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workplace health and
wellbeing strategy:
is the pandemic an
opportune time for an
EU breakthrough?**



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The need for a 'holistic' workplace health and wellbeing strategy: is the pandemic an opportune time for an EU breakthrough?

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Abstract

The outbreak of the coronavirus pandemic has brought occupational health and safety (OHS) to the fore, turning the leading role of the EU in this respect into a peremptory and pressing concern. The authors of this Opinion Paper argue in favour of moving beyond the current fragmented approach to OHS and placing it squarely in the field of social protection. This will allow for a holistic prevention and health promotion strategy, addressing old and new workplace hazards and overall wellbeing. Objectives to be reached should also include age- and gender-specific targeting, clearer legal and policy provisions, availability of research evidence, and enhanced monitoring of compliance with regulations. The interplay between institutions, actors and ideas that could facilitate such a move forward for EU-OHS is briefly illustrated.

Introduction

This OSE Opinion paper argues that it is high time to move beyond a fragmented/ compartmentalised approach to occupational health and safety (OHS) in the European Union (EU). The current pandemic has made ever more pressing the need for such a new approach, which will place OHS squarely in the field of social protection. The latter comprehensively deals with policies of prevention, management and overcoming of conditions negatively affecting people's wellbeing ⁽¹⁾. We illustrate our argument by briefly highlighting some watershed moments in EU-OHS policy and ask whether the Covid-19 crisis can provide a window of opportunity for a new approach ⁽²⁾.

Down through the history of European welfare states, attempts to meet the challenges of frequent accidents at work and professional illnesses have been marked by intensive labour mobilisation and political confrontation. It is outside our scope here to delve into the varied responses to these challenges during the early stages of welfare state development. Suffice it to say however that in the late 19th-early 20th century, innovative 'embryonic' company-level social provisions served as models for nationwide social protection systems (Husted 2015). Similarly, enlightened industrialists, together with prominent social reformers and labour representatives, played a significant role in addressing labour issues, giving due importance to safety and health at work. Over the years, European, national and sub-national norms on occupational health and safety have become increasingly detailed and complex, also incorporating a broad body of soft regulation – not only recommendations stemming from the development of the single market but also, since the 1980s, ethical codes and, at the international level, the notion of corporate social responsibility (CSR) ⁽³⁾. In addition to its more visible and well known external aspect – namely, 'behaviour by firms that voluntarily takes account of the externalities produced by their market behaviour' (Crouch 2006: 1534) – CSR also has internal implications, i.e. what firms should do to keep their own workers healthy and safe while they go about their tasks.

Since early on in the process of European integration, in response to the need for an economic level playing field, Community action in occupational health and safety has been a prioritised area of the social acquis. The Resolution of the Council of the European Communities (1978) on the first Action Programme on Safety and Health at Work shows early concern for improvements in OHS.

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1. See Bonilla García and Gruat (2003: 4) for an ILO definition of social protection that embraces 'working in safety'; also Baranski *et al.* 2003 for the World Health Organization's broad, public health perspective on OHS.
 2. A historical account of EU-OHS policies, institutions and actors is outside our scope here. For this we refer the reader to, among others, Vogel (2015, 2018), as well as Castillo (2016). A recently published historical overview, including the latest developments, can be found in Pochet (2019: 118-135).
 3. CSR is defined as 'a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis' (European Commission 2001: 7; see also Jackson and Apostolakou (2010) and Maon *et al.* (2017) for a comparative analysis of how different institutional environments influence CSR policies in Europe).

However, the 1989 Council 'Framework Directive' (Council of the EU 1989) was the first major step taken to address workplace hazards. In the following three decades, no less than 65 directives (including successive modifications and consolidations) expanded the social acquis with significant measures addressing the prevention and control of occupational hazards. But Community action on OHS has undergone several twists and turns, not always conducive to progressive development, and mostly reflecting changes in the discourse on and practice of 'governance' and 'regulation/deregulation' embraced by relevant EU and national institutions and actors.

Importantly, critical moments in EU integration have seen key developments in OHS policy. The Covid-19 pandemic and its serious social, economic and political aftershocks undoubtedly point to such a decisive phase. The present situation is therefore an opportune moment for reconsidering the role of the EU in providing an effective steer in health and safety management and outcomes. This is not least because the pandemic has precipitated technology-induced changes in work arrangements (e.g. digital work) and attendant risks. It has also laid bare the negative OHS implications of various types of precarious, non-standard work, it intensified psychosocial risks often linked to blurred lines between unemployment and under-employment, and has brought to the fore the need for better protection of front-line workers in crisis situations. The pandemic has also revealed the neglected gender dimension in EU-OHS policies, given that women constitute the majority of nurses, community health workers and carers seriously exposed to the risk of infection (4).

1. Stop-and-go developments, missed opportunities and new challenges

The period spanning the first three decades after the Treaty of Rome was characterized by a 'stop-and-go', prescriptive approach (often involving heated negotiations with the relevant parties) on occupational hygiene and exposure limits for a few hazardous substances. The run-up to the single market constituted a watershed moment for OHS. Influenced by the vision of 'Social Europe', the 1989 Framework Directive shifted the emphasis in regulatory health and safety practices from single type conditions (i.e. traditional regulation of particular substances) to a process-based approach aiming to influence/facilitate the application of OHS policy by enterprises. Couched in the context of Delors' vision of a social market economy, the Framework Directive highlighted more comprehensive procedural requirements for preventing and controlling occupational hazards, embracing a broad range of risks (physical and psychosocial). As stated on the website of the European Agency for Safety and Health at Work (EU-OSHA), the 1989 Framework Directive is not simply a technical text. It clearly 'defines a modern approach taking into account technical safety as well as general prevention of ill-health' through supranational coordination (5).

4. The overall impact of Covid-19 on women and gender inequality in Europe is outside the remit of this Opinion paper (for this discussion see Blaskó *et al.* 2020; Rubery and Tavora 2020).

5. The OSH Framework Directive: <https://osha.europa.eu/en/legislation/directives/the-osh-framework-directive/the-osh-framework-directive-introduction>

The Framework Directive thus opened up the way for an OHS policy and practice viewed from a social protection perspective, and potentially facilitating a more active, complementary role for enterprises in relation to the other main welfare providers (state, family and various market-based providers). Such a perspective could possibly straddle the interface between healthy lifestyle at work, wellbeing and public health. Notwithstanding the variation in the organizational patterns underpinning the different political economies in the EU ⁽⁶⁾, the above approach contained the seeds of a supranational coordination that could stimulate the coupling of (statutory and voluntary) regulation on the part of enterprises and social welfare arrangements among Member States.

Yet soon, EU-OHS priorities veered away from Delors' vision. The neo-liberal-style 'new governance', encouraging labour market deregulation – particularly dominant in the following decades in the EU and other international bodies such as the OECD – significantly diluted the thrust of and participatory approaches to OHS management. The policy turn was premised on the potential burden of 'excessive regulation' on business growth. By the mid- to late-1990s, concern about the economic impact of regulation was prominent at the international level, and a 'proactive' policy approach to OHS significantly stalled in the EU (Castillo 2016: 140). The 'Better Regulation' strategy adopted in the mid-2000s, followed by the REFIT (Regulatory Fitness and Performance) programme (launched in December 2012), subjected OHS provisions to cost-benefit analysis and put the brake on EU action in this field for a large part of the 2000s and 2010s (Walters and Wadsworth 2014). Strikingly, a similar stance underlies the 'One In, One Out' approach to legislation by the current European Commission (namely, whenever new legislation is introduced, an existing law will be dumped). Surely this raises serious questions as to how progress towards safer and healthier workplaces can be secured (Hilmersson 2019).

Still, though, on the positive side is the fact that the comprehensive character of the process regulation perspective introduced by the 1989 Framework Directive was carried over into the succeeding EU policy action documents. The most recent policy document – the 2014-2020 Strategic Framework for Occupational Health and Safety (European Commission 2014) – expanded initiatives so as to include promotion of overall wellbeing of people at work, although this aspect is not binding, unlike the preventive measures for physical risks. Moreover, the links between physical and mental health are given little consideration, and the provisions fall short of a comprehensive approach combining work health promotion and better prevention of occupational diseases and fatal/non-fatal injuries (related to ergonomics, hazardous substances such as carcinogens and mutagens, as well as growing psychosocial risks).

6. As identified in the Varieties of Capitalism literature; see Hall and Soskice 2001; Rothstein *et al.* 2019 for the variation in OHS regulatory regimes.

On the whole, the EU's role in occupational health and safety is a controversial one. The European Pillar of Social Rights (EPSR) proclaims the right of workers to a high level of protection of their health and safety at work and commitment to this principle is (rhetorically) restated in the current OHS Strategic Framework. Yet the wider political context (at the EU and national level) has persistently reduced regulatory protection to a narrowly understood profit-driven logic of cost-benefit trade-offs (though with significant variation among Member States due to legal/state traditions and welfare regimes). Importantly, even before the Covid-19 pandemic, EU-OHS regulation was in crisis (Kamp 2016). Pochet's analysis (2019) indicates a phase of stagnation (1997-2005) and another of decline (2005-2015). The above-mentioned physical and other hazards have become far more severe over the last decades; this was largely due to the deep dividing lines in the world of work, with large segments of the workforce exposed to non-standard work arrangements – via agency services and online platforms providing physical and/or digital work, work on demand, bogus self-employment and other types of precarious employment, scarcely covered by labour market regulations and/or social safety nets. In addition, the growth and complexity of supply chains through subcontracting greatly complicates OHS responsibilities (see MacEachen *et al.* 2010, with a focus on small businesses vis-à-vis OHS).

Since the outbreak of the coronavirus pandemic, however, there is, in addition to these challenges, a much more immediate and pressing concern, with the prospect that waves of the pandemic may well strike again from time to time in the future. A thorough set of changes must be made to the organization (including physical space rearrangements) and planning of safe work. At the same time, increased levels of telework will pose novel health and safety issues, including stress due to pressures related to time-use control and work-life conflict and musculoskeletal disorders because of lack of ergonomic facilities at home. It is no exaggeration to say that, to varying degrees, the provision of critical prevention and safety conditions in the workplace has now become a matter of entrepreneurial survival: companies failing to ensure that risks of contagion are kept to a minimum will have a very hard time securing their position in the market. From another viewpoint, the pandemic has also brought with it an unheard-of opportunity for enterprises to stand out as social supporters and stabilizers. *How can the EU strengthen its coordinating role in this respect? And in return, how can enterprises contribute to social protection at a time when the ensuing economic crisis will severely strain public budgets?*

2. A brief glance at workplace OHS practice

The public health crisis and its complex consequences have intensified the pressure on the EU to think about its future – there is therefore no better time than now for supranational action along the lines of the normative template provided by the EPSR and other OHS-related framework commitments towards a more specific EU steering strategy. This is particularly pressing since the drafting of new policy guidelines and measures on health and safety at work (for 2021-2027) is

pending, with the current Framework expiring at the end of 2020. The Council Conclusions of 5 December 2019 urged the Commission to concentrate on enhancing the implementation of OHS regulations in the EU (Council of the EU 2019a). There are some welcome elements in this document, such as, for instance, the inclusion of OHS as a major aspect of the 'Economy of Wellbeing' (7), and the acknowledgement of big differences among enterprises in Member States (in terms of size, sector, age and gender constitution of the workforce and other factors), impacting their OHS management capabilities and implementation outcomes. Nevertheless, the Council guidelines still emphasise the risk-cost-benefit trade-offs applying to all OHS regulations.

Recent comparative research (Verra *et al.* 2019) also finds great variation among Member States and types of enterprise in implementing preventive EU-OHS standardization; this research draws mainly upon the data provided by the EU-OSHA's second Europe-wide establishment survey carried out in summer/autumn 2014. Notwithstanding the significant data limitations stressed by the authors, the study sheds light upon major discrepancies between (supranational/national) OHS legal/policy documents and compliance in practice. Importantly, on the basis of two types of indicators, the study highlights the predominance of preventive over work health promotion provisions. Preventive provisions are understood as 'any activities undertaken to prevent or reduce occupational risks', including psychosocial overload, and include risk assessments and/or internal health and safety representation, while workplace health promotion (WHP) encompasses a broader set of improvements ensuring healthier lifestyles at work (*ibid.*: 22). WHP provision extends beyond the legal requirements for health and safety and embraces provisions by employers 'actively helping their staff improve their own general health and well-being' (European Agency for Safety and Health at Work 2010). It combines improvements in work organization and working environment with support to employees for work-life balance, encouragement of healthy activities and personal development. It thus bridges occupational and public health.

The above comparative study clearly shows higher compliance with prevention of mostly physical risks. Among the 40,584 participating establishments from EU countries, 73.1% take some preventive measures against direct physical harm. Yet only about a third of the establishments examined (35.4%) had provisions in place to prevent psychosocial risks (work-related stress, mental health problems, violence and harassment) (8). Measures including prevention of physical and psychosocial risks were found among establishments in north-west European countries, but also in Italy, Croatia, the Czech Republic, Estonia, Hungary, Poland and Slovenia. At the other end of the ranking, with very low compliance with regard to prevention of both of these types of risks,

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7. The concept of the 'Economy of Wellbeing' was put forward as a priority by the Finnish EU Presidency in the second half of 2019. It denotes 'a policy orientation and governance approach which aims to put people and their wellbeing at the centre of policy and decision-making' (Council of the EU 2019b: 2), so as to promote a balance between economic growth and welfare that lies at the heart of European integration.
 8. For the growing importance of such risks see Eurofound (2019) and the European Agency for Safety and Health at Work (2019).

are establishments in a few countries from the most recent successive EU enlargements (Bulgaria, Latvia, Lithuania, Romania and Slovakia). On the other hand, commitment to a more inclusive view of OHS, going beyond the traditional scope of OHS measures and encompassing health-promoting action influencing wellbeing, is exhibited by a small percentage of the participating establishments (29.5%) located in a tiny minority of countries: in the three Scandinavian EU-Member States, Austria, Germany and the UK.

Overall, however, given that certain prevention requirements do not apply to a significant number of small establishments (with fewer than 50 employees) across the EU (ibid.: 24; also European Agency for Safety and Health at Work 2017), compliance with regulations remains rather low. This is partly due to a lack of clarity in the legal/policy provisions that hampers practice, weak implementation monitoring and, most importantly, the fact that risk assessment scarcely targets the new and emerging hazards related to changing and contingent work arrangements.

3. Which way forward for EU-OHS policy?

Occupational health and safety is at the confluence of labour market, social, public health and even environmental policy – as climate change and toxic chemicals in the environment impact workers' health. While there has undoubtedly been huge progress in safety at work during the past few decades with regard to the prevention of accidents, or old risks, a fair number of new risks are still barely dealt with. These include exposure to pollutants, ergonomics and psychosocial hazards; these are, however, increasingly generating the most prevalent pathologies. Health-impairing conditions at work clearly significantly influence health inequalities, and occupational diseases entail broad societal costs. An EU-wide comprehensive OHS policy is long overdue. The launch of the revision of the directive on carcinogens and mutagens at work in May 2016, and the amendment proposals that followed (as well as those that are still being debated), constitute an important step towards tackling one of the biggest work-related health problems. Yet it is not clear whether this indicates a revitalization of EU-OHS policy or 'it will remain a one-off', as Vogel wonders (2018: 135). Besides, the Community continues to tread a path of fragmentary provisions. Strikingly, the work programme of the new Commission (von der Leyen 2019), failed to include OHS issues. It was only in the EU parliamentary hearing of the new Commissioner for Jobs and Social Rights Nicolas Schmit that OHS was mentioned as an area of concern.

The situation, however, has changed since then, not least because the global pandemic has added a cascade of workplace safety concerns, crucial with respect to how enterprises can exit the crisis, and the impact on the workforce. The question is whether the current health/economic, social and labour market crisis, forecast to be even more severe than the 2008 global financial crisis, can provide a window of opportunity for the EU institutions and its Member States to reframe how they think about workplace health and safety issues, their policy goals and repertoires. Obviously, a

confluence of factors is important in this respect, namely the extent of problem recognition by relevant actors/institutions, their willingness/ability to respond, and availability of relevant policy ideas and options (see Kingdon 1995).

So far, the provision of reliable and relevant information, pan-European awareness-raising and good practice awards have been the goals of the flagship agency, EU-OSHA. Yet this may no longer be enough after Covid-19. Awareness has to be channelled into a strategic move from 'soft' (nudging) tools accompanied by voluntary codes, towards a holistic approach addressing old and new workplace hazards and overall wellbeing. The challenge lies ahead, as a new EU-OHS policy framework is pending. Moreover, there is no shortage of approaches and ideas in respect to OHS regulation upon which to draw for an effective EU-OHS overhaul.

As to institutional action, it is interesting to note that even before the outbreak of the pandemic, a position paper from the European Trade Union Confederation (ETUC) on health and safety at work convincingly stressed the need for the successor of the current EU-OSH approach 'to be a strategy and not a strategic framework, thus giving more political weight to goals and actions proposed, and ensuring proper follow-up' (ETUC 2019: 1; emphasis added). This calls for a scaling-up, by the EU, of core aspects of health and safety at work, in the form of general, comprehensive and (more or less) binding standards for its Member States, with effective surveillance mechanisms. Surely this is not outside the remit of the EU competences granted by the Treaty provisions and can be easily accommodated into the existing governance mechanisms (notably the European Semester and its Social Scoreboard). Also, the newly established European Labour Authority (ELA), together with the previously existing specialized EU bodies, can play a significant role in delivering guidance, providing the necessary data, and supporting/monitoring implementation ⁽⁹⁾.

Undoubtedly, political will at the national and supranational levels is an important pre-requisite for an EU-steered move forward, as is also a revitalized social dialogue between European employers and trade union organizations (cross-industry and within sector committees). Whether these can be achieved is an open question. But ideas, for instance, on how to use the EPSR as a normative guide for developing an EU-wide 'social floor' (Sanden and Schlüter 2016) or a 'holding environment' (Hemerijck 2019; Vandenbroucke 2017) – i.e. general social standards supporting/strengthening welfare policy problem-solving at the national/sub-national levels – are gaining traction in the academic and public debate. Moreover, one significant element in the search for a post-Covid-19 EU-wide welfare settlement could be a new balance in the triad of welfare providers (state, family and market), increasing the role of enterprises, their OHS liabilities and responsibilities.

9. Among the ELA's main functions is to 'ensure synergies with existing EU agencies by relying on their expertise in terms of skills forecasting, health and safety at work, the management of company restructuring and tackling undeclared work'. See the European Commission website: (<https://ec.europa.eu/social/main.jsp?catId=1414&langId=en>).

Policy-wise, one key priority in expanding the EU capabilities and resources for health and safety at work should be the effective integration of prevention of work-related hazards and health promotion. Prevention should include explicit goals for occupational diseases, based on well-established evidence (e.g. various types of work cancers), as well as for a range of musculoskeletal diseases, and psychosocial and other risks (e.g. those related to environmental factors – such as global warming). Controlling the risks at their source, namely the production process, by making the required arrangements to minimize/eliminate exposure to dangerous chemicals and ergonomic hazards is key, as is the issue of appropriate work organization (and work culture) in order to effectively prevent occupational health problems going beyond material risks. Health promotion should be pursued in addition to, never instead of, a very high standard of prevention, in order to avoid a superficial use of (voluntary) promotion while neglecting (compulsory) prevention.

Such an emphasis on superficial health promotion frequently occurs because disclosing health promotion activities brings about competitive gains, gloss, and enhanced reputation to many a company, and/or can facilitate labour agreements. Yet this is company promotion masquerading as health promotion. The working environment should facilitate healthy choices and wellbeing at and outside work – a key element of a holistic prevention and health promotion strategy – while ageing factors and gender-specific risks should also be given prominence. The way in which the 'hairdressers' sectoral agreement' on OHS was seemingly denigrated by the Commission, as though it would mean 'adopting European rules on hairdressers' heels' (Vogel 2018), starkly highlights the neglect of gender inequalities in EU-OHS policy⁽¹⁰⁾; it has also become 'a symbol of Commission hostility to agreements emerging from the sectoral social dialogue' (Tricart 2020: 87).

Another issue central to strengthening the capabilities of EU-OHS is that of effective monitoring and maintenance of health and safety compliance. There are glaring gaps in this respect, especially, but not only, among micro and small firms, and there is probably also far too much soft power. The large array of available voluntary certifications, norms and seals must surely be the cause of real headaches in enterprises when having to choose which to apply in order to gain/maintain competitive advantages; this is even a problem for large businesses. Attainment of high compliance standards could be in the interest of both enterprises and public and private contractors. Several means could be used for this end, such as increased resources for national labour inspectorates, as well as the creation of a European Certificate issued by a relevant European authority (possibly the newly established ELA) in collaboration with national labour inspectorates.

10. See Pochet (2019: 136-137) for a discussion on the striking absence of a gender equality perspective in the OHS domain at the EU level. A recent Opinion piece by Franklin (2020) discusses the short- and long-term measures needed for better protecting healthcare workers 75% of whom are women in Europe.

Various EU institutional and funding tools – including public health tools under the EU’s strategic goal ‘to promote health, prevent disease and foster healthy lifestyles’⁽¹¹⁾ – could also be used to help the corporate world confront new and emerging risks; to facilitate innovation in risk management; to strengthen national labour inspectorates and actively contribute to the education and training of their staff. Indicators on OSH could be systematically included in the Social Scoreboard, and OHS could be given greater prominence in the European Semester. More specifically, in facing the consequences of the pandemic, medium and small firms are in clear need of financial support and fiscal incentives, which could be made dependent on their modernization achievements, including a better understanding of workplace risks by management and improved worker participation in health and safety.

Finally, much more research is needed. Better quality, more comparable, and easily accessible quantitative and qualitative data – on work-related diseases, on compliance of enterprises with prevention of physical and psychosocial risks, and on health-promoting action beyond the traditional scope of OHS – should be available to both scholars and occupational health service providers, together with national reporting translated, at least, into English. EU-wide comparative studies and research projects with a focus on policy and practice of OHS remain astonishingly scarce, in stark contrast with research into public social protection policies. This point in time, three decades after the birth of the OHS Framework Directive, could be a good time to take stock of achievements and shortcomings, and thus to detect which sectors, territories and new production activities face the most problematic situations. EU Research agenda priorities could well take on such issues as how to make the enterprise environment conducive to effective OHS policy implementation.

11. See the EU Health Programme: https://ec.europa.eu/health/funding/programme_en

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