Decree 81/2008 on Protection of Safety and Health at Work, Article 28 (1).

[29]   Ordinance of Occupational Safety and Health Standards, Article 669.

[30]   New Zealand: Health and Safety in Employment Act 1992, Sections 2 and 5.

[31]   Guidelines on occupational safety and health management systems, ILO-OSH, 2001.

Module 14 Ensuring compliance with legislation on psychosocial risks
2. The role of labour inspectors: ensuring compliance with the law in respect of psychosocial risks

15

Some countries have included specific provisions relating to mental health in their labour legislation, as in France,[32] China[33] and Canada (British Columbia).[34]

2.2.4   Working time and the right to disconnect

In most of countries, working time is regulated only by basic labour legislation, but the organization of working time, and especially any lack of rest time, can be regarded as a source of fatigue and stress, which might be harmful to health.

In some countries, therefore, working time has come to be regulated within the framework of occupational safety and health,[35] or working time standards are included in both types of legislation.[36]

Where both types of legislation are involved, the preventive aspects, especially rest times, are usually dealt with under the occupational safety and health rules, while violations of legal limits or salary issues related to working time are treated as labour infringements.

Working time is usually treated as a potential psychosocial hazard, especially in aspects relating to shifts, night work, rest periods and frequent changes in work schedules.

In recent times, the general trend towards telework has had serious consequences for the organization of working time, giving rise to new psychosocial risks. This has led to the introduction of a worker's right to disconnect, defined by the European Parliament as "a worker's right not to engage in work-related activities or communications outside working time, by means of digital tools, such as phone calls, emails or other messages". Furthermore: "constant connectivity combined with high job demands and the rising expectation that workers are reachable at any time can negatively affect workers' fundamental rights, their work-life balance, and their physical and mental health and well-being".[37]

2.2.5   Violence and harassment at work

This category of psychosocial risk refers to physical and psychological violence in the same workplace, either between workers of the same company or between workers who belong to different companies.

---

[32]   Labour Code, Article L. 4121-1 §1.

[33]   Law of the People's Republic of China on Prevention and Control of Occupational Diseases (Order of the President No.60). (Art. 15(5)).

[34]   Worker Compensation Act, Article 5.1 (1).

[35]   European Union, Directive 2003/88/EC concerning certain aspects of the organization of working time, Germany (Working time Act) or Norway (Working Environment Act, Section 10).

[36]   This is the case in Sweden, Spain, France, Italy and Mexico.

[37]   European Parliament Resolution, 21 January 2021.

Some countries have included violence and harassment only in occupational safety and health legislation, with both preventive and reactive actions coordinated with other public agencies.[38]

Others deal with violence and harassment exclusively under the criminal law, with the role of inspectors subordinated to decisions taken by the public prosecutor.[39]

In yet other countries, preventive activities relating to violence and harassment are commonly dealt with under occupational safety and health laws, while reactive or protective inspection activities (when violence and harassment has been already taken place) are the province of labour legislation and the criminal law.[40]

The Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019 are particularly relevant to issues of violence and harassment at work.

▶ **Convention No. 190**

Article 9

Each Member shall adopt laws and regulations requiring employers to take appropriate steps commensurate with their degree of control to prevent violence and harassment in the world of work, including gender-based violence and harassment, and in particular, so far as is reasonably practicable, to:

(a) adopt and implement, in consultation with workers and their representatives, a workplace policy on violence and harassment;

(b) take into account violence and harassment and associated **psychosocial risks** in the management of occupational safety and health;

(c) identify hazards and assess the risks of violence and harassment, with the participation of workers and their representatives, and take measures to prevent and control them; and

(d) provide to workers and other persons concerned information and training, in accessible formats as appropriate, on the identified hazards and risks of violence and harassment and the associated prevention and protection measures, including on the rights and responsibilities of workers and other persons concerned in relation to the policy referred to in subparagraph (a) of this Article.

---

[38] In Denmark, Norway and Ireland, labour inspectors can issue orders or improvement notices in order to address this issue under occupational safety and health legislation.

[39] In Italy, the only protection for a worker is to refer to the Prosecutor's Office with a crime report alleging an "injury to the person" as defined in the Italian Penal Code.

[40] For instance, in France and Spain.

Module 14 Ensuring compliance with legislation on psychosocial risks
2. The role of labour inspectors: ensuring compliance with the law in respect of psychosocial risks

17

▼▲▼ ► **Recommendation No. 206**

8. The workplace risk assessment referred to in Article 9(c) of the Convention should take into account factors that increase the likelihood of violence and harassment, including **psychosocial hazards and risks**. Particular attention should be paid to the hazards and risks that:

(a) arise from working conditions and arrangements, work organization and human resource management, as appropriate;

(b) involve third parties such as clients, customers, service providers, users, patients and members of the public; and

(c) arise from discrimination, abuse of power relations, and gender, cultural and social norms that support violence and harassment.

15. Victims of violence and harassment in the world of work should have access to compensation in cases of **psychosocial**, physical or any other injury or illness which results in incapacity to work.

20. Labour inspectors and officials of other competent authorities, as appropriate, should undergo gender-responsive training with a view to identifying and addressing violence and harassment in the world of work, including **psychosocial hazards and risks**, gender-based violence and harassment, and discrimination against particular groups of workers.

Specific national legislation on these issues has been adopted in many countries, such as Australia, [41] Fiji, [42] France, [43] Ireland, [44] Mexico, [45] Morocco, [46] Namibia, [47] Canada (Quebec), [48] Uruguay[49] and Vietnam.[50]

---

[41] Fair Work Act 2009, Part 6-4.

[42] Employment Relations Act (2007), Article 76 (2) on sexual harassment.

[43] Labour Code, Article L1152-1.

[44] Safety, Health and Welfare at Work Act (2005), Section 8.2.b.

[45] Federal Labour Act, Article 3 bis (2012).

[46] Penal Code, Article 503-1 (Act 24.03) on sexual harassment.

[47] Labour Act 11 of 2007, Article 5 on prohibition of discrimination and sexual harassment in employment.

[48] Act respecting Labour Standards, Article 81.18.

[49] Act 18.561 on sexual harassment (2009).

[50] Labour Code, Article 3.9. (2021).

2.2.6 Third-party violence

External or third-party violence has traditionally been considered as outside the scope of labour law, since it falls within the legal framework of public security and the criminal law.

However, there is a current trend to consider third-party violence as a matter related to occupational safety and health. This is the approach recommended in Recommendation No. 206, paragraph 8, b: "The workplace risk assessment referred to in Article 9 (c) of the Convention should take into account factors that increase the likelihood of violence and harassment, including psychosocial hazards and risks. Particular attention should be paid to the hazards and risks that: … (b) involve third parties such as clients, customers, service providers, users, patients and members of the public."

► **European Union**

In 2010, the European social partners signed a set of multi-sectoral "Guidelines for prevention of third-party violence and harassment at work".[51]

► **United States**

The National Institute for Occupational Safety and Health (NIOSH), charged with recommending occupational safety and health standards, defines workplace violence as any physical assault, threatening behaviour or verbal abuse that occurs in the work setting. Acts such psychological trauma due to threats, obscene phone calls, an intimidating presence and harassment of any kind are included.[52]

---

[51] (Bibliography 41).

[52] NIOSH Home, *Workplace Safety & Health Topics, Occupational Violence*, Society for Human Resources Management. (Bibliography 83).

Module 14 **Ensuring compliance with legislation on psychosocial risks**
2. The role of labour inspectors: ensuring compliance with the law in respect of psychosocial risks

19

> ► **Ontario (Canada) Occupational Health and Safety Act (1990)**

> Section 32.0.4 If an employer becomes aware, or ought reasonably to be aware, that domestic violence that would likely expose a worker to physical injury may occur in the workplace, the employer shall take every precaution reasonable in the circumstances for the protection of the worker.

> Section 32.0.5 (2) An employer shall provide a worker with, (a) information and instruction that is appropriate for the worker on the contents of the policy and program with respect to workplace violence; and (b) any other prescribed information or instruction. (3) An employer's duty to provide information to a worker (…) includes the duty to provide information, including personal information, related to a risk of workplace violence from a person with a history of violent behaviour if, (a) the worker can be expected to encounter that person in the course of his or her work; and (b) the risk of workplace violence is likely to expose the worker to physical injury.

2.2.7 Discrimination at work

Most countries deal with discrimination under their labour laws. However, the European Commission (2017) and SLIC Guides on diversity and psychosocial risks (2018)[53] have recently indicated that gender, age and other perspectives should normally be considered as part of the risk-assessment process, with monitoring undertaken by labour inspectors.

Studies have been conducted on the effects of discrimination on workers' health, especially in cases related to age, sex, and race/ethnicity.[54] Indeed, older workers tend to suffer discrimination in relation to training and career development; women are more affected by segregation in specific jobs or categories; while the forms of discrimination based on race/ethnicity are often closely connected with the social environment.

In general, it can be said that minorities in the workplace are particularly vulnerable to psychosocial hazards because of behaviour that has the effect of excluding them from the workplace community.

Another form of discrimination is **stigma**. This is defined as a personal attitude or belief that applies a negative label to a particular group of people, such as those with mental illness. Stigma creates fear and results in discrimination, which discourages individuals and their families from getting the help they need.[55]

---

[53] (Bibliography 90, 91).

[54] Among others: "Prevalence and Mental Health Correlates of Harassment and Discrimination in the Workplace. Results from a National Study", Kathleen M. Rospenda, Judith A. Richman, and Candice A. Shannon (University of Illinois at Chicago), Bibliography (64); and Management of psychosocial risks at work: An analysis of the findings of the European Survey of Enterprises on New and Emerging Risks (ESENER) European Risk Observatory Report (2012). (Bibliography 65).

[55] http://www.ccohs.ca/oshanswers/psychosocial/mentalhealth_risk.html

2.2.8 Psychosocial risks associated with the implementation of labour law regulations

Some procedures that are specifically regulated by labour law and collective bargaining, such as dismissals, the fixing of salaries, changes in working arrangements and temporary work, cause a huge amount of stress and may affect workers' mental health.

In such cases, the application of specific labour regulations should be the normal rule. However, psychosocial risks management could play a secondary role in minimizing or mitigating the effects of these stressors on workers' health.[56]

There are several labour-related processes that have an impact on psychosocial risks:

a) Restructuring and job insecurity

Enterprise restructuring can be defined as the act of reorganizing the legal, ownership-related, operational or other structures of an enterprise in order to make it more profitable, with an impact on the employment or working conditions of its workers.[57] Eight different types of restructuring[58] could be envisaged:

▶ **Relocation**: The activity stays within the same company but is moved to another location within the same country.

▶ **Outsourcing**: The activity is subcontracted or contracted out to another company within the same country, involving the transfer of some of the company's recurring internal activities and powers of decision to outside providers.

▶ **Off-shoring / delocalization**: The activity is relocated or outsourced outside of the country's borders.

▶ **Bankruptcy/closure**: An industrial site is closed or a company goes bankrupt for economic reasons not directly connected to relocation or outsourcing.

▶ **Merger/acquisition**: Two or more companies decide to transfer their assets into a single company, or one company acquires another, which then involves an internal restructuring programme to rationalize the organization by cutting personnel.

▶ **Internal restructuring**: A company undertakes a job-cutting plan which is not linked to another type of restructuring as defined above.

---

56   The European debate about the impact of restructuring on workers' health was initiated by the HIRES project. The European Commission prepared a Green Paper on Restructuring and Anticipation of Change (2012) and the European Parliament approved the Resolution of 15 January 2013 with recommendations to the Commission on information and consultation of workers, anticipation and management of restructuring. Paragraph 4 of the EP resolution states that "companies envisage the following employability measures insofar as they prove to be necessary or useful for limiting the impact of the operation: (...) **monitoring, surveillance and counselling aimed to avoid or minimise the negative impact of the restructuring process on both the physical and psycho-social for both redundant workers, if any, and those staying" and "providing psycho-social assistance, where appropriate**". (Bibliography 17).

57   ILO working paper No. 19 "Restructuring enterprises through social dialogue: Socially responsible practices in times of crisis".

58   Classification taken from Eurofound website
     http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/restructuring.htm.

Module 14 Ensuring compliance with legislation on psychosocial risks
2. The role of labour inspectors: ensuring compliance with the law in respect of psychosocial risks

21

▶ **Business expansion**: A company extends its business activities, hiring a new workforce.

▶ **Other**: A company undergoes a type of restructuring that is not one of the above types.

All of these changes can cause **job insecurity**, which is defined as "an overall concern about the continued existence of the job in the future, and also as a perceived threat to various job features such as position within an organization or career opportunities".[59]

Many studies indicate a relationship between restructuring and job insecurity, on the one hand, and work-related stress, workplace bullying[60] and adverse effects on physical and mental health,[61] on the other. Burnout, job-induced tension, and depression are often observed. Studies have also revealed the likelihood of deterioration of physical health as a result of job insecurity, although in this case the relationship has been less frequently analysed.[62]

During a restructuring process, the inspectorate may receive complaints about conflict, management style, changed culture, bullying, role ambiguity and stress caused by changed job content and working methods. In such cases, labour inspectors can focus on the psychosocial aspects of the implementation of the legislation and demand that the employer communicate in a transparent way with employees.

b) New or atypical forms of employment contract

Some experts[63] include new or atypical forms of employment contract as a psychosocial risk, citing the new or atypical forms of employment contracts, and in particular "the low level of certainty over the continuity of employment [associated with] non-standard forms of work such as temporary, part-time, on-call, day-hire or short-term positions", since "permanent workers have access to more training, have greater control over their work process and find more reward in their jobs. Non-permanent workers face higher job insecurity, worse job conditions, higher job demands and more occupational accidents" and "job insecurity increases psychological distress and somatic complaints. The effects of employment strain on health revealed that stress-related tension and exhaustion appear to be more severe for precariously employed workers than for workers in permanent jobs."

---

[59] Hartley, Jean; Jacobson, Dan; Klandermans, Bert and Van Vuuren, Tinka (1990). *Job Insecurity: Coping with Jobs at Risk.* London, Sage Publications Ltd.

[60] "Why is Organisational Change Related to Workplace Bullying? Role Conflict and Job Insecurity as Mediators", Elfi Baillien and Hans De Witte, Economic and Industrial Democracy (2009). (Bibliography 66).

[61] "Organisational restructuring/downsizing, OHS regulation and worker health wellbeing*, International Journal of Law and Psychiatry* 30 (2007), pp. 385-399, Michael Quinlan. (Bibliography 60).

[62] EU OSHA publication, "Expert forecast on emerging psychosocial risks related to occupational safety and health", pp 7-8. (Bibliography 25).

[63] EU-OSHA, "Expert forecast on emerging psychosocial risks related to occupational safety and health", pp. 30 and 49. (Bibliography 25).

c) Wages

Poor pay and wage arrears may indicate a lack of reciprocity in industrial relations, whereby workers' efforts are not correspondingly rewarded by employers. This can provoke strong negative emotions and sustained stress responses in the individuals thus affected.[64]

In many psychosocial risk assessments, this aspect is usually included with career development factors. However, wages are usually a matter regulated by labour law, collective bargaining or labour contracts, and violations of these rules entail specific consequences.

2.3 Instruments and drivers for implementing and facilitating enforcement of obligations relating to psychosocial risks

In addition to legislation, other instruments and drivers should be considered by labour inspectors in their task of providing technical assistance and enforcing measures relating to psychosocial hazards.

2.3.1 Collective bargaining

There are relevant examples of psychosocial risks being taken into account as part of the collective bargaining process. In Europe, in accordance with the policy of raising awareness and building consensus on this issue in the framework of European Social Dialogue, the social partners have concluded three framework agreements on psychosocial risks, namely on work-related stress (2004), violence and harassment at work (2007) and third-party violence and harassment at work (2010). In other parts of the world, there are also examples of these issues being dealt with in the context of collective bargaining, for instance in Canada.[65]

> ► **Collective negotiation on psychosocial risks in France**
>
> In 2009, the Government strongly supported bargaining in respect of psychosocial risk prevention through an "Emergency plan against work-related stress" (the "Darcos Plan", named after the Labour Minister), which forced large companies (with more than 1000 employees) to negotiate with workers' representatives on psychosocial risks.
>
> As a result, two important agreements were signed in 2008 and 2010. The first deals with work-related stress and provides for several prevention actions, while the second deals specifically with harassment in workplaces. To date, more than 600 agreements on psychosocial risk prevention have been signed by major French companies.

---

[64] "Effort-reward imbalance at work - theory, measurement and evidence", Johannes Siegrist. (Bibliography 70).

[65] E.g. negotiations within Canada Post, in 2013, about the impact of organizational changes that could negatively affect psychological health.

Module 14 **Ensuring compliance with legislation on psychosocial risks**
2. The role of labour inspectors: ensuring compliance with the law in respect of psychosocial risks

23

2.3.2   Guidance and soft law

In some countries, the authorities have preferred to introduce guidance, soft law or legally non-binding solutions to deal with psychosocial risks, relying on voluntary rules in the form of management standards, codes of practice and guidelines on how to apply the general OSH rules or principles in this matter.

Measures of this kind have been implemented in, for example, Austria,[66] Canada,[67] Japan,[68] Australia (New South Wales)[69] and the United Kingdom.[70]

These instruments have been conceived as a way for employers to fulfil their legal obligations, but not as the only way of achieving this goal; employers can choose other options. The authorities have chosen to describe methods and ideas on how to carry out assessments and execute measures, rather than imposing them.

There is specific guidance on how the labour inspectorate can adopt these methods. Here are some examples:

---

[66]   Workplace Assessment of Psychological Stress under the Workers' Protection Act (Guidance on implementing Amendment No 118/2012).

[67]   CAN/CSA-Z1003-13/BNQ 9700-803/2013 National Standard of Canada on Psychological Health and Safety in the Workplace — Prevention, promotion, and guidance to staged implementation (2013), Standard Council of Canada.

[68]   Stress Check Program (2015).

[69]   Code of practice for managing psychosocial hazards at work, Safework, New South Wales, May 2021.

[70]   Stress Management Standards, Health and Safety Executive (2004); PAS 1010:2011 Guidance on the management of psychosocial risks in the workplace, University of Nottingham and BSI.

► **Examples of guidance and legally non-binding solutions**

European Commission – SLIC

"Guide for assessing the quality of risk assessments and risk-management measures with regard to the prevention of psychosocial risks", non-binding publication for EU labour inspectors, Senior Labour Inspectors' Committee Working Group: New and Emerging Risks (EMEX), adopted on 8 October 2018.[71]

The Netherlands

Questionnaire on work-attributed stress, Dutch Labour Inspectorate (English translation of Version 2 of Dutch version 2008.01). Questions concerning the use and copyright of the questionnaire can be directed to the Expertise Centre of the Dutch Labour Inspectorate, PostbusExpertise@MINSZW.nl (Dr L. de Jong).

Denmark

Guidance Tool of the Danish Working Environment Authority; Interview guide for the transport of goods (driver/messenger service); Interview guide for hospital wards; Interview guide for Hotels and restaurants.[72]

Spain

Technical Criteria 104/2021 - Guidelines of the Labour and Social Security Inspectorate on Psychosocial Risks.[73]

2.3.3 Health promotion policies

Awareness-raising is still an issue in terms of how employers should manage the prevention of psychosocial risks. This is one of the reasons why, at present, most of the available information and tools addressed to employers and workers take the form of **health promotion measures** in an attempt to introduce these measures into the workplace by advocating good practices.

Workplace health promotion programmes are designed to enable workers to cope more effectively with psychosocial factors. They contribute to tackling work-related matters and personal or family problems that may impact on their well-being and work performance, such as stress, violence or the abuse of alcohol and drugs.

Unfortunately, most of these initiatives tackle the problems only from an individual perspective, without considering the role of organizational factors or collective relations at work.

Workplace health promotion actions are broader in scope than psychosocial risks prevention, since they involve aspects of workers' private lives as they relate to work. They are also different

---

[71] (Bibliography 90).

[72] (Bibliography 78).

[73] Available in Spanish at
https://www.mites.gob.es/itss/ITSS/ITSS_Descargas/Atencion_ciudadano/Criterios_tecnicos/CT_104_21.pdf

Module 14 Ensuring compliance with legislation on psychosocial risks
2. The role of labour inspectors: ensuring compliance with the law in respect of psychosocial risks

25

in nature because they are based on voluntary rules agreed by employers and workers, not on the implementation of legal requirements.

The ILO considers that health promotion in the workplace is effective when the activities concerned complement occupational safety and health measures by integrating them into OSH management practices in order to prevent accidents and diseases, and when they protect and improve the health and well-being of men and women at work. This is the rationale of the SOLVE programme, the Decent Work Agenda and the actions of the ILO-WHO Joint Committee.

2.4 Aspects of private life having consequences at work

Some interactions between the work environment and workers originate outside the scope of employers' management powers as they lie within the sphere of workers' privacy.

The health and hygiene legislation of some countries, such as Colombia, requires that the experts undertaking psychosocial risk assessments consider information on external labour factors, such as leisure time, mobility, social support networks and characteristics of housing. This information is always subject to the workers' consent and is kept confidential.

Within the labour law framework, however, these psychosocial factors are always outside the scope of risk assessments and can only be tackled with the free agreement of the employer and each employee, normally in the context of a workplace health-promotion policy.

In any case, employers cannot require that employees adopt preventive measures in areas which are private. Labour inspectors cannot therefore enforce them in a general way, though in some circumstances certain measures might be recommended.

The following aspects might be considered:

a) Personal health conditions

Action might be taken in relation to the prevention of alcohol and drug abuse, the treatment of AIDS and other infectious diseases, ill-health at work, nutrition, physical activity, healthy sleep, and economic stress related to personal circumstances.

An employer can be declared liable in these matters when there are consequences for the work environment.

> In **Belgium** an employer may be required in certain situations to have a policy concerning alcohol and drugs. This concerns not only the work-related (ab)use of alcohol and drugs, but their potential to cause work-related accidents and conflicts between employees. This is why employers are required to pay attention to these matters and, if necessary (in problematic or high-risk situations), take measures based on a psychosocial risk analysis.

Health promotion actions in these areas have a positive influence on the management of psychosocial risks at work.

b) Life Context

Labour legislation normally requires employers to take into account some aspects of work-life balance. For instance, inflexible schedules can be a source of psychological distress, which might be considered work-related.

Other situations, however, are not under the employer's control, such as the distribution of tasks in the family home, relationships with other co-workers in private life, and leisure activities.

These situations fall within the family or personal sphere and are therefore outside the scope of employers' management powers, though employers and workers could always negotiate and reach agreement regarding such matters if it were in their mutual interest.

c) Mobility

Labour mobility refers to the movement of workers from their place of residence to the workplace.

This can be a relevant stressor, especially in urban areas, where traffic problems often make it difficult for workers to get to work on time.

In most legislations, employers cannot impose the means whereby workers reach the workplace. However, measures could be incentivized, agreed and recommended, e.g. use of public transport or sharing of private cars. In this respect, the new ISO International Standard 39001 for Road Traffic Safety Management is relevant.[74]

In **Spain** a bonus system is provided in social security regulations for companies establishing mobility plans. In such cases, labour inspectors should verify the measures established by the companies concerned.

---

[74]   Other actions have been initiated in this field, e.g. employment-related geographical mobility in the Canadian context. (Bibliography 84).

▶ Summary

International concern about psychosocial risks at work has been evident since the first ILO-WHO reports on this issue were published in 1984-86. Further developments have since taken place at different levels worldwide, particularly the recent Violence and Harassment Convention, (No. 190) and its associated Recommendation (No 206), 2019.

In Section 1, we analyse **the concept of psychosocial risks from the perspective of enforcement**. The legal concept of psychosocial risks should be focused on the features of workplace organization and environment, which come within employers' sphere of liability.

On the other hand, **psychosocial risk management** requires prior analysis or assessment of existing psychosocial hazards in the organization of the workplace. The aim should be to address the **consequences** of exposure to such psychosocial risks as work-related stress, violence at work, burnout, fatigue and other organizational factors, as well as the **final effects** on workers' physical and psychological health and employers' organization and management.

In Section 2, we analyse the **role of labour inspectors** in ensuring compliance with the law as it relates to psychosocial risks.

The main role task of labour inspectors is the **enforcement of legislation**. The development of a regulatory framework for a certain issue is a process which evolves according to need. The first aspects identified are therefore usually related to consequences (in the present context, stress, violence, bullying and so on) not causes (psychosocial hazards or risks). This is one of the reasons why occupational safety and health regulations and labour law provisions are now so fragmented.

Other instruments and drivers that should be considered for the purpose of enforcement action are **collective agreements**, **guidance** and **soft law,** legally non-binding rules and **health promotion measures.**

Exercise 1

TITLE	*Understanding essential concepts and steps*
AIM	To develop participants' understanding of different concepts and steps in psychosocial risk management.
TASK	✓ The participants should be divided into several groups. Each group should elect a spokesperson to report back on the group's views. ✓ Each group will discuss the meaning and scope of psychosocial hazards, and their consequences and effects in their respective countries. ✓ The group will analyse possible points in common and differences.
TIME	The groups have 60 minutes for their deliberations. Following this, each spokesperson will have five minutes for reporting back.
RESOURCES	Refer to Section 1 of this module for the purposes of this exercise

Exercise 2

TITLE   *Analysis of legislation relating to psychosocial risks*

An inspectorate receives a complaint about the lack of assessment of psychosocial risks at work. The relevant legislation does not mention psychosocial risks but stipulates that all labour risks should be assessed. There are also non-binding rules on this subject issued by a private technical body.

Please detail the action the inspectorate would take in this case in your country.

▶ Bibliography and additional reading material

(1)   European Agency for Managing Safety and Health at Work, 2014. *Campaign Guide - Managing stress and psychosocial risks at work*, p. 4.

(2)   Report on the implementation of the European social partners' Framework Agreement on Work-related Stress, Brussels, 24.2.2011, SEC(2011), 241 final.

(3)   ILO, 2003. Code of practice on workplace violence in services sectors and measures to combat this phenomenon - Meeting of Experts to Develop a Code of Practice on Violence and Stress at Work in Services**:** A Threat to Productivity and Decent Work, 8-15 October 2003, Geneva.

(4)   "Stress and Burnout and their Implication in the Work Environment", ILO Encyclopaedia on Occupational Health and Safety (2011).

(5)   Psychosocial work characteristics as risk factors for the onset of fatigue and psychological distress: prospective results from the Maastricht Cohort Study. Bültmann U, Kant IJ, Van den Brandt PA, Kasl SV (2002).

(6)   Safety Institute of Australia, 2012. "Psychosocial Hazards: Fatigue".

(7)   Johnson, P., 2009. "HRM in changing organizational contexts", in D. G. Collings & G. Wood (Eds.), *Human resource management: A critical approach* (pp. 19-37), London, Routledge.

(8)   Stavroula Leka and Aditya Jain, 2010. *Health Impact of Psychosocial Hazards at Work: An Overview*, Institute of Work, Health and Organisations, University of Nottingham.

(9)   *Psychosocial factors at work: recognition and control*. Report of the Joint ILO/WHO Committee on Occupational Health, Ninth Session, Geneva, 18-24 September 1984, Occupational Safety and Health Series No. 56.

(10)   Sultan-Taieb H, Lejeune C, Drummond A, Niedhammer I, 2011. "Fractions of cardiovascular diseases, mental disorders, and musculoskeletal disorders attributable to job strain", *International Archives of Occupational & Environmental Health*, 84:911-25.

(11)   *Prévention des risques psychosociaux. Plan d'urgence pour la prévention du stress au travail*, Séminaire régional le 30 novembre 2009, DRTEFP Alsace, France.

(12)   PAS 1010, 2011. *Guidance on the management of psychosocial risks in the workplace*, University of Nottingham and British Standards Institute.

(13)   INRS (France), 2010. Dépister les risques psychosociaux. Des indicateurs pour vous guider.

(14)   HSE Stress Management Standards.

(15)   Standard Council of Canada, 2013. National Standard of Canada on Psychological health and safety in the workplace **—** Prevention, promotion, and guidance to staged implementation, CAN/CSA-Z1003-13/BNQ 9700-803/2013.

(16) Austrian Federal Ministry of Labour, Social Affairs and Consumer Protection, 2011. Evaluation of risk assessment of mental job strain in control and advisory activities guidelines for the Labour Inspectorates. Key action under the Austrian Health and Safety Strategy.

(17) HIRES Public Health in Restructuring. Innovative Approaches and Policy Recommendations.

(18) European Commission, 2012. Green Paper on restructuring and anticipation of change.

(19) Mette Bøgehus Rasmussen, Tom Hansen, Klaus T. Nielsen, 2011. "New tools and strategies for the inspection of the psychosocial working environment: The experience of the Danish Working Environment Authority", *Safety Science 49*, pp. 565–574.

(20) European Agency for Safety and Health at Work, 2007. *Expert forecast on emerging psychosocial risks related to occupational safety and health*.

(21) SLIC European Campaign, inspection tools and reports.

(22) Colombia, Resolución 2646 de 2008 (julio 17) por la cual se establecen disposiciones y se definen responsabilidades para la identificación, evaluación, prevención, intervención y monitoreo permanente de la exposición a factores de riesgo psicosocial en el trabajo y para la determinación del origen de las patologías causadas por el estrés ocupacional. (Resolution 2646 of 2008 (July 17) establishing rules and defining responsibilities for identification, assessment, prevention, intervention and permanent monitoring to the exposure to psychosocial hazards at work and to determine the origin of diseases caused by professional stress).

(23) Aspects psychosociaux - Série Stratégie SOBANE
http://www.emploi.belgique.be/publicationDefault.aspx?id=19238
http://www.sobane.be/fr/strategie-sobane-aplliquee-aspects-psychosociaux.aspx

(24) The Sobane Strategy applied to the management of psychosocial risks, Malchaire, Piette, D'Horre, Stordeur Catholic University of Lovain (Belgium)

(25) Communication from the Commission to the Council and the European Parliament transmitting the European Framework Agreement on Harassment and Violence at Work, Brussels, 8.11.2007, COM (2007) 686 final.

(26) Psychosocial Aspects, Ministry of Employment and Wellbeing (Belgium).

(27) Circular letter of the Italian Ministry of Labour on work-related stress, 2010).

(28) Ulster University, 2014. Irish HSA Work Positive audit tool, incorporating the WHO-5 Wellbeing index.

(29) INAIL (Italy), 2011. Valutazione e Gestione del rischio da stress lavoro correlato.

(30) Health and Safety Authority (HAS), Ireland. Work-related Stress, a guide for employers.

(31) ILO, 2012. *Stress Prevention at Work Checkpoints*, Geneva.

(32) EWCS, 2010. European Working Conditions Survey.

(33) Einarsen, 1999; Leymann, 1990. Cf. Basiskunnskap om mobbing i arbeidslivet [Basic competence regarding workplace bullying]: Prof. Ståle Einarsen, University of Bergen and Prof. Helge Hoel PhD, University of Manchester.

(34) Norwegian Labour Inspection Authority, The bully-free workplace, Working together to stop bullying at the workplace.

(35) NTP 854, Acoso Psicológico en el Trabajo: definición. (Psychological harassment at work: definition), Spain.

(36) Health and Safety Authority (HAS) Ireland, 2007. Code of practice for employers and employees on the prevention and resolution of bullying at work.

(37) LASI (Germany). Gegen Mobbing, Handlungsanleitung für die Arbeitsschutzverwaltungen der Länder.

(38) Direction Générale Humanisation du travail, Belgium, 2009. *La prévention de la charge psychosociale au travail: stress, violences, harcèlement moral et sexuel*. (Prevention of the psychosocial charge at work : stress, violence, bullying and sexual harassment).

(39) DDTEPF, France, 2008. Le harcèlement moral – Guide méthodologique (Bullying – Methodological guide).

(40) General Direction of Labour and Social Security Inspectorate (Spain), 2009. Criterio Técnico 69/2009 de la Dirección General de la Inspección de Trabajo y Seguridad Social sobre Acoso y Violencia en el trabajo (Code of Practice 69/2009).

(41) The multi-sectoral guidelines to tackle third-party violence and harassment related to work (2010).

(42) *Employee Resilience in Times of Change: Participation and Well-Being during Mergers and Restructuring*, funded by DG Employment, Social Affairs and Equal Opportunities under Budget Heading 04.04.01.03.

(43) European Commission, Directorate-General for Employment, Social Affairs and Equal Opportunities, 2010. *Investing in well-being at work. Addressing psychosocial risks in times of change*.

(44) INTEFP, Département Formation Statutaires, France, September 2010. *Prévention des risques psychosociaux, Séquence 5 – Travail d'appui au contrôle RPS*.

(45) Commission Decision of 26 April 2006 on the European Commission Policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment.

(46) ACAS-CIPD, UK, 2013. Mediation: an approach to resolving workplace issues.

(47) Accord National Interprofessionnel du 19 juin 2013 vers une politique d'amélioration de la qualité de vie au travail et de l'égalité professionnelle. (Framework Agreement on Quality of Life at Work), France (2013).

(48) Direction Générale Humanisation du Travail, Belgium, 2009. "La personne de confiance" - La prévention de la charge psychosociale au travail: stress, violences, harcèlement moral et

Module 14 **Ensuring compliance with legislation on psychosocial risks**
Bibliography and additional reading material

33

sexuel. ("The person of trust" - Prevention of psychosocial stress at work: stress, violence, moral and sexual harassment.

(49) Escartín, Rodríguez-Carballeira and Zapf, 2012. *Guía de Intervención. Mobbing. Acoso Psicológico en el Trabajo* (Guide for intervention. Bullying. Psychological Harassment at Work).

(50) European Commission Recommendation of 27 November 1991 on the protection of the dignity of women and men at work (92/131/EEC).

(51) Resolución 652 de 2012 del Ministerio de Trabajo de Colombia de 30 de abril por la cual se establece la conformación y funcionamiento del Comité de Convivencia Laboral en las Entidades Públicas y Empresas Privadas (Regulation of the Colombian Ministry of Labour 652 of 30 April 2012 concerning the Committees of Labour Good Fellowship).

(52) Work Cover, Western Australia, website. Managing psychological injuries / A guide for rehabilitation and return to work coordinators.

(53) Handlungsempfehlung für die Arbeitsschutzverwaltungen der Länder Umgang mit traumatisierenden Ereignissen Prävention und Betreuung für Aufsichtspersonen (Recommendations for Regional Occupational Safety and Health Authorities for actions relating to traumatic events prevention and support to inspectors), Germany (2010).

(54) Ministère du Travail, des Relations sociales, de la Famille, de la Solidarité et de la Ville. Les Guides de la DGT. Les Risques D'atteinte à la santé mentale. Repères pour l'action de l'Inspection du travail**.** Fiche 3 : Le recueil et le traitement des plaintes (Ministry of Labour, Social Relations, Family, Solidarity and Towns). (Guides of the General Direction of Labour. Risks being harmed mental health. Guidelines for the Labour Inspection Actions. Form 3: Collecting and treatment of complaints).

(55) European Agency for Safety and Health at Work, 2009. European Survey of Enterprises on New and Emerging Risks (ESENER), Managing safety and health at work.

(56) Agreement between the Danish government (Denmark's Liberal Party and the Conservative People's Party), the Social Democratic Party, the Danish People's Party and the Social Liberal Party, 22 March 2011, A strategy for working environment efforts up to 2020.

(57) Norway. Meld. St. 29 (2010–2011) Melding til Stortinget Felles ansvar for eit godt og anstendig arbeidsliv Arbeidsforhold, arbeidsmiljø og sikkerheit. Parliamentary Message – Joint responsibility for a good and decent working life.

(58) Esther Cloutier, Michel Vézina, Marie St-Vincent, Susan Stock, Katherine Lippel, Alain Delisle, Éric Fortin, Patrice Duguay, Robert Courtemanche, Pascale Prud'homme, Robert Arcand, Québec study on working, employment and OHS conditions (EQCOTESST), Institut de Recherche Rober Sauvé en Santé et Sécurité du Travail.

(59) Ontario Human Rights Commission, Canada, 2011. *Policy on preventing sexual and gender-based harassment*.

(60) Michael Quinlan, 2007. "Organisational restructuring/downsizing, OHS regulation and worker health wellbeing", International Journal of Law and Psychiatry 30, pp. 385-399.

(61) Richard Johnston, Michael Quinlan and Maria McNamara, 2011. "OHS Inspectors and psychosocial risk factors: Evidence from Australia", Safety Science 49, pp. 549-557.

(62) Liv Starheim and Mette Bogehus Rasmussen, 2014. "Labour inspection strategies addressing the psychosocial work environment", *Policy and Practice in Health and Safety*, IOSH.

(63) Katherine Lippel, 2011. *Law, Public Policy and Mental Health in the Workplace*, Healthcare Papers, Special Issue.

(64) "Prevalence and Mental Health Correlates of Harassment and Discrimination in the Workplace. Results from a National Study", Kathleen M. Rospenda, Judith A. Richman, and Candice A. Shannon (University of Illinois at Chicago).

(65) European Risk Observatory Report, 2012. *Management of psychosocial risks at work: An analysis of the findings of the European Survey of Enterprises on New and Emerging Risks (ESENER)*.

(66) Elfi Baillien and Hans De Witte, 2009. "Why is Organisational Change Related to Workplace Bullying? Role Conflict and Job Insecurity as Mediators", *Economic and Industrial Democracy*.

(67) Katherine Lippel, 2011. Regulation of psychosocial risk factors at work: An international overview, Safety Science 40, pp. 543-546.

(68) Katherine Lippel, Anette Sikka, 2010. Access to Workers' Compensation Benefits and Other Legal Protections for Work-related Mental Health Problems: A Canadian Overview, Canadian Public Health Association.

(69) Cox T., Griffiths A. and Rial-Gonzalez E., 2000. *Research on work-related stress*, Report to the European for Safety and Health at Work, Luxembourg.

(70) Johannes Siegrist, "Effort-reward imbalance at work - theory, measurement and evidence".

(71) Karen Messing and Piroska Östlin, 2006. *Gender Equality, Work and Health: A review of the evidence*, WHO.

(72) Loïc Lerouge, 2014. Psychosocial Risks in Labour and Social Security Law. Legal Comparative Approach, COMPARISK, French National Centre for Scientific Research (CNRS).

(73) Katherine Lippel, Michel Vézina, Rachel Cox, 2011. Protection of workers' mental health in Québec: Do general duty clauses allow labour inspectors to do their job? Safety Science 49, pp. 583-590.

(74) Michel Vézina and Carole Chénard, 2011. *Grille d'identification des risques psychosociaux au travail*, INSPQ, Québec.

(75) European Agency for Safety and Health at Work & Eurofound, 2014. *Psychosocial risks in Europe. Prevalence and strategies for prevention*.

(76) Arbeitsplatzevaluierung Psychischer Belastungen nach dem Arbeitnehmerinnenschutzgesetz (AschG) (Workplace Assessment of Psychological Stress under the Workers' Protection Act, Guidance to implement the amendment No 118/2012)

(77) Belgian legislation on psychosocial risks.

(78) Karsten Refsgård & Lars Lidsmoes. Danish sector-specific guidance tools: transport, hospitals, restaurants.

(79) 10 Guidelines for preventing bullying at the workplace - 10 RÅD for å forebygge mobbing på arbeidsplasse (Norway).

(80) Guide to internal procedures (Norway).

(81) IRSST website, Québec, Canada. Prévention de la violence interpersonnelle au milieu du travail.

(82) SPF Public Service of Employment, Labour and Social Agreement, Belgium. Link between psychosocial aspects and work-related accidents (Lien entre les aspects psychosociaux et les accidents du travail).

(83) National Institute for Occupational Safety and Health (NIOSH), USA. Workplace Safety & Health Topics, Occupational Violence; Society for Human Resources Management.

(84) On the Move Partnership. Employment-related geographical mobility in the Canadian context.

(85) Canadian Centre for Occupational Health and Safety website.

(86) Ministry of Health, Chile. Protocolo para la vigilancia de riesgos psicosociales en el trabajo (Procedure for the surveillance of psychosocial risks at work).

(87) European Agency for Safety and Health at Work, 2010. European Survey of Enterprises on New and Emerging Risks: Managing Safety and Health at Work (ESENER-1).

(88) Cox, T., 1993. Stress Research and Stress Management: Putting Theory to Work, HSE Books, Sudbury.

(89) European Commission, 2019. Thematic Discussion Paper. A critical evaluation of the EU policy context, Stockholm (Sweden), DG Employment, Social Affairs and Inclusion, written by Stavroula Leka in collaboration with Sergio Iavicoli and ICF.

(90) *Guide for assessing the quality of risk assessments and risk management measures with regard to prevention of psychosocial risks*, non-binding publication for EU Labour Lnspectors Senior Labour Inspectors' Committee Working Group: New and Emerging Risks (EMEX), adopted on 8 October 2018.

(91) *Principles for labour inspectors with regard to Diversity Sensitive Risk Assessment, particularly as regards age, gender, and other demographic characteristics*, non-binding publication for EU Labour Inspectors Senior Labour Inspectors´ Committee (SLIC) Working Group: New and emerging risks (EMEX), adopted on 23 May 2018.

(92)   Dr. Shahzeb Ali Malik and Barry Bolt, 2015. *The impact of New Working Methods – A Psychosocial Risk Perspective*, IIRSM.

(93)   European Agency for Safety and Health at Work, 2021. Discussion paper: *New forms of work in the digital era: implications for psychosocial risks and musculoskeletal disorders*.