



# Psychosocial risks at work ••• Belgian Legislation

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# LEGAL FRAMEWORK



## Over 20 years of evolution

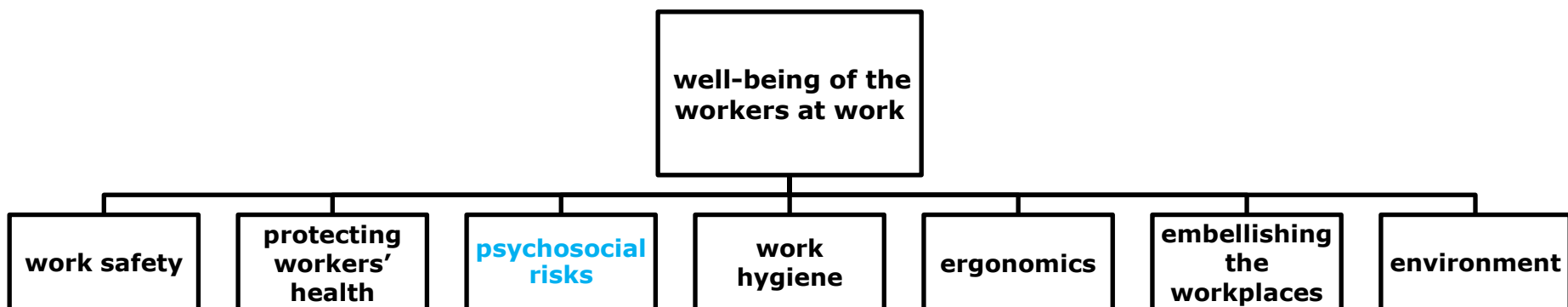
- **Protection against sexual harassment at work:** Royal decree 1992
- **Protection against stress at work:** Act in 1996 (well-being of workers), collective labour agreement in 1999 (number 72)
- **Protection against harassment, sexual harassment and violence at work:** Royal decree in 2002
- **Inappropriate behaviour (harassment, violence) and psychosocial load can not be separated:** Royal decree in 2007
- **Extension to psychosocial risks:** Royal decree of April 10, 2014 relating to the prevention of psychosocial risks at work

*“Harassment-procedure”* has been used by workers since 2002 to denounce many others situations like stress at work, conflicts and even organizational problems in the enterprise by the lack of an appropriate procedure for these issues. The real cases of harassment were in fact not so many.

Goal Royal decree 2014: better prevention of all PSR (including violence and harassment) and improved supervision.



# Act of August 4, 1996 on well-being of workers in the performance of their work (art.4 – chap.Vbis)





# DEFINITIONS



# Psychosocial risks at work

- **The probability that one or several worker(s) will suffer **psychological damage**** (may also be physical damage)
- **Due to :**
  - ✓ Work organization
  - ✓ Work content
  - ✓ Working conditions
  - ✓ Conditions of employment
  - ✓ Interpersonal relationships at work
- **On which the employer has an **impact****
- **Which **objectively** pose a threat**



# Harassment at work

- **Wrongful complex** of several similar or different behaviours
  - manifested in words, threats, actions, gestures,... etc.
- **The purpose or consequence of which is to**
  - affect the personality, the dignity or the physical or psychological integrity of a **person**
  - place the **job** at risk
  - create a threatening, hostile, insulting, demeaning or hurtful **environment**
- **Such behaviour becomes discriminatory**
  - when based on religion, gender, ethnic origin, social origin,...



# Sexual harassment at work

**Every form of undesirable verbal, non-verbal or physical behaviour**

- with a sexual connotation,
- the purpose or consequence of which is to compromise the dignity of a person
- or to create a threatening, hostile, insulting or injurious environment.





## **Violence at work**

**Every act whereby a worker is psychologically or physically threatened or attacked while performing his or her work.**



# ACTORS



- **Employer**
- **Members of the chain of command**
- **Worker**

## **Committee for Prevention and Protection at Work**

(representatives of the employer and of the workers and prevention professionals)

- **Prevention advisor specialized in the psychosocial aspects of work**
- **Confidential counsellor**



# Prevention advisor specialized in the psychosocial aspects of work

- Enterprises or organisations require an internal or external service for prevention and protection at work
- Specific education
- Informal and formal advice
- Protection of their function
- Professional secrecy



## Confidential counsellor

- **NOT obligatory**
- **Generally: workers in the company or the organisation**
- **Training: competences – knowledge**
- **Give informal advice about PSR**
- **Professional secrecy**



# PREVENTION OF PSYCHOSOCIAL RISKS



## Risk analysis

- **Before any problem occurs**
  - Levels: whole organisation, divisions, individuals
  - Preventive measures: preventing risks, preventing damages, limiting damages
- **When a danger is identified in a particular situation**
  - On demand of employer, member of chain of command, 1/3 of the representatives of the workers in committee PPW
- **Violence caused by third persons**
  - Registration in order to take adequate measures
- **Evaluation of the preventive measures (annual)**



## Internal procedure

- **For workers who suffer from PSR or are victim of inappropriate behaviour**
- **Informal psychosocial intervention**
  - to find a solution by the means of discussions, reconciliation, advice
  - contact the **confidential counsellor** or the **prevention advisor**
  - 80% of the cases





- **Formal psychosocial intervention:**
  - contact the **prevention advisor**
  - risk analysis + proposition about collective or individual measures of protection and prevention
  - 2 types:
    - the cause is rather of a collective nature: procedure with committee PPT
    - the cause is rather of an individual nature: investigation and advice by prevention advisor
  - decision on the measures: employer



## Violence and harassment: additional protection

- Prevention advisor can propose measures to protect the worker immediately in case of **(serious) danger**
- In case of a formal intervention, the worker is **protected against retaliation (+ witness)**
  - No dismissal/change in working conditions except for reasons alien to the intervention
  - Proof by employer
    - during 12 months after beginning of internal procedure
    - in case of a procedure before the courts
  - Compensation
    - real damage proven by worker
    - lump sum: six months of wages



## Inspection (Ministry of work)

- **Check whether the legislation is respected by the employer**
- **Impose the measures recommended by the PA**
- **Impose other measures**



# Criminal actions

- **Complaint**
  - Inspection
  - Police
  - Public prosecutor
- **Criminal court**
- **Sanctions: person committing harassment or violence**
  - Detention 6 months – 3 years
  - Fine 3.600 euros – 36.000 euros



# Civil actions

- **Labour court**
- **Injunction to cease behaviour**
- **Measures imposed to employer**
  - For example : appointment of a prevention advisor
- **Compensation**
  - Real damages to be proven by the plaintiff
  - Lump sum:
    - 3 months of gross wages
    - 6 months of gross wages:
      - discrimination
      - relation of authority
      - gravity of the behaviour



# Actions of the Belgian Ministry of Work

- **Scientific research**
- **Intervention tools**
  - model for diagnosis
  - risks analysis method

Example in English: tool “The Sobane strategy applied to the management of psychosocial aspects” (participative strategy, based on the knowledge the workers have of their own work situation)

- **Information sessions** (brochures, posters, dvd, etc.)
- **Professional networks (PA - CC) feedback**
- **Evaluation of the legislation**





## MORE INFORMATION

### Research-tools-publications-jurisprudence

- [WWW.EMPLOYMENT.BELGIUM.BE](http://WWW.EMPLOYMENT.BELGIUM.BE)
  - > well-being of workers > legislation
- [WWW.BESWIC.BE](http://WWW.BESWIC.BE)



***Thank you for your attention***







[www.employment.belgium.be](http://www.employment.belgium.be)

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