

# The Belgian way of doing things

Pascale Swinnen  
Social labour inspector  
Belgium



# Our Belgian legislation

- Knowledge & insight into our legislation is needed to understand the role of the labour inspectorate
- Belgium has a legislation on psychosocial well-being since 2002
- This legislation is part of our legislation on well being at work in general
- The psychosocial legislation has already been changed twice after an evaluation
  - in 2007 & in 2014
- Focus shifted more and more from violence, bullying and sexual harassment to psychosocial risks in general (including burnout, stress)

# I Legislation

- Our legislation is extensive and complex
  - what I'm going to tell you is limited to the most important points in order to be able to understand the role of the Belgian labour inspectorate
- Every employer must have a psychosocial policy on wellbeing
- The employer is supported in this by his external service for prevention and protection at work to which he is affiliated. This service employs various experts such as the psychosocial prevention advisor
  - It's an expert on psychosocial aspects at work
  - Every employer must have this expert

# I Legislation

- The employer is obligated to make a psychosocial risk analysis and take preventive measures. But that's not the only thing.
- He must also have an internal procedure to tackle psychosocial risks and prevent further damage
  - Appoint a person of trust (not an obligation)
  - Appoint a psychosocial prevention advisor (always an obligation)
  - So this one plays a crucial role in the internal procedure
- Employees who consider themselves confronted with violence, bullying, sexual harassment, conflicts and other psychosocial risks can submit a request
  - With the person of trust and / or psychosocial prevention advisor
  - You can consider it as a kind of complaint, but it is renamed to request

# I Internal procedure

- The internal procedure makes a distinction between a request with
  - Collective nature (eg workload)
  - Individual character (conflicts, violence, bullying and sexual harassment).
- The focus of my explanation will be on the formal request with an individual character

This conference is after all about harassment and conflicts at work

# I Internal procedure

- The aim of the internal procedure is to reach a solution
  - Mediation between the parties involved
  - An intervention at the employer / hierarchical line
  - Analysis of the problematic situation made by the psychosocial prevention advisor. It means the following:
    - Talks to the applicant and other involved party
    - Speaks with witnesses and other useful people at work
    - Draws up a report for the employer
    - Gives advice about the measures that can lead to a solution of the current problem and about the measures which can prevent similar problems in the future

# I Internal procedure

- The legislation determines the way in which the psychosocial prevention advisor must analyze psychosocial problems at work
- The analysis must pay attention to the impact of psychosocial risks that play a role in the occurrence of these problems at work:
  - Labour organization (eg night work)
  - Job content (eg duties)
  - Working conditions (eg benefits for wages)
  - Working circumstances (eg dangerous work)
  - Working relations

# I Internal procedure

- The legislation indicates that conflicts and cross-border behavior at work can be the result of various causal factors
- The psychosocial prevention advisor makes a report with his conclusions and he advises the employer on prevention measures
- The employer is supposed to take the necessary measures based on that report



# I Internal procedure

- Measures often proposed by the psychosocial prevention advisor
  - Mediation
  - Coaching
  - Training for managers
  - Move 1 or both parties
  - Organize evaluation interviews
  - Create job profiles

# I External procedure

- In addition to the internal procedure, the legislation also provides an external procedure
  - Complaint at the labour inspectorate
  - Complaint with the police or judicial authorities
- Suppose there is a complaint with the labour inspectorate
  - What is the role of the labour inspectorate?
  - What does the labour inspectorate do and what does it not do?

# | Role of the labour inspectorate

- Check whether the employer has a psychosocial policy on wellbeing
- Check whether the employer has an internal procedure
- Ensure that the internal procedure is applied (correctly)
- Intervening when the employer does not take measures
- When the labour inspector intervenes, the report of the prevention advisor is always the starting point
  - He will expect an action plan from the employer that meets the conclusions and advice of the psychosocial prevention advisor

# | Role of the labour inspectorate

- Submitting a complaint to the labour inspectorate means that the labour inspector will ensure that the internal procedure is applied  
= that the psychosocial prevention advisor is called in and starts analyzing the problematic situation
- The labour inspectorate will not investigate the content of the complaint, the facts themselves
- The labour inspectorate does not carry out psychosocial risk analyzes
- The labour inspectorate does not recommend prevention measures to solve problems
- The labour inspectorate will not mediate
- Why not? Because in Belgium this is the role of the psychosocial prevention advisor

# Powers of the labour inspectorate

- Provide information, give advice
- Give written warnings
- Give time to settle with the legislation
- Impose prevention measures
- Shut down
- Drawing up an official report
- Access to the workplace, day and night
- Identify and interrogate persons present at the workplace
- Make a pro justitia

# I Experiences & remarks

- Our legislation has the ability to tackle and solve problems at an early stage thanks to the internal procedure
- Many problems are resolved within the organization thanks to
  - the intervention of the person of trust or the psychosocial prevention advisor
  - the goodwill of the parties involved
  - the goodwill of the employer.
- The labour inspectorate only intervenes in a very small percentage of cases, usually when internal procedures and goodwill are lacking
- The situation of the labour inspector is rather comfortable because our legislation provides for an internal procedure in which it is the person of trust and / or the psychosocial prevention advisor, together with the employer, who has to deal with the problems

# I Experiences & remarks

- In fact it's not a good sign if a case arrives at the labour inspectorate. This may mean that the internal procedure has failed
- The cases at the labour inspectorate are therefore difficult to resolve.
- Cases regarding conflicts and cross-border behavior are becoming increasingly complex. The parties involved are thinking in black and white, but in reality the situation is rather gray.
- Escalating conflicts often lead to cross-border behavior. Such behavior can be caused by both parties involved. That's why there are only losers at the end! That's why it's so important to solve problems in an early stage, within the organization.



Thanks to my colleague  
Sandrine Schatterman



