

Is Europe heading towards the eclipse of "psychosocial risks" at work?

At a time when no one can dispute the growing importance of "psychosocial risks" and when the very use of this expression for these risks is becoming routine, in European circles a semantic shift towards the more inclusive topic of mental health is developing and solidifying. Under the guise of widening the debate, the expression "psychosocial risks" is being eclipsed, resulting in the removal or marginalisation of the link with the conditions of work and employment from which they stem.

Fabienne Scandella

ETUI

**In recent years
DG Employment has
been immobile on the
topic of psychosocial
risks at work.**

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Psychosocial risks emerged at the end of the 1980s in numerous European countries, with an urgency that demanded awareness and action on the part of all actors involved in occupational health. It was based on this finding that, in the context of the European social dialogue, the social partners seized on the issue, resulting in the signature of autonomous framework agreements on stress in 2004, and then on violence and harassment at work in 2007. Although these agreements effectively encouraged increased awareness of the importance of these risks, at the time qualified as "emerging", it should be noted today that, as a result of the harmful effects that these risk factors are having on the health of an ever increasing number of workers, these agreements have proved powerless to halt a progression that now seems to be genuinely pandemic.

Faced with this alarming finding, and given that the existence of legislation (and therefore of the obligation to comply with that legislation) is the main factor driving companies to act in terms of preventing occupational risks², many observers are calling for a legislative initiative on psychosocial risks at European level³. A directive in this respect would help to harmonise the protection that workers enjoy in the various Member States, given that the Commission itself recognises that a minimum level of protection is lacking within the Union⁴.

It seems, however, that these calls are doomed to failure. The issue of psychosocial risks, despite its progression and associated concerns, is in fact being obstructed by the paralysis of the Community regulatory

machine, like most of the other health- and safety-related issues⁵. This paralysis began at the start of the Barroso era (2004) and consolidated with the introduction of the REFIT (Regulatory Fitness and Performance) programme in 2012.

The communication entitled *EU Strategic Framework on Health and Safety at Work*⁶, published by the Directorate-General for Employment and Social Affairs in June 2014, confirms the disengagement of Community bodies from the issue of psychosocial risks by ruling out until 2020 the possibility of reinforcing the regulatory framework in order to better prevent such risks. Although this communication notes the prevalence of stress among European workers, it confines itself to confirming that "attention should be given" to this issue and remains evasive on the measures to be implemented in order to improve prevention and halt the progression of the risks leading to this stress.

The communication of January 2017, entitled *Safer and Healthier Work for All – Modernisation of the EU Occupational Safety and Health Legislation and Policy*, confirms DG EMPL's limited ambition in this respect given that it states, with regard to psychosocial risks, that "to improve workers' protection in practice, it is necessary to raise employers' awareness and provide them with further guides and tools⁷.

Awareness-raising campaigns, best practice guides, user-friendly IT tools, etc. are some of a whole host of remedies, repeatedly used in recent decades, that the Commission is proposing to continue using despite their having not even minimally

1. That is to say, according to the definition of the European Agency for Safety and Health at Work, both new and increasing.

2. González R., Cockburn W., Irastorza X. (2010) *European Survey of Enterprises on New and Emerging Risks – Managing safety and health at work*, European Agency for Safety and Health at Work., p. 51.

3. The idea would be to draft a specific directive, like the one regulating the protection of workers from carcinogens or mutagens (2004/37/EEC) or the one on display screen equipment (90/270/EEC). It should be underlined that, in any event, the prevention principles in Framework Directive 89/391/EEC clearly apply to psychosocial risks.

4. European Commission, *Commission Staff Working Paper. Report on the Implementation of the European social partners' Framework Agreement on Work-related Stress*, 2011, SEC (2011) 241 final, p. 3.

5. With the notable exception of the Directive on carcinogens and mutagens at work, which is currently being revised.

6. European Commission, *Communication on an EU Strategic Framework on Health and Safety at Work (2014-2020)*, COM(2014) 332 final.

7. European Commission, *Communication from the Commission: Safer and Healthier Work for All – Modernisation of the EU Occupational Safety and Health Legislation and Policy*, COM(2017) 12 final, p. 10.

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affected the progression of the disease that is eating away at the world of work. In short, although on paper DG EMPL can defend itself against accusations of immobility by promoting placebos, it has basically chosen to keep the status quo.

When mental health intervenes at work

While DG EMPL has a certain apathy towards the issue of psychosocial risks, in other European circles, administered by the Directorate-General for Health and Food Safety, there is a buzz around the concept of "mental health". There has been a series of initiatives over the last 10 years or more.

In 2005 DG SANCO⁸ adopted an ambitious mental health programme. In that year it published a green paper entitled *Improving the mental health of the population: Towards a strategy on mental health for the European Union*⁹. Following that green paper, which aimed to "launch a debate" with stakeholders, in June 2008 it organised a European conference on mental health in Brussels. That conference led to the drafting of the *European Pact for Mental Health and Well-being*. This document, which was actually quite brief, identified five priority areas for action (namely, prevention of depression and suicide, mental health in youth and education, mental health in workplace settings, mental health of older people, and combating stigma and social exclusion). Each of these areas was then the subject of a thematic conference organised between September 2009 and March 2011.

In June 2011 the Council of the European Union examined the results of the *European Pact for Mental Health and Well-being*. In its conclusions, it invited the Member States

and the Commission to set up, as a continuation of the previous project, the *Joint Action for mental health and well-being* platform, which came to fruition in 2013 and lasted for three years. At the end of this period, DG SANTE began a new project: the EU-Compass for Action on Mental Health and Well-being. This aims to collect, exchange and analyse information on policy and stakeholder activities in mental health. It is due to continue until 2018.

All these mental health and well-being initiatives are laudable. Why would anyone object to the promotion of mental health? This is one initiative area that seems to demand unanimity. However, where these projects include a section on the world of work, it seems that caution reigns when it comes to the examination of this section.

By way of preamble to our analysis, we can point to this brief and emblematic paragraph in the *Pact*, which concerns mental health in the workplace: "Employment is beneficial to physical and mental health. The mental health and well-being of the workforce is a key resource for productivity and innovation in the EU. The pace and nature of work is changing, leading to pressures on mental health and well-being. Action is needed to tackle the steady increase in work absenteeism and incapacity, and to utilize the unused potential for improving productivity that is linked to stress and mental disorders. The workplace plays a central role in the social inclusion of people with mental health problems"¹⁰.

The first three sentences make statements that might lead the reader to expect further discussion of the consequences of exposure to psychosocial risk factors on mental health. However, this does not happen. In all these projects, the concept of "psychosocial risks" is carefully eclipsed, like a troublesome taboo, to the benefit of the concept of "mental health", which therefore seems to be a "catch-all", ignoring the distinction, which is, however, fundamental in practice, between mental health problems that pre-exist integration into work (e.g. bipolar disorder, schizophrenia) and those resulting from exposure to psychosocial risk factors at work (e.g. reactional depression, burnout).

Surely it would be better if those measures that need to be implemented in order to encourage the entry into the labour market of

8. The acronym of the Directorate-General for Health and Food Safety was changed on 1 January 2015: DG SANCO became DG SANTE.

9. European Commission, Health and Consumer Protection Directorate-General (2005) *Green Paper: Improving the mental health of the population: Towards a strategy on mental health for the European Union*, p. 26.

10. European Commission (2008) *European Pact for Mental Health and Well-being*, p. 4.

people suffering from mental problems were considered separately from those measures that need to be developed so that workers suffering because of their work can remain in or return to their job.

This lack of distinction is important because it is evidence of a shift in focus. This approach entails less of a focus on the causes (conditions of employment and work) and more on the state of mental health, with the issue as to whether or not this state results from exposure to psychosocial risk factors ultimately being irrelevant. Consequently, any social and political criticism, which makes a link between employment and work conditions and mental health effects, is neutralised.

By focusing on the state of mental health rather than on the causes likely to affect it, the concept therefore tends to individualise the problem. The result is that the recommended measures are not collective but individual (e.g. stress management), and they are not preventive but rather curative (i.e. medication).

DG SANTE's approach implicitly proposes that individuals should be adapted to work. The promotion of resilience has a rosy future. In fact, all the principles condensed into Article 6 of the Framework Directive on the safety and health of workers protection (89/391/EEC), concerning the general obligations of employers, namely a preventive approach combating the risks at source in the first instance and giving collective protective measures priority over individual protective measures, are falling by the wayside. The semantic shift that is embracing the concept of "mental health" and eclipsing that of "psychosocial risks" is therefore anything but harmless.

Another pitfall of these projects that are focused on "mental health" is obvious: the ambiguity of their aim. Beyond the simple question of the choice of concepts, which must also be asked, it is the underlying rationality that is at issue. The objective seems to be less about mental health for itself than what it enables in terms of employability and productivity.

Certainly, the workplace can be a place of social inclusion for those whose mental health is fragile. But this inclusion in the labour market can be beneficial only subject to at least two conditions. First, it must be voluntary and deemed feasible by a doctor who has the patient's full confidence. It cannot result from "activation policies" for the sick, as seem to be developing in certain European countries (e.g. Belgium) to reduce social security costs. Second, it seems obvious that this inclusion, in order to prevent it being compromising or harmful, must offer guarantees as regards working conditions, particularly in terms of exposure to "psychosocial risks". Job adaptations can be necessary and it is therefore important to ensure the assistance of employers from the outset.

Last June in Luxembourg, for the second conference of the EU-Compass project, which brought together around a hundred participants, the Commission, which had taken great care to invite all the European associations active in the field of mental health, did not deem it useful to invite the European Trade Union Confederation. Therefore, following the contribution by European employers, who had been invited to express their view on what should be done in terms of mental health at work, there was hardly anyone there to report on the position of European workers.

11. The first paragraph of Article 154 states that "The Commission shall have the task of promoting the consultation of management and labour at Union level and shall take any relevant measure to facilitate their dialogue by ensuring balanced support for the parties."

12. Euractiv, "European Depression Day on Euractiv: Launch of MEP Ambassador Programme demands action to tackle depression on European Depression Day", 30 September 2014.

When questioned about this during the plenary session, the organisers replied that: "it is impossible to invite everyone"... In these circles, there seems to be little desire to bother about Article 154 of the Treaty of Lisbon¹¹: one partner is the same as another and it is better to surround yourself with more conciliatory partners. After all, these are not in short supply in Brussels. There is a multitude of associations active in the field of mental health, which carry out sustained lobbying work at European level (the European Depression Association, Mental Health Europe, European Alliance Against Depression, etc.) and which are not particularly bothered about the body of EU law on health and safety at work.

It will be recalled, for example, that, during the 11th European Depression Day, the European Depression Association (EDA), one of whose sponsors is the pharmaceutical company Lundbeck (which produces antidepressants...), expressed a wish for the Commission to initiate nothing less than a "revision of the Directive 89/391/EEC... to ensure that targeting the impact of depression becomes a key priority at workplaces"¹²!

As it seems pointless to hope, in the short or medium term, for a legislative initiative in the area of psychosocial risks, we can only hope that DG EMPL will defend the existing body of law to ensure that the principles of the Framework Directive are not trampled underfoot by other Community initiatives. ●

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