



Study on the implementation of the autonomous framework agreement on harassment and violence at work

Final report

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Executive summary

Background and study objectives

On 26 April 2007, the European social partners BUSINESSEUROPE, UEAPME, CEEP and ETUC signed an autonomous framework agreement on violence and harassment at work which requires that the member federations of signatory parties to cooperate on the improvement of working conditions by establishing and promoting mechanisms identify, prevent and manage problems of harassment and violence occurring at the workplace¹. The stated goals of the social partners in negotiating the agreement were to

- Increase the awareness and understanding of employers, workers and their representatives of workplace harassment and violence; and
- Provide employers, workers and their representatives at all levels with an action-oriented framework to identify, present and management problems of harassment and violence at work.

This was the third autonomous framework agreement negotiated by cross-industry European social partners on the basis of Article 154 of the Treaty for European Union (TFEU). Agreements negotiated on this basis need to be implemented by their members *'in accordance with the procedures and practices specific to management and labour in the Member States and in the countries of the European Economic Area'* (Article 155 TFEU). The implementation of the Agreement was to be completed by 26 April 2010. The European cross industry social partners delivered their own implementation report of the agreement on 27 October 2011².

The negotiation of the Agreement was preceded by a first stage Commission Consultation on Violence in the Workplace³. In this document, the Commission highlighted rising concerns in relation to the issues of violence and bullying in the workplace and referred to disparities in the explicit coverage of this issue in existing national legislation and therefore differential levels of worker protection. It therefore considered whether action at Community level could help to strengthen prevention of different forms of violence or harassment at the workplace.

In line with its Communication on social dialogue (COM(2004) 557 final)⁴, the Commission announced that it would undertake its own monitoring of such autonomous framework agreement to assess its implementation and the extent to which the agreement has contributed to the Community's objectives stated in the original consultation which led to autonomous social partner negotiations.

With this in mind, the purpose of the study was to:

- Collect information and analyse the role of the social partners and their actions in accordance with the procedures and practices specific to management and labour and the Member States in the field of occupational safety and health (OSH), with a particular focus on psychosocial risks;
- Provide sound information on the impact of the autonomous agreement on harassment and violence at work (HVW) on national legislation and practice with regard to measures to eliminate HVW;
- Collect background information and gather data on the phenomenon of HVW in all 28 EU Member States and other countries of the European Economic Area (EEA). This would also include a critical assessment of the reporting systems in place by social partners and national public authorities.
- Explore the extent to which the implementation of the agreement meets the Community's objectives as stated in the consultation documents leading up to social partner negotiations, as well as those set by the social partners in their autonomous framework agreement.

¹ <http://ec.europa.eu/social/main.jsp?catId=521&langId=en&agreementId=5000>

² http://www.etuc.org/sites/www.etuc.org/files/BROCHURE_harassment7_2_.pdf

³ <http://ec.europa.eu/social/keyDocuments.jsp?advSearchKey=&mode=advancedSubmit&langId=en&policyArea=&type=50&country=0&year=2005>

⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52004DC0557>

The study covers the period starting from the signature of the autonomous framework agreement on HVW in April 2007 to the present day, with careful consideration of the monitoring carried out by social partners between 2007 and 2010 and their implementation report presented in 2011.

The study provides information on all 28 EU Member States and the EEA countries (Iceland, Liechtenstein and Norway). Croatia was not in membership of the EU at the time of the negotiation of the agreement, but the social partners recommended that its national members consider its implementation at national level.

Methodology

The information presented in this report is based on a range of sources, including a review of transnational and national literature, national stakeholder consultations and a survey of enterprises and employee health and safety representatives⁵. In total, around 155 stakeholders (mainly representatives of social partner organisations and national ministries) were consulted for this study. An online enterprise survey was commissioned for this study and yielded responses from 400 enterprises in the 8 Member States targeted by the survey (France, Hungary, Italy, Netherlands, Poland, Spain, Sweden and the UK). It aimed to gather information regarding perceptions on the significance and trends in the incidence of violence and harassment in the workplace, measures taken to address it, and awareness of the European Framework Agreement and national implementation tools. A similar survey was also disseminated to employee side health and safety representatives via ETUC, which received just under 240 responses⁶. Given the limited nature of the surveys in terms of country coverage and number of replies, their results were primarily used to provide indicative evidence and their findings should be treated with the appropriate caution.

Psychosocial risks and the incidence of harassment and violence in the workplace

A recent joint report by Eurofound and EU-OSHA⁷ finds that psychosocial risks have become an increasing concern across Europe, which their impact on workers' well-being increasingly contributing to absences from work, was associated significant costs for enterprises. High workload and violence, harassment and bullying are all factors contributing to work related stress and are therefore significant psycho-social risk factors in the workplace.

The lack of a single definition of harassment and violence in the workplace, differences in methodologies across surveys, different cultural perceptions and levels of awareness across countries, mean that data across countries and years are often not comparable. Although there is limited comparable European level data, some of the information available points to decreasing trends in levels of harassment and violence in the workplace:

- According to the 2013 ad-hoc module of the European Labour Force survey, 1.9% of workers were exposed to harassment and bullying, a decrease from 2007 (2.7%) and 1.6% were exposed to violence or threat of violence, a decrease from 2007 (2.2%)
- Similar declining trends are also reflected in the 2010 European Working Conditions Survey, although here trend data are only available in relation to measuring the incidence of harassment⁸. In 2010, 4% of workers reported having been bullied or harassed, compared to 5.1% in 2005; and, 1.9% of workers have been victim of violence while at work (no data are available on this variable from the 2005 survey). In 2010, countries with high reported levels of harassment and bullying include France, Belgium, Netherlands and Luxembourg, while countries with the lowest levels include Bulgaria, Poland and Italy. Countries with high levels of reported violence at work include

⁵ Regrettably, the survey of employee health and safety representatives, distributed via ETUC's networks only yielded six responses – too few to be meaningfully analysed.

⁶ These responses were heavily geographically skewed, with over 160 replies coming from Spain.

⁷ Eurofound and EU-OSHA (2014), Psychosocial risks in Europe: Prevalence and strategies for prevention, Publication Office of the European Union, Luxembourg. This report was drawn on data from the ESENER and EWC surveys.

⁸ It also has to be borne in mind that there were some changes in the phrasing of the questions between the 2005 and 2010 surveys.

France, the UK, Ireland and Belgium, while Italy, Hungary, Lithuania and Cyprus are among countries with lowest reported levels of workplace violence.

- According to EU-OSHA's ESENER survey, which monitors trends in psychosocial risks and policies taken at enterprise level, more than 40% of managers in Portugal, Romania and Norway consider bullying and harassment as a major concern. The EU average for this indicator stands at 20%. Only in Ireland, the UK, Sweden, Finland and Belgium did more than 50% of companies have procedures in place to deal with bullying and harassment. In relation to violence and threat of violence, in Portugal and Romania more than 40% of managers reported this as a major problem; countries with a greater share of managers expressing concern about workplace stress and harassment and violence are also countries with the lowest share of establishments having procedures in place.

Implementation of the Framework Agreement on Harassment and Violence at Work

An assessment of the implementation of the Agreement at national level must take into account the procedures and practices specific to management and labour in each country; the nature of pre-existing legislation, collective agreements, guidance and tools to deal with harassment and violence in the workplace and the coverage of the respective instruments chosen. This allows an analysis of the extent to which these implementation actions meet the goals of the social partners as stated in the agreement and those of the Community in launching the first stage consultation of social partners on violence and bullying in the workplace. It was recognised from the outset that due to the absence of strong comparable data, as well as the multitude of potential confounding factors, it would not be possible to associate causality between implementation measures and trends in the incidence of violence and harassment, thus limiting an assessment of the extent to which goals have been transformed into effective and sustainable activity on the ground.

In terms of legislative context it should be noted that while the European Framework Directive on health and safety at work 89/391/EEC does not explicitly mention 'psychosocial risks' nor 'harassment and violence', such risks are covered as employers need to carry out an overall risk assessment taking into account any risk. Risk assessment must be holistic and also assess social relationships and all factors related to the work environment, taking account of changes in the workplace and environment. This could provide a reason for why a majority of EU and EEA countries do not explicitly mention psychosocial risks or deal with harassment and violence in the legislation. Only eight countries (Belgium, Denmark, Finland, Luxemburg, Netherlands, Slovenia, Iceland and Norway) deal with both harassment and violence in their health and safety legislation including different types of prevention policies and management of incidences. Three further countries (Portugal, Poland and France) include specific definitions of harassment (mobbing) into their health and safety laws. Two more countries (Estonia and Hungary) provide a definition of psychosocial risks while another eleven EU and EEA countries sometimes mention the terms of stress, psychosocial risks, violence or harassment without giving a detailed definition or further specific prevention policies in their legislative acts.

The European Equal Treatment Directives (2000/78/EC and 2000/43/EC, 2006/54/EC), on the other hand, provide a definition of the term 'harassment' seen as a form of discrimination. Thus, most EU and EEA countries do have a similar definition of harassment in place in their national equal treatment legislation. All countries provide definitions and measures to address harassment on the basis of the grounds for discrimination set out in the Equal Treatment Directives. However, this does not provide blanket protection from workplace harassment (if not based on these grounds) and does not specify preventive steps.

Furthermore, there are significant differences between countries regarding the extent to which guidance is offered on how this legislation is to be implemented at enterprise level. In a number of countries such guidance pre-dates the Framework Agreement, and tends to be more prevalent in relation to OSH legislation than with regard to the implementation of the Equal Treatment Directives.

When looking at the role of the social partners at national level in addressing OSH issues and psychosocial risks in particular, this tends to be significant, both in terms of tripartite interest intermediation in

the drafting of relevant legislation and policy, as well as at individual enterprise level. Collective agreements at national and/or sectoral level tend to play a less significant role⁹.

Against this background, the following key national implementation actions¹⁰ were found:

- In five countries, the national cross-industry social partners used bipartite or tripartite collective agreements to implement the Framework Agreement (CY, DK, ES, FR, LU)¹¹. In France and Luxembourg these were subsequently declared universally applicable by the government. In Denmark this only applies to the public sector¹². In Cyprus, a tripartite agreement was reached between social partners and the government on stress which was accompanied by a complementary political declaration on harassment and violence at work. Targets on the reduction of workplace violence and harassment were associated with the agreement. While the Spanish bipartite agreement is not legally binding, it requires actions at the sectoral level to address the issue.
- In Slovenia social partners have worked with the government to seek implementation of the autonomous framework agreement by means of amendment of the national legislation, as this is the main national instrument in the field of health and safety.
- Implementation instruments in the shape of joint guidance, brochures, declarations, recommendations or charters were favoured by social partners in nine countries (AT, FI, IE, LV, NL, NO, PL, SE, UK). This was largely in line with actions usually adopted by social partners to implement OSH measures (and/or other European autonomous framework agreements). In several cases, the drafting of such instruments was followed up with dissemination activities and subsequent sectoral or company level collective agreements. For instance, in the Netherlands a new agreement for the municipalities sector negotiated in 2010 contained a substantive section on reducing harassment. In the same year, the social partners in Norway negotiated a new tripartite agreement on inclusive labour markets which has a stronger focus on actions to prevent psychosocial risks. In Finland, a series of dissemination events was jointly organised and the issue has also been discussed in working groups with central government. In the case of the UK, some follow up surveys were distributed which indicate a significant awareness of the guidance and the fact that it was appreciated and considered useful by enterprises seeking to tackle the issue.
- Social partners in six countries (CZ, DE, EE, HU, IS, PT) have focussed their joint implementation activities on the translation and dissemination of the text of the agreement. Translation activities can range from a review of a pre-existing translation provided at the European level to either its validation or amendment to correct errors or to further adapt wordings to national circumstances. Dissemination activities can be organised jointly and involve the publication of leaflets, seminars or workshops, but can also be limited to the publication of the translation of the agreement on various websites. In many cases, such activities were also organised on a unilateral basis. In a number of countries using such approaches, social partners again considered pre-dating measures to be sufficient and argued that further awareness raising activities linked to the dissemination of the Agreement would be sufficient to encourage the implementation of relevant measures at sectoral or company level (DE, IS). In Germany, in particular, the social partners placed emphasis on implementation at the sectoral and company level, in line with national industrial relations practice. The implementation report by the European social partners provides examples of various sectoral and company initiatives taken in this country. However, in other countries social partners were not able to agree or were not sufficiently strong to implement other activities (CZ, EE, HU). In both the Czech Republic and Hungary, the Agreement was considered in the revision of respective labour

⁹ In sectors where third party violence is prevalent, more provisions on how to address this can be found in collective agreements.

¹⁰ This study focussed on actions taken jointly by social partners at the national level, but also took account of activities at the sectoral and company level, where information was available. Unilateral actions are also mentioned, but are not taken into account when assessing the extent to which the goals of the autonomous framework agreement have been met.

¹¹ Countries where collective agreements exist at sectoral level are not included in this category, as these do not have the same reach to inspire potential downstream activity.

¹² In the private sector, employers' and trade unions agreed that existing provisions were sufficient to meet the requirements set out in the autonomous framework agreement.

Codes, but it did not prove possible to agree on whether and how new measures might be included in such legislation to meet the goals of the Agreement. The Czech Republic needs to be distinguished from the other two countries in this category in the sense that in a number of sectors and companies, initiatives were subsequently taken to include the issue in a number of collective agreements (e.g. in the metal industry, construction, services, the chemical industry and railways). In Portugal the crisis and the process of implementing the Memorandum of Understanding was considered to have undermined existing industrial relations structures and captured attention for other priorities. Although a guidance document has been developed in this country, it ultimately did not find the support of the employers' organisation, which considered that the draft delivered insufficient clarity on how the issue should be treated from a practical and legal perspective.

- In ten out of 31 countries no actions have thus far been taken, but for very different reasons which vary from country to country. The existence of relevant legislation or collective agreements considered to be sufficient by the relevant parties and pre-dating the European Agreement were the reason for the absence of further activity in Belgium, Liechtenstein and in Italian public sector¹³. In Lithuania, Malta, Romania and Slovakia, the relative weakness of social partner organisations and social dialogue structures were identified as contributing factors for the absence of implementing actions. In Bulgaria and Croatia, implementation has thus far been impeded by disagreements between national social partners as to the implementation tools to be used. In Greece, the economic crisis and the diversion of attention to other priorities as well as the associated weakening of industrial relations structures were seen as the main reasons for a lack of implementation, which had been via national collective agreement for the other two autonomous framework agreements.

A range of sectoral actions as well as unilateral activities by either employers' organisations or trade unions on their own were also taken at national level. At sectoral level these primarily focussed on addressing third party violence in sectors such as transport, health care and education. Unilateral cross-sectoral actions mainly focussed on dissemination, awareness raising, the provision of guidance and the enhancement of data gathering.

Pre-existing national legislation, collective agreements and other measures, as well as existing social partner awareness of the issues of workplace violence and harassment must also be taken into account when assessing the extent to which implementation tools meet European social partner and Community goals outlined above. The extent to which awareness can be raised and an action oriented framework can be provided clearly depends on the existing level of awareness of the phenomena of HVW and existing tools for enterprises and worker representatives on how to tackle them. This means that even where there has been no implementation action or where this is limited to the dissemination of a translation or guidance, this does not necessarily imply that the goals (or at least one of the goals) of the agreement have not been reached. Similarly, while strong tools may have been formulated in collective agreements for further implementation at sectoral or company level, active implementation on the ground and awareness of such tools may be limited, depending on the methods chosen for their implementation and dissemination (or indeed national industrial relations structures). In terms of awareness raising – one of the key stated goals of the European social partners – stakeholder consultations carried out for this study indicate that:

- In 13 countries actions to implement the Agreement are considered to have had a positive impact on awareness raising (whether from an existing low, medium or high level; AT, CY, CZ, DE, DK, ES, FI, FR, LU, LT, NL, PL, SI). Reasons for this are varied. In Cyprus, Spain, France and Luxembourg for instance, a greater awareness raising impact is associated with the chosen method of implementation (cross-sectoral collective agreement, in at least two of these cases universally applicable). In Slovenia, the amendment of OSH legislation can also be considered to be associated with a more significant awareness raising impact. In Germany, Finland, Poland and Latvia for example, joint declarations or dissemination measures were set in a context of a wider national debate on psycho-social risks and an associated wider awareness raising effect;
- In a further 6 countries this impact is considered to be more neutral, either because of some limited positive impact or because awareness was already high and social partners therefore

¹³ In individual companies, e.g. in Poste Italiane, specific provisions on harassment and violence were included into their collective agreement in 2008.

considered for there to be a limited need for further activities (BE, IE, SE, UK¹⁴, IS, NO). In these countries, the additional awareness raising effect of the agreement – although it may be present to a certain extent – is difficult to judge;

- In 12 countries, social partner activities/or lack of actions have had no or limited impact (BG, EE, EL, HR, HU, IT, LT, MT, PT, RO, SK, LI). In most of these countries this is clearly linked to the absence of any activity, but in Estonia and Portugal for instance it is also further associated with the fact that activities were limited to the translation and publication of the Agreement on various website, without additional joint awareness raising activities.

An assessment of whether the agreement provides an ‘action oriented tool’ to tackle HVW depends on the definition of what such a tool might look like. The intention of the social partners was to encourage action at the most relevant level in the national context. In order to effect real change at the enterprise level, this should encourage downstream activity where appropriate (e.g. implementation at sectoral level):

- 10 countries are ranked positive or neutral as implementation actions clearly set out a ‘chain of activity’ with a national agreement for instance requiring further action at the sectoral or company level (and in one case even targets for lowering the incidence of HVW) (AT, CY, DK (public sector), ES, FR, LU, LV, NL, PL, SI). It should be noted that even in these countries (with the possible exception of Spain) there is no or limited evidence of the impact of such agreements at sectoral or company level.
- In 9 countries the assessment is more neutral either because the tool used was aimed at instigating further action or because of the pre-existence of such tools which were given greater exposure through the implementation of the Agreement (BE, DE, FI, IE, IT, SE, UK, IS, NO);
- 12 countries are judged not to have achieved this goal, either because no actions were taken or because these actions were limited to the translation and dissemination of the agreement in a context of a poorly developed framework of legislation, collective agreements or other tools which might pre-exist to provide such an action oriented framework which could be referred to (BG, CZ, EE, EL, HR, HU, MT, PT, RO, SK, LI, LT).

An assessment of whether the implementation of the Agreement serves to strengthen provisions on prevention against different forms of violence or harassment at the workplace, and therefore meeting the Community goals set out in its first stage consultation, concludes that (binding) improvements to existing standards of prevention were targeted in five countries (CY¹⁵, ES¹⁶, FR, LU, SI) which used legislation or national collective agreements as implementation tools. Implementation generally relies on adapted sectoral activities and agreement, with limited evidence available thus far that these actions have been taken. In a number of other countries prevention is strengthened through awareness raising activities and/or downstream collective agreements (for instance in AT, BE, CZ, DE, FI, IT, LV, NL, PL, SE, UK, IS, NO).

It is important to bear in mind that the implementation of the framework agreement is the task of the member federations of the European social partners, not of enterprises, although – as mentioned above – one would expect a clear focus on encouraging downstream activity in order to effect change. The main findings from an online survey of enterprises and employee health and safety representatives in selected European countries¹⁷ carried out for this study can shed some light on

¹⁴ The UK is ranked among these because awareness is already considered to be high at enterprise level. Follow-up surveys to implementation do appear to indicate greater awareness, but as the survey was distributed among member organisations only and the survey commissioned for this study shows relatively low awareness, the country is classified here.

¹⁵ The tripartite framework agreement in Cyprus focusses on stress with an associated political statement on violence and harassment.

¹⁶ The framework agreement in Spain is not binding, but targets sectoral level action.

¹⁷ The employers survey was carried out in France, Hungary, Italy, Netherlands, Poland, Spain, Sweden and the UK, 50 enterprises were surveyed for each country. The employees’ representatives survey the majority of respondents were based in Spain (166), followed by Poland (35), and Sweden (10), 2 respondents were based in Italy, 2 in the Netherlands and one response was received from Austria, Belgium, Bulgaria, Malta, Slovenia and the UK.

awareness of the Agreement and its implementation, as well as the evolution of perception and activities to address HVW at enterprise level. As indicated above, these should be treated with caution because of the limited coverage of the surveys:

- Just over 30% of enterprises surveyed and 41% of respondents among trade union health and safety representatives were aware of the European autonomous agreement on harassment and violence.
- In this context it is interesting that 20% of enterprises surveyed and 40% of employee health and safety representatives responding to the survey were aware of the main national implementation instrument (where available).
- According to the enterprises surveyed, awareness of the issue of harassment and violence at work has stayed the same in more than half of enterprises surveyed and has increased in 36% of enterprises. 61% of respondents to the employee health and safety representative survey indicated that workers were now more aware of the issue and 41% considered that there was also greater awareness among employers.
- Third party violence and harassment is considered more of an issue than 'internal' harassment and violence. This finding emerges from both enterprise and employee surveys.
- 44% of enterprises surveyed reported that they had made changes to existing procedures to prevent and identify harassment and violence, and 42% have implemented new procedures. The respective figures in the employee health and safety representatives' survey were 39% and 38%.
- 19% of enterprises surveyed and 24% of employee representatives responding believed that the changes were a direct result of the national implementation instrument.
- Sickness absence due to violence and harassment is perceived as a problem by 17% of enterprises surveyed, whereas 48% of employee health and safety representatives responding to the survey considered this to be an issue.
- According to the enterprises responding to the survey, harassment and violence is a regular part of risk assessment in 57% of enterprises, meaning that over 40% of enterprises surveyed do not regularly include such considerations in risk assessment. 47% of employee health and safety representatives responding to the survey also considered that threats of harassment and violence were not regularly part of risk assessment.

Conclusions

Overall, a review of the implementation of the Framework Agreement on HVW shows that:

- Some concern remains over the ability of some national social partner organisations to implement agreements of this nature. This should be considered to be particularly significant in countries which have yet to implement any of these autonomous framework agreements (Bulgaria, Lithuania, Malta and Liechtenstein). In these and other countries, where implementation actions may be considered to be relatively weak, further capacity building measures may be required to increase organisational capacity and strengthen effective co-operation. It must, however, also be noted that in a number of countries such as Greece and Portugal previously more positive co-operation is seen to have been stifled or undermined during the crisis and associated changes to industrial relations processes.
- Despite this, there are some positive examples of pro-active implementation measures and some evidence, over time, of increasing capacity among social partners at national level to deal with the implementation of such agreements (and a potential associated improvement in social dialogue processes more widely). The experience of Slovenia and Cyprus could be highlighted, where social partners worked effectively with national administrations to achieve the goals of the Agreement through the amendments of legislation or the tripartite agreements applicable to the whole workforce. The same was achieved in France and Luxembourg, in accordance with the processes commonly utilised to address such issues by management and labour. Albeit not universally applicable, wide coverage is also achieved (in principle) by the agreement negotiated in Spain. Similarly, the dissemination of the agreement or the drafting of guidance with an emphasis on implementation at the sectoral and local level could also be seen to have the

potential to develop a positive impact, but tends to depend on membership coverage and the strength of local organisational structures.

The assessment of the success or otherwise of the implementation of the European autonomous framework agreement is given added complexity by the fact that this has to be assessed not only against the background of the goals set by the social partners themselves, but those of the Community as reflected in the first stage Commission consultation. On the face of it, it could be debated whether national implementation actions should rightfully be judged against the latter standard as this does not reflect the intentions of the Framework Agreement. At the same time, since the process of social partner negotiations which leads to such agreements effectively stops potential Community level action, the question must be asked whether the Community's goals have in fact been achieved by the implementation of such Agreements. This could be seen to pose a broader question about the use of tools such as Autonomous Framework Agreements in European social dialogue processes. In tackling this question, consideration also needs to be given whether the problem or challenge identified by the first stage consultation indeed persists and whether it could be more effectively addressed through action at Community level.

Insufficient evidence is available to ascertain whether workers' protection has *in fact* been improved on the ground by any of the national implementation actions. Having said that, ex-post impact assessments are also unavailable to suggest that this has been achieved in countries which have implemented clear legislation in this area. This study shows no link between incidence (or indeed level of decline) in reported violence and harassment at country level between countries with strong national implementation of the agreement. Furthermore, despite evidence of the company survey regarding awareness of the European Framework Agreement and the increasing attention paid by companies to this issue, this no sufficient information is available to allow making any links between increased awareness at enterprise level activity and national implementation actions (or indeed legislation) and the assessment of the extent to which the incidence of violence and harassment has increased or declined at enterprise level.

Some limited evidence from the national level indicates that there are a significant number of enterprises which either do not carry out risk assessment or do not include psychosocial risks in such risk assessment. While in some cases this may be linked to a lack of guidance, in others administrative barriers have been mentioned, particularly by SME representatives.

As indicated above, in principle the European Framework Directive on health and safety at work (89/391/EEC) covers all risks, even if psycho-social risks are not specifically mentioned. The European Equal Treatment Directives (2000/78/EC and 2000/43/EC, 2006/54/EC) make harassment on the basis of different forms of discrimination unlawful, but do not stipulate the need for preventative action. There is no evidence from the national level which serves to indicate that countries with stronger legislation in this area demonstrate a lower incidence of HVW. Evidence is lacking to clearly attribute the reasons for the indicators of an apparent decline in the incidence of HVW measured in the last 5-10 years by the LFS and, to some extent, the EWCS. More sophisticated data collection and counterfactual impact evaluation would be required to assess these complex questions. In the meantime, the Framework Agreement should be seen to have contributed to improved provisions, guidance and awareness in a number of countries even in the absence of further legislation.

1 Introduction

ICF International was appointed by DG Employment, Social Affairs and Inclusion in May 2014 to carry out a *Study on the implementation of the autonomous agreement on harassment and violence at work*, under specific Service Order VC/2013/119 of the Multiple Framework Contract for the provision for Evaluation and Impact Assessment Services to DG EMPL.

This report constitutes the final report for this study.

1.1 Background

On 26 April 2007, the European social partners BUSINESSEUROPE, UEAPME, CEEP and ETUC signed an autonomous framework agreement on violence and harassment at work which requires that the member federations of signatory parties cooperate on the improvement of working conditions by establishing and promoting mechanisms to identify, prevent and manage problems of harassment and violence occurring at the workplace¹⁸.

This is the third autonomous framework agreement negotiated by cross-industry European social partners on the basis of Article 154 of the Treaty for European Union (TFEU) which needs to be implemented by their members *'in accordance with the procedures and practices specific to management and labour in the Member States and in the countries of the European Economic Area'* (Article 155 TFEU). The implementation of the agreement was to be completed by 26 April 2010. The agreement was signed following a first stage Commission Consultation on Violence in the Workplace.

The European cross industry social partners delivered their own implementation report of the agreement on 27 October 2011¹⁹.

1.2 Study objectives

In line with its Communication on social dialogue (COM(2004) 557 final)²⁰, the Commission announced that it will undertake its own monitoring of such autonomous framework agreement to assess its implementation and the extent to which the agreement has contributed to the Community's objectives stated in the original consultation which led to autonomous social partner negotiations.

With this in mind, the purpose of the study was to:

- Collect information and analyse the role of social partners and their actions in accordance with the procedures and practices specific to management and labour and the Member States in the field of occupational safety and health (OSH), with a particular focus on psychosocial risks;
- Provide sound information on the impact of the autonomous agreement on harassment and violence at work (HVW) on national legislation and practice with regard to measures to eliminate HVW;
- Collect background information and gather data on the phenomenon of HVW in all 28 EU Member States and other countries of the European Economic Area (EEA). This would also include a critical assessment of the reporting systems in place by social partners and national public authorities.
- Explore the extent to which the implementation of the agreement meets the Community's objectives as stated in the consultation documents leading up to social partner

¹⁸ <http://ec.europa.eu/social/main.jsp?catId=521&langId=en&agreementId=5000>

¹⁹ http://www.etuc.org/sites/www.etuc.org/files/BROCHURE_harassment7_2_.pdf

²⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52004DC0557>

negotiations, as well as those set by the social partners in their autonomous framework agreement.

The study covers the period starting from the signature of the autonomous agreement on HVW in April 2007 to the present day with careful consideration of the monitoring carried out by social partners between 2007 and 2010 and their implementation report presented in 2011.

The study provides information on all 28 EU Member States and the EEA countries (Iceland, Liechtenstein and Norway).

1.3 Methodology

The information presented in this report is based on a range of sources, including a review of transnational and national literature, national stakeholders consultation and surveys with employers and employee health and safety representatives. The sub-sections below provide a summary of the main sources consulted and methodological steps undertaken.

1.3.1 Literature and data review

The desk-based literature and data review focussed on the following source material:

- European social partners final joint implementation report of 27 October 2011²¹ and annual implementation updates²²;
- National reports for EIRO Comparative Analytical Report on violence and harassment in Europe: emerging factors and new issues²³;
- Micro-data provided by Eurostat from the 2013 ad hoc module of the Labour Force Survey on Accidents at Work and other Work-Related Health Problems²⁴;
- Reports published by European and international agencies and organisations²⁵;
- Reports published by national governments or national health and safety bodies;
- Academic literature;
- Information publicly available on the internet, e.g. from social partner websites, national governments and health and safety agencies, news media etc.

A full bibliography of sources consulted can be found as Annex 2 to this report.

1.3.2 National research

National desk research and interviews for this study were carried out between August and November 2014. Desk research included a review of relevant national legislation and guidance documents; texts implementing the Agreement; review of data from national surveys and statistical offices were relevant; academic and grey literature; social partner reports and other web-based information. In each Member State and EEA country national stakeholders were approached for interview, including:

²¹ http://www.etuc.org/sites/www.etuc.org/files/BROCHURE_harassment7_2_.pdf

²² http://www.etuc.org/sites/www.etuc.org/files/BROCHURE_harassment7_2_.pdf

²³ This Comparative Analytical Report and national fiches are yet unpublished and were kindly provided to the study team by Eurofound for review.

²⁴ Results of this ad hoc survey are to be published by Eurostat in 2015 and relevant elements of the survey results were kindly provided to the study team by Eurostat for analysis. More detail is provided in section 2 of this report (information on the ad hoc module can be found on http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/ESS_LFS_2013_AHM/EN/ESS_LFS_2013_AHM-EN.PDF).

²⁵ Key sources include: Eurofound and EU-OSHA (2014): Psychosocial risks in Europe: Prevalence and strategies for prevention; <http://eurofound.europa.eu/publications/report/2014/eu-member-states/working-conditions/psychosocial-risks-in-europe-prevalence-and-strategies-for-prevention>; EU-OSHA (2012

- National members of BUSINESSEUROPE, ETUC, CEEP and UEAPME;
- National members of the Advisory Committee on Safety and Health at Work (ACSHW)²⁶;
- Relevant national ministries:
- Labour inspectorates;
- Health and Safety Advisory bodies;
- National health and safety experts.

In total, in excess of 190 stakeholders were contacted during this study. In a number of countries, some stakeholders did not respond to the study team's request for interviews, did not agree to participate or did not consider themselves to be able to provide relevant information. As a result of this, around 155 stakeholders (mainly social partner organisations and national ministries) were eventually interviewed or provided responses in writing.

1.3.3 Employer and employee questionnaires

It had originally been envisaged to circulate a questionnaire focussing on the scale and trends in the phenomena of HWV, knowledge of the Agreement and national implementation tools, and the development of company level approaches to HWV to the member organisations of the European cross-industry social partners via their own dissemination networks. As this approach ultimately did not prove possible for the employer side, a survey limited to 8 Member States (France, Hungary, Italy, Netherlands, Poland, Spain, Sweden and the UK) was commissioned to gather panel data in response to an online survey of companies representing a good mix of business size and sectors. The envisaged number of 400 replies was received to this questionnaire.

A similar employee side survey was circulated by ETUC to members of its health and safety worker representative network. By February 2015, 239 responses were received to this survey. More detail about the methodology and the respondents to this survey are presented in sections 2.4 and 2.5 of this report.

Given the limited nature of the surveys in terms of country coverage and number of replies, their results were primarily used to provide indicative evidence and findings arising should be treated with the appropriate caution.

1.4 Structure of the report

The report is structured as follows:

- Section 2 provides background information on the measurement and incidence of violence and harassment at work within the wider context of the assessment of psychosocial workplace risks. It presents challenges in the collection and comparability of such data, provides available comparative statistics and trend information from European wide and national surveys; assessing some of the main reasons influencing trend developments in the incidence of HWV. This section also presents the results of the enterprise and employee health and safety representative survey.
- Section 3 sets out the legislative background against which the implementation of the Agreement at the national level must be understood. It provides information about the relevant EU legal acquis and key national occupational safety and health (OSH) and equal treatment legislation (also elaborating on other legal acts governing HWV such as civil or criminal law). The section provides a first assessment of the level of protection provided to workers under existing legislation.
- In order to provide the background for a subsequent assessment of the extent to which the national implementation of the Agreement meets the respective goals of the

²⁶ There was a degree of overlap between representatives from national social partner organisations, ministries and health and safety agencies and member of this Committee.

European Commission and the social partners, Section 4 provides a summary of the Commission first stage consultation, the negotiation process and the content of the Agreement.

- Section 5 elaborates on the tools used for the implementation of the Agreement in all 31 countries, assesses the extent to which these activities have achieved the goals set out by the social partners and the Commission and provides an analysis of the extent to which the implementation of the agreement contributed to improving the protection of workers from HWV.
- Section 6 draws overall conclusions for the study, giving particular attention to issues surrounding the implementation of autonomous framework agreements and providing a brief assessment of their value as tool of the European social dialogue in light of the way in which the three agreements on telework, stress and HWV have been implemented.
- Furthermore, Annex 1 to this report contains the national reports prepared for this study, each of which provides further information on relevant national legislation, collective agreements and the role of the social partners in OSH. These reports contain a more detailed elaboration of implementation instruments and other activities addressing the phenomena of HWV taken since 2007.
- Annex 2 contains a bibliography of sources used for the study.
- Annex 3 delivers a separate paper discussing the role of social partners in OSH at national level, which can be read as a background document to understand the relevance of implementation tools selected in relation to the customary procedures and practices for industrial relations in each country.

2 Violence and harassment, psychosocial risks and well-being at work

Psychosocial risks are becoming a major concern across Europe. Work-related stress and workload have been confirmed as the main psychosocial risks factor by major European surveys, followed by harassment and bullying and violence/threat of violence. The **lack of a single definition of harassment and violence in the workplace, differences in methodologies** across surveys, **different cultural perceptions and levels of awareness** across countries and **varying national contexts in data collection**, mean that **data across countries and years are often not comparable**. Although there is limited comparable European level data, information available shows **slightly decreasing trends in levels of harassment and violence in the workplace**:

- According to the 2013 LFS ad-hoc module 1.9% of workers were exposed to harassment and bullying, a decrease from 2007 (2.7%) and 1.6% were exposed to violence or threat of violence, a decrease from 2007 (2.2%).
- According to the EWCS in 2010, 4% of workers reported having been bullied or harassed, a decrease from 2005 (5.1%); and 1.9% of workers have been victim of violence while at work (no trend data are available on this variable). In 2010 countries with high reported levels of harassment and bullying include France, Belgium, Netherlands and Luxembourg, while countries with lowest levels include Bulgaria, Poland and Italy. Countries with high levels of reported violence at work include France, the UK, Ireland and Belgium, while Italy, Hungary, Lithuania and Cyprus are among countries with lowest reported levels of workplace violence.

Furthermore, according to ESENER (2009) more than 40% of managers in Portugal, Romania and Norway consider bullying and harassment as a major concern. However, only in Ireland, the UK, Sweden, Finland and Belgium did more than 50% of companies have procedures in place to deal with bullying and harassment. In relation to violence and threat of violence, in Portugal and Romania more than 40% of managers reported this as a major problem; **countries with a greater share of managers expressing concern about workplace stress and harassment and violence are also countries with the lowest share of establishments having procedures in place.**

As part of this study two online surveys (targeted at employers and employee health and safety representatives) explored the level of awareness of harassment and violence in the workplace; measures taken to address these issues and knowledge of the agreement. The main findings show that:

- Just over 30% of enterprises surveyed and 41% of respondents among trade union health and safety representatives were aware of the European autonomous agreement on harassment and violence.
- In this context it is interesting that 20% of enterprises surveyed and 40% of employee health and safety representatives responding to the survey were aware of the main national implementation instrument (where available).
- According to the enterprises surveyed, awareness of the issue of harassment and violence at work has stayed the same in more than half of enterprises surveyed and has increased in 36% of enterprises. 61% of respondents to the employee health and safety representative survey indicated that workers were now more aware of the issue and 41% considered that there was also greater awareness among employers.
- Third party violence and harassment is considered more of an issue than 'internal' harassment and violence. This finding emerges from both enterprise and employee surveys.
- 44% of enterprises surveyed reported that they had made changes to existing procedures to prevent and identify harassment and violence, and 42% have implemented new procedures. The respective figures in the employee health and safety representatives' survey were 39% and 38%.
- 19% of enterprises surveyed and 24% of employee representatives responding believed that the changes were a direct result of the national implementation instrument.
- Sickness absence due to violence and harassment is perceived as a problem by 17% of

enterprises surveyed, whereas 48% of employee health and safety representatives responding to the survey considered this to be an issue.

- According to the enterprises responding to the survey, harassment and violence is a regular part of risk assessment in 57% of enterprises, meaning that over 40% of enterprises surveyed do not regularly include such considerations in risk assessment. 47% of employee health and safety representatives responding to the survey also considered that threats of harassment and violence were not regularly part of risk assessment.

2.1 Introduction

One of the challenges of this study relates to the accessibility of reliable and comparable data on the incidence of violence and harassment in the workplace, trends over time and the interpretation of such incidence and trend data.

There is a lack of comparability across national data due to the lack of consistency in the definition of the concept of workplace harassment and violence. Additionally, data at the national level are collected by different organisations, including national statistical offices, health and safety bodies or dedicated academic research institutes using different questions and survey techniques which are likely to generate different results. Surveys at translational level provide more consistent information across European countries of the incidence and trends of harassment and violence in the workplace, although even here consistency between questions from different years of the survey cannot be guaranteed.

Although definitions used at international level are consistent and comparable across countries, the following factors need to be taken into account when looking at data on harassment and violence. Issues can arise in the interpretation of these definitions since responses may be affected by cultural perceptions and individual backgrounds, as well as the working environment and the labour market within which the individual answering the questions operates. An international seminar was held in 2013 and a working group was established looking at the impact of such different cultural perceptions on reporting²⁷.

Additionally, the way in which questions are phrased can also have an important impact on responses provided and thus the measurement of these phenomena. For example direct questions such as *'have you been a victim of violence and harassment?'* are more likely to receive negative responses from individuals with low levels of awareness of these issues or applicable legislation, while the same people tend to respond in a positive way to more specific questions focussing on concrete behaviours. Asking more focussed questions often leads to the reporting of a higher incidence of harassment and violence in the workplace. In general, the types of questions asked (ranging from "experiencing" to "noticing" and "perceiving") and the precise forms of harassment and violence considered varied across countries, making it difficult to compare trends. Survey methodology, questions asked, as well as the underlying level of awareness of harassment and violence can influence responses²⁸.

Therefore, in order to analyse the phenomenon of harassment and violence across Europe transnational and national sources have been reviewed to:

- Assess the data collection methodology
- Examine definitions used and comparability across waves
- Analyse the scale of the phenomenon of harassment and violence in the workplace

²⁷ JILP (2013) Workplace bullying and harassment, JILP International conference on workplace bullying and harassment

²⁸ Sain, D (2001); Prevalence and forms of bullying among business professionals: A comparison of two different strategies for measuring bullying. *European Journal of Work and Organisational Psychology*, 10 (4), 425-441.

2.2 Incidence and trends in workplace violence and harassment: key findings

A recent joint report from Eurofound and EU-OSHA, which presents results from the ESENER and EWCS,²⁹ found that psychosocial risks are a major issue for companies, 80% of managers are worried about work-related stress and harassment and violence is deemed as a major concern by one in five managers. An index of adverse social behaviour was created by using variables relating to different aspects of harassment and violence. Overall, 14% of workers in Europe experienced adverse social behaviour. The highest proportions, around 20%, were found in Austria, Finland and the Czech Republic; while countries with low levels of reported adverse social behaviour, below 10%, include Cyprus, Italy, Portugal, Romania, Poland and Hungary. Health and transport are the sectors with the highest exposure to reported adverse social behaviour; while the least exposed sectors include agriculture, construction and industry. The study confirmed that psychosocial risks have a negative impact on health and well-being of workers.

The ESENER and LFS surveys confirm that stress is considered the main psychosocial risk across Europe. Results from the LFS ad-hoc module show that in 2013 the time pressure and overload was considered as the main risk factor (16%). Data from the 2009 ESENER survey confirmed that managers recognised the work-related stress as the major concern in most European countries. Among the psychosocial risk factors at work (which can of course be interlinked), stress is considered the most important, prevalent and concerning.

According to the EWCS in 2010, some 4% of workers in Europe experienced bullying and harassment in the workplace. According to the LFS ad-hoc module on health and safety in 2013 some 1.9% of workers experienced harassment and bullying. It is notable that there has been a trend decline in the incidence of bullying and harassment in both surveys. Decreasing trends were found in Finland, Greece and Lithuania; while data show an increase in Austria, France and Germany. National survey data have also found decreasing trends in the levels of harassment and discrimination in Finland, Hungary and Spain.

In 2010 according to the EWCS countries with highest levels of reported harassment and violence included France, Belgium, Netherlands, Luxembourg and Austria, while among countries with lowest reported levels were Bulgaria, Poland and Italy.

In 2009, according to ESENER data, in 18 out of 27 countries in Europe more than 10% of managers believed that bullying and harassment was a major concern in their company. More than 50% of managers in Portugal, Romania and Norway reported this as a major concern in the workplace. While in Slovenia, Sweden, Finland and Hungary less than 2% of managers believed this was not a major issue.

These data were partly confirmed by the results of the online survey conducted for this study on eight European countries where harassment and violence was perceived as a problem in 17% of enterprises; while 69% of managers did not consider harassment and violence an issue problem. Conversely, a similar survey carried out among employee health and safety representatives for this study indicates that 53% of respondents consider violence and harassment to be a significant issue at enterprise level.

In 2010 physical violence at work has been experienced by 1.9% of respondents to the EWCS, a similar level (1.6%) of violence or threat of violence has been found in 2013 from the LFS ad-hoc module. These data show a trend decline from 2007 (the last LFS survey module on the issue).

In 2009, according to ESENER data, in 19 out of 27 countries in Europe more than 10% of managers believed that violence or threat of violence was a major concern. Portugal and Romania were the countries with the highest percentages of managers who identified this as an issue, while Estonia, Slovenia and Hungary were among the countries with the lowest percentages.

²⁹ Eurofound and EU-OSHA (2014), Psychosocial risks in Europe: Prevalence and strategies for prevention, Publication Office of the European Union, Luxembourg

Overall it appears that there is also an increase in the number of surveys conducted on violence and harassment in the workplace. This could potentially indicate greater awareness of these issues on national policy agendas.

2.3 European comparable data

At European level available sources on transnational data include:

- European Working Conditions Survey (EWCS) by Eurofound. The EWCS was first launched in 1990 and since then has provided information on an expanding variety of issues, including questions on employment status, working time duration and organisation, physical and psychosocial risk factors, learning and training, work life balance, worker participation etc. The survey is conducted face to face with a random sample of workers and is carried out every 5 years, with the most recent data coming from the 2010 survey. However, the relevant questions were not asked in the same way; therefore the findings of the 2005 and 2010 waves of the survey are not directly comparable. The survey allows for the assessment of the incidence of violence and harassment by employment status, activity of the organisation, occupation, and individual characteristics (e.g. gender and age). The EWCS offers information about the share of people who have experienced verbal abuse and humiliating behaviour during the last month. It also provides the share of workers who have been victims of discrimination at work, physical violence, and bullying /harassment during the last year.
- European Labour Force Survey (LFS) ad-hoc modules by Eurostat. The LFS is a large household sample survey providing quarterly results on labour participation of people aged 15 and over. In 2007 and 2013 Eurostat carried out an LFS ad-hoc module on 'accidents at work and other work related health problems'. This ad-hoc module contains relevant variables focussing on the occurrence of accidents at work, work-related health problems and hazardous exposure. The variables of interest to this study include the share of people exposed to harassment or bullying, violence or threat of violence, and time pressure or overload of work. In addition micro data does also contain information about the share of people for whom stress, depression or anxiety is made worse by work. It is (in principle) possible to cross reference these variables with the number of times such work related mental health problems were experienced over the last 12 months and the extent to which this problem limited daily activity; whether this led to any time off work and for how long. It is also possible to assess the prevalence of these risk factors by worker demographic characteristics (gender, age, education level), in different sectors, and by size of enterprise.
- European Survey of Enterprises on New and Emerging Risks (ESENER) by European Agency for Safety and Health at Work. This survey investigates the management of health and safety risks in the workplace with a focus on psychosocial risks. A specific section of the survey addresses work-related stress, violence, bullying and harassment. The first edition of the survey was carried out in 2009 and although the 2014 edition has been methodologically updated, the majority of questions have been maintained to ensure comparability. Both the 2009 and 2014 edition of the survey contain a specific section on management of psychosocial risks (management questionnaire) and a section on employee representative perceptions of psychosocial risks (employee representative questionnaire). Nevertheless, no variables of interest for this study are publicly available³⁰ among those of the employee representative section. ESENER data offers information regarding the share of managers who consider (i) work-related stress, (ii) violence or threat of violence, and (iii) bullying or harassment, as a major concern in their establishment. In this survey "bullying or harassment" is defined as "abuse, humiliation, or assault by colleagues or superiors". Specifically, regarding factors that can contribute to stress, violence and harassment at work, managers are asked whether time pressure, discrimination (for example due to gender, age or ethnicity), poor

³⁰ ESENER online data: <https://osha.europa.eu/sub/esener/en/front-page>

communication between management and employees, and poor co-operation amongst colleagues, is a concern in their establishment. In addition, ESENER data provides information on establishments with procedures to deal with: (i) work-related stress, (ii) bullying or harassment, and (iii) work-related violence. All variables can be analysed by country, size of company and type of sector.

- Fundamental Rights Agency (FRA) survey on violence against women. This survey covers a broad range of topics, but includes some questions on women's experience of harassment and violence in the workplace context.

All these surveys have advantages and drawbacks in relation to measuring the phenomena of harassment and violence in the workplace. The EWCS contains good data on incidence of violence and harassment, with a breakdown between sexual harassment, violence and bullying. It also provides breakdown by worker characteristics, sectors and working conditions. However, there is limited comparability in relation to the questions between 2005 and 2010 waves.

The LFS ad-hoc module assesses the relevance of violence and harassment in relation to other psycho social risk factors and its prevalence in different sectors and in relation to worker characteristics. However, the survey has been recently completed therefore no all data requested were available.

The ESENER survey represents the views of managers and employees and provides data on availability of procedures at company level to deal with occupational safety and health risks at the workplace, including psychosocial risks and within that violence and harassment. However, the accessibility and usability from the survey of health and safety representatives is limited for this study and the results of the 2014 edition was not available at the time this report was presented³¹.

The FRA survey covers a broad range of issues regarding violence against women and does not solely focus on workplace violence or harassment. However, a range of indicators deemed as pertinent to this study have been analysed. These include, for the group of employed women, physical and sexual violence by non-partner, physical and sexual violence by non-partner since age 15 by type of perpetrator, sexual harassment, physical harassment, verbal harassment, sexual harassment by type of perpetrator.

The following sections present data from each of these comparable surveys in turn before looking at the results of the online surveys of enterprises and employee health and safety representatives commissioned specifically for this study.

2.3.1 European Working Conditions Survey

Recent European studies indicate that it is psychological harassment at work, rather than physical violence, which represents the greatest threat to most workers. In 2005 some 5.1% of all workers in EU Member States (EU27) declared having been a victim of some form of bullying or harassment at work. The incidence of reported episodes was higher in Northern European countries than in Mediterranean or East European countries, partly, but not only, as a result of greater awareness, willingness to report and for 'cultural' reasons. The highest incidence was found in Finland (17%) and Netherlands (12%), while Bulgaria (1.8%) and Italy (2.3%) are the countries with the lowest levels³².

Overall, the incidence of harassment has been declining (no comparable data are available for the experience of violence in the workplace), although this is not true for all countries. The recent report by Eurofound and EU-OSHA (2014) finds that 'recently, increases in work pressure and violence and harassment have been reported in some countries'³³. It is therefore clear that problems still remain, with relatively high levels of reported episodes and

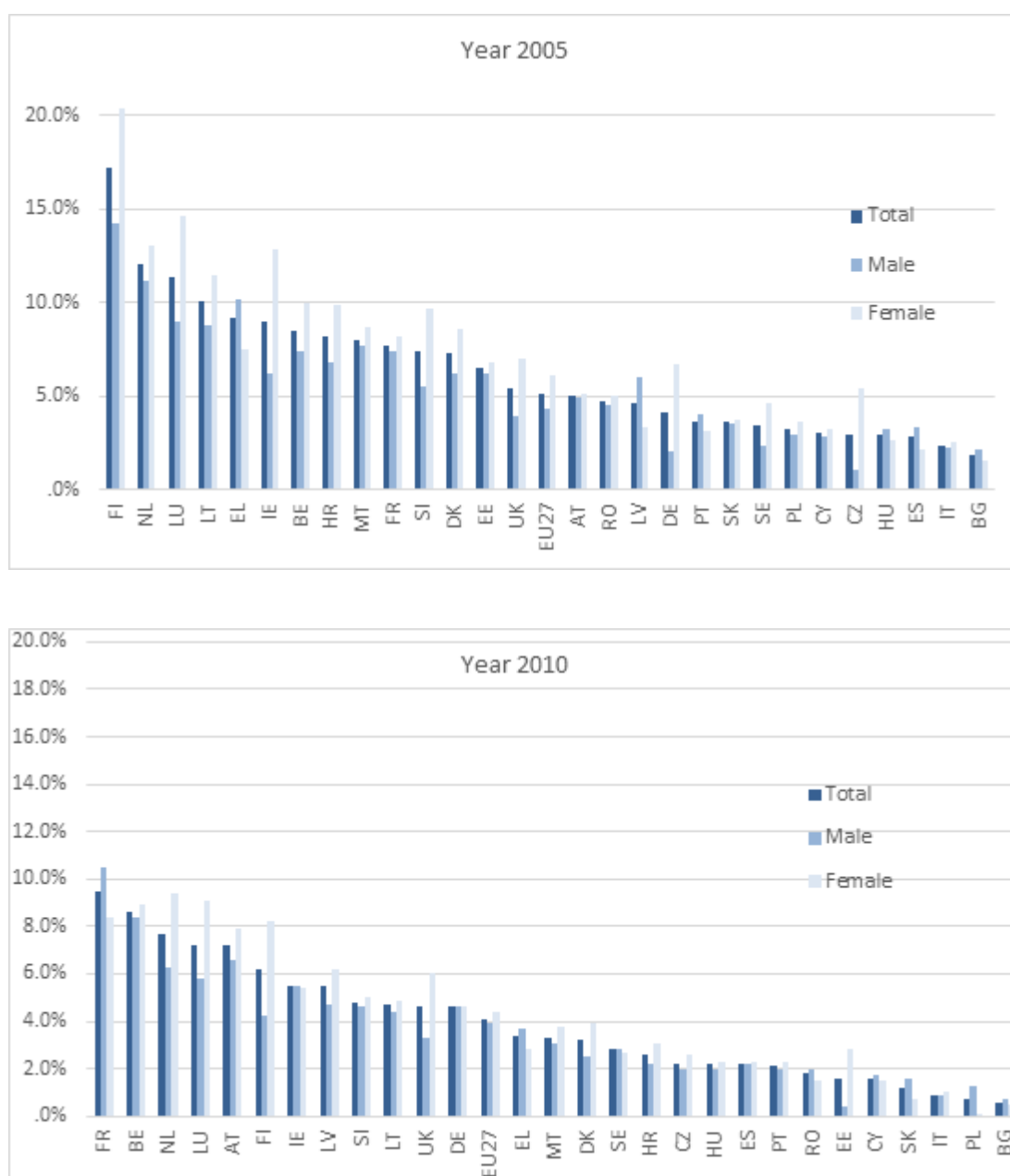
³¹ First findings were published in February 2015 (<https://osha.europa.eu/en/publications/reports/esener-ii-first-findings.pdf>), but these did not allow for a comparison with the indicators assessed from the 2009 wave.

³² OSHA (2009) OSH in figures: stress at work –facts and figures

³³ EU-OSHA, Eurofound (2014); Psychosocial risks in Europe: Prevalence and strategies for prevention; p.6

country differences confirmed by the EWCS survey in 2010; 4% of workers in EU Member States (EU27) reported having been subject to bullying and harassment at work. At EU level there has been a reduction of -1 percentage points in reported levels of bullying and harassment. The countries with the highest reductions include Finland (-11), Greece (-5.8) and Lithuania (-5.4). In some countries data show an increase in harassment and bullying, these include Austria (plus 2.2 percentage points) and France (1.8), Latvia (1) and Germany (0.5). In all European countries in 2005 and 2010 women were more likely than men to be subject to bullying/harassment at work (see Figure 2.1)³⁴.

Figure 2.1 Percentage of workers who over the past 12 months have been subject to bullying / harassment at work (2005 and 2010), by gender

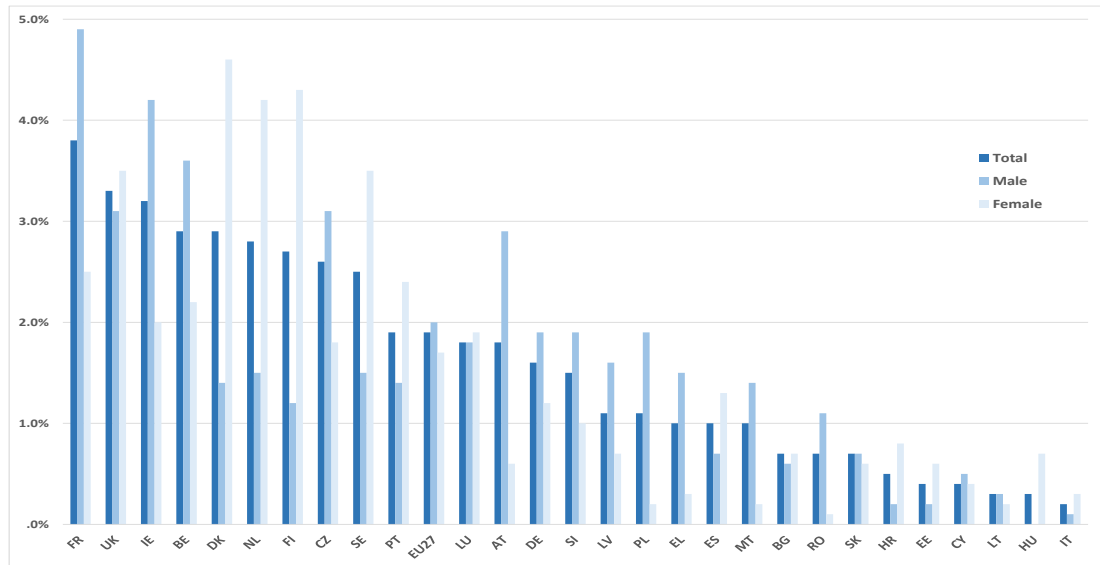


Source: EWCS online data available at:
http://www.eurofound.europa.eu/surveys/smt/ewcs/ewcs2010_13_05.htm
 NOTE: Questions differed between 2005 and 2010 survey

³⁴ EWCS online data: http://www.eurofound.europa.eu/surveys/smt/ewcs/ewcs2010_13_05.htm

In 2010, 1.9% of workers in Europe (EU-27) have been subject to physical violence while at work. Figure 2.2 below shows that the highest proportions of workers reporting having experienced physical violence were found in France (3.8%), United Kingdom (3.3%), Ireland (3.2%), Belgium (2.9%), Denmark (2.9%) and the Netherlands (2.8%). While the countries least affected by this phenomenon are Italy, Hungary and Lithuania. Women are more likely than men to be subject to physical violence in half of EU Member States, largely because third party violence in particular is more prevalent in female dominated sectors such health, social care, commerce and education.

Figure 2.2 Percentage of workers who over the past 12 months have been subject to physical violence at work, by gender (2010)



Source: EWCS online data available at:

http://www.eurofound.europa.eu/surveys/smt/ewcs/ewcs2010_13_05.htm

Note: 2005 data not available for this variable

2.3.2 European Labour Force Survey Ad hoc Modules

The LFS ad-hoc modules on health and safety provide detailed information regarding work-related health problems and mental well-being. For the purpose of this study, the focus is on the 2013³⁵ wave, with comparisons made - whenever possible - with data from the 2007 ad hoc module.

The survey module investigated psychosocial risks and the area of mental well-being in the workplace including harassment or bullying; violence and threat of violence; and, severe time pressure or overload of work³⁶.

According to the 2007 module, the main risk factor for the EU 27 countries in these areas related to exposure to time pressure or overload of work (23%), followed by harassment or bullying (2.7%) and violence or treat of violence (2.2%)³⁷. In 2013 the main risk factor still remains exposure to time pressure or overload (16%), followed by harassment and bullying (1.9%) and violence or threat of violence (1.6%). In assessing this, it is worth remembering

³⁵ At the time when this report was written data on 2013 wave had not been published on the Eurostat website, therefore the data presented in this study have been provided by Eurostat directly to the team study. The 2013 data cover most EU Member States and Norway, data were missing for Germany, the Netherlands and in some cases the UK.

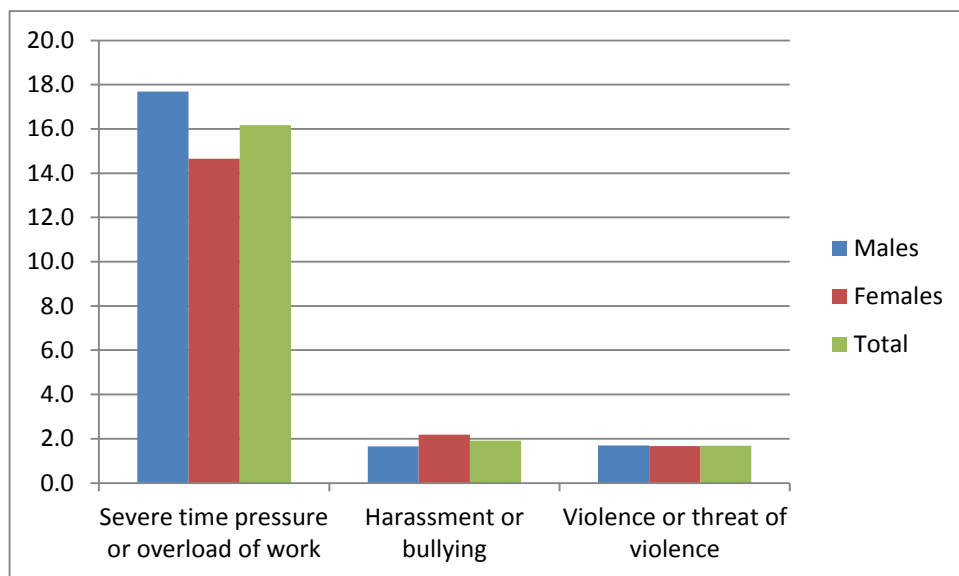
³⁶ The question investigating this area is 'Exposure to mental well-being risk factors. Exposure at work to one of the following risk factors that can affect mental well-being. Identify the factor considered to be the most risk for the mental well-being'.

³⁷ TNO (2009), Health and safety at work, Results of the Labour Force Survey 2007 ad hoc module on accidents at work and work related health problems (p. 74).

that the 2013 data do not include Germany and the Netherlands, while it includes Norway. Furthermore, some variation can be attributable the composition of the workforce and certain sectoral or occupational changes, Nevertheless, there is a clear decreasing trend in psychosocial risks.

The 2013 data also mirror the data from EWCS 2010 in the sense that among the European countries with highest shares of reported episodes of harassment and bullying are France and Luxembourg; while countries with the lowest shares include Bulgaria, the Czech Republic, Poland and Romania. While countries with highest levels of violence or threat of violence include France, the UK, Ireland and Denmark; countries with lowest shares include Italy, Hungary, Lithuania and Cyprus. As indicated above, it is important to bear in mind that higher levels of harassment and / or violence in survey data could be related to actual higher levels of the phenomenon as well as to greater awareness and cultural difference in perceptions towards what qualifies as adverse behaviour.

Figure 2.3 Main risk factors affecting mental well-being, share of workers by gender



Source: LFS ad-hoc 2013; Note: Data refer to EU26 plus NO, do not include DE and NL

2.3.3 ESENER

The European Survey of Enterprises on New and Emerging Risks (ESENER) investigates the management of health and safety risks in the workplace with a focus on psychosocial risks. Like the EWCS and the LFS, ESENER investigated the three areas of psychosocial risks of work-related stress, bullying or harassment, and violence or threat of violence. Additionally, ESENER provides an in-depth analysis of management practices to deal with these psychosocial risks. ESENER data presented in this section provide the views of managers³⁸, this is a key factor to bear in mind when comparing ESENER data with EWCS and LFS, which instead provides the views of workers.

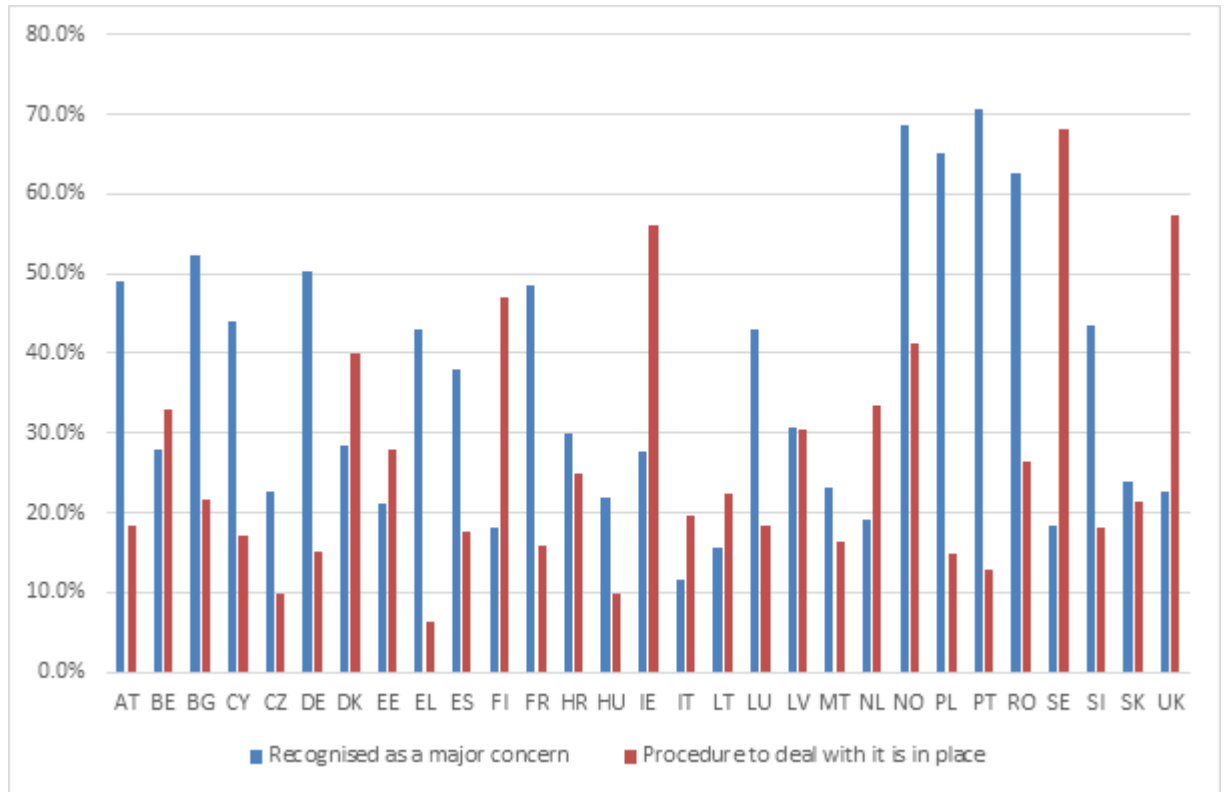
In line with the findings from the LFS ad-hoc modules, work-related stress is recognised as a major concern by managers in most countries. In Portugal, Norway, Poland, Romania and Bulgaria more than 50% of managers acknowledged this problem as a major concern. While the countries with lowest shares (below 20%) of managers who expressed concern in relation to work-related stress included Italy, Lithuania, Finland, Sweden, Netherlands.

Notably, countries with the lowest shares (below 20%) of establishments with procedures in place to deal with work-related stress include some of the countries where this area is perceived as a major concern: Portugal, Poland, Hungary, Greece, and the Czech Republic.

³⁸ Employees' representative data are not available in the website

In only three countries in Europe more than 50% of companies declared having procedures in place to deal with work-related stress, these include Ireland, Sweden and the UK.

Figure 2.4 Share of managers for which work-related stress is of major concern in their establishment and share of managers for which their establishment has a procedure to deal with it, by country



Source: ESENER 2009, variables “MM2005” and “MM250”

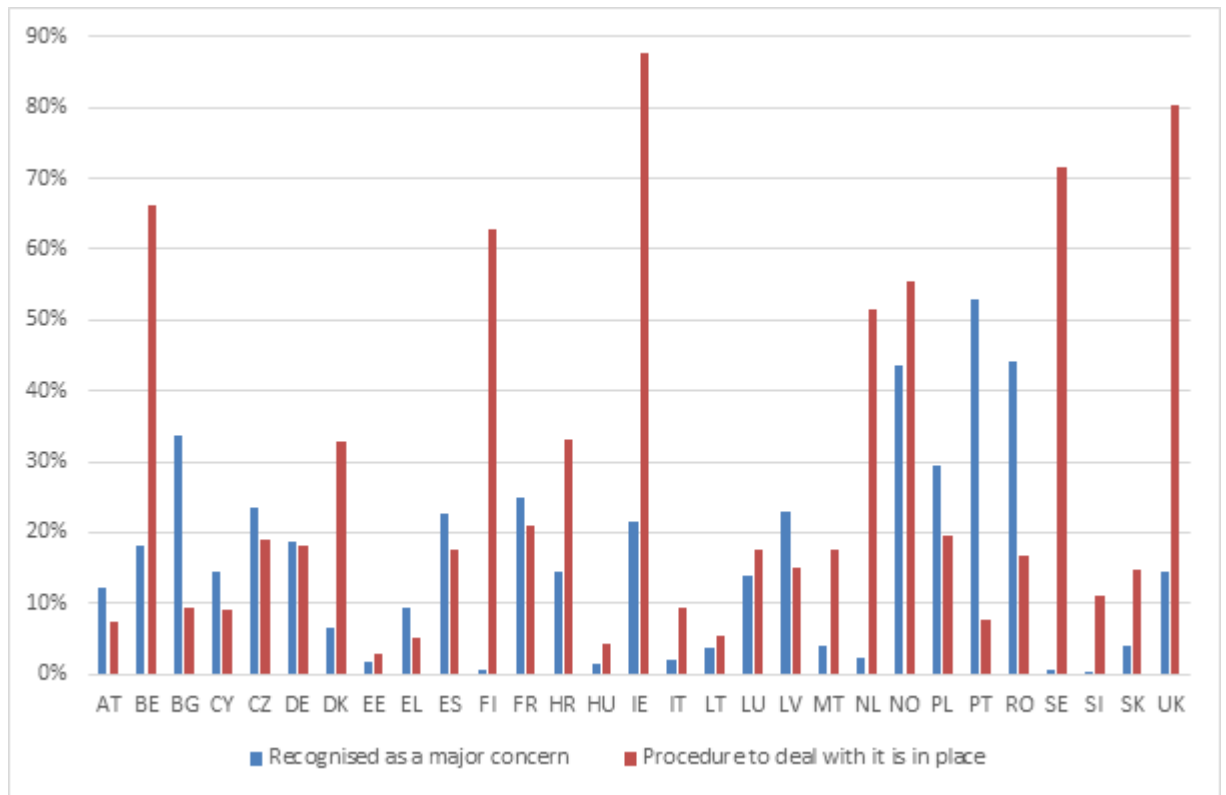
ESENER asks managers whether bullying and harassment is a major concern³⁹. Overall, Portugal, Romania and Norway are the three countries with the highest share of managers (above 40%) who declared that bullying or harassments are a major concern in their establishment. In Slovenia, Sweden, Finland and Hungary less than 2% of managers indicated bullying or harassment as a major concern. The EU average stands at around 20%.

Portugal and Romania are also the countries with the lowest shares of establishments having procedures in place to deal with bullying and harassment.

In most countries (17 out of 29) the percentage of establishments that have a policy in place for bullying or harassment is higher than the share of managers who indicate this issue as a major concern. Countries where more than 50% of enterprises declared having procedures in place to address harassment and violence include Ireland, the UK, Sweden, Finland and Belgium.

³⁹ In this survey bullying and harassment is defined as humiliation or assault by colleagues or superiors.

Figure 2.5 Share of managers for which bullying or harassment is of major concern in their establishment and share of managers for which their establishment has a procedure to deal with it, by country



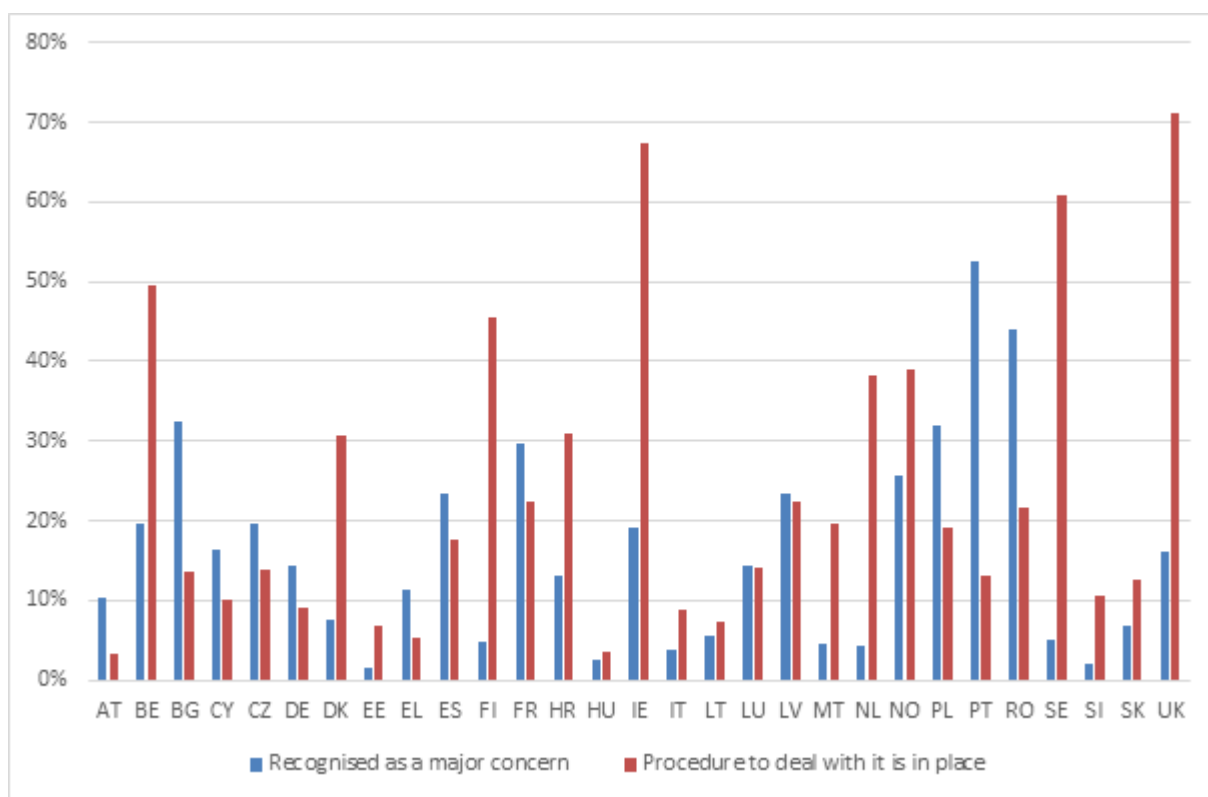
Source: ESENER 2009, variables “MM2007” and “MM251”

Work-related violence or threat of violence is recognised as a major issue by more than 40% of managers in Portugal and Romania. This reflects the findings for the other psychological risks analysed i.e. work-related stress and bullying or harassment. Estonia, Slovenia and Hungary, instead, have a below 4% share of respondents who agreed that work-related violence is not a major concern in their establishment.

Similarly to work-related stress, countries where a greater share of managers expressed concerns are also those with lowest shares of establishments having procedures in place.

In 16 countries out of 29, the share of establishments with policies in place to deal with violence and threat of violence was greater than the share of managers who expressed concerns.

Figure 2.6 Share of managers for which work-related violence (or threat of violence) is of major concern in their establishment and share of managers for which their establishment has a procedure to deal with it, by country



Source: ESENER 2009, variables “MM2006” and “MM252”

Although, some initial findings of the new wave of the ESENER survey were published in early 2015, the results contained are not comparable to those indicated above, so could not be used for the purposes of this study. The results of the new wave published include the finding that the risk factor for workplace violence and harassment most frequently identified relates to dealing with difficult customers patients and pupils (58% of establishments, thus indicating increasing concerns about third party violence and harassment), while more than 40% of establishments also indicated time pressure as one of the risk factor in the establishment. Interestingly, almost one in five of these establishments feel that they are not equipped to deal with the risk effectively.

2.3.4 FRA survey on violence against women⁴⁰

According to the FRA survey, 16% of employed women in Europe experienced verbal forms of sexual harassment in an employment context, the highest percentages were found in Sweden (27%), Slovakia (24%) and Denmark (23%), while countries with lowest proportions include Slovenia (8%), Lithuania (8%), Greece (9%) and Austria (9%).

Overall, 23% of employed women had experienced some form of sexual harassment in the 12 months prior to the interview. This proportion goes up to 34% in Denmark and Sweden, while Lithuania and Slovenia are the countries with lowest proportions of women reporting sexual harassment. According to FRA data, 5% of women in Europe experienced physical forms of sexual harassment in an employment context, in Denmark 12% and in the Netherlands, Slovakia and Sweden 9%. Portugal, Spain and Slovenia are the countries with the lowest percentages.

⁴⁰ FRA gender based violence against women survey dataset, 2012. Data available at <http://fra.europa.eu/en/publications-and-resources/data-and-maps/violence-against-women-survey>

The FRA survey asked women whether they had been victims of physical and/or sexual violence by a non-partner since the age of 15 by type of perpetrator. Across Europe a total of 15% of employed women reported being victim of physical and/or sexual violence by somebody from the employment context. This percentage goes up to 31% in Denmark, 27% in Italy and 21% in the Netherlands. While across Europe 37% of employed women reported having been victim of sexual harassment since the age of 15 by somebody from the employment context. This percentage goes up to 54% in Sweden and 52% in Denmark. It is important to bear in mind that survey data on adverse behaviours such as harassment and sexual harassment are influenced by cultural differences in perceptions and levels of awareness.

According to the FRA survey 4% of employed women in Europe had been victims of physical violence by non-partners in the 12 months prior to the interview. Countries with a higher percentage of women reported having been subject to physical violence include Netherlands (8%) and Denmark (7%) with the highest percentages, followed by Belgium, Finland, France, Italy and Sweden. While countries with the lowest levels of reported physical violence by non-partners include Austria, Croatia and Cyprus.

2.4 Awareness of harassment and violence amongst enterprises in eight European countries

In November 2014 an online survey amongst enterprises was conducted to investigate the level of awareness on the topic of harassment and violence as well as on the European autonomous agreement of workplace harassment and violence. The following sections present the main findings.

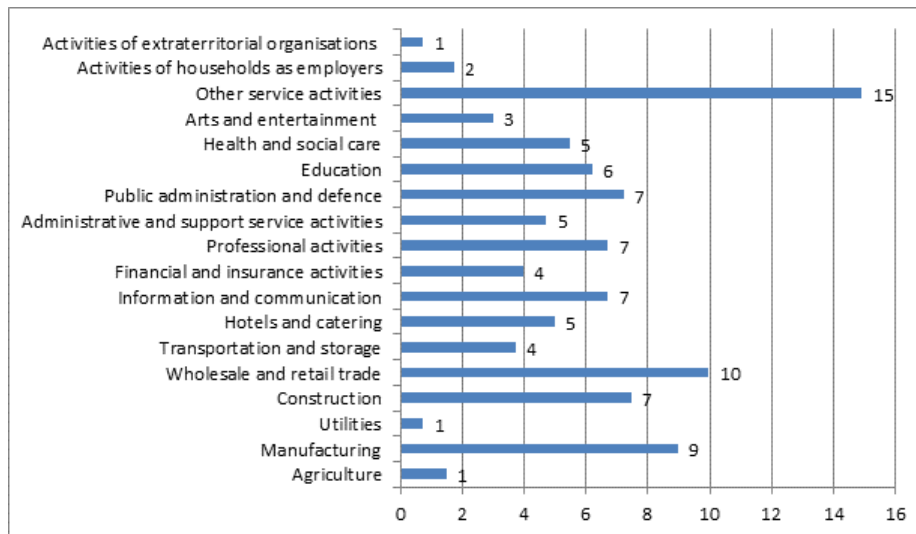
2.4.1 Sample of enterprises interviewed

The survey was conducted in eight European countries selected to represent a geographical balance within the EU, as well as different approaches to the implementation of the social partners' framework agreement (France, Hungary, Italy, Netherlands, Poland, Spain, Sweden and the UK). A total of 50 enterprises have been surveyed for each country⁴¹. The sample strategy did not attempt to achieve a representative sample either at European level or at country level; therefore, these results should be interpreted only as conclusive for the group of enterprises surveyed and not inferred outside the sample achieved.

The sample achieved presented a relatively good spread in terms of economic sectors, it is worth mentioning that the economic sectors presented have been identified by the managers that completed the survey. The main sectors in which enterprises operated include other service activities (15%), wholesale and retail (10%), manufacturing (9%), followed by public administration and defence, professional activities, information and telecommunication, construction and education. A greater proportion of companies operating in manufacturing were found in Italy and Sweden, wholesale and retail is proportionally more represented in the Netherlands, transportation and storage in Spain, information and telecommunication in Hungary, public administration in France, health and social care in the Netherlands and Sweden, other services in France and the Netherlands. The sample in the UK was close to the averages.

⁴¹ A total of 1512 enterprises were contacted to achieve the targeted number of responses.

Figure 2.7 Sample achieved by economic sector, percentage of enterprises

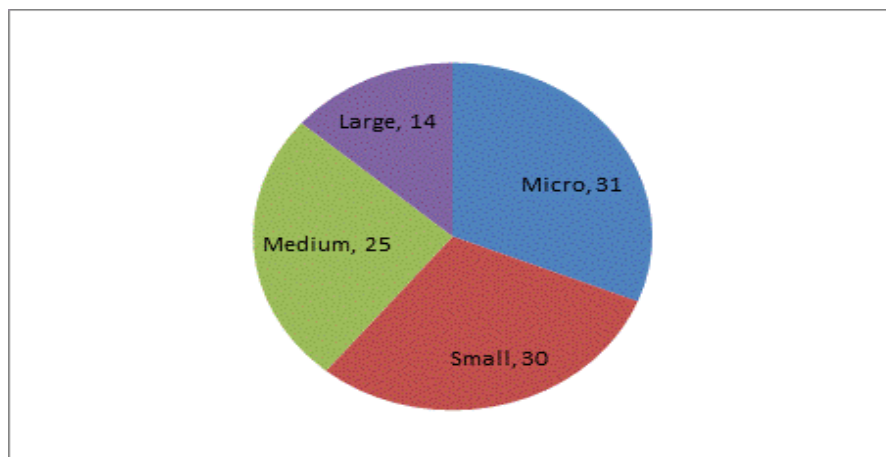


Source: own elaborations

Micro enterprises (less than 10 employees) accounted for 31% of the sample, small enterprises (between 11-50 employees) for 30%, medium (51-250 employees) 25% and large enterprises (more than 251 employees) 14%.

When interpreting the results it is worth bearing in mind that Netherlands, Poland and Hungary included a greater proportion of micro and small companies, Spain and Sweden small and medium, while medium and large companies were more represented in France and Italy. Therefore, some results are likely to be influenced by the size of the companies in the sample.

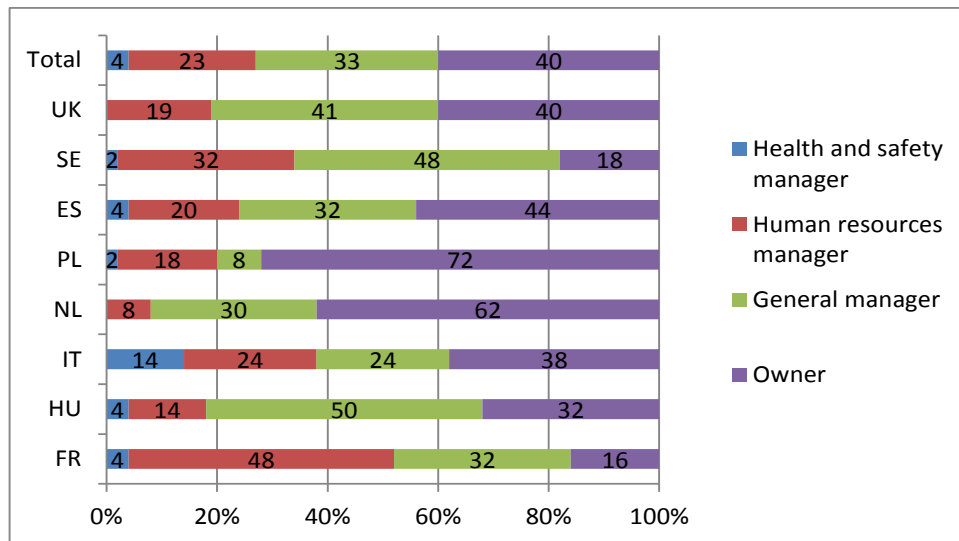
Figure 2.8 Sample achieved by size, percentage of enterprises



Source: own elaborations

The role of respondents may be a key factor in relation to the level of awareness of health and safety issues and specifically in the area of psychosocial risks. In total almost half of the sample of respondents (40%) declared themselves as company owners, 33% as general managers, 23% managers in human resources and 4% as health and safety managers. The sample in Poland and in the Netherlands included a greater proportion of owners; general managers were more represented in the UK, Sweden and Hungary, while the sample in France was more skewed towards human resources managers and in Italy towards health and safety managers. Therefore some results are likely to be explained by the job role of the respondent (which also to some extent reflects the size of the business).

Figure 2.9 Roles of respondents, percentage by country



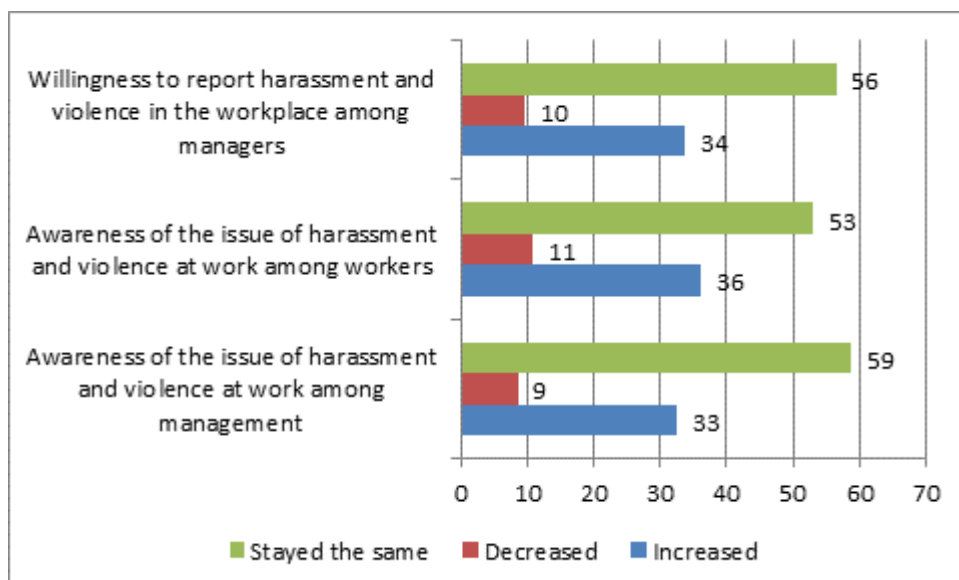
Source: own elaborations

2.4.2 Awareness of harassment and violence in the workplace

The survey investigated the level of awareness among managers and workers (from the manager's perspective) on the topic and the attitudes towards reporting instances of harassment and violence.

Overall it seems that the level of awareness and attitude to reporting incidences remained the same since 2007. However, approximately one third of the sample believed that there has been a positive change. Specifically, 36% of respondents reported an increase in the level of awareness among workers, 34% believed that managers are now more inclined to report instances of harassment and violence and 33% believed that managers are also more aware of the issue.

Figure 2.10 Awareness of harassment and violence in the workplace since 2007, percentage of enterprises



Source: own elaborations

Overall, no change has been reported in attitudes and level of awareness in France, Hungary and the Netherlands, while positive changes seem to have occurred in Italy, Spain and Sweden.

Respondents from micro enterprises are more likely to state that no changes have occurred since 2007. It seems that in small companies there is a greater awareness of the issue among management and workers, in medium size companies positive changes in all areas have occurred, while large companies were more likely to report greater awareness among workers and willingness to report instances of harassment and violence.

2.4.3 Incidence of harassment and violence in the workplace

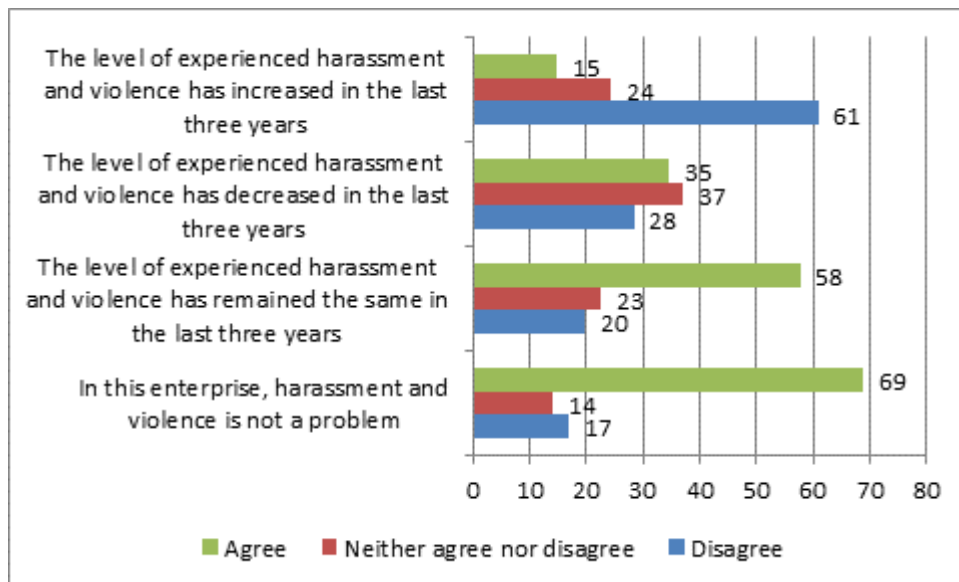
The majority of enterprises (66%) do not collect data on harassment and violence, among those companies that collect data (34%) the sample was almost equally split between companies that started doing so after 2007 and where measures to collect such data preceded 2007. Companies operating in Italy, Sweden and the UK were much more likely to state that they collect data on harassment and violence; it is worth recalling that this could be related to the size of the companies surveyed, to the national legislation on collection of data on psychosocial risks and national insurance systems⁴². Companies with more than 11 employees were also more likely to state that they collect information on harassment and violence.

2.4.4 Whether harassment and violence is perceived as a problem by enterprises

The survey investigated whether the topic of harassment and violence was perceived as a problem among employers.

Almost two third (69%) of respondents did not perceive the topic as an issue, agreeing to the statement 'in this company harassment and violence is not a problem'. In line with this finding, 61% of respondents disagree with the statement that the level of experienced harassment and violence has increased in the last three years and 35% believed that there had been a decrease. While for 58% of respondents no changes had occurred in the level of harassment and violence in the last three years.

Figure 2.11 Whether harassment and violence is perceived as a problem in the workplace, percentage of enterprises



Source: own elaborations

In Hungary, Poland and Sweden respondents were more likely than average to disagree with the statement that violence and harassment is not a problem. While, in the Netherlands, Spain and the UK respondents were more likely than average to agree.

⁴² However, it is unclear to what extent enterprises collect data specifically on harassment and violence, for example in Italy the national framework on data collection and the risk assessment refers to psychosocial risks and work related stress.

It is interesting to note that from EWCS survey data in 2010 Sweden, Hungary and Poland were among the countries with lowest reported levels of bullying and harassment in the workplace. While in the Netherlands and the UK the levels of harassment and bullying were above average.

Micro and small companies are more likely than medium and large companies to indicate that harassment and violence is not a problem.

A total of 139 enterprises declared that the level of experienced harassment and violence has decreased in the last three years. These enterprises were asked whether the decline was associated with new policies, and a total of 65 enterprises (47% of those stating that there was a decline) replied that the declined was associated with new policies.

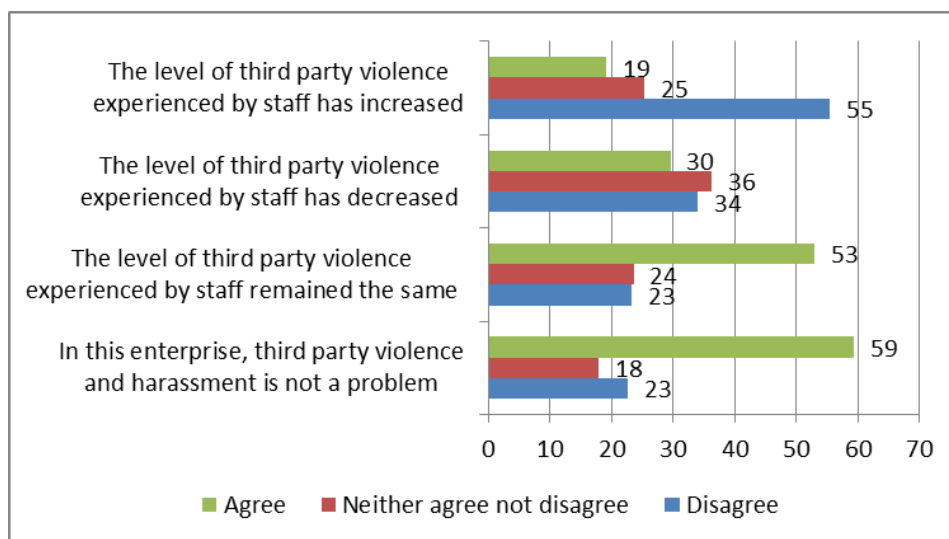
2.4.5 Whether third party violence is perceived as a problem by enterprises

The survey investigated whether third party violence was perceived as a problem by enterprises.

Overall, 59% of respondents considered that third party violence and harassment was not a problem in their company and 53% stated that the levels of third party violence remained the same. Notably, 23% of respondents believed that third party violence and harassment is a problem with their enterprises and 19% agreed with the statement that the level of third party violence has increased.

Third party violence and harassment is considered more of a problem than internal harassment and violence.

Figure 2.12 Whether third party violence is perceived as a problem in the workplace, percentage of enterprises



Source: own elaborations

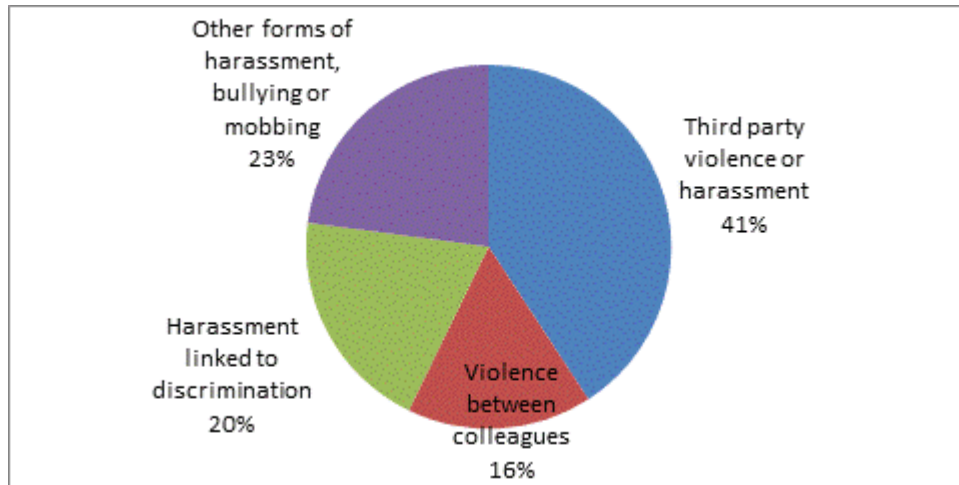
Small and medium sized companies were more likely to consider third party violence to be an issue compared to micro or large companies (28/25 and 19 and 15% respectively).

A total of 53 enterprises (44% of those who stated that there had been a decline) stated that the decline in third party violence was associated with new policies.

2.4.6 Forms of harassment and violence experienced in the workplace

The survey assessed the type of harassment and violence experienced in the workplace. Almost half of respondents (41%) stated that third party violence or harassment was the most common form of adverse behaviour experienced in their company, followed by other forms of harassment, bullying or mobbing (23%). This could to some extent be affected by the sector composition of the sample, but overall reflects what has been found in other surveys at European level and results from qualitative research.

Figure 2.13 Most frequently experienced form of harassment and violence in the workplaces, percentages of enterprises



Source: own elaborations

2.4.7 Impact of harassment and violence in the workplace

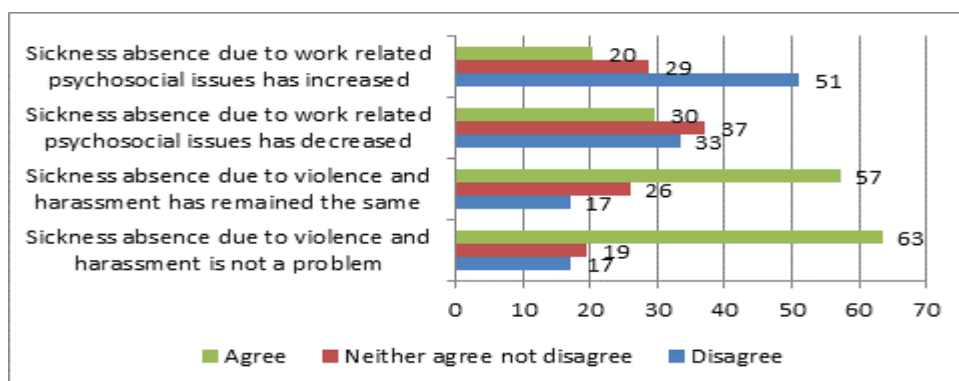
2.4.7.1 Trends in sickness absence

The survey sought to investigate the impact of harassment and violence in the workplace by asking about trends in sickness absence due to work related psychosocial issues and harassment and violence.

Half of respondents (51%) disagreed with the statement that sickness absence related to psychosocial issues has increased in the last three years and 30% believed that there has been a decrease.

The majority of respondents believed that sickness absence due to violence and harassment in the workplace was not a problem (63%). This is in line with what has been presented in previous sections in relation to the perceived levels of harassment and violence in the workplace. The majority of respondents (57%) also agreed with the statement that sickness absence due to harassment and violence had remained the same in the last three years.

Figure 2.14 Trends in sickness absence due to harassment and violence in the workplace and to work related psychosocial issues, percentages of enterprises



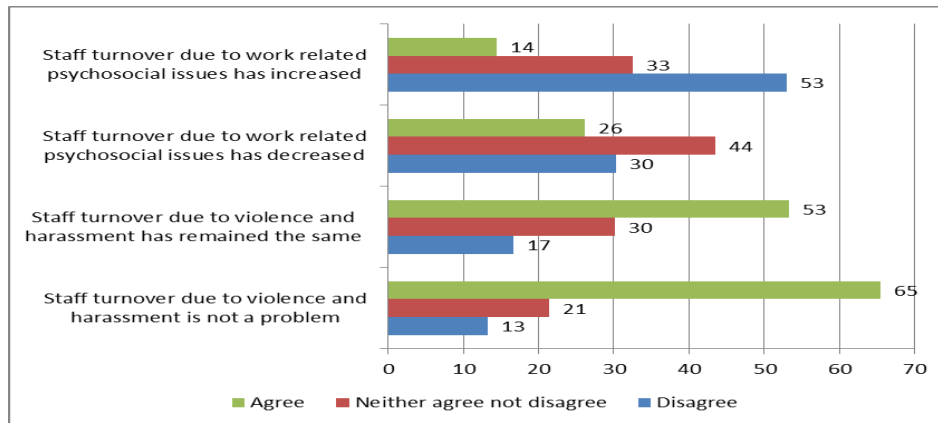
Source: own elaborations

2.4.7.2 Trends in staff turnover

Half of respondents (53%) disagreed with the statement that staff turnover due to psychosocial risks has increased in the last three years and 26% stated that there has been a decrease.

The majority of respondents (65%) agreed with the statement that staff turnover due to harassment and violence is not a problem and 53% of respondents agreed with the statement that staff turnover has remained the same.

Figure 2.15 Trends in staff turnover due to harassment and violence in the workplace and to work related psychosocial issues, percentage of enterprises



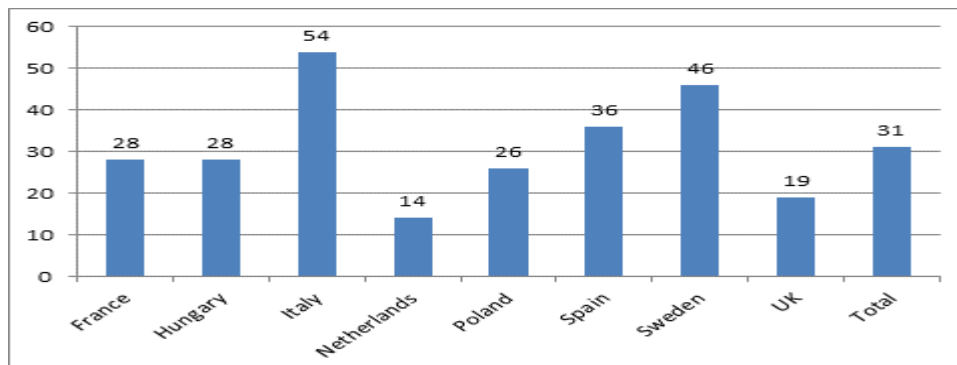
Source: own elaborations

According to 49 enterprises (47% of those that stated that there had been a decline in staff turnover) the decline was associated with new policies.

2.4.8 Awareness of the European Framework Agreement and national implementation instruments

The survey asked whether respondents knew about the European autonomous agreement on harassment and violence. 31% of respondents were aware of the agreement. The highest proportion of respondents aware of the agreement was found in Italy (54%), followed by Sweden (46%). The agreement is almost unknown to respondents in the Netherlands and in the UK where respectively only 14% and 19% of respondents knew about it. Also in Poland only 26% of the sample was aware of it. These results can to a large extent be explained on the basis of the role of respondents. In Italy the majority of respondents were health and safety managers, it is therefore understandable that they are much more aware than average of national and European policies on health and safety. While in Poland and in the Netherlands mainly owners of the company responded to the survey; and in the UK general managers.

Figure 2.16 Percentage of enterprises aware of the European autonomous agreement on harassment and violence at work

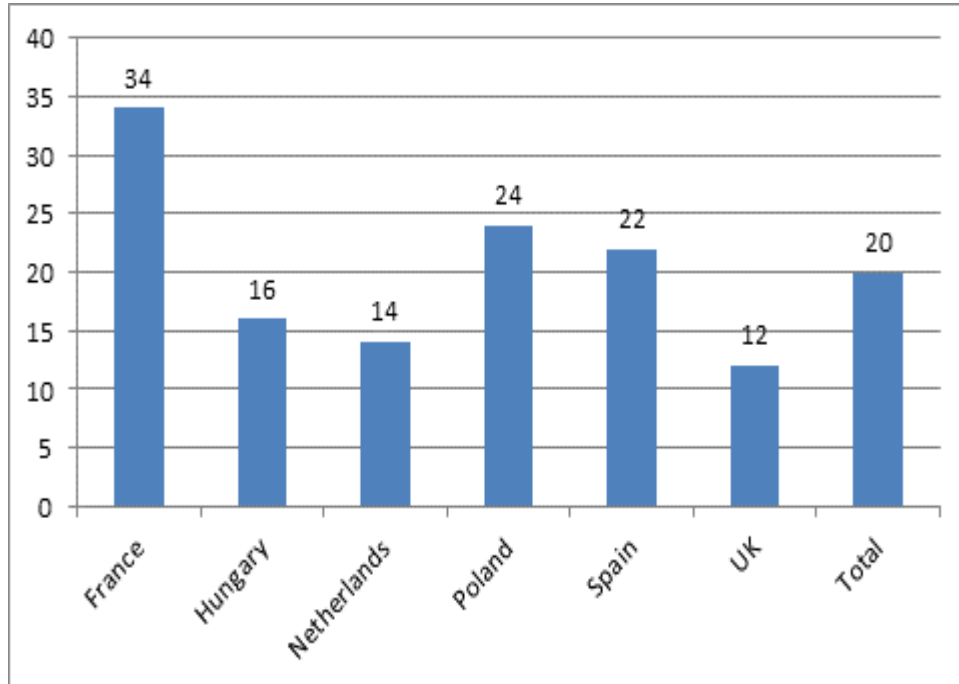


Source: own elaborations

Overall, 20% of respondents were aware of the national implementation instrument. It is interesting to see that France was the only country where a greater proportion of

respondents were aware of the national implementation instrument⁴³ (34%) when compared with those aware of the European autonomous agreement. In all other countries a greater proportion of respondents were aware of the European autonomous agreement than of the national implementation instrument. The UK was the country with the lowest percentage of respondents aware of the national implementation instrument (12%), followed by the Netherlands (14%) and Hungary (16%).

Figure 2.17 Percentage of enterprises aware of the national implementation instrument



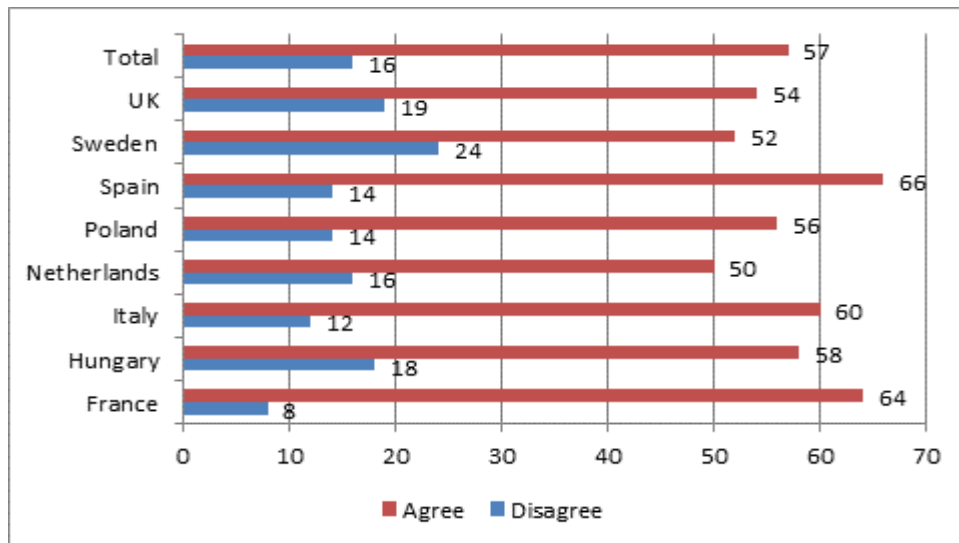
Source: own elaborations

2.4.9 Procedures to address harassment and violence in the workplace

In more than half of the companies surveyed (57%) assessment of workplace risk of all forms of violence and harassment was a regular part of the risk assessment process. This proportion increases in Spain (66%) in France (64%) and in Italy (60%). While Netherlands, Sweden and the UK were less likely than average to state that violence and harassment was part of the risk assessment process.

⁴³ For each country the survey asked about the main national implementation instrument. France: Accord national interprofessionnel sur le harcèlement et la violence au travail; Hungary: Az NMH Munkavédelmi és Munkaügyi Igazgatóságának Útmutatója - amit a pszichoszociális kockázatokról tudni érdemes; Netherlands: Aanbeveling intimidatie en geweld op het werk; Poland: Wspólna deklaracja polskich partnerów społecznych dotycząca przemocy i nękania w miejscu pracy; Spain: Anexo IV (Acuerdo marco europeo sobre el acoso y la violencia en el lugar de trabajo) de la Prórroga para el año 2008 del Acuerdo Interconfederal para la Negociación Colectiva 2007; England: Joint guidance e implementing a European social partner agreement. These are considered by the study team as the main implementation instrument - in some countries other activities contributed to implementation, however the survey did not ask whether the enterprises were aware of these.

Figure 2.18 Percentage of enterprises which agree or disagree with the statement that assessment of workplace risk of all forms of violence and harassment is a regular part of the risk assessment process at company level

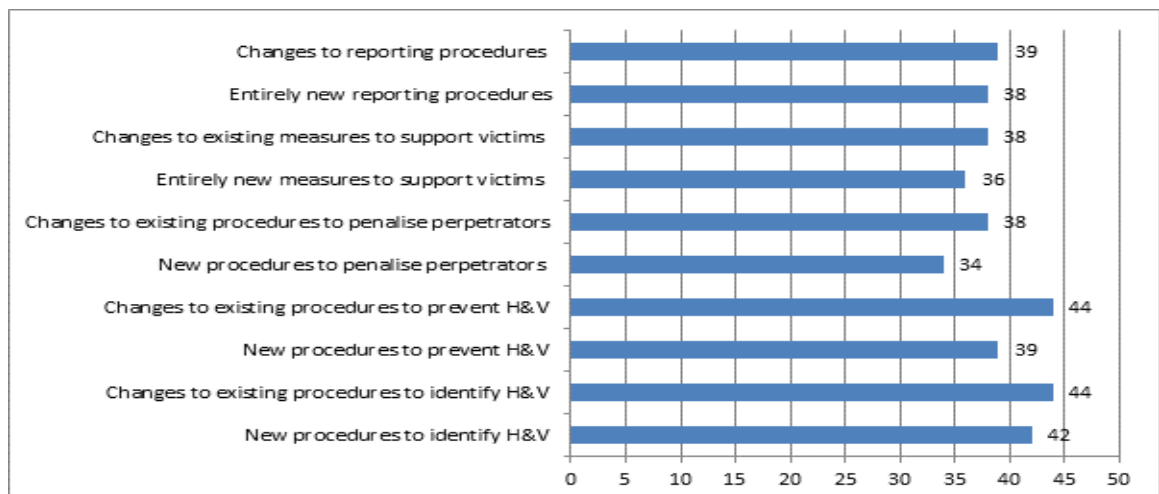


Source: own elaborations

The survey investigated whether new procedures had been implemented or changes to old procedures had occurred to address harassment and violence in the workplace.

The main trend shows that changes have been implemented to existing procedures to prevent (44%) and to identify (44%) harassment and violence in the workplace, followed by new procedures to identify harassment and violence (42%). The areas for supporting victims and penalise perpetrators are those where little has been done, only 34% of companies implemented new procedures to penalise perpetrators and 36% include entirely new measures to support victims.

Figure 2.19 Percentage of enterprises which have introduced new procedures or changed old procedures since 2010 to address harassment and violence in the workplace



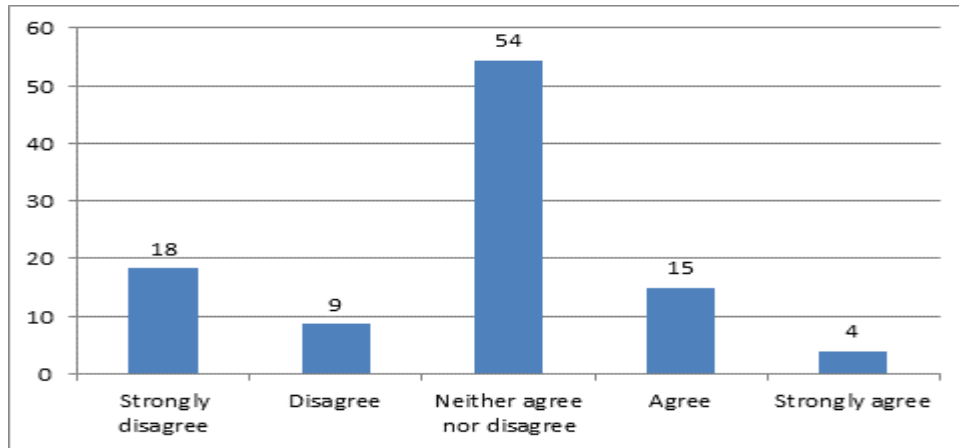
Source: own elaborations

Italy and Poland seem to be the countries where more changes have occurred in the area of company policies to address harassment and violence.

It seems that changes in tackling harassment and violence are more likely to take place in medium and large enterprises than in small and micro enterprises. This is in line with the results of interviews with national stakeholders where representatives of SMEs lamented the difficulties in implementing procedures in small companies.

A total of 302 companies reported at least one change in procedures since 2010. These companies were asked the extent to which the changes were related to the national implementation instrument. Only 19% of respondents believed that the changes were a direct result of the national implementation instrument. While for 27% of respondents there was no link with the national implementation instrument.

Figure 2.20 Extent to which changes in procedures were a direct result of the national implementation instrument, percentages of enterprises



Source: own elaborations

The fact that the majority of respondents neither agreed nor disagreed with the statement is not surprising, given the objective difficulty in making a clear link with the national instrument and changes in workplace procedures, unless the national instrument is a new law and employers are required to take action in line with its requirements.

Nonetheless in some countries respondents believed that the changes were somehow related to the national implementation instrument, these include France and Spain.

France was also the country with the greatest awareness of the national implementation instrument. In France to implement the autonomous agreement, social partners at the cross-industry level concluded in 2010 a national intersectoral agreement on harassment and violence at work. The agreement lays out general provisions which have to be taken into account as part of collective bargaining processes at the sectoral and company level. The application of the agreement was then extended by a Ministerial decree to all companies in France.

In Spain, the 2008 cross-industry agreement for collective bargaining or *Acuerdo interconfederal para la negociación colectiva* (ANC) explicitly refers to the European autonomous framework agreement on harassment and violence at work. An ANC is not legally binding, but it places a duty on the signatories to take action as part of collective bargaining at sectoral, regional or company level.

2.5 Awareness of harassment and violence amongst employee health and safety representatives

In September 2014 a similar online survey amongst employee health and safety representatives was conducted to investigate the level of awareness on the topic of harassment and violence as well as on the European autonomous agreement of workplace harassment and violence. The online survey was disseminated by ETUC to its national network of employee representatives dealing with health and safety issues. The survey was again re-launched in February 2015 to increase response rates. The approach to this survey did not attempt to achieve a representative sample of employee representatives. Translations of the survey were limited to the language of the countries addressed for the employer survey. For the above mentioned reasons, these results should be interpreted only

as conclusive for the group of employee health and safety representatives surveyed and not inferred outside the sample achieved.

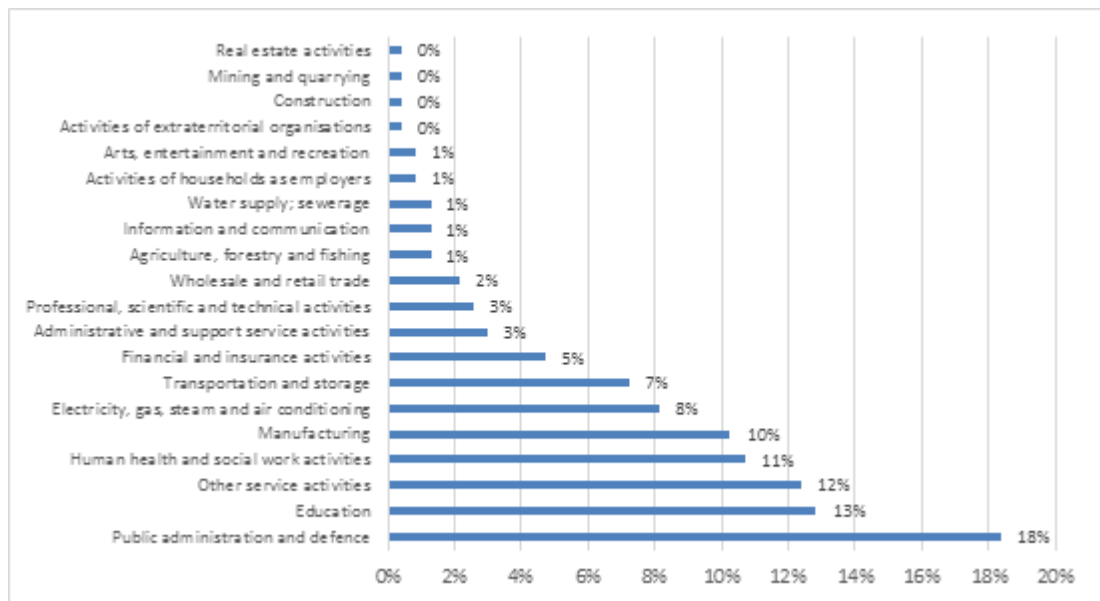
2.5.1 Responses to employee health and safety representatives' survey

A total of 239 employee health and safety representatives completed the online survey. The majority of respondents were based in Spain (166), followed by Poland (35), and Sweden (10), 2 respondents were based in Italy, 2 in the Netherlands and one response was received from Austria, Belgium, Bulgaria, Malta, Slovenia and the UK. Therefore, in the next sections the breakdown by countries will be provided only for Spain, Poland and Sweden.

Unlike for the employers survey, presenting the results by size of enterprise can be misleading, since respondents can be health and safety representative at enterprise level or health and safety representatives in trade union organisations (e.g. at sectoral level etc...).

The sample achieved presented a relatively good spread in terms of economic sectors, it is worth mentioning that the economic sectors presented have been identified directly by the respondents. The main sectors in which enterprises operated include public administration and defence (18%), education (13%), other service activities (12%), followed by human health and social work activities (11%), manufacturing (10%), electricity, gas steam and air conditioning (8%) and transportation and storage (7%).

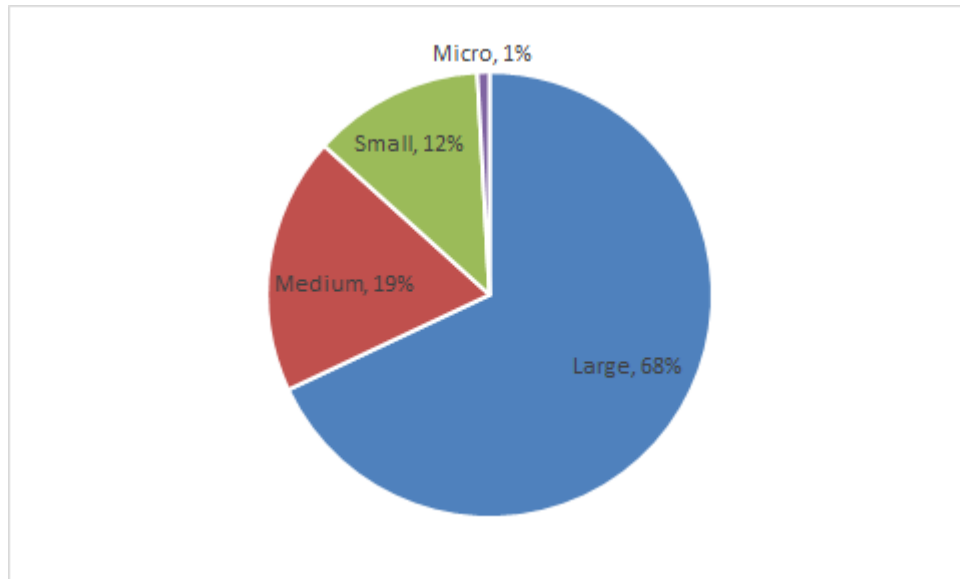
Figure 2.21 Sample achieved by economic sector, percentage of employee health and safety representatives



Source: own elaborations

Micro enterprises (less than 10 employees) accounted for 1% of the sample, small enterprises (between 11-50 employees) for 12%, medium (51-250 employees) 19% and large enterprises (more than 251 employees) 68%.

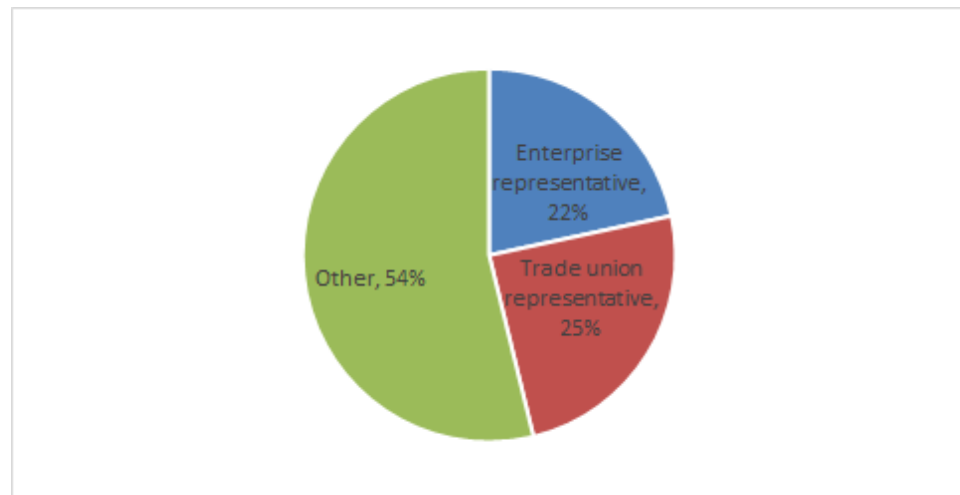
Figure 2.22 Sample achieved by enterprises size, percentage of employee health and safety representatives



Source: own elaborations

In total 22% of respondents identified themselves as health and safety representatives at enterprise level, 25% as health and safety representatives in trade union organisations and more than half of the sample of respondents (54%) did not consider themselves to fall into either of these categories. In Spain and Poland the share of respondents who declared themselves health and safety representative at enterprise level (respectively 24% and 25%) was higher than that of health and safety representatives in trade union organisations, while in Sweden 9 out of ten respondents are health and safety representatives in trade unions.

Figure 2.23 Roles of respondents, percentage by country



Source: own elaborations

2.5.2 Awareness of harassment and violence in the workplace

The survey investigated the level of awareness among employee health and safety representatives on the topic and the attitudes towards reporting instances of harassment and violence.

Overall many respondents believed that the level of awareness increased since 2007. Specifically, 61% of respondents reported an increase in the level of awareness among workers and 41% believed that managers are also more aware of the issue. The attitude to

report incidences among managers did not change much. Specifically according to 58% of respondents the attitude towards reporting incidences has remained the same since 2007.

Figure 2.24 Awareness of harassment and violence in the workplace since 2007, percentage of employee health and safety representatives



Source: own elaborations

The level of awareness among managers increased according to 52% of respondents in Poland and for 7 out of 8 respondents in Sweden, while in Spain most respondents (49%) believed that the level of awareness among managers stayed the same. Respondents believed that the level of awareness across workers improved consistently in Poland (66%), Spain (59%) and Sweden (all respondents). Finally no changes have been reported in attitudes in these three countries.

2.5.3 Incidence of harassment and violence in the workplace

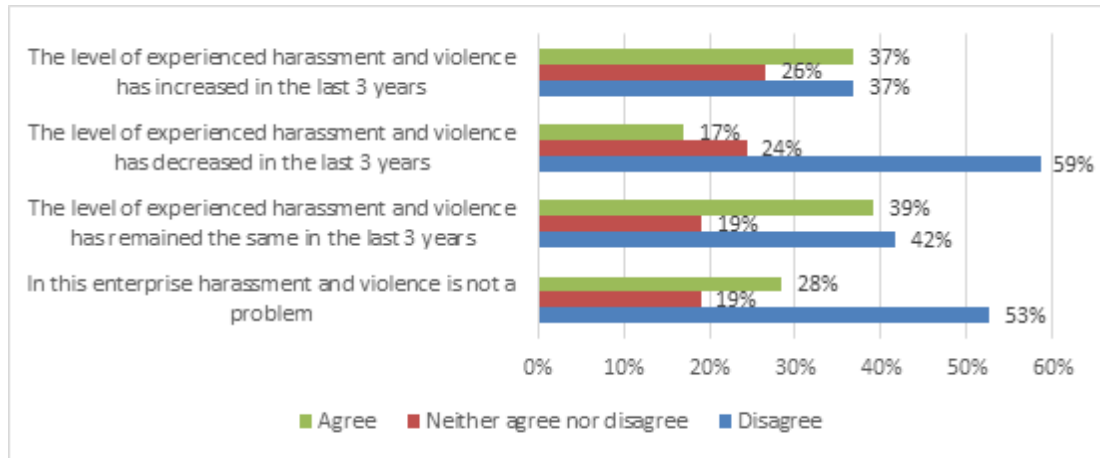
Most respondents (57%) believed that their enterprise or trade union do not collect data on harassment and violence. This is true in Spain and in Poland (where respectively 58% and 63% of respondents agreed that no data are collected on this issue). However in Sweden companies are more likely to collect data on harassment and violence as 8 out of 10 respondents believed that their enterprise or trade union do so.

2.5.4 Whether harassment and violence is perceived as a problem by employee representatives

The survey investigated whether the topic of harassment and violence was perceived as a problem among employee health and safety representatives.

The topic of harassment and violence was perceived as an issue by 53% of respondents, disagreeing to the statement 'in this enterprise harassment and violence is not a problem'. In line with this finding, most respondents (59%) disagree with the statement that the level of experienced harassment and violence has decreased in the last three years and 37% believed that there had been an increase. While for 39% of respondents no changes had occurred in the level of harassment and violence in the last three years. Specifically, a total of 135 employee health and safety representatives disagree that the level of experienced harassment and violence has decreased in the last three years and 92 believed that this has remained the same.

Figure 2.25 Whether harassment and violence is perceived as a problem in the workplace, percentage of employee health and safety representatives



Source: own elaborations

In Spain and in Sweden respondents were more likely than average to disagree with the statement that violence and harassment is not a problem. While in Poland respondents were more likely than average to agree.

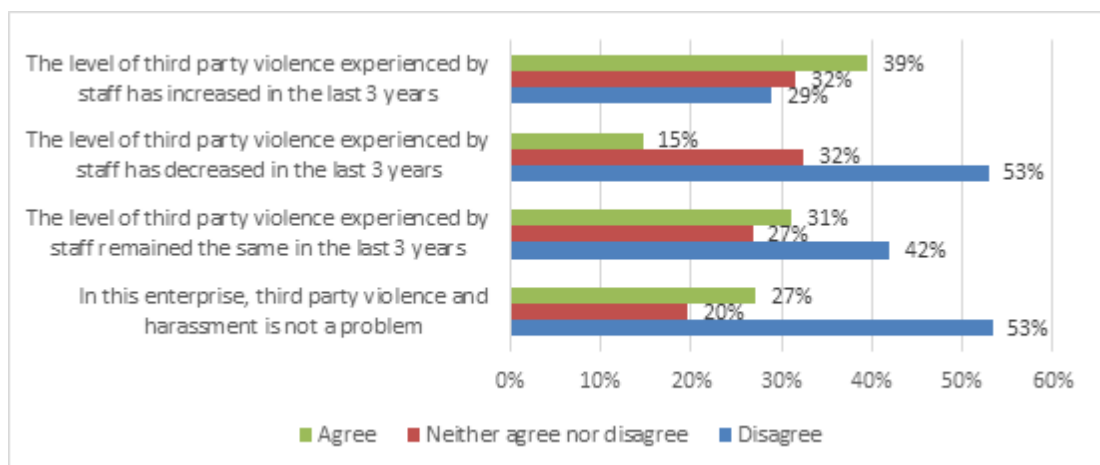
2.5.5 Whether third party violence is perceived as a problem by enterprises

The survey investigated whether third party violence was perceived as a problem by health and safety representatives.

Overall, 53% of respondents disagreed that third party violence and harassment was not a problem in their enterprise or in the sector they represent and 53% disagreed with the statement that the levels of third party violence had decreased in the last three years. Notably, 39% of respondents believed that third party violence increased in their enterprise or in the sector they represent and 31% agreed with the statement that the level of third party violence remained the same.

Overall third party violence and harassment seem to be considered as problematic as internal harassment and violence.

Figure 2.26 Whether third party violence is perceived as a problem in the workplace, percentage of employee health and safety representatives



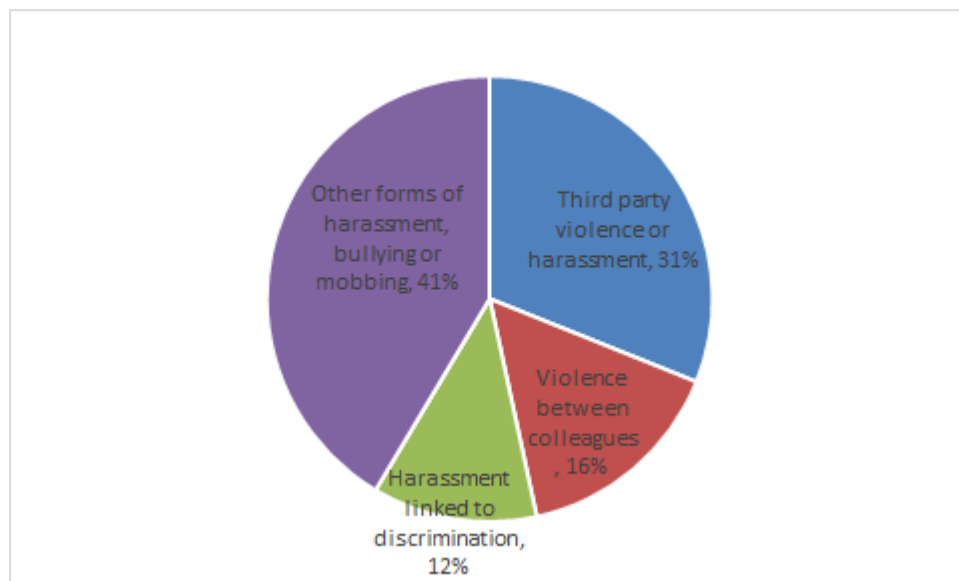
Source: own elaborations

A total of 42 respondents (20% of those who stated that there had been an increase) stated that the increase in third party violence was associated with raised awareness resulting from campaigns, new agreements or legislation.

2.5.6 Forms of harassment and violence experienced in the workplace

The survey assessed the type of harassment and violence experienced in the workplace. 31% of respondents stated that third party violence or harassment was the most common form of adverse behaviour experienced in their enterprise or in the sector they represent. 16% stated violence between colleagues as the most common form, 12% indicate harassment linked to discrimination and the remaining 41% other forms of harassment, bullying or mobbing. These findings reflect what has been found in other surveys at European level and results from qualitative research.

Figure 2.27 Most frequently experienced form of harassment and violence in the workplaces, percentages of employee health and safety representatives



Source: own elaborations

2.5.7 Impact of harassment and violence in the workplace

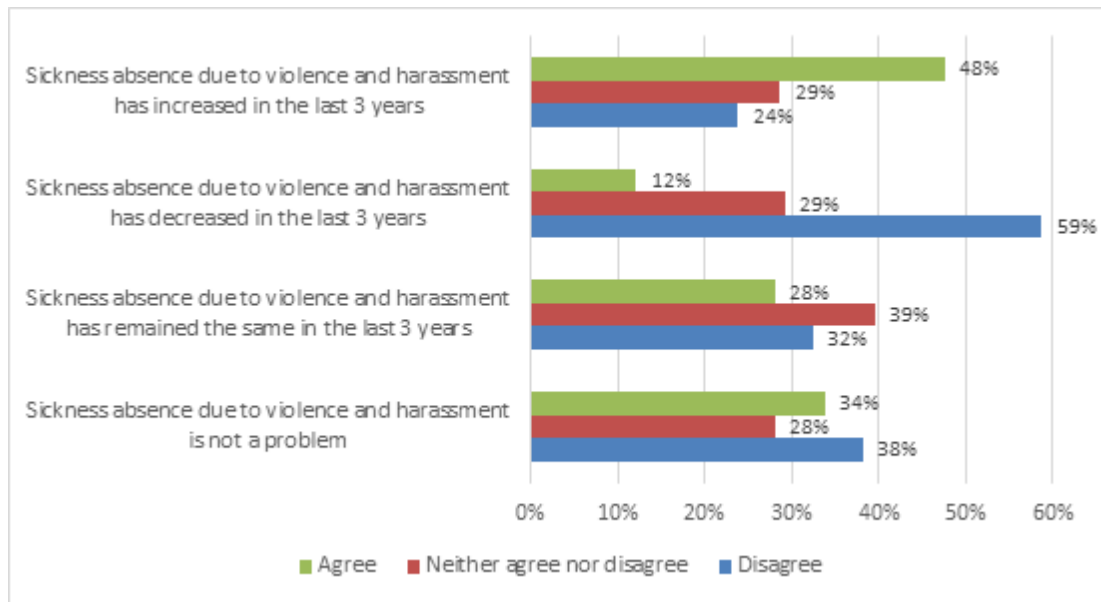
2.5.7.1 Trends in sickness absence

The survey investigated the impact of harassment and violence in the workplace by asking about trends in sickness absence due to work related psychosocial issues and harassment and violence.

Most respondents (59%) disagreed with the statement that sickness absence related to psychosocial issues has decreased in the last three years and 48% believed that there had been an increase. This data suggest a strong difference between employers and employee representatives as the former believed that sickness absences related to psychosocial issues were more likely to have decreased in the last three years.

The majority of employee health and safety representatives (38%) believed that sickness absence due to violence and harassment in the workplace was a problem (38%). Again there are notable differences from the results of the survey among employers according to which sickness absence due to violence and harassment in the workplace was not an issue in their enterprise.

Figure 2.28 Trends in sickness absence due to harassment and violence in the workplace and to work related psychosocial issues, percentages of employee health and safety representatives



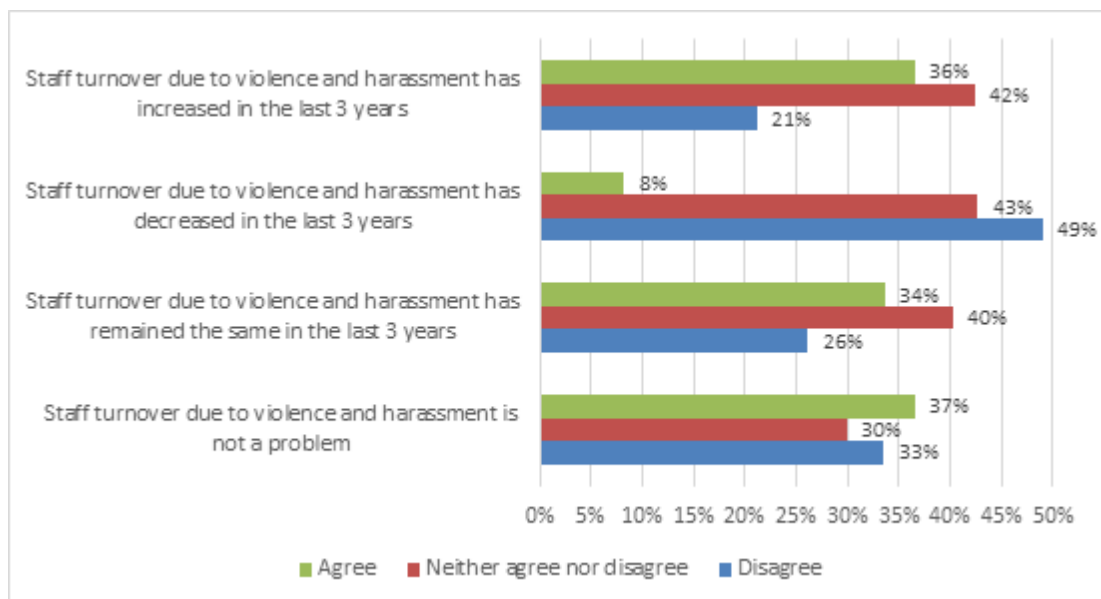
Source: own elaborations

2.5.7.2 Trends in staff turnover

Half of respondents (49%) disagreed with the statement that staff turnover due to psychosocial risks had decreased in the last three years and 36% stated that there had been an increase.

Overall, 63% of respondents either disagreed or didn't have a clear opinion on the statement that staff turnover due to harassment and violence was not a problem. When comparing this evidence to the results from the survey with employers a significant difference emerges as most employers agreed that staff turnover due to harassment and violence was not a problem.

Figure 2.29 Trends in staff turnover due to harassment and violence in the workplace and to work related psychosocial issues, percentage of employee health and safety representatives



Source: own elaborations

2.5.8 Awareness of the European Framework Agreement and national implementation instruments

The survey asked whether respondents knew about the European autonomous agreement on harassment and violence; 41% of employee representatives were aware of the agreement against a 31% of employers' respondents. The highest proportion of respondents aware of the agreement was found in Sweden (4 out of 10 respondents) and in Spain (40%) followed by Poland (29%).

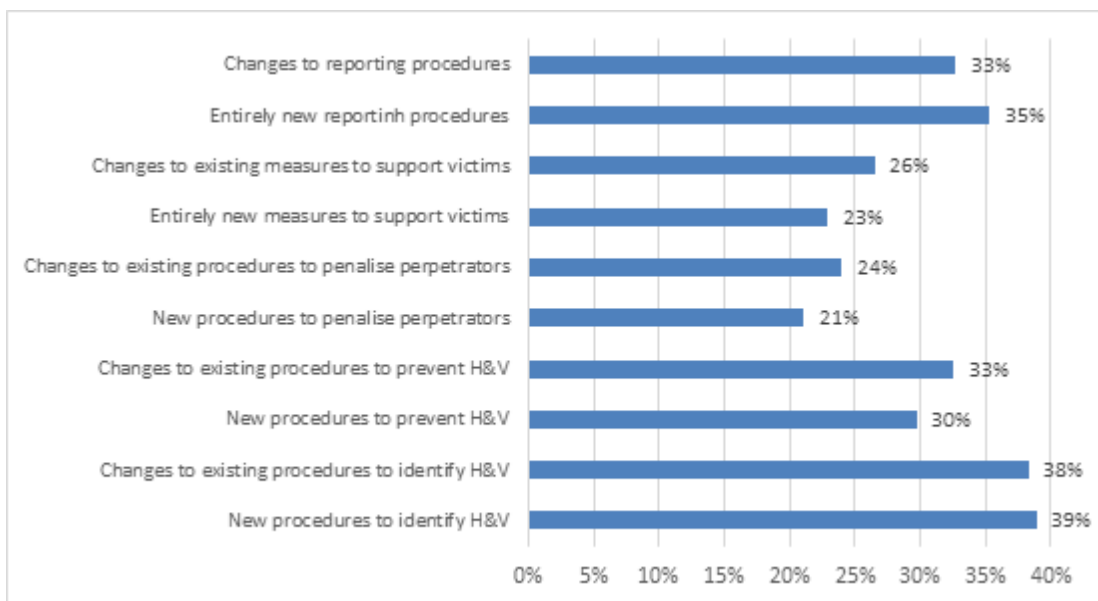
Overall, 40% of respondents were aware of the national implementation instrument. It is interesting to see that in Poland in a greater proportion of respondents were aware of the national implementation instrument (35%) when compared with those aware of the European autonomous agreement (29%). In Spain almost the same proportion of respondents were aware of the European autonomous agreement and of the national implementation instrument.

2.5.9 Procedures to address harassment and violence in the workplace

According to almost half of respondents (47%) the assessment of workplace risk of all forms of violence and harassment was not a regular part of the risk assessment process. This proportion increases in Spain (52%) and in Sweden (7 out of 10 respondents). Also on this issue, the view of employee representatives is not in line with the results of the employers' survey.

The survey investigated whether new procedures had been implemented or changes to old procedures had occurred to address harassment and violence in the workplace. The main trend shows that new procedures and changes to existing procedures (39% and 38% respectively) have been implemented to identify harassment and violence in the workplace; followed by entirely new reporting procedures and changes to reporting procedures (35% and 33% respectively); and, changes to existing procedures and new procedures to prevent harassment and violence (33% and 30% respectively). The areas for penalise perpetrators and supporting victims are those were little has been done. This is in line with what emerged from the employers' survey.

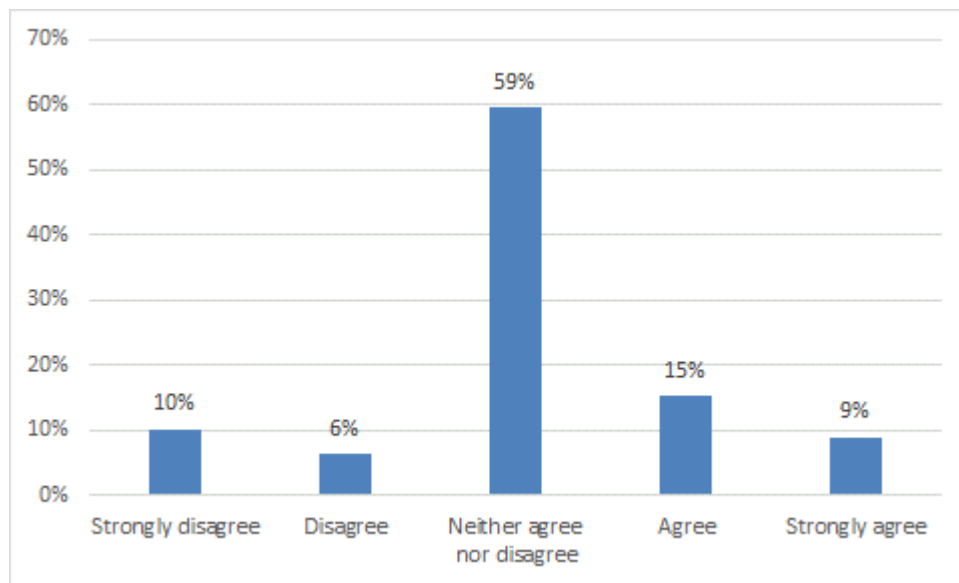
Figure 2.30 Percentage of employee health and safety representatives which have introduced new procedures or changed old procedures since 2010 to address harassment and violence in the workplace



Source: own elaborations

A total of 103 employee health and safety representatives reported at least one change in procedures since 2010. These employee representatives were asked the extent to which the changes were related to the national implementation instrument. 24% of respondents believed that the changes were a direct result of the national implementation instrument. While only for 16% of respondents there was no link with the national implementation instrument.

Figure 2.31 Extent to which changes in procedures were a direct result of the national implementation instrument, percentages of employee health and safety representatives



Source: own elaborations

The majority of respondents (59%) neither agreed nor disagreed with the statement, this proportion increases in Poland (63%) and in Spain (61%).

2.6 National data

2.6.1 Register data

When looking at evidence for register data on the incidence of violence and harassment, it is important to highlight that official registers pertaining to OSH only contain data related to work-related diseases that are officially classified as occupational diseases in the national context and workplace accidents which lead to absences over a certain number of days. Here it is notable that absences linked to workplace violence would not necessarily be classified as 'accidents' and illnesses arising from violence or harassment (e.g. stress related illnesses) are not often classified as occupational illnesses. Additional differences and inconsistencies across Europe arise depending on how long absences have to be which need to be reported. For instance, in the UK this period was recently increased from 3 to 7 days. In Germany, the statistics published by the accident insurance DGUV do not cover absences resulting from violence in the workplace if such leave amounts to less than 3 days. At national level, where such systems are in place, trends can be monitored, but are not necessarily comparable across countries.

Even where OSH registers or monitoring systems are in place in the national legislation, it must be borne in mind that individuals and companies may be reluctant to report cases of harassment and violence or in general illnesses resulting from psychosocial risks in the workplace (such as violence, threats of violence or harassment), on the employee side for fear of stigmatisation and on the employer side because of concerns about how this may

reflect on business practices. These are thus likely to be elements of mis- or under-reporting. Furthermore, the ease of making complaints and assumed likelihood of such complaints being addressed can also have an impact on official reporting.

With regard to workplace harassment, register data are most likely to be linked to harassment based on different forms of discrimination, with gender based discrimination featuring most strongly among the instances where register data are kept. Thus in many countries record data on workplace harassment related to Anti-Discrimination Acts (Austria, Estonia, Poland, Romania, Slovakia, Spain) rather than health and safety legislation are kept. As an example, in Poland only court cases of violence, harassment and mobbing that concern unequal treatment were reported and in Spain discrimination cases were separately listed depending on whether they related to harassment based on gender, sexual harassment and other forms of discrimination.

In general, official register data are collected by a plethora of institutions and with different collection mechanisms and / or methodologies. Complaints were recorded by labour inspectorates, institutions monitoring equal treatment or research institutes. Additionally, the data collected focus on different features of the phenomena of violence and harassment in the workplace. For example, most countries have mechanisms in place to record sexual harassment, without reporting on incidences of other forms of harassment. Due to these inconsistencies it is difficult to analyse trends across countries.

Overall, the number of cases of harassment and violence registered vary greatly across countries. This is likely to be, to a significant extent, due to differences in national legislative frameworks and institutional reporting mechanisms. Additionally, since the number of incidents recorded also depends on how frequently inspections are conducted and how well institutional mechanisms of reporting are utilised and implemented in practice, trends across countries may also reflect these features. Lastly, it is notable that register data on the number of cases brought to trial tend to be very low, which should not be seen as indicative of the magnitude of the phenomenon, but rather of the extent to which cases are reported, pursued and ultimately addressed out of court, prior to court proceedings being brought.

Although it is impossible to compare these data, some trend developments in registered cases of violence and harassment in the workplace can still be observed. Interestingly, some register data records spike during the on-set of the financial crisis. In Germany third-party violence increased slightly in accident insurance statistics in 2009/2010, and in Latvia the labour inspectorate recorded an increase in accidents due to physical violence in the period 2008-2010. Register data in most countries, where it was available, focused on physical violence (Estonia, Germany, Ireland, Latvia, the Netherlands, Slovenia, Sweden and the UK) and sexual harassment (Austria, Cyprus, Malta, Portugal and Spain).

In terms of gender differences captured by register data, there seems to be a wide cross-country variation in relation to the likelihood of being victims of violence in the workplace. In Sweden, a 2013 report on occupational accidents and work-related diseases showed that 13.7% of women and 4.9% of men reported violence, assault, threat, etc. as the main cause for reported occupational accidents. On the other hand, the UK data on reported injuries show that men are more likely to be victims of violence at work than women (1.6% compared to 1.2%). In all countries, women were far more likely to be recorded as victims of sexual assault, a trend that is further demonstrated by survey data discussed in the following sections. Again, these differences would need to be assessed in the context of national legislation, guidance and data collection mechanisms, social perceptions and the enforcement of legislation.

Strong sectoral differences can be identified, where this kind of data are available. In Ireland, a plurality of non-fatal work accidents due to violence (44%) occurred in the 'human health and social work activities' sector and the second greatest incidence (38%) was found in the 'public administration and defence' sector. Again, these differences can be linked to the sectors in which such data collection is emphasised, which tend to be those more likely to be more affected by these phenomena.

2.6.2 Repeat survey data

Statistics on psychosocial risks rely mainly on survey data rather than data from public registers of reported incidents and work-related illnesses at work. Survey based information is more comprehensive than official statistics on reported workplace accidents since they are able to capture the phenomenon of workers exposed to violence and harassment even where this goes unreported. In surveys individuals are more likely to report such incidents and the impact on their health and well-being. However, depending on how surveys are administered, issues can arise in relation to selection bias or reporting of subjective perceptions. The examined cross-sectoral surveys sometimes included a mixture of employer and employee surveys, which highlighted differences in perceptions. As an example, in Bulgaria the National Working Conditions Survey (2010) found that managers' experiences of the extent of physical violence in their companies differ from those reported by employees. Sample size can obviously affect the reliability of data and the ability to cross-reference or break down different variables.

Furthermore, to ensure consistency in trend data, the same questions need to be asked in each wave, which is not always the case. A common problem across cross-sectoral surveys with trend information, compromising their reliability, is that questions changed over time, as is the case with the Belgian and Spanish surveys identified by this study.

Surveys identified for this study differed in relation to their coverage (specific forms of violence or harassment covered, with some addressing the whole phenomenon of harassment and violence in the workplace and their impact, while others concentrated on specific aspects such as sexual harassment etc.). Both sectoral and cross sectoral surveys were identified.

Existing repeat surveys on workplace violence show diverging trends. In Belgium, for instance, the number of individuals experiencing or noticing violence in the workplace increased from 5.4% to 7.5% in the 2004-2010 time period. Contrastingly, in Romania the number of people reporting being exposed to physical violence or the threat of physical violence decreased from 2007-2013.

Surveys with trend information at a sectoral level more frequently reported increases in violence in the workplace. As an example, data on the Norwegian Labour and Welfare Service, found a report trend increase of 25% in instances of recorded workplace violence.

In relation to harassment in the workplace, national survey data show a decrease in Finland, Hungary and Spain in the level of harassment and discrimination. Focussing on the issue of sexual harassment, Belgian, Bulgarian, Swedish and Estonian survey data recorded increases in sexual harassment between 2012 and 2013. Gender differences were most visible concerning sexual harassment in the workplace. As an example, in Sweden 10% of men and 18% of women reported having been exposed to sexual harassment in the last 12 months and Norwegian evidence highlights that young women, particularly those working in the care sector, are at a higher risk of experiencing sexual harassment.

Concerning the incidence of mobbing, the majority of survey data with trend information showed no change over the last 2-7 years. Where there had been a change, data was more likely to point to an increase. In Germany, the share of council members who reported mobbing as an issue grew from 31.9% to 52.2% from 2005-2011. Similarly, in Finland the share of respondents who had observed bullying by co-workers increased from 24% to 40% in the time period 2010-2012. This upward trend has been frequently linked to the on-set of the crisis but may also be the result of greater awareness of this issue. Only in Belgium did the incidence of mobbing remain stable at 14% from 2004 to 2010 (Flemish Workability Survey). In general, much higher incidences of mobbing (above 10%) than sexual harassment and violence in the workplace (usually below 10%) were reported at a cross-sectoral level through survey data.

Table 2.1 Trend developments in repeat surveys on violence and harassment in the workplace over the last 7 years

Country	Violence	Harassment	Bullying/mobbing
AT	o	o	o
BE	x	x	o
BG	x ^{✓44}	x ⁴⁵	x ⁴⁶
CY	o	o	o
CZ	o	o	x
DE	o	o	x
DK	x*	✓*	x*
EE	o	x	n/d
EL	o	o	o
ES	✓	✓ ⁴⁷	x*
FI	✓ x	x	x
FR	o	o	o
HR	o	o	o
HU	o	✓	o
IE	o	o	o
IT	o	o	o
LT	o	o	o
LU	o	o	o
LV	o	✓	n/d
MT	o	o	O
NL	o	o ⁴⁸	✓
PL	n/d	n/d	n/d
PT	o	o	O
RO	n/d	n/d	n/d
SE	x	✓	O
SI	o	o	O
SK	o	o	O
UK	✓	x	x ⁴⁹
IS	o	o	O
LI	n/d	n/d	n/d
NO	o	x ⁵⁰	n/d

⁴⁴ Employers reported an increase, while employee reported a decline.

⁴⁵ Only sexual harassment was assessed.

⁴⁶ Category includes harassment and bullying.

⁴⁷ Only sexual harassment was assessed.

⁴⁸ Only sexual harassment was assessed.

⁴⁹ Category includes harassment and bullying.

⁵⁰ Only sexual harassment was assessed.

Source: Information gathered on national surveys on violence and harassment as part of this study (see full list of sources in bibliography)

Note: the following symbols indicate ✓ = decline, x = increase o = stable or n/d (no data)

*Data comparability is compromised

2.6.3 One-off survey data

One-off surveys at a cross-sectoral level offer information about the experience of violence and harassment in the workplace at a particular point in time, in a given country. Since the surveys conducted differ widely in their methodologies, data cannot be directly compared and cross-country trends can only be tentatively analysed.

The information gathered appears to indicate a trend increase in the number of surveys conducted on violence and harassment in the workplace in recent years. This could, in theory, be related to a rise in the awareness of psychosocial risks in the workplace in the national agendas. At the same time, however, it is also notable that some countries see spikes in interest and related survey information linked to high profile incidents of the impact of bullying, mobbing or violence.

Concerning their definitions of violence, some country surveys distinguished between physical and verbal violence (Estonia, Luxembourg, France), whilst others differentiated between violence and threats of violence (Lithuania, Poland, Slovenia). These differences, alongside disparities in the way questions were phrased, mean that different aspects of violence were investigated in a variety of ways. Nevertheless, most country surveys reported between 3% and 10% of workers experiencing “violence” in the workplace. At the opposite ends of the spectrum are Luxembourg, where a survey showed that 13% of workers reported frequent problems with physical violence, and Austria, where a survey found that 1% of employees reported having experienced physical violence in 2010. Some surveys assessed not only the extent to which violence in the workplace occurred but also its impact and how it was dealt with.

Frequently, the one-off surveys at a cross-sectoral level displayed an overlap in their definitions of violence and harassment in the workplace. In some cases harassment was included under the umbrella-term of psychological violence, whilst in other surveys it was a category of its own or there was a focus primarily on sexual harassment. For example, the Hungarian National Employment Service’s survey focused on sexual and racial/ethnic harassment as different forms of harassment. Yet, harassment or adverse social behaviour in the workplace was also defined as being insulted or shouted at (as in the Estonian “Working Life” survey) and being put in humiliating situations (as in a Hungarian survey on psychosocial risks at work). Reported instances of experiencing insults by co-workers or third parties were generally high. As an example, in France, 17% of individuals between 20 and 74 stated having been subjected to verbal aggression from a superior or co-worker and 25% reported having experienced aggression from a third party. In contrast, one-off cross-sectoral survey data on sexual harassment generally ranged from 1% to 4% reported incidences. However, across countries sexual harassment in the workplace was a particularly gendered phenomenon. As an example, the national survey carried out by the Croatian Gender Ombudperson in 2005 found that 37,5% of women reported being victims of sexual harassment at work.

Similarly, considerable linguistic overlap was noted between harassment and mobbing in the workplace. In surveys, much of what was classified as “harassment” or “verbal violence” could also be described as mobbing. Gender differences in reporting were, in cases where this was recorded, apparent for verbal abuse or mobbing. In France, 8.5% of women, as opposed to 5.7% of men, reported being “often or always exposed to verbal aggression, insults or threats”, whilst roughly the same percentage reported being exposed to physical aggression. In Ireland, 82.4% of females, compared to 68% of males, reported verbal abuse or insults in the workplace and in Lithuania 4.9% of female employees, in contrast to 2.5% males, said they had experienced psychological violence. Similar gender discrepancies were also found in Austria and Slovakia. Differences in incidence of mobbing were also found.

According to evidence from Lithuania, mobbing occurred more frequently in the education and culture sector, IT, financial and insurance activities, public administration and health and social work.

2.6.4 Sectoral survey data

The availability of sectoral survey data clearly reflects the sectors in which certain aspects of harassment and violence tend to be most prevalent. Thus, across countries, surveys on violence in the workplace were most likely to be conducted in the health and social care sector. This is likely to be related to the frequent occurrence of third-party violence by patients and the greater exposure of workers to social interactions. Interestingly, survey data on mobbing is more readily available across countries in the public sector.

Concerning all three analysed areas, violence, harassment and mobbing, sectoral survey data across countries show that in specific sectors violence and harassment is a common occurrence. Survey data reported a higher incidence of violence in the workplace for nurses in Croatia, Slovenia and Denmark. As an example, sectoral survey data from Slovenia recorded that 78.8% of nurses stated having experienced violence during their working life in 2010/11. Further, in a German study 20% of employees working in public employment services reported being harassed or attacked in the workplace. National cross-sectoral data, discussed in previous sections, indicated that these phenomena are far less prevalent on a national level. This again reflects the greater propensity of some sectors (public sector, commerce, education, health, transport) to be affected by issues surrounding third party violence.

Furthermore, whilst survey data across sectors did not show significant recent increases in violence and harassment at work, an upward trend becomes more apparent when conducting sectoral analysis. Survey data in Belgium (health and social care sector), Croatia, Denmark, Slovenia (nurses) and the UK (health care sector) reported increases in violence and harassment in the workplace, whilst survey results from Portugal (health care professionals) recorded an increase in mobbing. This could be largely attributed to the fact that overall third party violence appears to be on the increase, while other aspects (such as sexual harassment) are shown by some surveys to be declining.

3 The EU acquis and national legislation

While the **European Framework Directive** on health and safety at work 89/391/EEC does **not explicitly mention ‘psychosocial risks’ nor ‘harassment and violence’**, **indirectly such risks are covered as employers need to carry out an overall risk assessment taking into account any risk at the workplace**. Risk assessment must be holistic and also assess social relationships and all factors related to the work environment, taking account of changes in the workplace and environment. This could provide a reason for why a majority of EU and EEA countries do not explicitly mention psychosocial risks or deal with harassment and violence in the legislation.

On the other hand the **European Equal Treatment Directives** (2000/78/EC and 2000/43/EC, 2006/54/EC) provide a **definition of the term ‘harassment’** seen as a form of discrimination. Thus, most EU and EEA countries do have a similar definition of harassment in place under their national equal treatment legislation.

The Social Partner autonomous framework agreement on harassment and violence at work provides a description of harassment that seems to be strongly inspired by the one of the Equal Treatment Directives. ‘Violence’ is described as assault related to work circumstances. When read in conjunction with the introduction, this should be taken to relate both to physical and verbal violence. The ‘new’ aspect is that the agreement provides for a framework for prevention and managing incidences of harassment and violence at the workplace. Setting out a clear company policy on how to prevent harassment and violence and incidences are managed has the advantage to raise awareness in the company, provides a framework for the worker and third parties, delimits the role of the employer and protects victims.

National evidence suggests that **eight countries** (Belgium, Denmark, Finland, Luxemburg, Netherlands, Slovenia, Iceland and Norway) **deal with both harassment and violence in their health and safety legislation** including different types of prevention policies and management of incidences. **Three further countries** (Portugal, Poland and France) **include specific definitions of harassment (mobbing) into their health and safety laws**. Two more countries (Estonia and Hungary) provide a definition of psychosocial risks while another eleven EU and EEA countries sometimes mention the terms of stress, psychosocial risks, violence or harassment without giving a detailed definition or further specific prevention policies.

3.1 Introduction

This section aims to provide an overview of existing legislation in the EU and EEA countries’ national legislation addressing psychosocial risks and violence and harassment at the workplace.

While psychosocial risks is a terminology rooted in a health and safety approach, violence and harassment has a legal framework encompassing general labour rights and in anti-discrimination legislation, as well as civil and criminal law. Thus an evaluation of how national legislation approaches the protection of workers from harassment and violence at work is particularly challenging as a number of legal sources have to be taken into account.

This study has focussed on harassment and violence as part of the health and safety legislation or other legislation addressing prevention of harassment and violence at the workplace rather than legislation on judicial remedies for workers who have been victim of harassment and violence. Yet, it should be noted that there are two legal paradigms regarding the care and welfare/well-being of the worker. While the employer has a general contractual duty of care towards the worker (employment contract) the degree of liability and protection of well-being of the worker depends on the inter-connection of employment law and health and safety law. There are different legal regimes currently in EU and EEA countries: on the one hand a more extensive legislation on ‘well-being’ at work has been developed under the health and safety paradigm since the mid-nineteenth century covering all aspects of employers liability to ‘well-being’ and workers integrity at the workplace in connection with the contractual liability of the employer on ‘care’ as stated under the law governing the employment contract. On the other side, many EU and EEA countries cover

care and workplace well-being under the law governing the contract of employment linking such a provision less to health and safety legislation. Thus employers are liable to various degrees and under different types of legislation for cases where workers are victims of harassment and violence by other workers, managers or third parties. In addition, the degrees of liability and sanctions are further set out under civil and criminal laws where it will further become apparent to what extent the employer is liable for the general duty to ensure health and safety of the worker and cases of harassment or violence. It is common that employers have a civil law liability due to a breach of their contractual liability of 'care'. Criminal law would in general allow the victim of harassment or violence to claim damages from the perpetrator. It seems, however that in particular with regard to harassment not in all EU and EEA countries criminal law recognises the various forms of harassment or psychological violence.

This makes the current legislation dealing with harassment and violence in the workplace very patchy. This situation becomes apparent from the analysis of the laws and rules applying to harassment and violence at the workplace in EU and EEA countries also with regard to the variety of wording. Currently the term 'mobbing' is more popular than 'mental harassment' but typically covers the same issue. However, unless 'mobbing' is the only term used in the national legal context it would not take sufficient account of the physical dimension of harassment. The same holds true for the term 'bullying' and 'bossing' – these could be both terms describing either psychological forms of violence or physical harassment. While the legal term harassment could actually be better used to describe all forms of harassment, some countries seem to bring in the 'popular' expression of mobbing into the legal context. Further research would be needed to find out more about what type of definition could be used to unify the different use of terms which would ultimately help workers and employers to better understand and analyse their own conflictual situations.

The Social Partners autonomous framework agreement provides a definition of harassment that seems to be strongly inspired by the one of the Equal Treatment Directives but indicates in its introduction different forms of harassment and violence which are not further included under the 'description' part of the agreement. 'Violence' is described as assault related to work circumstances. Thus this description of violence does not take into account threats of violence and does not further distinguish between physical and verbal violence (taking aside the statements under the introduction). The new aspect added, compared to other European rules, by the Social Partners agreement (despite the fact that the agreement is a non-binding instrument) is that it deals with prevention and management of incidences of harassment and violence more specifically.

3.2 Health and safety legislation

The European Framework Directive 89/391/EEC sets out the general framework for health and safety at work including – among others – the responsibilities of employers and workers for worker information and training, as well as worker consultation and participation. The Directive elaborates under Article 6.1 and 2 that employers shall - within the context of their responsibilities - take the measures necessary for the safety and health protection of workers by implementing prevention measures *'avoiding risks; evaluating risks that cannot be avoided; combating risks at source; adapting the work to the individual, especially as regards the design of work places, the choice of work equipment and the choice of working and production methods, with a view, in particular, to alleviating monotonous work and work at a predetermined work-rate and to reducing their effect on health'*. Furthermore, employers shall *'develop a coherent overall prevention policy which covers technology, organization of work, working conditions, social relationships and the influence of factors related to the working environment'*. Under the same Article paragraph 3 the Directive further elaborates that the *'employer shall, taking into account the nature of the activities of the enterprise and/or establishment:*

(a) evaluate the risks to the safety and health of workers, inter alia in the choice of work equipment, the chemical substances or preparations used, and the fitting-out of work places.

Subsequent to this evaluation and as necessary, the preventive measures and the working and production methods implemented by the employer must:

— assure an improvement in the level of protection afforded to workers with regard to safety and health,

— be integrated into all the activities of the undertaking and/ or establishment and at all hierarchical levels.’

While neither the EU Framework Directive nor other EU health and safety rules explicitly mention psychosocial risks or violence and harassment, it becomes clear from the provision of Article 6 that employers need to carry out an overall risk assessment taking into account any risk at the workplace. Risk assessment must be holistic and also assess social relationships and all factors related to the work environment. It is standard in health and safety risk assessments that risk assessments are updated and recognise changes in the workplace and work environment.

Typically a risk assessment will rank all those risks that are not sufficiently controlled – residual risks. The general aim of the assessment is to reduce all residual risks to a reasonably practicable low level. One needs to note, that the higher the risk is ranked, the sooner it should be also addressed. All risks need to be dealt with in an acceptable time frame.

It should furthermore be noted that the principle of hierarchy in health and safety prevention foresees that risk elimination and control can be better maintained and monitored if engineered control safeguards are used – meaning that the degree of risk control is much higher when using a machine with applied physical safeguards eliminating risks of accidents. Risk control is less reliable when having to rely on people ensuring risk control.

Psychosocial hazards at work cover all those factors that have a direct or indirect influence on the worker’s psychological well-being. These factors can cover a number of things from work content and work context – among others – job content, work load, work schedule, work organisation, control (lack of participation in organisation) or interpersonal relationships. On the basis of this definition it becomes clear that psychological strain can influence individuals differently, making a risk assessment rather complex and it already hints to the fact that safeguard procedures will link to work organisation but also rely on people. Thus ensuring control of psychosocial risks necessitates rather frequent updates, clearly set out procedures, consultation and information to ensure that people handling complaint procedures can take effective measures and workers experiencing problems know how to receive help to ensure to keep the risks at a reasonably low level.

That clear definitions of psychosocial hazards including harassment and violence should be specifically defined in health and safety provisions was also recognised by an opinion of the Advisory Committee on Safety, Hygiene and Health Protection at Work of 29 November 2001 addressing violence at the workplace. The opinion defines ‘violence at the workplace in all its forms and irrespective of whether it originates inside or outside the work itself, as a risk factor which the employer, whether public or private, has a duty to assess and prevent or reduce by means of specific measures in the same way as all other risks factors, pursuant to Article 6 of the Framework Directive’⁵¹.

The following analysis and table will set out what are definitions of psychosocial risks and whether clear guidance is available on how to carry out in particular risk assessment and prevention.

3.2.1 Definitions of violence and harassment in national health and safety legislation

Different approaches can be seen at European level concerning the inclusion of a definition of violence and harassment in national health and safety legislation. It is worth mentioning that the comparison of the provisions included in the different national health and safety

⁵¹ Advisory Committee on Safety, Hygiene and Health Protection at Work (2001); Draft option on the New Community Strategy for Health and Safety at Work 2002-2006

legislations was made more difficult due to the different traditions of legal systems (as explained above) and the way of codification of health and safety and equality provisions.

Firstly, it should be noted that in most of the countries studied, there is no specific mention made to the fact that 'psychosocial risks' are to be included in the risk assessment. However, this does not mean that in these countries, national legislation does not protect workers against psychosocial risks. Indeed, when psychosocial risks are not mentioned as such in national legislation, a broader reference is made to the obligation to take into account 'all risks' or 'all kinds of risks'. This indirectly enables psychosocial risks to be included in the legal framework of the national health and safety legislation, however there is a risk that in these countries, companies classify psychosocial risks rather as low or not at all, and thus will not sufficiently deal with this type of hazard.

Only 4 countries provide a more specific definition of psychosocial risks: Belgium, Estonia, Hungary and Iceland. In a further 3 countries psychosocial risks are mentioned in connection with psychosocial hazards of harassment and violence, mobbing and bullying. This is the case of the Netherlands, Slovenia and Norway. In another 8 countries simply the term 'mental', or 'psychological' or 'psychosocial', or 'integrity and dignity' is explicitly mentioned in setting out the employers responsibility for the risk assessment (Austria, Germany, Denmark, Finland, France, Latvia, Portugal and Liechtenstein). Finally, Italy and Hungary explicitly refer to stress having to be addressed in the risk assessment.

In addition, violence and harassment are specifically mentioned in 11 national health and safety legislation of the studied countries. Among these eleven countries, France, Portugal and Iceland only include a reference to harassment. Other countries included both violence and harassment in their national health and safety legislation. This concerns Belgium, Denmark, Finland, Luxemburg, the Netherlands, Iceland and Norway. Again, other countries refer to harassment or violence. In the case of Sweden, only violence, threat of violence and victimisation are included without any direct reference to harassment and causes of harassment⁵². In the case of France, the Labour Code refers only to moral harassment and sexual harassment without referring to violence at the workplace. Other countries refer to violence and harassment but also go further in their definition about specific forms of harassment and violence. This includes Slovenia whose legislation refers also to mobbing or Denmark whose legislation refers to mobbing and bullying. Finally, a case apart is Austria, a 'zero tolerance' clause is stated in the law governing employment relations of public service employees.

Countries have also opted for different approaches in relation to the definition of harassment. Some countries simply do not define harassment in their national health and safety legislation. Other countries such as France, Portugal or Iceland prefer to define harassment using the outcomes of this phenomenon which is often stated as 'resulting in violating workers' dignity, affecting their health, and or creating a hostile work environment'. This usually follows the definition from the European Anti-discrimination Directives. Other national health and safety legislation has tried to be more precise in defining what is considered as harassment. For instance, Slovenia and Finland mention that harassment is 'undesired' conduct of verbal, symbolic or physical nature. Luxemburg adds to the definition of moral harassment that it affects physical and mental health, in the same way as France. In the Netherlands, a number of factors are mentioned that try to define harassment. This includes stress, sexual harassment, and aggression, intimidating forms of teasing or bullying without the use of violence, high work pressures. Finland and Sweden specifically set out actions for the employer for risk assessment and preventive measures to address violence or threats of violence without further defining it. Finally, Belgium can be considered as the country that includes all different forms of harassment in its legislation explicitly. According to Belgian law, harassment can involve: 'conduct, verbal, intimidation, acts, gestures or unilateral writings'. The same holds true for violence which also explicitly includes psychological

⁵² At the time of writing of this report (December 2014), proposals had been drawn up to widen the scope of Swedish legislation, but has had not yet been adopted by the new government.

violence. Acts of violence can be either physical or verbal aggressions. The Belgian well-being at work law specifically covers harassment and violence from third parties.

In most of the EU and EEA countries, guidance is provided by the Labour Inspectorate, the Labour Ministry or a tripartite body. These guidance documents can take several forms such as Guidelines, or handbooks containing advice like in Norway, but also more specific tools as for instance an online tool helping to assess psychosocial risks as provided by the Institute on health and safety in Germany or the tripartite developed website in Austria. These 'official guidance materials' could be identified in 14 countries. In some of the other countries, guidance on psychosocial risks in risk assessment is sometimes elaborated by regions, like in Italy for example, or by trade unions in specific sectors.

Country	Psycho-social risks specifically included	Violence and harassment specifically included ⁵³	Definitions provided	Guidance provided
AT	Yes	No for civil law employees; for public service employees – (m) a zero tolerance of “mobbing” is stated in public service legislation	<ul style="list-style-type: none"> ■ Health and Safety law defines: employers are obliged to take measures to ensure the health and the “integrity and dignity” of the workplace. Workplace strain is defined explicitly as both physical and psychological. ■ The public service regulation does not provide a definition of “mobbing” 	Yes, the occupational accident insurance, tripartite developed website to assist employers with risk assessment
BE	Yes	Yes v&h	<ul style="list-style-type: none"> ■ Psychosocial risks are defined as the probability that one or more employees may suffer psychological damage which can be due to exposure to components of the work organization, job content, working conditions, work environment and interpersonal relationships in the workplace, which the employer has an impact on and which can be objectively regarded as a danger. ■ Harassment: every abusive and repeated act of any origin (external or internal to the company or institution), including through conduct, verbal, intimidation, acts, gestures or writing, with the purpose or effect of violating the personal, dignity or physical or psychological integrity of a worker, jeopardizes their employment or creates an intimidating, hostile, degrading, 	Yes, mainly the Ministry of Labour

⁵³ v indicates that violence is covered, h that harassment is covered, v&h that both violence and harassment are covered; m indicates that mobbing is specifically mentioned; b means bullying is also specifically covered

Country	Psycho-social risks specifically included	Violence and harassment specifically included ⁵³	Definitions provided	Guidance provided
			<p>humiliating or offensive work environment</p> <ul style="list-style-type: none"> ■ Violence: every act whereby a person is psychologically or physically threatened or attacked during the execution of their work. It is expressed predominantly by actions such as threats, physical aggression or verbal aggression. <p>Employers also need to ensure prevention of third-party violence.</p>	
BG	No	No	N/A	No information provided
CY	No	No	N/A	No information provided
CZ	No	No	N/A	No information provided
DE	Yes	No	General risks to psychological health need to be taken into account in risk assessment ; mentions that psychosocial risks should be taken into account in the risk assessment	Yes – provided by the tripartite body that implements and monitors the national OSH strategy; OSH control authorities on “mobbing”; Federal Institute for OSH – provides a tool and free of charge evaluation of psychosocial risks; tripartite initiative on better quality workplaces INQA; NGOs, trade unions – material focuses on mobbing mainly
DK	Yes	Yes – v&h and m&b	<p>“Risks of mental or physical health impairment due to bullying, including sexual harassment.”</p> <p>The definitions of harassment and violence in the workplace are not provided directly in</p>	Yes, Danish Working Environment Authority Guidelines interpreting the law; handbook containing advice, operation of a helpline in case of mobbing;

Country	Psycho-social risks specifically included	Violence and harassment specifically included ⁵³	Definitions provided	Guidance provided
			the law but rather in the Guidelines issued by the Danish Working Environment Authority.	specific guidelines issued for bullying and sexual harassment; on third party work-related violence covering physical and psychological violence perpetrated by clients or customers; guidelines for enterprises on ways to identify psychosocial risk
EE	Yes	No	Psychological risk factors are 'monotonous work or work not suitable to the abilities of a worker, poor work organisation, working alone for an extended period of time, or other similar factors that may gradually cause changes in the mental state of a worker'.	Yes, Labour Inspectorate and the Ministry of Social Affairs – Guidance and training (respectively)
EL	No	No	"All kinds of risks to be included in the risk assessment"	Yes, Labour Inspectorate; occupational health service
ES	No	No	N/A	Yes - The Labour and Social Security inspectorate
FI	Yes	Yes – h&v	Definitions as set out in the health and safety act describe that the employer has to prevent harassment, and threats of violence and violence (including third-party violence), as well as victimisation. Harassment is considered to be inappropriate treatment. More extensive definition only given under equality legislation.	Yes, The Occupational Safety and Health Administration ; social partner organisation
FR	Yes	Yes moral harassment (in the Labour Code)	Employers are responsible for evaluating the different types of risks affecting each employee and for taking measures to ensure their security and protect both their physical and mental health.	

Country	Psycho-social risks specifically included	Violence and harassment specifically included ⁵³	Definitions provided	Guidance provided
			No employee should suffer repeated acts of moral harassment aiming at or resulting in a degradation of his/her working conditions likely to affect his/her rights or dignity, alter his/her physical or mental health or compromise his/her professional development'	
HR	(Yes – stress only)	No	The Health and Safety Act states that employer should prevent stress.	No information provided.
HU	Yes	No	Psychosocial risks are defined as: 'the sum of impacts affecting a worker at the workplace (conflicts, work organisation, work schedule, uncertainty of employment etc.) that influence his responses to such impacts, or in relation to which he may experience stress, suffer an accident at work or a physical illness caused by mental strain (psychosomatic illness)'	Yes, The Occupational Safety and Health Inspectorate - Guidelines
IE	No	No	N/A	Yes, the Health and Safety Authority
IT	(Yes, - stress only)	No	The main unified text includes in its annex the EU framework agreement on stress – thus uses the definition of stress	Only at regional level
LT	No (indirect)	No (indirect)	Indirectly the law includes "all risks", acts of violence are considered as accidents. Psychological violence is not covered.	Yes, Inspectorate –guide on risk assessment including recommendations to assess psychosocial risks
LU	No	Yes (h&v – under Labour Code)	<ul style="list-style-type: none"> ■ Moral harassment: occurs when a person within the company commits towards another company member, repeated and deliberate, wrongdoing whose object or effect are: <ul style="list-style-type: none"> - either to undermine their rights or dignity; 	No information provided.

Country	Psycho-social risks specifically included	Violence and harassment specifically included ⁵³	Definitions provided	Guidance provided
			<ul style="list-style-type: none"> - or damage their working conditions or jeopardize their professional future by creating an intimidating, hostile, degrading, humiliating or offensive environment; - or affect their physical or mental health. ■ Violence at work: assaulting a worker through deliberate acts that have the effect or purpose of impairing the other person's physical or mental integrity. ■ Both definitions expressly refer also to third parties. 	
LV	Yes	No	Term is only mentioned	No information provided.
MT	No (indirect)	No	"all risk are covered physical and psychological"	No information provided.
NL	Yes	Yes, v&h	Psychosocial risks have to be assessed by taking into account a number of factors such as : stress, sexual harassment, violence, aggression, intimidating forms of teasing or bullying without the use of violence, high work pressures – there is physical violence and psychological harassment/ harassment on discriminatory grounds / sexual harassment – difficult to qualify aggression – either violence or harassment	Yes, social partners, Ministry of Social Affairs and Employment, occupational health services provide the more specific assistance with risk assessments
PL	No	Yes, (m) (in the Labour Code)	It is expected that all risks are assessed however the term psychological or psychosocial risks are not mentioned. Labour Code defines mobbing as any action of persistent and long-term harassment or intimidating actions directed to the employee which have a negative impact on professional performance. These actions cause or aim at humiliating the employee and /or separating or excluding them from	No information provided.

Country	Psycho-social risks specifically included	Violence and harassment specifically included ⁵³	Definitions provided	Guidance provided
			the team. The employee suffering from ill-health due to actions of mobbing may claim compensation from the employer.	
PT	Yes	Yes, h (in the Labour Code)	Harassment is defined as “all unwanted behaviour, based on discrimination in the workplace which has the effect of disturbing or constraining the person with regard to his dignity, or creating an intimidating, hostile, degrading, humiliating or disruptive environment”.	No information provided.
RO	No	No	N/A	No information provided.
SE	No	Yes – v – (h – amendments are currently under discussion)	The Work Environment Act defines that “all risks need to be included in a risk assessment”. Furthermore a specific chapter deals with violence and threats of violence. It states that workplaces should be designed in a way to avert violence or threats of violence as far as possible. Further rules are set out with regard to prevention measures.	No information provided.
SI	Yes	Yes – v&h, and m	<ul style="list-style-type: none"> ■ Some provisions on health and safety were included in Employment Relationships Act. ■ Harassment and sexual harassment defined as under Anti-Discrimination and Equal Treatment Directive. ■ The “conduct” referred to in is further defined with the mention of “undesired verbal, non-verbal or physical action”. ■ Bullying at the workplace is any repetitive or systematic, reprehensible or clearly negative and insulting action or behaviour aimed at individual workers in 	No information provided.

Country	Psycho-social risks specifically included	Violence and harassment specifically included ⁵³	Definitions provided	Guidance provided
			the workplace or in connection with work.	
SK	No (indirect)	No	The employer is required to identify dangers and threats, assess risks and elaborate a written document on risk assessment for all activities carried out by employees.	No information provided.
UK	No (indirect)	No	The employer has a legal duty to ensure the health, safety and welfare of the employee	Yes, ACAS and social partners - Joint Guidance and The ACAS guide on Bully and Harassment
IS	Yes	Yes - h	Harassment at the workplace is understood as “amendable or repetitive unacceptable conduct, i.e. conduct or behaviour that may lead to humiliation, demean, insult, hurtfulness, discrimination or intimidation and cause bad feelings with the person in question.”	Yes, Administration of Occupational Safety and Health published various brochures/guidelines regarding social and psychological risk factors in the working environment. Among them are brochures concerning harassment in the work place, prevention and reactions.
LI	(Yes)	No	“risk assessment should take into account psychological risks”	Yes, labour inspectorate, brochures on what mobbing is and how to prevent sexual harassment
NO	Yes	Yes – v&h	No definitions provided in the law - health and safety law simply provides that employers need to ensure prevention of harassment, violence and threats of violence; cooperation of employers and employees with regard to psycho-social work environment.	Yes, the Government – Guidelines as part of the national project “Working without bullying”

3.3 Equal treatment legislation

The EU Directives on equal treatment (or Anti-discrimination Directives 2000/78/EC and 2000/43/EC) are based on Article 13 of the EU Treaty which prohibits discrimination (including harassment) on various grounds. These Directives define harassment as a form of discrimination and consider any form of 'unwanted conduct related to any of the grounds (race, ethnic origin, sexual orientation, age, religion or belief, disability) which takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment'. It should be noted that this definition does not contain a description on how to determine which conduct constitutes harassment and how prevention of such conduct would be ensured. It should also be noted that 'violence' was not subject under the EU equal treatment Directives.

The following section provides further information on existing definitions of harassment and violence within equal treatment legislation.

3.3.1 Definitions of violence and harassment in national equal treatment legislation

In addition to dealing with harassment and violence in national health and safety legislation (in some countries), a reference to harassment can be found in all countries' anti-discrimination legislation. However none of these countries include a definition or even a reference to the concept of violence in this context. Specific references to sexual harassment are generally included.

Directives 2000/78/EC and 2000/43/EC concerning equal treatment on various grounds at the workplace have had a significant impact on EU Member States and more particularly on Central and Eastern Europe. Anti-discrimination legislation was a key part of the *acquis* to implement in their accession process. As a result, most of these countries have transposed the definition of the Anti-discrimination Directives verbatim. In the EU-15, the definitions can vary but the basis of the definition of harassment as described in Directive 2000/78/EC and 2000/43/EC is maintained. Germany and Iceland provide a more extensive definition of sexual harassment including not only physical and verbal but also symbolic harassment. For instance in Germany the definition tries to capture different realities of sexual harassment and mentions the different forms it can take such as calls for physical contact of a sexual nature, comments of a sexual nature and unwanted display of pornographic representations.

In Belgium, which has the most extensive definitions on harassment and violence in its health and safety legislation, under equal treatment law, reference is made to the well-being at work Act. The opposite can also be the case. For example in Finland health and safety legislation makes reference to equal treatment legislation with regard to the definition of harassment. Generally speaking, however, in most European countries there is no clear link established between equal treatment and health and safety law. However, despite the fact that national legal frameworks can lack clarity in this regard, the German example shows that in practice a relationship can be established between these diverse pieces of legislation. The definition of harassment introduced due to the Equal treatment Directives and implemented into the German equal treatment law (AGG) has served as a framework for the German labour courts to deal with cases of 'mobbing', which are not expressly linked to cases of discrimination. On the basis of the employers duty of care arising from § 241 paragraph 2 and § 242 BGB (Civil law Code), the employer is obliged to protect the employee from harassment by supervisors, employees or third parties over whom s/he has influence. However, the main issue in litigation is the question of when the employer must intervene in an individual case and what measures can be expected to be taken by the employer.

National guidance documents on harassment in the context of equal treatment legislation are less frequently provided than in relation to relevant OSH legislation. If guidance is in place, the national equality bodies and NGOs are most often responsible for guiding or helping the victims. It can be concluded on the basis of the information available that guidance is not comprehensive in particular in countries where harassment is only covered under equal

treatment legislation on how employers can prevent harassment on grounds of discrimination only.

It should be noted here that equal treatment legislation has in general shifted the burden of proof to the respondent (for workplace cases the employer or perpetrator).

Country	Harassment specifically included (yes/no)	Violence specifically included (yes/no)	Definitions provided	Guidance provided (yes/no; by whom)
AT	Yes	No	Harassment and sexual harassment defined as under Anti-Discrimination Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directives (Gender Recast Directive 2006/54/EC)	There is some general guidance available with regard to mobbing and violence at the workplace from different sources, such as the public health portal, Chambers of Labour or trade unions. General publication issued by the Ministry of Health and Labour – guidance on preventing and intervening in cases of mobbing.
BE	No (Act on well-being at work applies)	No (Act on well-being at work applies)	Same as above under health and safety	Yes, by the Federal Centre on Equality of Chances / Centre on Migration
BG	Yes	No	No specific definition of harassment.	The Commission of the Anti-Discrimination Committee (ADC)
CY	Yes	No	Harassment and sexual harassment defined as under Anti-Discrimination Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directives (Gender Recast Directive 2006/54/EC)	Guidance provided by tripartite body on Equality legislation with specific focus on sexual harassment – Code of Conduct was developed
CZ	Yes	No	Harassment and sexual harassment defined as under Anti-Discrimination Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directives (Gender Recast Directive 2006/54/EC) .	Typically NGOs provide guidance or help for victims
DE	Yes	No	Harassment as in the Directive on Equal treatment at the workplace, including sexual harassment: unwanted sexual behaviour, including unwanted sexual acts, calls for physical contact of a sexual nature, comments of a sexual nature and unwanted visible displays of pornographic representations, intends to or violates the dignity of the person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.	No information provided.
DK	Yes		Sexual harassment constitutes gender discrimination	No information provided.

Country	Harassment specifically included (yes/no)	Violence specifically included (yes/no)	Definitions provided	Guidance provided (yes/no; by whom)
			and is defined as any kind of unwanted (non-)verbal or physical behaviour of a sexual nature, with the aim or effect of violating a person's dignity, particularly by creating a threatening, hostile, degrading, humiliating or unpleasant social environment. Harassment is defined as any kind of unwanted (non-)verbal or physical behaviour in relation to the protected criteria, with the aim or effect of violating a person's dignity, particularly by creating a threatening, hostile, degrading, humiliating or unpleasant social environment	
EE	Yes	No	Harassment and sexual harassment defined as under Anti-Discrimination Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directives (Gender Recast Directive 2006/54/EC)	Not provided
EL	Yes	No	Sexual harassment; employer has the duty to ensure that no employee is subject to unwanted offensive sexual behaviour	Yes, Ombudsman
ES	Yes	No	Harassment and sexual harassment defined as under Anti-Discrimination Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directives (Gender Recast Directive 2006/54/EC). Spain seems to focus more on gender based harassment in its definitions	Yes, a protocol has to be negotiated between public employers and trade unions on information/handling of complaints
FI	Yes	No	Harassment is defined as under Anti-Discrimination Directive; sexual harassment as a discrimination on the basis of sex	No information provided
FR	Yes (general law – Labour Code)	No	No employees should suffer from acts of 1) sexual harassment, i.e. repeated verbal or physical behaviours with a sexual connotation which either offend dignity due to their degrading or humiliating	

Country	Harassment specifically included (yes/no)	Violence specifically included (yes/no)	Definitions provided	Guidance provided (yes/no; by whom)
			character or create an intimidating, hostile or offending situation; 2) assimilated to sexual harassment, i.e. any form or serious pressure, including when not repeated over time, whose real or apparent aim is to obtain an act of sexual nature directed towards the offender or a third person'	
HR	Yes	No	Harassment and sexual harassment defined as under Anti-Discrimination Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directives (Gender Recast Directive 2006/54/EC).	No information provided.
HU	Yes	No	Harassment and sexual harassment defined as under Anti-Discrimination Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directives (Gender Recast Directive 2006/54/EC).	No information provided
IE	Yes	No	Harassment is defined as 'unwanted conduct' under the Act	No information provided
IT	Yes	No	Not provided but harassing behaviour is considered as discriminatory behaviour	No information provided
LT	Yes	No	Harassment and sexual harassment defined as under Anti-Discrimination Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directives (Gender Recast Directive 2006/54/EC).	Yes, Ombudsman
LU	Yes	No	Harassment and sexual harassment defined as under Anti-Discrimination Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directives (Gender Recast Directive 2006/54/EC).	No information provided
LV	Yes	No	Harassment and sexual harassment defined as under Anti-Discrimination Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directives (Gender Recast Directive 2006/54/EC).	No information provided

Country	Harassment specifically included (yes/no)	Violence specifically included (yes/no)	Definitions provided	Guidance provided (yes/no; by whom)
MT	Yes	No	Harassment and sexual harassment defined as under Anti-Discrimination Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directives (Gender Recast Directive 2006/54/EC).	Yes, National Commission for the Promotion of Equality (NCPE) implemented numerous activities on harassment, sexual harassment and discrimination in the workplace
NL	Yes	No	Harassment and sexual harassment defined as under Anti-Discrimination Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directives (Gender Recast Directive 2006/54/EC).	No information provided.
PL	Yes	No	Harassment and sexual harassment defined as under Anti-Discrimination Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directives (Gender Recast Directive 2006/54/EC).	No information provided.
PT	Yes	No information provided.	Harassment is defined as “all unwanted behaviour, based on discrimination in the workplace which has the effect of disturbing or constraining the person with regard to his dignity, or creating an intimidating, hostile, degrading, humiliating or disruptive environment”.	No information provided.
RO	Yes	No	Harassment and sexual harassment defined as under Anti-Discrimination Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directives (Gender Recast Directive 2006/54/EC).	No information provided.
SE	Yes	No	No information provided.	No information provided.
SI	Yes	No	The definitions of harassment and bullying (see below) are included in more general way: the Employment Relationships Act.	No information provided.
SK	Yes	No	Harassment and sexual harassment defined as under Anti-Discrimination Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directives (Gender Recast Directive 2006/54/EC).	No information provided.

Country	Harassment specifically included (yes/no)	Violence specifically included (yes/no)	Definitions provided	Guidance provided (yes/no; by whom)
UK	Yes	No	Harassment and sexual harassment defined as under Anti-Discrimination Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directives (Gender Recast Directive 2006/54/EC).	No information provided.
IS	Yes (only with regard to sexual harassment – all forms of harassment regulated under H&S law)	No	Sexual harassment is defined as constitutes sexual behaviour that is unreasonable and/or insulting and against the will of those who are subjected to it, and which affects their self-esteem and is continued in spite of a clear indication that this behaviour is unwelcome. Sexual harassment can be physical, oral or symbolic. One event may be considered sexual harassment if it is serious.	No information provided.
LI	Yes	No	Harassment and sexual harassment defined as under Anti-Discrimination Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directives (Gender Recast Directive 2006/54/EC)."	No information provided.
NO	Yes	No	No information provided.	No information provided.

3.4 Other relevant legislation

OSH and equal treatment legislation are not the sole legislative provisions governing the issues of harassment and violence at work. Because of the very nature and impact of such instance on the integrity of the person, provisions also exist in civil, criminal and labour law which lead to liabilities for employers (or perpetrators).

In many of the EU and EEA countries, harassment and/or violence is recognised as an offense under national criminal legislation. Fines or even years of imprisonment can be included as sanctions (e.g. in the Labour Code like in France or Hungary).

Similarly, in most countries, there is also a mention of the responsibility and liability of the employer towards the employee in the civil law. Fines and other sanctions can be imposed for failing to protect individual employees from harm.

Furthermore, labour or contract law can also include provisions imposing a duty of care on the employer. Failure to meet this duty of care can be considered a breach of contract (for example in Latvian and UK labour law).

In relation to all legislation governing violence and harassment, bringing a relevant case can be challenging. Although not covered in detail by this study, examples on issues arising in bringing relevant cases were provided through the country studies.

From the Belgian experience on the prevention of harassment and violence at the workplace⁵⁴ it appeared that by only addressing stress, harassment and violence without a broader definition of psychosocial risks, complaint procedures were over used by workers, due to the fact that companies did not substantially change their prevention policies or provide efficient internal procedures for those cases of harassment and violence. Internal procedures were already set in the beginning, however the different roles of prevention officers, the joint health and safety committee, the employer, labour inspectorate and further involved bodies were not sufficiently set out in the initial law. Furthermore, an evaluation⁵⁵ came to the conclusion that the law should emphasise training and information of all bodies (employers, line managers, prevention councillors, persons of confidence, workers) and clearly inform all stakeholders about the limits of the legislation with regard to facts of harassment and violence and delimit the possibilities of complaints at the Labour Inspectorate or Labour Courts. Thus, in its 2014 reform the new Act on well-being at work included a definition of psychosocial risks, also including 'burn-out', and set out that each company has to provide for an internal formal and informal complaint procedure. This would allow for more possibilities for workers to bring facts of harassment and violence to the attention of the employer and to find remedy. An employer failing to provide the risk assessment of psychosocial risks may face legal prosecution.

⁵⁴ Belgium has already twice reformed the initial rules in 2007 and in 2014.

⁵⁵ <http://www.emploi.belgique.be/publicationDefault.aspx?id=4310>

Country	Other relevant legislation (e.g. any reference Civil Law; Penal law etc in particular with regard to integrity protection of the worker and any reference to procedures against the perpetrator)
AT	Paragraph 1157 of the Austrian Civil Code (<i>Allgemeines Bürgerliches Gesetzbuch</i>) requires employers to organise the working environment in such a way as to protect the health and safety of the employee. Article 18 of Law on Employees (<i>Angestelltengesetz</i>) also imposes a duty of care on the employer.
BE	Criminal Law and Civil Law Code provide procedures to ask for damages and to ask for recognition of the ill-health consequences due to harassment, violence and psychosocial risks as occupational related illness
BG	Since 2013, the Criminal Code sanctions physical assaults on doctors and teachers at the workplace, making it a crime that is punishable by up to 15 years in prison, depending on the degree of the injury. No legal provisions regarding reparations for workers exists.
CY	Employer can be held liable for acts of harassment at the workplace – rules are set out under the Civil and Criminal law Code
CZ	No information provided
DE	Paragraph 618 of the Civil Code, which protects workers from threats to their life and health and makes employers liable for failing to offer appropriate protection; employers duty of care arising from § 241 paragraph 2 and § 242 Civil Code
DK	No further information provided.
EE	No further information provided.
EL	Law 3500/2006 foresees imprisonment and claims for damages in cases of sexual harassment and forbids laying off a worker who has been subjected to sexual harassment.
ES	Yes the Criminal Code recognises harassment at the workplace as a penal offense. It is defined as the action taken by individuals, “who, within the workplace or in a public administration, abuse of their position repeatedly to take actions that are hostile or humiliating and, even if not constituting a degrading treatment, lead to a serious harassment of the victim”. The Royal Legislative Decree 5/2000 approving the consolidated text of the law on infractions and sanctions in the social field states that sexual harassment, harassment on ground of racial or ethnic origin, religion or beliefs, disability, age and sexual orientation and gender-related harassment are very serious infractions.
FI	No further information provided.
FR	Different types of sanctions are applied, including disciplinary sanctions taken by the employer (articles L. 1152-5 and L. 1153-6 of the Labour Code). Discrimination following moral or sexual harassment is punished by 1 year of prison and a fee of EUR 3 750 (article L1155-2). Sexual harassment and moral harassment is punished by 2 years of prison and a fine of EUR 30,000 EUR (article 222-33-2 of the Penal Code).
HR	The Criminal Code of 2011 (amended in 2012) prohibits mobbing at work as a criminal offence. The Obligations Act of 2005 (amended in 2008 and 2011) regulates moral damages when so-called personal rights are offended. Victims of mobbing at work

Country	Other relevant legislation (e.g. any reference Civil Law; Penal law etc in particular with regard to integrity protection of the worker and any reference to procedures against the perpetrator)
	can claim moral damages based on the Articles of the Obligations Act regulating personal rights. Although not explicitly mentioned, physical violence at work, as any other physical violence, is regulated by the Criminal Code.
HU	The Act C of 2012 of the Criminal Code regulates harassment. The person found guilty of harassment is punishable by imprisonment not exceeding one year, insofar as the act did not result in a more serious criminal offense.
IE	Incidents of violence at the workplace can also be prosecuted using criminal law statutes and case law (as bodily harm, grievous bodily harm or assault).
IT	Not specific to workers – In 2013 a new law was approved to ensure a better enforcement of the criminal law in cases of violence against women. 'Urgent measures on security and prevention of gender violence' (Law 119/213) ⁵⁶ .
LT	Criminal Code contains more general (relevant not only in the workplace context) provisions regarding sexual harassment, defamatory statements and insult.
LU	No further information provided.
LV	Article 100(5) of the Labour Law gives employees the right to terminate their employment contract without complying with the specified notice period in cases where considerations of morality and fairness do not allow the continuation of employment legal relationships
MT	No further information provided.
NL	Article 7:658 of the Civil Code regulates the responsibility and liability of the employer vis à vis the employee. The employer must prevent (as far as possible) any harm from coming to the employee (and his/her possessions) at the workplace. The employer is liable for damage if he fails to prove that he has met these obligations. Very serious forms of harassment (for example including violence or severe forms of racial discrimination) may also lead to criminal prosecution under the Penal Code
PL	No further information provided.
PT	The offenses identified in the Penal Code in relation to physical integrity, insults and offence to honour and public standing are also applicable to cases of violence at work.
RO	No further information provided.
SE	No further information provided.
SI	The Criminal Code (Kazenski zakonik ⁵⁷) was also amended in 2008 with provisions and sanctions in cases of harassment. The penal code envisages up to years of prison in the case that damages to someone's health is proven to be related to harassing

⁵⁶ Italian legislative framework on gender violence <http://sms.amnesty.it/QuadroNormativo.pdf>; Law 119/2013

(Disposizioni urgenti in materia di sicurezza e per il contrasto della violenza di genere) <http://www.gazzettaufficiale.it/eli/id/2013/08/16/13G00141/sg>

Country	Other relevant legislation (e.g. any reference Civil Law; Penal law etc in particular with regard to integrity protection of the worker and any reference to procedures against the perpetrator)
	behaviour.
SK	Physical and sexual violence at workplace are addressed by Act. No. 372/1990 Coll. on offences or the Penal Code (Act. No. 300/2005 Coll.).
UK	<p data-bbox="387 399 1771 485">Under British law, it is an offence to lay your hand on another person without their consent. The latter is considered to be assault and the precise charge (and penalty) depends on the seriousness of the injury inflicted and the specific circumstances. Such an act would generally constitute a breach of <i>criminal law</i> and would be pursued through the general law enforcement authorities.</p> <p data-bbox="387 517 1771 632">Failure to protect an employee's health and safety at work may also constitute a breach of contract (<i>civil law and labour law</i>). Employers have a duty of care towards their workers. If the employer fails in this duty of care (for example by allowing harm to come to the employee through violence and harassment at work, an employee can resign and claim constructive dismissal on the grounds of breach of contract.</p> <p data-bbox="387 635 1771 687">Furthermore, workers who are assaulted, threatened or abused at work may also be entitled to claim damages against the employer or individuals under <i>civil law</i>.</p>
IS	The Criminal Code contains provisions on sexual harassment, which is punishable with up to 2 years of prison.
LI	The law on industry, manufacturing and commerce (Arbeitsgesetz from 29 December 1966) includes under Article 6 (about the employers obligations on health and safety) that the employer has to guarantee the integrity of each employee's personality and mentions in this regard explicitly sexual harassment. In fact, the employer has to protect employees against sexual harassment also from third parties.
NO	No further information provided.

⁵⁷ www.uradni-list.si/1/objava.jsp?urlurid=20082296

4 Objectives of the Commission consultation and the European social partners' Framework Agreement in relation to the issue of harassment and violence at work

In line with the Commission Communication on Social Dialogue (COM(2004) 557 final), it is the **role of the European Commission, in the specific case of autonomous agreements** implemented in accordance with Article 139(2)⁵⁸, to undertake its own monitoring of such agreements, **to assess the extent to which they have contributed to the achievement of the Community's objectives.**

While the **stated goals of the social partners** in negotiating the Autonomous Framework Agreement were to

- **Increase the awareness and understanding of employers, workers and their representatives of workplace harassment and violence;** and
- Provide employers, workers and their representatives at all levels with an **action-oriented framework to identify, prevent and manage problems of harassment and violence** at work

The **objectives of the European Commission in its first stage consultation consider whether European level action was needed to strengthen prevention of different forms of violence and harassment at the workplace.** The consultation refers to disparities in explicit coverage of this issue in national legislation and therefore different levels of protection of workers' health and safety at country level. It therefore states that 'shortcomings in Community law and national legislation in this area show that action at Community level could help to strengthen prevention of different forms of violence at the workplace'.

The Autonomous Framework Agreement seeks to achieve its stated objectives by providing a **description of violence and harassment;** calling on enterprises to have a **clear statement that harassment and violence will not be tolerated,** together with **specific procedures to follow should such cases arise.** The agreement provides an indicative and non-exhaustive list of suggestions of steps which could be followed to achieve this, but also clearly states that pre-existing procedures may be suitable for dealing with harassment and violence.

Activities on harassment and violence at work have also been undertaken at the level of the sectoral social dialogue at the European level, including multi-sectoral guidelines to tackle third-party violence and harassment agreed by the social partners in the commerce, health care, local and regional government, private security and education sectors. Good practice guidance and guidelines have also been drafted in the education, railway, shipbuilding and commerce sectors.

4.1 Introduction

The increasing recognition of the importance of psychosocial risks, including violence and harassment in the workplace, and the need to prevent and address these risks, was reflected in the Community Strategy on Health and Safety at Work 2002-2006. Acknowledging the changing nature of workplace risks in more service led economies, the Strategy document⁵⁹ elaborates that *'It is a known fact today that "emerging" illnesses such as stress, depression, anxiety, violence at work, harassment and intimidation are responsible for 18% of all problems associated with health at work, with a quarter of them resulting in two weeks or more absence from work. These complaints are twice as frequent in education and in health and social services. They are linked less to exposure to a specific risk than to a whole set of factors, such as work organisation, working time arrangements, hierarchical relations, transport-related fatigue, and the degree of acceptance of ethnic and cultural*

⁵⁸ Now Article 155 TFEU.

⁵⁹ European Commission (2002); Adapting to change in work and society: a new Community Strategy for Health and Safety at Work 2002-2006; COM (2002) 118 final

diversity within the firm. They need to be addressed within a global context which the ILO defines as "well-being at work".

In order to help address such emerging risks, the Strategy document indicated that the Commission would 'examine the appropriateness and scope of a Community instrument on psychological harassment and violence at work'. It was in line with this commitment that a first stage consultation of the European social partners was launched in 2004, which ultimately culminated in the negotiation and agreement of the Autonomous Framework Agreement on HVW.

Whilst respecting the autonomy of the social partners to reach such agreements, the Commission Communication on social dialogue⁶⁰ emphasised that the Commission, in the specific case of autonomous agreements implemented in accordance with Article 139(2)⁶¹ following to an Article 138 consultation, will undertake its own monitoring of such agreements, to assess the extent to which they have contributed to the achievement of the Community's objectives. This role results from the fact that, inter alia, the social partners' decision to negotiate an agreement temporarily suspends the action at Community level initiated by the Commission on this issue.

In order to set the subsequent discussion on the implementation of the Framework Agreement and its impact (in section 5) into context, this section discusses the goals of the Commission consultation of the social partners concerning violence at the workplace and its effects on health and safety at work⁶². It also elaborates on the process of negotiation of the agreement, its content and stated objectives. Section 5 below subsequently discusses the extent to which the implementation of the Agreement at national level has met the stated objectives of the social partners on the one hand and the goals of the Commission consultation on the other.

4.2 The Commission consultation

On 23 December 2004, the Commission took the initiative to consult the European social partners on the topic of violence in the workplace. Welcoming that the social partners had already included the subject of harassment in the workplace in their joint work programme 2003-2005, the consultation expressly seeks the views of the social partners concerning the protection of health and safety of workers against all forms of violence in the workplace, including bullying.

As indicated above, the fight against violence at the workplace was on the Commission agenda as part of its Community Strategy on Health and Safety at work 2002–2006. The consultation also quotes the resolutions adopted by the Council and the Parliament in response to the Strategy. While the Council resolution called upon the Commission 'to propose all initiatives necessary to achieve the objectives defined in the new strategy'⁶³, the European Parliament was more explicit in requesting that the Commission propose new Community legislation concerning harassment in the workplace⁶⁴.

The consultation emphasises the human as well as financial costs associated with violence and bullying, quoting a study which indicates that psychological violence alone can

⁶⁰ (COM(2004) 557 final)

⁶¹ Now article 155 TFEU.

⁶²

<http://ec.europa.eu/social/keyDocuments.jsp?advSearchKey=&mode=advancedSubmit&langId=en&policyArea=&type=50&country=0&year=2005>

⁶³ OJ C 161, 5.7.2002.

⁶⁴ http://www2.europarl.eu.int/omk/sipade2?SORT_ORDER=D&S_REF_P=%25&PROG=TA&L=FR&MI_TITLE=nouvelle+strat%C3%A9gie+communautaire&F_MI_TITLE=nouvelle+strat%C3%A9gie+communautaire&MI_TEXT=&F_MI_TEXT=&S_NATURE=TA&NAV=S&LEG_ID=5&I_TYPE_SEA RCH=TITLE&I_WORDS=nouvelle+strat%C3%A9gie+communautaire&LEVEL=2

contribute to a 1-2% fall in productivity⁶⁵. It also provides data on the magnitude of the issue, including from the 2000 European Working Conditions Survey.

The document outlines the relevant EU legal acquis, emphasising the requirements of the Framework Council Directive 89/391/EEC, which sets out – among other things – the requirement for risk assessment. Albeit not explicitly mentioning psychosocial risks or violence and harassment, an opinion of the Advisory Committee on Safety, Hygiene and Health Protection at Work of 29 November 2001 on violence at the workplace states that ‘violence at the workplace in all its forms and irrespective of whether it originates inside or outside the work itself, is a risk factor which the employer, whether public or private, has a duty to assess and prevent or reduce by means of specific measures in the same way as all other risks factors, pursuant to Article 6 of the Framework Directive’⁶⁶. This opinion is explicitly referred to in the consultation document.

Furthermore, the consultation refers to the equal treatment Directives based on Article 13 of the Treaty which prohibit discrimination (including harassment) on various grounds. It is notable that the consultation emphasises that the application of these Directives may ultimately have less impact on the goal of prevention of workplace violence and harassment as they lack the preventative approach of the OSH Directives (risk assessment) and because ‘aggression towards one or more workers does not necessarily result from the differing characteristics of the persons in question’ (p.8).

Against this background, the consultation emphasises that only a limited number of countries have explicit legislation to address the growing phenomenon of workplace violence and harassment, thus leading to disparities in the extent to which workers’ health and safety is protected against these risks. The consultation states that ‘shortcomings in Community law and national legislation in this area show that action at Community level could help to strengthen prevention of different forms of violence at the workplace’ (p.8).

At the time, the European cross-industry social partners had already included in their joint work programme an initiative to consider negotiations on an autonomous agreement on harassment in the workplace. The Commission therefore requested to the social partners further information on the scope of such an agreement and whether they saw a need for an initiative on violence in the workplace (including bullying)⁶⁷.

4.3 The European Social Partner Autonomous Framework Agreement

As previously indicated, the European cross-industry social partners’ work programme 2003-2005 already included the intention to address the issue of harassment in the workplace with possibility of concluding an autonomous framework agreement on the issue. A kick-off seminar for these negotiations was already foreseen for early 2005. Following the Commission consultation, the social partners submitted a joint letter, informing of the intention to organise this seminar (whose remit would be expanded to address the issue of violence in the workplace) based upon which a decision would be made on the scope of the negotiations.

The joint kick-off seminar took place on 12 May 2005 and featured both evidential presentations from Eurofound and from members of BUSINESSEUROPE, ETUC, CEEP and UEAPME on current national provisions in this area. This round table demonstrated the significant differences in approaches at country level, with some Member States having specific legislation, while others emphasised collective agreements or codes of conduct on

⁶⁵ Hoel, H. et Cooper, C.L., *Destructive Conflict and Bullying at Work*, University of Manchester Institute of Science and technology (UMIST), November 2000

⁶⁶ Advisory Committee on Safety, Hygiene and Health Protection at Work (2001); Draft option on the New Community Strategy for Health and Safety at Work 2002-2006

⁶⁷ Christian Welz (2008) *The European Social Dialogue Under Articles 138 and 139 of the EC Treaty: Actors, Processes, Outcomes*

specific aspects of workplace violence and harassment. All organisations were subsequently consulted with their decision making bodies to determine their mandate for negotiation, which was from the outset agreed would be within the frame of an autonomous framework agreement. Negotiations were officially launched on 6 February 2006. They lasted over ten months and were successfully concluded on 15 December 2006.

On 27 April 2007, the social partners officially signed the autonomous framework agreement on HVW⁶⁸ following the adoption of the agreement by their respective decision making bodies.

The agreement recognises that:

Different forms of harassment and violence can affect workplaces. They can

- *be physical, psychological and/or sexual,*
- *be one off incidents or more systematic patterns of behaviour,*
- *be amongst colleagues, between superiors and subordinates or by third parties such as clients, customers, patients, pupils, etc.*
- *range from minor cases of disrespect to more serious acts, including criminal offences, which require the intervention of public authorities.*

The agreement aims to:

Increase the awareness and understanding of employers, workers and their representatives of workplace harassment and violence,

Provide employers, workers and their representatives at all levels with an action-oriented framework to identify, prevent and manage problems of harassment and violence at work.

The agreement describes harassment and violence as follows:

Harassment and violence are due to unacceptable behaviour by one or more individuals and can take many different forms, some of which may be more easily identified than others. The work environment can influence people's exposure to harassment and violence.

Harassment occurs when one or more worker or manager are repeatedly and deliberately abused, threatened and/or humiliated in circumstances relating to work.

Violence occurs when one or more worker or managers are assaulted in circumstances relating to work.

Harassment and violence may be carried out by one or more managers or workers, with the purpose or effect of violating a manager's or worker's dignity, affecting his/her health and/or creating a hostile work environment.

The autonomous agreement on HVW provides a broad definition of harassment and violence and allows for a great degree of flexibility in identifying harassing behaviours and circumstances. The agreement also recognises that harassment and violence can be carried out by third parties, leaving to national implementing parties the decision on whether the implementation instruments will include harassment and violence carried out by third parties, as this aspect is not explicitly included in the text of the agreement (beyond the introduction).

The agreement also states that:

Enterprises need to have a clear statement outlining that harassment and violence will not be tolerated. This statement will specify procedures to be followed where cases arise. Procedures can include an informal stage in which a person trusted by management and workers is available to give advice and assistance. Pre-existing procedures may be suitable for dealing with harassment and violence.

⁶⁸ COM (2007) 686 final, Transmitting the European framework agreement on harassment and violence at work

To effectively manage cases of harassment and violence enterprises need to have a clear statement that condemns actions of violence and harassment at work and sets out procedures to deal with cases. These procedures can contain different measures and stages, from informal to more formalised dispute resolution measures.

Furthermore, the agreement specifies that complaints must be followed up, information relating to a case should not be disclosed to persons not involved, and fair treatment and an impartial hearing should be guaranteed. However, the agreement does not provide a definite list of procedures to be implemented or actions to be taken. This gives flexibility to implementing parties in deciding which internal procedures should be put in place.

The agreement also clearly states that pre-existing procedures may be suitable for dealing with harassment and violence.

4.4 Other relevant initiatives at EU Level

Following the Autonomous Agreement, other European social partner initiatives were undertaken in relation to harassment and violence at the workplace. In 2009, European social partners from the commerce sector adopted a toolkit entitled *Preventing third party violence in commerce*⁶⁹. One year later, multi-sectoral guidelines to tackle third-party violence and harassment related to work were signed at European level by social partners in the commerce, health care, local and regional government, private security and education sectors⁷⁰. In the European railway sector, a Good Practice Guide and Recommendations were adopted to promoting security and the feeling of security vis-à-vis third-party violence⁷¹. More recently, the European Community Shipowners' Associations and the European Transport Workers' Federation agreed on Guidelines to shipping companies for eliminating workplace harassment and bullying⁷².

In particular the trade unions in the education sector have also been very active in this field, having drafted an implementation guide to the cross-industry autonomous framework agreement for teaching unions⁷³ and Practical Guidelines for Anti-Cyber Harassment Measures in Education⁷⁴.

⁶⁹ <http://www.csr-in-commerce.eu/pages/en/third-party-violence-toolkit.html>

⁷⁰ <http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=896&furtherNews=yes>

⁷¹ <http://www.cer.be/publications/latest-publications/latest-publications/promoting-security-and-the-feeling-of-security-vis-a-vis-third-party-violence-in-the-european-rail-sector-a-good-practice-guide/>

⁷² <http://www.ecsa.eu/projects/workplace-bullying-harassment>

⁷³ http://teachersosh.homestead.com/Violence/ETUCE_implementation_guide_H_V_EN_final.pdf

⁷⁴ http://teachersosh.homestead.com/Cyber_Harassment/Guidelines/Guide_anti-cyber_harassment_measures_en.pdf

5 Implementation of the Agreement

An **assessment** of the implementation of the Agreement at national level **must take into account the procedures and practices specific to management and labour in each country; the nature of pre-existing legislation, collective agreements, guidance and tools to deal with harassment and violence in the workplace and the coverage of the respective instruments chosen.** This allows an analysis of the extent to which these implementation actions meet the goals of the social partners as stated in the agreement and those of the Community in launching the first stage consultation of social partners on violence and bullying in the workplace.

In five countries, the **national cross-industry social partners used bipartite or tripartite collective agreements to implement the Framework Agreement** (CY, DK, ES, FR, LU). In France and Luxembourg these were subsequently declared **universally applicable** by the government. In Denmark this universally applies to the public sector only. Social partners in the private sector instead assessed the existing legislation and collective agreement and signed a joint declaration indicating this to be sufficient. In Cyprus, a tripartite agreement was reached between the social partners and the government on stress which was accompanied by a complementary political declaration on harassment and violence at work. Targets on the reduction of workplace violence and harassment were associated with the agreement. While the Spanish bipartite agreement is not legally binding, it requires actions at the sectoral level to address the issue. In Slovenia social partners have worked with the government to seek **implementation of the autonomous framework agreement by means of amendment of the national legislation**, as this is the main national instrument in the field of health and safety.

Implementation instruments in the shape of **joint guidance, declarations, recommendations or charters were favoured by social partners in nine countries** (AT, FI, IE, LV, NL, NO, PL, SE, UK). This was largely in line with actions usually adopted to implement OSH measures (and/or autonomous framework agreements). In several countries, the drafting of such instruments was subsequently followed up with dissemination activities and the negotiation of sectoral or company level agreements (e.g. NL, NO, SE).

Social partners in a **further six countries have focussed their joint implementation activities on the translation and dissemination of the text** of the agreement. In a number of these countries, social partners again considered **pre-dating measures to be sufficient** and considered that further awareness raising activities linked to the dissemination of the Agreement would be sufficient to encourage the implementation of relevant measures at sectoral or company level (DE, IS), which proved relatively effective in Germany, for instance. However, in other countries social partners were **not able to agree or were not sufficiently strong to implement other actions** (CZ, EE, HU). In the Czech Republic, social partners were nonetheless able to negotiate a number of sectoral and company level agreements featuring this issue (e.g. in the metal, services, chemical industry and construction sector). In Portugal the crisis and the process of implementing the Memorandum of Understanding was considered to have undermined existing industrial relations structures and captured attention for other priorities.

In **ten out of 31 countries no actions** have been taken to implement the Agreement for **different reasons**, including the **existence of relevant legislation or collective agreements** (considered to be sufficient by the relevant parties) pre-dating the European Agreement (BE, LIE, IT), the **weakness of social partners** and social dialogue structures (LT, MT, RO, SK) and the **disagreement among national social partners** as to the implementation tool to be used (HR, BG). In Greece, the economic crisis and the diversion of attention to other priorities as well as the associated weakening of industrial relations structures were seen as the main reasons for a lack of implementation, which had been via national collective agreement for the previous two autonomous framework agreements.

A range of joint sectoral actions and unilateral activities by employers and trade union organisations at cross-sectoral and sectoral level were also undertaken at national level. At sectoral level these primarily focussed on addressing third party violence in sectors such as transport, health care and education. Unilateral cross-sectoral actions mainly focussed on dissemination, awareness raising,

provision of guidance and enhancement of data gathering.

Pre-existing national legislation, collective agreements and other measures as well as existing social partner awareness of the issues of workplace violence and harassment must be taken into account when assessing the extent to which implementation tools meet the European social partners and Community goals. In 13 countries actions to implement the Agreement are considered to have had a positive impact on awareness raising (either from an existing low, medium or high level). Overall, in **relation to awareness raising, in 18 countries social partner activities or lack of actions can be considered to have had no or a limited impact, either because strong awareness already existed or because the measures taken were considered not to have had a strong awareness raising effect** (e.g. if limited to the translation of the agreement, or in the countries where implementation was absent).

Assessment of whether the agreement provides an **'action oriented tool'** to tackle HVW **depends on the definition of what such a tool might look like**. The intention of the social partners was to encourage action at the most relevant level in the national context. In order to produce real change at the enterprise level, this should encourage some downstream activity where appropriate. To this regard, **10 countries are ranked positive or neutral** as implementation actions clearly set out a 'chain of activity', for instance with a national agreement requiring further action at the sectoral or company level. In **9 countries the assessment is more neutral**, mainly because actions taken were primarily suited to giving further exposure to pre-existing tools. Furthermore, **12 countries are judged not to have achieved this goal**, either because no actions were taken or because these actions were limited to the translation and dissemination of the agreement in a context of a weak framework of legislation, collective agreements or other tools.

An assessment of whether the implementation of the Agreement served to **strengthen provisions on prevention** against different forms of violence and harassment, and therefore met the Community goals, concludes that **(binding) improvements to existing standards were targeted in five countries** (CY, ES⁷⁵, FR, LU, SI) which used legislation or national collective agreements as implementation tools. Implementation generally relied on adapted sectoral activities and agreements, with limited evidence available thus far that these actions have been taken. However, prevention has also been encouraged in all countries where it has been possible to register downstream implementation activity.

5.1 Introduction

This section analyses the activities undertaken by social partners at national level to implement the Autonomous Framework Agreement, covering the period from 2007 to the present and taking account of the monitoring tables⁷⁶ and final implementation report prepared by the European cross-industry social partners themselves in 2011⁷⁷, as well as of own research carried out for this study (through a review of national documentation and stakeholder interviews). On top of presenting such implementing actions, the section assesses the extent to which these activities meet the goals set out by social partners themselves in their agreement and those established by the Commission in its first stage consultation of the social partners in 2004 (see section 4 above).

As is the case for all autonomous agreements, the text commits the members of BUSINESSEUROPE, ETUC, CEEP and UEAPME to implement the Agreement in accordance with the procedures and practices specific to management and labour in the Member States and in the countries of the European Economic Area.

In assessing the implementation actions and tools and the extent to which they meet the various objectives, it is important to consider the following:

⁷⁵ The framework agreement in Spain is not binding, but targets sectoral level action.

⁷⁶ <http://www.etuc.org/implementation-tablesreports>

⁷⁷ http://www.etuc.org/sites/www.etuc.org/files/BROCHURE_harassment7_2_.pdf

- The procedures and practices specific to management and labour in each country, particularly in relation to the implementation of OSH and other relevant measures;
- The nature of pre-existing legislation, collective agreements, guidance or tools on harassment and violence in the workplace;
- The extent to which implementation tools add value to pre-existing legislation, collective agreements or measures with regard to the goals to be achieved;
- The coverage of the respective implementation tools chosen.

It is important to note that no value judgement is assigned to the specific implementation tool selected per se, and these actions are primarily analysed against the assessment criteria of the extent to which they meet the goals of the Agreement in light of the factors highlighted above. As national social partners cannot be expected to have considered, in the implementation actions and tools, the original goals of the Commission consultation, this assessment is made separately, based on an analysis of pre-existing legislation and collective agreements, implementation tools, their coverage and the evidence available on the scale of the phenomenon and existing trend developments.

5.2 Coverage and actions taken

As demonstrated in Table 5.1 below, a range of implementation tools and actions have been used in different Member States and EEA countries, depending on the national context (i.e. the existing legislative framework, the maturity of the debate on these issues, the industrial relations and social dialogue structures, the nature and coverage of collective agreements, etc.).

Indeed, whether actions have been taken or not to implement the Agreement has to be judged against the background of the specific national context (not least because the Agreement clearly states that pre-existing procedures may be suitable for dealing with harassment and violence).

The subsequent sub-sections focus on a presentation of the activities undertaken by social partners in the Member States based on the main implementation actions and tools used. They focus on what are considered to be the primary activities with clear and identifiable links to the European autonomous framework agreement.

A more detailed analysis on whether implementing activities meet the goals set out by the social partners, and those of the Commission are discussed in the context of existing national frameworks in section 5.3 below.

Table 5.1 Main implementation actions with a direct link to the autonomous framework agreement on harassment and violence in the workplace

Country	Implementing actions	Date	Coverage	Binding/non-binding
AT	Joint guidance	2009	Members of signatory parties (all employers and employees)	Non-binding
BE	Assessment of national legislation led to decision that no further implementation action was needed	2007/8	n/a	n/a
BG	None	n/a	n/a	n/a

Country	Implementing actions	Date	Coverage	Binding/non-binding
CY	Joint translation ⁷⁸	2008	Whole economy	Non-binding
	Tripartite framework agreement on stress with a policy statement on violence and harassment	2009	Whole economy	Binding ⁷⁹
CZ	Joint translation	2007	Whole economy	Non-binding
	Joint brochure on all 3 autonomous framework agreements	2007	Members of signatory parties	Non-binding
	Various sectoral collective agreements		Members of signatory parties	Binding
DE	Joint dissemination activity around translation of the agreement (including joint events)	2008	Whole economy	Non-binding
	Various sectoral collective agreements		Members of signatory parties	Binding
DK	Assessment of existing legislation and framework collective agreement (private sector) leading to joint declaration that existing provisions are sufficient	2006 (collective agreement) 2010 (joint statement)	Members of signatory parties, private sector	Non-binding
	Collective agreement ("Well-being agreement")	2008	Public Sector	Binding
	Collective agreement on harassment and bullying in the industrial and retail sector in implementation of above mentioned private sector framework agreement)	2008	Members of signatory parties; industrial and retail sector	Binding
EE	Translation Dissemination on ministry and social partner websites	2008	Whole workforce	Non-binding
EL	None	n/a	n/a	n/a
ES	Cross-industry collective agreement requiring inclusion in sectoral	2008	Members of signatory parties	Non-binding (but requiring members of signatory parties to

⁷⁸ Joint translations can refer to the following: a review of the translation provided centrally with support from Commission services with approval of this translation; a review of this translation with amendments to take account of national specificities or to correct language; a review of this translation leading to preparation of whole new translation if dissatisfied with the text provided; or preparation of an own translation where no translation was provided centrally.

⁷⁹ The agreement calls for the members of the national level social partners to start dialogue and to implement the agreement adapting it at sectoral or at company level, as necessary.

Country	Implementing actions	Date	Coverage	Binding/non-binding
	collective agreements			take relevant actions)
FI	Joint translation Joint dissemination Drafting of joint leaflet on main messages of agreement; joint work with central government	2010	Whole workforce	Non-binding
FR	Cross-industry national agreement on harassment and violence at work (extended by ministerial decree)	2010	Whole workforce	Binding
HR	None	n/a	n/a	n/a
HU	Joint translation Joint dissemination through circulation of joint information note Consideration of the issue in the revision of the Labour Code (but no changes made)	2009	Members of signatory parties	Non-binding
IE	Joint Charter on Dignity in the workplace ⁸⁰	2007	Whole economy	Non-binding
IT	None ⁸¹	n/a	n/a	n/a
LT	None	n/a	n/a	n/a
LU	Joint cross-sectoral agreement on harassment and violence at work; declared generally binding by Grand ducal decree	2009	Whole economy	Binding
LV	Joint declaration, followed by initiatives to support sectoral implementation ⁸²	2008	Members of signatory organisations	Non-binding
MT	None	n/a	n/a	n/a
NL	Joint Recommendation on harassment and violence in the workplace Various sectoral collective agreements and agreement of 'risk catalogues'	2008	Members of signatory organisations Members of signatory organisations	Non-binding Binding
PL	Joint translation and joint declaration by cross-	2009 (joint translation)	Members of signatory	Non-binding

⁸⁰ Negotiations at same time as framework agreement.

⁸¹ The social partners in the public sector consider that the requirements of the agreement are met by a 2003 collective agreement governing the public sector.

⁸² There had been an intention to draft joint guidelines on violence and harassment, but this was abandoned in light of the crisis and other pressing priorities.

Country	Implementing actions	Date	Coverage	Binding/non-binding
	industry social partners	2011 (joint declaration)	organisations	
PT	Joint translation	2008	Whole economy	Non-binding
RO	None	n/a	n/a	n/a
SE	Joint translation Joint dissemination Publication of joint book on avoiding harassment at work	2008 2008	Whole economy Whole economy	Non-binding Non-binding
	Various sectoral collective agreements		Signatory parties	Binding
SI	Amendments to health and safety legislation to include provision in line with framework agreement	2007 and 2013	Whole economy	Binding
SK	None	n/a	n/a	n/a
UK	Joint guidance	2009	Whole workforce	Non-binding
IS	Joint review of national legislation (and conclusion of no further action needed) Joint translation Joint dissemination of agreement	2010	Whole workforce	Non-binding
LI	None	n/a	n/a	n/a
NO	Joint translation and dissemination Joint guidelines on bullying and harassment (together with the National Labour Authority) Tripartite agreement on improving workplaces	2008 2010	Whole economy Whole economy	Non-binding Non-binding Non-binding

Source: own elaboration based on national reports for this study; n/a stands for not applicable

It must be acknowledged that the interlinkages between national level activities and the European level Agreement are complex, not least because of the interaction with pre-existing national debates and activities. Furthermore, for instance in countries using national level cross-industry framework or collective agreements as the primary tool, sectoral and company level collective agreements and activities may well (and often should) result from these national level agreement, but may no longer make a clear link to the European level agreement. In order to take account of these interactions, Table 5.2 summarises other activities on harassment and violence in the workplace taken since 2007 at national level, where a direct link with the European framework agreement could not be clearly established, but which are nonetheless relevant in tackling the phenomenon at national level and could at least have drawn some inspiration from the debate on the subject.

Table 5.2 Actions on violence and harassment at national level since 2007 with an unclear link to the European framework agreement

Country	Actions on violence and harassment since 2007 with unclear link to framework agreement	Date	Coverage	Binding/non-binding
AT	Guidance on mobbing for public sector organisations (issued by Ministry of Labour, Social Affairs and Consumer Protection)	2010	Public sector	Non-binding
	Brochure on addressing mobbing in the workplace (issued by trade union confederation)	2010	Cross sectoral – addressed at trade unions	Non-binding
	Trade union initiative Crime scene workplace	2009	Cross sectoral – addressed at trade unions	Non-binding
	Change in legislation to specifically include psychosocial risks in health and safety legislation	2013	Whole economy	Binding
BE	New legislation on dealing with burn-out and psychosocial risks	2013 and 2014	Whole economy	Binding
BG	National agreement drafted by trade union confederation, but not yet jointly discussed or signed	2013	n/a	n/a
	Multi-annual collective agreement in transport sector includes specific chapter on protection against violence in the workplace: gender equality	2012	Only signatory parties in sector	Binding
	Framework agreement on joint actions to prevent and combat violence against women in transport sector in Sofia public transport	2009	Only signatory parties in sectors	Binding
	Framework agreements on joint actions to prevent and combat violence against women in railway sector, Sofia airport and other municipalities' transport sector	2012 and 2013	Only signatory parties in sectors	Binding
	Collective agreement in	2012	Health care	Binding

Country	Actions on violence and harassment since 2007 with unclear link to framework agreement	Date	Coverage	Binding/non-binding
	health care sector on prevention of discrimination and all types of physical and psychological violence and harassment		sector	
CY	Negotiation of sectoral collective agreement on violence and harassment in specific sectors	Ongoing	Only signatory parties	Unclear to date as negotiations ongoing
CZ	Negotiations on potential amendment of labour code to include clearer wording on addressing psychosocial risks	Ongoing	Whole economy	Binding (if agreed)
	Sectoral and company level agreements and measures	Various	Only signatory parties in relevant sector/company	Binding
	Joint ESF funded project assessing level of harassment and violence in health care sector and drafting of good practice on prevention (inspired by multi-sectoral guidelines on third party violence)	2010-2012	Health care sector	Non-binding
DE	Unilateral dissemination activities	Various	Members of respective social partner organisations	Non-binding
	Sectoral and company level collective agreements	Various	Sectoral and company level	Binding
DK	Guidance by sector environment councils on specific sectors	various	Specific sectors	Non-binding
EE	Collective agreement on third party violence between social partners in local government sector	2014	Local government sector	Binding
	Training courses on third party violence organised by trade union and government	2013	Local government sector	Non-binding
EL	None	n/a	n/a	n/a
ES	Unilateral dissemination activities	Various post agreement	Members of relevant social partner organisations	Non-binding

Country	Actions on violence and harassment since 2007 with unclear link to framework agreement	Date	Coverage	Binding/non-binding
FI	Joint seminars on harassment and violence with Finnish Occupational Health and Safety Administration	2011	Whole workforce	Non-binding
	Joint working group on violence and harassment to gather data and recommend future activities	2013-2014	Whole workforce	Non-binding
FR	Guidance on the implementation of the national collective agreement by various social partner organisations	Various	Members of respective social partner organisations	Non-binding
				Non-binding
HR	None	n/a	n/a	n/a
HU	Guidance by the labour inspectorate	2014	Whole workforce	Non-binding
IE	Establishment of Advisory Commission on Stress, Bullying and Violence at Work by ICTU	2010	Members of ICTU	Work of this committee is ongoing
	IBEC Guidelines on Bullying, harassment and sexual harassment	Updated 2013	Members of IBEC	Non-binding
IT	Collective agreement	2012	Postal sector	Binding
LT	None specified	n/a	n/a	n/a
LU	Joint agreement on harassment at work in the banking sector	2013	Members of social partner organisations in the banking sector	Binding
LV	Sectoral framework agreement on action against harassment and violence in the workplace in the health and social care sector	2009	Members of social partners in health and social care sector	Binding
MT	Joint guidelines on third party violence	2010	Whole workforce	Non-binding
	Awareness raising campaign on bullying in the education sector by sectoral trade unions	2013	Members of teaching sector trade union	Non-binding
NL	Negotiation of sectoral	2009	Public sector and	Non-binding

Country	Actions on violence and harassment since 2007 with unclear link to framework agreement	Date	Coverage	Binding/non-binding
	covenants on key health risks; incorporating violence and harassment particularly in public sector and service sectors		service sector	
	Collective agreement on addressing violence and harassment in the workplace (inspired by multi-sectoral guidelines on third party violence)	2008	Members of signatory organisations in local government sector	Binding
PL	None stated			
PT	Sectoral social partner agreements	2008	Hospital Sector	Binding
	Guidance on prevention of harassment at work published by Commission for Equality	2013	Whole economy	Non-binding
	Sectoral collective agreement in health care sector	2008	Signatory parties in health care sector	Binding
	Unilateral working groups and dissemination activities by trade unions			
RO	None specified	n/a	n/a	n/a
SE	Joint and unilateral activities in the health care and transport sector on third party violence	2009 and 2010	Members of social partner organisations in the respective sectors	Non-binding
SI	Unilateral dissemination activities, development of guidance and implementation of projects	Various post agreement	Members of respective social partner organisations	Non-binding
	Sectoral projects and collective agreements (e.g. banking sector)	2013/2014	Members of respective social partner organisations	Non-binding
SK	Cross-industry trade union report, declarations and recommendation on mobbing and violence at work	2012 and 2013	Whole economy	Non-binding
UK	Unilateral dissemination activities and guidance	Various	Respective member organisations	Non-binding

Country	Actions on violence and harassment since 2007 with unclear link to framework agreement	Date	Coverage	Binding/non-binding
IS	No further activities stated	n/a	n/a	n/a
LI	None specified	n/a	n/a	n/a
NO	Development of joint guidelines on harassment and violence in workplace agreed by social partner in education and health care sectors	2010	Signatories of the agreement	Non-binding

Source: own elaboration based on national reports prepared for this study

5.2.2 Countries with an implementation of the framework agreement in law

■ In **Slovenia**, the social partners have explicitly worked with the government to seek implementation of the autonomous framework agreement by means of amendment of the national legislation, as this is the main national instrument in the field of health and safety, with collective agreements not playing a significant role and no tradition of bipartite joint work in the area. The Safety and Health at Work Act and the Employment Relationships Act were reassessed and amended in 2007 and in 2013 to include provisions on harassment and violence in accordance with the autonomous agreement. Social partners had a proactive role in the amendment of the legislative framework through the social agreement (2007-2009). Following the amendment of the legislation, the Employers' Association of Slovenia (ZDS) prepared a guidance note for its members. The note contains measures to be implemented and steps to be taken in order to prevent harassment and violence at work. The guidance also contains a general overview of the issue and benefits related to the prevention of harassment and violence at work. The Association of Free Trade Unions of Slovenia (ZSSS) is also active on the topic of harassment and violence at work. A number of projects have been implemented to raise awareness on the issue and support union representatives in negotiating workplace measures with employers. ZSSS projects on this topic include:

- Better health at work through training of workers OSH representatives⁸³. This project is co-financed by the Health Insurance Institute of Slovenia (duration period 2013-2014), it aims at enhancing workers' occupational health and increasing the number of elected workers safety representatives. Through this project an e-network of workers safety representatives has been established and will be given professional training. On the basis of the European autonomous agreement a zero-tolerance statement on harassment has been developed ('a violence and harassment non-tolerant statement of the employer') and is presented during this training. ZSSS advises its union representatives to propose this tool to employers during consultations;

An ESF funded project carried out in 2013-2014 analysed the state of implementation of all European autonomous agreements at national level. According to findings from this project only four sectoral collective agreements mentioned the European autonomous agreement on harassment and violence. This includes, for instance, the Collective Agreement for Banking and Savings Bank Activities.

⁸³ Boljše poklicno zdravje delavcev z usposabljanjem delavskih zaupnikov za varnost in zdravje pri delu, 2013-2014: http://www.sindikar-zsss.si/index.php?option=com_content&view=article&id=1100:usposabljanje-delavskih-zaupnikov-varnost-in-zdravje-pri-delu&catid=21:opis-projektov&Itemid=26

5.2.3 Countries in which social partners implemented the Agreement by means of national collective agreements

National cross-industry collective agreements were chosen as an implementation tool in five countries (CY, DK, ES, FR, LU). In two countries (FR and LU) these agreements were extended (by relevant government decrees) to the whole workforce. The Danish agreement only covers the public sector but achieves almost universal coverage. The selection of this tool reflects the importance of the role played by such national level agreements in these countries.

In **Cyprus**, the social partners together with the government, signed a tripartite framework agreement on stress at work in 2008. This framework agreement calls for the members of the national level social partners to start dialogue and to implement the agreement adapting it at sectoral or at company level, as necessary. This framework agreement was complemented with a Policy Statement on Harassment and Violence, which included qualitative targets for combating violence and harassment at work and was signed at an official ceremony in the presence of the Minister of Labour. As with the framework agreement on stress, the social partners committed to encourage all their member federations and trade unions to start a dialogue either at sectoral or company level and to specify the agreement to their context in order to implement it. The framework agreement includes targets to improve the working environment and the climate between employers and employees.

- The **Danish** social partners in the public sector (members of CEEP) agreed to implement the Framework Agreement through a wider “Wellbeing Agreement” (*Trivselsaftale*), whereas in the private sector the social partners viewed the Framework Agreement in the light of existing national policies and collective agreements in place. It was concluded that existing legislative measures and the national level framework agreement between the social partners in the private sector adequately covered the provisions of the Framework Agreement. A Joint Declaration between Danish Industry (DA) and The Danish Confederation of Trade Unions (LO) covering the implementation of the Framework Agreement was issued in 2010 declaring that no further action was considered to be required.

The 2008 **Spanish** cross-industry collective agreement explicitly referred to the European autonomous framework agreement, which is included as an annex. The 2008 agreement states that signatories ‘*have shared its content [the European autonomous agreement] with the negotiating parties and various representatives of employers and trade unions, adapting it in this way to the Spanish reality, so it can be used to improve the working conditions and good practices of companies*’. Although the agreement is not legally binding, it places a duty on the signatories to take action as part of collective bargaining at sectoral, regional or company level.

In **France**, the social partners at cross-industry level concluded a national inter-sectoral agreement on harassment and violence at work in 2010. The national agreement lays down general provisions which have to be taken into account as part of collective bargaining processes at the sectoral and company level. The same method was used to implement the European autonomous framework agreement on stress in France. The social partner agreement on violence and harassment was extended by a decree of the Ministry of Labour a few months after its signature, which means that its scope of application was widened to all companies in France. The agreement uses the same definitions of harassment and violence as the European autonomous framework agreement, but includes additional details on what constitutes violence at work: ‘It ranges from lack of respect to a display of intentional attempt to harm and destroy, from incivility to physical aggression. Violence at work can take the form of verbal aggression, aggressive behaviour including sexist behaviour, physical aggression...’. It acknowledges there are different forms of harassment and violence, including forms of harassment and violence linked to discrimination on the grounds of origin, sex, sexual orientation, disability (Article 2.2), violence against women (Article 2.3) and internal violence at the workplace and violence committed by third parties (Article 3). It

specifies that employers have to communicate to their workforce that harassment and violence at work will not be tolerated and must develop a set of appropriate prevention measures. The national agreement includes some general recommendations on different types of intervention mechanisms that have to be formally implemented by all companies, which are similar to the provisions of the European autonomous framework agreement. These include the appropriate follow-up of all complaints, the respect of confidentiality, the acknowledgement of the views and opinions from all parties concerned, the role of sanctions against false accusations, the possibility to obtain an opinion from a third party outside the workplace and the access to mediation procedures.

In **Luxembourg**, the main implementation instrument of the European autonomous agreement is the Joint Agreement on Harassment and Violence at Work signed by the cross industry social partners in 2009. Upon the request of the signatory social partners, the government incorporated the agreement in a Grand Ducal regulation of 15th December 2009, which was published in the Official Gazette in January 2010, making the agreement universally binding. In this agreement, the national social partners identify harassment and violence at work as being an unacceptable behaviour that can affect all employees. This agreement also sets out guidelines on raising awareness among employers, workers and their representatives, as well as on preventing and addressing acts of harassment and violence at work. In essence, the 2009 agreement requires companies to establish a transparent procedure of prevention and management of harassment and violence at work, after consultation with staff representatives. This procedure may be established either at the enterprise level or at the sectoral level. The implementation of this procedure, however, will not "impose unnecessary burdens on small businesses". In practice, if the employer becomes aware of a case of moral harassment in the workplace, he/she has the obligation to conduct an inquiry and put an end to wrongful behaviour. More detailed guidance on the potential content of such procedures is also provided.

5.2.4 Countries where social partners have emphasised joint guidance, recommendations or declarations

Implementation instruments in the shape of joint guidance, declarations, recommendations or charters were favoured by social partners in nine countries (AT, FI, IE, LV, NL, NO, PL, SE, UK).

The **Austrian** cross-industry social partners developed a joint brochure (*Belästigung und Gewalt am Arbeitsplatz: Instrumente zur Prävention*), published in 2009 which begins with a common declaration. In it, the social partners commit themselves to raise awareness of violence and harassment in the workplace. The guidance brochure provides information on the size and nature of the phenomenon in Austria, highlights existing legislative requirements, offers checklists, provides definitions and examples, as well as suggestions on how different aspects of harassment and violence can best be addressed. This joint brochure appears to have been a compromise measure as the trade unions had been keen to press for legislative changes, which were not considered necessary by employer representatives. Although a number of other guidance documents have been published since 2007, and changes were made to OSH legislation in 2013 to give greater prominence to psychosocial risks, all social partners agreed that these developments were not driven by the European framework agreement, but rather by the national debate, in which violence and harassment have featured as issues for a number of years. There have also been various sector level activities, particularly focussing on violence and harassment in the health and social care sector, as well as unilateral initiatives, for instance the large campaign 'crime scene workplace' organised by the public service trade union Vida.

Without carrying out a formal joint assessment of national legislation, there appears to be a consensus among the **Finnish** social partners that national legislation on violence and harassment is already relatively strong and requirement for amendment in such provisions is therefore limited or non-existent. The activities of all social partners in membership of the European cross-industry social partner organisations have therefore focussed on a new

translation and dissemination of the agreement, as well as the publication of a joint brochure to provide guidance to enterprises keen to implement relevant policies. The document summarises the key messages of the European Framework Agreement 'Good behaviour preferred – inappropriate behaviour unaccepted'. The document and the agreement were presented at workshops around the country⁸⁴. In 2013 a joint working group was set up under the auspices of the government with a specific focus on violence and harassment. Its goal is to gather data and make recommendations on any future activities in this area. Sectoral activities with a focus on third party violence were also carried out in the health care and local government sectors.

In **Ireland**, the implementation of the European Agreement built on existing work, more specifically on a Charter on Dignity in the Workplace prepared by the Irish Health and Safety Authority in 2007 with the participation of the social partners, which anticipated the conclusion of the EU framework agreement (but did take account of it). This document draws on more long standing joint work, including the development of Codes of Practice on Preventing and Dealing with Bullying and Harassment at Work (e.g. from 2002). Since the adoption of the European Agreement, no further joint actions have been taken at cross industry level, because the requirements of the agreement were seen to be met by existing legislation and Codes of Practice. A number of unilateral actions have been taken by Irish social partner organisations to further raise awareness and address the issue. In addition, there have also been discussions on the issue at the sectoral level. One reason for the relative dearth of follow-up actions at different levels relates to pre-existing legislation and guidance, but is also linked to the onset of the economic crisis, which affected Ireland heavily and put other priorities to the fore.

The **Latvian** cross-industry social partners LDDK and LBAS signed a joint declaration in 2008 implementing the European level agreement. After this agreement a number of initiatives were carried out to support the national implementation. These included several information meetings of LBAS with the regional trade union consultants and organisations, a conference on violence at work in the healthcare sector, LDDK information seminars for their members and other employers as well as mainstreaming of the issues covered by the autonomous agreement into some collective agreements at local and sectoral level.

A number of actions were taken by social partners both at the cross-industry and at the sectoral level in the **Netherlands** to implement the Agreement. In 2008, a joint recommendation was adopted by the cross-industry social partners organised in the Stichting van de Arbeid (VNO-NCW, MKB, LTO, FNV and CNV). The recommendation refers to the agreement and calls upon the social partner organisations and their affiliated business and members to take serious steps to prevent violence and harassment in the workplace. The document recognises that workplace harassment, violence and bullying are already covered by national legislation and emphasises that Dutch legislation does not distinguish between third party violence and violence or harassment occurring between staff. Furthermore, it includes some basic data on the incidence of violence and harassment in the workplace in the Netherlands. The remainder of the document reiterates the main provisions of the European framework agreement and indicates how this should be implemented at company level. The Annex provides a full translation of the Agreement and relevant legislative references from existing Dutch legislation, as well as further sources of information.

At sectoral level the implementation of legislation (and indeed the spirit of the joint recommendation) is often done through sectoral covenants. These exist in the public and private sector, but are particularly likely to contain provisions on violence and harassment in the public and service sectors, where the incidence of violence and harassment – and third party violence in particular – is greater. In addition to the covenant, the social partners in the

⁸⁴ Trade union representatives argued that these events had been organised in any case and were not wholly focussed on the dissemination of the brochure.

Dutch public sector signed in 2009 a voluntary 'safe workplace' agreement, which has led to the conclusion of a number of similar enterprise specific agreements. The 13 sectoral social partners in the public sector signed a zero tolerance agreement. Enterprise level agreements usually include provisions on prevention, reporting, monitoring, support for victims of aggression, provisions for dealing with perpetrators, and set out the specific role of the works council. Social partners in the public sector developed a model *arboconvenant* in particular for harassment and violence. However, this model does not specifically refer to the European autonomous agreement.

Further inspired by the European multi-sectoral agreement on third party violence, the Association of Netherlands Municipalities (VNG) and municipal trade unions signed a new collective agreement, which contains a section on policies to reduce harassment and violence in the workplace. It provides that municipalities should appoint a harassment and violence co-ordinator to ensure that the management endorses the relevant measures as well as to promote a sustained attention on the issue. The agreement should also contribute to the development of good practices and procedures and to the adoption of a clear incident reporting systems. While in 2008 52% of employees reported incidence of violence or harassment, in 2010 this figure was 48%. A collective agreement for the health care sector in 2009-2011 also specifically referred to the need to establish a clear inventory of sectoral risks, including workplace violence. In the transport sector, a collective agreement draws specific attention to the issues of sexual harassment and the appointment of a confidential counsellor, as well as the establishment of a complaints procedure.

In **Norway**, it did not prove possible to agree between employers and trade union organisations on the requirement to amend national legislation to ensure stronger provisions on workplace violence and harassment. While the Norwegian trade union confederation (LO) wanted to see more specific legislation on the issues through an amendment of the Work Environment Act, this was rejected by the cross-industry employers' organisation NHO, who did not consider further legislation to be necessary. In 2008, the social partners agreed upon a translation of the agreement which was also signed by national social partners not in membership of the European level organisations. The translation of the agreement was then jointly presented by LO and NHO at a national conference on bullying and harassment and at a council meeting of the Norwegian labour inspectorate. A working group was also set up, which, among other things implemented and disseminated the results of the joint project 'Working without bullying'. Together with the National Labour Authority, the social partners developed joint guidelines on preventing bullying and harassment in the workplace. Action has also been taken at the sectoral level, with social partners in the local government sector including a greater focus on psychosocial risks in their new agreement on Inclusive Workplaces in 2010. Guidelines on violence and harassment have also been agreed between the social partners in the health and education sector. A new tripartite agreement on inclusive workplaces also emphasises the importance of addressing workplace violence and harassment.

The **Polish** social partners signed a joint declaration on violence and harassment in reference to the Agreement in 2011. This followed two years of discussion which began with negotiations on a joint translation, agreed in 2009. Following an exchange of views on the best way to implement the agreement, the trade union suggested a joint declaration which was what was ultimately agreed. The team working on this also developed a model of anti-mobbing procedures to be applied at company level by employers and trade unions.

The **Swedish** social partners also considered that existing legislation and collective agreements were sufficient to meet the requirements of the agreement. Implementation included a joint translation and dissemination of the agreement, as well as the publication of a joint declaration stating that the framework agreement provided a helpful approach to tackling harassment and violence. The cross-industry social partners also jointly published a booklet on preventing bullying in the workplace. More recently, proposals have been made to amend health and safety legislation to clarify measures surrounding violence and harassment, but at the time of writing these had not been finally adopted. The social partners in

the central government sector signed a collective agreement which included the reduction of harassment and violence as a priority area for action in 2010.

In the **UK** implementation of the autonomous framework agreement took place through the preparation, promotion and dissemination of Joint Guidance (*Preventing workplace harassment and violence: Joint guidance implementing a European social partner agreement*). The preparation of the Joint Guidance followed a similar process as the ones used for the implementation of the autonomous framework agreements on telework and stress. As there is no strong tradition of bipartite social dialogue between cross-industry trade unions and employers' organisations in the UK, and neither the CBI nor the TUC are mandated to conclude collective agreements, drafting of implementing texts essentially takes place between the CBI, TUC and CEEP UK with the support of the Department for Business, Innovation and Skills. A specificity is the fact that UEAPME does not currently have a member organisation in the UK and as a result no SME representative organisation (for instance the Federation of Small Businesses (FSB) or the Forum of Private Business (FPB)) was party to negotiations on the implementation of the agreement. The negotiations were also accompanied by the Health and Safety Executive (HSE) and the Advisory, Conciliation and Arbitration Service (ACAS), who are responsible for providing information, advice, training conciliation and other services for employers and employees to help prevent or resolve workplace issues (including those relating to workplace harassment and violence). The Joint Guidance was launched at a seminar held at the offices of the European Commission's representation in London in November 2009. Since then, an evaluation of the impact of the guidance was carried out through two surveys, in particular to assess how the guidance has been used. This highlighted that the main uses were for providing training, spreading awareness, for reference and general information and developing policy and procedure. 250 individuals responded to the second survey, 86% of which highlighted that they have an existing policy. More than 60% of respondents who had read the guidance felt that it had helped to improve their approach.

5.2.5 Countries where social partners have focussed on joint translations and dissemination actions

Social partners in further six countries have focussed their joint implementation activities on the translation and dissemination of the text of the agreement (CZ, DE, EE, HU, IS, PT). Different levels of joint activity also have to be distinguished in this regard. Joint translation activities, for instance, can range from an assessment of an existing presentation centrally provided from the European level (where available) and its sign off, or the implementation of minor amendments, to efforts to deliver a joint translation from scratch. The latter can often be a time consuming process. Similarly, dissemination activities can either involve the simple placement of the translation on each national organisation's website (or a central ministerial/OSH body's site) to joint launch of dissemination and training events. Clearly, the precise nature of such activities demonstrates not only different levels of activity, but can also have differential impacts in relation to awareness raising (and thus potential activity) at the enterprise level.

Although there was no formal joint assessment of national legislation, both employers' organisations and trade unions in **Germany** considered existing national legislation and guidance to be sufficient to meet the requirements of the Agreement. In addition, different actions have been taken at sectoral and company level through collective or company level agreements. Examples of such agreements are contained in the joint EU social partner report on the implementation of the agreement. National industrial relations structures attach most significance in the implementation of OSH strategies to the company level. Here employers as well as works councils play a role in the development of specific approaches. The German trade union confederation, DGB, debated the framework agreement in its committee for workers' participation and works councils and determined that no further action to implement the Agreement was to be foreseen, as existing legislation covered all provisions in the text and works councils at company level are tasked to ensure

implementation as relevant. Works council members were encouraged to use the text of the agreement to review existing provisions at company level and to suggest improvements. Consultations with members of the German cross-industry employers' organisation (BDA⁸⁵) indicate an increasing awareness of the issue and strong activity at company level to consider risk factors for violence and harassment, as well as prevention measures. With regard to recent policy debates and policy developments in Germany, it is worth bearing in mind that at the level of the whole economy, the wider issues of psychosocial risks – and particularly stress at work – have received greater attention than specific issues relating to violence and harassment. Some stakeholders considered this increased public and policy attention as being linked to data showing a rise in absences resulting from stress (whether work related or not) and the significant cost implications for companies. Relevant German legislation was amended in 2013 to specifically refer to the need to include psycho-social risks in risks assessment. This was not linked to the implementation of the Framework Agreement. While this was considered by representatives of the ministry not to have changed the situation on the ground (psychosocial risks were always among the risks to be considered), it was considered to raise the profile of such issues. The legislative change was accompanied with the issuing of more detailed guidance on how to consider these risks in workplace risk assessment. At the same time, in September 2013, the German cross industry social partners (BDA and DGB) and the Germany Ministry of Labour and Social Affairs signed a common declaration on 'psychological health in the workplace' (*Gemeinsame Erklärung Psychische Gesundheit in der Arbeitswelt*⁸⁶). The declaration is not linked to the framework agreement on violence and harassment and does not address this issue. In the declaration the signatories:

- Acknowledge the increasing importance of dealing with psychosocial risks in the workplace. Today 13% of cases of work related ill-health/disability arise from psychosocial risk factors (whether arising inside or outside the workplace). The document refers to data from the national statistical office which estimates the total economic cost of such illnesses at 29 billion Euros.
- In terms of risk factors, the document specifically refers to increasing pressures felt by workers, including pressure to perform to more and more exacting deadlines, frequent interruptions at work and repetitive work processes. The document makes no reference to bullying, mobbing, harassment or workplace violence. It refers to the Guidelines on Advice and Supervision in the case of psychological pressures in the workplace (*Leitlinie Beratung und Überwachung bei psychischer Belastung am Arbeitsplatz*) prepared as part of the Joint German Strategy for workplace Health and safety (*Gemeinsame Deutsche Arbeitsschutzstrategie*⁸⁷).
- The declaration refers to the relevance of existing OSH legislation and the importance of taking psychosocial risk factors into account when carrying out risk assessment and determining prevention strategies. The latter is seen to be the core tool for the prevention of psychosocial risks. As such, better training on factors to look out for (including for SMEs), the involvement of works doctors, worker representatives and other specialists is considered critical;
- Emphasise the importance of prevention, early intervention and rehabilitation to allow workers to return to work.

The declaration emphasises that the German government considers current legislation to be sufficient and suitable to address workplace psychosocial risks. However, an assessment of its continuing suitability will be carried out towards the end of the current German Strategy on workplace health and safety (2018).

⁸⁵ Carried out by BDA for the purposes of this study.

⁸⁶ http://www.dgb.de/presse/++co++7cdd7fac-1606-11e3-8743-00188b4dc422?search_text=Gewalt+am+Arbeitsplatz

⁸⁷ <http://www.gda-portal.de/de/Startseite.html>

The social partners in **Iceland** also considered that existing legislation was sufficient to meet the requirements of the agreement and therefore focussed implementation activity on a joint translation and dissemination of the agreement. As was the case in Belgium, a formal joint assessment of existing legislation took place in Iceland. The **Czech** social partners also conducted such a joint assessment in preparation for a wider re-negotiation of the Labour Code which is still under way. Thus far, other activities have included the joint preparation of a practical information brochure which covers all three autonomous framework agreements (telework and stress included). Implementation activities have also been encouraged at company level, which is the main level of bargaining in the Czech Republic. The most important level for implementation is therefore perceived to be constituted by sectoral and company level collective agreements, undertaken in the railways, chemicals, construction and metalwork sectors.

In **Hungary**, implementation activities eventually did not go beyond a joint translation and its joint dissemination, despite initial efforts by the social partners to work with the relevant ministry to seek implementation at a tripartite level. This was partly due to a difference in opinions on the most suitable implementation tool, with the trade union favouring specific legislation, while neither the employers nor the government were in favour of this option (or indeed of a relevant amendment of the Labour Code, which was under way at the same time). Furthermore, the crisis diverted the attention to other issues. Overall, the issue of violence and harassment is often seen to be overshadowed by the wider issue of stress at work, on which there is more significant activity by the National Labour Office and employers' organisations. At sectoral level, the focus is more specifically placed on third party violence, with social partners in the local government sector implementing a joint project aimed at preparing trainers to help identify risk factors and ways to address them.

Implementation actions at cross-industry level in **Estonia** did not go beyond the dissemination of the translation of the agreement via websites. Unilaterally, trade unions have placed increasing emphasis on training activities and research and data collection. At sectoral level, particular emphasis has been placed on third party violence (also inspired by the European multi-sectoral guidelines on third party violence). In September 2014, an agreement on the prevention of third party violence was reached between the social partners in the local government sector, which could also be seen to draw on the European multi-sectoral guidelines on third party violence.

The **Portuguese** social partners also jointly agreed and disseminated a translation of the agreement. Beyond this, implementation was left to the sectoral level, but no specific information is available to date on agreements or joint actions at this level. This could be due to the crisis, diverting the attention away to other issues and bringing in a period of crisis in Portuguese industrial relations as the country grappled with the requirements of the Memorandum of Understanding. A guidance document on harassment and violence was drafted in Portugal, but failed to find the approval of the employers' organisation CIP, which argued that the text lacked legal and procedural clarity.

5.2.6 Countries without joint implementation actions

In ten out of 31 countries (BE, BG, EL, HR, IT, LI, LT, MT, RO, SK) no actions have been taken to implement the Agreement for various reasons. In 3 countries, this was because a joint assessment of existing legislation or provisions in collective agreements led the social partners to the conclusion that no further action was needed. This is true for Belgium (which arguably has the most developed legal provisions on harassment and violence in the workplace), Italy and Liechtenstein. Public sector employers and trade unions in **Italy** have assessed their existing collective agreement dating back to 2003 and resolved that no further action was needed to implement the goals of the framework agreement, although some companies in the sector, such as Poste Italiane, have since then concluded collective agreements which feature this issue. A national working group of social partners in the private sector continues to consider possible steps regarding any necessary implementation actions linked to the Agreement.

In **Greece**, although previous EU social partner autonomous framework agreements have been jointly implemented, a decision was taken in this case that as a result of the crisis and the significant issues facing the Greek economy, no action would be taken at this stage to implement the agreement, as both social partner organisations as well as the government were devoting the focus of their activity on other priorities. In **Bulgaria**, the national trade union confederation has prepared a draft framework agreement, but discussions on this are ongoing and no joint agreement could thus far be reached. The **Croatian** national trade union confederation is keen for the government to take legislative action in this area, but employers' organisations are not supportive of this stance. In **Lithuania, Romania** and **Slovakia**, social dialogue structures are generally considered to be relatively weak, which may have contributed to the lack of implementation in these countries. In **Malta**, common guidelines have only focussed on third party violence and a link of this activity with the Agreement could not to be established by stakeholders.

Thus, a lack of implementation in 7 out of these 10 countries of these countries can only to a limited extent be attributed to the existence of existing provisions on violence and harassment in the workplace considered by the relevant stakeholders to be sufficient to cover the provisions of the agreement, and is more likely to result from a lack of agreement on implementation tools and texts or from the weakness of social partner organisations to pursue implementation in accordance with the procedures and practices specific to management and labour at national level.

Overall, it is possible to find a strong correlation between specific features of national industrial relations systems (e.g. level of bargaining, strength of social partner organisations and their general involvement in policy making and tripartite discussions) and the approach to the implementation of the autonomous framework agreement.

5.3 Achievement of goals of Framework Agreement and Commission objectives

5.3.1 Introduction and overview

Based on the information presented in section 5.2 regarding the main implementation actions linked to the Agreement at national level, as well as an underlying understanding of the existing legislative and industrial relations framework surrounding the prevention and tackling of violence and harassment in the workplace (section 3 and Annex 1), this section assesses firstly the extent to which the implementation actions achieved the goals determined by the social partners in the Agreement, and secondly those of the European Commission consultation. For a number reasons, this is a challenging task:

- In assessing whether the main implementation actions at national level meet the goals of the Community in the Commission's first stage consultation, it must be acknowledged that these do not conform wholly to the goals set out by social partners in their Agreement (see section 4 above), and it cannot be expected that national social partner implementation actions will have reached (or indeed targeted) these goals. It must be made clear that this is assessed in light of the requirement for the Commission to monitor the implementation of social partners' autonomous framework agreements (and to assess the extent to which they meet the Commission's intentions at a point when a potential Community initiative was put on hold because of social partners' negotiations).
- As indicated in section 5.2, a judgement on whether implementing activities at national level have met the goals of the autonomous framework agreement must be seen within the wider policy and legislative context and the extent to which these goals may have already been met by existing national provisions and processes. In this situation it can be assessed whether implementing actions have added value in relation to these pre-existing activities.
- While it is, against this background, feasible to assess the extent to which national activities have met the goals of the Agreement in the intentions they pursue, it is

significantly more difficult to assess whether these intentions or goals (at national level) have in fact been met, as limited evidence is available of the impact of these national activities at the enterprise level (let alone on trends in the incidence of harassment and violence in the workplace). Even were such evidence to be available, the attribution of causality is made difficult by the existence of a multitude of confounding factors.

The analysis in this section therefore relies on a combination of the information gathered by the mapping of existing national provisions, national implementation actions and stakeholders' as well as own assessment of their goals and impact and must be treated with caution.

Table 5.3 provides an overview of this assessment which is elaborated further in the subsequent sub-sections. It seeks to take account of the goals pursued by the implementation activities, as well as to indicate the level of impact that those activities are considered (by stakeholders) to have had towards the achievement of these goals.

Table 5.3 Achievement of goals set by social partners in Framework Agreement and by Commission in its first stage consultation

	Framework Agreement Objectives		Commission objectives
Country	Increase awareness and understanding of workplace violence and harassment among employers and workers and their representatives (✓ some impact; o limited impact; x no impact)	Provide employers, workers and their representatives with an action oriented framework identify, prevent and manage incidents of workplace violence and harassment (✓ some impact; o limited impact; x no impact)	Strengthen prevention in relation to different forms of violence in the workplace (✓ some impact; o limited impact; x no impact)
AT	✓/o - awareness raising and providing practical tool is the main aim of the guidance, but limited evidence of impact	✓/o - guidance provides examples of concrete steps, but no evidence of impact	o
BE	o - no implementation action based on legal assessment; awareness already high	o - no, but already exists in national provision	o
BG	x	x	x
CY	✓/o - tripartite agreement aimed at wide awareness raising, some limited evidence of impact as a result of fully up activities	✓/o – goal is to achieve sectoral follow up (and meet target), but so far limited evidence of action at sectoral level	✓ but only to a limited extent. The agreement focusses on stress with only a policy statement on violence and harassment. Relies on sectoral implementation. Sets targets.
CZ	✓/o - awareness raising is goal of joint brochure, some evidence of downstream activity	x – brochure is limited to setting out provisions of three autonomous agreements	o
DE	✓/o – dissemination aimed to raise awareness, employers consider there has been impact; overall awareness already considered high	x/o - no joint action oriented document, but emphasis on local level implementation and existence of wider debate on psychosocial risks	o
DK	✓/o - public sector collective agreement; existing provisions considered sufficient in private sector – some evidence available on impact	✓/o (in public sector collective agreement provides emphasis for action at enterprise/establishment level, joint actions have been taken at sectoral and company level – some evidence available on impact)	✓ (for public sector)
EE	o /x - dissemination of translation not significantly linked to significant awareness raising, only placement on webpage	x - translation only	x
EL	x	x	x
ES	✓ cross-industry agreement, some information available on	✓/o - emphasis on implementation at sectoral	✓ but only to a limited extent. The national

	Framework Agreement Objectives		Commission objectives
Country	Increase awareness and understanding of workplace violence and harassment among employers and workers and their representatives (✓ some impact; o limited impact; x no impact)	Provide employers, workers and their representatives with an action oriented framework identify, prevent and manage incidents of workplace violence and harassment (✓ some impact; o limited impact; x no impact)	Strengthen prevention in relation to different forms of violence in the workplace (✓ some impact; o limited impact; x no impact)
	impact	level, some limited evidence of action at this level	agreement itself is not binding but requires action at the sectoral level.
FI	✓/o - dissemination of joint leaflet aimed at raising awareness, but no significant additional awareness raising impact; already considered high	x/o - no specific action oriented steps included, but wider debate on the issue has taken place	o
FR	✓ - cross sectoral agreement; universally binding, with emphasis on implementation at sectoral level	✓/o - emphasis on implementation at sectoral level, but limited evidence	✓ but only to some extent. The framework agreement is universally binding but requires action at sectoral level
HR	x	x	x
HU	x/o - dissemination of translation not significantly linked to significant awareness raising	x - no specific action oriented steps included	x
IE	o - dissemination of charter not linked to significant awareness raising; already considered high	o/x - charter is a tool for workplace, but no evidence of impact	x
IT	x/o – no implementation tools, but awareness already relatively high	x/o some pre-existing tools to be applied at enterprise level	o
LT	x	x	x
LU	✓ - cross sectoral agreement; universally binding, with emphasis on implementation at sectoral level	✓/o - emphasis on implementation at sectoral level, but limited evidence of such steps	✓ but only to some extent. The framework agreement is universally binding but requires action at sectoral level
LV	✓/ o - cross sectoral declaration; with emphasis on implementation at sectoral level	✓/o - emphasis on implementation at sectoral level, but limited evidence of such steps	o
MT	x	x	x
NL	✓/ o - cross sectoral recommendation; with emphasis on implementation at sectoral level)	✓/o - emphasis on implementation at sectoral level, but limited evidence of such steps	o

	Framework Agreement Objectives		Commission objectives
Country	Increase awareness and understanding of workplace violence and harassment among employers and workers and their representatives (✓ some impact; o limited impact; x no impact)	Provide employers, workers and their representatives with an action oriented framework identify, prevent and manage incidents of workplace violence and harassment (✓ some impact; o limited impact; x no impact)	Strengthen prevention in relation to different forms of violence in the workplace (✓ some impact; o limited impact; x no impact)
PL	✓/o - cross sectoral recommendation; with emphasis on implementation at sectoral level	✓/o emphasis on implementation at sectoral level, but limited evidence	o
PT	o/x - dissemination of translation not significantly linked to significant awareness raising	x - translation only, no specific action oriented steps	x
RO	x	x	x
SE	o - dissemination of translation not linked to significant awareness raising; already considered high	x/o – significant measures already in place at national level	o
SI	✓ - legislative change	✓/o –binding but limited evidence of impact	✓ binding legislation (relies on compliance)
SK	x	x	x
UK	o - dissemination of guidance some evidence of awareness raising through survey	o/x - joint guidance is tool for workplace, limited evidence of impact	o
IS	o - No implementation action based on legal assessment; awareness already high	o - No , but already exists in national provision	o
LI	x	x	x
NO	o - dissemination of guidance/awareness already considered to be high	o/x - joint guidance is tool for workplace, limited evidence of impact	o

5.3.2 Extent to which implementation actions meet the goals of the social partner set in the Agreement

As shown in section 4.3 above, the European cross-industry social partners in signing the autonomous framework agreement on harassment and violence at work aimed to:

- Increase the awareness and understanding of employers, workers and their representatives of workplace harassment and violence,
- Provide employers, workers and their representatives at all levels with an action-oriented framework to identify, prevent and manage problems of harassment and violence at work.

The extent to which awareness can be raised and an action oriented framework can be provided clearly depends on the existing level of awareness of the phenomena of HVW and existing tools for enterprises and worker representatives to tackle them. This means that even where there has been no implementation action or where this is limited to the

dissemination of a translation or guidance, this does not necessarily imply that the goals (or at least one of the goals) of the agreement have not been reached. Similarly, while strong tools may have been formulated in collective agreements for further implementation at sectoral or company level, active implementation on the ground and awareness of such tools may be limited, depending on the methods chosen for their implementation and dissemination (or depending on national industrial relations structures).

In addition, there is the question of how to assess whether awareness has been raised. Beyond the evidence gathered in the enterprise/employee survey and the views expressed by stakeholders during interviews carried out for this study, no evidence is available to underpin an assessment as to whether this goal has been achieved.

Furthermore, it is important to interpret what it could mean in principle to provide 'an action oriented framework to identify, prevent and manage problems of harassment and violence at work'. As the Agreement itself is intended to provide such a framework, this depends on the interpretation of what implementation in accordance with national practices means. To what extent can translation and separate dissemination activities be considered sufficient to stimulate action at enterprise level? This clearly depends on the specific national framework for social partner action in this area, on the tools already in place and the extent to which the European Agreement (and its national implementation) can add value to this. The intention of the European social partners was to encourage action at the most relevant level in the national context. If the goals of the agreement are to be reached it must be assumed that some downstream activity needs to be encouraged to achieve the implementation of relevant measures at enterprise level.

The ultimate arbiter of success could be argued to be any trend developments in violence and harassment in the workplace itself and the ability of workers to take steps to protect themselves or seek redress when such phenomena occur. However, it was determined from the outset of this study that such an evidential approach is not possible in this case because of the lack of clear data, the existence of many confounding factors and influences and the difficulties in assessing the impact of awareness raising on the reporting of incidents of HVW.

Given the complexity of the assessment, the approach taken in making the judgement of impact as indicated in the above table is not to reflect on actual evidence of increased awareness or success in reducing the incidence of HVW, but instead to look at whether what has been done could reasonably be expected to have had a significant impact in terms of awareness raising (where this was necessary) and whether the implementation activity/tool used contained any action oriented element which required further activities at national, sectoral or company level beyond the dissemination/awareness raising effect. Stakeholder assessments of impact achieved were also taken into account.

Using this rationale, Table 5.3 above demonstrates that in relation to awareness raising:

- In 13 countries actions to implement the Agreement are considered to have had a more or less positive impact on awareness raising (whether from an existing low, medium or high level; AT, CY, CZ, DE, DK, ES, FI, FR, LU, LV, NL, PL, SI);
- In a further 6 countries this impact is considered to be neutral, either because of some limited positive impact or because awareness was already high and social partners therefore considered for there to be a limited need for further activities (BE, IE, SE, UK, IS, NO);
- In 12 countries, social partner activities/or lack of actions have had no or limited impact (BG, EE, EL, HR, HU, IT, LT, MT, PT, RO, SK, LI).

The picture is relatively similar when it comes to the assessment of whether implementation actions have provided 'action oriented tools' to tackle HVW:

- 10 countries are ranked positive or neutral as implementation actions clearly set out a 'chain of activity' with a national agreement for instance requiring further action at the

sectoral or company level (and in one case even targets for lowering the incidence of HVW) (AT, CY, DK (public sector), ES, FR, LU, LV, NL, PL, SI). It should be noted that even in these countries (with the possible exception of Spain) there is no or limited evidence of the impact of such agreements at sectoral or company level;

- In 9 countries the assessment is more neutral either because the tool used was aimed at instigating further action or because of the pre-existence of such tools which were given greater exposure through the implementation of the Agreement (BE, DE, FI, IE, IT, SE, UK, IS, NO);
- 12 countries are judged not to have achieved this goal, either because no actions were taken or because these actions were limited to the translation and dissemination of the agreement in a context of a weak framework of legislation, collective agreements or other tools which might pre-exist to provide such an action oriented framework which could be referred to (BG, CZ, EE, EL, HR, HU, MT, PT, RO, SK, LI, LT).

It is maybe unsurprising that among the countries which are considered not to have achieved both goals, countries in which social partners have not taken implementation actions are represented rather prominently in relation to not achieving awareness raising goals and not providing an action oriented framework for employers and employee representatives. However, a number of countries which have not taken specific implementation actions (e.g. BE and IT) are not represented among the countries receiving a more negative assessment. In these countries, awareness of the issue of violence and harassment at the workplace (or of specific aspects of the phenomena) was already considered to be high and relatively strong measures were in place either in legislation or collective agreements to address these issues. In Belgium it was explicitly considered by the social partners that no further action was required and in Italy the need for further action is still being discussed. In Italy, social partners in the public sector considered that existing collective agreements already meet the provisions set out in the Agreement.

By the same token, there are a number of countries which have taken joint implementation actions where the impact on awareness raising is considered to be limited or non-existent by the social partners themselves and other stakeholders (e.g. EE, PT).

With regard to the ambition of providing an action oriented framework, a number of countries focussing solely on the translation and dissemination of the agreement (e.g. EE) are also ranked among those achieving limited or no impact, as the steps taken did not include a clear requirement for further action at sectoral or company level (beyond what stated in the Agreement). The situation is assessed somewhat more positively in Finland and Germany, not only because stronger follow-up actions at sectoral and company level were taken in these countries, but also because of a traditionally strong emphasis on local level implementation and the existence – at the same time – of a wider national dialogue on the issue of psychosocial risks.

Among the countries receiving a 'neutral' rating linked to awareness raising, it is important to note that this rating is given in many countries largely because the tool did not significantly contribute to greater awareness in a context where awareness is already relatively high as a result of a strong legislation, collective agreement or guidance framework. This is true for Sweden, Norway, Iceland, Ireland and the UK. This should be distinguished from Belgium which also receives a neutral rating, partly because awareness is already high, but also because a joint assessment of the legislation actually took place in this country, also assisting with raising awareness of the issue. In this context it should be noted that Belgium is one of the countries with the most extensive provisions governing violence and harassment in the workplace. The assessment made here does not preclude that the Framework Agreement may have had an additional awareness-raising role, even if this is difficult to judge. Austria, which also has a guidance tool and the Netherlands, where social partners formulated a joint recommendation, are ranked more positively in this assessment, as the Austrian tool provides more examples of relevant situations in a format deemed more likely to raise awareness of potential situations of harassment and violence than the

guidance tools drafted in some other countries. In the Netherlands, the action undertaken is linked to recommendations to draft joint catalogues of risk at the sectoral level and is therefore also deemed to have greater (downstream) awareness raising potential. In the Czech Republic there is evidence of some limited downstream activities; however, cross-industry level implementation activities focused on translation and dissemination and discussion on the potential revision on the Labour Code thus far have not been concluded on this issue.

Countries most likely to receive a positive assessment in relation to the awareness raising potential of their actions are those with national level legislative amendments, social partner agreements, declarations or recommendations which specifically called for further action at the sectoral and/or company level and in some cases set out the steps or framework for such actions to be taken (e.g. CY, DK, ES, FR, LU, LV, PL, SI). These are also among the countries being assessed positively with regard to the offer of an 'action oriented framework' for employers and workers to address the issue. The representation of countries on this list shows that it is possible to draft joint agreements on such actions irrespectively of the underpinning industrial relations framework, although countries with a strong track record of social partnership and formulation of national level agreements are significantly represented (e.g. CY, DK, ES, FR, LU).

In considering this assessment, as was the case in the presentation of the implementing actions above, it is worth recalling that in some countries there was disagreement among the social partners as to the specific steps to be taken to implement the agreement effectively, with trade unions generally calling for more specific actions, including more specific legislation (e.g. in AT, HU, HR among others).

5.3.3 Extent to which implementation actions meet Community goals set out in the first stage consultation of social partners

As indicated in section 4 above, the European Commission's first stage consultation of the social partners refers to disparities in the explicit coverage of the issue of workplace violence and bullying in national legislations and therefore different levels of protection of workers' health and safety at country level with regard to the issue. It argues that 'shortcomings in Community law and national legislation in this area show that action at Community level could help to strengthen prevention of different forms of violence at the workplace'. The goal is therefore interpreted as being the potential use of Community instruments to strengthen prevention of different forms of violence (and harassment) in the workplace in order to secure a higher standard of protection across the EU.

As this does not conform entirely to the goals set out by social partners in their Agreement, it cannot be expected that national social partner implementation actions will have reached these goals. However, in light of the Commission's monitoring of the implementation of social partner autonomous framework agreements and the extent to which they meet the Commission's intentions at a point when a potential Community action was put on hold because of social partner negotiations, it can be assessed to what extent implementation actions strengthen prevention and therefore provide steps towards ensuring a minimum standard of protection.

An assessment of this criterion is rendered difficult by the fact that the Consultation document does not elaborate on the types of measures which would be envisaged to strengthen prevention across the EU. For the purposes of this analysis, it is assumed that a basic prerequisite would be a recognition that violence and harassment in the workplace in its different forms is an occupational health and safety risk linked to factors in the work environment. As a result, the preventive approach of the EU Health and Safety Framework Directive should be seen to apply accordingly. Prevention should be strengthened by a variety of measures, including those acting as a disincentive to avoid tackling such issues; for instance:

- A clear definition of the phenomenon to be tackled;

- Steps to be taken to ensure prevention;
- Allocation of the burden of proof;
- Process for registering and dealing with complaints;
- Sanctioning regime and enforcement mechanisms;
- Mechanisms of support to the victims (this element is less likely to be found in existing legislative provisions).

Any assessment of whether the goal of strengthening prevention has been achieved is therefore strongly linked to an assessment of the levels of protection offered by existing legislation and the impact of implementation tools used for the framework agreement on existing minimum standards of protection.

Section 3 above showed that while OSH legislation in 16 of the countries covered by this study (AT, BE, DE, DK, EE, FI, HR, HU, IT, LV, NL, PT, SI, IS, LI and NO) explicitly refers to the need to address psychosocial risk factors, only 8 countries (BE, DK, FI, LU, NL, SI, IS, NO) have specific OSH legislation covering both violence and harassment in the workplace (featuring relevant definitions etc.) and 3 more countries cover only harassment (FR, PL, PT). In Sweden, where currently only violence is included, legislation is currently being reviewed. In Slovenia, legislation was adapted to address this in the context of the implementation of the agreement. Austria and Germany, for instance, also saw recent amendments to OSH legislation to place greater emphasis on psycho-social risks factors, but this was not considered to be linked to the Agreement by relevant stakeholders.

As a result of EU equal treatment legislation, all countries have in place provisions on workplace harassment on the different grounds of discrimination set out in the Directives, but do not explicitly address prevention.

This arguably leaves significant scope to enhance specific prevention measures and standards of protection.

The impact of the implementation of the Agreement in achieving this is conditioned by a number of factors including the legal or other binding status of relevant implementation instruments, their level of coverage, the representative status of the signatory parties and the proscribed steps to be taken to ensure workplace level implementation. The evidence presented in Table 5.1 above leads to the following conclusions in relation to these factors:

- Binding improvements to existing standards were achieved in five countries (CY⁸⁸, ES⁸⁹, FR, LU, SI) which used legislation or national collective agreements as implementation tools (in FR, LU and SI these are universally binding). In terms of implementation, they rely strongly on sectoral actions downstream. In Denmark, relevant national collective agreements were reached in the public sector which also has almost universal coverage.
- All other tools are not only non-binding but are also more limited to their signatory parties.

While progress has therefore been achieved in enhancing prevention and protection from HVW through binding measures, agreements, as well as awareness raising which can impact on company level practice, it cannot be argued that there have been improvements in prevention across the board. Table 5.3 indicates that this has been achieved to some extent in the six countries mentioned above (CY, DK, ES, FR, LU, SI); to a more limited extent in 13 countries (AT, BE, CZ, DE, FI, IT, LV, NL, PL, SE, UK, IS, NO) and not at all in the remaining countries (based on available information).

⁸⁸ The Cypriot tripartite framework agreement focusses on stress but includes a political statement on violence and harassment.

⁸⁹ The Spanish cross-industry collective agreement is not binding, but requires action at the sectoral level.

The question therefore remains whether there is the same need – as was identified by the Commission at the time – to address this issue. To assess this, it is not only important to look at any evidence of impact of national level tools resulting from the Agreement, but also at trends in the European level data considered above. The final section in this chapter looks at evidence from the national reports of the impact of the implementation of national level tools. The conclusion of this report further reflects on trend developments in the incidence of violence and harassment and seeks to draw conclusions on whether Community level action is still required in this field.

5.3.4 Impact of the Framework agreement on level of protection of workers from work related harassment and violence

Evidence of planned monitoring mechanisms (or planned assessments) of the impact of national implementation tools is limited. Examples are provided below of agreements which include monitoring provisions or where some evidence of downstream implementation is available:

- In Cyprus, the national agreement is linked to targets for the reduction of HVW but no assessment is so far available;
- In France, no comprehensive assessment of the impact of the national collective agreement has been carried out so far by social partners themselves. A report on its implementation should be prepared on an annual basis, but such reports have not been made public. However, the 4th inter-ministerial plan to prevent and tackle violence against women has announced that a working group of the High Council for Professional equality (*Conseil supérieur de l'égalité professionnelle*) would take stock of the consequences of the ANI (Accord National Interprofessionnel) on harassment and violence;
- In Luxembourg, an assessment of the implementation of the joint agreement on harassment and violence at work of 2009 was originally planned to be carried out 5 years after its entry into force (end 2014), however, this has not yet been done. The Government will decide if new legislation is necessary after this assessment;
- An ESF funded project carried out in Slovenia in 2013-2014 analysed the state of the implementation of all European autonomous agreements at the national level. According to this project, only four sectoral collective agreements mentioned the European autonomous agreement on harassment and violence at work⁹⁰. This includes, for instance, the Collective Agreement for Banking and Savings Bank Activities.
- In Spain, the Ministry of Employment and Social Security collects statistical information on developments in collective bargaining⁹¹ but it is not possible to extract information on the number of collective agreements that contain provisions on harassment and violence at work. The 2011 report on the implementation of the European autonomous framework agreement prepared by European social partners includes some examples of sectoral collective agreements in Spain, both at the national and regional level, which contain provisions on harassment and violence⁹². Additional examples of sectoral collective agreements that contain provisions related to the European autonomous framework

⁹⁰ Public sector: http://www.sindikat-zsss.si/index.php?option=com_content&view=article&id=245&Itemid=103

Private sector: http://www.sindikat-zsss.si/index.php?option=com_content&view=article&id=244&Itemid=102

⁹¹ <http://www.empleo.gob.es/estadisticas/cct/welcome.htm>

⁹² Examples of such national sectoral agreements include the 2008 National Collective Agreement of Engineering Companies and Technical Consultancies (which has incorporated the agreement as a recommendation clause) and the 2007 National Collective Agreement on the Paper and Graphic Arts Trade Cycle (which makes reference to a specific negotiation body tasked to examine the incorporation of the Agreement's clauses). At the regional level, examples of relevant sectoral agreements include the collective agreement dealing with harassment and violence at the workplace in the Hotel Sector signed by the Madrid Hotel Employers Organisation, the UGT and the CCOO.

agreement on harassment and violence at work have been compiled in a note from UGT's Observatory of psychosocial risks published in 2013⁹³. The note highlights that while some collective agreements only include general references to the need to address harassment and violence⁹⁴, others are more precise. For instance, the collective agreement for the chemical industry sector 2011-2012 includes an elaborate protocol to prevent and address cases of harassment, which companies that have not established their own protocol can use. Information can also be derived from a survey led by the department of labour relations of the confederation of employers (CEOE), based on a sample of sectoral and company collective agreements. Among the 94 sectoral collective agreements covered by the survey, 39.4% recall that harassment is an infraction, 27.7% provide a definition of harassment, and 21.3% include a procedure to address cases of harassment. Provisions in relation to violence and harassment can be found in the collective agreements of the food and drinks sector, some services sectors, the chemical and the metal industries. At the company level, examples of provisions related to harassment and violence can be found in some collective agreements, but it is difficult to assess if these were directly or indirectly inspired by the European autonomous framework agreement. Some examples have been outlined in the 2011 report by European social partners and, in the above-mentioned note prepared by the trade union UGT. One of the examples, highlighted by UGT as a good practice, is the protocol agreed at Telefónica Móviles España in 2012 to deal with alleged cases of moral, sexual or gender-based harassment at work. Concerning sexual and gender-based harassment, a recent expert report (2013) commissioned by public authorities has examined 57 collective agreements in private companies that contain some provisions in the area⁹⁵. Only approximately one in five included a reference to the European framework agreement, while more than a third included a reference to the 2007 Organic Law on gender equality. The report notes that the level of detail and scope of these provisions varies. Close to half of the collective agreements studied only contained general statements of principles and did not include a detailed protocol of action to deal with alleged cases. While close to 60% of the agreements reviewed explicitly mentioned the objective of abolishing harassment, less than a quarter contained provisions to strengthen the rights of affected workers.

- In the UK, the social partners conducted a joint evaluation of the impact of the guidance, produced as implementation tool of the EU Agreement, through two surveys, aimed at assessing the level of awareness and use of the guidance. This highlighted that the main uses were for providing training, spreading awareness, for reference and general information and developing policies and procedures. 250 individuals responded to the second survey, 86% of which highlighted that they have an existing policy. More than 60% of respondents who had read the guidance felt that it had helped to improve their approach to the management of HWW.

Albeit not linked to the national implementation of the framework agreement, it is also interesting to note the following evidence from Denmark and Germany. In Denmark, research on enterprises' health and safety policies was undertaken by the National Research Centre for the Working Environment under the Ministry of Employment (*Det Nationale Forskningscenter for Arbejdsmiljø*). Survey data from the "Companies Health and Safety Activities"⁹⁶ is available on measures undertaken by companies as from 2012 (with anticipated measurements every two years until 2020).

⁹³ Observatorio de riesgos psicosociales (UGT). Ficha de prevención 50/2013. Acuerdo marco Europeo de violencia en el trabajo: Ejemplos, <http://portal.ugt.org/saludlaboral/observatorio/fichas/FichasObservatorio%2050.pdf>

⁹⁴ E.g. the collective agreements in the hairdressing sector includes reference to the legislation, while the collective agreement for notaries and employees includes a general statement of principle to prevent harassment.

⁹⁵ INSHT (2011) VII Encuesta Nacional de Condiciones de Trabajo 2011 ;<http://www.insht.es/Insh>

⁹⁶ Virksomhedernes arbejdsmiljøindsats 2012 at

Survey results indicate that enterprises largely comply with legislative requirements. However, results also suggest that the efforts of enterprises vary across sectors and across enterprise sizes⁹⁷. Survey results from 2012 indicate that:

- 53% of enterprises have no policy or guidelines on prevention and management of bullying. Small enterprises (<10 employees) are the least active in this area (74% have implemented no concrete policies), whereas 57% of large enterprises have put in place policies and/or practices. The sectors 'Residential institutions and home care', 'hairdressers and other personal care', slaughterhouses, 'day care centres, doctors, dentists and veterinarians' and 'hotel and camping' are most systematically engaged in the development and implementation of policies or practises to prevent bullying. Enterprises in 'Installation and repair of machinery', 'construction and demolition of buildings', 'work', 'electronics' and 'wood and furniture ' sectors are those who least frequently have policies and practices in place.
- 45% of the enterprises have no policies in place to prevent or address violence or threat of violence in the workplace. Enterprises/public sector institutions within the sectors of residential institutions and home care, hospitals, hairdressers and other personal care, education and doctors, dentists and veterinarians – which also are the enterprises where most employees are subject to violence/threat of violence - are those most frequently equipped with policies to prevent and address violence or threats of violence.

In Germany, a recent evaluation of the German Health and Safety Strategy (Lißner, L., Brück, C., and Stautz, A.; 2014⁹⁸) found that – according to a survey carried out for the evaluation - just over half (51%) of companies in Germany had carried out a risk assessment. This figure was significantly higher for companies with more than 50 employees (90%) and considerably lower for micro- and small companies (41% of companies with 1-9 employees and 70% of companies with 10-49). Given the significance of micro- and small companies in the German economies this demonstrates that more work remains to be done with regard to training and awareness raising on the importance of workplace health and safety and the role of risk assessment within it. Another survey based study carried out by TNS in 2011 found that 82% of companies argued that the duties of employers were clearly regulated in legislation; only 69% considered the regulation to be easily understandable and 51% of responding companies argued that existing regulations were difficult to implement within their organisation⁹⁹. This is particularly relevant in a country where psycho-social risks (as well as physical risks) are considered to be primarily addressed through company level measures discussed with the works council, which should be based on sound risk assessment.

<http://www.arbejdsmiljoforskning.dk/da/arbejdsmiljoedata/virksomhedernes-arbejdsmiljoindsats-20>

⁹⁷ See <http://www.arbejdsmiljoforskning.dk/da/arbejdsmiljoedata/virksomhedernes-arbejdsmiljoindsats-20/virksomhedernes-arbejdsmiljoindsats-2012/resume>

⁹⁸ http://www.gda-portal.de/de/pdf/GDA-Dachevaluation_Abschlussbericht-kurz.pdf?_blob=publicationFile&v=3; this evaluation did not include a specific assessment of activities and measures in relation to psychosocial risk factors.

⁹⁹ Source: Infoblatt Optimierung des Vorschriften und Regelwerkes; http://www.gda-portal.de/de/pdf/GDA-InfoblattVuR.pdf?_blob=publicationFile&v=2

6 Conclusions

6.1 Introduction

Autonomous framework agreements to be implemented '*in accordance with the procedures and practices specific to management and labour in the Member States and in the countries of the European Economic Area*' (Article 155 TFEU) have, over the past decade, become among the most frequently used tools of the European cross-industry social dialogue. Autonomous framework agreements were used to require national social partners to take relevant implementing actions in relation to telework (2002), stress (2004), violence and harassment (2007) and – most recently – inclusive labour markets (2010).

In line with the Commission Communication on Social Dialogue (COM(2004) 557 final), it is the role of the European Commission, in the specific case of autonomous agreements implemented in accordance with Article 139(2)¹⁰⁰ and stemming from a social partners' consultation, to undertake its own monitoring of such agreements, to assess the extent to which they have contributed to the achievement of the Community's objectives in launching the consultation of the social partners, as such negotiations effectively interrupt a (potential) Community action.

In drawing conclusions on the findings of the research carried out for this study, the focus will firstly be on the content, scope and coverage of implementation actions and an assessment of whether the steps taken by national social partners meet the stated goals of the European social partners of increasing awareness of the issue of harassment and violence at work and providing an action oriented framework to identify, prevent and manage incidents of harassment and violence at work. Secondly, the extent to which the actions taken could be seen to contribute to reaching the Community objectives outlined in the Commission's first stage consultation is considered. Thirdly, it is assessed whether further action is required to achieve these Community objectives against the backdrop of the national implementation of the framework agreement and comparative trend information on the incidence of violence and harassment in the workplace.

Finally, a broader assessment is made of use and impact of the implementation of European social partners Framework Agreements more generally, taking into account previous assessments of the telework and stress agreements.

6.2 Assessment of the implementation of the European Autonomous Framework Agreement on Harassment and Violence at Work

Any assessment of the implementation of European social partner autonomous framework agreements at national level is challenging because it must take into account the procedures and practices specific to management and labour in each country; the nature of pre-existing legislation, collective agreements, guidance and tools to deal with the issues to be addressed. For the Agreement on harassment and violence in the workplace, in terms of scope, content and coverage of the implementation actions taken, this report concludes that:

- In five countries, the national cross-industry social partners used bipartite or tripartite collective agreements to implement the Framework Agreement (CY, DK, ES, FR, LU). In France and Luxembourg these were subsequently declared universally applicable by the government. In Denmark this only applies to the public sector. Social partners in the private sector instead assessed existing legislation and collective agreement and signed a joint declaration indicating this to be sufficient. In Cyprus, a tripartite agreement was reached between social partners and the government on stress, which was accompanied by a complementary political declaration on harassment and violence at work. Targets on the reduction of workplace violence and harassment were associated with the

¹⁰⁰ Now Article 155 TFEU

agreement. While the Spanish bipartite agreement is not legally binding, it requires actions at the sectoral level to address the issue;

- In Slovenia social partners worked with the government to seek implementation of the autonomous framework agreement by means of amendment of the national legislation, as this is the main national instrument in the field of health and safety;
- Implementation instruments in the shape of joint guidance, declarations, recommendations or charters were favoured by social partners in nine countries (AT, FI, IE, LV, NL, NO, PL, SE, UK). This was largely in line with actions usually adopted to implement OSH measures (and/or autonomous framework agreements). In several cases, the drafting of such instruments was followed up with dissemination activities and the conclusion of sectoral or company level collective agreements (e.g. FI, NL, NO, SE);
- Social partners in six countries have focussed their joint implementation activities on the translation and dissemination of the text of the agreement. Different levels of joint activity also have to be distinguished in this regard. Joint translation activity, for instance can range from an assessment of an existing presentation centrally provided from the European level (where available) and its sign off or the implementation of minor amendments – to efforts to deliver a joint translation from scratch. Similarly, dissemination activities can either involve the simple placement of the translation on each national organisation's website (or a central ministerial/OSH body's site) to joint launch and dissemination and training events. Clearly, the precise nature of such activities demonstrates not only different levels of activity, but can also have differential impacts in relation to awareness raising (and thus potential activity) at the enterprise level. In a number of countries using this approach, social partners again considered pre-dating measures to be sufficient and considered that the further awareness raising activities linked to the dissemination of the Agreement would be sufficient to encourage the implementation of relevant measures at sectoral or company level (DE, IS). In Germany, social partners placed particular emphasis on implementation at the sectoral and company level (e.g. sectoral agreements exist in the retail and banking sectors). However, in other countries social partners were not able to agree or were not sufficiently strong to implement other actions (CZ, EE, HU). In Portugal the crisis and the process of implementing the Memorandum of Understanding was considered to have undermined existing industrial relations structures and captured attentions for other priorities.
- In ten out of 31 countries no actions have been taken to implement the Agreement for different reasons, including: the existence of legislation or collective agreements pre-dating the European Agreement which were considered by relevant social partners to be sufficient to meet the aims of the Agreement (BE, LI, IT¹⁰¹); the weakness of social partners and social dialogue structures (LT, MT, RO, SK); disagreements among national social partners as to the implementation tool to be used (HR, BG). In Greece, the economic crisis and the diversion of attentions to other priorities as well as the associated weakening of industrial relations structures was seen as the main reason for a lack of implementation, which had been via national collective agreement for the other two autonomous framework agreements. As a result, in 7 out of these 10 countries the lack of activity was not linked to the pre-existence of strong legislative or guidance framework on the issues of harassment and violence in the workplace.

A range of sectoral and unilateral actions were also taken at national level. These primarily focussed on addressing third party violence in sectors such as transport, health care and education. Within the scope of this research it has not been possible to look in detail at actions at the company level.

¹⁰¹ This is also likely to be the case in Liechtenstein, although insufficient information was available to make a detailed assessment.

A survey carried out for this study in eight countries (among a total of 400 employers and employee health and safety representatives¹⁰²)¹⁰³ suggests that approximately 40% of enterprises have introduced new company level measures to prevent and address workplace violence and harassment since 2010. In around 20% of cases enterprises and employee health and safety representatives made a direct link between these changes and the national implementation instrument of the European Framework Agreement.

When considering further whether the actions taken by national social partners have succeeded in meeting the awareness raising goals of the Agreement, in 18 countries social partner activities / lack of actions can be considered to have had no or a limited impact, either because strong awareness already existed or because the measures taken were considered not to have had a strong awareness raising effect (if limited to the translation of the agreement or in the countries where implementation is absent). In 13 countries actions to implement the Agreement are considered to have had a positive impact on awareness raising (whether from an existing low, medium or high level). Findings from the online surveys carried out for this study show that around 35% of enterprises surveyed consider that awareness of the issue of harassment and violence at work has increased since 2010 (just over 50% considered that it stayed the same). Among employee health and safety representatives responding, 41% considered that awareness was now greater among employers; whereas 61% argued that awareness had been raised among workers. Around 31% of enterprises surveyed and 41% of respondents to the employee health and safety representative survey were aware of the European autonomous agreement on harassment and violence. Only 20% of enterprises surveyed and 40% of employee health and safety representatives responding were aware of the relevant national implementation instrument.

The assessment of whether the agreement provides an 'action oriented tool' to prevent and tackle harassment and violence in the workplace depends on the definition of what such a tool might look like. The intention of the social partners was to encourage action at the most relevant level in the national context. In order to effect real change at the enterprise level, this should arguably encourage downstream activity where appropriate. In such an assessment, 10 countries are ranked positive or neutral, as implementation actions clearly set out a 'chain of activity', for instance through a national agreement requiring further action at the sectoral or company level. In 9 countries the assessment is more neutral either because the tool used was aimed at instigating further action or because of the pre-existence of such tools which were given greater exposure through the implementation of the Agreement. As many as 12 countries are judged not to have achieved this goal, either because no actions were taken or because these actions were limited to the translation and dissemination of the agreement in a context of a weak framework of legislation, collective agreements or other tools.

When considering whether the implementation of the Agreement serves to strengthen provisions on prevention against different forms of violence and harassment, it is concluded that binding improvements to existing standards were achieved in five countries (CY¹⁰⁴, ES¹⁰⁵, FR, LU, SI) which used legislation or national collective agreements as implementation tools (in FR, LU and SI these are universally binding). In terms of implementation, they rely strongly on sectoral actions downstream. In Denmark, relevant national collective agreements were reached in the public sector which also has almost universal coverage. The coverage and force of national agreements/declarations reached in Latvia and Poland are less clear and are not considered binding. Joint recommendations in the Netherlands also rely on implementation at the sectoral level. In a number of other

¹⁰² With 239 responses received, which were, however, heavily geographically skewed.

¹⁰³ Covering 50 companies of different sizes and in different sectors each in ES, FR, HU, IT, NL, PL, SE and the UK.

¹⁰⁴ The Cypriot tripartite framework agreement focusses on stress but includes a political statement on violence and harassment.

¹⁰⁵ The Spanish cross-industry collective agreement is not binding, but requires action at the sectoral level).

countries prevention is strengthened through awareness raising activities and/or downstream collective agreements (for instance in AT, BE, CZ, DE, FI, IT, LV, NL, PL, SE, UK, IS, NO).

Insufficient evidence is available to ascertain whether workers' protection has *in fact* been improved on the ground by any of the national implementation actions. Having said that, ex-post impact assessments are also unavailable to suggest that this has been achieved in countries which have implemented clear legislation in this area. This study shows no clear cause and effect link between incidence (or level of decline) in reported violence and harassment and the nature of the national implementation of the agreement (or pre-dating legislation). Furthermore, despite some evidence from the company employee representative survey regarding awareness of the European Framework agreement and the increasing attention in companies to these issues, the survey does not provide sufficient information to make any links between increased awareness and enterprise level activity and national implementation actions (or legislation) and the assessment of the extent to which the incidence of violence and harassment has increased or declined at enterprise level. What is evident is that psychosocial risks are becoming a major concern across Europe. Workload and violence, bullying and harassment have been confirmed as important stress, and therefore psychosocial risk factors by major European surveys. At the same time, there are indications that the reported incidence of the latter appears to be declining. According to the 2013 LFS ad-hoc module 1.9% of workers were exposed to harassment and bullying, a decrease from 2007 (2.7%) and 1.6% were exposed to violence or threat of violence, a decrease from 2007 (2.2%)

According to the EWCS in 2010, 4% of workers reported having been bullied or harassed, a decrease from 2005 (5.1%); and 1.9% of workers have been victim of violence at work. In 2010 countries with high reported levels of harassment and bullying include France, Belgium, Netherlands and Luxembourg, while countries with lowest levels include Bulgaria, Poland and Italy. Countries with high levels of reported violence at work include France, the UK, Ireland and Belgium, while Italy, Hungary, Lithuania and Cyprus are among countries with lowest reported levels of violence.

ESENER results show that more than 20% of managers in the EU consider bullying and harassment as a major concern. Countries with a greater share of managers expressing concern about harassment and violence at work are also countries with the lowest share of establishments having procedures in place.

Some limited evidence from the national level indicates that there are a significant number of enterprises which either do not carry out risk assessment or do not include psychosocial risks in such risk assessment. While in some cases this may be linked to a lack of guidance, in others administrative barriers have been mentioned particularly by SME representatives interviewed for this study. This is also borne out by the surveys carried out for this study.

Is there therefore a need for a further Community initiative on this issue? Although the European Framework Directive on health and safety at work 89/391/EEC does not explicitly mention 'psychosocial risks' nor 'harassment and violence', such risks are covered as employers need to carry out an overall risk assessment taking into account any risk. Risk assessment must be holistic and also assess social relationships and all factors related to the work environment, taking account of changes in the workplace and environment. This could provide a reason for why a majority of EU and EEA countries do not explicitly mention psychosocial risks or deal with harassment and violence in the legislation.

On the other hand the European Equal Treatment Directives (2000/78/EC and 2000/43/EC, 2006/54/EC) provide a definition of the term 'harassment' seen as a form of discrimination. Thus, most EU and EEA countries do have a similar definition of harassment in place under their national equal treatment legislation.

National evidence suggests that eight countries (Belgium, Denmark, Finland, Luxemburg, Netherlands, Slovenia, Iceland and Norway) deal with both harassment and violence in their health and safety legislation including different types of prevention policies and management

of incidences. Three further countries (Portugal, Poland and France) include specific definitions of harassment (mobbing) into their health and safety laws. Two more countries (Estonia and Hungary) provide a definition of psychosocial risks while another eleven EU and EEA countries sometimes mention the terms of stress, psychosocial risks, violence or harassment without giving a detailed definition or further specific prevention policies.

This indicates that the issues identified in the European Commission's first stage consultation of the social partners continue to persist. At the same time, data shows a small decline in measurements of the phenomenon across Europe, and an increase in awareness. Furthermore, the Framework agreement has contributed to improved provisions, guidance and awareness in a number of countries.

6.3 The role and impact of European Autonomous Framework Agreements in the context of the European Social Dialogue

Looking more generally at the evolution, role and impact of European Autonomous Framework Agreements, it is notable that these have become a more frequently used tool in the arsenal of European social dialogue measures.

The European Commission has previously carried out studies in relation to the autonomous framework agreements on telework and work related stress and has published its implementation reports respectively¹⁰⁶ ¹⁰⁷. Similarly to the approach taken in the current report, these two implementation reports look at the level and type of action these previous agreements triggered amongst social partners. In the case of telework, the Agreement is seen to have led to discussion but also joint action by social partners in most Member States. In relation to changes considered in existing regulatory and guiding instruments, it is argued that teleworking was recognised as a form of work organisation and has been 'mainstreamed' in labour law in most of the countries. In the case of the stress Agreement, the implementation reports find that the Agreement has created an impetus for action by social partners and public authorities, thus placing a greater focus on prevention.

Another element which was taken into account in the assessment of the impact of these agreements concerns the improvement of the quality of industrial relations (covered in the implementation report on the stress agreement). Here it is considered that the Agreement had a positive impact on the quality of industrial relations in some Member States. This was considered to be particularly evident in most of Central and Eastern Europe countries where the tradition of bi-partite social dialogue was not as strong as in Western Europe. Thus, the Agreement seemed to have played a role in improving autonomous, bi-partite structures and procedures in these Member States. This created social dialogue on a new topic which was previously not given much attention in these Member States.

In addition, in the implementation report on the stress agreement, the impact at sectoral level was also taken into account and action was also considered to have been triggered at this level.

It is interesting to monitor whether any patterns emerge in the way that social partners in different countries have implemented autonomous framework agreements, i.e. to assess whether the same or similar implementation tools are selected in each case (in line with national processes specific to social partners) or whether the instrument chosen depends on the subject matter being addressed (and the pre-dating policy and legislative environment). Furthermore, it can be assessed whether there is any movement towards national implementation actions evolving and potentially becoming more 'mature' as national social partners become more accustomed to implementing such European level agreements (e.g.

¹⁰⁶ European Commission (2008) SEC 2178, Staff Working Paper on report on the implementation of the European social partners' Framework Agreement on Telework

¹⁰⁷ European Commission (2011) SEC 241, Staff Working Paper on a report on the implementation of the European social partners' Framework Agreement on Work-related Stress

because of a greater maturity in relevant social dialogue processes), or whether such activities are indeed becoming less impactful over time.

The table below shows that there are a number of countries which either

- Consistently do not take any actions to implement such autonomous framework agreements;
- Always use the same or similar tools to do so;
- Adapt the tools used to the specific subject matter of the agreement; or
- Show a trend towards new forms of implementation.

Table 6.1 Implementing instruments of the European autonomous agreements

Country	Harassment and violence in the workplaces*	Work related stress **	Telework***
Austria	Joint guidance	Joint guidelines	None
Belgium	Assessment of national legislation and no subsequent further action	Cross-industry collective agreement	Cross-industry collective agreement
Bulgaria	None	None	None
Cyprus	Joint translation and tripartite framework agreement	Joint policy statement to open national dialogue for implementation	None
Czech Republic	Joint translation, joint brochure	Joint translation and dissemination	Joint translation and dissemination
Denmark	Joint legal assessment and decision no further action needed (private sector) Cross-industry collective agreement; (public sector)	Joint legal assessment and decision no further action needed (private sector) Cross-industry collective agreement; (public sector)	Sectoral collective agreements
Estonia	Dissemination of a translation	Joint translation (not formally approved at time of implementation report)	No action taken
Finland	Joint dissemination activity of leaflet	Join recommendation	National collective agreement
France	Cross-industry national agreement	Cross-industry national agreement	Cross-industry national agreement
Germany	Joint translation, dissemination activities, Joint actions at sectoral and company level	Joint translation, dissemination activities	Joint declaration
Greece	No action	Obligation to implement the Agreement included in the National General Collective Labour Agreement	Obligation to implement the Agreement included in the National General Collective Labour Agreement
Hungary	Joint dissemination of a translation	Legislative amendment	Legislative amend
Ireland	Joint charter	Joint guidance 'Guide on Workplace stress'	Revision of Code of Practice

Country	Harassment and violence in the workplaces*	Work related stress **	Telework***
Italy	No action	Cross-industry agreement Compulsory inclusion by national law of stress hazards in risk assessment procedures	Cross-industry agreement
Latvia	Joint declaration	Joint framework agreement	Joint agreement to facilitate the implementation of collective agreements at sectoral and local level
Lithuania	None	None	None
Luxemburg	National cross-industry collective agreement	Joint guiding principles by social partners and Government 'Opinion on Stress at work'	Cross-industry collective agreement
Malta	None	None	None
Netherlands	Joint recommendation	Updating of existing joint guidance	Joint recommendation
Poland	Joint declaration	Joint declaration	Amendment of national legislation
Portugal	Joint translation	Amend of national legislation	Amendment of national legislation
Romania	None	National collective agreement	None
Slovakia	None	Amend of national legislation	None
Slovenia	Amendment of legislation	Joint declaration	Joint translation
Spain	Cross-industry collective agreement	Inclusion of the main principles of the agreement into the 'cross-industry Agreements on Collective Bargaining', sectoral, regional and regional cross-industry agreements	Inclusion of the main principles of the agreement into the 'cross-industry Agreements on Collective Bargaining', sectoral, regional and regional cross-industry agreements
Sweden	Joint translation and dissemination	Joint agreement	Joint guidelines
UK	Joint guidance	Joint guidelines	Joint guidelines
Iceland	Joint translation and dissemination, joint review of legislation followed by decision of no further legislative action	National collective agreement	National collective agreement
Liechtenstein	None	None	None
Norway	Joint translation and dissemination, joint	Joint recommendations	Joint guidelines

Country	Harassment and violence in the workplaces*	Work related stress **	Telework***
	guidelines		

Source: *research carried out for this study; **Commission Working Document. Report on the implementation of the European social partners framework agreement on work-related stress, SEC(2011) 241 final; ***Commission Working Document, Report on the implementation of the European social partners' Framework Agreement on Telework, SEC(2008) 2178.

More precisely, the table demonstrates that:

- Social partners in Bulgaria, Lithuania, Malta and Liechtenstein have not taken actions to implement any of the agreements.
- Social partners in Denmark, France and Spain have always used national collective agreements to implement Framework Agreements.
- Ireland, Latvia, the Netherlands, the UK and Norway have always used joint declarations or guidelines to implement European social partner agreements.
- Slovakia and Romania have only implemented the stress agreement.
- Social partners in Belgium, Greece, Italy, Luxembourg and Iceland also tend to use national cross-industry collective agreements to implement Framework Agreements, but in the case of the agreement on violence and harassment discussions are still under way in Italy, Belgium and Iceland, deemed further national actions to be unnecessary because of pre-existing legislation and instruments. Luxembourg chose to use 'joint guiding principles' rather than a national framework agreement in the case of the stress agreement.
- Sweden tends to use the instrument of joint guidelines, but in the case of the Agreement on HWV social partners prepared a joint translation and disseminated the text, as sectoral agreements were already considered to include relevant provisions. Austria has also tended to use joint guidelines, but at the time of writing of the telework implementation report, it had not implemented this agreement.
- The Czech Republic, Estonia and Germany have so far tended to favour joint translation and dissemination activities.
- In the other countries, the nature of measures used is more mixed.

Overall, in the case of the Agreement on Harassment and Violence at Work, the implementation actions have slightly tended towards less 'binding' activities (guidance, declarations, translation and dissemination) than it was the case for the other two European autonomous framework agreements. It would be misleading to discern a trend from this, but it feeds into the question whether European level social dialogue tools such as autonomous framework agreements are suitable to meet Community goals in areas where consultations have been launched with the view of taking steps towards potential EU level action to set common standards. Furthermore, the consistent lack of implementation in some countries (not due to an assessment that pre-existing measures were sufficient) means that social partners at national level are not in a position to take effective implementation actions in all Member States and EEA countries, thus potentially undermining the use of such tools.

Based on the evidence presented in this report, it can be concluded that while national implementation actions can ultimately result in an increased protection for workers (while being sufficiently flexible to meet the requirements of businesses), they are unlikely to ensure higher standards of prevention across the board (due to binding measures or as a result of guidance or awareness raising). It is worth noting that EU level legislation also does not necessarily increase levels of protection in all Member States - partly due to issues of enforcement and compliance – but also as by virtue of aiming for common minimum standards, a significant number of countries can be assumed to have pre-existing provisions

meeting such standards. The same is in many ways true for the implementation of autonomous social partner agreements, with the key difference that the delivery of common minimum standards is not the aim through this mechanism.

A concern remains about social partners' ability to implement such agreements in some countries. While the process of national negotiations to implement European agreements has clearly supported the development of bipartite and tripartite dialogue in some countries over the years, this is not the case in all countries. While in some Member States this is due to a persistent weakness or lack of capacity in social partner organisations, in a number of countries it is specifically noted that the economic crisis has also led to a crisis in industrial relations, undermining the ability of social partners to reach agreement where this had previously been the case.

The requirement of implementation by social partners at national level '*in accordance with the procedures and practices specific to management and labour in the Member States and the countries of the EEA*' would therefore appear to pre-suppose the ability for social partners at national level to ensure implementation in this sense – whatever form this may take. In some countries further capacity building or awareness raising among stakeholders may be required to achieve this. Experience shows that where such processes are in place, positive outcomes can be achieved which can add value to existing national provisions, where required. In order to strengthen implementation and ongoing evaluation of the achievements of the goals of such agreements, it could be considered valuable to include in European agreements further statements on the process of review following the existing monitoring over the period of implementation and final assessment at the end of the implementation period. Stronger monitoring mechanisms may also be considered at the national level. Ideally, resources should be available to be able to establish a baseline position as well as national impacts to allow a more meaningful analysis of impacts achieved and therefore the potential need for further activity (and at which level this needs to be taken). The use of European funds for this purpose should be considered in an effort to support better evidence based policy making which can also serve to meet the requirements of a better regulation agenda.

This is particularly pertinent as the overarching conclusion which needs to be drawn from this study is that it is impossible, in the context of existing data availability, to prepare a robust analysis of the impact of the national implementation of European social partner Framework Agreements. While it is therefore possible to monitor steps taken towards implementation and their content, without relevant impact information it is difficult to make recommendations regarding a meaningful pathway towards the reduction of the phenomenon of workplace violence and harassment.

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