

OPINIONS OF THE
ECONOMIC, SOCIAL
AND ENVIRONMENTAL
COUNCIL

The prevention of psychosocial risks

Sylvie Brunet

Mai 2013

RÉPUBLIQUE FRANÇAISE
LIBERTÉ - ÉGALITÉ - FRATERNITÉ



CONSEIL ÉCONOMIQUE
SOCIAL ET ENVIRONNEMENTAL

Les éditions des
JOURNAUX OFFICIELS

2013-12
NOR : CESL1100012X
Wednesday May 29, 2013

OFFICIAL JOURNAL THE FRENCH REPUBLIC,

Mandate 2010-2015 – Session of May 14, 2013

THE PREVENTION OF PSYCHOSOCIAL RISKS

Opinion of the Economic, Social and Environmental Council

Submitted by

Mrs Sylvie Brunet, rapporteur

On behalf of

the Section for Labour and Employment

Question referred to the Economic, Social and Environmental Council by a decision of its office dated October 23, 2012 applying Article 3 of the Ordinance N° 58-1360 of December 29, 1958 amended, concerning the organic law relating to Economic, Social and Environmental Council. The office entrusted the Section for Labour and Employment to prepare an opinion on *The prevention of psychosocial risks*. The section for Labour and Employment, chaired by Ms. Françoise Geng, appointed Mrs. Sylvie Brunet as rapporteur.

Table of contents

■ Summary of the Opinion _____	5
■ Opinion _____	9
Introduction	9
■ I. Progress report on the prevention of psychosocial risks	10
■ A. Risks not well identified, but very present	10
↘ Risks that are hard to define	10
↘ Very present risks: A major issue of the public health	15
■ B. Reasons to research changes to the working world	21
↘ The causes “internal” to the company	21
↘ External causes linked to general context	27
■ C. A legal arsenal that is quite dense, but not yet stabilised	28
↘ A relatively protective legal framework	28
↘ A very evolving jurisprudence	31
↘ A still imprecise legal framework	32
■ D. Mobilisation of public authorities	34
↘ The commitment of public authorities	34
↘ The involvement of social partners	36
■ E. The awareness of private and public employers	38
↘ The distribution of “good practices” in the private sector	38
↘ Occupational health in public service	43
■ F. Action of different individuals involved in prevention	47
↘ The prevention officers foreseen by the 2011 law	48
↘ Staff delegates and the business committee	48
↘ The CHSCT, an agency in debate	48
↘ The long term reform of occupational health service	52

✚	External influences	54
✚	Prevention and territorial collective bargaining	56
■	G. A support for victims still insufficient	58
✚	Monitoring distressed persons	58
✚	An admission still difficult for victims	58
■	H. The prevention of psychosocial risks abroad	60
✚	A very diversified organisation of occupational health in Europe	61
✚	PSR Prevention in Denmark and Sweden	61
✚	Other foreign examples	62
■	II. The recommendations	63
■	A. Preventing PSR by adhering to clearly declared principles of action	64
■	B. Improve understanding and assessment of psr	65
■	C. Stabilise and clarify the legal framework for occupational health	69
■	D. Further mobilise various stakeholders involved in prevention	70
■	E. Ensure implementation of the 2009 agreement and extend the agreed actions to the public service	73
■	F. Improve detection of and support for victims	75

■ Declarations by the Groups	77
-------------------------------------	-----------

■ Voting	96
-----------------	-----------

Annexes	98
----------------	-----------

Annex N° 1: List of auditioned persons	98
--	----

Annex N° 2: List of interviewed persons	100
---	-----

Annex N° 3: Synthesis of hearings on psychosocial risks	102
---	-----

Annex N° 4: PSR evaluation grid	112
---------------------------------	-----

Annex N° 5: Legal framework of occupational health	113
--	-----

Annex N° 6: Stakeholders of the prevention	124
--	-----

Annex N° 7: Occupational Health in the Public Service	127
---	-----

Annex N° 8: Prevention of psychosocial risks	130
--	-----

Annex N° 9: Psychosocial risks according to INRS	131
--	-----

Annex N° 10: PSR models of analysis	133
-------------------------------------	-----

Annex N° 11: Members of the Section for Labour and Employment	137
---	-----

Annex N° 12: List of bibliographic references	139
---	-----

Annex 13: Table of Acronyms	142
-----------------------------	-----

THE PREVENTION OF PSYCHOSOCIAL RISKS

Summary of the Opinion¹

Five years after the 2008 national cross-industry agreement on work related stress and then, in 2009, the emergency plan for the prevention of stress in France, the ESEC decided to draw up a progress report on psychosocial risks and to formulate recommendations on how to best prevent them.

Progress report on the prevention of PSR

If work related suicides of employees and job-seekers have been particularly shocking for public opinion, these tragedies are merely the visible part of a much wider phenomenon commonly referred to as “psychosocial risks”. These risks are manifested in various ways: chronic stress, bullying, sexual harassment (defined as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that tends to create a hostile or offensive work environment”) assaults and external violence, burnout and suicide at work.

The development of psychosocial risks is linked to changes in the workplace as well as the economic and social environment dominated by crisis. A multi-faceted and multifactorial phenomenon, these risks remain difficult to identify, even though they are very much present in the world of work and as such constitute a major public health issue.

Faced with this increasingly widespread phenomenon, public authorities and social partners have not been inactive, and many initiatives have already been taken. Similarly, psychosocial risks are also given greater emphasis by the various parties involved in prevention. However, these initiatives take time to produce results and are still not sufficient.

The recommendations of the ESEC

In companies, the prevention of psychosocial risks must form part of a comprehensive approach which effects human resources management, the organisation of work and the quality of working conditions. This approach should be guided by clearly displayed principles of action which will have an effect on health and, more generally, on the quality of life at work.

Prevent PSR by adhering to clearly displayed principles for action

Prevention of PSR does not reside only, nor principally, in legislative or regulatory movements, but in the change of management practices and in good governance. In this respect, promoting quality collective bargaining around health and well-being at work and focus on primary prevention by directly addressing risk factors are two fundamental

¹ The entire draft opinion was adopted by public vote with 98 votes in favour and 67 abstentions (see the result of the vote in annex).

orientations. In fact, it is right to focus on preventive and collective measures that deal with organisation and management methods in effect in companies and administrations.

Improve understanding and assessment of PSR

The prevention of psychosocial risks requires a better understanding of these risks, both at national and company level.

In order to encourage employers to seize the question specific to psychosocial risk, it could be opportune that the single risk assessment document (DUER) comprises a systematic assessment of psychosocial risk factors by work unit. Furthermore, the Council recommends renovating the DUER development procedure in order to make consultation obligatory with CHSWC and occupational health services on this document, key to occupational risk prevention.

Finally, ESEC proposes reactivating the employee's right to expression so that it has a priority influence on occupational risks, notably psychosocial risks, and the implementation of actions to reduce these risks.

Stability and clarify Legal framework for occupational health

A goal of this axis of recommendations is to clarify an unstable legal framework accounting for much of the jurisprudence in the matter of occupational health, which places employers and employees in a position of legal insecurity.

Without creating new obligations for the employer, the Council thus recommends, with the concern of stabilising and clarifying the legal framework, taking into account in the Labour Code the principal jurisprudential evolutions in the matter of occupational health and the prevention of professional risks. However, this recommendation has not gained a large consensus.

In addition, the Council recommends reinforcing the prevention of psychosocial risks in advance of restructurings or reorganisations, notably by rendering the realisation – in connection with staff representatives – of a study of impact in order to evaluate it for organisational and humane consequences.

Further mobilise various stakeholders involved in prevention

Beyond the plurality of prevention stakeholders, particularly the employee representative authorities, there is the issue of good coordination between different interventions and, above all, the quality of collective bargaining formed in companies about occupational health issues.

Particular attention must be given to SMEs in order to accompany them in the approach of evaluation and prevention of psychosocial risks, including when they are outsourcing.

These companies should first arrange for priority access to the services of a network council of public preventers, notably with the ARACT and CARSAT Networks.

Furthermore, it is advisable to research ways to optimise the mission of CHSWC which requires a steadily growing technicality, and also to establish its recognition. The growing preoccupations in domain of employee health necessitate that the role of the CHSWC be reaffirmed and the education of its members reinforced, especially on psychosocial risks.

Moreover, the Council recommends reinforcing the mission of sanitary monitoring of occupational health in the matter of psychosocial risks. In this perspective, three types of actions merit development: to see to the development and update of company files; mobilise more occupational health services through the execution of annual inquiries; reinforce the work on different professional health networks, including workplace medicine, private practitioners, and hospital services.

Ensure implementation of the 2009 agreement and extend the agreed actions to the public service

Public employers are normally obligated to develop evaluation and prevention of social risk plans, but this obligation is far from being enforced, even if certain public communities have already created such plans. The priority is thus to render this obligation effective and to see to the development of evaluation and prevention of social risk plans for each public employer, after consultation with the CHSWC.

Because of the inherent character of psychosocial risks in a large number of public services and establishments, and particularly in local educational public establishments, where the phenomena of violence are capable of affecting students and members of the educational community, ESEC asks that the public authorities aim to align State public services, on the rules of creation and implantation by the CHSWC applicable today to the private sector and public hospital and territorial services.

Improve detection of and support for victims

The Council judges it indispensable to concern itself with the detection and care of suffering employees. The creation of listening systems in companies, and also in administrations, could be a useful instrument for the employees to benefit from a basic psychological support.

In the logic of portability of rights, and in the concern of maintaining a connection with work, the Council also proposes that job-seekers may continue to benefit from a medical follow-up by occupational health services in a period to be determined by social partners, following the termination of an employment contract.

Finally, ESEC wishes that the acknowledgement of psychosocial risks as a factor of occupational illness or of occupational accident could progress rapidly and that a cross-industry agreement could be committed to in order to relax the criteria for recognition.

The recommendations of the ESEC

✎ Prevent PSR by adhering to clearly displayed principles for action

- Integrate health at work as an element of the employer's overall strategy
- Promote quality collective bargaining around health and well-being at work
- Focus on primary prevention actions
- Review the role of management and their initial and continued training

✎ Improve understanding and assessment of PSR

- Improve statistical and epidemiological monitoring
- Entrust a panel of experts with the mission of developing a tool for identification and monitoring of PSR in the company
- Identify PSR in the DUER
- Systematically associate actors involved in prevention with assessment and prevention of risks
- Renew the right of employees to express their opinions and combine this with the prevention of occupational risks
- Make the "social balance sheet" a tool for social performance

✎ Stabilise and clarify the legal framework for occupational health

- Take certain case-law developments into account in positive law
- Strengthen the prevention of PSR in advance of any restructurings or reorganisations
- Facilitate the use of mediation procedures for both employees and job-seekers
- Provide a framework for voluntary certification in occupational health

✎ Further mobilise the various stakeholders involved in prevention

- Provide more support for SMEs/VSEs and micro-businesses in respect to health and safety at work
- Strengthen the capacity of the CHSWC (Committee for health, safety and working conditions)
- Strengthen the role of health monitoring in the workplace
- Promote good use of ICT

✎ Ensure implementation of the 2009 agreement and extend the agreed actions to the public service

- Develop and implement a plan for assessment and prevention of PSR for every public employer
- Strengthen the involvement of occupational health and safety committees in State public services
- Improve the operation of medical bodies
- Change the system of accountability for work-related accidents and illnesses
- Extend the right to protection for staff to the facts of bullying

✎ Improve detection of and support for victims

- Identify and assist employees in distress
- Ensure better post-dismissal medical follow-up for job-seekers
- Adapt the rules governing the AT/MP branch (Occupational Injuries and Diseases Branch)
- Develop hospital units for «mental health and work» consultations

Opinion

Introduction

Five years after the 2008 National Cross-industry Agreement on work related stress and then, in 2009, the emergency plan for the prevention of stress in France, the Economic, Social and Environmental Council wanted to further explore the issues on prevention of psychosocial risks in the context of an economic crisis which has only served to increase the difficulties.

If work related suicides of employees and job-seekers have been particularly shocking for public opinion, these tragedies are merely the visible part of a much wider phenomenon commonly referred to as “psychosocial risks”. These risks are manifested in various ways: chronic stress, psychological and sexual harassment, assaults and external violence, burnout and suicide at work.

According to a poll carried out by IPSOS in 2010, 62% of the people interrogated confirmed experiencing an elevated level of stress, and three out of ten people felt that their work was liable to cause them serious psychological problems. This report cannot hide the fact that the attachment and satisfaction of employees toward their professional activities remain strong and that their work contributes, in most cases, to their personal balance and self-fulfilment.

Moreover, numerous sources, international and French alike, evaluate the economic costs of psychosocial troubles (absenteeism, *turn-over*, lowered productivity, lowered creativity...) at a relatively raised level.

Progressing on the theme of psychosocial risk prevention has an inevitably non-negligible impact on our economic competitiveness. Foreign examples show that investing in health, far from harming competitiveness, results in an elevated production rate and better quality in products or services.

To better identify these risks at the interface of the individual (the “psycho”) and of the collective, the relation with others at work (the “social”) is a major issue of “well-being at work” in all organisations, as well as companies, whatever their size, and public services or certain sectors such as agriculture.

With this opinion, the Council wished to carry out a progress report on the prevention of psychosocial risks at work.

Faced with this increasingly widespread phenomenon, public authorities and social partners have not been inactive, and many initiatives have already been taken. Similarly, psychosocial risks are also given greater emphasis by the various parties involved in prevention.

Given that these risks, whose causes still need research, notably in changes in work, remain ill-identified and are always present in the professional world, the opinion of ESEC expresses many recommendations.

First, it seems indispensable to set action principles that should preside over every step of occupational risk prevention, notably psychosocial risks. In this respect, promoting quality collective bargaining around health and well-being at work and focusing on primary prevention by directly addressing risk factors are two fundamental orientations. In this

perspective, it is advisable to focus on preventative and collective methods that deal with organisation and management methods in effect in companies and administrations.

Our assembly also estimates that it must continue to improve the understanding and evaluation of these risks, stabilise the legal framework of occupational health, and improve the detection and care for victims.

The public service is subject to specific recommendations for the prolongation of actions already in place.

The implications of the massive introduction of technical means of communication and their practice will be equally explored in the pages that follow, all well as little explored aspects such as the impact of organisation and the design of work premises.

We express the wish that this opinion permits economic and social stakeholders to better comprehend and prevent psychosocial risks, all while coming within the scope of a global step toward progress and questioning the same sense of work in our society.

The issue of psychosocial risks is evidently not without connection to the “quality of life at work”, the overall approach that embraces at once the work organisation, collective bargaining, company’s environment, personal development, and the balance between personal and professional life. Especially since the psychosocial risks could generate strong tensions within the family cell.

While the prevention of psychosocial risks will be a major focus of European strategy for health and safety at work in the period 2013-2020, the Council can only encourage the Government to include the prevention of psychosocial risks among its priorities for action.

I. Progress report on the prevention of psychosocial risks

A. Risks that are not well identified, but very present

A multi-faceted and multifactorial phenomenon, these risks remain difficult to identify, (1) even though they are very much present in the business world and as such constitute a major public health issue (2).

1. Risks that are hard to define

□ *A multi-faceted phenomenon*

According to definition given by the Minister of Labour, psychosocial risks *“in reality, cover occupational risks of varied natures and origins, which put the physical integrity and the mental health of employees at stake, and as a consequence have an impact on companies’ ability to function well”*.

If the public became aware of the problem of malaise at work through profile cases of suicide in the workplace, these dramas are, however, only the tragic and paroxysmal manifestation of a much broader phenomenon.

In fact, the expression of psychosocial risks cover a group of phenomena of malaise at work – in ill-defined outlines – in the absence of legal definition. Apart from work-related stress, it also includes internal violence (bullying and sexual harassment) and external

violence (exertions by persons outside the company against the employees), burnout and suicide at work. Mental or psychological suffering at work could thus take very different forms.

To avoid all confusion, it is also necessary to distinguish psychosocial risks themselves, which are occupational risks, and psychosocial troubles² which are consequences on the physical and mental health of workers.

In a large sense, psychosocial risks concern not only working employees, but could also affect those seeking jobs that underwent a change in their physical and mental health precisely due to the loss of their job and those consequences. The psychological distress of certain job applicants is such that it could lead them to commit desperate acts³.

□ *A recognised classification of risk factors*

To draw up a basic progress report on occupational psychosocial risks in France, the panel of experts on the statistic monitoring of these risks, presided by Michel Gollac (2011), following the report “Nasse-Légeron”, developed a provisory series of around forty indicators immediately available in extant statistical sources. Psychosocial risks are analysed according to six dimensions: work requirements, emotional demands, independence and manoeuvring margins, social reports and work relations, moral conflicts, and socio-economic insecurity.

Frame 1: The main factors of PSR

- **Excessive work demands:** work quantity, temporal pressure, work complexity, difficulty to reconcile professional and personal life;
- **Emotional burden linked to work:** tensions with the public, contact with distress situations, obligation to hide emotions, fear of working;
- **Loss of independence:** set procedures, unpredictability of work, underuse of one's abilities, loss of participation in decisions;
- **Deficiency in social relationships:** lack of technical and emotional support, conflicts / bullying, lack of recognition, deficient change management;
- **Moral conflicts:** obligation to perform tasks one disapproves of (ethical conflict), have not sufficient means to accomplish a quality work (“hindered quality”);
- **Insecurity of employment and careers:** job insecurity, work difficulty.

Source: Report Gollac.

The classification of PSR generative factors in the workplace⁴ into six large categories is now well established. However, if the idea that pathologies could be engendered by dysfunctions in work organisation is largely accepted today, this is not unanimously approved.

Some specialists highlight that PSR are multifactorial and that, without denying the role of organisation and working conditions in any way, they are sometimes characterised by an interweaving of varying degrees with professional and extraprofessional (family, personal) factors⁵. This porosity of psychosocial risks, frequently mixing the professional and private spheres, including the intimate sphere, adds to the complexity of identifying their causes.

2 We argue also about “Workplace related psychopathologies”.

3 The recent series of self-immolations by job seekers gives a tragic illustration.

4 *Mesurer les facteurs psychosociaux de risque au travail pour les maîtriser*, report of the Panel of expertise, 2011.

5 Interview with the rapporteur of D' François Pellet, January 21, 2013.

□ *The limits of statistical survey*

The conclusions of the report presented by the Panel of Expertises regarding monitoring of PSR, presided by Michel Gollac (2011), underline that difference compared to foreign workplaces is that *“no current French inquiry is principally dedicated to occupational psychosocial risks. The measures carried out are in this way partial and are less coherent than those of the best foreign inquiries. Secondly, with an interval of seven years, the French inquiry on workplace conditions, which is currently the main source in the general population, is atypical.”*

To remedy this, INSEE has undertaken to conduct a major survey on psychosocial risks in 2015, which will be inserted between the investigation of working conditions conducted every seven years⁶. It should be noted that the inquiry's sample selection must be expanded in principal to include those without employment in order to better measure the “economic insecurity” dimension, which makes up one of the factors of psychosocial risks. Moreover, the next scheduled studies or inquiries (study on workplace conditions 2012, the SIP 2010 and SUMER 2010 inquiries) must entail substantial aspects on psychosocial risks.

Frame 2: Various surveys

Many statistic inquiries concern working conditions in connection with occupational health.

Working Conditions (CT) Inquiry: the national inquiries on working conditions led by the Dares measure working conditions as they are perceived by employees. This survey takes place on average every seven years. The first inquiries concerned only employees, and then the field was extended to include the unemployed.

Medical Risk Monitoring Inquiry (Sumer): The Sumer inquiry is cross-sectional and provides an assessment of employees' occupational exposure Data is collected by the occupational physician. The SUMER inquiry of 2009-2010 has been experimentally broadened to certain public service sectors.

Organisational and Computerised Change (COI) Inquiry: the COI inquiry, coordinated by the Centre of employment studies, is an employer/employee coupled inquiry which supplied an image of reorganisations and changes linked to computerisation between 2003 and 2006.

Professional Health and Itinerary (SIP) Inquiry: the SIP inquiry tries to describe the dynamics of health linked to career characteristics and working conditions. It consists of a retrospective investigation that aims to repair the principal changes to the health condition in regards to working situations described by their length and discontinuities.

Source: ESEC document.

Moreover, the inquiry on quality of life, carried out by INSEE in May 2011, allows for the examination of the majority of indicators to quality of life defined in the report on measuring economic and social progress (Stiglitz report). The inquiry also touches on the question of occupational psychosocial risks for the first time, showing that they are often accompanied by a lesser sense of well-being. It also appears that malaise at work does not substitute for emotional malaise in current life, but could to the contrary add to it.⁷

⁶ Interview with the rapporteur of Thomas Coutrot, Dares, December 19, 2012.

⁷ *Qualité de vie et bien-être vont souvent de pair*, Insee première, N° 1428, 2013.

□ *The very imperfect epidemiologic monitoring of suicides linked to work, or loss of employment*

If one evaluates the number to be around 11,000 deaths annually by suicide in France, with between 300 and 400 being attributable to workplace related cause according to ANACT, these estimations remain approximate. The inaccuracy of the figures is due to the fact that, to date, there are no national statistics that enable the monitoring of the number of suicides linked to work or to the loss of employment⁸. In contrast, the number of suicides categorised by CNAMTS as workplace accidents revolve around 15 to 20 per year⁹.

If today it is difficult to take account of the exact number of work-related suicides, there exist nonetheless certain data that allow us to approach this phenomenon¹⁰. A study of the Health Monitoring Institute (2011), based on information collected from occupational therapists in the Rhône-Alpes region, in the Samotrace programme framework, states that suicidal risk covers around 10% of women and 7% of men¹¹.

A study conducted in Lower Normandy on employees having attempted suicide reveals that for 40% of them their work was the determining factor in their decision¹².

With the occurrence of the crisis in 2008, the issue of suicide linked to work or loss of employment has taken a new magnitude. Faced with increased unemployment, insecurity towards the future, the rise in job insecurity, small business failures, and worsening inequalities, the humane consequences were heavy, notably in terms of mental suffering and suicide. Taking into account the number of additional unemployed people in France between 2009 and 2011, and applying the indicator of the health observation suicide rate, Professor Michel Debout estimated the human cost of the crisis. According to him, the excess mortality due to the crisis would result in 750 supplementary cases of suicide.

In this context, the idea of creating a “suicide and suicidal behaviour monitoring centre” progresses and seems to amass a large following today. Thus, researchers, health professionals, sociologists, associates, and syndicates have recently launched and supported an appeal calling for the creation of such a monitoring centre.¹³ The Economic, Social and Environmental Council has just recommended the creation of this observatory centre, which would not only have authority over measuring and quantifying the number of suicides in France.¹⁴ It would also have authority over understanding suicidal phenomena in order to better prevent them.

□ *A delicate adaptation of monitoring mechanism at the local level.*

The works of the Panel of Expertise (2011) permitted the definition of a monitoring system for psychosocial risks at the national level, but has not been mandated to define the place of quantitative instruments in occupational health at the company level. It has

8 Hearing of Michel Debout, professor of legal medicine and Jean-Claude Delgenes, Chief executive officer at Technologia, before The Section for Labour and Employment, October 10, 2012.

9 There would be around 50 qualification requests per year that are recognised at around 40% as workplace accidents.

10 *Suicide et activité professionnelle*, INVS, April 2010.

11 *Risque suicidaire et activité professionnelle*, Weekly Epidemiological Bulletin, n° 47-48, Decembre 2011.

12 Source: M. Gehin, M. Raoult-Monestel, *Geste suicidaire et travail*, Archive of occupational diseases and the environment, volume 73, n° 3, June 2012; Joëlle Maraschin, *Le travail dans la part des suicides*, Santé et travail N° 80, 2012.

13 Appeal “44” for the creation of a suicide monitoring centre, May 2011

14 Opinion adopted by ESEC on February 12, 2013 on *Suicide: advocating active prevention*, a report presented by Didier Bernus for the Section for Social Affairs and health

now underlined the complexity of such an objective and has formulated some suggestions concerning the eventual decline, at the sub-national level, of recommendations elaborated in the aim of a national monitoring system.

It should be noted that, at this time, there does not exist a single tool that is authoritative and that identifies psychosocial risks recognised by the group of stakeholders. Numerous people testify to the difficulties of developing suitable indicators to detect psychosocial risks.

For its part, INRS created several very operational tools such as a PSR screening guide that distinguishes between indicators linked to company functioning and those linked to health and safety of employees¹⁵ as well as a PSR evaluation grid¹⁶. This last tool, for the most part, resumes the classification of the College of Expertise's risk factors by breaking them down into 26 items¹⁷. Many of these indicators are already available, either in the company policy statement (obligatory for companies over 300 employees), or in the annual occupational health report or that of CHSWC. For each of these indicators, it is clarified whether it deals with an indicator of risk, of methods, or of results.

More critical of the approach in terms of means or results (claim rate) indicators, Xénophon Vaxevanoglou, senior lecturer, estimates it preferable in his opinion to measure processes and the quality of management¹⁸. In this spirit, certain advisory cabinets developed their own PSR indicator grid by relying on those defined by the Panel of Expertise (Gollac), with the grille containing a referential acknowledgment which allows one to follow the PSR evolution of a company or branch over time¹⁹. Universities and social partners have also created particularly useful prevention guides²⁰.

For Dominique Servant, hospital psychiatrist, it is also indispensable that the objectives, instruments, and methods must be better defined to stimulate the research in this domain in France and, at the same time, to supply more reliable indicators in order to bring a pragmatic aid to the improvement of these work conditions and to the care of those in a state of psychological difficulty at work²¹.

□ *An under-evaluated psychosocial claim rate*

An analysis lead by the Management of occupational risks of the National Health Insurance Fund of Paid Workers (CNAMTS) has shown that mental and behavioural problems and were at the origin of 600 to 700 workplace and commuting accidents, as well as 20 to 40 cases of occupational illness per year.

Interrogated by the Court of Auditors on the recognised psychosocial claim rates, the Occupational health and retirement insurance fund (CARSAT) responded in semi-totally without referring to any statistical elements, not even those that are most sensitive to these risks, due to the time that they take to explore²².

15 *Dépister les RPS: des indicateurs pour vous guider*, INRS, 2010.

16 *Evaluer les facteurs de risques psychosociaux: l'outil RPS-DU*, INRS, 2013.

17 See a document in the annex.

18 Interview with the rapporteur of Xénophon Vaxevanoglou, a senior lecturer at the University of Lille, December 11, 2012

19 See the inquiry on PSR realised by the National Bank and Credit Syndicate/CFE-CGE Group, 2012.

20 *Guide pour une démarche stratégique de prévention des problèmes de santé psychologique au travail*, University Laval, Québec, 2009.

21 Interview with the rapporteur of, hospital psychiatrist, March 20, 2013.

22 *Accidents du travail et maladies professionnelles: les faiblesses de la politique de prévention du régime général de sécurité sociale*, RPA de la Cour des comptes, 2013.

For its part, the national network of occupational pathology vigilance and prevention evaluated in 2009 the number of mental diseases with a connection to work at one million, but its accepting of this attribution is greater than that used in the occupational pathology recognition framework.

According to Dominique Martin, director of occupational risks at the National Health Insurance Fund of Paid Workers (CNAMTS)²³, psychosocial risks represent “*less than 1,000 acknowledged cases per year*”. These numbers, which might seem modest, are probably very under-evaluated and translate to a difficulty above all else in understanding these risks

□ *Diffused risks, even taboos*

If these risk factors are identifiable, the problems of occupational suffering are often more spread out outside of the dramatic situations that they may sometimes engender.

Many workers suffer in silence because they feel real difficulty in pointing out their occupational suffering problems or soliciting support.

It is a fact that psychosocial risks still remain taboo in the world of work. In fact, to be recognised as suffering or to declare one’s suffering is a difficult step to take, as it leads to the formalisation of a problem intimate to the employee and could also have repercussions for the group. Certain victims dread looks from their colleagues, superiors, and peers about a psychosocial risk that could appear as an admission of failure or an inability to adapt oneself to the restrictions of a company.

Among psychosocial risks, sexual harassment remains a greatly obscured phenomenon in the private sector just as in public service. If the contentious cases of sexual harassment are few in number, the phenomenon in reality concerns a large number of females in professional life where sometimes a veritable “law of silence” reigns over this issue.

According to the European Association against Female Violence in the Workplace (AVFT), the reality of bullying and sexual assault is in fact greatly obscured²⁴. The victims see themselves most often lacking the opportunity to speak about it within the company, just as outside of it. The consequences of these actions however are dramatic. In fact, most of the time they result in a serious change in the victim’s health, by a break in the progress of their career, and could constitute in certain sectors, for women, an obstacle to employment. Bullying and sexual attacks could also be followed by discriminatory practices aimed at distancing or silencing victims.

2. Very present risks: A major issue of the public health

Psychosocial risks constitute a major public health issue and are referred to as such in the Occupational Health Plan of 2010-2014.

These risks are understood by different national and European inquiries. Certain available data are relatively out of date – because they refer to a 2005 inquiry on working conditions – and are essentially based on the perception that employees have of their working conditions.

²³ Hearing before the Section of Labour and Employment of Dominique Martin, director of occupational risk at CNAMTS, December 5, 2012.

²⁴ Interview with the rapporteur Marilyn Baldeck, President of AFVT, February 5, 2013.

□ A major issue of the public health

According to the 2011 edition of the annual barometer of the Work Life Observatory (OVAT), 40.7% of employees feel exposed to stress in their company (compared to 65% in 2010).

Psychosocial problems manifest as mental and psychosomatic symptoms (depressive syndrome, burn-out, loss of sleep, etc.), but also as musculoskeletal problems, cardiovascular disorders, and occupational accidents.

Many studies are underway at the global level to attempt to better clarify the importance of this risk factor and the way that it occurs, parallel to numerous other well known risk factors of these illnesses that facilitate or accelerate their occurrence. Many unknown factors remain in this area. Other studies, less numerous and less accomplished, equally deal with the effects that lasting stress could have on the functioning of the immune system, and thus, eventually, on the risks of apparition of cancer or autoimmune illnesses.

In fact, most of the PSR factors also have somatic consequences. Their relation with Musculoskeletal Disorders (MSD) and cardiovascular afflictions is well documented today and convincing results have been obtained on the connection between lasting stress, ill-functioning of the immune system, and risk of cancer, and the effects are also suspected to be involved in the occurrence of auto-immune diseases²⁵.

Many studies have shown a strong movement towards work intensification over the course of the last twenty years. They highlight, from the statements of employees, an increase in the mental burden connected to work, but also, contrary to a widespread belief, to an increase of physical efforts and exertions, including in the tertiary sector. Such phenomena have direct consequences on the state of health of employees and manifest themselves notably in the development of problems qualified as "psychosocial" which motivate more than a quarter of decisions of definitive disability pronounced by occupational physicians²⁶.

□ The first results of the survey SUMER 2010

The first results of the 2010 SUMER inquiry show in particular an increase in work intensity²⁷. An elevated level of work intensity, a lessened autonomy within the management framework and more "workplace tension", are the principal results of the SUMER (Medical Surveillance of Professional Risk Exposition) inquiry, carried out in 2009-2010 by 2,400 occupational physicians on 48,000 employees of the private sector, public hospitals, and a part of the State public services and territorial communities, representing close to 22 million employees.

In the matter of social support, the first results seem paradoxical. In fact, the indicators reflecting social support in the workplace made by colleagues and superiors do not vary by much: the majority of employees estimate that "*the colleagues with whom [they] work are friendly*" (90 % in 2003 and 88 % in 2010 respectively) or that "*(their) superior helps (them) in successfully carrying out (their) tasks*" (75 % in 2003 and 77 % in 2010). Offsetting the stability of this social support, a growing proportion of employees reported being subject to hostile

²⁵ Interview with Michel Gollac, labor sociologist, president of Pannel of Expertise on measuring psychosocial risk factors at work, 2008-2011, January 22, 2013.

²⁶ *Le bilan de la réforme de la médecine du travail*, IGAS, p. 41, 2007.

²⁷ *L'évolution des risques professionnels dans le secteur privé entre 1994 et 2010*, Dares analyses, N° 23, 2012.

behaviour or felt as if they were in their workplace at the time of the inquiry (16 % in 2003, 22 % in 2010).

Frame 3: The main results of the SUMER 2010 inquiry

- 57% of employees have a work rate imposed by an outer demand necessitating an immediate response;
- 41% have production standards or deadlines to follow of one day at maximum;
- 36% cannot have the fixed deadlines changed, and 20% declare having very little freedom to organize their work;
- 30% of employees undergo a check or a monitoring of their activity via computerised system;
- 22% report systematic hostile behaviour on behalf of one or more people in their workplace;
- 8% of employees in contact with the public report permanently or regularly undergoing tense public situations.

Source: Dares, Sumer inquiry 2010.

□ Main results of other surveys

The results of the workplace condition inquiry (2005), Professional Health and Itinerary (SIP) and Organisational and Computerised Change (COI) allow us to clarify the feelings of employees occupied with several important aspects of working conditions like emotional demands, work acknowledgement, and ethical conflicts²⁸.

Public contact is evidently not a risk factor in itself and often constitutes a positive dimension of professional activity. However, according to the results of the SIP inquiry, it frequently takes an unfavourable turn. Thus, 11% of active employees report experiencing tensions with the public, while 33% claim this only happens occasionally.

The opportunity of giving one's opinion and expressing one's expectations of work organisation increases both "integrative understanding" and autonomy. The "Reorganisations" Inquiry (COI) of 2007 showed that within the competitive sector, among employees who experienced reorganisations or changeovers of important technologies over the past three years, 64% estimate not having been consulted at the time these changes were implemented. The qualified employees were concerned with this problem as much as the less qualified, and the men much as the women.

Ethical conflicts between personal or professional values and the demands of work are a reality in which a third of occupied employees find themselves "always, often, or sometimes" confronted with in 2007. Those who consider themselves to be "always or often" in this situation make up 6% of the sampling of the SIP inquiry.

The sentiment of being hindered from doing a quality job was experienced in differing degrees ("sometimes" or "always") by more than 15% of active employees in 2007. Moreover, job insecurity is also an aggravating factor: in 2006-2007, even before the occurrence of the financial crisis, 23% of the active employees declare ("always", "often", or "sometimes") working with the fear of losing their job.

²⁸ *Les risques psychosociaux au travail: les indicateurs disponibles*, Thomas Coutrot and Catherine Mermilliod, DARES Analyses, Decembre 2010, N° 81.

Finally, the situation of the non-salaried differs noticeably from that of salaried employees in regard to psychosocial constraints (an effect of superior work but also a greater autonomy). They sometimes also experience heavy emotional demands, and are certainly also exposed to situations of conflict²⁹ and, in case of failure, legal insecurity. An IFOP/FIDUCIAL inquiry carried out at the beginning of October 2012 shows a rise in anxiety and work-related stress of SME and VSE managers in the face of uncertainties in the running of their company. 30% consider themselves as being in bad physical shape, and 1/4 declare having encountered health problems over the course of the two past years. A third admitted to suffering an excessive workload.

□ *The European Survey on Working Conditions (2010)*

Every five years since 1990, the Dublin Foundation conducts an inquiry into the perception European employees have of their working conditions. The results give an invaluable indication on the quality of working conditions, by presenting the employee's point of view on a large range of themes.

The last European inquiry highlights a certain French fragility in regard to occupational psychosocial risks³⁰.

Concerning the duration and intensity of work, employees working in France are in an average situation compared to the other European countries. However, some specific restrictions on work rate are worth mentioning: public pressure and pressure of objectives are strongly felt.

On the feeling of recognition manifested for the executed work, the French situation, on the other hand, shows itself to be mediocre. In the field of integrative recognition, the results are ambiguous at the very least. These employees often declare being involved in the company's improvement of organisation and work processes, however they do not consider themselves to be in a situation to influence the final decision and feel insufficiently consulted on the objectives of their work. As for financial recognition, they were among the most unsatisfied in Europe in 2010.

Social support such as it is perceived by French employees is also lower than in most European countries. France unfortunately distinguishes itself as the leading country in ethical conflicts, humiliations, violence, and bullying at work.

A negative image of working conditions in our country is presented in the European inquiry when the attention is focused on the main psychosocial factors. This fact is corroborated by French responses to a few general questions posed to European workers. Though the satisfaction rates in the French sample group in regards to working conditions might seem high (79%), it is lower than that registered in most of the western European countries and often by a lot (the difference is 10 points higher in Denmark, the United Kingdom, and Belgium; it is 9 points higher in Germany, and 4 points higher in Spain).

□ *Data from ANSES (2011)*

For ten years, pathologies linked to work have evolved: some such as occupational asthma have seen a reduction, but psychosocial risks (depression, stress, violence...) have

²⁹ *Les conditions de travail des non-salariés en 2005*, Elisabeth Algava and Lydie Vinck, Premières Synthèses n° 50.1, Dares, Decembre 2009.

³⁰ The European Survey on Working Conditions 2010, Dublin Foundation, www.eurofound.europa.eu/surveys/smt/ewcs/results.htm.

been reported at a “constant increase” according the 2011 report of the National Agency of Sanitary Food, Environment, and Work Security (ANSES). This agency relies on collected data from the 32 consultation centres of occupational pathology (CCPP) integrated in the CHUs in France³¹.

The pathologies related to the workplace that are most frequently reported are respiratory conditions (24%) and mental and behavioural problems also deemed to be occupational psychopathologies (22%).

The differences of development by type are as follows: for women, the increase in number of psychopathologies connected to the workplace between 2001 and 2009 is according to the network much greater than for men; the reduction in number of respiratory pathologies related to work observed in men does not appear in women.

□ *A phenomenon present in many sectors or professions.*

The phenomenon of malaise is not specific to one sector or profession. It is scattered in both the public sector and the private sector and affects industrial employees as it affects those employed in agriculture or service. Managers are not spared either as an APEC study (2009) shows³².

Within an active population, malaise at work concerns not only salaried workers, but also free-lance workers and company heads who may themselves undergo intense stress or work-related exhaustion³³. In 2007, according to the survey Employment conducted by INSEE, self-employed workers accounted for about 11% of the workforce.

From public service, to important sectors, to very large ones, workforces are deeply exposed to psychosocial constraints. The extensive personal of National Education is facing psychosocial factors that are rarely mentioned. However in a study realised in 2012 at the request of the Mutual General of National Education, over 5,000 teachers have shown that 24% among them feel a permanent state of tension within their jobs and that 14% have gone through this stage and described their situation in terms of occupational exhaustion. According to the same inquiry, the expected principles of stakeholders concern on one hand a better consideration of the work's difficulty, and on the other hand on their need for support and occupational council³⁴.

Young people having difficulty with occupational integration as well as students could be confronted with psychosocial problems³⁵. A few universities³⁶ have implemented a tool aimed at promoting the prevention of psychosocial risks, but above all the promotion of well-being and ameliorating the quality of student's lives.

31 Since 2001, these have been reunited within a network named the National Network of Awareness and Prevention of Occupational Pathologies (rnv3p), to which nine occupational health services now provide their data.

32 *Quand les cadres parlent de stress au travail*, APEC, 2009.

33 *Stress au travail et santé: situation des indépendants*, Inserm, 2011.

34 Enquête du Carrefour santé social - MGEN. Press release, February 4, 2013. http://www.mgen.fr/fileadmin/user_upload/Accueil/Dossiers_de_presse/2013/20130204_DP_CSS.pdf

35 Interview with the rapporteur of Gérard Blanchard, Vice-President of the CPU, February 27, 2013.

36 For example, the “Wellness” device created at Euromed Management in 2011.

□ Sexual harassment

Sexual violence predominately affecting females is in fact rarely evoked in connection with occupational psychosocial risks, even if the social partners make mention of it in an agreement signed in 2010³⁷.

Inquiries on this theme are rare and fragmented. They could yet give an insight to the magnitude of this phenomenon in the midst of work. The national inquiry on violence made against females, carried out in 2000, showed the impact of occupational characteristics on the frequency of sexual harassment: young and economically vulnerable employees have much more risk of being a victim. After a more recent study (2007) carried out by occupational physicians on women working in Seine-Saint-Denis, 9% of them declared having received undesired sexual advances in their workplace over the course of the past twelve months; 2.5% declared having been sexually attacked and 0.6% have had undesired sexual relations, always occurring in their workplace³⁸.

Such acts are not always without relation to service or company organisation choices. In certain sectors, experience shows that the predominately male management of a female group constitutes a very marked factor in aggravating these risks.

□ A non-negligible cost

The INRS estimates that those of occupational stress were counted between 1.9 and 3 million € for 2007, which includes the costs of care and the loss of compensation because of absenteeism, premature termination of activity, and premature death³⁹. Working conditions play an important role in absenteeism taken for health reasons. Only 2.5% of employees not exposed to psychosocial constraints take absenteeism for reasons related to health, compared with the 7.5% of employees exposed to three psychological constraints⁴⁰.

According to the Institute for Research and Documentation of Health Economics (IRDES), those submitted to physical hardships culminating in psychosocial risks are subject to experiencing sick leaves at an elevated rate of 46.3 % to 56.1 % more than other employees⁴¹.

Consultations for psychosocial risks have become, in France in 2007, the primary cause of consultation for occupational pathologies⁴². Many studies show a link between workplace suffering on one hand, and the consumption of psychotropes and the frequency of medical consultations on the other.

At the national level, statistics on workplace illness and workplace accidents by the National Illness Insurance Fund (CNAMTS) give incomplete data on the number of occupational damages, due to phenomena of under-declaration, and under-recognition⁴³.

In addition, occupational accidents and illnesses are also recognised without the link being made with psychosocial risks, while the presumption is strong. This could be the case

37 It concerns the March 26, 2010 agreement on workplace bullying and violence, which is a transposition of the European Agreement of April 26, 2007, on the same theme.

38 Information report prepared by Brigitte Gonthier-Maurin, Senator, Sanate, N° 610, June 25, 2012, pp. 7-9.

39 *Le coût du stress professionnel en France en 2007*, INRS.

40 *Les absences au travail des salariés pour raisons de santé*, Dares n° 009, 2013.

41 The Institute for Research and Documentation of Health Economics (IRDES), March 2011.

42 Source: French National Agency for Sanitary Safety of Environmental and Work

43 *Le poids imputable à l'exposition au stress au travail en termes économiques et de santé publiques: enjeux méthodologiques* Hélène Sultan-Taïeb and Isabelle Niedhammer, *Travail Emploi* n° 129, January-March 2012, pp 35-39.

in musculoskeletal problems – of which stress could only favour the occurrence -, accidents in transit to work, and certain workplace accidents⁴⁴.

Certain estimates suggest sanitary consequences that are much more significant. The Samothrace study on occupational mental health realised between 2006 and 2008 under the management of the Health Monitoring Institute brought forward that 24% of men and 37% of women suffer from malaise at work.

Slightly old works realised in State that are members of the European Union show that between 50 and 60% of the total of work days lost are linked more or less directly to stress. This cost would be € 20 billion in EU⁴⁵.

B. Reasons to research Changes to the working world

Without returning in detail to the numerous risk factors, which are for the most part addressed by different reports written about them, one has to admit that the development of psychosocial risks (PSR) is, in a general manner, linked to changes in work (1) as well as in the economic and social environment (2).

1. The causes “internal” to the company

PSR result firstly from changes to work, in companies as in administration, in terms of organisational and managerial methods⁴⁶. Six large risk groups are frequently emphasised.

□ The workload

The workload, whether it be physical or mental, and the margins of manoeuvre available to the workers to cope with it, constitute important risk factors.

□ The intensification of work

In a context of globalisation and greater competition between businesses, employees are confronted with an increase in their workload and must show greater incentive. The second “occupational work” plan (2010-2014 explicitly acknowledges the impact of work organisation on the employee’s stress *“evolutions in work organisation and company restructurings put increasing restrictions working communities and individuals. These risks could have serious effects on physical and mental health, and bring about irreversible changes.”*

Work intensification could also be accompanied by important and incessant changes to work organisation or requested tasks. A rate of excessive change or changes insufficiently explained to employees can be big factors in occupational suffering.

□ Development of “Lean management”

Organisation as well as work is often blamed for explosions in PSR. In this regard, European inquiries show that France takes part in a “Lean production” model while the Nordic

44 Hearing of Dominique Martin, Director of Professional Risk at National Health Insurance Fund for Employees (CNAMTS), December 5, 2012.

45 Cited by Doctor Patrick Légeron in *Le stress au travail: de la performance à la souffrance, droit social*, N° 12, 2004.

46 See also the opinion of the ESEC *Organisations du travail et nouveaux risques pour la santé des salariés*, Elyane Bressol, 2004.

countries and Germany develop more organisations founded on autonomy. Concretely, the “Lean” aims to identify and eliminate all forms of waste, all forms of inefficiency, and all forms of added unproductiveness.

Several researchers⁴⁷ and also syndicated organisations have shown that “Lean management”, more than any other working organisation, worsen the risks of working condition degradation and attacks on health, notably psychosocial risks and MSD.

If “lean management” can permit productivity gains by associating employees with the elimination of waste, the reality of its implementation is rather far from this vision. Often, the implementation of an organisation in “lean” is carried out from the “top down”, meaning decided at the top of the hierarchy, and may be “seen by employers as cutting the workforce”⁴⁸.

Some also denounce a certain management design, qualified as a “management cockpit” where the manager would contemplate, almost in real time, essential parameters to the economic performance of its business, but without being directly confronted by the reality on the ground or nearby managers. Oftentimes, it seems that managerial methods inspired by other countries are transposed without taking our cultural specificities into account.

□ Labour relations

Workplace relationships, in a large sense, which include hierarchical relationships and those between colleagues, but also collective bargaining and the possibilities for employee expression is an essential component to occupational health.

□ The individualisation of managerial methods.

Harmful effects of certain individual performance evaluation practices on mental health are also emphasised. These place the employees in a situation of generalised competition, leading to a failure of collective defence strategies in the face of work stressors and reinforcing occupational isolation.

The “Benchmark” technique consisting of comparing individual employee performances and encouraging competition between them is widespread in numerous sectors and has a high human cost.

A recent ruling has cast light on the pathogenic nature of these managerial methods based on permanently putting employees in competition, which compromises the health of the employees that are submitted to it⁴⁹. By stimulating rivalry between their own employees, these new management techniques favour competition over cooperation.

In this regard, Jean Kaspar, consultant, particularly stressed, during his hearing, the necessity of developing a “cooperation strategy” within business which aims to surpass conflicts of individual interests⁵⁰. The complexity of these situations and individual aspirations is such that no single stakeholder is in a position to respond to it. According to him, companies must elaborate more cooperative strategies in both the inside – between the supervision, the management, and the representatives and staff – and the outside with local fabric and the associative environment.

47 *Conditions de travail et santé des salariés dans l'UE*, working document N° 73, CEE, 2006.

48 *Transformations du travail et dialogue social*, FGMM-CFDT, May 2012.

49 TGI - Lyon, September 4, 2012.

50 Hearing of Jean Kaspar, Cabinet JK consultant, before the Section of Labour and Employment, November 21, 2012.

In the company, the evolution of management styles also pose the fundamental question of the exercising of power in the company. Thus, Jean Kaspar expressed his conviction according to which *"power is shared, even if by contrast the act of decision is not"*. So that the process that leads to this decision making should be, in every possible way, pluralistic.

📄 The weakness of collective bargaining and social relationships.

France seems to be behind in social relationship quality within companies as reported by the Gallois Report⁵¹. The collective bargaining in France undergoes real difficulty in sufficiently addressing in advance the problems linked to upheavals experienced in companies and their environments⁵². Yet, foreign examples show that quality collective bargaining is a key factor in economic performance as well as social performance in terms of good working conditions.

If in France, the rate of conflicts had noticeably lowered over the last thirty years, it would have been relayed by a phenomenon of employee disenchantment with regards to their job or company, according to Hubert Landier. This phenomenon which takes diverse forms – lateness, errors, stress, absenteeism – would be imputable to the multiplication of "social irritants" which concern just as much the relationships and behaviours within the business as managerial methods. Social inquiries permitted the establishment of a typology of the most frequent of these "social irritants"⁵³.

The establishment of staff representatives is unavoidable and important to a preventative approach and an improvement of life quality at work. To be consistent and effective, this approach should be situated within an anticipative approach in connection with the corporate strategy and taking into account the human impact on the issue of life quality at work and prevention, CHSWC is not the only one concerned. Representatives of employees, the CE and the CHSWC, must work in close cooperation on actions aimed at improving occupational health, notably in the matter of work organisation and work conditions.

📄 Employee expression on their work conditions

As the authors of the *Well-Being and Efficiency at Work* report quite rightly highlight, discussion spaces and autonomy in the workplace tend to reduce, even when *"every employee wants to be efficient and useful, this is what gives a sense of pride in one's work. It is often the best place to identify dysfunction and to propose ways to improve efficiency"*⁵⁴.

The finding remains a topical issue, as evidenced by the DGT Summary Report (2011) on this point: *"employee expression is rarely mentioned A very low number of agreements organise employee expression, despite a strong commitment of the National Cross-industry Agreement (ANI) on occupational stress in July 2008"*⁵⁵.

So that the corporation does not again become *"the place of mechanical noises and silent men"*⁵⁶, according to Jean Auroux's formula, the previous Minister of Work recommends

51 *Pacte pour la compétitivité de l'industrie française*, Louis Gallois, 2012.

52 The National Cross-industry Agreement on Stress at Work of January 13, 2013 involves provisions on this point.

53 *Irritants sociaux et désengagement au travail*, Hubert Landier, Futuribles, N° 390, 2012.

54 *Bien-être et efficacité au travail*, Henri Lachmann, Christian Larose and Muriel Penicaud (2010).

55 Summary of the analysis of these agreements signed into businesses with more than 1,000 employees – prevention of PSR, General Workforce Office (2011).

56 Source: *Jean Auroux, l'homme des lois*, interviews with Patrick Gobert, Editions of May 1st 2012.

developing the employee's expression toward their working conditions. Likewise, ANACT estimates that *"in a context where concrete difficulties met in business are less and less talked about or heard about, spaces allowing employees to express themselves on their own work should be researched"*⁵⁷.

□ *Loss of the sense of work and conflicts of values*

Dissatisfaction with work is also compounded by the fact that employees get the feeling of not having the means to *"do their job well"*. In this regard, tensions relative to conflicts of values in the workplace could also constitute psychosocial risk factors. These conflicts could appear when employees have the feeling of betraying their moral values or their professional conscience in the framework of their occupation, as for example when a commercial agent must sell a costly product to a person that would not use it or does not have the means to purchase it. This is also the case when output demands are seen as incompatible with the search for a quality job.

In the public sector, a particular concern is expressed of seeing values belonging to the public service disappear, which are at the core of the professional identity of most state employees and that could motivate their career choice due to the fact of adopting functioning modes in effect in the private sector.

□ *Restructuring and reorganisation*

Restructurings, reorganisations, and changes of all natures could also generate an insecurity and malaise at work if they are conducted without anticipation of their potential impact on health.

□ Suffered mobility and work-related stress

If the proper functioning of the labour market occurs through the quality of jobs and chosen mobilities⁵⁸, on the other hand, suffered mobility is an occupational stress generator. When employees are not sufficiently trained and prepared to be mobile, they are particularly subject to cyclic evolutions in economic activity. A part of the work-related stress comes from the fact *"that French employees do not have the impression of progress and development of their qualifications, despite having access to the training that is rather important for full-time employees"*⁵⁹.

□ Organisational restructuring and reorganisation

Recent works of the IRES show that reorganisations of *"competitiveness"*, meaning lead by the logic of improving performance and competition in already profitable businesses, have sped up over the course of the last decade. They are accompanied by permanent company contour remodelling, with the corollary of work reorganisations and workforce reductions⁶⁰.

At the European level, the HIRES report (2009) has shown that employees in a business undergoing restructuring see their mental and physical health deteriorate. The emergency plan for the prevention of occupational stress however makes it obligatory for businesses engaged in a restructuring process to take into account the prevention of psychosocial risks, under supervision of Direccte. And so *"in the case of the social plan, the actions will affect*

57 *Risques psychosociaux: repères pour la négociation d'un accord*, ANACT, March 2010.

58 The National Cross-Industry Agreement of January 11, 2013 involves provisions on this point.

59 *Mobilité des salariés*, Mathilde Lemoine et Etienne Wasmer, CAE report, 2010.

60 *Modes de gestion des restructurations*, IRES, N° 72, 2012.

not only employees whose work contracts are terminated, but also those whose contracts are maintained" (Ministry of Labour, DGT, *Working conditions – 2009 Assessment*, July 2010).

Above all, an excessive change in work rate, changes that are poorly accompanied or poorly explained to the employee may be destabilising and factors in malaise. This is noticeably observed in certain companies that impose a forced mobility on their employees, whether it be geographic or professional, a mobility that results in a bad experience due to the loss of bearings, and weakening of social connections that this involves.

Certain business strategies are characterised by a lack of prospective steps, and above all, a transparency in planned restructurings. Workforce cuts could be decided, without any official information to the staff, with increasing pressure on the local managers to incite the "voluntary" departure of employees. These practices placed on the employees in situations of risk and uncertainty even expose them to bullying behaviours when the intention is to compel them to leave their company outside of any Employment Protection Plan (PSE).

□ *The design and arrangement of workplaces*

The design and arrangement of workplaces could also be a source of occupational dissatisfaction, discomfort, and stress

□ Workplaces and quality of life at work

"*At ease with one's work space, at ease with life*" is the prosaic expression that attests to a strong attachment to work as a personal means of accomplishment. The search for quality of life at work is inseparable from the quality of the work areas in a large sense, namely occupational atmosphere (noise, temperature, lighting, etc.) but also the design and design and arrangement of the work space⁶¹.

According to the architect Jacques Boulet, insufficient attention is paid to the design and arrangement of work places⁶². He proposes that the actions – becoming more and more frequent – of moving or removing should be systematically preceded by an "architectural and ergonomic diagnostic" in order to prevent psychosocial risks. He also suggests developing university training to address these questions⁶³.

□ "Open spaces" potentially pathogenic

A recent study, realised from data issued by 18 CHSWC experts on the problems of moving, highlights the effects that are more often negative than positive of open, collective, and shared work spaces, often called "*open spaces*" on the health and performance of their occupants⁶⁴. It these implementations increase fatigue because of continued background noise, disruptions caused by telephone calls, an interior lighting sometimes imposed to everyone, eventual supplementary moving (on and off-site), and the sometimes more constraining work hours. This fatigue engenders stress, demotivation, absenteeism, and loss of productivity.

More nuanced compared to the results of this inquiry, architect Jacques Boulet raises the point that the generic term *open space* "*in fact covers the realities of arrangement so*

61 For twenty years, the Association of Architecture and Masters of work have rewarded exemplary workplaces.

62 Interview with the rapporteur of Jacques Boulet, architect and teacher, February 6, 2013.

63 Following the example of the Management of Work Space Projects diploma awarded by the University of East Paris Marne-la-Vallée.

64 *Effets des open spaces sur la santé et la performance*, Cabinet Technologia (2012).

diversely that it is permissible to doubt its pertinence as a spatial organisation paradigm of the work space". It is undeniable that a large number of jobs united in the same place engenders overcrowding, difficulty in concentration, lack of professional or private confidentiality, irritation, and fatigue not only – according to him – due to offices being right next to each other in the same more or less open place. The principal cause of work-related stress would result from the densification of this space and from the absence of withdrawal or isolation spaces outside of the *open space*, permitting the accomplishment of all that could disturb others: informal meetings, circulation flow, telephone conversations, confidentiality.

□ *The spread of digital tools*

The rapid expansion of digital tools have had a profound impact on occupational organisations, thus contributing to their rationalisation, their complexity, and their incessant changes. This is not without consequence on the work of employees who, for 75 % of them, use a computer for their profession⁶⁵.

The effects of Information and Communication Technologies (ITC) on working conditions are ambivalent. They are judged to be positive when the ITC permit employees to access information more simply and to find quick solutions adapted to their problems. There remain a certain number of risks that exist, which are clearly identified in a report of the CAS (2012)⁶⁶: increase in work rate and work intensity, reinforcement of activity monitoring resulting in reduced employee autonomy, weakening of interpersonal relationships and/or business communities.

To this is added the blurring of temporal and spatial boundaries between work and leisure, such that the effects of over-information result notably in the excessive increase of email flow. A number of employees thus have difficulties with "letting go" of their work⁶⁷.

The aforementioned CAS report recommends associating users of ITC and staff representatives with the definition of needs and the implementation of computerised projects, in close collaboration with the Human Resource Office (DRH) who returns a function of expertise and coordination. This recommendation is equally pertinent to the public service⁶⁸.

For Daniel Ratier, representative of the General Director of Labour (DGT), the challenge to accept today is that of regulation of ITC usages, to inscribe these technologies in a framework of labour that is respectful of employees, all while achieving gains in productivity⁶⁹. It underlines the fact that the continuous training effort of businesses concerning ITCs has strangely weakened since the 2000s even though businesses continued to invest in computer systems.

The negative impact on health that certain ITC usages can have is perceptible in different sectors. This is why occupations dealing with client relations over the telephone are particularly exposed to psychosocial risks when using the technique called "*wrap up*" which is an important source of stress.

65 *Le travail à l'heure numérique*, in *La société numérique*, Cahiers français N° 372 (2012).

66 *L'impact des ITC sur les conditions de travail*, Centre d'analyse stratégique, Note N° 266 (2012).

67 Thus, 40.8 % of surveyed employees had difficulties with letting go of their work according to the Technologia survey *Effects of Work on Private Life*, March 2012.

68 *Quel est l'impact des ITC sur les conditions de travail dans la Fonction publique*, CAS, Note N° 318 (2013).

69 Interview with the rapporteur of Daniel Ratier, in charge of DGT mission, December 14, 2012.

Frame 4: The “Wrap Up” technique

The *wrap up* is, in a functional sense, the procedure by which one insures the connection of the client to a call centre associate. After the exchanges with the client, the call centre associate has only a very brief programmed time to end the call and end the current tracing before receiving the next customer. Without necessary action on their part to leave the state of call reception, a new call will take place at the end of a few seconds. For the business, this automatic connection by standard telephone guarantees a predefined level of production. Other certain businesses have implemented the principal place of the “free” *wrap up*, meaning that it is the call centre associate that ends the connection.

Finally, geolocalisation techniques sometimes associated with computerised employee management systems exercising their activity outside the walls of the business could lead to temporary stress and a monitoring that is difficult for those involved to handle. Thus, complaints linked to geolocalisation received by the CNIL have doubled since 2008. The CNIL, its jurisprudence, and the Labour Code strives to supervise the usage of these techniques with the concern of avoiding attacks on the private lives of employees, or on union rights.

2. External causes linked to general context

Apart from work organisation and work methods, other factors drawn from the economic, social and environmental context of the company combine to explain occupational health deterioration.

□ *An increasingly competitive economic environment*

As is justifiably highlighted by the authors of the recent Strategic Analysis Centre Report, *“in an economic environment that is more and more competitive and marked by a succession of changes, businesses are engaged in a series of technological, managerial, and organisational changes, in order to increase productivity. These changes are marked most often by working conditions that are more favourable to employees (by gaining autonomy, for example), but they may also sometimes carry certain risks to mental health (stress, depression, tension, anxiety, etc.)”*⁷⁰.

Globalisation, the growing influence of financial capitalism on production systems, and the search for profitability in an environment that is more and more competitive are some factors that contribute to the profound changes in work conditions and to accentuating pressure on the employees.

As it has been well described by economist Daniel Cohen in a recent work⁷¹, the individual essentially suffers due to the fact that since the 1980’s the balance has been broken between the competition that existed outside of the business and the cooperation that existed inside the business. Under the triple pressures of the financial liberalisation, the digital revolution, and globalisation, competition has invaded everything.

□ *The crisis and the fear of unemployment*

Fear of unemployment, like the uncertainty of the future, generates a sentiment of economic insecurity in employees, and renders them more lacking in the face of problems encountered in the workplace. Some studies have shown that unemployment rates have

⁷⁰ *Changements au sein des entreprises et RPS pour les salariés*, CAS (2012).

⁷¹ *Homo economicus*, Daniel Cohen Albin Michel (2012).

a strong impact on stress. In fact, *“in a less fluid job market where employees live with the threat of losing their jobs and not finding satisfactory employment for a long time, situations of organisational changes and interpersonal conflicts are more stressful”*⁷². The expansion of temporary employment as well as business restructurings could provoke a rise in the sentiment of job insecurity, although this issue is still controversial.

In a general manner, the crisis amplified the negative consequences on working conditions of employees for many reasons. On one hand, it results in numerous restructurings which have negative effects on occupational health, and on the other hand, these effects are often accompanied by a delayed impact of the workload of the employed who keep their post, which results in an intensification of work. Finally, mass unemployment reduces the possibilities of professional mobility, thus fuelling dissatisfaction with work and a fear of downgrades.

□ *The lengthening of the transport time*

Different studies aim to show that quality of life at work is affected by stress linked to transportation, which above all concerns the inhabitants of large cities, notably in Ile-de-France. Aside from the increase in transit time, employees living in Ile-de-France are confronted with disagreements like the overcrowding of travellers, delays, the feeling of lost time in transportation, and fatigue.

□ *Occupational health and the environment*

Environmental problems could also induce a destabilisation of employees of a business. It could involve risk factors present within the establishments themselves (asbestos, electromagnetic waves...), which worry the people subject to these risks, thus creating a climate of insecurity. It could also involve the negative image of their business due to the environmental impact that it activity generates. In this second case, the employees could be psychologically put into a situation of insecurity, and internalise a disparaging image of their professional activities.

C. A legal arsenal that is quite dense, but not yet stabilised

The legal tool that France uses in the matter of prevention and protection of employees is rather intensive, and is connected to a global effort toward preventing occupational risks (1). However, this legal framework is not yet stabilised, due to a very evolving jurisprudence (2) and legal capacities that are still imprecise (3).

1. A relatively protective legal framework

The Labour Code sets the general obligations of the employer in the matter of occupational health and safety. Moreover, specific risks such as moral or sexual harassment are precisely outlined by the law and are legally penalised.

⁷² *Insatisfaction au travail: sortir de l'exception française*, Etienne Wasmer, Institut Montaigne (2012).

□ *The main legal obligations of the employer*

The first stakeholder of occupational health and safety is the employer to which falls a major responsibility in this domain. Article L. 4121-1 of the Labour Code, which transposes the principles posed by the European Directive Management of June 12, 1989, provided that the employer takes the necessary measures to assure the safety of employees and to protect their physical and mental health⁷³.

After having expressed this general obligation of prevention, the Labour Code presents in Article L. 4121-2 the general prevention measures, which articulate around 9 central principals of prevention.

Article L. 4121-3 imposes on the employer the evaluation of risks to the health and safety of workers. The results of this evaluation are then transcribed in a unique document, in accordance with Article R. 4121-1. On the basis of this evaluation, the employer must implement prevention measures and work and production methods that guarantee a better level of health and safety protection.

Moreover, in businesses with over 50 employees, the employer must present to the Committee for health, safety and working conditions (CHSWC) a written report making an assessment of the general health, safety, and working conditions situation, as well as a programme for the prevention of occupational risks, and the improvement of working conditions. In addition, the social assessment, provided in article L. 2323-70 of the Labour Code, recapitulates the data that allows the appreciation of health and safety conditions of employees, work organisation, and the employee's conditions of life.

□ *Specific measures against bullying and sexual harassment*

The law N° 2002-73 of January 17, 2002 on social modernisation has included moral bullying in the Labour Code by establishing the principle *"no employee should be subject to repeated acts of bullying that have the purpose or effect of a degradation of their working conditions which may undermine their rights and their dignity, affect their physical or mental health or jeopardize their professional future."* (Article L. 1152-1 of Labour Code)⁷⁴. Today, the measures in the Labour Code concerning bullying constitute a legal tool that is essential to taking psychosocial risks into account.

The law of August 6, 2012 introduces a new definition and a new penal system for the offence of sexual harassment to the French Penal Code (article 222-33), worsens the legal penalty of bullying (article 222-33-2) and specifically punishes discrimination following an instance of sexual harassment (article 225-1-1)⁷⁵. These new measures have recently been translated into the Labour Code and a recent circular from the DGT has detailed the obligations of the employer as well as the role of staff representatives, occupational health services, and the work administration in the matter of preventing moral and sexual harassment⁷⁶.

⁷³ For a more complete legal study, see the document in the annex.

⁷⁴ Similar measures are found in the Statute of Public Service (article 6 of the law of July 13, 1983 carrying rights and obligations of state employees).

⁷⁵ A law N° 2012-954 of August 6, 2012 on sexual harassment and ministerial circular CRIM -15/ E8 -August 7, 2012: presentation of substantive criminal law and criminal procedure law of August 6, 2012.

⁷⁶ Circular of DGT 2012/14 of November 12, 2012.

However, like bullying, sexual harassment is a particularly difficult litigation⁷⁷. The length and uncertainty of the penal procedure remains, under these conditions, very dissuasive for the victims.

Associations for the fight against violence done to females, particularly the AVFT, estimate that the prevention effort remains very insufficient and that sexual harassment and sexual aggressions in the workplace must be fully treated as an occupational risk, by more strongly mobilizing the stakeholders in workplace prevention on this issue: the employer, and if necessary the contractor, occupational health services, the CHSWC, and the staff representatives.

□ Employee rights and their representatives

Parallel to employer obligations, the employees have been made to recognize the rights that permit them to exercise a monitoring ability on one hand, and on the other, to resort to a mediation procedure.

Dealing with the ability to monitor, the Labour Code guarantees firstly the safety and health of the employees by the right to notify. Employees, staff representatives⁷⁸, or a representative of CHSWC must notify the employer of any work situation that presents reasonable grounds to believe that there is an imminent and serious danger to their health or their life. The employer must immediately carry out an inquiry and take measures to remedy the situation. In case of a dispute, the Committee for health, safety and working conditions (CHSWC) will hold an emergency meeting. In case of disagreement, the Labour inspector may be brought in to intervene (article L. 4131-1 of the Labour Code).

Then, a right to withdraw may be implemented. In fact, the employees may withdraw from any work situation that they have a reasonable motive to think poses a grave and imminent danger to their health or their life. The employer cannot request that the employee who used this right go back on this action in a work situation where the danger persists, and no sanction nor salary deduction may be imposed on the employee having exercised this right.

Finally, article L. 1152-6 of the Labour Code foresees possible recourse to a mediation procedure in the situation of bullying on behalf of the person that estimates himself victim or by they who are implicated. The decision of the mediator must be subject to an agreement between both parties. He must aim to conciliate both parties and submit propositions that he records in writing, with the aim of putting an end to the bullying. Curiously, the Labour Code limits this possibility of moral harassment mediation, a possibility that is not open to victims of sexual harassment. In practice, this mediation procedure seems very little used, even though it constitutes an innovative resolution procedure of individual conflicts in bullying situations.

□ The obligation to prevent hardships at work

The law of November 9, 2010 carrying withdrawal reforms is innovative in that it puts employers in charge of the obligatory prevention of workplace hardships.

⁷⁷ It is worth noting that the Labour Code clarifies that all employees having conducted moral (L. 1153-5) or sexual harassments (L. 1153-6) is subject to disciplinary action.

⁷⁸ Staff representatives may also use the right to notify in regards to moral or sexual harassment (article L. 2313-2).

Work “hardships” are defined by Article L. 4121-3-1, new to the Labour Code as a result of the exposure of the worker to one or more occupational risk factors determined by decree⁷⁹ and linked in one way or another to the following situations: marked physical restrictions; a physically aggressive environment; certain work rates susceptible to leave lasting, identifiable, and irreversible traces on the health.

Favouring physical restrictions, the law of November 9, 2010 and its decree of application comprehends hardships in an objective manner. However, this approach has been discussed, because it notably leaves aside psychosocial risk factors⁸⁰.

To determine the “traceability” of exposures at risk of hardship, Article L. 4121-3-1 of the aforementioned Labour Code requires the employer to record them in a separate risk exposure document. This document, outlining the same text, is established in line with the risk assessment provided for in Article L. 4123-3⁸¹. It is communicated to the occupational health service, which transmits it to an occupational therapist. The health service completes the medical file of the occupational health of each worker.

2. A very evolving jurisprudence

The legal framework had been completed by a more and more extensive jurisprudence⁸² which has notably put the employer in charge of a “performance requirement of safety”, which is not lacking in ambiguity.

□ *The performance obligation of safety currently in discussion*

If the employer has taken the necessary measures to ensure the physical and mental safety of their employees, this general obligation has been reinforced by the jurisprudence that posed the principle of a performance obligation in the matter of safety⁸³.

What sense must be given to this notion of “performance obligation”? Principally, the performance obligation is contrasted by methodical obligation. But one cannot reasonably demand of an employer that all his employees be, at that moment, in a perfect state of physical or mental health, this being only partially connected to their working conditions. One must note in this obligation a principal of action guided by a need for “efficiency” which had been expressed by the Social Chamber in the legal opinion of the following principle: “*Consider that the employer, held to performance obligation of safety in the matter of protecting the health and safety of workers in the business, must ensure efficiency*” (Soc., February, 28, 2006).

During her hearing, Emmanuelle Barbara, lawyer specialising in worker’s rights, underlined the fact that the legal framework is not yet stabilised and that “psychosocial risks are not defined by law, or even by fact”⁸⁴.

79 Decree of March 30, 2011.

80 *Les nouveaux contours de l'obligation de sécurité, à la lumière des outils de prévention de la pénibilité*, Professor Franck Petit, Social Law (2013).

81 The employer must include in an annex to the DUER the proportion of employees exposed to the factors of workplace hardships defined by applying Article L. 4121-3-1 of the Labour Code.

82 Essentially judiciary because the administrative jurisprudence is still rare on the subject.

83 Hearing of Michel Blatman, counsel to the Social Chamber of the Court of Cassation before the section for Labour and Employment, November 14, 2012.

84 Hearing of Maître Emmanuelle Barbara before The section for Labour and Employment of the ESEC, November 7, 2012.

□ *Passing from the individual to the group*

Two series of decisions illustrate this progressive extension in the field of the performance obligation of safety, firstly applied to individual relationships and then to the organisation as a whole: one concerns itself with bullying, and the others with organisation and collective work conditions⁸⁵.

In the first place, “managerial methods” implemented in the workplace can be judged as a constituent of bullying. This is how “bullying could be characterised by managerial methods implemented by a hierarchical superior in the case that they manifest for an employee as repeated acts of bullying that have the purpose or effect of a degradation of their working conditions which may undermine their rights and their dignity, affect their physical or mental health or jeopardize their professional future” (Soc., November 10, 2009; in the same sense, Soc., February 3, 2010). By this ruling, the Court then established that a managerial method, and not just an unbalanced interpersonal relationship, could be the cause of a bullying. And, with the employer being indebted to a resulting obligation, it does not much matter that he had been able to take measures to end the harassment.

In the second place, judiciary suspension of company reorganisation processes, a measure reached directly with the power of the employer’s management, had been accepted by the Social Chamber on the occasion of an estimated reorganisation in the nature of compromising the health and safety of the workers concerned (Soc., March 5, 2008).

3. A still imprecise legal framework

□ *The definition of psychosocial risks*

Psychosocial risks are ever present, except in the Labour Code, which gives no legal definition or even uses this terminology.

The notion of occupational psychosocial risks is widely used, however it does not have a clear and unambiguous meaning used by the social stakeholders. Certain experts, like Damien Crué, associate researcher of LEST, says he is “uncomfortable” with the notion of psychosocial risks, fearing that psychological approaches contribute to the decline in interest given to the issue of workplace hardships and to the improvement of working conditions⁸⁶. Syndicate organisations emphasise that the expression “*psychosocial risks*” is improper and that it would be preferable to instead speak of “*trauma due to work organisation*”⁸⁷.

At the same time, agreements reached unanimously by social partners in the matter of work-related stress (National Cross-industry Agreement on Occupational Stress, July 2008) and bullying and violence at work (agreement of March 26, 2010 on harassment and violence at work) allow for the support of relatively consensual agreements that acknowledge the multifaceted character of PSR.

□ *The lack of a specific regulatory framework*

Psychosocial risk (PSR) prevention has become one of the priorities of public authorities, without any new text having come to set a regulatory framework according to which any action must be orientated. According to Hervé Lanouzière, previously technical advisor to

⁸⁵ 2011 Annual Report of the French Supreme Court.

⁸⁶ Interview with the rapporteur of Damien Crué, researcher at LEST, January 8, 2013.

⁸⁷ Roundtable of social partners, Denis Garnier Federation CGT-FO health, January 30, 2013.

the DGT, *“it is however the only one of all emergent risks, and in any case statistically the most preoccupying, that is not governed by a specific decree”*⁸⁸. Musculoskeletal disorders (MSD), responsible for a large number of occupational illnesses in France, or traffic accidents, number one cause of death at work, are not subject to particular measures whereas irritants caused by noise, vibration, machines and dangerous chemicals are strictly regulated. The paradox would only appear because, according to certain experts, psychosocial risks are certainly *“unique types of risks, but they must be treated like the others”*, highlighting in this way, that they are subjected – in law, if not in fact – to the same prevention rules as other occupational risks.

□ *The procedure for assessing psychosocial risk*

The methodology for assessing the PSR factors is not clearly specified in the ministerial circular of 2002⁸⁹, which only defines it in its larger steps. But, the quality of this assessment depends on the construction of a programme of efficient prevention actions.

In the first appraisal of the agreements on stress prevention, realised by the DGT, it is evident that the approach focused on is predominately quantitative, with questionnaires in 73% of cases, even if 50% of them also include a qualitative dimension (interviews, field study, etc.).

According to the size of the company *ad hoc* is sometimes set up with the support of a consulting firm to help with the preparation of the DUER. However, the CHSWC and occupational physicians are very rarely identified as instances of managing the approach.

If under the terms of Article L. 4612017 the CHSWC puts out an opinion on the annual report making the assessment on the general situation on health, safety, and working conditions as well as on the annual prevention programme, it is not forcibly consulted on the DUER.

But, in the interest of efficiency, the risks auto-evaluation procedures should be, in principle, led in direct connection with the staff representative authorities, in order to favour the collective bargaining and the preventative approach that the ministerial circular recommends. By relying on interior stakeholders (CHSWC, occupational physician, workers themselves), *“the employer can ensure the quality of the risk evaluation and develop knowledge of prevention in his business.”*⁹⁰

□ *The assessment of mental strain in the DUER*

Article L. 4121-3 does not explicitly mention the obligatory assessment of psychosocial burden at work, nor the transcription of these risks into the DUER.

But, if the employer must protect the “mental” health of workers, this supposes that a mental change could result in an occupational exposure to risk factors present in the business.

Article L. 4121-27 of the Labour Code imposes on the employer to *“plan for prevention by integrating, in a coherent group, technique, work organisation, social relationships and the*

⁸⁸ *Laprévention des RPS du point de vue du Code du travail*, Hervé Lanouzière, Semaine sociale Lamy N° 1480 (2011).

⁸⁹ Circular n° 6 of the DRT of April 18, 2002 taken for the application of decree n° 2001-1016 concerns the creation of a document relating to the evaluation of risks to the health and safety of workers.

⁹⁰ Circular N° 6 from DRT of April 18, 2002.

influence of environmental factors, notably risks connected to bullying, such as it is defined in Article L. 1152-1”.

□ *The notion of grave and imminent danger*

The legal definition of grave and imminent danger does not seem clearly defined in the Labour Code and “one can only state the difficulty that staff representative authorities’ have in using the same notion of gravity and above all of imminence of an attack on physical and mental health in the framework of PSR, compared to material risks”⁹¹.

It is a fact that the implementation of the right to notify or withdraw presents a partially subjective nature that takes the – relatively vague – notion of “reasonable grounds to believe”.

It follows, however, that the control operated *a posteriori* by the judge to verify if the employee legitimately exercised his right bearing not only on the real danger of the situation, but on the nature of reasonable grounds to believe in the gravity and imminence of danger (Soc., 23 mars 2005, appeal N° 03-42.412). The State Council shares this position (CE, October 9, 1987).

□ *The collective dimension of bullying*

In the end, the Labour Code only addresses the issue of psychosocial risks in a very general manner, either in prohibiting individual behaviours of harassment (moral or sexual), or in imposing the principle that the employer is obliged to take necessary measures to protect the physical and mental health of employees

The measures in article L. 1152-1 of the Labour Code are entirely centred on the individual relation between the perpetrator and the target. They make no reference to the instances of work organisation and work methods put in place affecting the health of employees, even if the jurisprudence just filled this gap by making sure that the occupational organisation or staff managerial methods neither endanger the health or safety of employees nor undermine their dignity.

D. Mobilisation of public authorities and social partners

Confronted with the increase of psychosocial risks, public powers but also the social partners haven’t remained passive. Many initiatives have been taken even if they take some time to take effect.

1. The commitment of public authorities

□ *Numerous parliamentary works*

Many reflections and parliamentary works have been conducted on this subject because a reflection commission on “work related suffering”, composed of deputies and qualified persons, came to its conclusions in December 2009⁹². Likewise, an information mission of the Commission of Senate Social Affairs on *Malaise at Work* has made many propositions to

⁹¹ *Agir sur les risques psychosociaux*, Compétences syndicales, CFDT (2010).

⁹² Report of the Reflexion Committee on suffering at work, 2009.

improve prevention and to take charge of psychosocial risks⁹³. Finally, the Commission of Social Affairs of the National Assembly has also studied the issue of preventing psychosocial risks, and has attempted to clarify the state of affairs and then formulate propositions⁹⁴.

Si one can underline a huge convergence of the continuous recommendations contained in these different reports, the Senate report (2010) still stands out due to the fact that it clearly proposes “to adapt the rules of the takeover by the branch of occupational accidents and occupation diseases (AT-MP in french)” and to “stabilise the legal framework”. On this last point, the senators’ proposition joins that defended by Claude Katz, lawyer of the Bar of Paris, who suggests integrating into substantive law principals put forward by case law in the matter of occupational health⁹⁵.

□ *Emergency Plan on the prevention of stress (2009)*

An emergency plan on the prevention of work-related stress had been launched in October 2009 by the Minister of Labour. Minister of Labour at the time, Xavier Darcos, also required businesses with more than 1000 employees to sign an agreement on the prevention of work-related stress. In April 2011, the Council on Orientation of Working Conditions (COCT) drew up a first appraisal, including 600 agreements or action plans signed since 2009. Without calling into question the quality of these agreements, the assessment underlines that many among them are only agreements of “method”, defining a PSR diagnostic and evaluation process, but without clarifying any axes of action.

□ *The “Occupational Health” plan (2010-2014)*

During his hearing by the section for Labour and Employment⁹⁶, the General Director of Labour (DGT) reminded that psychosocial risks constitute one of the priorities of the second “Occupational Health” plan (2010-2014) and drew up a first assessment of measures now in effect.

Many actions have been undertaken in the framework of the first axis of the “Improve the knowledge of occupational health” plan, such as the implementation of portals of occupational exposure data and epidemiological monitoring over the long term.

Diagnostic tools have been set up, with the support of the National Agency for the Improvement of Working Conditions (ANACT), The National Research and Security Institute for the Prevention of Illness and Accidents at Work, and Occupational Health Services.

Axis N° 2 of the plan: “Pursue active politics on the prevention of occupational risks” has also benefitted from a substantial implementation. In concerning psychosocial risks, nearly 950 businesses with more than 1000 employees would declare having signed an agreement or having taken a plan of action⁹⁷.

93 Information report N° 642 prepared on behalf of the Social Affairs Committee of the Senate, 2010.

94 Information report N° 3457 as the conclusion of work of the mission on PSR, 2011.

95 Interview with the rapporteur of Claude Katz, lawyer practicing in Paris, January 9, 2013.

96 Hearing of Jean-Denis Combexelle, general director of Labour, before the Section of Labour and Employment at ESEC, November 28, 2012.

97 Opinion brought forward on behalf of the Committee on Social Affairs on the «Labour and Employment» mission by the member Francis Vercamer, October 10, 2012, p. 10.

2. The involvement of social partners

□ *Cross-industry agreements on psychosocial risks*

Social partners were also apprised of this issue and have been brought to negotiate agreements on psychosocial risks. After the National Cross-industry Agreement on Stress at Work of July 2, 2008, settled by an order on April 23, 2009, a national cross-industry agreement on bullying and violence at work was signed by social partners on March 26, 2010 then extended by a ruling on July 23, 2010.

Thus, the National Cross-industry Agreement on Stress at Work, which transposes the European Framework Agreement on work-related stress of October 8, 2004 on the same theme, intends to heighten employee and employer awareness to the phenomenon of work-related stress and to provide a permanent framework for to detect, prevent, and cope with this problem. The agreement specifies that, as soon as a work-related stress problem is identified, action must be undertaken to prevent, eliminate, or failing that, reduce it. The incumbent responsibility of the employer. It could mean collective or individual measures, such as the creation of a group of business stakeholders, particularly office members and supervisory staff, with the awareness and comprehension of work-related stress, as well as methods to cope with it.

Frame 5: Agreement on workplace bullying and violence

In order to combat the emergence and development of bullying and violence at work, the agreement recommends several measures:

- To better inform employees of these phenomena, notably via solutions inside the business;
- To raise greater awareness and create more adequate hierarchic and employee responsibilities;
- Improvement of work organisation, conditions, and environment;
- The implementation of an exchange place where employees can express themselves about their work.

Source: agreement of March 26, 2010.

The agreement on workplace bullying and violence also clarifies the procedure to follow in case of bullying or violence, which can include an informal phase, during which someone trusted by management and employees is available to give advice and assistance. In case of a claim of bullying or violence, supporting measures are also foreseen, taken care of by the business. A support person (medical, psychological...) must be provided to the victim employee and, if necessary, help in his upkeep, his return to employment, or his reinsertion. Concerning third-party aggression, the business could foresee supporting measures, especially legal measures, for the employee concerned, and internal regulations could specify applicable sanctions against those inciting the bullying or violence.

□ *A mixed review of business agreements (2011)*

The assessment drawn up by the DGT of the first agreements on stress is rather disappointing⁹⁸. The agreement analysis shows that four out of five agreements are

⁹⁸ Summary of the analysis of these agreements signed into businesses with more than 1,000 employees – prevention of PSR, General Workforce Office (2011).

methodical agreements, meaning they aim first of all to define a method and process to run a diagnostic, rather than identifying responses and axes of action. Likewise, the agreements that bear a precise management commitment or clarify methods of its implication are rare.

The DGT report also highlights that if an important place is given to training in the framework, *“the agreement clauses propose more of a principle of training rather than determining a precise content”*.

□ Preventing “physical” hardship at work

Since 2008, hardship is expressly mentioned as the subject of a triennial negotiation at the professional branch level, and inscribed in the negotiation framework of the GPEC.

With the law of November 9, 2010, the legislator decided – even if the choice might be argued⁹⁹ – to dissociate hardship of physical work from the issue of psychosocial risks, otherwise known as “mental” hardship. The decree of March 30, 2011 clarifies the different hardship factors. The law defines hardship as the manifestation of one or more occupational risk factors *“linked to marked physical restrictions, to an aggressive physical environment, or to certain work rates susceptible to have lasting, identifiable, and irreversible impacts on health”*¹⁰⁰

The same law also foresees an experimental method of negotiation, reduction, and compensation of difficulty, in the form of industry-wide agreements that must be concluded before December 31, 2013.

These industry-wide agreements involving work conditions also permit the accompaniment of SMEs and VSEs in global approach to prevention. The operational implementation of these agreements in small and average sized businesses could be facilitated by approaches that drive professional organisations and their supporting networks dedicated to risk prevention, following the example of the OPBTP¹⁰¹, which constructed a practical guide concerning working conditions of the BTP branch on December 20, 2011 and developed information and training actions to help businesses put concrete action prevention plans in place.

□ A first assessment of public service (2009)

In the public sector, a task of reflection and negotiation had been undertaken by social partners. It resulted in the signing of the first agreement on occupational health and safety in the public service on November 20, 2009, signed by 7 of the 8 representative syndicate organisations¹⁰². The agreement concerns the 5.2 million appointed and contracted agents of the public service.

Public employers are obliged to implement renewed politics in the matter of improving working conditions. In this respect, the implementation of tools preventing occupational risks, notably the single risk assessment document, make up one of the major axes of actions needing to be conducted. This approach works towards the goal of fostering the well-being of agents and of contributing to the quality of the public service.

⁹⁹ Noise, for example, could have physical impacts (deafness), and psychological impacts linked to stress.

¹⁰⁰ Since the 1st of January 2012, all employers must establish an individual and registered file for each employee exposed to factors that contribute to workplace hardships.

¹⁰¹ OPBTP: Professional prevention organisation of buildings and public works

¹⁰² The agreement consists of 15 actions around 3 principal axes of intervention.

The state and the other public employers of the FPT and FPH committed to immediately implement that for which they were responsible. The agreement also clarifies that qualitative and quantitative objectives will be set, and that “ *Employers have a performance obligation regarding the implementation of the measures contained in the present plan. This implementation will be subject to an evaluation* ”.

E. The awareness of private and public employers.

All inquiries show that the phenomenon of malaise at work is much more widespread in the private sector than in the public sector. Faced with this fact, awareness tends to operate on the necessity to better realize the problems of health and quality of life at work.

1. The distribution of “good practices” in the private sector

It is not about taking an exhaustive inventory of all the examples of “good practices”, which would necessitate a long survey work¹⁰³, but more simply about highlighting, according to the debates and hearings undertaken by the ESEC, some examples of outstanding practices. The latter results most often in agreements reached with social partners.

□ *The understanding and prevention of workplace suffering*

Many businesses have implemented, in different forms, “stress observatories” in order to better understand stress experienced by employees, either by collecting anonymous results of tests taken voluntarily by employees during their medical visits, or by organising periodic inquiries on stress and working conditions¹⁰⁴.

Likewise, during his hearing, Bernard Ollivier, director of training at Renault group, mentioned that to remedy the lack of social connection and spirit of solidarity, a “team day” had been created in his company in order to give the employees the opportunity to “talk about their real lives at work, not about work”¹⁰⁵. Other businesses made the choice of involving employees in the prevention of psychosocial risks, by putting “health circles” in place, which are meetings during which the employees can inform their team leader of possible situations that can cause harm to their physical and mental health.

Finally, certain SMEs have set in place, in coordination with staff representatives, management tools that are exemplary in terms of primary prevention of PSR. For example, the Convers company – specialising in telemarketing – developed innovative tools such as an “agreed time” plan¹⁰⁶, a professional interview distinguished from an evaluation interview, a formalised tutelage and systematic interviews during the return from maternity leave or long term sick leave, in order to facilitate the reintegration of employees during a moment of professional fragility¹⁰⁷.

¹⁰³Even if an exhaustive inventory of these good practices would be particularly useful.

¹⁰⁴For example, the triennial inquiry on stress and working conditions in the France Télécom-Orange company.

¹⁰⁵Hearing of Bernard Ollivier, Director of the Renault group transformation, before Member of the section for Social Affairs and Health, December 5, 2012.

¹⁰⁶Each week, employees can change their work schedules, and twice per year, they can modify the number of hours of their contracts, to decrease or to increase.

¹⁰⁷Interview with the rapporteur of Philippe de Gibon, General Director at Convers, February 25, 2013.

□ Detecting persons in distress

The prevention of psychosocial risks also passes through a better detection of employees in distress situations, which supposes the implementation of warning circuits. Also, certain businesses have instated a Freephone number accessible seven days a week, twenty-four hours a day, for employees to be able to discuss their troubles. Others have instated a training course for managers to allow them to better detect employees in distress. Other initiatives have also been taken consisting of the implementation of networks of volunteer “monitors”, trained in active listening and in charge of being available for any employee feeling weakened. These different initiatives are seen as favourable by employees, since the anonymity of the recourse to these devices is guaranteed.

□ Anticipating reorganisations

Certain businesses seized the opportunity to work on the anticipation of change and the study of their impact. In advance of a strategic decision or envisaged restructuring, an *a priori* evaluation of the impact of the change with the involvement of the concerned members of the hierarchical line is carried out.

The aforementioned DGT report on the analysis of PSR prevention agreements noted: *“The support of changes is identified in 46% of long-term agreements. Certain social partners seized the opportunity to work on anticipating changes and studying their impact. They put in place an approach that can be broken down into three decisive steps: in advance of the decision (a priori evaluation of the impact of change with the involvement of the concerned members of the hierarchical line), during the change (preparation and deployment of supporting strategy plans), and after its implementation (a posteriori evaluation of the analysis of feelings expressed by the employee with the aim of proceeding with necessary adjustments).”*

Though some businesses have paved the way, the approached remains very confidential in practice. Certain countries, such as Norway, since 2006, have integrated into the Labour Code the obligation for businesses to measure the impact of changes on physical and mental health.

□ Roundtable organised with businesses

During the roundtable organised by ESEC, the leaders of three large groups belonging to very different activity sectors had been invited to present actions to prevent psychosocial risks set in place in the background of strong economic restrictions and organisational changes¹⁰⁸.

□ France Télécom-Orange

With the impetus of the competition politics of the European Union and the evolution of communication technologies, the France Télécom-Orange group has seen radical changes to its economic model. A state administration identified as a public service transformed into a private business immersed in an extremely competitive environment.

France Télécom-Orange mobilised considerable means to improve quality of life at work in order to turn a particularly different page in its history. Stéphane Richard recalled that he had arrived at the head of the company during the strongest point of this crisis. The

¹⁰⁸Hearing of Stéphane Richard, CEO at France Télécom-Orange, Arièle Setbon, Project manager for Prevention of PSR, Veolia Transdev and of Xavier Froissard, Managing director of health at France Télévision, before the Section for Labour and Employment of ESEC, January 16, 2013.

action to restore a good working climate had been taken in three directions: understand the situation; elaborate a strategy plan to give the staff a clear vision of the project as a whole; build a new “social contract”, a copy of which had been distributed to all workers.

Concerning the first point, an assessment had been carried out with the help of a specialised cabinet, drawing from a questionnaire survey given to the 100,000 workers of the group. This first task had been prolonged by the implementation of a social barometer based on a recurring inquiry with a sample of 4,000 employees.

In regards to collective bargaining, important agreements have been passed with syndicate partners: on mobility with the application of a principle to ban forced mobility within the group; on the conciliation between professional life and personal life with an awareness of the ambiguous effects of the ITC; and on the implementation of a mediator and a part time plan for seniors. A mediation structure had thus been set in place to treat the most complex individual situations, often very painful, that escape the Human Resource services. The company’s occupational health network had been reinforced: it now uses one occupational physician per 1,500 employees, a ratio two times more favourable than the legal obligation¹⁰⁹.

For the president of the group, Stéphane Richard, the sum of these measures resulted in a noticeable improvement to the general climate which accounts for the social barometer: on the quality of life at work, the satisfaction rate reached 90 %; on company pride, it jumped from 39 to 81 %. Other indicators of the study led by the Secafi Alpha cabinet however, show margins of progress that still remain to be seen: 21% of employees have an altered or very altered mental health whereas one third of the respondents estimated themselves confronted with a conflict of worth, and 61% consider their work to be stressful and/or tiring¹¹⁰.

During the round table organised by the syndicate representatives of France Télécom-Orange¹¹¹, critiques were issued on the effective implementation of collectively signed agreements on stress prevention or the organisation of work, which would have only been partially accounted for in the new “social contract”. Existing tools for identifying PSR, like the stress barometer, amass a certain number of critics. Many syndicate representatives have pleaded for a bigger statistical transparency – notably in the case of work-related suicides and the causes of sick leaves – as well as for the opening of negotiations on conditions of work.

Veolia Transdev

Veolia Transdev, private operator of public transit, had first experienced difficulties in the merger of the two entities before the shareholder announced to Veolia his resignation in the face of financial results judged to be insufficient. The current restrictions on the budgets of her principal clients, local and regional authorities, are a cause for concern to the business.

The Veolia Transdev group, confronted with very significant financial difficulties, did not have the ability to develop such ambitious politics on the prevention of PSR. At the end

¹⁰⁹Recruitment of 17 occupational physicians in 2010.

¹¹⁰Source: *Entreprise et Carrières* n° 1124/1125 December 2012.

¹¹¹A roundtable private interview with representatives of the majority of France Télécom-Orange trade unions, February 19, 2013: François Terseur for CFDT Trade Union Group; Jean-Paul Gristi for CGT Trade Union Group; Béatrice Clicq and Philippe Juza for FO-COM; Francis Hamy for CFE-CGC/UNSA and Patrick Ackermann for SUD.

of the year 2010, emphasis was placed on the clarification of communication directed at staff in regards to the current situation of the business and the issues of the merger still underway. In this context, secondary and tertiary prevention measures had been taken (implementation of listening units and the running of stress management workshops). In a second instance, drawing from a diagnostic carried out on the basis of a “Karasek-Siegrist” type questionnaire, a general definition of PSR prevention had been created for use by establishments, and a prevention guide had been subject to a very wide distribution in the group. At the same time, formation actions had been organised for upper management, operational framework, and social partners.

The company management recognizes today the importance that communication has in the running of a business. According to them, behaviour is susceptible to positive change when the connection to work could be questioned. Psychosocial risks are also pathologies of personal involvement and it seems essential to give employees the opportunity to find fair distance in regards to work.

France Télévision

For France Télévision, the decision taken by public authorities to remove advertisements after 8 PM and the merger of the group of public service channels into one single entity had imposed at the same time an economic model change, and an in-depth reorganisation of establishments spread out over the country.

France Télévision implemented a prevention plan on the basis of an agreement on the prevention of occupational risks signed in July 2010. In the autumn of the same year, a directive of health and life quality of work came into being. The president of the group clearly showed his willingness to progress this file by including the prevention of psychosocial risks among the priorities of the 2012-2015 strategy plans. The 37 CHSWC of the company had been mobilised with the aim of initiating a progress dynamic founded on common dialog and action, with staff representatives closer to the ground level. Finally, an occupational health observatory was created and the syndicate organisations were associated with this initiative. This deployment of new methods and instruments corresponds to a strong willingness to favour a primary prevention approach, that is to say, in advance of any difficulty.

The progress of social responsibility in businesses (RSE) in big businesses

In the matter of Social responsibility in businesses (RSE), progress has been made, even if it could be judged as insufficient. Under the impetus of the RSE approach, and more particularly of the annual report containing social and environmental information in accordance with Article 225 of the “Grenelle 2” law of July 12, 2010, the administration council of big businesses is the first involved with questions on life quality at work. Even if the application decrees do not meet all the expectations, it is just a matter of support to make occupational work one of the concerns of the managing authorities¹¹².

The 5th annual barometer on the RSE in the businesses of CAC 40, published by the Capitalcom Agency in December 2012, gives evidence to a rise in power of the RSE in business strategies and in their governance. The number of CAC 40 businesses that index a variable part of the remuneration of their leaders or of their management on extra-financial

¹¹²Decree n° 2012-557 of April 24, 2012 relative to the transparency obligations of businesses in social and environmental matters.

criteria have thus “almost doubled in five years”. There are 21 of them in 2011. If this part represents, on average, 15% of the variable remuneration of management for the CAC 40 group, it could reach a third for some of these groups¹¹³. For example, the France Télécom-Orange business indexed the variable part of remuneration of its operational managers at 30%, on their social performance.

In a general manner, issues on occupational health could constitute a real impetus for action for the DRH and should also be closely associated with the field of the RSE by the implementation of specific indicators.

Very recently, a reflection mission on the RSE had been entrusted by the government to three people who came respectively from the areas of employers, syndicates, and associates¹¹⁴. This initiative is motivated by the prospect of seeing the RSE become an object of collective bargaining inside businesses, as well as outside (by the implications of the elected and the associations with societal themes).

The mission is particularly suggested to examine the possibilities of social and environmental notation in regards to the interest that it presented in terms of regulation at the national and international scale.

□ *Voluntary steps to certification*

The certification of businesses in the matter of occupational health and safety tends to develop principally in the bigger businesses. In a previous opinion, the Economic, Social, and Environmental Council stated however that these voluntary steps to certification, although useful, take place without any controls or regulatory mechanisms¹¹⁵.

□ *Occupational health training in universities*

In the framework of missions that the 2nd Occupational Health Plan of 2010-2014 had entrusted to it in the matter of formation, CNAMTS retained the Grenoble School of Management to follow the evolution of the questions of students and teachers on these issues of occupational health as well as the responses provided by the school's management¹¹⁶.

Moreover, in order to prepare for the deployment of specific actions in their direction, INRS ordered that the LH2 Institute do an inquiry on the upper establishments of commerce and management, with the aim of determining by what means they comprehend occupational health issues and the means by which they assess the state of the teachings. The results of the study reinforce the AT/MP branch study following these establishments. In fact, 65% of these schools propose teachings on occupational health, the remaining third teaches nothing along this theme.

The objective is to create a culture of prevention in future managers that will need to, starting with their first job, preserve their health at work as well as that of their co-workers. The generalisation of courses in the training programs of higher learning is also a way of preparing future managers to oversee work communities¹¹⁷.

¹¹³Source: *Bien-être et efficacité au travail, trois ans après*, by Martin Richer (2013).

¹¹⁴They are Xavier Drago, Lydia Brovelli and Eric Molinié.

¹¹⁵Opinion adopted by SEC on June 23, 2010 on the report *La certification des entreprises dans le domaine de la santé au travail*, presented by Christian Dellacherie on behalf of the work section.

¹¹⁶*Bilan des conditions de travail 2011*, DGT p. 318.

¹¹⁷Interview with the rapporteur of Pierre Tapie, President of the Conférence des Grandes Ecoles, February 11, 2013.

□ The support network of VSEs with regard to occupational health

Diverse actions of awareness raising, information, and support were led by professional organisations close to VSEs in order to help prevent occupational risks and to improve the working conditions of their employees.

These actions are often led in the craft industry sector by relying on one hand, on “centres of innovation¹¹⁸” which give businesses concrete tools adapted to their size and professional speciality, and on the other hand on partnerships with INRS (guides, advice...), the ARACT and CARSAT networks (training, advice, financial aid for safety investments...) or even the Interbusiness Services of Health and Safety (SIST). Such partnerships present the advantage of coordinating scientific knowledge and risk prevention techniques with those of the practice of trades, and thus, facilitating the effective appropriation of problems and tools by the VSEs.

For example, the IRIS-ST, centre of innovation¹¹⁹ dedicated to the health-safety of artisanal businesses in the building (head of the company and employees), proposes tools aimed at prevention adapted to each trade in the building or also individualised support, notably for the development of the DUER. Likewise, the International Butchers Confederation has also signed an objective agreement with the CNAMTS to back up VSEs involved in the prevention of occupational risks (staff training, developing of the premises, awareness raising of the health-safety of apprentices and young people in particular).

2. Occupational health in public service

Contrary to widespread belief, officials are not spared psychosocial risks. Many initiatives had been taken in the public service to improve occupational health and to take on an approach of psychosocial risk prevention.

□ A concern reactivated by the RGPP

The recognition of particular difficulties in regards to the protection of the mental health of civil workers is not recent. Particularly exposed ministers like the Interior Minister or the Minister of Justice – notably the prison administration – have taken initiatives quite a while ago.

Many factors have come to place psychosocial risks at the fore of the Public Service Minister’s concerns, such as contact of a large number of agents with the public, often in adverse conditions (acts of incivility, etc.) or strong time constraints (on-call duty and working at night).

Organisational restrictions within the public service have moved closer to those of the private sector. The implementation of the General Revision of Public Politics (RGPP) was accompanied by a reduction of the workforce, and by way of consequence, an intensification of work for shareholders, and numerous reorganisations. The deployment of managerial methods (supervision, knowledge of numbers, steps of certification, etc.) which emphasize

¹¹⁸The craft industry centres of innovation are resource centres designated as such by the Economy and Finance Minister for their ability to identify solutions adapted to the needs of small businesses and to accompany them in their measures of development by innovation.

¹¹⁹The Centre of Innovation of Bakeries (INBP) also conducts actions of awareness raising for artisans on the prevention of occupational risks.

results had been equally generative of work-related stress when agents had the feeling that these procedures conflicted with the values of public service¹²⁰.

In this context, Jean-François Verdier, general director of public services administration, highlighted during his hearing that psychosocial risks appear today as an essential issue to human resources management and the collective bargaining in public service¹²¹.

□ *Implementation of the 2009 agreement*

The three axes of intervention that were identified in the 2009 agreement – “authorities and operational agents competent in the matter of occupational health and safety”, “occupational risk prevention” and “devices to deal with harm to health” – were subject to a legal and operational declension.

Even if it is still too early to prepare a complete assessment of the implementation of this agreement, many capacities delay its’ concretisation.

□ The legislative and regulatory translation of the agreement

The priority having been given to organisational aspects of the first axis, notably in the bias of legislative and regulatory modifications as well as clarification and reassurance measures of agents’ rights during leave due to health reasons of the third axis. In 2012, 80 to 90% of measures in the agreement had been carried out or are in course of execution according to the annual report on the state of public service. The transformation of CHS to CHSWC had been written into law on July 5, 2010, relative to the renewing of collective bargaining in the State public services and regional public services. This instance also sees its field of action expand to working conditions to allow it to address emergent risks (principally PSR and MSD).

□ The networking of CHSWC in Government public services

The threshold of 50 employees determining the obligation of creating a CHSWC in public communities and establishments is essential today to the local public service as well as, for a long time now, public hospital services.

However, for the state public function, the rule of CHSWC creation is much more complex. The decree relative to health, safety and working conditions that was very recently modified¹²², in fact foresees that the general architecture of Committee for health, safety and working conditions, within a ministerial department is set after consultation with syndicate organisations represented within the ministerial technical committee of this department. The aim of this meeting is to determine the different levels of creating a CHSWC.

According to the terms of the decree, at least one nearby CHSWC should be created by the decentralisation manager concerned¹²³. Moreover, a CHSWC of a public establishment is in principle created in every public establishment that the state does not present as industrial or commercial, but the possibility of creating CHSWCs common to many establishments is equally predicted, short of particularly constraining conditions¹²⁴.

¹²⁰*Fonctionnaires sous pression*, dossier de Santé & Travail N° 81, January 2013.

¹²¹Hearing of Jean-François Verdier, DGAFP before the Section for Labour and Employment of ESEC, January 9, 2013.

¹²²Decree n°82-453 of May 28, 1982 relating to health and safety at work, as well as medical prevention in public service modified by Decree 2011-774 on June 28, 2011.

¹²³Article 34 of the aforementioned Decree.

¹²⁴Article 35 of the aforementioned Decree.

In fact, these measures permit the state today to partially free itself from the obligation of creating this employee representative authority in the all of its public establishments, when it reaches a workforce of 50 public agents. In most cases, the CHSWC that was just installed in state administrations is not any closer to the reality of work and occupational risks.

Preventative medicine

On July 2, 2010, the Directorate General of Administration and Public Service (DGAFP) launched an inquiry to run through the legal and financial situation of state public service doctors. All of the ministers have had difficulty recruiting occupational physicians. The number of occupational physicians recorded by the inquiry is 467 ETP, around 1 for every 5000 agents (including military officers).

There were very significant disparities between departments; some finding themselves in a situation close to desolation¹²⁵.

Concerning the National education department (decentralised services), the improvement of the working conditions and efficiency of the occupational physician is one of the priorities of the National Education department's annual programme. This is why the minister of National Education is involved in a reinforcement plan for occupational physicians. The recruitment of 80 occupational physicians was launched at the beginning of the 2010 school year so that each academy has a coordinating physician at the academic level and a physician for each division¹²⁶.

The efficiency of the medical advisory agency

Several reports have given the example of the operating difficulties of the medical advisory agency: length of instruction delays, heavy administrative tasks, limited medical composition. It is thus that occupational physicians aren't entirely members of this agency even if they are seen as "the medical authority best informed of the development of officials' health situation as well as the configuration and constraints of their position"¹²⁷.

The November 29 2009 agreement called for "*an increased effort in the rationalisation of the process and better procedural efficiency as well as better information of management services and authorised physicians of the regulations in force.*"

Another recurring criticism regarding the difficulty to make one recognize the impact of work conditions on the mental health of public officials. The acknowledgement of suicides as work accidents proves to be particularly difficult.

Within the law of the civil service, in the matter of acknowledging accidents while working or an illness of professional origin, the burden of proof is incumbent upon the official. However, in the sector subject to labour laws, there is a presumption of the responsibility of the employer.

¹²⁵Evaluation du dispositif de reclassement des fonctionnaires déclarées inaptes à l'exercice de leurs fonctions pour des raisons de santé, IGAS-IGA joint report (2011).

¹²⁶Review for the year 2011 of the arrangements regarding health, safety and working conditions and work physicians in civil service.

¹²⁷Evaluation du dispositif de reclassement des fonctionnaires déclarées inaptes à l'exercice de leurs fonctions pour des raisons de santé ", IGAS-IGA joint report (2011).

□ *The creation of a PSR prevention guide*

Recently, several initiatives have been taken by the DGAFP aimed to reinforce the prevention of psychosocial risks. Also, a methodological guide to help identify, evaluate and prevent PSR will soon be distributed to all departments and establishments¹²⁸.

In the same way, a recent circular reiterated that the employer's responsibility in regards to an official's health is incumbent locally to the director of the establishment or the department director who would be, if applicable, liable in administrative and penal proceedings.

For its part, the Mission of coordination and insistence on the inspection functions of health and safety attached to the General Inspection of Social Affairs (IGAS) has retained the prevention of psychosocial risks among the priorities of its 2010/2011 action programme, in conjunction with the agreement of November 20 2009 on health and safety at work in civil service. In the framework of this objective, the Health and safety inspectors (HSI) responsible for social ministers developed a guide with the goal of suggesting method elements useful to their routine¹²⁹.

□ *Consideration of PSR by local authorities*

In partnership with the National Fund for Prevention (NFP), the National Centre for Territorial Civil Service (CNFPT) accompanied groups in implementing psychosocial risk prevention plans in communities and proposes a universal offering including diagnostic assistance and financial aid.

In 2012, the NCTCS began a study on the accounting for PSR by local authorities, in order to highlight the practices and methods of authority intervention. The results of the study conclude the necessity to develop and professionalize listening and notification spaces, to develop managerial culture and finally, to develop evaluation and prevention¹³⁰.

Initiatives had been taken by some local authorities following the example of the city of Clermont-Ferrand, which obtained a highly regarded management award in 2010 for the quality of its prevention of psychosocial risks. As Amine Khettabi explained¹³¹, the project which was launched in 2005 by the city of Clermont-Ferrand had the objective of setting up a plan for alerting and preventing psychosocial risks in order to protect the health of officials and promote well-being at work with the idea that such an approach would guarantee a quality public service.

The staff representative institutions (CTP and CHSWC) were narrowly associated with the launch of the initiative that was subsequently made the subject of an *ad hoc* piloting group made up of management representatives, trade unions, work physicians and technicians. This work group was accompanied by French Regional Agency for the Improvement of Working Conditions (ARACT). The plan as it functions currently is based on a joint expertise work group mandated by city hall. This specialised agency could be used by officials, alone or as a group, and by staff representative institutions¹³².

¹²⁸ Guide developed in partnership with the office of the Secafi and Intefp.

¹²⁹ *Guide l'usage des inspecteurs hygiène et sécurité des ministères sociaux*, 2011.

¹³⁰ *La prise en compte des RPS dans les collectivités territoriales*, Study by CNFPT, 2012.

¹³¹ Hearing of Amine Khettabi before the Section of Labour and Employment, January 9, 2013.

¹³² Since its implementation in 2009, the plan has been revised 36 times.

□ *The initiatives launched in the hospital sector*

The public hospital changes –governance reform, new financial criteria, increased quality and productivity requirements – added to certain stresses of the hospital sector (night shifts, violence at work...) could contribute to the emergence of psychosocial risks.

The hospital staff found themselves not only confronted with an emotional overload due to dealing with patient suffering or death, but also equally with the strong restrictions on the workforce, which bring about work overload and don't allow them to always respond quickly enough to patient requests.

The degradation of the quality of working conditions that generally translates into an increase of the frequency and duration of sick leaves and a bad social climate obviously affects the quality of service provided to the client. As such, health protection for hospital officials and well-being at work constitute a major challenge for health establishments, as Eric Sanzalone has drawn attention to, office manager at the General Direction of Healthcare (DGOS) for the minister of Social Affairs and Health¹³³.

An action plan was also created within the specialised committee on the question of health, safety and working conditions at the Superior Council of Public Hospital Service. The development and updating of the Single Document of Occupational Risk Assessment (DUER) constitutes in health establishments the leading lever of mobilisation of management and staff representatives. Furthermore, the regional health agency (RHA) is strongly mobilised through the regional observation sites for psychosocial risks recently created.

On the other hand, since 2010 the DGOS put in place a new generation of Local contracts for the improvement of working conditions (CLACT) and in 2012 launched a call for a national project intended to further the shared experience between establishments and make public the innovative approaches to PSR prevention.

Finally, starting from the fact that the "abuse" of patients could also be a factor in staff suffering, produced by certain work organisations, the High health authority (HAS) decided, in 2007, to integrate criteria for the quality of work conditions into the accreditation qualifications. The necessity to take into consideration the quality of working life in order to improve the quality of reception and care was thus imposed¹³⁴.

F. Actions of the various prevention agents

Besides the employer, several agents are involved in the prevention of psychosocial risks. Beyond the plurality of prevention stakeholders, there is the issue of good coordination between different interventions and, above all, the quality of collective bargaining formed in companies about occupational health issues.

1. The prevention officers foreseen by the 2011 law

The article L. 4644-1 of the Labour Code, issuing from the July 20 2011 law, states that *"the employer designates one or several employees capable of performing activities for protection and prevention of occupational risks"*.

¹³³Hearing of Eric Sanzalone, office manager at DGOS, before the Section of Labour and Employment, January 9, 2012.

¹³⁴Hearing of Véronique Ghadi before the Section of Labour and Employment, January 9, 2013.

This new arrangement that responds to requirements proposed by article 7 of the 1989 European guidelines concerns all businesses, no matter what size and the criteria maintained by the employer to ensure the monitoring of the employees' health.

The texts are hardly precise on the procedures of designating the officers. If the Labour Code leaves any latitude to the employer for appointing the employee that they think would be the most apt to carry out this function, it seems logical to require the agreement of the employee that they think would be the most apt to carry out such an assignment. At the same time, the texts don't mention the "status" of these referents that are no given, contrary to staff representatives, any particular protection nor any hourly credit for accomplishing of their assignment.

Article L.4644-1 of the Labour Code equally anticipates that, when the head of the company doesn't have any competent employees available, they must appeal, after being advised by the CHSWC, or in its absence, by personnel delegates, to a mediator or to an external organisation¹³⁵.

2. Staff delegates and the business committee

Staff representative authorities contribute through their proposals to the improvement of health, safety and working conditions. Staff representatives and business or establishment committees have a general competence regarding labour relations, particularly involving risk prevention.

In establishments without a CHSWC – establishments with less than 50 employees – the staff representatives can by law perform all the capabilities of this committee.

3. The CHSWC, an agency in debate

The Committee for health, safety and working conditions is the most specialised representative agency in the area of occupational risk prevention. If jurisprudence reinforces the role of the CHSWC in terms of psychosocial risk prevention, the position of this agency remains discussed and avenues of reform are regularly evoked.

□ *The growth of the CHCST reinforced by the judge*

In a ruling of July 5 1999, the Court of Appeal of Aix-en-Provence determined that "professional hardship" could constitute a serious risk justifying the recourse to an expert. In the same way, in a ruling of November 28 2007, the French Supreme Court that the employer must proceed to consult the Committee for health, safety and working conditions on staff evaluation projects through the means of annual interviews.

In a recent ruling, the judge recognised for the first time the acceptability of the CHSWC bringing a case to court to request the suspension or cancelation of a reorganisation project when it creates risks such as endangering the health of employees, however serious the economic motives put forward by the employer¹³⁶. Up until this point, the CHSWC was found to act only on the grounds of expertise, when this was disputed by the employer.

As the annual report of the French Supreme Court emphasised in 2011, these jurisprudential developments reflect the willingness of the judge to accompany "*the growth*

¹³⁵For example, for artisanal small businesses, resorting to a mediator or an external organisation is often what is done.

¹³⁶Court of Appeal of Paris, December 13, 2012.

of this institution, which is the corollary of the assertion of the performance obligation of safety, in broadly defining its purpose and reinforcing the legal means of its operations or scope of its advice"¹³⁷. The current fast pace of changes to work organisations and of the work itself is a source of new risks – psychosocial risks, musculoskeletal problems for example – that justify the growth of the CHSWC.

□ A position in question

During his hearing by the Section of Labour and Employment¹³⁸, the general labour director insisted on the necessity of a better connection between the business committee and the CHSWC, taking into account the direct links between the organisation of work and health at work.

In a recent ruling, the final court of appeal decided that according to article L.2323-27 of the Labour Code that the business committee has a right, when its advice is requested on general problems concerning working conditions, to require the advice of the CHSWC.

For his part, Christian Larose, consultant, deplores that the CHSWC will be progressively confined to a sort of "ghetto" whereas it should, according to him, open up to health issues at work and work conditions in general¹³⁹. The connection with the business committee is not obvious.

During the round table discussion organised by the council, several trade unions had criticised the overly systematic recourse to external experts¹⁴⁰. As well, *"too often, the elected CHSWC have recourse to an expert without first exploring their own resources that are more important than they think. The results of a CHSWC inquiry are often richer and more immediately applicable than an expert report"*¹⁴¹.

For the representative of the CFTC, the CHSWC are all too rarely associated with the approach of risks evaluation¹⁴² even if it is true that the Labour Code doesn't require the employer to associate the CHSWC with this approach. In the same way, trade union organisations deplore that the CHSWC aren't sufficiently consulted before reorganisation projects.

□ The recourse to an expert by the CHSWC

The CHSWC could make an appeal to an approved expert without workforce conditions in the case of serious risks recognised in the establishment or for an important project modifying health, safety, or working conditions.

In this regard, article 12-7 of the ANI of January 11 2013 anticipates that for all company decisions anticipated to involve the CHSWC, *"if several establishments are concerned with the same project, an ad hoc coordination agency stemming from local committees is put in place that, in the case envisaged by the law of recourse to the expertise of the CHSWC, makes the call for a single assessment. This is carried out within a set time period for intervention of the certified*

¹³⁷Annual Report of the French Supreme Court, p. 352, 2011.

¹³⁸Hearing of Jean-Denis Combrexelle, general director of labour, before the Section of Labour and Employment, November 28, 2012.

¹³⁹Hearing of Christian Larose, consultant, before the Section of Labour and Employment, January 19, 2012.

¹⁴⁰ Particularly in cases of reorganisation or of serious or imminent danger.

¹⁴¹Roundtable of social partners, Jocelyne Chabert, Confederal Secretary CFTC January 30, 2013.

¹⁴²Roundtable of social partners, Jean-Michel Cerdan, Confederal Secretary CFTC January 30, 2013.

public accountant and relates to the whole of the elements relevant to the competencies of the CHSWC”.

These new provisions have elicited serious criticisms on the part of non-signatory trade union organisations¹⁴³, considering that they call into question the actual rights of each CHCST location, in a company having several establishments, to carry out an assessment. Moreover, they scrutinize the risk of an insufficient consideration of the local issues and the shortening of the time period allotted to the CHSWC experts to carry out their assignment.

□ *Avenues of reform evoked*

Since their creation, the CHSWC saw, incessantly, their increasing role and how they applied to more subjects of health and working conditions, in a changing socioeconomic environment¹⁴⁴. On the occasion of 30 years of the Committee for health, safety and working conditions (CHSWC), the ANACT network carried out a qualitative investigation of 27 CHSWC and formulated 12 proposals¹⁴⁵.

The round table of social partners met at the Council, which helped clarify the CHSWC avenues of reform. They involve as well the method of designation, the duration of the mandate that Jean Auroux, ex Labour minister, suggests to bring to four years, the growth in the number of hours allocated to the practice of their function or the networking of the CHSWC (see below). Considering that health in the workplace shouldn't be limited to the boundaries of the business, certain organisations suggest expanding the field of competence of the CHSWC in order that the environmental dimension is taken into account, meaning the connections between health in the workplace and environmental factors.

For its part, the above mentioned report *“Well being and efficiency at work”* from 2010, formulated several avenues of reform.

¹⁴³ But also numerous consulting firms

¹⁴⁴Hearing of Philippe Douillet, project leader for the psychosocial risks at Anact, before the section of labour and employment, december 19, 2012.

¹⁴⁵*Enquête sur le travail des CHSWC*, ANACT (2012).

Frame 6: Avenues of reform of the CHSWC

So that it can fully fulfil its assignments, the provisions of the Labour Code related to the CHSWC could be modified in order to:

- **Reinforce member training on the subject of psychological health** : this training should be reinforced with the support of the network of prevention organisations and articulated with the annual prevention programmes;
- **Give a new legitimacy to the CHSWC**: by direct election of its members and a more frequent chair at meetings of a decision-making level in the company;
- **Clarify the distribution of its skills with the other IRP**: anticipate the possibility of agreement of the CHSWC members to carry out a single assessment on strategic subjects. In certain cases, in function of the sectors of activity or staff, it could be envisaged to regroup in a constant way the skills of the business committee and of the CHSWC in a single agency, subject to the agreement of the social partners;
- **Adapt its methods to the challenges of the assignment** : the threshold of minimum hours of the delegation could be re-evaluated, and the number of hours adapted in function of the prevention programmes in the company.

Source: a report *Well being and efficiency at work*, 2010.

The social partners opened discussions on a reform of the staff representative agencies in 2009. These negotiations, that tackled the role and the means of the CHSWC, couldn't conclude due to the busy schedule of these inter-professional negotiations.

□ *The reinforcement of the CHSWC network*

Several trade union organisations recommend reinforcing the CHSWC network so that no employee would be totally deprived of it.

Based on the fact that in many SMEs, the personnel delegates encountered difficulties in fully completing their assignments of health and safety at work, certain employee trade union organisations¹⁴⁶ propose lowering the workforce threshold starting from which the creation of a CHSWC becomes required on the one hand, and on the other hand, setting up a site or zone CHSWC for the VSE.

In companies with less than 50 employees, it is also proposed to create intercompany CHSWCs for companies drawing from the same labour pool (territory CHSWCs). Agencies of this type have already been set up in the farming sector through the implementation of a departmental intercompany Committee for health, safety and working conditions.

In larger companies, the creation of a "central Committee for health, safety and working conditions" or a "group CHSWC" could allow – according to certain trade union organisations – to broach at an adequate level problems of health at work that couldn't be completely addressed on the scale of an establishment¹⁴⁷.

¹⁴⁶The CFTC proposes bringing down the staff threshold to 20 employees (written contribution delivered to the rapporteur)

¹⁴⁷Written contribution by CFE-CGC Trade Union Group communicated to the rapporteur.

4. The long term reform of health services at work

Occupational medicine and occupational health services at work were the subject of a reform (2011) as the fruit of a constructive dialogue with the social partners, aimed to make these services the central agents of health at work.

Depending on the size of the company, this service is internal or outsourced in an association, membership being thus required. The financing of these services is at the expense of the employers¹⁴⁸.

□ *The expanded assignments of the labour physician*

Under the new law, occupational health service at work have as their mission to avoid any damages to physical and mental health of workers throughout their professional career. The law defines the actions necessary to this end: actions in the workplace, advice in the company, monitoring the state of the health of the workers, follow-up and contribution to the traceability of the professional exposures and to health monitoring, etc. The 2011 reform also aimed to reinforce the action “before” on working conditions.

This evolution of the role of health services at work and of their organisation, recommended at the appropriate time by our assembly¹⁴⁹, participate in recognition of the importance of their function in terms of support of employees and of the company, of advice and prevention.

Since the August 6 2012 law relative to sexual harassment, the occupational physician must equally advise the employers on the measures necessary to prevent sexual and bullying.

□ *The company form and the identification of risks*

The development and update of company forms have a major importance, notably for small companies, because they incorporate one of the levers for setting up a preventative approach. These documents in fact constitute an instrument for tracking occupational risks that must, in principle, connect with the DUER created by the employer. For the company to whom it was communicated, the company form actually represents a pre-figuration of the Single Document of Occupational Risk Assessment (DUER), which has been required since the decree of November 5 2001.

So, according to the available information, gleaned from the surveys of the profession (report from the branch of the CISME), the average rate of completion of these company forms is situated at only around 30% with large discrepancies according to the size of the companies¹⁵⁰. If this minimal service isn't rendered, it is notably because of adverse medical demographics¹⁵¹.

¹⁴⁸Its cost is estimated at € 1.3 billion annually.

¹⁴⁹Opinion adopted by SEC on February 27, 2008 on the report *L'avenir de la médecine du travail*, presented by Christian Dellacherie on behalf of work section.

¹⁵⁰*Les services de santé au travail interentreprises*, Public Thematic Report of the Court of Auditors, p.41 (2012).

¹⁵¹ Moreover, taking into account the average age in the profession (56 years old), 25% of occupational physicians currently working should be retiring in 5 years.

□ *The formalisation of exchanges with the employer*

The law from July 20 2011 set a written procedure of exchange of information between the occupational physician and the employer. Thus, the labour physician who notices a risk to workers' health writes a justified and detailed proposal of measures needed preserve it. The employer must take into account these proposals and, in case of refusal, must announce in writing the reasons that oppose his following of the recommendations. The proposals of the labour physician and the response from the employer are held at the disposal of the CHSWC.

The formalisation of exchanges with the employer doesn't extend to the plan of risk prevention, which is left to the employer who hasn't solicited the advice of the labour physician. So, supported by the DUER and on company form created by the labour physician, the prevention plan establishes the operational prolongation.

□ *Labour Health Services facing a shortage of resources*

Occupational physicians find themselves today confronted with a shortage of means¹⁵² which leads one to question the efficiency of the committed reforms. The gulf that exists between the more and more extensive assignments they are entrusted with and their available human resources constitutes a paradox that Charlotte Duda continued to stress during her hearing¹⁵³. When the issues of health at work became the object of increasing attention, the means of Labour Health Services (LHS) will be, according to her, in decline.

In a more general manner, the recent regulations of the Court of Auditors¹⁵⁴ as well as studies of the profession, show the difficulty to ensure the mission of providing advice to employers as well as employees. The shortage of medical time weighs on the functioning of multidisciplinary teams. In spite of the widespread effort and the experiments carried out, none of the intercompany services that the court monitored were able to ensure all of the regulated medical exams that they were responsible for. Small businesses and their employees are the principal victims of these deficiencies.

Frame 7: The recommendations that the Court of Auditors

Among the 14 recommendations, the court believes that it is particularly necessary to:

- Restart the dialogue with social partners in order to revise the requirements of a systematic medical visit at the time of each hiring;
- Give to the labour minister, in compliance with the conflicting procedures, the possibility of dissolving a service or of placing it under the responsibility of a temporary administrator;
- Entrust social partners with the responsibility to fix a minimum and maximum of the amount of the contributions and other rights that the company must pay to intercompany occupational health services in return for advice and follow up on employees.

Source: *Les services de santé au travail interentreprises*, Court of Auditors, 2012.

¹⁵²This shortage is the consequence of several phenomena: lengthening of specialised studies, progression of part time, etc.

¹⁵³Hearing of Charlotte Duda, former president of the ANDRH, before the Section of Labour and Employment, January 21, 2012.

¹⁵⁴*Les services de santé au travail interentreprises: une réforme en devenir*, Public Thematic Report of the Court of Auditors (2012).

Beyond the shortage of means, questions on the governance and independence of occupational health services are regularly raised. In multidisciplinary teams, only the labour physician has a true independent status, the other members are subject to company management. At the time of the parliamentary discussion in 2011, the senate had proposed governance alternating between employer / employee for the positions of president and treasurer: an employer holding a position and an employee holding the other and vice versa.

□ *Multidisciplinary services*

Multidisciplinary services are an important element of the reform stemming from the law of July 20 2011. The latter greatly modified the frameworks of action of the Participants in Prevention of Professional Risks (IPRP) since they are now entrusted with new assignments (creation of diagnostics, advice, etc.) in particular in the framework of the multidisciplinary teams of which they are an essential component and requirement.

The participant in prevention of occupational risks (IPRP) is a professional who has technical and organisational skills in the subject of occupational health and safety. He participates in the preservation of the health and safety of the employees and in the improvement of working conditions with an exclusive objective of prevention.

For all that, the presence of participants in the prevention of occupational risks within the health and labour intercompany services (SSTI) remains marginal and the subsequent offer of their services to supporting companies is greatly reduced.

The multidisciplinary team is composed of, besides the participants in prevention, the assistants of occupational health service (ASST) who notably have for a mission to *“identify the dangers and needs in occupational health, notably in companies with less than 20 employees”* as well as those who participate *“in the organisation and administration of prevention projects and the promotion of occupational health and actions of the service in these same companies”* (article R. 4623-40 of the Labour Code).

5. External influences

Outside the company, several agents participate in the system of occupational risk prevention and the improvement of working conditions.

□ *Participants in the prevention of external occupational risks (IPRP)*

Participants in the prevention of external non-employee occupational risks by the SSTI intervene in a company because the employer directly asked them to in the framework of article L. 4644-1 of the Labour Code, that is to say in the framework of a presentation of service for a SSTI due to their competencies that are not otherwise available to the service.

□ *Institutional operators: INRS and ANACT*

The national institute of research and safety (INRS) is a legal association from 1901, non-profit and subject to the financial control of the State, accounted for under the auspices of the CNAMTS. The INRS, which employs 630 people and has a budget of 85 million Euros engages in its activities for the benefit of employees and the companies of the General Health Insurance¹⁵⁵.

¹⁵⁵Hearing of Stéphane Pimbert, General director at INRS accompanied by Valérie Langevin, in charge of assistance and counselling before the Section of Labour and Employment of the ESEC, December 5, 2012.

The national agency for the improvement of working conditions finances numerous projects in the framework of the Funds for the improvement of working conditions, 65% of which concern occupational health. They carried out more than 2300 company interventions, 22% of which dealt with psychosocial risks. In the framework of the second plan "Health in the workplace" the National agency for the improvement of working conditions notably had a mission to develop the training of the company agents in psychosocial risks by streamlining the training offerings and in constituting a national offer of training. To this is added the distribution of tools to aid in psychosocial risk prevention in branches and companies, notably by favouring the implementation of informative actions, and diagnostic tools and indicators¹⁵⁶.

□ *Social welfare agencies*

The first mission of the occupational accidents and occupation diseases branch (AT-MP in french) of Social Security is prevention, which is ensured by the engineers and technicians consultants of Carsat. The network of "preventers" of the branch must adapt to the emergence of new risks, which assumes a permanent training effort.

In the agricultural sector, taking into consideration PSR and setting up a preventative approach in order to deal with them was formalised by the agreement on working conditions signed by the agricultural social partners on December 23 2008. PSR prevention in the agricultural setting is a great challenge for the MSA. Agricultural workers are strongly exposed to PSR: half of all agricultural employees are considered to be subject to PSR (SUMER 2003); the suicide risk is three times higher with farmers compared to executives (Etude Cosmop de l'InVS, 2010)¹⁵⁷.

In the agricultural sector, certain working conditions could have more influence on the health of the farmers and employees: administrative stresses, isolation, weather conditions and atypical hours. The multiplicity of the functions – director, manager and employee can also be a source of PSR¹⁵⁸.

For many years, the MSA has been working on PSR prevention and has defined a methodological approach to PSR for occupational physicians and prevention advisers¹⁵⁹. The commitment from the MSA regarding the prevention of PSR was reaffirmed and reinforced in the Health Security in the Workplace Plan (PSST) 2011-2015 with the priority of a definition of a national axis of development on PSR.

□ *The Inspection of work*

The prevention of psychosocial risks represent from now on a significant part of the activity of labour inspectors. Given the intensity of the question of suffering in the workplace, the mission of "advisor" of the labour inspector tends to develop alongside his traditional mission of monitoring¹⁶⁰.

On the other hand, the reinforcement of the workplace inspection staff and the development of training for inspectors in the subject of psychosocial risks appear today

¹⁵⁶Hearing of Hervé Lanouzière and Philippe Douillet, before the Section of Labour and Employment of the ESEC, January 19, 2012.

¹⁵⁷*Approche méthodologique à destination des équipes SST*, Health Department of the MSA.

¹⁵⁸Interview with rapporteur of Gérard Pelhâte, President at CCMSA and Véronique Mahé, physician national technical advisor, November 27, 2012.

¹⁵⁹This methodological action which was formalised in a handbook is called "Satis'action"

¹⁶⁰*Rôle de l'inspection du travail*, La Gazette sociale d'île de France n°64 (2008).

to be paramount. Actually, in 2009, 307 out of 544 interventions carried out in companies by labour inspectors, 58% concerned the health and safety of the employees. Their role in regards to prevention of psychosocial risks is therefore essential.

Inquiries related to bullying or sexual harassment are particularly long and complex, and they rarely result in criminal prosecution, notably because the violation is difficult to characterise with regards to the legal requirements¹⁶¹. The employee is most often referred to the conciliation board.

□ *Recourse to the consulting firms*

The Prevention of psychosocial risks has become a more and more present issue in companies with many private agents who offer their services to companies. Offices of consultants and experts have thus multiplied. Certain offices are authorised as “expert Committee for health, safety and working conditions” by the labour and agriculture ministers: they intervene for precise reasons, within legal framework and must comply with the specifications written by the social partners and are controlled in their areas of expertise. However, these offices diversify their offer of services, their new activities are normally subject to approval.

In the context where companies are confronted with an abundance of agents presenting themselves as experts in the domain of psychosocial risks, it was useful that the profession organise themselves, provide quality guaranties but also independence to its clients¹⁶². A Federation of participants in psychosocial risks (FIRPS) had been created and endowed themselves with an ethics code that regulated a way to practice for the members of the FIRPS in order to respect common ethics. It sought to respond to all the rights and duties that regulated the acts of the participants in the prevention of psychosocial risks, the behaviour of those who practice them, the relations between them and their clients or the public.

6. Prevention and territorial collective bargaining

In relation to prevention, the territorial collective bargaining can take many forms.

Thus, the Regional Prevention of Occupational Risks Committee (CRPRP) is the agency of dialogue and exchange within which all regional and local agents involved coordinate actions of prevention in the working environment and relay the national policies on prevention.

They have for a mission to develop a territorial diagnostic on the subject of health and the working conditions and to give an opinion on the regional implementation of the “health in the workplace” plan. These regional committees assemble the regional administrations concerned, the social partners, the regional organisations of expertise: Occupational health and retirement insurance fund (CARSAT), Agricultural mutual group (MSA), Professional Organisation of building prevention and public works (OPBTP) and the Regional association for the improvement of working conditions (ARACT), qualified members such as the associations of victims and the president and vice president of the Regional observatory of health in the workplace (ORST).

¹⁶¹ Interview with the rapporteur of Jean-Louis Osvath, labour inspector, January 8, 2013.

¹⁶² Because the employees and their representatives must have the guarantee that the assessments are carried out independently vis-à-vis the employer.

These ORST, created due to the agreement of September 13, 2000, on health in the workplace and the prevention of occupational risks, signed by the social partners, aim to mobilise the different local agents responsible for prevention. They have for objectives to promote, at the regional level, political orientations on the subject of health, safety and working conditions; to take into account the concerns of specific risks defined by the branches; and to encourage the coordination, as structures of exchange and dialogue, of the numerous expertises intervening in the domain of health in the workplace.

To this end, an advisory commission assembled the occupational physicians, the representatives of the CARSAT and ARAT, the representatives of the DIRECCTE and the institutions of prevention and experts.

The functioning and the work of the ORST, by region, are very variable (location of exchange, production of documents and studies, involvement in the regional implementation of the PNST, co-animation of set up of the PRST...).

On the subject of the social territorial dialogue, it should equally highlight the role of the joint regional interprofessional and artisanal commissions (CPRIA)¹⁶³, regional structures of exchange and dialogue allowing for the carrying out of concrete joint actions in favour of artisan employees.

Several CPRIA have set up actions in the domains of health and safety in the workplace, of which certain are specifically dedicated to the prevention of psychosocial risks. This is notably the case for the CPRIA Champagne-Ardenne who led an operation at volunteer companies to evaluate the exposure of employees to psychosocial risks and to design adapted solutions.

Moreover, an interesting example of a local initiative on the subject of prevention has been given to us by the collective action began in 2003, under the name Tosca, by the labour inspector to accompany the VSE on the subject of occupational risk prevention in automobile repair industry¹⁶⁴. In the framework of an interprofessional departmental convention signed notably by the trade union representatives of employees and employers, the services of the State and three occupational medicine associations, this collective action, this local and partnership initiative had for a purpose on the one hand, to put at the disposition of companies a guide for the development of the DUER and on the other hand, to engage in a training action allowing the companies to take ownership of the approach of prevention.

¹⁶³The CPRIA was created from an ANI signed between the UPA and the 5 trade union organisation employee representatives on December 12 2001, extended in 2008. The CPRIA have for their mission to examine issues of assisting with collective bargaining, access to employment, knowledge and attractiveness of jobs, recruitment needs of the GPEC, health, safety and working conditions and finally social and cultural works.

¹⁶⁴*De très petites entreprises de la réparation automobile face aux normes publiques de la prévention des risques professionnels*, Carthel Kornig and Eric Verdier, RFAS (2008).

G.A support for victims is still insufficient

1. Monitoring distressed persons

If actions affecting management and the organisation of labour should be favoured, individual support of employees who are suffering is nonetheless necessary, in so far as no plan of primary prevention could eliminate all risks.

□ *Palliative measures necessary but insufficient*

Concerned for the health of their colleagues, certain companies set up various corrective measures like the membership to a psychological support call service or the distribution of “psych tickets” to employees, the implementation of a listening booth inside the company or training on stress management.

These different measures, even if they could temporarily “decrease the pressure” felt by the employee, don’t constitute a sufficient approach to the prevention of psychosocial risks. The company can’t exonerate itself from its obligation to conserve the physical and mental health of employees by putting into place this type of plan. In focusing only on the employee who is suffering without giving sufficient attention to working conditions, these measures *are often an obstacle to setting up efficient measures of prevention. In interfering with management of the health system, they could compromise efficient therapeutic management*¹⁶⁵.

□ *Specialised consultations*

In large hospitals, an external consultation service where hospital practitioners specialising in occupational pathology practice, as well as a psychiatric doctor, welcome employees who are suffering.

These specialised services have several missions. First of all, the physician or physicians listen and establish a medical diagnosis. They could then advise the employee – or the attending physician, the labour physician or the psychiatrist – in medical and socioprofessional management and in medico-administrative approaches. Finally, the physician can write a medical report – and if needed an initial medical certificate – with a view towards a possible occupational illness diagnosis.

2. An admission still difficult for victims

The AT-MP branch barely takes into consideration accidents or pathologies resulting from stress or other psychosocial problems. Jurisprudential developments have allowed for the acknowledgment of suicide attempts or suicides as workplace accidents.

□ *A rather restrictive legislation*

Today there is no index of medical illnesses allowing the acknowledgement of the pathologies inherent in psychosocial risks.

¹⁶⁵ *Souffrance des salariés au travail, que faire* », Guide des ressources disponibles en Alsace (2012).

Surely, it is possible to recognise the professional nature of these illnesses on the case by case basis¹⁶⁶. Nonetheless, in the current state of the law, the employee must prove that the illness is directly and essentially linked to their job.

As a result, acknowledging the occupational nature of a psychological illness remains an obstacle course for victims. Actually, in the absence of an occupational illness index about them, mental disorders could be acknowledged under article L.461-1 paragraph 4 of the Social Security Code if the illnesses are of a seriousness justifying a permanent disability (PD) equal or greater to 25% and in the condition that a “direct and essential” link with the occupational activity can be proved by a Regional Committee of Recognition of Occupational Diseases (CRRMP). Only around 10 cases of psychological pathologies are thus recognised every year in France.

In practice, today the applicable system suffers from numerous flaws. On the one hand, the regulatory criteria of the admissibility of the requests – consolidation of the state of the victim and the requirement of a disability rate greater than 25% - difficult to consolidate – drives the rejection of the majority of requests. Otherwise, due to lack of precise criteria, the management of requests by the CRRMP is heterogeneous and fluctuating.

Finally, sick leaves given to the victims of moral or sexual harassment are mostly for “illness” and not a work accident – even though a psychological trauma is at the origin of the sick leave¹⁶⁷.

□ *Jurisprudential progress*

The progress of jurisprudence allows today for psychological traumas to be considered as work accidents. In the first place, after having required an isolated event, the French Supreme Court admits today that a work accident consists of “*an event or a series of events taking place on certain dates from which resulted bodily harm*”¹⁶⁸. A ruling of February 22 2002 marks an important jurisprudential development as the French Supreme Court recognised that the suicide of an employee who is on sick leave could be considered as a work accident, by asserting that an “*accident which happens at a moment where an employee is no longer under the subordination of the employer constitutes a work accident when the employee establishes that it resulted from the workplace*”.

In a ruling of March 9 2010, the Social Security court of Yvelines¹⁶⁹, determined that the suicide of an employee, resulting from work-related stress, constitutes a work accident, the generating fact of this accident being the overload of work and the deterioration of working conditions.

□ *The work of the guidance council on working conditions*

For its part, the commission of professional pathologies of the COCT carried out, for two years, work with the objective of improving the management of occupational psychopathologies. In a report which has been adopted by this commission¹⁷⁰, it is proposed that three types of pathologies could be from now on compensated, through a case by case evaluation carried out by the Regional Acknowledgement Commission of Occupational

¹⁶⁶By means of a complementary system for pathologies not included on the national list of occupational illnesses.

¹⁶⁷*Victimes de harcèlement sexuel: se défendre*, Claude Katz, Editions Le bord de l'eau (2007).

¹⁶⁸Cass.soc. April 2, 2003.

¹⁶⁹Social security court, March 9, 2010.

¹⁷⁰Final report of the working group on psychological pathologies of occupational origine, COCT (2012).

Illnesses (CRRMP): serious depressive disorders, general anxiety disorders and post traumatic stress not covered by work accidents. In return, psychotic disorders and psychosomatic afflictions weren't retained.

In order to remedy the difficulties laid out by the requirements of a "consolidation" of the state of health, it was agreed upon to retain a flexible interpretation of Article L. 461-1 paragraph 4 allowing the Primary Health Insurance Fund (CPAM) to fix a "predictable" disability rate in order to ensure the maintenance of daily damages up to the actual consolidation of the illness without delaying the acknowledgement of the occupational illness. This possibility will from now on be written in the CRRMP handbook.

The working group noticed that the establishment by the experts of a direct and essential link between illnesses and work stress *"is difficult"* because these illnesses are *"complex and multifactorial"*, and all factors need to be taken into account, occupational and non occupational. Therefore, it determined that *"ultimately, the establishment of a direct and essential causal link be left to the judgement of experts"*.

One of the essential objectives of this report remains the standardisation of the practices of health insurance consulting physicians, who define the state of the consolidation of the patient and the necessity to understand the Regional acknowledgment commission of occupational illnesses (CRRMP) as well as the practices of all the experts of these commissions.

□ *Towards a more ambitious reform of the criteria of acknowledgement?*

Must one adapt the acknowledgment of risks system, in order to facilitate, for example, the *compensation of an employee victim of a heart attack following chronic stress or that of an employee becoming depressed after being harassed? To this question, Bernard Salengro, labour physician and Confederal Secretary CFE-CGC responded positively and considered that "stress, and psychosocial risks in general, must have a cost for the company in order to urge them to commit to preventative approach"*¹⁷¹.

Besides loosening the acknowledgement criteria of occupational illnesses in the framework of complementary procedures, certain trade union organisations suggest going further and propose to write *burn-out* or post traumatic stress into the index of occupational illnesses¹⁷². This reform could be inspired by the Danish example and allow for the recognition of post traumatic stress following events of which the employee was a victim (like bullying or chronic stress), or following a violent event (like a hold-up in a bank or a serious fire) because the link between the event and the pathology could be easily established.

According to the report of Jean-Frederic Poisson, another conceivable reform would consider including the management of psychosocial risks in the complimentary health coverage or negotiated unexpected risk insurance in the framework of the professional branches, a system of social or financial incentives being of the nature to ensure the distribution of these contracts¹⁷³.

¹⁷¹Interview with the rapporteur of Bernard Salengro, occupational physician, December 11, 2012

¹⁷²CFDT's written contribution n°172, sent to the rapporteur.

¹⁷³Report submitted to the information mission of the National Assembly on the RPS (2011).

H. The prevention of psychosocial risks abroad

In Europe, health at work is organised differently according to the country (1). Two European countries offer particularly enlightening examples of the way in which psychosocial risks are identified and treated (2). Finally, beyond the European Union, other countries have included PSR prevention in the more general framework of quality of life at work.

1. A very diversified organisation of occupational health in Europe

In the framework of the transposition to domestic law of directive 89/391/CE, the States of the European Union, with the exception of the United Kingdom, have set up occupational health services charged with missions of occupational risk prevention.

In Scandinavian countries or in Belgium, these services are internal to the company, whereas Spain and Germany have retained the rationale of external services, Luxembourg being an original case which characterizes itself by a dual system with, on the one hand an obligation to an external service for prevention, and on the other, that of employing internal capabilities for monitoring the health of employees.

In the United Kingdom, legislation defined, since 1992, the obligation of safety weighing on the employer, but leaving them free to choose the method of implementation. Also, no document enforces the presence of a labour physician in a company or required medical visits. The employer had as their only requirement to ensure that the working conditions don't harm the employee's health.

2. PSR prevention in Denmark and Sweden

□ PSR prevention in Denmark

In Denmark, the labour inspector can decide to send psychologists to inspect the psychosocial environment of a company if they suspect they are encountering problems in this domain and a questionnaire called "in Copenhagen", intended to measure stress at work, was developed by the *National Research Centre for the Working Environment* and taken up at the European level, notably in Spain.

Also, the labour inspector¹⁷⁴ has regulatory power as well as power to publically rank companies according to the degree of their respect for the subject of safety and health (system of green, yellow, red "smiles").

A "stress barometer" was equally developed by social partners, to measure the degree of stress of employees. It is used by governmental institutions such as the labour inspector¹⁷⁵.

In Denmark like in other countries, notably France, certain mental disorders could be considered as occupational accidents, if they are caused by serious trauma (assault for example). But, the only one to do so among the States of the European Union, Denmark

¹⁷⁴ In practice, the labour inspector could impose the recourse to an authorised consultancy firm to resolve observed problems.

¹⁷⁵ Report of the Senate No. 591 on the protection of workers' health in Denmark and Sweden (2012).

added post-traumatic stress to these provisions in 2005¹⁷⁶, as an addition to their index of recognised and compensated occupational illnesses¹⁷⁷. A victim of work-related stress could consequently see recognition of their rights to compensation under the category of a work accident if the post traumatic syndrome is linked to a precise event but, if it is the organisation of work itself that is at fault, it can equally rise to the full right to compensation under the category of an occupational illness¹⁷⁸.

□ *The case of Sweden*

Within Swedish companies, prevention policies were implemented. They are founded principally on the implementation of questionnaires destined to measure the morale and the efficiency of employees but also designed to spot PSR. Beyond the diversity of the company practices, common traits become clear. Sending out and collecting these questionnaires, generally yearly, constitutes an important part of the human resource service's activities, their analysis being most often entrusted to an independent exterior firm. The evaluation of the hierarchy is an integral part of the questions asked; the anonymity of the responses could be lifted if a case of bullying or malaise is identified during the analysis of the responses.

3. Other foreign examples

□ *In United States: the label "B-corporation"*

Invented in California few years ago, the project is progressing in United States and Canada. An independent certification body (Lab B) provides a label. Approximately 600 companies operating in 12 countries have already obtained the label after an extensive audit.

To be considered as a B Corporation, a company must present explicit social and environmental values and a legally binding financial obligation to take into account the interests of the workers, local communities, the environment and their shareholders. The company must equally modify its statutes¹⁷⁹ to adopt the commitment of Lab B in favour of sustainable development and decent treatment of its workers. Furthermore, a B Corporation must subscribe to a complete biannual report on the evaluation of its impacts (a comprehensive questionnaire which evaluates the impacts of social and environmental measures) and make it public to satisfy the norms of social and environmental performances required by Lab B.

It is a question of a new company model that reduces the role of shareholders to "stakeholders", meaning all those who participate in the life of the company and who are concerned about building a more sustainable economic world.

□ *In Quebec: health in the workplace to well-being at work*

According to common opinion, health in the workplace is associated with workplace accidents and occupational illnesses. This vision, which tends to connect a healthy working environment to the absence of work accidents or occupational illnesses, is simplistic. For

¹⁷⁶Posttraumatic stress is a pathology that can occur in people having suffered a traumatic event (for example bullying, being taken hostage in a school establishment, a factory explosion).

¹⁷⁷Report to the comparative study *Quelle reconnaissance des pathologies psychiques liés au travail ?*, étude sur 10 pays européens, Eurogip, February 2013.

¹⁷⁸Report of the Senate No. 591 on the protection of workers' health in Denmark and Sweden (2012).

¹⁷⁹Halfway between the corporation and the association.

Jean-Pierre Brun, professor in the management of health and safety at work, potential risks or delayed effects could actually subsist in time¹⁸⁰. Health in the workplace is not only the absence of illness but the presence of well-being and a balance with the work environment.

It is in this spirit that Quebec adopted the norm of a “Healthy Company” which aims for the acquisition of healthy life habits and maintains a work environment favourable to health (Office for Standardisation of Quebec 2008). Furthermore, a grid to identify psychosocial risks was created by the National Institute of Public Health of Quebec in 2009, intended for agents of in health in the workplace for the assignments within a company.

More and more people argue for the promotion of a policy of well being in the workplace in addition to a policy of PSR prevention¹⁸¹. This approach takes an interest in the offer of services that a company could put at the disposal of its personnel with a view to ensuring its attractiveness: concierge service, means of transport, health advice, babysitting services, advantages of all kinds guaranteeing a better relationship between private life and professional life.

II. The Recommendations

Psychosocial risks constitute a major question of public health today. Confronted with the increase of these risks, public powers but also the social partners haven't remained passive and numerous initiatives have been taken, even if they take awhile to produce all of their effects.

Multifaceted and multifactorial phenomena, psychosocial risks remain difficult to identify because they actually characterise themselves by a more or less pronounced layering of professional and nonprofessional (family, personal) factors.

In companies, the prevention of psychosocial risks must form part of a comprehensive approach, which affects human resources management, the organisation of work and the quality of working conditions.

This approach should be guided by clearly displayed principles of action which will have an effect on health and, more generally, on the quality of life at work. (A) These general principles, which should underlie all the policies of psychosocial risk prevention implemented by employers, have inspired the 23 recommendations of the current opinion.

Also, to reinforce the psychosocial risks involves action in several directions in order to improve the awareness of these risks (B), stabilise the legal framework (C), increase the mobilisation of agents of prevention in the private sector (D) as in the public sector (E) and, finally, to better support the victims (F).

A. Prevent PSR by adhering to clearly displayed principles for action

Prevention of PSR does not reside only, nor principally, in legislative or regulatory movements, but in the change of management practices and in good governance.

¹⁸⁰Hearing of Jean-Pierre Brun, professor in health management and safety at work, University of Laval, Québec, before the Section of Labour and Employment at ESEC, December 5, 2012,

¹⁸¹See for example “ Livret N° 2 ” from the National Commission on stress at work, ANDRH (2011).

That is the reason why the prevention approach should first be led by some overarching principles of action clearly posted by private as well as public employers.

Principle for action N° 1

Integrate health at work as an element of the employer's overall strategy

The employers being the first agents of the prevention of occupational risks, it is necessary to integrate the issues of health and safety in the workplace into the global strategy of the company.

Health in the workplace – including psychosocial risks – must be approached at the highest level of governance, notably in the Board of Directors or Supervisory Board, by the bias of the social responsibility of companies (SRC) as regards to the large companies today. Personnel leaders must, in fact, have a strategic perspective of anticipation the future with regard to their management policies in repositioning human beings at the centre of the company to return the values of integration and emancipation to the workplace.

Emulating other countries such as Canada, health in the workplace must be perceived as a lever of economic performance of the company (decrease in sick leaves, personnel fidelity, incentives for the personnel to reinforce their skills, etc.) and of competitiveness.

For the Council, the presence of personnel representatives on the Board of Directors of large companies should also contribute to taking health in the workplace into account at the highest level of the company.

Principle for action N° 2

Promote quality collective bargaining around health and well-being at work

Management by trust is probably one of the keys of the prevention of psychosocial risks. If health and safety in the workplace must be managed at a higher level and incorporate company management, it is also necessary that employees and their representatives be consulted and encouraged to participate in all stages of the prevention of occupational risks approach.

In this perspective, the Council deems it necessary to anticipate areas for discussion, autonomy and initiative in the workplace, generalize the areas of exchange on professional practices and expand the margins of autonomy in the organisation. Because in participating in the development of the diagnostic tool – questionnaire, interview, group discussion, etc. – each employee is eligible to participate individually in a collective process and could also express their relationship with work.

Principle for action N° 3

Focus on primary prevention actions

Primary prevention actions should be favoured, meaning those that directly attack the sources of harm to psychological health. To prevent psychosocial risks is in fact to promote the modes of organisation that preserve the health and safety of employees.

This involves replacing the prevention of PSR in the more general framework of the organisation of the job and the conditions in the workplace in the broad sense, understanding notably the issues of adverse conditions, professional wear and tear, sustained employment of seniors, chronic diseases, design and arrangement of the workspace, work equipment or tools and the relationship between family life and professional life. These different

subjects must be able to be apprehended together, which enables the formation of a global prevention strategy to a strategy against employee attrition.

Principle for action N° 4

Review the role of management and their initial and continued training

Management is a lever of essential action to avert or at least reduce psychosocial risks. In their report, often cited in *Well-being and efficiency at work* (2010), the authors propose that companies invest more heavily in training programs for the managers who lead teams, on the one hand, and that on the other hand; the criteria for the allocation of the variable remuneration of executive managers take into account their social performance.

The ESEC endorsed these propositions and considered the improvement of the training for managers as a priority. Also, particular attention must be given to the training of company agents to help them spot risk situations and outline plans of action.

In addition, the local manager, due to his position in the organisation and his knowledge of the work, is often better situated to identify the PSR, reduce the conflicts and develop a climate favourable to the quality of work life. However, they are often subject to strong organisational restrictions, or even “paradox” regulations that can be derived from individualised objectives of performance and production.

This is why the role of local managers must also evolve in order that they are given greater autonomy, allowing them to manage work groups as closely as possible to the employees and to report situations of suffering in the workplace.

Finally, the awareness of the factors of psychosocial risks, of risk situations (change, financial hardships, work conflicts, environmental risks...) must be conducted as early as possible with young people in training programs given in management and engineering schools, universities, included in their apprehension for the young people themselves. Very little training exists for managers and engineers on the issues of health in the workplace, even if the Francophone Network of Health Training in the Workplace (RFFST) had as an objective to gather the pedagogical tools necessary for the trainers of future managers.

Also, the council proposes that in both higher educations – notably in the “grandes écoles” – and in the framework of continuing education, the relative dimension of leading teams be more integrated. The State could be led to play a particular role in urging the “grandes écoles ” to integrate into the lessons the theme of health in the workplace.

B. Improve understanding and assessment of PSR

The prevention of psychosocial risks requires a better understanding of these risks, both at national and company levels. Without adapted measuring tools, it is hardly possible to neither realise the risks nor modify the behaviour.

Recommendation N° 1

Improve statistical and epidemiological monitoring

A Panel of Expertise assigned by the minister established different recommendations for improving the identification of this risk, notably by establishing a specific inquiry

that the direction of research animation, studies and statistics (DARES) could carry out at regular intervals.

Such a thorough and enduring monitoring seems all the more necessary given that the actual state of the statistical data in terms of psychosocial damages are incomplete.

If the implementation of national statistical indicators constitutes one of the priorities of the second "Health in the workplace" (2010-2014) plan, it follows also to make sure to regularly update the results of the major national surveys.

In addition, it would be advisable, as the Court of Auditors suggested (2013), that the INRS carry on with its research on the effects of stress on health (they only devoted 2.60% of research time to it in 2010) so that they could more rigorously objectivise psychosocial risks.

Regarding work-related suicides linked to work, the epidemiological monitoring remains very insufficient. According to ANACT, the number of suicides attributable to work is situated between 300 and 400 per year, without it being possible to quantify exactly. The inaccuracy of the figures is due to the fact that, to date, there are no national statistics that enable the monitoring of the number of suicides linked to work or to the loss of employment.

In a recent opinion (opinion ESEC February 12 2013), the Economic, Social and environmental Council advocated for the creation of a "Suicide and Suicidal Behaviour Observation Centre". This committee would have not only the qualification to measure or quantify the number of suicides in France but, above all to better apprehend the suicidal phenomenon for the sake of prevention.

Recommendation N° 2

Task a panel of experts with the job of developing a tool for the identification and monitoring of PSR in companies

The need for statistical monitoring of occupational psychosocial risks isn't felt at the national level. At the level of the branches of activities, jobs, companies and services etc. certain agents wish to employ psychosocial risk identification and monitoring tools, scientifically validated and shared by the preventers. It is in fact necessary to objectively and responsibly measure psychosocial risks, as it is true that the more we efficiently fight them the more we recognise them.

Taking into account the complexity of the phenomenon of stress, it is surely difficult to establish a complete list of the indicators of potential stress. The National Cross-industry Agreement on Stress at Work (2008) highlights however that a certain number of indicators could reveal the presence of stress in companies, justifying the taking of measures adapted to fight against the phenomenon. For example, an increased level of absenteeism, notably of short-term or a rotation of personnel, in particular founded on resignations, personnel conflicts or from frequent complaints on the part of workers, an increased rate of accidents, bouts of violent acts against themselves or others, even very few, and a significant increase of spontaneous medical visits are some of the signs revealing the presence of stress in the workplace.

For all that, numerous people heard by the Council testified to difficulties in developing relevant indicators to detect psychosocial risks. In fact, to this day it does not exist a psychosocial risk identification tool that is recognised by all the agents and that is authorised, even if the INRS outlined several useful methodological guides for evaluating psychosocial risks.

This is why the Council proposes to entrust to a panel of experts – including the INRS and ANACT – the assignment of developing identification and monitoring tool for psychosocial risks in companies, just as a panel of experts implemented in 2010 who were able to define a national monitoring system for psychosocial risks.

Recommendation N° 3

Identify PSR in the Single Document of Occupational Risk Assessment (DUER)

Article L.4121-3 of the Labour Code compels the employer to evaluate risks to the health and safety of employees. The results of this evaluation are then copied into a single document. On the basis of this evaluation, the employer must implement *“prevention measures and work and production methods that guarantee a better level of health and safety protection”*.

In order to urge employers to take up the specific issue of psychosocial risks, it could be useful that the Single Document of Occupational Risk Assessment (DUER) include a systematic evaluation of psychosocial risk factors by work unit, preferably from a evaluation grid – simple and operational – such as those recently created by the INRS (*Evaluer les facteurs de RPS, February 2013*).

As the ministerial circular from April 18 2002 already recalled, relative to the creation of a DUER, *“the analysis of risks must also have as a subject of study the stress suffered by workers and the margins of manoeuvre available to them in performing their role”* and *“the association of the rhythm and duration of work could constitute a psychosocial risk – such as stress – for the worker.”*

Different from article L. 4121-1 of the Labour Code that specifies that the employer must protect *“the physical and mental health”* of workers, the provisions of article L. 4121-3 relative to the evaluation of risks to health and safety doesn't stipulate it. However, to improve the prevention of PSR, and remove legal ambiguities on this point, article L. 4121-3 of the Labour Code could precisely mention the necessity to evaluate risks to health, not only physical but also mental, of employees.

Recommendation N° 4

Systematically associate in the agents of prevention with the assessment and prevention of risks

To be effective, the risk evaluation procedure must, in principle, be carried out in direct association with the agencies representative of personnel, so as to favour collective bargaining and the preventive approach. Relying on internal agents (CHSWC, labour physician, workers themselves), the employer can ensure the quality of the risk evaluation and develop a preventive culture in the company.

However, the evaluation methodology of PSR factors is not clearly specified; neither in the Labour Code nor in the ministerial circular (2002). In practice, it is clear that the CHSWC and labour health services are rarely associated with the development of the DUER.

Many reasons justify that it is better to specify in the Labour Code the modalities of expression of the employees and their representatives – notably the CHSWC – in the development of the DUER and a prevention plan.

In these conditions, the Council recommends renovating the DUER development procedure in order to make consultation of the CHSWC mandatory and the health in the workplace services of this document key to occupational risk prevention.

Recommendation N° 5

Renew the right of employees to express their opinions and combine this with the prevention of occupational risks

The Labour Code provides for a right of expression, which was diverse and very partially implemented, due to its being well specified in terms of objectives, yet not in terms of methods of implementation.

With the double concern of reducing the cost of work-related stress for employers and mobilizing employees on prevention in connection with the IRP, the ESEC proposes to reactivate the right of expression for the employees so that it is practiced primarily with occupational risk evaluation, notably psychosocial risks, and the implementation of actions aimed at reducing these risks and improving working conditions in the company.

For this, each employee could arrange a quota of hours of expression, fixed through a conventional means (agreement of the company or branch), per year and per employee. This right of expression would be used for discussing their work with their co-workers and/or supervisors, participating in the development of the DUER, and responding to questionnaires sent by the employer or the labour physician on questions relative to quality of life at work.

Recommendation N° 6

Make the “social balance sheet” a tool for social performance

Each year, the companies with more than 300 employees are required to conduct a social assessment. Very descriptive, the statistical data gathered in the social assessment doesn't lend itself very well to a qualitative analysis of the social situations and the working conditions in the company. They don't really allow for a precise vision of the intensity of work, the health of the personnel or the quality of social relationships.

To encourage executives to consider the question of psychosocial risks and to implement prevention actions in this domain, the Council proposes to change the social assessment to “an annual report of social performances” composed of a range of social indicators maybe more limited but a better measuring the social impact of company activity. Thus health and quality of life at work indicators can be integrated into the social assessment, but also the provisions concerning the advice given by the preventers (CHSWC, occupational health services, etc.), prevention measures implemented, allowing the social assessment to become a tool of social performance.

C. Stabilise and clarify legal framework for occupational health

This axis of recommendations has as an objective to specify a non-stabilised legal framework given an abundant jurisprudence in occupational health, which places the employers as well as the employees in an insecure legal situation.

Recommendation N° 7

Take certain case-law developments into account in positive law

The legal tool that France uses in the matter of prevention and protection of employees is rather intensive, and is connected to a global effort toward preventing occupational risks. However, this legal framework is not yet stabilised, due to a very evolving jurisprudence and legal capacities that are still imprecise.

If the Labour Code imposes on the employer to take “*necessary measures to ensure the safety and protect the physical and mental health of the workers*” and prohibit bullying, these obligations are formulated in very general terms and would most likely profit from being specified, taking into consideration changes to jurisprudence.

Without creating new obligations for the employer, the Council thus recommends, with the concern of stabilising and clarifying the legal framework, taking into account in the Labour Code the principal jurisprudential evolutions in the matter of occupational health and the prevention of professional risks. However, this recommendation has not gained a large consensus.

Recommendation N° 8

Strengthen the prevention of PSR in advance of any restructurings or reorganisations

Numerous studies have shown that employees of a restructuring company see their health degrade, physically as well as psychologically. The emergency plan for the prevention of occupational stress however makes it obligatory for businesses engaged in a restructuring process to take into account the prevention of psychosocial risks.

The phenomenon is sometimes amplified by company strategies that are characterised by the lack of a forward-looking approach, and above all, transparent on the subject of the planned restructuring. However, the Labour Code already provides that the triennial negotiation of the GPEC, for companies with more than 300 employees, must anticipate the methods of informing and consulting the business committee on the company strategy as well as its predictable effects on employment and the employees.

A report from the European Parliament offering recommendations to the Committee on the information and consultation of workers, anticipation and management of restructuring (2012) prompts companies and all their stakeholders to anticipate restructuring. Also, all restructuring operations, in particular when they're susceptible to have considerable negative effects, must be “*preceded by appropriate preparation with the stakeholders concerned according to their respective skills, in order to prevent or mitigate its economic, social and local effects*”.

In line with the European recommendation, the Council recommends strengthening the prevention of psychosocial risks before the restructuring or reorganisations, notably by requiring the implementation – in connection with the institutions representative of personnel – of an impact study to assess organisational and human consequences

Recommendation N° 9

Facilitate the use of mediation procedures for both employees and job-seekers

The Labour Code anticipates the possible recourse to a mediation procedure in the framework of bullying at the initiative of the person who believes to be the victim or by the person who is deemed to be the cause. In practice, the recourse to mediation in cases of bullying remains, for the concerned parties, a right of which would be difficult for them to exercise in the absence of regulatory provisions of implementation. This deficiency explains the largely weak recourse to this procedure and contributes to a legalisation of the conflicts, principally with labour jurisdictions.

Accordingly, the Council suggests to public authorities to take the necessary regulatory provisions in order to allow the victims of harassment – moral or sexual – to implement the mediation process.

Concerning job seekers, the Council would like to reiterate its previous recommendations (*employment centres and the reform of public service employment - 2011*) bringing to the necessary reinforcement the means of action of the employment centre mediator as well as better information for jobseekers concerning the assessment of their rights to compensation, training and support.

Recommendation N° 10

Provide a framework for voluntary certification in occupational health

In an earlier opinion (*La certification des entreprises dans le domaine de la santé au travail - 2010*), the Council had expressed reservations on the interest of health certification procedures that are leading to control the formal compliance with a norm, rather than to focus on the actual effects of preventive measures that are undertaken.

However, the certification of companies in occupational health and safety tends to develop, mainly in large companies. This growth happens today without any control mechanism or regulation

In this context, our assembly suggests a better framework for the voluntary approaches to occupational health and safety certification. Several avenues are regularly advanced such as the implementation of either a label of “Health and quality of life at work” issued by ANACT, or a voluntary certification procedure developed from a reference created by the National Agency for Safety, Nutrition, Environment and Labour (ANSES)

D. Further mobilise various stakeholders involved in prevention

Beyond the plurality of prevention stakeholders, particularly the employee representative authorities, there is the issue of good coordination between different interventions and, above all, the quality of collective bargaining formed in companies about occupational health issues.

Recommendation N° 11

Provide more support for SMEs and micro-businesses in respect to health and safety at work

Particular attention must be given to SMEs in order to accompany them in the approach of evaluation and prevention of psychosocial risks, including when they are outsourcing. These companies should first arrange for priority access to the services of a network council of public preventers, notably with the ARACT and CARSAT Networks.

Next, the branch agreements on working conditions - falling within the scope of the law from November 9 2010 - were signed and extended, allowing the prevention of hardships and the improvement of working conditions to operate favourably together, objectives that contribute significantly to the prevention of psychosocial risks. If such agreements are used to support the SMEs in their global approach of prevention, their operational implementation should be ensured. In this regard, the mobilisation of professional organisations promotes awareness and support of the SMEs in the concrete implementation of these agreements.

Other avenues also deserve to be explored to target the strengthening of the CHSWC network.

On the one hand, in small companies, the role of the staff representative is important, but often there is neither training nor a clear mission of prevention and occupational health. Companies of less than 50 employees must ensure that the staff representatives can effectively undertake this. They should broaden the means, the missions and the training of staff representatives so that they can undertake the function of prevention advisor.

On the other hand, *ad hoc* agencies could be implemented, like the social partners did in the agricultural sector through the establishment of a health, safety and working conditions intercompany committee.

Finally, approaches of innovative territorial collective bargaining, like the Regional joint inter-professional Artisanal Committee (CPRIA), which allowed for the building of concrete actions of prevention in occupational health and provide relevant solutions to artisanal SMEs in the geographic zone concerned, deserve to be encouraged.

Recommendation N° 12

Strengthen the capacity of the CHSWC

In its opinion from 2008 on *Future of the occupational*, our committee had stressed the essential role of CHSWC and the need to improve coverage for companies with more than 50 employees, subject to the obligation to establish a CHSWC.

The social partners opened discussions on a reform of the staff representative agencies in 2009. These negotiations, that tackled the role and the means of the CHSWC, couldn't conclude due to the busy schedule of these inter-professional negotiations.

Without expecting too much from the outcomes of these negotiations, it is important to research the means on the one hand, of maximizing the mission of the CHSWC which requires an increasingly large technicality and on the other hand, to assess its legitimacy. The growing preoccupations in domain of employee health necessitate that the role of the CHSWC be reaffirmed and the education of its members reinforced, especially on psychosocial risks.

The ESEC considers that today it is paramount to support this rise in power of the Committee for health, safety and working conditions (CHSWC) while ensuring a better connection with the business committee and opening it up to environmental questions related to work. In this spirit, the duration of the members mandate could be brought from two to four years, with particular consideration given to training requirements.

In the same way, for problems of occupational health that cannot be fully addressed at the level of the establishment, a reflection should be launched on the creation – in large companies – of a “Committee for health, safety and working conditions” or “CHSWC”, which would allow for problems of occupational health and consolidation of health data or the results of local expertise to be addressed at the appropriate level of the group.

Recommendation N° 13

Strengthen the role of health monitoring in the workplace

Occupational physicians and occupational health services have been reformed (2011), which, resulting from a constructive dialogue with social partners, aims to make these services an essential agent of occupational health. The law defines the actions necessary to this end; actions in the workplace, advice in the company, monitoring the state of the health of the workers, follow-up and contribution to the traceability of the professional exposures and to health monitoring, etc.

However, occupational physicians have found themselves confronted today with a shortage of means, which leads them to question the efficiency of the reforms committed to. Recent announcements open up to occupational health services the possibility of recruiting, as medical staff, general practitioners or other specialty physicians, which should in part address the shortage of medical time. They must, however, ensure that medical staff are offered quality theoretical and practical training.

Moreover, the Council recommends reinforcing the mission of sanitary monitoring of occupational health in the matter of psychosocial risks. In this perspective, three types of actions deserve to be developed.

First, they should make sure that company documents are systematically developed and updated – a requirement for all companies no matter how many employees they have – by the occupational physician insofar as they are a key document in the preventive approach. In addition, these business listings must, as much as possible, connect with the DUER developed by the employer.

Next, occupational health services should be further solicited to conduct annual surveys, during medical visits, by using anonymous questionnaires on occupational stress.

Finally, based on the observation that employees who are suffering at work spontaneously consult their general practitioner rather than occupational health services, it seems necessary to reinforce the network of different health professionals, whether they are the labour physician, town physician and hospital services. Exchanges between these professionals benefit from being more widespread and formalised. In the same way, the initial training of health professionals should include issues of occupational health.

Recommendation N° 14

Promote proper use of ICT

Generally, the digital tools have positive effects on work because they facilitate access to information and treatment.

But they could also, in certain circumstances, contribute to the degradation of working conditions by excessive control over activities, through the implementation of processes to which it is physically impossible to avoid, or again due to the increased porosity between professional time and social time. Many companies have also set up “codes of good conduct”

to regulate the use of information technologies and communication (ITC) for employees as well as for employers.

In order to prevent psychosocial risks connected to the improper usage of ITC, two avenues of complementary action are possible.

First, a dialogue on the definition of needs and on the implementation of computer “process” should be broached with staff representatives and ITC users when a new information system (IS) is introduced in the company. In fact, the implementation of information systems appears very often as a determining factor of change in organisations and their possible adverse effects should be anticipated.

Next, they should promote the proper use of ITC – notably emails and instant messages – in order to ensure that their personal life and necessary rest time is not infringed upon. Besides the “good conduct” charter, the provisions governing the use of ITC could be approached in the negotiation framework with social partners.

E. Ensure implementation of the 2009 agreement and extend the agreed actions to the public service

Recommendation N° 15

Develop and implement a plan for the assessment and prevention of PSR for every public employer

Public employers are normally obligated to develop evaluation and prevention of social risk plans, but this obligation is far from being enforced, even if certain public communities have already created such plans.

The priority is thus to render this obligation effective and to see to the development of evaluation and prevention of social risk plans for each public employer, after consultation with the CHSWC.

In addition, the Council equally insists on the necessity, on the one hand, of ensuring the proper territorial deployment of prevention provisions, and on the other hand, of associating trade union organisations with the follow up of the implementation of the prevention plan.

Recommendation N° 16

Strengthen the involvement of occupational health and safety committees in State public services

The 50 public officials threshold determine the obligation of creating this agency in communities and public establishments imposes on the territorial civil service as it has for a long time on the hospital civil service. Even so, for the State civil service, the rules for creation of CHSWCs is much more complex.

Because of the inherent character of psychosocial risks in a large number of public services and establishments, and particularly in the establishments local to education, where the phenomena of violence are capable of affecting the students and members of the educational community, ESEC asks that public authorities aim to align State public services on the rules of creation and implantation by the CHSWC applicable today to the private sector and public hospital and territorial services.

During the time required for preparation and implementation of such a rollout, the ESEC recommends that the departmental CHSWC be provided with sufficient resources to carry out their missions on the ground.

Recommendation N° 17

improve the operation of medical bodies

The quality and promptness of the management and the examination of the submissions to reform commissions (RC) and medical committees are a requirement for good administration towards agents in the case of damage to their health or disability.

This calls for an increased effort of rationalisation of the process and a better functioning of the agencies, as well as better information for management services and authorised physicians on regulations in force.

It's important to improve the timeliness of instruction for records submitted to them and create a handbook of best practices (in measuring the work load, the activity and the instruction delays of medical agencies).

Recommendation N° 18

change the system of accountability for work-related accidents and illnesses

The unification of the regulations applicable to the three civil services with regards to the recognition of the professional nature of the accident or illness and reconciliation, as much as possible, with the rules of the private sector are avenues that merit being furthered. In fact, the distinction of accountability systems between the public and private sector is less and less clear.

For civil servants, the system of accountability presumption of has evolved with the removal of required consultation with the reform commission in regards to accountability for the accident or illness, except in the case where the administration doesn't acknowledge accountability (decree n. 2008-1191 from November 17 2008 relative to reform commissions and medical committees superior to the three civil services).

The ESEC deems it a priority to conduct a reflection on the development of the accountability system in the civil service, taking into account the applicable principles in the private sector. In the same way, this reflection should apply to the recognition and compensation of the AT/MP in the three civil services.

Recommendation N° 19

extend the right to protection for staff in cases of bullying

Article 11 of the law of July 13 1983 relating to the rights and obligations of the civil servant provides that the public authority is required to protect civil servants against threats, violence, assaults, insults, defamation or indignities when they could be victims because of their jobs, and repair if appropriate, the resulting harm.

Recently, the administrative jurisprudence (2010) acknowledged that civil servants could benefit from the functional protection instituted by the law of 1983 for acts of bullying of which they are the victim.

Accordingly, the Council proposes that the wording of article 11 of the status of civil service should be completed to specifically target acts of bullying and sexual harassment.

F. Improve detection of and support for victims

Recommendation N° 20

identify and assist employees in distress

If actions affecting management and the organisation of labour should be favoured, individual support of employees who are suffering is nonetheless necessary, in so far as no plan of primary prevention could eliminate all risks.

This is the reason for which the Council deems it necessary to concern itself with the detection and support of suffering employees. The creation of listening systems in companies, and also in administrations, could be a useful instrument for the employees to benefit from a basic psychological support. As well, the vigilance of all agents – managers, co-workers, employee representatives, and occupational physicians – is absolutely necessary to repair situations of distress.

Recommendation N° 21

ensure better post-dismissal medical follow-up for job-seekers

Psychosocial risks don't only concern employees but could equally affect job applicants who suffer from damage to their physical and psychological health precisely due to the loss of their employment and its consequences. The psychological distress of certain job applicants is such that it could lead them to commit desperate acts.

In a 1993 study still relevant (*Le suicide*, rapporteur Michel Debout), is already insisting on "urgent necessity for medico-social monitoring of job applicants, as there should exist a same for all employees".

In losing their job, job applicants also lose access to occupational health services reserved for employees, at the moment where the physical and psychological health of the fired employee could seriously deteriorate due to this professional disruption.

In the logic of "portability" of rights, and in the concern of maintaining a connection with work, the Council also proposes that job-seekers may continue to benefit from a medical follow-up by occupational health services in a period to be determined by social partners, following the termination of an employment contract.

Recommendation N° 22

adapt the rules governing the AT/MP branch (Occupational Injuries and Diseases Branch)

Today there is no index of medical illnesses allowing the acknowledgement of the pathologies inherent in psychosocial risks.

Surely, it is possible to recognise the professional nature of these illnesses on the case by case basis. Nonetheless, in the current state of the law, the employee must prove that the illness is directly and essentially linked to their job. Therefore, to recognise the professional nature of psychopathologies linked to work remain an obstacle course for the victims.

The Commission of Professional Pathologies of the COCT carried out, for two years, work aimed at improving the management of the occupational psychopathologies. In a report which has been adopted by this commission (2-12), it is proposed that three types of psychological pathologies could be from now on compensated, through a case by case

evaluation carried out by the Regional Acknowledgement Commission of Occupational Illnesses (CRRMP).

In the extension of the work of this commission, the ESEC wishes that the recognition of psychosocial risks, as factors of occupational illness or work accident, could advance quickly and that an interprofessional negotiation could engage on this issue to relax the criteria for recognition, which would also allow for an acceleration of the procedures.

Recommendation N° 23

develop hospital units for “mental health and work” consultations

In large hospitals, an external consultation service where hospital practitioners specialising in occupational pathology practice, as well as a psychiatric doctor, welcome employees who are suffering.

These specialised services have several missions. First of all, the physician or physicians listen and establish a medical diagnosis. They can then advise the employee – or the attending physician, the occupational physician or the psychiatrist – in the medical and socioprofessional management and administrative approaches. Finally, the physician can write a medical report – and if needed an initial medical certificate - with a view towards an eventual declaration of an occupational illness.

Being few, these hospital units merit development, notably in form of multidisciplinary teams (psychiatrists, occupational psychologists, etc.) whose mission would be to carry out an initial forensic and psychological evaluation of people who are suffering, and then to orient them on a path towards health.

The legal medicine services that exist in the public hospitals should also be involved in this approach.

Declaration by the Groups

Agriculture Group

The state of affairs established on this current subject is very precise and thorough. It allows accounting for the initiatives already taken by employers and efforts to accomplish, as the phenomenon is multifaceted and multifactor. For the agricultural sector, the subject isn't new. The prevention of psychosocial risk is henceforth considered as a major challenge. Agricultural social insurance (MSA) implemented provisions allowing for the better understanding of psychosocial risks in agriculture. The "occupational health-safety" network is particularly engaged in the subject. On the other hand, as pointed out in the opinion, a prevention approach had been set up with the social partners in December 2008, in the framework of an agreement on working conditions. The agricultural profession is equally engaged, as emphasised in the notification, to set up a Joint Committee for health, safety and working conditions (JCHSWC).

Despite the quality of the text, several recommendations elicit the concern of employers. We wish to attract attention to four of them.

The first concerns the mandatory addition of psychosocial risks to the single document of risk evaluation. This obligation seems poorly adapted to us and particularly difficult to concretely set up. It seems obvious that this will pose, for our SME, problems of development, writing, risk evaluation and especially possible measures. In small companies, professional life and personal life do, in fact, overlap.

The second concerns the post-dismissal medical follow-up of job seekers. Does the responsibility fall to the previous employer? Or to health services? In this last case, what will be the impact on unemployment contributions? These interrogations on financing are also equally applicable to the development of hospital consultation units.

The third concerns the integration into the Labour Code of jurisprudential developments. Instead of creating coherence in social rights, we risk moving towards more incoherence and still more complexity for employers.

Finally, the fourth concerns the loosening of the acknowledgement criteria of PSR. We question the realism of this proposal. Which pathology must be indicated? What will the evaluation criteria be? For the agricultural group, such a measure could upset the management of pathologies, usually related to health insurance, on occupational accident insurance, entirely taken care of by the company.

The uncertainties that weigh on employers, all sectors included, and the prospect of new burdens on small businesses, prevent us from adhering to a number of the recommendations.

The group of agriculture abstained.

Craft Industry Group

The management of the working conditions of collaborators is fundamental for artisanal companies.

As such, they can rely on their professional organisations and the Chamber of Commerce. They have, in fact, created awareness tools for training and support, adapted to their size as well as their professional specialties.

In addition, they add innovative criteria for territorial collective bargaining, allowing for the design of concrete actions encouraging the health and safety of artisanal employees.

Regarding psychosocial troubles, we fully share the objective of making their prevention a priority.

The notification addresses the list of risk factors; but also highlights the complexity of identifying them, due to their often multifaceted nature and origins that can be extra-professional. Also, contrary to physical risks, psychosocial risks are difficult to objectivise.

This is why the artisanal group is reserved on the proposed identifications of these risks in the single document.

On the other hand, the artisanal group approves the proposal to ensure priority access for small companies to the counselling services of the network public preventers. This will reinforce partnerships forged between professional organisations and these structures. These collaborations are essential for coordinating the scientific and technical knowledge of risk prevention, and those of the craft practice; this way, they facilitate the actual appropriations of strategies and tools by artisanal companies.

These initiatives, largely developed in the artisanal branches, attest to the momentum around health at work, no matter the size of the company.

The notification proposes to include in the Labour Code the provisions of jurisprudence on psychosocial risks; the artisanal group is opposed to this. In fact, not only does this domain seem not yet stabilised, but especially, in assimilating the obligation of prevention in the performance obligation, certain jurisprudence created a strong legal insecurity for the employer.

In addition, this performance obligation seems unrealistic, with regards to psychosocial risks, knowing the difficulty of determining the causes.

Integrating this jurisprudence into the law would increase litigation, without improving the prevention of such risks.

Generally, the artisanal group considers that the legal arsenal on health and safety at work is already very dense. Numerous interprofessional and branch agreements are added.

Accordingly, if the artisanal group shares the ambitiousness of the opinion to strengthen the prevention of psychosocial risks, it considers that making the regulation more dense wouldn't guarantee a greater efficiency, which must first be researched in awareness and support.

The National Cross-industry Agreement on Stress at Work from last January 11 is going well in the direction of anticipating, at the branch level, the collective actions of prevention for occupational health.

Because of these limitations, the Craft Industry Group abstained.

Associations Group

The associations group would first like to commend the comprehensive work that was carried out in creating an overview of the situation, which shed light on the nature of risks of their causes.

The opinion has been written in a relevant manner in the extension of the initiatives committed to by the social partners such as the ANI of 2008 to 2010 regarding occupational stress on the one hand, and bullying and violence at work on the other. It equally responds to recent parliamentary work carried out on suffering and malaise at work.

The associations group supports the bias of the opinion consisting of including the prevention of psychosocial risks in a global approach affecting the management of human resources, organisation at work and the quality of working conditions. The fact of favouring preventive and collective approaches as they concern organisation and management methods is, for the associations group, of the nature to guarantee a sufficient level of confidence to organise a quality collective bargaining on the issue of occupational health.

Although the PSR are not easily identifiable in an exhaustive manner, they constitute a societal issue, in as much as the impact of malaise at work has consequences on private life and on the group. In fact, psychosocial problems and the pathologies that are generated from them (depression, cardiovascular disease, or even musculoskeletal problems) represent a problem for public health, which goes beyond the sphere of work.

The prevention of PSR is thus indispensable, and even more so in a difficult economic and social context, a factor of individual and collective destabilisation. However, the whole challenge of psychosocial risk prevention is to find the balance between the necessary protection of the employees and the obligations of the employer. In general, our group favours proposals of the opinion that take care not to impose further legal constraints but move in the direction of co-construction and a collective management of PSR prevention in companies and administrations.

The priority must be placed on the concretisation of good governance through a close association of all the agents – CHSWC, occupational physician– to elaborate, implement and evaluate an action plan targeting the reduction of psychosocial risks. In this context, the recourse to a mediation procedure, but also the support of the SMEs in this type of initiative, are recommendations favouring a global apprehension and not constraining the issue.

The associations group support, on the one hand, the point of view of the opinion on civil service, in particular, on the effective implementation of evaluation plans and psychosocial risk prevention. Finally, our group approves the imperative management of victims, notably by better detection and support of employees who are suffering.

The relevance of the majority of recommendations led the Associations Group to vote in favour of the opinion.

CFDT Trade Union Group

Three employees out of ten feel that their current work is susceptible to cause them serious psychological problems.

If the different agents of the company are today sensitised to issues of occupational risk prevention, occupational health and quality of life at work, the issue of psychosocial risks

proves to rely on a different approach that touches on the functioning of companies. There is still a lot to do in order to develop these modes of action for preventing psychosocial risks, as the latter are still difficult to define and qualify.

The objective of public health aims to guarantee each employee: health, safety, quality of life and well being at work, must integrate psychosocial risks, which involves modifying the actual culture of occupational risk prevention.

Company strategies must be defined, taking into account their human impact. Information, transparency and debate on the organisation of work are elements of the climate of trust susceptible to breakdown in stressful situations.

The prevention of psychosocial risks must be addressed in a global and anticipatory approach, especially in the actual context of crisis, of restructuring and change of the working world.

The management of these issues in human resources policies accentuates the social responsibility of the employer.

For the CFDT, the development of collective bargaining is a central element allowing for the collective development of the axes of psychosocial risk prevention and the improvement of quality of life at work.

In this approach, the situation and the means of employee representative agencies are essential. These agencies must work in close synergy, notably, in relation to organisation and working conditions.

If the group of CFDT shares many of the conclusions expressed in the opinion, for the most part we regret that the latter insufficiently explores the forms of work organisation that could create psychosocial risks, their approach by all of the staff representative agencies (IRP), as well as the reality of this phenomenon in for SMEs.

The opinion recommends the recourse of the experts to define these risk indicators. For the CFDT, voice must first be given to the first concerned, the employees, to their representatives, to the nearby managers before all exterior intervention.

We have proposed the implementation of national joint committees of occupational health in professional branches, similar to the Joint National Committee of Employment. In fact, these exterior participants must rally around and support the social partners in professional branches, which doesn't appear in the recommendations.

On the other hand, the opinion made few proposals, beyond the principles regarding territorial collective bargaining, which allows nonetheless prevention adapted to SMEs.

For the CFDT, psychosocial risk prevention would only be effective if voice is first given to those who do the work and involving all the agents.

Considering all those reasons, CFDT Trade Union Group abstained.

CFE-CGC Trade Union Group

The CFE-CGC trade union group has pioneered with regard to the fight against stress in companies. For years, evidence of this phenomenon has been gathered owing to different multidisciplinary studies, and the implementation of a regular barometer to keep track. It demands recognition of stress and of *burnout* as occupational illnesses.

Stress makes us ill, *burnout* destroys in silence. It has numerous consequences on an individual's health: depression, suicide, and cardio-vascular disease. Beyond these serious and sometimes deadly illnesses, a stressed individual is a weakened individual. According to the European commission, in 2002, stress at work will be the cause of 50% of absences. The social cost of stress represents around 3% of the GDP, paid predominantly by the taxpayers, through health insurance, and not by the companies.

Upper management is affected as are all the other employees. Stress culminates in physical and mental restrictions, and the CFE-CGC see its origin in the new modes of occupational organisation. The latter induce a "disintegration of the group" that balances neither group work nor the principle of autonomy.

It is regrettable that companies still have difficulty accepting the existence of occupational stress. This refusal is reinforced by other weaknesses, those of the State and of all the agents who refuse to recognise stress as a factor of hardship, those of the occupational physicians to whom the means were not provided by the last law.

On this last point, the opinion doesn't go far enough. If the occupational physician isn't the only one able to address this issue, it is, however, central. The opinion doesn't recognise the real structural difficulties of this profession and its effects. The role of the occupational physician is to propose improvements of work conditions, notably those that concern the organisation of work.

The advice from occupational physicians on work conditions is often taken hard by "clients of service" employers who would like to limit the role of physicians to strict clinical activities. It is then important to reaffirm this dimension of organisational consulting, fundamental in regards to psychosocial risks. In multidisciplinary teams, only the labour physician has a true independent status, the other members are subject to company management. The solution could be governance alternating between employer-employee as the Senate proposed.

The July 2011 reform removed all quantitative references regarding the number of supervised employees and the number of companies responsible for them. It equally considerably reduced the number of exhibitions called "individual supervision".

The major restriction is of course the organisation of this profession appealing very widely to part time due to the increased number of employed-retired physicians.

The recommendations of this opinion are interesting and we can only support them. We regret that the tools for implementation are weakened to the point of calling into serious question their capacity to act. We have voted this opinion hoping for awareness regarding the question of the occupational physician.

CFTC Trade Union Group

The backbone of this review consists of promoting in all companies, small and large, psychosocial risk prevention.

The CFTC adheres to this objective. A real prevention of these risks in companies leads to more respect and consideration of people. More prevention has been shown to improve working conditions, sources of well being, performance and the competitiveness of the company.

This review highlights the provisions that allow a company to reduce or avoid these psychosocial risks, which are, rightfully, by their sometimes-dramatic consequences, a dreaded subject and great concerns for the company managers.

The CFTC approves the structure of this opinion where the multifaceted causes of these risks were explored and the principles of action and prevention were recommended.

Integrating occupational health as a component of the global strategy of the employer, promoting a quality collective bargaining, favouring primary actions of prevention, are motivating and unifying messages for company managers who recognise that the performance of their companies is linked to the quality of life at work of their employees. A leader with such commitments cannot help but have positive consequences on the intermediate management who, even if he is in the best position for identifying high risks, is often confronted with the strong organisational restrictions.

These commitments, accompanied by concrete recommendations, allow the company to highlight their actions of prevention, which are carried out to improve life at work for employees. For example, the evaluation of company risks in the Single Document of Occupational Risk Assessment (DUER), correlated with an overhaul of the social audit indicators measuring the social impact of decisions taken, would be a source of social and economic performance for the company.

The policies of psychosocial risk prevention cannot be similar for all the companies. The CFTC approves that the opinion takes into consideration this situation. Also, it adheres to the relative recommendation for support of the SMEs by public preventers such as the ARACT and the CARSAT. It also subscribes to the recommendation of reinforcing the means of action of the CHSWC, notably to establish group CHSWCs in large companies. Participation of the IRP connected with the company RSE facilitates a development of prevention with other partners such as the territorial collectives. Finally, the CFTC approves the relative recommendations for the improvement of detection and the management of victims. The implementation of listening spaces in companies and in administrations seems useful, even if they don't resolve the problems within the company. They should equally be created at the local level for the employees of the SMEs. The CFTC also approves the recommendations concerning "the civil service" with the aim of putting an end to the suffering of numerous officials, resulting from the implementation of the RGPP.

The CFTC group subscribes to the recommendations of a medico-social follow-up of job applicants who, in losing their job, equally lose access to occupational health service whereas they are often in situations of distress. A portability of rights is necessary. At least, the hospital "psychological health and work" consultation wards should be open to all the people looking for employment in order to psychologically support them in their effort.

CFTC Trade Union Group approves this opinion and voted in its favour.

CGT Trade Union Group

Depression *burnout*, musculoskeletal problems, suicides, suicide attempts of employees and job applicants: so many constituent troubles, among others, the reality of the great suffering of employees.

The reactions of the public opinion and labour world and the awareness of the human and economic costs have allowed exceeded denial that dominates among company directors, without admitting their responsibility.

The multifactorial and multifaceted aspect of psychosocial risks is still too often emphasised by company directors to avoid recognising them as factors of occupational illness or work accidents.

Like numerous other specialists who have conducted research on the subject of “malaise at work”, we claim that the origin of PSR is not found in the employees but at the heart of the work itself.

This is why, judging that it is fairer to qualify a risk by its origin than by its effects, the CGT prefers to speak about “organisational risks” rather than psychosocial risks.

Because it is the job that is ill, ill from profitability to the detriment of the quality, ill from contradictory orders and from the procedural jungle, ill from the use that is made of the ITC, ill from management and their means of managing which are set up to only take into account the results, financial objectives but never the real work as it is developed by the employee himself.

Must we subscribe to this suffering to help employees to put up with and overcome, in other words to continue to have the curative approach that predominates the companies and the public sector, or must we really attack the choices of management and public service to transform work and give priority to its knowledge, recognition and prevention? This is the fundamental question that arises.

Not losing sight of the view that work is a determinant to health, the CGT intends rather to ask for the requirement of a global approach that puts up for debate the meaning and purpose of work, to take into account the quality of its conditions and its organisation, collective bargaining, staff development and the balance between professional and personal life, the right to expression of the employees, which we can regret wasn't highlighted in the overview whereas it does appear in the opinion.

The recommendations of the opinion constitute a coherent set that aims to give employers and the State a sense of responsibility for prevention, to reinforce the legal framework, to mobilise the agents of prevention including the personnel representative institutions as well as improving the detection and management of the victims.

CGT Trade Union Group voted in favour of this opinion.

CGT-FO Trade Union Group

Although psychosocial risks aren't new risks, this opinion illustrates the awareness that arises of the issue and in a broader sense of the modes of work organisation and their social impact.

For the Force Ouvrière (FO) (Labour Party), the observation of a clear deterioration of the working conditions is largely connected to the increasing individualisation of social relationships. They transplant the establishment of new management models there, aiming to obtain more productivity of employees in order to make up for massive losses of jobs.

If the reparation of psychosocial risks is necessary, FO considers, as a priority, the prevention of these risks, accounted for at the beginning of each reorganisation project or the introduction of new work methods. It is necessary to apprehend, anticipate, adapt

oneself the changes and adapt them to individuals. One must “adapt the work to the man” and not the inverse. Moreover, by anticipation, the financial and human cost of the change will be diminished.

The group CGT-FO shares, for the most part, the recommendations of the opinion, but it is urgent and necessary to set up real policies of collective prevention that are serious and efficient.

Therefore it would have been possible to assert the claims in a stronger way, for example:

To better control the derivatives of new management modes; because it has been proven that they are often anxiety inducing;

To prohibit on the one hand, the practice of certain individual evaluation interviews of which the rules are not defined and the real objectives hidden and on the other hand, the remunerations based on unattainable individual objectives;

Or even, to reduce the individual part in the job for the benefit of a collective group with a better consultation of the IRP.

It comes back to the action of the trade union to continue to bear such measures so that it becomes a reality in the field.

The consensus nonetheless allowed for the release of action principles and the recommendations that we share.

It is especially so on the legal transcription of the jurisprudential performance obligation of safety and on the implementation of a chart of occupational illnesses recognising the pathologies linked to psychosocial risks.

Furthermore, the role allotted to the representative staff institutions and the CHSWC in particular is acknowledged. Their involvement in the framework of exchange spaces and working groups in the prevention of PSR must be guaranteed.

For these reasons, CGT-FO Trade Union Group voted in favour of this opinion.

Cooperation Group

The cooperation group shares the interest of integrating occupational health issues in the global strategy of the employer, a natural approach to guarantee well being at work and the reinforcement of the competitiveness of the company. We equally share a transversal and systematic approach to these issues, an approach in which the SCOP, by their governance, are particularly committed.

Beyond this, the social economic sector is particularly involved in these questions. Thus, the USGERES, within the framework of the agreement signed in July 2010 wished to promote a psychosocial risks prevention policy unique to the branches and companies, in stimulating branch and professional sector negotiations on this issue, in encouraging collective bargaining in the SME and in leading field experiments.

The opinion highlights, rightfully, the complexity of a multifactorial and polymorphic phenomenon, the demonstrations of which are poorly measured and poorly identified. It is therefore important to improve knowledge, measurement and monitoring: these are necessary and essential prerequisites to the stabilisation of the legal framework, on the one hand, and for the tools of collective bargaining of the branches and companies on the other hand. Actually, it is ironic to notice the increasing responsibility that weighs on employers

and the inadequacy of the tools and means at their disposal in order to conform to their obligations. We are also favourable of the elaboration and distribution of good practices but also demand details, even cautious, as to the obligations of employers within the framework of the DUER.

The idea of social performance indicators appears pertinent to us for the social audit of companies with more than 300 employees. This idea could equally be applied to the social reports of the branch, which would allow also for the mobilisation of small companies.

Actually, the SMEs are often the least well suited to addressing issues of risk prevention. Therefore, it makes sense facilitate and strengthen their priority access to the consulting service of the public preventers network. The role of OPCA consulting could equally be decisive. There is, for example, training for the collective actions of occupational risk prevention proposed to companies connected to the OPCA agricultural and food industry cooperation (OPCALIM) in partnership with the ANACT. Regarding the improvement of the detection and management of victims, the feasibility of the establishment of a medical follow up for job seekers by occupational health services raises all the more acutely the fact that the means of these services remains very limited, notably in the agricultural world.

Finally, regarding the relaxation of the recognition criteria of psychosocial risks as factors of occupational illness or work accidents, we support the position of USGERES proposing prior to all negotiations on the subject, the implementation of a joint work group, supported by a group of experts, who aim to clarify the state of knowledge, the tools at their disposal and to study the modes of development within the legal framework. The causes are complex and it makes sense to be able to distinguish those that arise strictly from the working situation from those that arise from external factors linked to the private life of the individual.

Despite these points of vigilance, Cooperation Group voted in favour of the opinion.

Enterprise Group

The prevention of psychosocial risks is a subject that worries the directors; they have taken to heart the prevention of these risks and have shown to be proactive.

We welcome, in this regard, the initiative of the rapporteur to propose advice on this subject and his cooperation with the president of the section of labour and employment, which made for quality exchanges throughout the debates.

Moreover, the current situation in the first part of the opinion is globally, in our eyes, fair and pertinent.

A multifaceted and multicausal phenomenon, psychosocial risks are difficult to identify, all the more so that the responsibility of the worker remains the rule. The crisis period that we are going through exacerbates the problems that we can experience in our companies.

Solutions could be found within the company, large or small; management is one of the first responses. Actually, health at work cannot exist without real managers with adapted listening, dialogue, and adapted work reports. Good management is key to the well being of the whole company. Our group is particularly sensitive to this issue. Moreover, studies prove that a majority of employees feel good in their professional life.

On the other hand, we regret that there is a too-reductive vision of psychosocial risks throughout the document. Psychosocial risks are, by nature, of a multifaceted character.

The difficulties that an employee may face are, in numerous cases, the effects of an entire environment, unfortunately not limited to his work. Where does the difficulty come from, then, in preventing psychosocial risks. This aspect doesn't appear clear enough in the opinion.

In addition, several recommendations seem timely to us, especially in the area of SMEs.

Integrating psychosocial risks in the Single Document of Occupational Risk Assessment (DUER); National Cross-industry Agreement on Stress at Work of 2008 leaves certain latitude to stabilise the terms of the approach. It anticipates that the company can make the choice of handling the issue of stress in the DUER or in a related approach. This double option suits us as such.

Of making the social audit a social performance tool: on the one hand, the entrepreneurs are adverse to any measure that would increase the burden of the social audit, on the other hand, psychosocial risks are founded on subjective measures of perception whose relevance and accuracy are questionable.

Taking into account in positive law certain jurisprudential evolutions; again, entrepreneurs are adverse to a measure, which would further burden the Labour Codes! We ask for recommendations moving towards the simplification of approaches and for reference documents.

Including voluntary certification of certification in occupational health: as we have said, psychosocial risks are, at once, multifaceted and subjective. The certification approach seems very complicated to us in such a domain.

Strengthening the means of action of the CHSWC: this issue is actually in discussion in the framework of ANI with the social partners. We have therefore the largest reservation, at this stage, on the recommendation of the CESE.

These disagreements don't surprise us as far as the group reported them during the examination of the text in parts. The Enterprise Group cannot approve the text in all these aspects, thus it abstained.

Environment and Nature Group

The opinion covers psychosocial risks in the broad sense. The environment and nature group supports the guideline and voted for it. We want to insist on the new dimensions linked to environmental problems as we are convinced that their greatest apprehension could be a step towards the clarification of some of the psychosocial risks, multifaceted, thus the opacity persists.

The opinion on the prevention of psychosocial risks begins with the idea that it is better to identify the risks which are at the interface of the individual, the group, relationships with others at work, is a major challenge of "well-being at work" in all organisations. It is interesting to reverse the reasoning by proposing that the quest for well being, for quality of life at work, constitutes in itself leverage of psychosocial risk prevention.

The environment and nature group would like to express itself on some particular points.

The first of them: the importance of environmental problems as factors of risks and therefore a source of personal insecurity. Health risks in the first place, and therefore generators of anxiety, when the work environment is full of asbestos, electromagnetic waves, mercury or even nuclear. For some of these risks, we don't have any specific idea today of

the consequences from long exposure. The fact that the principle of precaution should be applied systematically, the consideration granted to individuals above everything else.

Psychosocial risks then, linked to destabilisation, or even sometimes the malaise of working in an environment at risk for the area and the man, could lead to an important personal devaluation.

In the image of its weak maturation in society, this factor of risks that constitutes environmental problems, is barely developed in the opinion. Yet, multiple examples exist, beginning with the SMEs established in the zones of Plans for technological risk prevention. Their employees, like the residents concerned, still don't know how to confront these risks, especially as no help is anticipated for carrying out protection work.

Another axis of the opinion that we support is that of the RSE approach reinforced by the law of Grenelle. The publication of an annual report containing social and environmental information contributed to in the entry of occupational health for governing bodies. Our group considers it relevant to reach a new stage in registering the potential social and environmental condemnations in the annual report. The absence of this information up to now gives therefore only a partial vision of how the company conducts its social responsibility.

Finally, the environment and nature group provides its support for a better accounting for the environmental dimension in the CHSWC, in the logic of opening up to environmental organisations. Actually, it might be interesting, for example, if a company Committee for health, safety and working conditions listened to the local environmental whistle-blower associations and integrated them into the collective bargaining.

Thanks to the rapporteur Sylvie Brunet for the work accomplished and the richness of the debates in section.

Mutual Societies Group

Psychosocial risks constitute a major issue of public health. They represent an important part of the occupational risks of which the consequences on health are multiple and complex.

The evolution of work during the twenty last years, as well as the social and economic environment, had direct consequences on the health of the employees.

Care services and in particular, the help and home care sector, produces by their specificities important psychosocial risks.

The mutuality group insists on these sectors, very present in the Social and united economy (ESS), where causes of the psychosocial risks are directly linked to the specificities of their work activity: emotional attachment to the people helped, confrontation with illness, death, causes linked to work organisation and professional isolation.

Dealing with these situations, the prevention approaches are not simple to plan and implement, notably in an environment where the means at the disposal of the sector structures are limited.

The mutuality group equally insists on the professions with public reception, increasingly subject to aggression and violence, and in particular in the health sector.

USGERES, which includes 75% of ESS employers, and four employee labour union associations, has signed an agreement on the prevention of psychosocial risks regarding stress at work. The objective of this agreement aims to improve health and safety at work

by sensitising the employers and the employees to these types of risks. This comes through the identification of work situations generating stress, the strengthening of collective bargaining on this subject, the sensitisation of training actions, and the implementation of joint consultation agencies, notably the SME.

Promoting quality collective bargaining around health and well being at work and putting the prevention of PSR in the broader context of the organisation of work and working conditions in the broad sense, as recommended by the opinion, allows for the incorporation of prevention into a comprehensive approach that supports the mutuality group.

UGEM labour union of mutuality employers and members of USGERES, equally mobilised themselves to sensitise their members. The developed approaches by certain mutualities, notably in the context of mergers, which could involve loss of bearings and changes in organisation and tools, privilege the co-construction with the involvement of the stakeholders.

The MGEN, in partnership with the labour union organisations became interested in PSR, burnout and in MSD in the context of a study with national Education staff, aiming to contribute and improve the knowledge on occupational health. As the opinion highlights, PSR prevention happens, in fact through a better understanding of these risks.

Under the entity of PSR, it's also the issue of sexual harassment which is addressed. Although surveys on this subject are few, we know nonetheless that around 20% of women will be confronted with, during their professional life, masculine behaviour relevant to sexual harassment. A study from the women's rights delegation of the ESEC will soon concern all violence done to women and equality and will deal with in particular violence taking place in the professional arena..

The prevention approach necessitates the development of anticipation, visibility on the medium and long term and training of all the agents involved, beyond legislative and reglementary evolutions, a change of management practices and good governance.

The mutuality group voted on the opinion that, through a comprehensive overview of psychosocial risks, knew how to formulate pragmatic recommendations in order to better anticipate them.

Student Bodies and Youth Movements Group

The development of the service sector employment, globalisation, the development of digital technology, the economic and financial crisis or even the identification of new risks, didn't exclusively have an impact on the global economy or on the competitiveness of France, all of these changes have an impact even within companies, on management and on the workers and should encourage us to renew our apprehension of occupational health challenges, as proposed in the opinion today.

The text introduces the interest to contemplate the challenges of psychosocial risk prevention as a whole and to adopt a decompartmentalised approach to the subject that our group welcomes. The opinion showed that we cannot totally distinguish professional life and personal life, employment and unemployment that human resource management, working conditions and the organisation of work are linked and are potential risk factors,

or even beyond the company, its environment and its image have an impact on those who work there.

If the labour world has evolved, the workers are equally no longer the same, in particular, the young generation, new in the labour market, present new difficulties. Without going overboard in the way some literature has about “generation Y” being less loyal or less committed to their work, we wish to bring up a generation that, much more qualified than those that came before it, is confronted with notorious difficulties of integration and episodes of frequent unemployment.

In a society where having a job, but equally its quality, are particularly decisive conditions for self respect, in particular for a generation in search of meaning and social purpose in their professional activities, this shift carries specific risks. Also when the opinion highlights the multiple effects of the crisis, such as job insecurity, the report of the workload, few possibilities for professional mobility, or the fear of downgrading, it seems to us to be going exactly in the right direction.

The extension of the prevention and management of psychosocial risks beyond work, in the traditional sense, is an absolutely important evolution and our group supported in particular the recommendation aiming to extend the medical follow-up to benefit the unemployed as well as the employed. We could in the same way add to this those who are employed without really being there, the millions of interns, temporary workers, and the precarious contracts. In fact, this recent and precarious generation, is equally the least collectively represented and the least socially protected.

Finally, young people are equally the future managers, also, we support the opinion when it highlights rightfully the challenges of initial training taking into account psychosocial risks. Management is a profession and it is learned, it was important to remember that.

The Student Bodies and Youth Movements Group voted in favour of the opinion.

Overseas Group

The opinion deals with a major subject as an intrinsic part of the conditions of work life. The Overseas group notices that if this is addressed through a precise overview, the situation of employees, it regrets that the risk incurred by entrepreneurs (in particular SMEs) in the actual crisis context, has very little attention drawn to it.

The psychosocial risks are exaggerated overseas as there are specific factors of aggravation. As an example, we can mention:

- Alarmingly precariousness employment linked to the delay of development of these territories.
- A marked isolation and remoteness;
- Complicated social relationships;
- A stronger emotional responsibility

The group thinks that overseas, improvement of the knowledge and evaluation of psychosocial risks, just as the detection and the management of victims, must constitute a priority, as psychosocial risks there are too often underestimated, if not obscured. Accordingly, they should implement a better organisation of work, which implies a reinforced sensitisation of company agents to psychosocial risk factors. Likewise, the collective bargaining on these territories must be rethought, with, notably, a greater awareness of the occupational health

dimension. To ensure better risk prevention, it should be ensured that there is no shortage of occupational physicians and or scarcity of occupational health services. In conclusion, work, a factor of human dignity, must be a source of well being and not suffering.

Sharing most of the recommendations, the Overseas Group voted for this opinion.

Qualified Individuals Group

Mrs. Levieux: Member of the Section for Labour and Employment, I salute the work of my colleagues and particularly that of Sylvie Brunet as rapporteur. In her long experience in the function of human resources in companies with heavy labour, she managed this delicate work with conviction and measure.

The subject merits shared attention, which moves away from a split approach or risk of excessive “judicialising”. Nonetheless, I regret that the title of our opinion isn’t more precise. It is about, in my opinion, the prevention of psychosocial risks at work. There are other environments at risk in everyone’s life, it seems to me.

I will vote for this opinion based upon quality of the inventory of psychosocial risks.

I’m more reserved on certain recommendations. As such, I question the efficiency of the recommendations, which reinforce the role of occupational health services. The persistent difficulty regarding access to these services for all employees considerably weakened additional assignments, of monitoring in particular and follow ups, assigned to these services in the framework of our opinion. Even if networking of health professionals within a territory is strongly advocated, there is a long way still to go to make it operational.

As it was highlighted in the opinion, psychosocial risk prevention doesn’t concern only the employees currently working, but affects equally the job seekers who undergo a change in their physical and psychological health, due precisely to the loss of their job and its consequences and creates phenomena of distress.

Could occupational physicians possibly be opened up to non-company medicine? Also, if the work, its demands, its emotional load, its organisational models, its conflicts, are environments enabling the risk factors, we know that the rupture, insecurity, loss of bearings linked to the loss of work equally enable them.

I allow myself to question more widely psychosocial risk prevention in regards to the relations of our fellow citizens at work and of its rapid evolution in less than a generation.

A large survey organised in 2012 by Radio France “what work do we want?” tried to define the representation of work in France (France suffering, dare they?), stress, uncertainty, exhaustion?

If I allow myself to quote this survey, it is to insist on the necessary pragmatism for tackling the prevention and the repair of risk.

I continue to wonder about the rational and reassuring equation in many of the recommendations, even if each one has its legitimacy.

The prevention of psychosocial risks involves, mainly, a transformation of work organisational models, certain seem to encourage risks more than others. There remains nonetheless a more societal aspect, a kindly regard that French society assumes in all its components, to avoid placing blame.

Work seems to be experienced more and more in pain. Still in the same study, I noted that France is very badly situated in the perception of happiness and, unquestionably, the affirmation of suffering at work holds a considerable place.

The French, I quote again, according to several European surveys, appear to come in last, or nearly, regarding satisfaction at work.

At the same time, the French are those who say they are the most often stressed or even exhausted by their work, but 74% of them count on themselves to ensure their well being at work.

It is the relationship to working and the work itself that are starting to change. Employment and work are no longer necessarily linked.

“today I decided to create the job that failed me, as many other people around me... If society isn't capable of giving me what I need, too bad for it. We could have been friends, but it didn't want to. From now on, I continue my journey alone” (Florent, 27 years, small jobs and temporary assignments).

Mr. Urieta: “The work of our section on the prevention of psychosocial risks revealed to us how much malaise at work is a suffering that can lead to irreparable damage for employees, and how much the financial cost to companies is, in the crisis context that we are going through, a considerable waste.

You have, Madame rapporteur, advocated a certain number of recommendations that I share without reserve. One among them seems to me to be indispensable, it is the training of top working managers, and of those still studying.

Actually, they have a key role in this prevention, as they are able to through a virtuous company strategy make a difference in this suffering. Aided by staff representative institutions, they are able to create, imagine and implement working conditions respectful of the well being of employees, without undermining the competitiveness of their company.

This is why reviving employees' right of expression of seems like a measure which could be useful in the prevention of PSR.

One of the people heard for this work pointed to the cost of suffering at work. Also, a large aeronautical company lost the equivalent of the price of a Boeing per year in sick leaves linked to stress.

There is an urgency to better and more frequently combat these situations. Madame rapporteur, I thank you for the work accomplished, as well as your attentive listening.

As you understood, I will vote for this opinion.”

Liberal Professions Group

The subject tackled by the opinion is essential since it is linked, in a more general manner, to the challenge of quality of life at work. It is equally within the continuum of the National Cross-industry Agreement on Stress at Work of 2008 and connected to the emergency plan on the prevention of stress in France of 2009.

Liberal independent professionals are, in the same way as their co-worker employees, confronted with stress in their activities and subjected to the same risk factors. Actually, 47% of independent physicians show symptoms of professional exhaustion or “*burnout*” the

others are threatened by this syndrome. It causes disinvestment, stress, depression even suicide: of the same type defined in the opinion.

We counted more than 600 annual attacks registered by pharmacists, which contributes to placing them in a delicate situation, which is a matter of meticulous violent events or incidents and daily tension, including patient incivilities or bullying. Again these are the same risks.

Lifestyle professions, notably architects, must support many sources of stress, including that linked to the pressure imposed by certain providers of contracts and to the accumulation – in recent years – of regulations of underestimated impact, all in a difficult economic context.

Finally, one lawyer out of two declared to be in a situation of psychological distress, which is the result of work overload, difficult hours, never-ending working hours, difficult working relationships or invasion of the personal sphere. The same symptoms described in the opinion.

The opinion, in its review, comes back to the worrisome situations of the employees, on these dramatic situations that have “shocked public opinion” on these “dramas that are only the tip of the iceberg” and it is probably there that the rapporteur made a reference to entrepreneurs.

The group of independent workers regrets that more attention was not drawn to the risk suffered by entrepreneurs, who also experience situations of high distress and who aren't always able to take the time or the space necessary for their recovery.

In general, everyone agrees with prevention in companies being included in a comprehensive approach. But this prevention must take into account the specificities of the SME and not settle only on the staff representative agencies. Of our companies – one out of four in France – is a company of independent professionals, no staff representative agency intervenes and yet, psychosocial risk prevention is a reality taken very seriously. Our member organisations have, for the most part, negotiated branch agreements to improve working conditions and prevent risks.

We think, as the reporter does, that it is necessary that we have a better understanding of psychosocial risks to be able to prevent them, but it must not be limited to the employee currently working. We must mobilise all the agents, but, in no case, create new obligations for the employer, or new expenses, this is fundamental!

Because of these reservations, the Liberal Professions Group abstained.

UNAF Group

This opinion draws up a comprehensive review of the reality of psychosocial risks in the workplace. It depicts with precision the obligation that weighs on employers, the protection of the employees and the margins of progress, which remain to be overcome to prevent these risks and envision “well-being” for the future of work.

Mental health finds itself at the heart of the performance obligation of safety, which weighs on all employers, from the Paris stock index companies to the non-profit employer. With a somewhat recent jurisprudence from 2002, the philosophy of taking into account psychosocial risks is completely new in comparison with the previous texts concerned with the exposure of precisely determined risks. In fact, it is no longer about avoiding a specific

risk or being in accordance with the very precise technical obligations (compliance with exposure limits, technical norms...) one must reason in terms of results, independently from the nature of the risk and the existence or not of a particular text. This opinion must be a pedagogical work and allow, also, the awareness of each of the extent of its responsibilities that exist regarding this difficult to define subject.

The UNAF group of the supports many of the recommendations made to address the overall problem of this major public health challenge. International occupational health and safety day, last April 28, was the occasion for the OIT to sound the alarm: *"in addition to the world economic situation, technological and social evolutions aggravate already identified health risks and generate new ones. If certain occupational illnesses like pneumoconiosis are well known and remain wide-spread, others are relatively recent and multiplying, among these are psychological problems and musculo-skeletal disorders (MSD)"*.

The UNAF group retains two particular aspects in the necessary global approach to preventing psychosocial risks.

First, acknowledging that these risks are multifactorial is an important point, which thereby allows for a better understanding of the part professional and extraprofessional factors play in stress at work. This approach is essential, because it considers every individual in all his dimensions, personal and family, and not only in the professional aspect. It is also essential, as in terms of prevention, it allows for the consideration of solutions that favour the conciliation between family life and professional life, sources of wellbeing with beneficial repercussions on work.

Finally, the suggested axis that favours primary prevention initiatives must be encouraged, because it assures the anticipation of situations before they become critical. In order to do this, it is a matter of acting on work organisation, work obligations, on acknowledgement or also on the support to change. Successful primary prevention can be a source of performance for the company. On the contrary, stress is expensive for a company.

The UNAF Group voted for this opinion.

UNSA Group

The main merit of this opinion, according to the UNSA, is to have established a relatively exhaustive current situation on the theme of Psychosocial risk prevention (PSR), a still poorly defined subject. Thus, as the opinion mentions, if article L 4121-3 of the Labour code does not explicitly mention the obligation to estimate the psychosocial responsibility of the job, article L 4121-1 clearly makes a reference to the protection of the mental health of workers. UNSA believes that if the Labour code had to impose a definition of psychosocial responsibility by listing the concerned psychosocial risks, it would give a too restrictive vision and would leave no possibility for evolution in the consideration of these PSR.

The UNSA does not absolutely share the idea according to which the Committee for health, safety and working conditions (CHSWC) would have gradually locked itself in a kind of "vase clos" while it would be advisable to open it up to the concerns of health at work in the broad sense and to working conditions. It appears to them as obvious that the members of CHSWC are conscious of these themes, owing to the fact of their responsibilities. UNSA wishes, besides, to underline the essential role of the staff representatives regarding the detection of psychosocial risks, insufficiently approached in the opinion. However, it

approves the principle to “bring to the foreground tracks of reform of the CHSWC” (increase in the number of hours of delegation or networking).

From a global point of view, we are attentive to the fact that certain vocational fields (such as telecoms) involve a greater use of Information technologies and communication (ITC), leading employees to become prisoners of the IT tool, demonstrating that today, we tend to “no longer adapt work to the individual”. It seems to us unfortunate that this dimension does not appear in the opinion.

In a damaged economic environment, we observe the increasing trend of making the employee a kind of “variable of adjustment”. The pressure then becomes very strong on the employees whose work is considered more and more as a cost and not as a value. UNSA regrets, there as well, that the opinion does not take a complete account of this important phenomenon and therefore fails to alert of its consequences.

In a context of unemployment and precariousness, well being at work can be considered as a luxury when work diminishes.

The central question for UNSA, which conditions the implementation of the recommendations of the opinion, it is that a compromise, a consensus between the employers, their labour unions and employees’ labour unions be reached.

From the branch to the company, the UNSA considers that the moral and physical health of the employees is an asset for competitiveness and is a part of their fundamental rights.

The UNSA Group voted in favour of this opinion.

Regarding the recommendations, the UNSA wishes to make several remarks and suggestions.

The “global strategy of the employer” has to concern both the private sector and the public sector. It is important to draw attention to the so-called “*New public management*” practices whose harmful effects are recognised. We subscribe to the concept of “management by trust”. Besides, a quite particular attention must be given to the annual performance interviews, particularly with regards to the development of social evaluation. It seems essential to promote, not only modes of organisation, but also modes of management that protect the health of employees.

The initial and continuous training of supervisors should also concern the Representative instances of personnel (RIP). Furthermore, it is essential to make sure that the greatest autonomy is given to the local managers. Which does not discharge the leaders of their responsibilities. The local managers are also very exposed to PSR.

With regard to entrusting to a Panel of Expertise the mission to develop a PSR identification and follow-up tool in the company, it seems very important to us to include the labour unions which must be fully integrated.

Identifying the PSR in a unique document of risk assessment, “innovation” already considered by various bodies of which the National institute of research and safety (NIRS) is very important and necessary. We believe the identification of PSR in the Unique document of occupational risk assessment (UDRA) must become mandatory.

It goes along with recommendation n°4, provided that the employer “can assure the quality of the risks assessment and develop a culture of prevention in his company”.

The recommendation N° 10 “*Supervising the voluntary initiatives of certification in health at work*” appears to us potentially “dangerous” because of the fact that it allows companies,

within the framework of the captive market of the certification, to escape any responsibility. It would be preferable to ensure that the already existing regulation is correctly applied.

The approach that consists of “opening up the CHSWC to environmental issues related to the job” is not, according to us, essential. It seems to us preferable to think in terms of improvement of the skills of the CHSWC, because we currently notice a blatant lack of training at the level of the members of CHSWC. As for the question of the creation of a central committee of HSWC or a CHSWC, it underlines the problem of a re-organisation and an overall policy vision that allows the structures to assure an exhaustive addressing of the information transmitted from the local authorities. For the UNSA, it is necessary to make compulsory the training of the members of the CHSWC in the PSR and their prevention and to plan a longer mandate.

Finally, we consider the three recommendations N° 20, 21 and 22: *“Ensuring a better medical follow-up post-dismissal of job seekers; adapt the rules of care (of the PSR) by the branch AT / MP; develop hospital units for consultations of psychological health and work”* as essential. In the third one, it could even be considered to set up referent centres that would work in an ambulatory network: general medicine, occupational medicine. UNSA wishes that a reflection regarding their consideration be led.

Voting

Vote on the entire draft opinion

Number of votes	165
Votes in favour	98
Abstaining	67

The ESEC adopted the opinion.

Votes in favour: 98

<i>Associations Group</i>	Mrs. Arnoult-Brill, Mr. Charhon, Da Costa, Mrs. Gratacos, Mr. Leclercq, Roirant.
<i>CFE-CGC TRADE UNION GROUP</i>	Mrs. Couturier, Couvert, Mr. Lamy, Mrs. Weber.
<i>CFTC TRADE UNION GROUP</i>	Mr. Coquillion, Mrs. Courtoux, Mr. Ibal, Mrs. Parle, Simon.
<i>CGT TRADE UNION GROUP</i>	Mrs. Crosemarie, Cru-Montblanc, Mr. Delmas, Mrs. Doneddu, Dumas, Mr. Durand, Mrs. Geng, Mr. Mansouri-Guilani, Marie, Rabhi, Rozet, Mrs. Vagner.
<i>CGT-FO TRADE UNION GROUP</i>	Mr. Bellanca, Mrs. Boutaric, Mr. Chorin, Mrs. Fauvel, Mr. Lardy, Mrs. Millan, Mr. Porte, Mrs. Thomas.
<i>Cooperation group</i>	Mr. Lenancker, Mrs. Rafael.
<i>Environment and nature Group</i>	Mr. Beall, Bougrain Dubourg, Mrs. de Bethencourt, Denier-Pasquier, Ducroux, Mr. Genest, Genty, Guerin, Mrs. de Thiersant, Vincent-Sweet, Mr. Virlovet.
<i>Mutual Societies Group</i>	Mr. Davant.
<i>Student Bodies and Youth Movements Group</i>	Mr. Dulin.
<i>Overseas Group</i>	Mr. Arnell, Budoc, Grignon, Omarjee, Osénat, Mrs. Tjibaou.
<i>Qualified Individuals Group</i>	Mr. Aschieri, Mrs. Ballaloud, Mr. Baudin, Mrs. Brishoual, Brunet, Cayet, Chabaud, Mr. Corne, Mrs. Dussaussois, El Okki, Mr. Etienne, Mrs. Flessel-Colovic, Mr. Geveaux, Mmes Gibault, Gard, Graz, Mr. Hochart, Jouzel, Mrs. de Kerviler, Mr. Le Bris, Mrs. Levauux, Mr. Lucas, Martin, Mrs. Meyer, Mr. Obadia, Mrs. Ricard, Mr. Richard, Mrs. du Roscoät, Mr. Soubie, Urieta.
<i>UNAF GROUP</i>	Mrs. Basset, Mr. Damien, Farriol, Feretti, Fondard, Joyeux, Mrs. L'Hour, Therry, Mr. de Viguerie.
<i>UNSA Group</i>	M Mrs. Dupuis, Mr. Grosset-Brauer, Rougier

Abstaining: 67

<i>Agriculture Group</i>	Mr. Bailhache, Barrau, Bastian, Mrs. Beliard, Bernard, Bonneau, Mr. Clergue, Mrs. Doré, Dutoit, Lambert, Mr. Lefebvre, Lemétayer, Pelhate, Roustan, Mrs. Serres, Sinay.
<i>Craft Industry Group</i>	Mrs. Amoros, Mr. Bressy, Crouzet, Mrs. Foucher, Gaultier, Mr. Griset, Le Lann, Liébus, Martin, Mrs. Sassano.
<i>CFDT TRADE UNION GROUP</i>	Mr. Blanc, Mrs. Briand, Mr. Duchemin, Mrs. Hénon, Mr. Honoré, Mrs. Houbairi, Mr. Le Clézio, Legrain, Mrs. Nathan, Mr. Nau, Mrs. Nicolle, Pichenot, Mr. Quarez.
<i>Enterprise Group</i>	Mr. Bailly, Mrs. Bel, Mrs. Castera, Duhamel, Duprez, Frisch, Ingelaere, Mr. Lebrun, Lejeune, Mariotti, Mongereau, Placet, Pottier, Mmrs. Prévot-Madère, Mr. Ridoret, Roger-Vasselin, Roubaud, Schilansky, Mrs. Tissot-Colle, Vilain.
<i>Qualified Individuals Group</i>	Mr. Gall, Khalfa, Mrs. de Menthon, Mr. Terzian.
<i>Liberal Professions Group</i>	Mr. Capdeville, Gordon-Krief, Noël, Mrs. Riquier-Sauvage.

Annex N° 1: List of Auditioned Persons

In order to inform itself further on the issues, the section heard the views of:

- ✓ **Michel Debout**
Professor of legal medicine
- ✓ **Jean-Claude Delgènes**
Chief executive officer at Technologia
- ✓ **Emmanuelle Barbara**
Lawyer specializing in employment law, associated with August & Debouzy lawyers;
- ✓ **Michel Blatman**
Advisor to the Social Chamber, Court of Cassation;
- ✓ **Hubert Landier**
Company management and organisation consultant
- ✓ **Jean Kaspar**
Cabinet JK Consultant
- ✓ **Charlotte Duda**
Human resource manager at ANDRH
- ✓ **Jean-Denis Combrexelle**
General director at General Directorate of Labour, Ministry of Labour, employment, vocational training and collective bargaining
- ✓ **Stéphane Pimbert**
General director at INRS and Valérie Langevin, head of assistance and counseling
- ✓ **Dominique Martin**
Director of Professional Risk at National Health Insurance Fund for Employees (CNAMTS)
- ✓ **Jean-Pierre Brun**
Professor Chairholder in Management of Health Safety at work (SST), Université Laval - Quebec
- ✓ **Henri Lachmann**
Chairman of the Supervisory Board at Schneider Electric
- ✓ **Christian Larose**
Consultant, former Vice President of the ESEC and former president of the section of work
- ✓ **Hervé Lanouzière**
CEO at ANACT (National Agency for the Improvement of Working Conditions)
- ✓ **Philippe Douillet**
Project manager for the prevention of psychosocial risks at ANACT
- ✓ **Jean-François Verdier**
General Director of Administration and Public Service, accompanied by Nicolas de Saussure, Deputy Director of working conditions;

- ✓ **Amine Khettabi**
Referent of the prevention of psychosocial risks, pole social relations, prevention, safety, Clermont-Ferrand
- ✓ **Eric Sanzalone**
Head office of the organisation of social relations and social policies, Directorate-General for care provision (DGOS)
- ✓ **Véronique Ghadi**
Project manager in service of Development of Certification, High Health Authority (HAS);
- ✓ **Xavier Froissart**
Managing Director with the health and quality of life at work, France Télévision
- ✓ **Stéphane Richard**
CEO at France Télécom-Orange;
- ✓ **Arièle Setbon**
Project manager for the prevention of psychosocial risks at Veolia Transdev;
- ✓ **Jean Auroux**
Former Minister of Labour;
- ✓ **Jocelyne Chabert**
CGT Trade Union Group confederation;
- ✓ **Philippe Maussion**
Confederal Secretary to the CFDT Trade Union Group;
- ✓ **Denis Garnier**
Technical advisor, federation CGT-FO Trade Union Group
- ✓ **Jean-Michel Cerdan**
Confederal Secretary in charge of working conditions, confederation CFTC Trade Union Group
- ✓ **Jean-François Foucard**
National Secretary of metallurgy in charge of employment and vocational training, Confederation CFE-CGC Trade Union Group

Annex N° 2: List of Interviewed Persons¹⁸²

- ✓ **Ackermann Patrick**
Representative of Trade Union South at France Télécom Orange
- ✓ **Bué Nathalie**
Director of mission health at work, MEDEF
- ✓ **Baldek Marilyn**
Associate Director, European Association against violence against women in the workplace (AVFT)
- ✓ **Blanchard Gérard**
Vice-President of the Conference of Presidents of Universities (CPU)
- ✓ **Boulet Jacques**
Architect, expert Cabinet Technologia
- ✓ **Boulte Patrick**
Vice president of Solidarité nouvelle face au chômage (New Solidarity against unemployment) (SNC)
- ✓ **Corman Valérie**
MEDEF
- ✓ **Coutrot Thomas**
Head of department Condition de travail et santé (Working conditions and health), Dares
- ✓ **Clicq Béatrice**
Representative of CGT-FO Trade Union at France Télécom Orange
- ✓ **Cru Damien**
Consultant in organisational approach to safety and health at work (AOSST), associate researcher at the Laboratory of Ergonomics and Epidemiology in Occupational Health (LEST)
- ✓ **Gibon de Philippe**
CEO at Convers télémarketing
- ✓ **Gollac Michel**
Director of the Laboratory of quantitative sociology at the Centre for Research in Economics and Statistics (CREST)
- ✓ **Gristi Jean-Paul**
Representative of CGT Trade Union at France Télécom Orange
- ✓ **Hamy Francis**
Syndication of FE-CGC/UNSA Trade Union at France Télécom Orange
- ✓ **Juza Philippe**
CGT-FO Trade Union at France Télécom Orange
- ✓ **Katz Claude**
Lawyer specialised at labor law, KMB firm
- ✓ **Mahé Véronique**
Doctor national technical adviser to the Agricultural Mutual Assistance (MSA)

¹⁸²List in alphabetical order specifying the functions performed at the moment of contact or interview.

- ✓ **Osvath Jean-Louis**
Labour inspector
- ✓ **Pellet François**
Medical adviser, Department of Social Protection, MEDEF
- ✓ **Pelhâte Gérard**
President of the Caisse centrale de la mutualité sociale agricole (MSA) (Agricultural Mutual Assistance)
- ✓ **Ratier Daniel**
Head of mission ICT, General director of labour
- ✓ **Roche Catherine**
Sales manager, Group Le Moniteur
- ✓ **Salengro Bernard**
Occupational physician national secretary CFE-CGC Trade Union Group, working conditions - disability - occupational health
- ✓ **Servant Dominique**
Psychiatrist and psychotherapist, Fontan Hospital CHU Lille
- ✓ **Tapie Pierre**
President of the Conférence des Grandes Ecoles
- ✓ **Terseur François**
CFDT Trade Union at France Télécom Orange
- ✓ **Vaxevanoglou Xénophon**
Senior lecturer in ergonomics, health and development at the University of Lille 2
- ✓ **Vignon Marc**
Layout artist, graphic designer, web designer, Group Le Moniteur

Annex N° 3: Synthesis ofH on PsychoSocial Risks

- **Session 1 - Wednesday - October 10, 2012: hearing of Professor Michel Debout, professor of legal medicine and Jean-Claude Delgenes, Chief executive officer at Technologia**

Michel Debout introduced the hearing by reminding that only twenty years ago, the Economic and Social Council had published a study on the suicide of which he was the rapporteur. The question of suicide was thus evoked for the first time in an assembly of the Republic and to achieve this, it had been necessary to overcome rather strong reluctances. To understand the difficulty, still current, which we feel in dealing with this extremely grave problem, the witness brought up a brief historical reminder.

The preventive approach, from a preservation or re-creation of social ties, was set up concretely in the 1950s, at first in England thanks to the initiative of minister Chad Varah, creator of the association “Samaritans” the equivalent of which in France is “SOS friendship”. Talking plays a central role in this initiative, based first of all on an offer of a listening ear over the telephone.

Jean-Claude Delgenes, creator of the firm “Technologia” in the 1990s, said he had to work on dozens of suicidal crises in the workplace. During this practical experience, he was confronted with a blatant lack of information on the links between suicide and the various social phenomena. This lack of information is connected to the exceptional seriousness of the phenomenon in our country. France experiences from 220,000 to 240,000 suicide attempts yearly. The INSERM counts 10 500 deaths by suicide, to which it is necessary to add 10% of suicides that look like accidents. Regarding the professional environment, the witness considered that if work remained a creator of social ties, it was probably psychologically less protective than it had been. In this very difficult context, the tools of analysis and follow-up of suicidal phenomena that establish nonetheless an essential prerequisite to effective prevention are very insufficient. This is still a French specificity which motivated “the call of 44”, already supported by a large number of individuals.

- **Session 2 - Wednesday, November 7, 2012: Hearing of Maître Emmanuelle Barbara, a lawyer at Cabinet August & Debouzy**

Master Emmanuelle Barbara stressed beforehand that the legal profession was led to dread a subject that was at first, by nature, within the competencies of psychiatrists and psychologists. She insisted on the fact that this new subject was far from being legally stabilised and that the psychosocial risks (PSR) if they could in fact be described, were not really defined in terms of law.

She underlined that, in the case of psychosocial risks, the legal insecurity with which the employer finds himself confronted in the involvement of his responsibility was much greater, as this category of risks is much more difficult to objectify than physical risks. She specified that the current difficulty lay less in the obligation of mental health risk prevention—the cost of which it was possible to estimated at 3 or 4 % of France’s GDP—than in the way to conceive of this obligation. Countries that for a long time have developed a reflection on psychosocial risks (such as Canada or Belgium) have put in place a simple obligation of safety as means for their prevention.

The witness concluded that the objective then assigned by the law and the jurisprudence did not have any bearing as far as the employer did not legally have any means proportionate to the requirement made of him regarding prevention of the PSR: the employer obviously does not have to know about the private life of his employees any more than he is entitled to ask for the communication of their medical records.

- **Session 3 - Wednesday, November 14, 2012: hearing of Michel Blatman, counsel to the Social Chamber of the Court of Cassation and Hubert Landier, consultant**

Michel Blatman described the contribution of jurisprudence to the acknowledgement of psychosocial risks and to the evolution of health and safety policy at work.

The performance obligation of safety entered in 2002 into the domain of Social Security rulings deemed “asbestos”. From the domain of Social Security, the performance obligation of safety went to the domain of the Employment Law. In 2006, the social chamber extended the application of the performance obligation of safety to bullying. It judged that the employer was kept in such an obligation regarding the protection of the health and the safety of his employees, “particularly in case of bullying” and that the absence of fault on his part could not exempt him from his responsibility. More recent judgments (in 2009 and 2010) have established a relationship between bullying and methods of management and organisation of the company.

The witness noted that the Court of Cassation had developed this jurisprudence by interpreting the French texts in the light of international standards (in particular the Agreement N 187 of the ILO defining the culture of prevention) and European standards (in particular the directive suits of June 12th, 1989 that put the applicable professional principles of risk prevention at the European Union level).

Hubert Landier, management and company’s organisation consultant, indicated at first that he expressed himself on the basis of audits of social climate and psychosocial risks which he led in large and very-large sized companies. He then described the main factors of stress in companies as the absence of possibilities of recourse to management, the insufficiency of relations between colleagues, the lack of a minimal visibility of the future or the difficulty of recourse to staff representatives. The speaker put forward several solutions all pertinent to the dialogue on the workplace.

- **Session 4 - Wednesday, November 21, 2012: Hearing of Jean Kaspar, Cabinet JK consultant and Charlotte Duda, Director of Human Resources at ANDRH**

Jean Kaspar first noted that the report handed in at the end of the mission that was assigned to him by the President of the Post office, was above all the expression of the collective intelligence of the managers, the staff representatives and outside individuals. A first general lesson gained from this mission is that the company can no longer consider itself as independent from today’s society. Its managers have to understand this social environment that influences behaviours and determines the living conditions of employees.

The stake is indeed that of the development of practices of cooperation with a view to overtake conflicts of interest to be able to overcome, in the best conditions, the economic and social challenges with which we are confronted. The evolution of management modes also fundamentally questions the workings of power in companies. In this respect, the speaker expressed his conviction that power can and must be shared up until decision-making, which, on the other hand, cannot be shared. The process that leads up to this decision-making must therefore be pluralistic.

On the basis of this report, the mission defined several priorities such as to rebalance the piloting of the company between big directions and the “corporate”; loosen constraints on staff; develop the social model to better assure the professional future of employees, taking into account in particular the problem of long careers; develop synergies between actors by involving social partners as upstream as possible from the company’s strategic choices.

Charlotte Duda first recalled that the considerable and very fast evolution of the context in which work is carried out today (competitive pressure, “short-termism”, evolution of jobs, change in the scope of companies) justified the interest of HR departments in the question of health in all these aspects. She underlined that the problems and their solutions exceeded the frame of the company and that the structuring of territories with regard to accommodation, transport and public services was an integral part of the question of the health at work. The relations between health at work and public health deserve, with this perspective, to be fundamentally reconsidered. She suggested that awareness is appearing in companies where a number of important initiatives regarding prevention had lately been taken. A Canadian study showed that a dollar spent on the health and the well being of employees could, within 3 - 5 years, bring in between 3.5 and 8 dollars. In these conditions the questions of health at work could establish a real means of action for HR departments and should be more closely associated with the field of the social responsibility of companies (SRC) by the implementation of specific indicators.

In a very concrete way, Mrs Duda recommended, with a goal of the improvement of management, to rethink the initial training of executives and engineers by integrating with it the social subject much more than it is today; to systematically set up indicators and dashboards to better cover the domain of healthcare and social relationships, to be equipped with instruments of analysis of the hardships and of the physical and mental responsibilities of the company’s positions. She also wished for a development of actions in a territorial frame by underlining the relevance of the territorial collective bargaining and by calling for a GEPC on the scale of the employment area.

- **Session N° 5 - Wednesday November 28, 2012: hearing of Jean-Denis Combrexelle, director of labour**

Jean-Denis Combrexelle indicated that the ministry was at first preoccupied with better understanding psychosocial risks. A series of regular surveys (survey on working conditions, SUMER survey, Health survey and professional routes) allow today to report in the same way as physical risks the other aspects of working conditions. The Managing director of labour considered that the PSR should be integrated into an overall question of the improvement of working conditions and of the health of employees. The witness then explained that the outside action of prevention should be centred on the employer, management and the organisation of work as a whole. He considered that the regulations in this particular domain reached their limits very fast. For that reason, the ministry mainly directed its action towards the incitement to negotiate within the company and towards the follow-up of the agreements and action plans arranged with the RIP and the union representatives.

In an emergency context, in connection with the series of work-related suicides in France-telecom, the companies of more than 1000 employees were quickly “targeted” by the services of the Ministry of Employment and the agreements were signed, especially agreements of method. However, Mr. Combrexelle stressed that the realisation of a preliminary diagnosis and the strong involvement of the business manager and the staff representatives always determined the quality of these agreements.

- **Session 6 - Wednesday Decembre5, 2012: hearing of Stéphane Pimbert, General director at INRS accompanied by Valérie Langevin, in charge of assistance and counselling; of Dominique Martin, director of professional risk at Cnamts and Jean-Pierre Brun, professor, University of Laval, Québec**

Stéphane Pimbert presented at first the National institute of research and safety (NIRS), which has a staff of 630 people and 85 million euro budget, supplied by the prevention funds of the branch of occupational accidents and professional diseases of CNAM.

The mission of the NIRS covers four big domains: research; assistance; training of preventers and information through a catalogue of 500 brochures, 3 periodic magazines and a web site. In addition, it is integrated with a European research network on professional risks. At a national level, it is engaged in multiple partnerships, with other preventers such as the Ministry of Employment and NAIWC.

Valérie Langevin then traced the history of the NIRS's work on psychosocial risks and extracted the perspectives and stakes of research and prevention in this domain.

From such research, NIRS develops an approach of prevention at the source, joint and participatory by relying on the network of CARSAT and General social security funds (GSSF). It therefore tries hard to sensitise business managers to the presence of the risk in the workplace and to fight a number of preconceived ideas. The NIRS publications offer methodological tools to employers and preventers. So, two supports have just been made available to screening indicators for the PSR in order to help companies integrate this category of risks into the Unique document of occupational risk assessment (UDRA).

Since the beginning of the 2000s, the NIRS has also developed a training offer for company doctors, prevention agents of the CARSAT, representatives in the CHSWC, prevention engineers of companies.

Dominique Martin reminded that the occurrence of the PSR was low: 700 occupational accidents, 200 declared cases of professional diseases and 50 suicides are connected to the PSR which is few compared to the million occupational accidents and to 50 000 professional diseases recognised in 2011. Nevertheless the branch of occupational hazards of NHIF chose, since 2005 and even more so since 2007, to make psychosocial risks a priority for action. It furthermore noted that the National health insurance fund for salaried workers (NHIF-SW), with the NIRS, had made the choice of primary prevention, with interventions conceived as upstream as possible from the phenomena. All CARSAT staff are now made aware of the issue of the PSR and there is a referent specialised in every fund. The collaboration between the NHIF prevention services and those of the State is also very close on this subject.

Jean-Pierre Brun, tenured professor of the chair in the management of health and safety at work, at the Laval University of Quebec, indicated that Northern Americans had rather retained the concept of "quality of life at work". This approach presents for him the advantage of being more demanding than that of risk, as far as we too often tend to admit the existence of risk only when it already manifested.

The speaker described four components of the "quality of life at work" which are "the well-being" of the individual in a very general sense which includes his personal life; "the well-living" which involves teamwork, cooperation, information exchange, trust; "well-working" and "well-managing".

Finally, he insisted on the importance of professional recognition with regard to the notion of well being at work. There are two forms of recognition: gratitude, which is the

most spontaneous, the most common and the easiest and “integrative recognition” which consists in consulting, in making employees participate in the company’s decisions by requesting and by taking advantage of their experience and their skills.

- **Session 7- Wednesday December 19, 2012: hearing of Henri Lachmann, Chairman of the Supervisory Board at Schneider Electric and Christian Larose, consultant; hearing of Hervé Lanouzière, President at Philippe Douillet, project manager PSR Risks at NAIWC**

Henri Lachmann, nearly 2 years after the handing-in of the report to the Prime Minister, considered that it was advisable to grant very steady attention to the following points: environmental changes of companies: the world and European situation which is more difficult today; the “processisation” of companies which leads to the compliance of the human behaviour with rules and binding procedures; ITCs cannibalise human relationships and their excessive use isolates, even if the individuals are technically connected; the often absolute reverence given to logistics and financials and accounting puts out a reductive impression of the company.

He then insisted on the central place that it is necessary to give collective bargaining. This must not be limited to negotiation only. Its regeneration at every level of the company would establish, in his opinion, a guarantee of competitiveness because the absence of dialogue is at the moment a hindrance to performance. Therefore it seems normal to him that the structures employers participate in, including financially, contribute to the improvement of the conditions of this dialogue.

Christian Larose beforehand noted that the situation had little evolved since the handing-in of the report of 2010. According to him, health and well being in the company cannot be outsourced. It falls first to the head office and the board of directors to handle this question with, of course, the staff representatives. The question does not only concern the HR departments. It is, in fact, a strategic aspect because people constitute the main resource of a company.

There is also a link between organisational change and employee stress. Big fusions, for instance, generally very destabilising, always arise concern. It is thus necessary to allow collaborators to anticipate such changes. The measure of health in a company is furthermore essential because measure incites action. He pleaded that local managers, who were tested severely these past years, see the margins of initiative restored. To conclude, the witness insisted on the direct link between quality collective bargaining and a company’s results. He considered that the limits of individualisation have been widely reached and that the performance of a company had before all else a collective nature.

Hervé Lanouzière and **Philippe Douillet** drew up a panorama of the interventions of NAIWC and the tools which it puts at the disposal of companies to analyze and prevent PSR. The sectorial membership of companies, the constraints peculiar to certain activities often take on the effect of size. For instance, retirement homes where the emotional burden of the work is very high and where the budgetary constraints are very strong today are, in spite of the small size of the establishments, also confronted with psychosocial risks.

Regarding methods of prevention, Mr Lanouzière stressed the importance of company management being able to perceive and interpret the faint signals of unease before major dysfunctions are brought to light. Mr Douillet evoked the support that the NAIWC brought to certain CHSWC so that they open up to the prevention of this type of risk. Finally, the

witness insisted on the necessity of an effort to train staff representatives who today too often have difficulty with very complex organisational questions.

- **Session 8 - Wednesday January 9, 2013: hearing of Jean-François Verdier, General Director of Administration and Public Service; Amine Khettabi, referent of the device for prevention of PSR, Clermont-Ferrand; Eric Sanzalone, head of DGOS office; Véronique Ghadi, project manager at the High Health Authority (HHA).**

Jean-François Verdier, managing director of the administration and the Public service confirmed that psychosocial risks appeared to be a very important stake in human resources management and in collective bargaining in the Public service today. Health and safety at work constitute moreover one of the three axes of reflection presented to labour and management during the conference of last September 4th and a negotiation will soon be opened on this theme with the goal of signing an agreement at the end of 2013.

The recognition of particular difficulties in regards to the protection of the mental health of civil workers is not recent. But several elements peculiar to public services came to place psychosocial risks in the heart of the concerns of the ministry of the Public service: the contact of a large number of agents with the public in often difficult conditions; penalties and night work very wide-spread in the Public service of the State; very strong hourly constraints in the hospitable public service; the driving of the RGPP which generated stress without appropriate human support to compensate for the effects. The speaker concluded his remarks by mentioning the last initiatives taken by the DGAFP in the field of psychosocial risk prevention: a prevention guide will soon be distributed to all services and establishments to promote a common culture of prevention and to favour the coherence of the various initiatives.

Amine Khettabi presented an initiative of PSR prevention developed within the framework of a region with a measure of autonomy, the city of Clermont-Ferrand. The project was introduced beginning in 2005 by the human resources department in direct association with elected representatives. It was about setting up a device of alert and prevention of psychosocial risks to protect the health of agents and promote well being at work with the idea that such an approach was able to guarantee a quality public service.

Eric Sanzalone then expressed himself as representative of general direction of the offer of care (GDOC) of the Ministry of Social Affairs and Health. He first stressed that the identification and prevention of psychosocial risks for his own agents was from now on a central concern of the ministry, in connection with labour and management and persons in charge of establishment.

An action plan was also created within the specialised committee on the question of health, safety and working conditions at the Superior Council of Public Hospital Service. Finally, the GDOC has since 2010 implemented a new generation of Local contracts of improvement of working conditions (LCIWC) and launched in 2012 a national call for projects intended to favour the sharing of experience between establishments and to make known the innovative initiatives in the prevention of PSR.

Véronique Ghadi explained how the certification of health establishments, as it is today overseen by the High authority of health (HAH), could contribute to the prevention of psychosocial risks and to the promotion of quality of life at work. In 2007, the HAS decided to integrate a criteria of quality of working conditions into a new accreditation reference table.

- **Session 9 - Wednesday January 16, 2013: representatives of major companies: Stéphane Richard, CEO at France Télécom-Orange; Xavier Froissart, Managing Director with the health and quality of life at work at France Télévision; Arièle Setbon, project manager Prevention of psychosocial risks, Veolia Transdev.**

Stéphane Richard recalled that he arrived at the head of the company at the height of an internal crisis and that France Telecom-Orange mobilised considerable means to improve the quality of life at work in order to turn a particularly difficult page of its history. The action to restore a good working climate had been taken in three directions: understand the situation; elaborate a strategy plan to give the staff a clear vision of the project as a whole; build a new “social contract”, a copy of which had been distributed to all workers.

Concerning the first point, an assessment had been carried out with the help of a specialised cabinet, drawing from a questionnaire survey given to the 100,000 workers of the group. This first work was extended by the implementation of a social barometer based on a recurring survey with a sample of 4 000 employees. In addition, social indicators were integrated into the calculation of the variable part of remunerations of company leaders.

On the strategic plan, the plan 2011-2015, clearly integrates the objective of humane management of staff. In regards to collective bargaining, important agreements have been passed with syndicate partners: on mobility with the application of a principle to ban forced mobility within the group; on the conciliation between professional life and personal life with an awareness of the ambiguous effects of the ITC; and on the prevention of PSR. A mediation structure had thus been set in place to treat the most complex individual situations, often very painful, that escape the Human Resource services. The company’s occupational health network had been reinforced: it now uses one occupational physician per 1,500 employees, a ratio two times more favourable than the legal obligation.

Xavier Froissart recalled at first that France Télévision had set up a very complete prevention plan starting with an agreement on the prevention of professional risks signed in July, 2010. In the autumn of the same year, a directive of health and life quality of work came into being. The president of the group clearly showed his willingness to progress this file by including the prevention of psychosocial risks among the priorities of the 2012-2015 strategy plans. The 37 CHSWC of the company had been mobilised with the aim of initiating a progress dynamic founded on common dialog and action, with staff representatives closer to the ground level. Finally, a monitoring centre of health at work was created and labour unions were associated with this initiative.

Arièle Setbon indicated that the group Véolia Transdev, confronted with very important financial difficulties, had developed an ambitious PSR prevention policy. Measures of secondary and tertiary prevention were taken (listening units were put in place and stress management workshops were held). A prevention guide was widely distributed in the group. At the same time, formation actions had been organised for upper management, operational framework, and social partners.

- **Session 10 - Wednesday January 30, 2013: hearing of Jean Auroux, Former Minister of Labour; and hearing of five confederal trade union organisations: Jocelyne Chabert, confederation CGT Trade Union; Philippe Maussion, Confederal Secretary CFDT Trade Union; Denis Garnier, technical counsellor, CGT-FO Santé Trade Union; Jean-Michel Cerdan, Confederal Secretary CFTC Trade Union in charge of working conditions and Jean-François Foucard, representing CFE-CGC Trade Union**

Jean Auroux, Former Minister of Labour, opened the debates by giving his vision of the role which institutions representing staff and employees' rights of expression can play in the prevention of professional risks and particularly psychosocial risks. He briefly recalled the genesis of the four major laws of 1982 on the rights of workers. Then, he insisted on the risks involved in the misuse of information and communication technologies, now present everywhere. Associated with a real obsession with figures, with an individualisation of tasks and with creating competition within teams, these technologies can exercise a noxious effect on the work itself, on jobs and the people's professional identity.

More generally, organisational and activity changes seem often insufficiently prepared for both in terms of collective bargaining in companies and in employee training. He indicated that the CHSWC were not adequately involved in the preparation and follow-up of the Unique document of professional risk assessment (UDRA). Awareness raising and training for staff representatives in the new risks are also too often lacking. As for the more and more frequent call to outside experts, it entails a risk of drift: that of substituting itself for the opinion on the work that the employees bring and which constitutes an essential element of psychosocial risk prevention.

The representatives of five associations of labour unions expressed themselves following this presentation.

Jocelyne Chabert speaking for CGT, first stressed the difficulties faced by union activists on the ground in imposing the idea that the vocation of the CHSWC is to intervene upstream of the risks and to avoid limiting itself to the logic of making reparations. She considered, in this respect, that the debate with the employer must not be exclusively centred on employment but should be equally concerned with work and with "well-being at work". Institutions representative of staff and particularly the CHSWC have to be places of expression and dialogue on the reality of work rather than places of expertise. To reach this goal, she considered that a number of evolutions were essential: give the CHSWC the necessary privileges so that it is systematically associated with updating the UDRA; value the function of the staff representatives regarding prevention and communicate on the right to alert which it has in this domain; adapt the warning procedure for grave and imminent danger of psychosocial risks; favour the recognition of these risks by building a chart of occupational disease from the criteria defined by the NIRS; strengthen the impact of the advice of the CHSWC by integrating it into the company's social audit; open up trainings of the CC members, the CHSWC and the DP to allow them to more easily make connections between the matters they have to deal with; Improve the status of the representatives in the CHSWC by aligning their protection and their hours of delegation with those of the CC members.

Philippe Maussion recalled that the question of emancipation of employees at work has for a long time been included in the analysis priorities of the CFTD Trade Union.

Faced with psychosocial risks, put forward by the mediatization of the dramas within France Télécom and within Renault, companies reacted most of the time with individual measures while work organisations are identified as main risk factors.

The witness underlined that a basic principle regarding the obligation of prevention—that is, the adaptation of work to the man and not the opposite—was not applied in the case of psychosocial risks. In this case, we consider on the contrary that there is no other choice for employees than to adapt themselves to outside constraints and to the internal constraints that ensue from them.

He pleaded for a global approach of prevention, centred on the issue of working conditions. From this perspective, it is a question of renovating the organisation of the collective bargaining between employers and staff representatives by favouring joint intervention opened up to all the RIP (CC, DP, CHSWC).

In conformance with concrete proposals, he indicated that his organisation was particularly in favour of the encouragement of the right of employee expression and the facilitation of recognition procedures and repair of the RPS in order to give companies financial incentive to invest in prevention.

Denis Garnier, speaking for Force ouvrière, first noted that psychosocial risks had become a market and that approximately 50% of the credits paid in the name of their prevention were absorbed by consultants and training institutions. He considered that we had gone much too far too far in the direction of expertise.

Besides, the notion of psychosocial risks is unreliable. It is partly about psychic risks (emotional wounds, psychic trauma), but also about physical risks, which the expression does not take into account. The witness prefers, for his part, to speak about "traumas of work organisations" because it is the latter that are involved in the immense majority of the cases.

He briefly described the process that would have highlighted the deadly dimension of work organisations: in the context of globalisation, the company very often becomes a speculative tool so much so that the employer is today difficult to identify as such. The witness then noted the relative ineffectiveness of prevention. If the law associates the employer and the CHSWC, the effects of this preventive approach are insufficient, in his opinion, as far as the traumas of work and their consequences are too rarely condemned. A lever of action of a financial nature should be set up to bring companies to act positively on their work organisations. Collective bargaining is obviously an essential means and it is imperative to strengthen the rights of employees and their representatives in this area. The unique evaluation document can constitute a valuable tool of this dialogue but the obligation to establish it is very variably respected. The latest figures of, for instance, the territorial public service, are completely alarming because only 23 % of communities were equipped with UDRA.

Jean-Michel Cerdan, speaking for CFTC, stressed that management by project and the work organisations associated with it caused considerable human damages and the use of ITC often amplified employee isolation. He added that the RIP was today too often reduced to simple offices for recording leaders' decisions but that the negotiation which will open up on quality of life at work could be an opportunity to change our social model.

The witness then presented the main proposals of his organisation: make compulsory the coproduction of the UDRA between the employer and the CHSWC; strengthen the legitimacy and the means of CHSWC; watch that the CHSWC are established as closely as possible to the ground in companies and in the Public service; favour the exercise of the right of expression in teams and workshops; bring in the NAIWC for the implementation of the right of expression; favour the elaboration of best practice charters to regulate the use of TIC.

Jean-François Foucard, speaking for the CFE-CGC, regretted that the CHSWC are frequently incapable of fulfilling their role. Their consultation on a project susceptible to affecting working conditions and employee health often intervenes very late and the only means of action to which staff representatives then have recourse is to brandish the threat of the expertise to delay the application of the project. The fact that there is no CHSWC where it

should be is an even more serious issue. About 5 million SME employees are not covered by this RIP. Finally, the members of CHSWC are most of the time insufficiently trained to face the complex missions which fall to them (advisory role in prevention, analysis of work accidents, triggering the right to withdrawal)

The witness presented secondly its main axes of reflection and proposal: a financial resource dedicated to the CHSWC; a declination of the institution by sites and by zones to allow for a better coverage of small companies and a coordination of the various CHSWC on the same set-up; a clarification of the RIP attributes to avoid redundancy and too great a diversity of practices; the extension of the mandate of the representatives in the CHSWC from two to four years; a conditioning of the access to procurement contracts by respecting obligations on the functioning of the CHSWC; as regards to the organisations of the work, a return to a more collective conception of performance and its evaluation.

Annex N° 4: PSR Evaluation Grid

Group of PSR factors	Intensity level of risk factors			
	Not concerned 	Weak 	Moderate 	High 
Intensity and complexity of the work				
1 – Constraints of working patterns				
2 – Level of accuracy of work objectives				
3 – Appropriateness of the objectives with the resources and responsibilities				
4 – Compatibility between work instructions				
5 – Managing multi-skills				
6 – Interruption in work				
7 – Attention and vigilance at work				
Difficult working hours				
8 – Weekly working time				
9 – Atypical working hours				
10 – Extension of availability outside of working hours				
11 – Predictable working hours and anticipation of changes				
12 – Reconciling professional and personal life				
Emotional demands				
13 – Tensions with the public				
14 – Confrontation with the suffering of others				
15 – Emotional control				
Low autonomy at work				
16 – Autonomy in completing tasks				
17 – Temporal autonomy				
18 – Use and development of skills				
Social relations at work deteriorated				
19 – Support from colleagues				
20 – Support from the hierarchical superiors				
21 – Internal workplace violence				
22 – Recognition at work				
Conflict of values				
23 – Prevented quality				
24 – Useless work				
Employment and work insecurity				
25 – Social and economic insecurity (employment, salary, career...)				
26 – Conducting of change within a company				

Source: NIRS, 2013.

Annex N° 5: Legal Framework of Occupational Health

➤ The concept of psychosocial risks

- **Definitions**

According to the definition given by the Ministry of Employment, the psychosocial risks *“cover in reality occupational hazards of various origin and nature, which involve the physical integrity and the mental health of employees and have, consequently, an impact on the smooth running of companies. They are called “psychosocial” because they are at the interface of the individual: “psychology”, and of his working situation: the contact with the others (supervision, colleagues, customers), that is the social environment”.*

The report of the Panel of Expertise on the follow-up of psychosocial risks at work (2011) considers *“that what makes a risk for the health at work is psychosocial, it is not its demonstration, but its origin: the psychosocial risks will be defined as the risks to mental, physical and social health, engendered by conditions of employment and organisational and relational factors susceptible to interact with mental functioning.”*

The interprofessional national agreement of July 2nd, 2008 on stress at work considers that *“a state of stress arises when there is an imbalance between the perception that a person has about the constraints imposed on them by their environment and the perception they have of their own resources to face them. The individual is capable of managing pressure in the short-term but experiences great difficulty facing prolonged or repeated exposure to intense pressures. Moreover, different individuals can react in a different ways to similar situations and the same individual can, at various moments of his life, react differently to similar situations. Stress is not a disease but a prolonged exposure to stress can reduce efficiency at work and can cause health problems”.*

- **Mental Health in the Labour Code**

There are few specific provisions of the Labour code dedicated to the mental or psychological health of employees. However, article L.4121-1 of the Labour Code states that the employer must *“protect the physical and mental health of workers”.*

Also, article L. 4622-1 specifies that occupational health service lead the actions of health at work, *“with the aim of protecting the physical and mental health of workers throughout their career.”*

Furthermore, law N 2002-73 of January 17th, 2002 of social modernisation included bullying in the Labour code by introducing the principle that *“No employee should be subject to repeated actions of bullying which have as goal or effect a degradation of his working conditions likely to undermine his rights and his dignity, to alter his physical or mental health or to compromise his professional future”* (article L. 1152-1 of Labour Code). The Court of Cassation, in a ruling of June 21st, 2006, recalled that it was a matter of the performance obligation of safety and *“that the absence of fault \ (of the employer) cannot exempt him from his responsibility”*.¹⁸³ Today, the measures in the Labour Code concerning bullying constitute a legal tool that is essential to taking psychosocial risks into account

183 Cass. Soc. June 21, 2006, Balaguer, N° 05-43.914.

✚ International and European instruments relating to prevention

Under the influence of international and European instruments, a culture of prevention at work tends to develop in France.

- **The ILO Conventions**

The ILO defends a “culture of prevention” in its agreement N 187 and proposes an approach to achieve it in agreement N 155 on the safety and the health of workers of June 22nd, 1981.

The Agreement of the ILO N 187 indeed states that *“The expression culture of national prevention regarding safety and health indicates a culture where the right to a safe and healthy work environment is respected at every level, where the government, employers and workers strive actively to assure a safe and healthy work environment by means of a system of defined rights, responsibilities and obligations and where the principle of prevention is accorded the highest priority.”*

- **Community law**

It is appropriate to quote the Charter of fundamental rights of the EU of December 12th, 2007 in particular article 37 concerning “fair and equitable working conditions.” Above all, the directive CC 89/391 of June 12th, 1989 aims at promoting the improvement of the safety and health of workers at work.

- **The involvement of social partners at the European level**

Within the framework of the European policy of collective bargaining, European labour and management partners have the possibility of signing framework agreements that are then transposed to the national level. In the area of psychosocial risks, two agreements of this type were created, one on stress at work in 2004, the other on bullying and violence at work in 2007.

The transposition of these agreements is the opportunity, for French labour and management, to seize these problems and sometimes go farther than the measures planned on the European scale. Labour unions and employers therefore reached an agreement on stress at work on July 2nd, 2008 and an agreement on bullying and violence at work on March 26th, 2010.

✚ The legal obligations of the employer relating to health at work

- **General provisions relating to health and safety at work**

Article L. 4121-1 of the Labour code reminds that *“The employer takes the necessary measures to ensure the safety and protect the physical and mental health of workers”* and foresees that these measures include:

- *“Prevention initiatives for occupational hazards and hardships at work”*: each company has the obligation to realise an evaluation *a priori* of the risks to the health and the safety of workers (article L. 4121-1 of the Labour code) and the results of

this evaluation must be recorded in the unique document of occupational risk assessment¹⁸⁴;

- “*Actions of information and training*”: the employer has to give employees information about the risks incurred to their health and safety and the measures taken to remedy them (article L. 4141-1 of the Labour code) on one hand, and to organise practical and appropriate training on safety to benefit his employees (article L. 4141-2) on the other hand;
- “*The implementation of an organisation and adapted means*”: when they entrust tasks to a worker, the employer considers the capacities of the concerned in order to implement the necessary health and safety precautions, considering the nature of the activities of the establishment (article L. 4121-4 of the Labour code).

- **The nine principles of prevention (article L. 4121-2)**

The employer implements the envisaged measures of article L. 4121-1 on the basis of the following general principles of prevention:

Frame 8: The nine principles of prevention

- 1 - Avoid risks;
- 2 - Assess risks that cannot be avoided;
- 3 - Combat the risks at the source;
- 4 - Adapt work to the individual, especially in regards to the design of work stations as well as the choice of work equipment and working and production methods, with a view, in particular, to alleviating monotonous work and work at a predetermined work-rate and to reduce the effects of these on health;
- 5 - Keep in mind the state of technological development;
- 6 - Replace that which is dangerous with the non-dangerous or the less dangerous;
- 7 - Plan prevention by integrating it, in a coherent group, with technique, work organisation, working conditions, social relationships and the influence of social environment factors, in particular the risks bound to moral bullying and to sexual harassment, such as they are defined in articles L. 1152-1 and L. 1153-1;
- 8 - Take measures of collective protection by giving them priority over measures of individual protection;
- 9 - Give appropriate instructions to workers.

- **The obligation to assess risks (Article L. 4121-3)**

In the extension of the article L. 4121-1 of the Labour Code, article L. 4121-3 requires the employer to assess risks to the health and safety of workers. The results of this evaluation are then copied into a single document, addressed in article R. 4121-1. On the basis of this evaluation, the employer must implement prevention measures and work and production methods that guarantee a better level of health and safety protection.

¹⁸⁴ Decree N 2001-1016 of November 5th, 2001 about the creation of a document concerning risk assessment for the health and safety of workers, planned by article L. 230-2 of the Labour code and modifying the Labour code.

- **Traceability requirement of occupational risks (article L. 4121-3-1)**

Within the framework of considering the hardships of careers, law N 2010-1330 of November 9th, 2010 on pension reform planned the creation of an information document about the exposure to professional risk factors, inserted in article L. 4121-3-1 of the Labour code. The objective of the implementation of such a document is to strengthen the traceability of individuals' exposure to occupational hazards.

For every worker exposed to one or more professional risk factors determined by decree and bound to marked physical constraints, to an aggressive physical environment or to certain working rhythms susceptible to leaving recognisable, irreversible and lasting effects on his health, the employer records in a form, according to methods determined by decree, adverse conditions to which the worker is exposed, the period during which this exposure occurred as well as the prevention measures implemented by the employer to remove or reduce these factors during this period. This individual record is established in line with the risk assessment provided for in article L. 4121-3. It is communicated to the occupational health service, which transmits it to an occupational therapist. It specifies in a visible and clear way the right for every employee to ask for the rectification of the information contained in this document.

Frame 9: The collective traceability of professional risks.

Furthermore, a number of documents assure collective traceability:

- Workstation notices (article R. 4412-39 of the Labour code) established by the employer for every workstation exposed to dangerous chemical agents;
- The file of occupational hazards (article 15-1 of the modified decree May 28th, 1982), established by the occupational physicians and in which the prevention assistant participates (see file related to preventive medicine;
- the unique document of risk assessment (article R. 4121-1 of Labour Code);
- the risks prevention plan (article R. 4512-6 of Labour Code) which defines preventive measures.

- **Layout of work areas (article L. 4221-1)**

Establishments and work areas are laid out in such a way that their use guarantees the safety of workers. They are kept clean at all times, and present appropriate hygienic and health conditions to ensure good health of all concerned parties.

👉 The rights and obligations of workers in terms of health at work

- **Rights of alert and withdrawal**

The worker immediately alerts the employer of any working situation for which there is a just cause to believe that it presents a grave and imminent danger to his life or his health as well as of any defect he notices in the protection systems. They can withdraw from this situation.

The employer cannot ask the worker who made use of his right to withdraw to resume his activity in a work situation in which there persists a grave and imminent danger resulting in particular from a defect in the protection system.

The staff representative to the Committee for health, safety and working conditions, who notices that there is a cause of grave and imminent danger, in particular through the intermediary of a worker, immediately alerts the employer in accordance with the procedure laid out in the first paragraph of article L. 4132-2.

- **Workers' obligations**

According to the instructions which are given to them by the employer, in the conditions laid out in the internal rules for companies anxious to develop them, it falls to every worker to take care, according to their training and their abilities, of their own health and their safety as well as those of the other people affected by their acts or their omissions at work. Article L. 4122-1 of the Labour Code specifies that these provisions are without effect on the principle of the employer's liability.

The instructions of the employer specify, in particular when the nature of the risks justifies it, the conditions of use of working equipment, the means of protection, and the dangerous substances and preparations. They are adapted to the nature of the tasks to be carried out.

According to article L. 4122-2 of the Labour code, the measures taken regarding health and safety at work have to put no financial burden on the workers.

👉 **The new performance obligation of safety in social law**

The judge charges employers with a performance obligation of safety regarding Health and Safety at work.

- **From transport law to social security law (2002)**

The notion of a "performance obligation of safety" was applied at first to XX century in transport law, before being repeated in accountability law, in particular in medical matters. It was introduced into the field of Social Security law with the "asbestos" rulings. Indeed, the Court of Cassation, in several rulings of February 28th, 2002 ("asbestos" rulings), considered that the employer's safety obligation was a performance obligation, the negligence of which constituted an "unforgivable fault".

The realisation of this fault allows the employee victim of an occupational accident or an occupational disease to benefit from a regime more favourable than the fixed services planned by the Code of the Social Security. It is defined as follows: *"The negligence of the employer in their performance obligation of safety, in particular in regard to the professional diseases contracted by the employee because of products made or used by the company, has the character of an unforgivable fault when the employer was or should have been conscious of the danger to which the employee was exposed and that he did not take the necessary measures to protect the employee from it."* (Soc In February 28th, 2002, Eternit industry company, N 99-21255, bull.civ. V, N 81).

In the case of asbestos, the employers were therefore blamed for using this material in their companies while they had or should have been conscious of the asbestos-related danger, and while they had not taken the necessary measures to protect the employees from it. It is a matter of logic of improved compensation for victims of occupational disease, containing the seed of logic of prevention.

- **The introduction in Labour Law (2005)**

From social security law, the notion of the performance obligation of safety was transposed, and then, into labour law, thereby increasing the obligations weighing on the employer regarding the protection of employee health and safety. The performance obligation of safety entered labour law first in the field of individual working relations (2005), before engaging with the area of collective relations.

In the ruling on Acme protection of June 29th, 2005 (N° 03-44412), the Court of Cassation decided that the employer was *“held by a performance obligation of safety towards their employees in regard to their protection from smoking in the company.”* This decision, which created a legal risk for the employer, proceeded from logic of prevention and protection. It had a big impact and certainly contributed to the elaboration of the law prohibiting the use of tobacco within the company. In this case, the negligence of the employer of his performance obligation of safety and of the rules then in force regarding the protection of non-smokers was judged as warranting the action taken by the employee to break his employment contract due to the fault of the employer.

- **The requirement of effectiveness of the performance obligation of safety (2006)**

What meaning must be given to this notion of a “performance obligation”? Principally, the performance obligation is contrasted by methodical obligation. But one cannot reasonably demand of an employer that all his employees be, at that moment, in a perfect state of physical or mental health, this being only partially connected to their working conditions. One must note in this obligation a principal of action, as suggested by the article L. 4121-1, guided by a need for “efficiency”. In this respect, the ruling of February 28th, 2006 (N 05-41555, bull.civ. 2006, V, N 87) given regarding visit of resumption of work, expressed that *“the employer, held by an obligation of safety, has to assure effectiveness”*. This requirement of effectiveness was recalled by a decision of September 20th, 2006 (Counter of yeasts, N 05-42925) blaming the employer of having delayed following the recommendations of the company doctor, thereby putting the health of the employee in danger.

Another way for the Court of Cassation to ensure the effectiveness of the right to health lies in an interpretation in compliance with community law. Therefore, the precision according to which the measures of the Labour code must be interpreted *“In light of the directive EEC N 89-391 of June 12th, 1989 to promote the improvement of the safety and health of workers at work”* figures almost systematically in its rulings.

👉 **Evolution of social jurisprudence: application to individual working relations**

The legal interpretations of the obligation of health at work in general, and the notion of psychosocial risks in particular, contribute to reinforce the obligations of the employer in the organisation of the company, but also to the other agents of prevention.

- **The obligation to submit to mandatory medical examinations**

Thus, the social Chamber considers that the fact of the employer not proceeding with the medical examination at the time of hiring characterises negligence on the part of the employer in his performance obligation of safety. The position of the judge is the same in the hypothesis where the employer omits to proceed with similar compulsory annual visits, intended to ensure the safety of workers and to protect their health.

- **The obligation to reclassify unfit employees**

The failure to respect the right to health has an impact on the breach of the employment contract. The courts holds the absence of real and serious cause of dismissal when it is announced following an inaptitude due to the absence of prevention measures taken by the employer¹⁸⁵ or when physical inaptitude results from the incorrect actions of the employer¹⁸⁶.

- **The cancelation of some employer decisions**

Violation of the performance obligation of safety can be evoked to support of the cancelation of certain employer decisions regarding a disciplinary measure or dismissal. This happens when the employee is laid off while, in a situation of danger, he legally exercised his right of withdrawal¹⁸⁷.

The failure of the employer to respect his obligations in regard to health at work can justify in certain cases the act of severance of an employee who is the victim of such or the judicial termination of the contract due to the fault of the employer¹⁸⁸.

- **The follow-up of the recommendations of the company doctor**

In a ruling of 2006, the Court of Cassation considered that an employer had violated the performance obligation of safety in consideration of the fact that he had *“had delayed following the recommendations of the company doctor, thereby putting the health of the employee in danger”*¹⁸⁹.

Similarly, the employer, held by the performance obligation of safety regarding protection of the health and safety of workers, has to insure effectiveness by considering the proposals of individual measures formulated by the company doctor. (Soc. December 19, 2007, N° 06-43918).

- **The extension of the OSR to bullying (2006)**

The application of the performance obligation of safety then extended to bullying (soc. In June 21st, 2006, appeal N 05-43914, Bull. 2006, V, N 223). Thus, the social Chamber overturned the ruling of a Court of Appeal, which was to decide that the employer was not responsible for the bullying of which their employees had been victims, that they had committed no fault. Indeed, it states, *“the employer holds towards his employees a performance obligation of safety regarding the protection of the health and safety of workers in the company, in particular regarding bullying and that the absence of fault on the employer’s part cannot exempt him from his responsibility.”* If the employer is held by a performance obligation of safety regarding bullying, the employee harasser has to, for his part, answer personally for their fault towards the victim.

- **The acknowledgement of psychological consequences**

The employer’s liability can be involved in the case that he took measures that had the effect of compromising the psychological health of an employee. Therefore, *“since it has been revealed that the employer has not ensured, between 1999 and 2001, to enforce annual compulsory medical examinations, the Court of Appeal found, on one hand, that they had placed the employee, presenting visible signs of anxio-depressive decompensation, in a difficult situation by asking to him to perform, in addition to his tasks and in a tense social climate, the*

¹⁸⁵ Cass. Soc. December 2, 2009.

¹⁸⁶ Cass. Soc. December 13, 2007.

¹⁸⁷ Cass. Soc. January 28, 2009.

¹⁸⁸ Cass. Soc. February 21, 2007.

¹⁸⁹ Cass. Soc. September 20, 2006, Sté Comptoir des levures.

degraded accounting of another association with suspicions of embezzlement and that what resulted from this was a professional anxiety increased by disturbances” (soc. In June 24th, 2009, appeal N 07-41.911, 08-41.050).

- **The assessment of evidence**

The assessment of evidence is more favourable when the employee invokes a non-observance of the rules of prevention. Therefore, regarding reclassification, the employee declared unfit by the company doctor and who sees the breach of his work contract as the fault of the employer for failure to respect his obligation of reclassification, does not have to show proof of the employer’s negligence of their performance obligations (soc. In October 14th, 2009, appeal N 08-42878, bull.civ. 2009, V, N 221). Similarly, the employee who falls victim to an occupational accident or an occupational disease who takes the breach of the employment contract as due to a non-observance of the rules of prevention and safety, does not have to prove that the employer did not take all the necessary measures to ensure in an effective way the safety and health of the workers (soc. In January 12th, 2011, appeal N 09-70838).

- **Evolution of social jurisprudence: application to collective working relations I**

The evolution of jurisprudence tends to limit the exercise of the employer’s management power in the field of the collective organisation of work. In effect, jurisprudence ensures that the organisation of work or methods of staff management do not put the health or safety of employees in danger nor strike a blow to their dignity. It depends however either on very general textual foundations (the obligation to take the necessary measures to protect the health and safety of employees), or on measures that had not been originally intended for this purpose (ban on bullying).

- **The judicial suspension of a dangerous organisation of work (ruling Snecma on 2008)**

The performance obligation of safety can lead the judge to pronounce on the collective organisation of the company. In a ruling of March 5th, 2008, the Court of Cassation admitted that the employer’s power of management can be limited by his obligations regarding the performance obligation of safety, by considering that these forbid him *“in the exercise of their power of management, to take measures which would have as goal or effect the compromising of the health and safety of employees”*¹⁹⁰.

In this affair, the employer had intended to set up a new organisation of the work of maintenance and supervision. He informed and consulted the CHSWC who, after having appointed an expert, had expressed a negative opinion. The committee of the establishment also opposed this project. The employer had decided to disregard these opinions and had informed the staff of the new organisation. The high court had then been notified so that the memorandum establishing the new organisation be cancelled and so that it become the responsibility of the employer to implement it.

- **The link between certain management methods and bullying(2009)**

By a decision of November 10th, 2009, the Court established an explicit link between the organisation of work, psychosocial risks and bullying by considering that *“management methods implemented by a hierarchical superior can constitute bullying in as much as they manifest for a specific employee in repeated actions that have as their goal or effect a degradation*

¹⁹⁰ Cass. soc. March 5, 2008, Snecma company, N° 06-45.888.

*of working conditions susceptible to undermine his rights and his dignity, to alter his physical or mental health or to compromise his professional future*¹⁹¹.

Generally speaking, jurisprudence tends to define in an extensive way the notion of bullying, by taking into account a wide range of behaviour that establish either the cause (physical or moral violence, certain management methods), or the consequences for employees (stress, nervous breakdown, moral distress and anxiety bound to the loss of the professional ties).

- **The performance obligation of safety and methods of management**

The obligations of the employer concern also certain aspects of the execution of the work contract such as the method of payment or certain methods of management.

For example, the Court of Cassation censors certain clauses deemed “of remuneration” such as productivity bonuses by kilometre, as far as they may create security risks to employees or to third parties¹⁹². Also, the judgement of the TGI of Lyon of September, 2012 orders a banking body of the south Rhône-Alpes to end its organisation of work based on *benchmarking*, consisting of a permanent evaluation of employees and agencies according to the other agencies.

- **The performance obligation of safety and subcontractor companies**

It is the case of employees of a subcontracting company, as the employer must inquire of the third company the risks incurred considering products made etc. The obligation to take prevention measures is also extended to both companies which manage a temporary worker: company user and temporary work company (Soc. October 11, 2006, N° 04-48314, bull.civ. 2006, V, N° 301).

- **The legal suspension of a project of yearly employee review**

In a ruling of 2007, the Court of Cassation admitted the possibility, for the work council, of consulting the CHSWC about an employer project regarding the yearly reviews of employees and, for the judge, of suspending the implementation of the project while waiting for this consultation. Because of their modalities and of their stakes, these reviews could *“have an impact on the behaviour of employees, their career development and their remuneration”* and could *“generate psychological pressure leading to repercussions on working conditions”*¹⁹³.

- **The protection of the power of expertise of the CHSWC**

In a ruling of 2010, the Court of Cassation validated a measure of expertise ordered by a CHSWC of France Télécom: *“Given that it has been found that the grave risk to employee health was also demonstrated by the annual report of the company doctor which had observed a tangible increase in spontaneous employee consultations regarding disturbed psychological states, besides demonstrations of moral distress and anxiety bound to the loss of professional bearings, the Court of Appeal has therefore, in light of these findings and without incurring grievances along the way, legally justified its decision.”* (Soc. October 26, 2010, appeal N° 09-12.922).

A jurisprudence of the Court of Cassation of July 4th, 2012 (appeal N 11-19678) specifies interactions between the company committee (CC) and the Committee for health, safety and

¹⁹¹ Cass. soc. November 10, 2009, Association Salon Vacances Loisirs against Marquis, N° 07-45.321.

¹⁹² Cass. soc. November 13, 2003.

¹⁹³ Soc. November 28, 2007, Association pour la gestion du groupe Mornay Europe (AGME)/c/CHSWC, appeal N° 06-21.964, Bulletin 2007, V, N° 201.

working conditions (CHSWC) in the consultation procedures of both authorities. Supported by article L. 2323-27 of the Labour code, the social Chamber of the Court of Cassation considers that the CC is entitled, since its opinion is requested on the general problems concerning working conditions, to regularly require the opinion of the CHSWC, contrary to what was determined by the Court of Appeal of Poitiers. In fact, the later had declared as unacceptable the request of the CC seeking the suspension of the implementation of a reorganisation project, as it did not have the assent of the CHSWC.

👉 **The acknowledgment of psychosocial risks and the compensation of the victims.**

- **Acknowledging psychological diseases as occupational diseases.**

The modalities of recognition of an occupational disease laid out in article L. 461-1 of the Social Security Code leaves little room for the psychological element where it concerns diseases of “presumed professional origin” designated in a chart or those designated as such by the complimentary system of recognition of occupational diseases. Today there is no index of medical illnesses allowing the acknowledgement of the pathologies inherent in psychosocial risks.

For its part, the European Commission did not consider it fitting to include psychological abuse in European list of professional diseases¹⁹⁴.

- **The evolution of jurisprudence on the qualification of suicides as occupational accidents**

The progress of jurisprudential allows today for psychological traumas to be considered as work accidents. After having required an isolated event, the Court of Cassation admits today that an occupational accident constitutes “an event or a series of events occurring on certain dates which resulted in physical injuries”¹⁹⁵.

A ruling of February 22 2002 marks an important jurisprudential development as the French Supreme Court recognised that the suicide of an employee who is on sick leave could be considered as a work accident, by asserting that an “accident which happens at a moment where an employee is no longer under the subordination of the employer constitutes a work accident when the employee establishes that it resulted from the workplace”.

The suicide attempt of the employee in their place of residence can be considered as an occupational accident in as much as it arose “due to the fact” of the work (Civ. 2nd In February 22nd, 2007, appeal N 05-13771, Bull.civ II, N 54).

Recently, the court of Social Security of Yvelines¹⁹⁶, in a ruling of March 9th, 2010, considered that the suicide of an employee, occurring due to stress at work, established an occupational accident, the cause of this accident being work overload and the degradation of working conditions.

- **The extension of the field of the unforgivable fault in the PSR**

When the unforgivable fault of the employer is recognised, the employee can obtain, in addition to the fixed compensation regarding occupational accident and professional diseases, an increase of their pension and additional compensations.

¹⁹⁴ The recommendation of the Commission of September 19th, 2003 concerning the European list of professional diseases (Journal of the European Union, N L. 238 of September 25th, 2003).

¹⁹⁵ Cass. soc. April 2, 2003, N° 00-21.768.

¹⁹⁶ Social security court, Yvelines, March 9, 2010, N° 07-01555.

The unforgivable fault of the employer is defined as a negligence of the employer in his performance obligation of safety while he was or should have been conscious of the danger to which the employee was exposed and while he did not take the necessary measures to protect him from it. A suicide attempt, even suicide itself, and a heart attack connected to an excess of stress at work can enter into this definition.

Thus, in a case where the psychological balance of the concerned had been seriously compromised following the continuous degradation of labour relations and following the behaviour of the employer, the Court therefore considered that this *“characterised the awareness of the danger and the absence of the necessary measures to protect the employee from it”*. (Civ. 2nd, in February 22nd, 2007, appeal N 05-13771, Bull.civ II, N 54).

Also, in a ruling of 2007, the Court of Cassation judged that bullying can, if it constitutes negligence on the part of the employer of his performance obligation of safety, be analysed as an unforgivable fault opening up a right to the compensations provided for by this plan¹⁹⁷.

Furthermore, the Social Security court of Nanterre in a ruling of December 17th, 2009 recognised, indeed, Renault’s unforgivable fault of because of the suicide of an employee. The court considered that the company should have been aware of the risk to which the employee was exposed because of their professional activity and that they had not taken the measures that were imperative to protect him, by looking for solutions in terms of professional mobility or delegation of competence towards occupational medicine.

Finally, a Court decision recalls that an employer cannot ignore or avoid the medical data regarding stress at work and its consequences for the employees who are its victims (Cass. civ. 2, appeal N° 11-23.855). In this matter, the judge holds that the increase of the employee’s workload was obvious over the years preceding the employee’s heart attack and that the employer did not take practical measure of the consequences of their objective of cost cutting in terms of risk factors for the health of their employees and specifically of the victim, whose hierarchical position put him in an difficult situation to oppose to it. The judge reminds that the obligation of safety weighing on the employer *“can only be general and as a consequence cannot exclude the case, not uncommon, of a reaction to the pressure felt by the employee.”*

¹⁹⁷Cass. civ. 22 février 2007.

Annex N° 6: Stakeholders of the Prevention

The missions of CHSWC (articles L. 4612-1 and s.)

Functions

According to article L. 4612-1, the Committee for health, safety and working conditions has for its mission:

- To contribute to the protection of the physical and mental health and the safety of workers of the establishment and put in its service by an outside company;
- To contribute to the improvement of working conditions, in particular to facilitate the access of women to all jobs and to respond to the problems connected to maternity;
- To ensure the adherence to legal requirements in these matters.

The Committee for health, safety and working conditions proceeds to the analysis of occupational hazards to which the establishment's workers could be exposed as well as to the analysis of working conditions. It also proceeds to the analysis of occupational hazards to which pregnant women could be exposed. It proceeds to the analysis of the exposure of employees to adverse conditions.

The Committee for health, safety and working conditions contributes to the promotion of the prevention of professional risks in the establishment and encourages any initiative that it considers useful in this perspective. It can propose in particular prevention initiatives of moral and sexual harassment. The refusal of the employer is reasonable.

The Committee for health, safety and working conditions and performs inquiries regarding occupational accidents or regarding professional diseases or diseases of a professional nature.

Annual report and programmes (articles L. 4612-16 and f.)

At least once a year, the employer has to present to the Committee for health, safety and working conditions a written report making an assessment of the general situation of health, of safety and working conditions in its establishment and of the actions carried out during the past year and a programme of prevention of professional risks and of improvement of working conditions.

The Committee for health, safety and working conditions expresses an opinion on the report and on the annual prevention programme. It can propose an order of priority and the adoption of additional measures. When some of the measures planned by the employer or requested by the committee were not taken during the year concerned by the programme, the employer expresses the motives for this non-fulfilment, in an annexe to the annual report. The employer transmits the annual report the annual report and the programme to the works council for informative purposes, accompanied by the opinion of the Committee for health, safety and working conditions.

Occupational health service at work (articles L. 4622-1 and following ones)

The essential role given to the employer regarding prevention does not have to obscure that which belongs to the other agents of prevention, CHSWC and the company doctor whose recommendations the employer has to follow in a general way.

Principles and missions

Occupational health service have for an exclusive mission to avoid any alteration of workers' health due to their work. To this end, they:

- Lead the actions of health at work, with the aim of protecting the physical and mental health of workers throughout their career;
- Advise employers, workers and their representatives on provisions and measures necessary to avoid or decrease occupational hazards, improve working conditions, to prevent the consumption of alcohol and drugs in the workplace, to prevent sexual or bullying, to prevent or to reduce hardships at work and professional exclusion and to contribute to keeping workers employed;
- Ensure surveillance of workers' health according to the risks concerning their safety and their health at work, to work hardships and to their age;
- Participate in follow-up and contribute to the traceability of occupational exposures and to health monitoring.

The role of the company doctor is exclusively preventive. It consists in avoiding any change of the health of the workers because of their work, in particular by monitoring their conditions of hygiene at work, the risks of contagion and their state of health.

The actions

The company doctor is authorised to propose individual measures such as transfers or changes of positions, justified by relative considerations in particular the age, physical resistance or the physical and mental health of workers. The employer has to consider these proposals and, in the case of refusal, to make known the motives which oppose the follow-up. In the case of a difficulty or of disagreement, the employer or the employee can take recourse before the health and safety inspector. The latter makes his decision after the opinion of the medical inspector of work.

The medical record of health at work

A medical record of health at work, established by the company doctor, traces with respect for medical confidentiality the information relative to the health of the worker, to the exposures to which he was submitted as well as to the opinions and proposals of the company doctor, in particular those which were formulated in application of article L. 4624-1. This file can only be communicated to the doctor of their choice, at the request of the concerned. In the case of a risk to public health or in their request, the company doctor transmits it to the medical inspector of work. This file can be communicated to another company doctor in the continuity of coverage, except if the worker refuses. The worker, or in the event of his death any person authorised by articles L. 1110-4 and L. 1111-7 of the Public health code, can ask for the transfer of this file.

The recommendations of the company doctor.

When the company doctor notices the presence of a risk to the health of workers, he writes a reasoned and detailed proposal of measures to protect them. The employer considers these proposals and, in the case of refusal, makes known in writing the motives that oppose the follow-up of these measures.

When the company doctor is approached by an employer with an issue regarding duties that are devolved to them in application of article L. 4622-3, he makes his recommendations known in writing. The proposals and the recommendations of the company doctor and the response of the employer are kept, at their request, at the disposal of the Committee for health, safety and working conditions or, failing that, the staff representatives, the inspector or the controller of work, the medical inspector of work or the agents of prevention services of the organisms of Social Security and the mentioned bodies in article L. 4643-1.

The reform of company medicine (2011)

The law of July 20th, 2011 reforming the organisation of occupational medicine renews the modalities of organisation and the practices of occupational medicine. Included originally in the pension reform, but censored in autumn of 2010 by the Constitutional Council which had considered it as a legislative rider, the law plans for the implementation of multidisciplinary teams including doctors, ergonomists, psychologists, nurses, etc. These teams work in the occupational health service (HSW) of companies, establishments, inter-establishments or are shared in common by companies constituting an economic and social unit. To mitigate the recognised reduction in company doctors' staff, it will be possible to recruit junior doctors.

Regarding the general organisation of occupational medicine, the law plans that the boards of directors of these HSW must be composed in equal shares of employer representatives and by employee representatives.

An arrangement adopted by the Senate planned that, to assert their independence towards the employers who finance them, the presidency of these boards of directors falls alternately to the employers' party and to the employees' party. The National Assembly revised this plan by reserving the presidency for employer representatives and the treasurer's role for employee representatives.

Other professional agents of risk prevention

Besides the present agents of prevention in the company, it is also advisable to insist on the role of the other agents asked to prevent occupational hazards: INRS, NAIWC and AT-MP, a branch of social security.

National institute for research and safety

The national Institute of research and safety (NIRS) is a non-profit organisation, under the financial control of the State, established under the aegis of the National health insurance fund of salaried workers (NHIFSW). This association, created in 1947 under the name of national Institute of safety (NIS), which became the national institute of research and safety (INRS) in 1968, carries out its activities for the benefit of the employees and the companies of the general social security system.

NAIWC

In 2009, the National agency for the improvement of working conditions financed 150 projects within the framework of the Fund for the improvement of working conditions, 65 % of which concerned health at work. They carried out more than 2300 company interventions, 22% of which dealt with psychosocial risks. Its budget is, this year, 11,8 million Euros.

The AT-MP branch of Social Security

The first mission of the AT-MP of Social Security is prevention, which is ensured by the engineers and technicians consultants of Carsat.

Annex N° 7: Health at Work in the Public Service

The agreement on health and safety in the Public Service

An agreement was preceded by a negotiation

In July of 2008, labour and management made a commitment to re-revitalise the policy in favour of health and the safety at work in the Public service. This commitment resulted from a shared observation. In order to attain the goal of strengthening the health at work policy and of the improvement of working conditions, it is essential to develop the knowledge of and to ensure the prevention and the follow-up of the hazards, risks and exposures in the occupational environment.

On the basis of this observation, a work of reflection and negotiation was led by labour and management, which ended in the signature of the first agreement on health and safety at work in the Public Service on November 20th, 2009.

The agreement concerns the 5.2 million appointed and contracted agents of the public service. The improvement of working conditions, by favouring the well being of agents, is an essential element of modern and dynamic human resources management and contributes to the quality of the public service.

The content of the agreement

It includes fifteen actions organised around three axes, namely the instances and operational agents in the matter of health and safety at work, the objectives and professional tools of risk prevention and, finally, the apparatuses of support in cases of damages to health.

Also, the agreement plans for the implementation of a monitoring function of health and safety at work in the Public Service within the common form of collective bargaining between public services. As well, Health and Safety Committees (HSC) will evolve in the Public Service of the State and in the territorial public service to better take into account working conditions. They will be transformed into CHSWCs. From now on, every region with a measure of autonomy of at least fifty agents will benefit from a CHSWC.

- **A real culture of prevention will be put in place and training initiatives as well as reinforcements to the functions of advice and inspection will be developed.**

The improvement of working conditions occurs through training initiatives, more particularly in the direction of executives, agents in charge of human resources and agents of occupational health and safety.

The agreement plans to develop real occupational health service in the three public services. The conditions of use of occupational physicians will be improved: the doctor will be able, for instance, to choose to combine this job with other activities. Furthermore, the role of mediation and questioning of State health and safety inspectors, in the case of a disagreement between the authorities of dialogue on working conditions (CHSWC) and the service managers, will be strengthened.

- **The agreement sets goals and defines professional tools of risk prevention**

Thus, the respect for the number of medical examinations to which every agent is entitled in each of the three public services will be subject to an evaluation. The obligation of the employer to transcribe and to update a unique document with the results of the risk

assessment of the health and safety of workers will be recalled, and methodological tools to help with writing the unique documents will be proposed.

- **A quite particular attention is given to the evaluation and prevention of health problems connected to psychosocial risks.**

For the first time, it has been planned to define a national plan of action to fight against these risks and to bring it to a local level to ensure a collective bargaining on these issues. The information available to agents on these issues will be increased, as will the training of department heads, territorial authorities and the company heads on these risks.

The agreement also provides for establishing a right to a medical follow up post professional monitoring in the three sectors of the Public Service for all carcinogenic, mutagenic and toxic risks for reproduction (CMR). The modalities of this right will be prioritised for exposure to asbestos, then for the other risks.

Finally, the agreement plans for a better support of damages to health by protecting the rights of agents.

A ruling of the Council of State (CC N 349726 of July 23rd, 2012) questions the assumption of accountability of an occupational disease satisfying the conditions of article I. 461-1 of the CSS, considers that no arrangement foresees this application for the state employees.

This decision obviously goes against the action 13 of the agreement of November 20th, 2009 and against the proposal of link with the applicable main clauses in the private sector. It thus seems that there is a certain urgency to ensure that the work of the workgroup leads to a proposal.

The law of July 5th, 2010 and the creation of CHSWCs

The law N 2010-751 of July 5th, 2010 relative to the renewing of collective bargaining and containing diverse measures relative to the Public service transposed one of the measures of the agreement by providing in its article 10 (modifying the article 16 of the law N 84-16 of January 24th, 1984) for the creation of Committee for health, safety and working conditions (CHSWC). A decree in the Council of State has to fix the modalities of application of this arrangement. Furthermore, the law plans that certain passing measures of the application of this article will be fixed by decree (article 33 paragraphs V of the above-mentioned law).

The decree that brought these measures is the decree N 2011-774 of June 28th, 2011, which came to modify the decree N 82-453 of May 28th, 1982 modified concerning health, safety and medical prevention in the Public service.

The framework decree of May 28, 1982

The decree N 82-453 of May 28th, 1982 establishes the framework decree securing the obligations of the administrations of the State regarding the protection of the health and the safety of their agents. It is advisable to insist in particular on the purpose of the whole plan. The agreement of November 20th, 2009 indeed has notably the objective to move on from an apparatus concerning health and safety to an apparatus of health and safety at work, in which the basic element of any prevention initiative is that of the man at work, and to move closer still, in this aspect, towards the plan for the protection of health and safety in the Public service defined by the Labour code. With this in mind, the transformation of HSC into CHSWC is a major step forward towards the taking into account of working conditions in the public service.

To implement these principles, the decree arranges in its article 3 that are directly applicable in the administrations of the State and the mentioned in the article public institutions 1 of the decree, the rules defined by books I in V of the Fourth part of the Labour code, subject to the measures of the decree. This plan thus aims at satisfying the objectives defined in particular by the directive 89 / 391 / EEC of the Council, of June 12th, 1989, namely reducing the accidents and the diseases bound to work and promoting the improvement of the working conditions of the agents.

Specific tendencies in the Public service

Because of the specificity of the Public service regarding instances of dialogue and the peculiarities of the administrative organisation, the books VI (institutions and organisms of prevention including in particular the Committee for health, safety and working conditions) and the book VII (penalties) are not applicable to the services and workplaces mentioned in the 1st article. That being the case, the objective of the decree of 28 May 1982 is to transpose, by adapting them, the rules applicable to the employees subject to the Labour Code. Thus, title II, "control of the application of rules", the titles III (medicine of prevention) and IV (CHSWC) of the decree operate the necessary adaptations of the Labour code on these points.

The circular of August 9th, 2011 aims at providing useful details on the way the implementation of the measures of the decree modified in May 28th, 1982 should be made, in particular concerning the adaptations made necessary by the status of the civil servants, the services of the State and public institutions were concerned with its application.

Annex N° 8: The approach of prevention of psychosocial risks.

An approach of psychosocial risks prevention follows five stages in a systematic way. (INRS source).

- **Pre-diagnosis or screening**

It is during this first stage that the indicators of screening are collected. It is the data which exist in the company and which are readily available. They do not require particular investigations with the employees.

- **Implementation of a group-project**

It will have for objective to accompany the approach of prevention (informing of employees, participation in the choice of investigation tools, help with the interpretation of data, elaboration of the action plan, follow-up on the action). It has to contain members of the management, internal agents of prevention (nurses and/or company doctor, members of CHSWC or DP, functional of security, etc.) and employees of the various departments) or categories of the company. The setting up of this group is an essential condition to perpetuate the approach.

- **In depth diagnostic**

It will allow for the identification of sources of stress and their importance, as well as the sectors and the groups of employees more particularly concerned. Various complimentary methods can be implemented: questionnaires, conversations, observations of work, analysis of documents, etc. To guarantee the objectivity of the results, it is preferable at this stage to call on outside resources (RHIF, RAIWC, health service at work, consulting firms). Once the diagnosis is made, the results are communicated to the company agents (project-group, management, CHSWC).

- **Elaboration and implementation of the action plan**

According to the previous diagnosis, the actions to be implemented and priorities will be defined. They will be formalised in an action plan particular to the company. It is possible to combat stress by very concrete actions (for instance the distribution between operators of the workload, the transfer to an operator trained in the management of difficult customers, the arrangement of the work area).

- **Evaluation and follow-up**

To be complete and sustainable, an approach of psychosocial risk prevention must *a minima* result in the follow-up of indicators taken into account upstream. Sometimes, it will be possible to go farther by setting up a more complete performance evaluation plan for the action.

Annex N° 9: PsychoSocial Risks according to NIRS¹⁹⁸

By leaning partially on the definitions proposed by the European Agency for safety and health at work, the INRS considers psychosocial risks in a pragmatic way through the large scale psychosocial dysfunction recognised since the eighties and nineties (stress at work, internal violence in companies and bullying, external violence) and their extreme consequences (syndrome of professional exhaustion or “*burnout*” and work-related suicide).

Since 2007, psychosocial risks are a part of the programme of research, information and training of the NIRS, in the same way as chemical and biological risks for instance.

The important sanitary and social consequences of the PSR justify the fact that this type of risk appears from now on as a priority axis of prevention. Disorders of concentration, sleep, depression, the consumption of anxiolytics in connection with difficult working conditions concern numerous workers.

The PSR also have repercussions on the social climate and the productivity of companies (disengagement of the employees, sick leaves).

They are not obviously neutral in terms of costs for the insurer and the NIRS, which is closely linked to the NHIF-SW, is also sensitive to this concern.

- **Stress at work**

It is a matter of an imbalance between the expectations or professional requirements assigned to the worker and the resources they have to fulfil to them. Scientifically, there is no good or bad stress: it is phenomenon of the body's adaptation made necessary by the environment. It is however necessary to distinguish “acute stress” and “chronic stress”.

The state of acute stress corresponds to the reactions of our body when we face a threat or an urgent situation. When the situation comes to an end the symptoms of stress stop. The state of chronic stress is the body's response to a situation that sets in for longer periods of time. It always has harmful effects for health.

Chronic stress can be traced back to factors such as work overload, difficult relations with the hierarchy and/or colleagues, lack of autonomy and ethical conflicts.

- **Bullying and internal violence**

These two notions include unfriendly words, insinuations, humiliations or ragging, insults, behaviour with sexual connotation, violent actions, unjustified criticisms, being sidelined. The list of the abuses which can manifest within the workplace is long. This violence can be carried out by a person or a group of people, holders or not of a hierarchical authority, against one or several other employees.

“Bullying at work is characterised by the repetition of hostile actions which have as their goal or effect a degradation of working conditions likely to undermine the dignity, the health and the professional future of the person. It can be an individual practise. It can also involve a more organised practice, as part of a company management policy.”

(source: INRS - Website: www.inrs.fr/accueil/risques/psychosociaux/harcelement-violence-interne.html)

¹⁹⁸ Source: INRS Website: www.inrs.fr/accueil/risques/psychosociaux/harcelement-violence-interne.html
Detecting psychosocial risks. Indicators to guide you. INRS, 2010.

This definition of bullying is very close to the one proposed by the Economic and Social Council in its notice of April 11th, 2001¹⁹⁹.

Sexual harassment is the object, according to the law of August 6th, 2012 of a double definition that allows it to cover all situations which undermine the dignity of people, the majority of which are in fact women.

The first part of this definition goes back to the repetition of the facts: *“Sexual harassment is the act of imposing on a person, in a repeated way, words or behaviour of sexual connotation which undermine their dignity due to their degrading or humiliating character, or put them in an intimidating, hostile or offensive situation”*

The second part considers a separate act involved in sexual harassment: *“It is included in sexual harassment the action, even if not repeated, of using any form of serious pressure towards the real or apparent goal of obtaining an act of sexual nature, whether this is sought for the benefit of the person who took the action or for the benefit of a third party”*.

These behaviours can either undermine the dignity of the victim because of their degrading or humiliating character, or create an intimidating, hostile, offensive situation. In its modus operandi and in its psychosocial consequences for the victim, sexual harassment can share several points in common with bullying.

- **External aggression and violence at work**

Exercised against a person at his workplace by individuals external to the company, the external violence can take diverse forms: incivilities, verbal attacks, violent acts (*hold-up*) and the putting in danger of the health, the safety or well-being of the workers concerned.

There is a difference between:

- Physical violence, threats or insults which concern a very wide range of occupations confronted with the aggressions of their clientele or their public;
- Violence of predation (burglaries, thefts, racketeering, manslaughters) which affect a number of well-defined occupations in the banking and trades sector in particular;
- Acts of destruction or degradation, directed not towards people but towards tangible assets. Employees confronted with these acts of vandalism can feel affected in their work and in their professional identity.

- **The extreme manifestations of the PSR: syndrome of professional exhaustion and work-related suicide.**

The syndrome of professional exhaustion, defined as a set of reactions consecutive to situations of chronic professional stress, is characterised by three symptoms:

- Emotional exhaustion (feeling of being emptied of their emotional resources);
- Depersonalisation (insensitivity to the environment, dehumanisation from relations with others, colleagues, users, customers or patients);
- The feeling of lack of accomplishment (feeling of not adequately meeting expectations, with for consequence, depreciation of their results and of one's self).

It often affects professionals who are in relations of providing aid, assistance, care or education to the public.

¹⁹⁹“constitutes a bullying at work, any repeated actions shown to degrade the human, relational, or material working conditions of one or several victims, likely to undermine their rights and their dignity, which could seriously alter their health and could compromise their professional future”. Opinion adopted by SEC on April 11, 2001 on the report “Le Harcèlement moral au travail” presented by Michel Debout on behalf of the work section, p.59.

Annex N° 10: PSR Models of Analysis

- **Two main models**

Between the end of 1970s and the end of 1990s, two models of analysis of the relations between work and mental health came into being:

- The model “demand-latitude-support” referred to in English as *Job strain model* or *demand control support model*, (DCS) conceived by the American sociologist Robert Karasek in 1979 and enriched by Swedish doctor Töres Theorell in 1990;
- The model “déséquilibre-effort-reconnaissance” referred to in English as “effort reward imbalance” (ERI), conceived by Johannes Siegrist, professor of medical sociology in the Faculty of Medicine of the University of Düsseldorf.

It concerns two dynamic models of analysis which put in relation different aspects of the work environment (quantity and complexity of tasks, temporal constraints, expressions of recognition, the help of colleagues and the support of the hierarchy) with certain characteristics of the individuals in the working situation (possibility of developing their skills, autonomy left in the work, effort, investment in the work) to estimate the psychosocial risk

The DCS model postulates an association between health problems and professional tension combining high psychological demands and a low latitude of decision. The third element was later added by Töres Theorell: the mitigation of the effects of professional tension on health by social support at work.

The psychological demand corresponds to the amount of work, its intellectual requirements, and to time constraints. The latitude returns to the decision-making autonomy of the employee, to the room for manoeuvre they have, and to the possibilities given to him to express his creativity and to develop his abilities at work. Social support is the assistance he can expect from his colleagues and the support that he can obtain from the hierarchy.

According to the DCS model the worst situation is logically the one in which the employee has to face a heavy psychological demand, has no room for manoeuvre available and is deprived of social support in his workplace.

The ERI model postulates that a situation characterised by a combination of intense efforts and low recognition can be at the origin of situations of great psychological distress.

- **Other emerging theoretical models**

- “Organisational justice”

This model is based on the idea that individuals evaluate what is fair in the relations with their hierarchy (relational justice), through taking into consideration their opinion in decision-making procedures (procedural justice) or the remuneration for the accomplished work (distributive justice) by comparing with other employees whom they consider their peers.

This model possesses common points with both precedents. Relational justice and procedural justice can also appear as elements of the “recognition” of the ERI model; procedural justice is equally similar to the “decision-making latitude” of the DCS model.

- “Leadership” at work

The basic premise is that of an association between the leadership of the persons in charge of the company or the organism and the psychosocial risk factors.

It was shown that a positive perception of the leadership of the manager is associated with a risk of lower ischemic heart disorder (of the order of 40 to 25%).

There exists a large enough abstract proximity between leadership at work and the “social support” of the DCS model.

“Predictability” at work

It is defined as the clarity of working objectives, the possibility of foreseeing changes and problems. This recent and under-standardised model measures the worker’s possibility of anticipating potential changes to his working environment and of mastering the professional environment of which he is a part. Changes of organisation, the introduction and the use of information and communication technologies are taken into account well in this model which is not however without any relationship with the “decision-making latitude” or “control at work” of the DCS model²⁰⁰.



The models created by Karasek and Siegrist were widely used during the years of 1990-2000 in inquiries conducted in the United States and in Canada. In France, they strongly inspired the enrichment of the survey questionnaire about working conditions and the last editions of the SUMER survey.

- **An example of use of the Karasek model: nursing staff from Quebec in the reform of the health system.**

This concerns a longitudinal study on the effects of the restructuring of Quebec’s health system on nursing staff (sick leaves and psychosocial factors). It was conducted over six years in 13 health establishments in the urban area of Quebec. About 3000 nurses were questioned on the phone using a questionnaire based on the models of Karasek and Siegrist.

The context of the study was that of the important reforms of the Quebecois health system conducted in the nineties.

The objectives of the study concerned the relations between on one hand, the evolution of the incidence and duration of sick-leaves and on the other hand, the psychosocial constraints at work (measured by the interviews) during the transformation.

The study reveals the strong impact of a reorganisation on the psychosocial environment of the employees with consequences in terms of the degradation of their physical and psychological health that resulted from this. Concerning processes at work, the nurses attested to a strong increase of the psychological demand during this period, a decrease in the decision-making latitude and a break-up of social relationships, all accompanied by an accumulated psychological distress and an increase in the consumption of psychotropic

²⁰⁰For a detailed description of all of these models: Ruth Ndjaboué, Michel Vézina, Chantal Brisson, *Effects of psychosocial factors at work on mental health. A revue of the literature on prospective studies concerning the three emerging models. Work and Employment*, N° 129, January-March 2012, pp. 23-34.
The seminal work of Karasek and Siegrist:
Karasek R. (1979), *Job demands, job decision latitude, and mental strain: implication for job redesign*, *Administrative Science Quarterly*, vol. 24, N° 2, pp.285-308.
Siegrist J. (1996), *Adverse health effects of high-effort/low-reward conditions*, *Journal of occupational health psychology*, vol. 1, n° 1, pp. 27-41.

medicine. The study furthermore showed a deterioration of the state of health of these nurses compared to that of the average of Quebec of the women at the same time, in 1998.

In the area of “recognition”, the authors underline a lack of participation in decisions concerning the care and the method of work and denounce the defects of a support system exclusively directed towards individual mechanisms skewed towards aid programs in stress management. In conclusion, they recommend that working conditions that are by nature difficult, in particular with regard to the emotional burden, are compensated with positive elements in terms of working environment, all the more so in periods of change and transformation²⁰¹.

• **The methodological orientations of the future French survey on the PSR**

In 2011, the Panel of Expertise on the monitoring of psychosocial risks at work, convened at the request of the Minister of Labour, Employment and Health, chaired by Michel Gollac, concluded that there is a necessity for a specific inquiry every six years, which would be inserted between two surveys on working conditions so as to increase the frequency of information produced on the PSR.

The College made precise proposals concerning the methodology of the survey. It would be conducted by interview, face to face, on a sample of 20 000 to 25 000 assets. It would also be accompanied with a monitoring panel over 9 years to measure the continuity or the repetition of the exposures to risk.

The College recommends drafting the questionnaire of the survey “to favour in decreasing order of priority the questions of those questionnaires completely validated and in wide use, the questions of the main international questionnaires, and the questions of the French quality questionnaires”.

From the scientific knowledge established on the subject, six methodological axes were retained to build a questionnaire:

- labour intensity and length of work,
- emotional demands,
- autonomy at work
- social relations at work
- Ethical suffering linked to the obligation to act against their professional, social or personal values.
- Insecurity of the working situation.

This proposal appears as both a combination and an enrichment of the main models of analysis of the psychosocial factors of professional risk. The college also recommended including questions that would allow for the appreciation of the repercussions of psychosocial factors on physical health: self-assessment of the general state, the absences due to disease, occurrence of occupational accidents.

Noticing the impossibility of synthesising all the risk factors in a unique index, it suggests the construction of several combined indications based on the six axes of analysis that will structure the questionnaire of the future French survey on psychosocial risks.

²⁰¹ Renée Boubonnais and Myrto Mondor (2001) Job Strain and Sickness Absence Among Nurses in the Province of Québec. *American Journal of Industrial Medicine* 39: 194-202.
Renée Bourbonnais, Chantal Brisson, Michel Vézina, Benoît Masse, Caty Blanchette, 2005 *Psychological Work Environment and Certified Sick Leave among Nurses during Organisational Changes and Downsizing*. *Relations industrielles/Industrial Relations*, Vol. 60, N° 3. 483-503.

The Panel of Expertise designed its analysis grid with the prospect of a macroeconomic use, within the framework of large declarative inquiries. According to its designers, it can certainly offer points of reference in the implementation of devices of analysis and monitoring of psychosocial risks in branches and companies. Its identical transposition at the local level would however not make much sense. Each branch and each company cannot indeed exempt itself from the research for monitoring indicators adapted to its own situation²⁰².

²⁰²Interview between the rapporteur and Michel Gollac, January 22, 2013.

Annex N° 11: Composition of the Section for Labour and Employment

✓ **President:** Françoise GENG

✓ **Vice-Presidents:** Patrick LENANCKER and Jean-Luc PLACET

Agriculture Group

✓ Joël CLERGUE

✓ Marianne DUTOIT

Craft Industry Group

✓ Patrick LIEBUS

Associations Group

✓ Edith ARNOULT-BRILL

CFDT TRADE UNION GROUP

✓ Daniel JAMME

✓ Maryvonne NICOLLE

✓ Brigitte PREVOST

CFE-CGC TRADE UNION GROUP

✓ Régis DOS SANTOS

CFTC TRADE UNION GROUP

✓ Gabrielle SIMON

CGT TRADE UNION GROUP

✓ Françoise GENG

✓ Thierry LEPAON

✓ Lionel MARIE

✓ Djamal TESKOUK

CGT-FO TRADE UNION GROUP

✓ Didier HOTTE

✓ Marie-Alice MEDEUF-ANDRIEU

Cooperation group

✓ Patrick LENANCKER

Enterprise Group

✓ Jean-Luc PLACET

✓ Jean-Michel POTTIER

✓ Benoît ROGER-VASSELIN

Environment and nature Group

✓ Bruno GENTY

Student Bodies and Youth Movements Group

✓ Jean-Baptiste PREVOST

Overseas Group

✓ Bernard PAUL

Qualified Individuals Group

✓ Sylvie BRUNET

✓ Marie-Béatrice LEVAUX

✓ Sophie de MENTHON

✓ Raymond SOUBIE

✓ Yves URIETA

Liberal professions

✓ David GORDON KRIEF

UNAF GROUP

✓ Francine L'HOURL

UNSA GROUP

✓ Jean GROSSET

Associated parties

✓ Hocine BOUARES

✓ Brahim BOURABAA

✓ Bernard CIEUTAT

✓ Gilles KEPEL

✓ Françoise MILEWSKI

✓ Danielle MONTEAUX

✓ André SAINJON

✓ Etienne WASMER

Annex N° 12: List of Bibliographic References

- Algava Elisabeth et Vinck Lydie, *Les conditions de travail des non-salariés en 2005*, DARES Premières synthèses N° 50.1, December 2009.
- Amiel Marie-Hélène, Godefroy Pascal, Lollivier Stéfan, *Qualité de vie et bien-être vont souvent de pair*, INSEE Premières N° 1428, January 2013.
- Arnaudo Bernard, Léonard Martine, Sandret Nicolas, Caret Martine, Coutrot Thomas, Rivalin Raphaëlle, *L'évolution des risques professionnels dans le secteur privé entre 1994 and 2010*. DARES Analyses N° 23, 2012.
- Arnoult-Brill Édith, *La sécurisation des parcours professionnels*, opinion of the SEC, brochure N° 12, DILA, Paris, May 2007.
- Aubert-Monpeyssen Thérèse, Blatman Michel, *Les risques psychosociaux au travail et la jurisprudence française: la culture de prévention*, Droit social N° 9, September 2012.
- Aubin Claire, Pelissier Régis, Saintignon (de) Pierre, Veyret Jacques, Conso Françoise, Frimat Paul, *Rapport sur le bilan de réforme de la médecine du travail*. IGAS / IGAENR, 2007.
- Beaujolin-Bellet Rachel et alii, *Modes de gestion des restructurations*. Revue de l'IRES N° 72, 2012.
- Bernus Didier, *Suicide: advocating active prevention*, opinion and report of CESE, brochure N° 12, DILA, Paris, February 2013.
- Blatman Michel, *Protection de la santé et charge de travail*, Droit social N° 7, July 2011.
- Bressol Elyane, *Organisation du travail et nouveaux risques pour la santé des salariés*, opinion and report of the CES, brochure N° 10, DILA, Paris, April 2004.
- Brun Jean-Pierre, Biron Caroline, Saint-Hilaire France, *Guide pour une démarche stratégique de prévention des problèmes de santé psychologique au travail*, Université Laval, Québec, 2009.
- Cour de Cassation, *Rapport annuel 2011. Le risque*. La documentation française, Paris, 2012.
- Cour des Comptes, *Rapport public 2013, chapitre 4: Accidents du travail et maladies professionnelles: les faiblesses de la politique de prévention du régime général de sécurité social*. Paris, 2013.
- Cour des Comptes, *Les services de santé au travail interentreprises: une réforme en devenir*, rapport public thématique, Paris, 2012.
- Conseil d'orientation sur les conditions de travail, *Rapport final du groupe de travail sur Les pathologies psychiques d'origine professionnelle*, 2012.
- Centre national de la fonction publique territoriale, *La prise en compte des RPS dans les collectivités territoriales*, Study, 2010.
- CFDT, *Agir sur les risques psychosociaux*, Compétences syndicales, 2010.
- Cohidon C., Geffroy-Perez B., Fouquet A., Le Naour C., Goldberg M., Imbernon E., *Suicide et activité professionnelle en France: premières exploitations de données disponibles*, Institut de veille sanitaire, April 2010.
- Coutrot Thomas et Mermilliod Catherine, *Les risques psychosociaux au travail: les indicateurs disponibles*, DARES Analyses N° 81, December 2010.

David Annie, Alquier Jacqueline, Bruguière Marie Thérèse, Kommermann Christiane, Printz Gisèle Vanlerenberghe Jean-Marie, Watrin Dominique, *Rapport d'information sur La protection de la santé des travailleurs au Danemark et en Suède*, n° 591, Sénat, August 16, 2012.

Debout Michel, *Travail, violences et environnement*, opinion and report of the SEC, brochure N° 20, November 24, 1999.

Debout Michel, *Le harcèlement moral au travail*, opinion and report of the SEC, brochure N° 7, April 11, 2001.

Debout Michel et Larose Christian, *Violences au travail – Agressions, Harcèlement, Plans sociaux*, Les éditions de l'atelier, VO Editions, March 2003.

Dellacherie Christian, *La certification des entreprises dans le domaine de la santé au travail*, opinion and report of the SEC, brochure N° 10, June 23, 2010.

Dellacherie Christian, *L'avenir de la médecine du travail*, opinion and report of the SEC, brochure N° 3, February 27, 2008.

Dériot Gérard (sénateur), *Rapport d'information sur le mal-être au travail au nom de la commission des affaires sociales*, n° 642, Sénat, July 7, 2010.

Direction générale du travail, *Synthèse des accords signés dans les entreprises de plus de 1000 salariés – prévention des risques psychosociaux*, April 2011.

Direction générale du travail, *Bilan des conditions de travail 2011*, ministère du Travail, de l'emploi et de la santé, 2012.

Douillet Philippe, *Négociation un accord sur la prévention des risques psychosociaux. Repères issus des premières expériences de terrain*. ANACT, March 2010.

Edouard François, *Le travail de nuit: impact sur les conditions de travail et de vie des salariés*, opinion and report of the SEC, brochure N° 12, July 8, 2010.

Eurogip, *Quelle reconnaissance des pathologies psychiques liés au travail ? Une étude sur dix pays européens*. February 2013.

Fondation européenne pour l'amélioration des conditions de travail, *Résultats de l'Enquête européenne sur les conditions de travail 2010*. <http://www.eurofound.europa.eu/surveys/>

Gallois Louis, *Pacte pour la compétitivité dans l'industrie française*, Rapport au Premier ministre, November 5, 2012.

Gobert Patrick, *Entretiens: Jean Auroux, l'homme des lois*, Editions du 1^{er} mai, Paris, 2012.

Gollac Michel, Bodier Marceline (rédacteurs), *Mesurer les facteurs psychosociaux de risque au travail pour les maîtriser*. Rapport du collège d'expertise sur le suivi des RPS au travail réuni à la demande du ministre du travail et des affaires sociales, Paris, 2011.

Gonthier-Maurin Brigitte, sénatrice, *rapport d'information sur le projet de loi relatif au harcèlement sexuel*, n° 610, Senata June 25, 2012.

INRS, *Dépister les RPS: des indicateurs pour vous guider*, 2010.

Kaspar Jean (président de la commission), *Rapport de la Commission du grand dialogue de La Poste*, September 1992.

Katz Claude, *Victimes de harcèlement sexuel: se défendre*, Editions Le bord de l'eau, 2007.

Klein Tristan, Ratier Daniel (with coordination of), *L'impact des TIC sur les conditions de travail*. Coll. « Rapports et documents », Centre d'analyse stratégique et Direction générale du travail, February 2012.

Kornig Carthel et Verdier Eric, *De très petites entreprises de la réparation automobile face aux normes publiques de la prévention des risques professionnels*, Revue française des affaires sociales, 2008.

Lachmann Henri, Larose Christian, Pénicaud Muriel, *Bien-être et efficacité au travail – 10 propositions pour améliorer la santé psychologique au travail*. Report drawn at the request of Prime Minister, February 2010.

Lallican Jean-Ange, Anton Raphaël, Rodet Philippe, *“Livret N° 2” de la commission nationale sur le stress au travail*, ANDRH, May 2011.

Landier Hubert, *Irritants sociaux et désengagement au travail*, Futuribles n° 390, 2012.

Lanouzière Hervé, *La prévention des RPS du point de vue du Code du travail*, Semaine sociale Lamy N° 1480, 2011.

Lefrand Guy, *Les risques psychosociaux au travail*. Rapport d’information déposé par la Commission des Affaires sociales, Assemblée nationale, May 2011.

Lemoine Mathilde et Wasmer Etienne, *Les Mobilités des salariés*, rapport du CAE, Paris, DILA, 2010.

Légeron Patrick, *Le stress au travail: de la performance à la souffrance*, Droit social n° 12, 2004.

MSA, *Approche méthodologique à destination des équipes SST*, direction de la santé, 2013.

Nasse Philippe, Légeron Patrick, *Rreport on the identification, measurement and monitoring of psychosocial risks at work*, delivered to Xavier Bertrand, Minister of Labour, Social Relations and Solidarity, March 12, 2008.

Richer Martin, *Bien-être et efficacité au travail, trois ans après*, Droit social n° 1 2013.

Saint-Laurent-Kogan (de) Anne-France, *Le travail à l’heure numérique*, in *La société numérique*, Cahier français n° 372, Paris, 2012.

Sultan-Taïeb Hélène et Niedhammer Isabelle, *Le poids imputable à l’exposition au stress au travail en termes économiques et de santé publiques: enjeux méthodologiques*. Travail & emploi N° 129, January-MArch 2012.

Technologia, *Effets des open spaces sur la santé et la performance*. Study, 2012.

Trontin C., Lassagne M., *Combien coûte le stress au travail. Réalité Prévention*, INRS, December 2009.

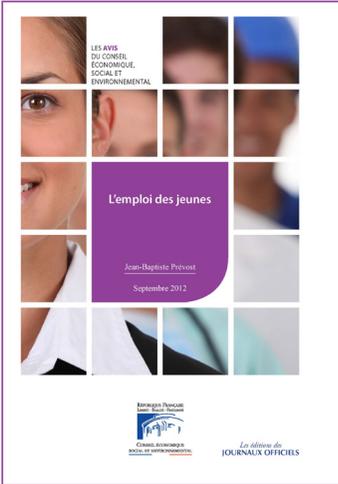
Valeyre Antoine, *Conditions de travail et santé au travail des salariés: des situations contrastées selon les formes d’organisation*. Working Paper No. 73, Centre for Employment and Studies, November 2006.

Volkoff Serge, *Fonctionnaires sous pression*, Santé & Travail n° 81, January 2013.

Wasmer Etienne, *Insatisfaction au travail: sortir de l’exception française*, Institut Montaigne, 2012.

Annex 13: Table of Acronyms

ANSES	Agence nationale de sécurité sanitaire de l'alimentation, de l'environnement et du travail (French National Agency for Sanitary Safety of Food, Environmental and Occupational)
ARACT	Agence régionale pour l'amélioration des conditions de travail (French Regional Agency for the improvement of working conditions)
ARS	Agence régionale de santé (Regional Health Agencies)
ASST	Assistant de service en santé au travail (Service assistant in occupational health)
AVFT	Violences faites aux femmes au travail (Violence against women in the workplace)
CARSAT	Caisse d'assurance retraite et de santé au travail
CCPP	Centre de consultation de pathologie professionnelle
CHSWC	Committee for health, safety and working conditions
CLACT	Contrat local d'amélioration des conditions de travail
CNAMTS	Caisse nationale d'assurance maladie des travailleurs salariés
CNFPPT	Centre national de la fonction publique territoriale
CPAM	Caisse primaire d'assurance maladie (French Primary health insurance fund)
CPRIA	Commission paritaire régionale interprofessionnelle de l'artisanat
CRPRP	Comité régional de prévention des risques professionnels
CRRMP	Comité régional de reconnaissance des maladies professionnelles
DGOS	Direction générale de l'offre de soin
DRH	Direction des ressources humaines
DUER	Document unique d'évaluation des risques (Unique risks evaluation document)
FIRPS	Fédération des intervenants en risques psychosociaux
FNP	Fonds national de la prévention
IGAS	Inspection générale des affaires sociales
IHS	Inspecteur hygiène et sécurité
INRS	Institut national de recherche et de sécurité
IP	Incapacité permanente
IPRP	Intervenant en prévention des risques professionnels
MSA	Mutualité sociale agricole (Mutual Societies Group)
OPBTP	Organisme professionnel de prévention du bâtiment et des travaux publics
ORST	Observatoire régional de santé au travail
PSE	Plan de sauvegarde de l'emploi
PSST	Plan santé sécurité au travail
RFFST	Réseau francophone de formation en santé au travail
RGPP	Révision générale des politiques publiques
RSE	Responsabilité sociales des entreprises
SIST	Service interentreprise de santé au travail
SST	Service de santé au travail
TIC	Technologie de l'information et de la communication



Recent publications The section for Labour and Employment

- *Youth Employment*
- *Opening up regional passenger railway services (SRV after its French initials) to competition.*
- *40 years of vocational training: assessment and perspectives*
- *Employment and reform division of the national job centre: assessment and recommendations*

RECENT PUBLICATIONS

BY THE ECONOMIC, SOCIAL AND ENVIRONMENTAL COUNCIL (ESEC)

- *The management and use of water in agriculture*
- *Faced with the challenges of development: how can we strengthen French NGOs?*
- *Women and precarity*
- *Suicide: advocating active prevention*
- *Self-contained housing for young people (opinion)*
- *Do things differently: The not for profit and voluntary sectors*

**Read all of our
publications (in French) on**

www.lecese.fr

Printed by Directorate for Legal and Administrative Information, 26, rue Desaix, Paris (15th)
according to documents provided by the Economic, Social and Environmental Council

Serial No: 411130012-000513 – Legal Deposit: May 2013

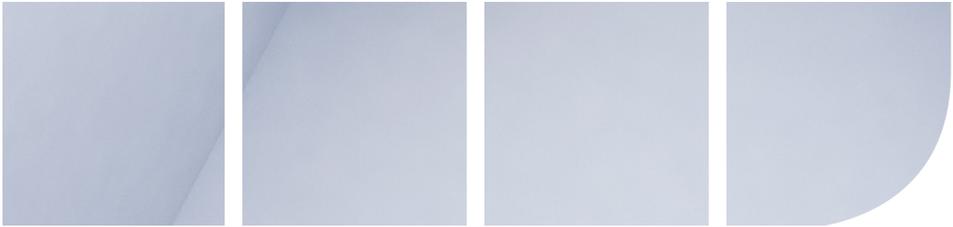
Photo credits: shutterstock

Communication Directory of the Economic, Social and Environmental Council





OPINIONS OF
THE ECONOMIC,
SOCIAL AND
ENVIRONMENTAL
COUNCIL



CONSEIL ÉCONOMIQUE, SOCIAL
ET ENVIRONNEMENTAL
9, place d'Iéna
75775 Paris Cedex 16
Tél. : 01 44 43 60 00
www.lecese.fr

