

# ETUC 'Safe at Home, Safe at Work'

## NETHERLANDS<sup>1</sup>



by Jane Pillinger  
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# 1. Introduction

## 1.1 Overview

This report gives an overview of the country case study for the Netherlands, which is one of eleven country case studies carried out as part of the ETUC project 'Safe at Home, Safe at Work'. It documents the measures taken by the FNV and affiliated unions, as well as by relevant women's/domestic violence organisations, to address gender-based violence at work. It covers two specific areas: a) gender-based violence in the workplace, which principally concerns sexual harassment at work and b) domestic violence at work. Both aspects of the report are discussed in relation to the overall legal context, the role of collective bargaining and other union initiatives, links and cooperation with civil society and women's organisations, as well as the challenges faced by unions and the recommendations made by unions for the future.

## 1.2 Methodology

In addition to reviewing relevant literature, interviews were held in Amsterdam, 19-21 July 2016, with the following people:

- Jessica van Ruitenburch, FNV Policy Officer (coordinator of the project in Netherlands)
- Dr Renee Romkens, Director, ATRIA
- Jamila Mejhdoubi, Policy Advisor, ATRIA
- Catelene Passchier, International Officer, FNV
- Brigitta Paas, Transport Union, FNV
- Renske Jurriëns, Occupational health and safety, FNV
- Naima van Willigenburg, Occupational health and safety, FNV
- Lili Brouwer, former head of FNV Women and ITUC Women representative
- Benne Holwerda, Programme Director, Veilig Thuis, Amsterdam

# 2. Context and legal background

## 2.1 Gender-based violence at work

The prohibition of harassment on the ground of sex and sexual harassment is provided for under equal treatment legislation. However, the main legal framework is set out in the context of health and safety Working Conditions Act 2007, which states that employees must be able to work in a healthy and safe environment. In practice, sexual harassment is generally included as part of the wider problem of harassment, violence, and bullying and more generally 'unwanted or undesirable conduct' that creates an undignified and unsafe environment. According to the EU's review of sexual harassment laws, in the Netherlands, "This has led to the gender aspect of it now stands less in the foreground."<sup>2</sup>

### Equal treatment legislation

The 1980 Equal Treatment Act (ETA) for Men and Women and the 1994 General Equal Treatment Act (GETA) cover non-discrimination and harassment at work. The provisions of Directives 2000/43/EC and 2000/78/EC on sexual harassment were included in the amended GETA in 2007 and the amended ETA in 2006. In the Acts the definition of sexual harassment excludes the word 'unwanted' on the basis that this offers more protection to victims of sexual harassment. Article 1a(1) states that discrimination is prohibited and includes harassment and

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<sup>2</sup> Rikki Holtmaat, cited in [http://ec.europa.eu/justice/gender-equality/files/your\\_rights/final\\_harassement\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/your_rights/final_harassement_en.pdf)

sexual harassment. Under the GETA, which also covers access to good and services (vocational training, primary and secondary education, healthcare and housing), and harassment covers a wide range of other grounds in addition to sex (including nationality, race/ethnicity, sexual orientation, civil status, religion and political opinion).

## Working Conditions Act

In 2007, following the inclusion of the prohibition of sexual harassment in the ETA and GETA, the Working Conditions Act was amended and sexual harassment was no longer defined in this Act. The amended Working Conditions Act put an obligation on employers in general terms to prevent or limit harmful psychosocial conditions (which can also cover sexual harassment, mobbing and discriminatory harassment). The Act states that the employer shall implement a policy aimed at preventing employment-related psychosocial workload, or limiting it if prevention is not possible, as part of the general working conditions policy (Article 3, s.2). Employment-related psychosocial workload is described as: the factors direct or indirect, including sexual intimidation, aggression and violence, bullying, and work pressure, in the employment situation that cause stress (Article 1, s.3e). Employers are obliged to draft annual risk assessment reports and develop measures to prevent risks. Sexual harassment is considered to be a health and safety risk and has to be addressed in these reports. The labour inspectorate is tasked to supervise this process.

The Explanatory Memorandum of the Working Conditions Act 2007<sup>3</sup> defines bullying in gender-neutral ways as: “All forms of intimidating behaviour of a structural nature, coming from one or more employees (colleagues, managers) aimed at an employee or group of employees who is/are not able to defend himself/herself(s) against this behaviour.”

The employer and workers/unions in a company are responsible for drawing up policies and implementing measures on working conditions and occupational safety and health. Agreements set out the framework in the form of a 'declaration of intent' for the sector as whole.

In practice many employers have implemented company and workplace measures through Codes of Conduct, by appointing a 'person of confidence', who gives confidential advice and support, and through the establishment of complaints committees. However, there is no legal obligation on employers to establish a complaints committee. In practice, many large employers or organisations have their own complaints procedure for victims of (sexual) harassment or other 'misconduct'. Smaller organisations are often linked to a 'national complaints committee' for a certain sector. For example, a national complaints committee exists for the primary education sector, where individual primary schools can 'buy' the assistance of an independent committee if a complaint is made in a school setting. Some Ministries have issued guidelines for codes of conduct and complaints procedures for employees, for example, as exists in the police force, the army and prison sector. Although employers are obliged to protect their employees against sexual harassment, there are no specific guidelines on implementing policies and procedures on sexual harassment in the workplace.<sup>4</sup>

Criminal-law procedures are similar for all cases where there is a form of sexual harassment which amounts to rape or sexual assault, although sexual harassment is not a criminal law offence per se. Workers seeking to take legal cases have to use civil and administrative law procedures, and victims may also use the prohibition of sexual harassment established under the ETA and GETA, or the provisions contained in the Working Conditions Act to provide safe

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<sup>3</sup> Explanatory Memorandum, Working Conditions Act 2007

<sup>4</sup> European Parliament (2005) The Policy on Gender Equality in the Netherlands.

[http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/519227/IPOL\\_IDA\(2015\)519227\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/519227/IPOL_IDA(2015)519227_EN.pdf)

working conditions. These different legal options result in a complex system that is difficult for workers to understand. There have been very few cases of sexual harassment in the Dutch courts.

## 2.2 Domestic violence at work

The Netherlands ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) in November 2015.

Domestic Violence is not a separate offence under Dutch law, but can be prosecuted under other serious (sexual) offenses under the Criminal Code (Article 304). Restraining orders are provided for in civil law.

In the Netherlands, domestic violence includes intimate partner violence, which can be physical, sexual and/or psychological. It is understood to include abuse of partners and ex-partners, children, parents and elderly people, honour-related violence, forced marriage and genital mutilation are also included. Stalking by partners and ex-partners is considered as a form of domestic violence.

The Dutch policy on domestic violence has been criticised for being too gender neutral, although a gender audit of the policy in 2014 found that the policy gave sufficient opportunities for gender sensitive approach.<sup>5</sup>

As of July 2013, professionals who may signal/suspect domestic violence are obliged to adhere to a code on domestic violence and child abuse. This applies to professionals in health care, education, child care, social services, youth care and justice. Other measures include projects to make domestic and sexual violence (and honour-related violence) easier to discuss, and public campaigns that call upon victims, but also bystanders and perpetrators, to seek advice and help.

## 2.3 Collective bargaining

Collective bargaining coverage is more than 80%. There is higher level of collective bargaining coverage compared to trade union density (under 20%), which exists because of the duty of employers that are party to a collective agreement to treat organised and non-organised employees equally.<sup>6</sup>

Bargaining principally takes place at sectoral level through framework agreements. In the public sector, collective agreements are established through 15 sub-sector agreements. Most sector agreements are considered binding by the Ministry of Social Affairs and Employment across each sector. However, since the onset of the economic crisis agreements have been more difficult to conclude. In addition, many large companies negotiate separate agreements often based on recommendations agreed at national level.

One of the features of industrial relations in the Netherlands is that bi-partite and tri-partite agreements can be translated into legislation. Tri-partite negotiations are well established in the Netherlands and regularly cover the employment relationship, working conditions and industrial relations structures. Permanent consultation takes place in the Social and Economic Council and successive governments have agreed social pacts, usually through the bipartite Labour Foundation. The main actors are the Ministry of Social Affairs and Employment, the

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<sup>5</sup> De Vaan et al., 2013

<sup>6</sup> Eurofound, Netherlands: Working life country profile.

[http://www.eurofound.europa.eu/sites/default/files/ef\\_national\\_contribution/field\\_ef\\_documents/netherlands\\_0.pdf](http://www.eurofound.europa.eu/sites/default/files/ef_national_contribution/field_ef_documents/netherlands_0.pdf)

Inspection SZW and the Social and Economic Council. The SZW is responsible for monitoring labour-related legislation and collective agreements and labour-related inspection. Some consultations have formed the basis of labour legislation in areas such as flexicurity and working time. In the Netherlands, the social partners have addressed violence and discrimination in the Social Economic Council.<sup>7</sup>

At company level, works council are mandatory in companies with more than 50 employees, providing for information and consultation rights and decision-making. In companies of between 10 and 50 employees, a personnel delegation can be established voluntarily by the employer, and are required to be set up at the request of a majority of the workforce.

There is trend towards decentralisation in collective bargaining for working conditions and occupational health and safety. In its advisory report on Occupational Health and Safety Services [Arbodienstverlening],<sup>8</sup> the Economic and Social Council had recommended that companies should be given greater freedom in providing occupational health and safety services on the basis of agreements reached at company or at sector level. An amendment to the Working Conditions Act that came into effect on 1 July 2005 give companies more flexibility in defining and developing occupational health and safety services, particularly in relation to greater responsibilities for the employer to address absenteeism if an employee is absent from work due to sickness or incapacity.

### **3. Gender-based violence at work**

#### **3.1 Introduction: the role of unions in preventing and tackling gender-based violence at work**

Collective bargaining and social dialogue play an important part in the regulation of health and safety, including violence and harassment at work. The legislation sets ‘target regulations’, which establish minimum protection levels that companies must provide to their employees so that they can work safely and in a way that does not endanger their health.

As mentioned in Section 2, the main focus of bargaining has been on prevention of psychosocial risks and employers have the responsibility to provide safe working conditions free from violence and harassment and to protect workers from third-party violence and harassment. Employers are required to prevent risks of violence and harassment, and establish an inventory of risks and strategies to deal with them. Employers are required to inform workers of their duties and the measures in place to limit risks, provide training for workers, and engage the services of occupational doctors and health and safety experts.

#### **3.2 Data and evidence**

Analysis of the FRA survey by the Dutch Institute for Gender Equality and Women’s History, ATRIA,<sup>9</sup> found that in the Netherlands 78% of respondents had experienced sexual harassment (not limited to the workplace); this is a higher level than compared to the EU average of 55%. 26% of respondents had been victims of stalking, and again this is above the

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<sup>7</sup> The Social and Economic Council of the Netherlands is a tripartite body that advises the government and parliament on social and economic policy. It undertakes activities arising from governance tasks and self-regulatory matters, and functions as a platform for discussions of social and economic issues. The Council consists of independent members, employers and trade unions (FNV has 8 seats, CNV has 2 seats and VCP has 1 seat). For further information:

<https://www.ser.nl/en/~media/files/internet/talen/engels/brochure/informatiebrochure-en.ashx>

<sup>8</sup> SER advisory report (2004) *Arbodienstverlening*, publication number 04/03.

<sup>9</sup> Renée Römkens, Tim de Jong & Hanna Harthoorn (2016) Violence against women European survey results in the Dutch context. Amsterdam, ATRIA.



EU average of 18%. However, the ATRIA report states that it is not possible to account for this at present as only limited data on sexual harassment is available from Dutch studies.

The Netherlands Working Conditions Survey 2011 (Nationale Enquête Arbeidsomstandigheden)<sup>10</sup> showed that 24% of workers in the Netherlands were exposed at least once to some form of third-party violence from people such as customers, clients, students and passengers, and a further 16% were exposed to workplace violence from colleagues or supervisors. The most prominent type of third-party violence is intimidation (reported by 19% of Dutch employees), followed by harassment and bullying (7%), physical violence (6%) and sexual intimidation (5%). Intimidation is also reported to be the most frequently experienced type of work-related violence (11%), followed by harassment and bullying (8%), sexual intimidation (2%) and physical violence (1%). Nearly 9% of the female employees surveyed had been a victim of unwanted sexual attention from customers in the previous twelve months. Just under 3% had received such attention from a supervisor or colleague. Employees, who have been victimized, report in sick more often than an average of seven days per year.

A study on aggression at work found that exposure to violence leads to increased absence from work, health problems, decreasing satisfaction with work and an increasing eagerness to change jobs.<sup>11</sup> It is estimated that violence costs employers about 1.7 billion euros per year.<sup>12</sup>

In the education sector there have been several surveys and reports documenting growing levels of violence and harassment of teachers and pupils. For example, in 2008, 4% of all teachers and pupils in secondary schools had experienced some form of sexual harassment.<sup>13</sup> In 2007/2008, 7% of all schools reported 'incidents' in this area to the inspectorate.

In the health sector there are no general studies and reports, although several studies have looked at specific sectors, such as hospital care, physiotherapy, nursing, or mental care institutions. One survey of sexual harassment in the health care sector found that more than a third of nursing and care workers had faced sexual harassment. More than half of the cases involved remarks of a sexual nature and a third involve physical contact.<sup>14</sup> A survey by students in medical training, found that 25% of medical women students had experienced sexual harassment. The offenders were all male except in one case, 66% were patients the remainder were medical doctors or residents. Three out of ten students reported that the incident had a negative influence on their work.<sup>15</sup>

The Ministry of Social Affairs, in cooperation with FNV, has recently carried out research about sexual violence in the Polish community.<sup>16</sup> However, there is a taboo about talking about sexual violence and many women were reluctant to speak about violence. Many were in precarious work and may have feared losing their jobs if they talked about violence. FNV considers this is an issue that has been very hidden and workers, particularly migrant workers, are reluctant to talk about sexual harassment.

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<sup>10</sup> Netherlands Working Conditions Survey 2005–2011, 2011, TNO/CBS, Hoofddorp. Available at: [http://www.tno.nl/content.cfm?context=thema&content=prop\\_case&laag1=891&laag2=904&laag3=74&item\\_id=107&Taal=2](http://www.tno.nl/content.cfm?context=thema&content=prop_case&laag1=891&laag2=904&laag3=74&item_id=107&Taal=2) Van den Bossche, S., van der Marloes, K., Ybema, J. F., de

<sup>11</sup> Van den Bossche, S., van der Marloes, K., Ybema, J. F., de Vroome, E., and Venema, A., 2012, *Aggressie op het werk [Aggression at work]*, TNO, Hoofddorp. Available at:

[http://www.tno.nl/downloads/agressie\\_op\\_het\\_werk\\_tno\\_rapport\\_r10252.pdf](http://www.tno.nl/downloads/agressie_op_het_werk_tno_rapport_r10252.pdf)

<sup>12</sup> Cited by Römken et al., (2016) op cit.

See Mooij et al. *Sociale veiligheid in het voortgezet onderwijs* Nijmegen, ITS 2008.

<sup>14</sup> <https://www.nmw.org/archive/nurses-face-constant-sexual-harassment>

<sup>15</sup> Rademakers, J.J., van den Muijsenbergh, M.E., Slappendel, G., Lagro-Janssen, A.L., Borleffs, J.C. (2008). Sexual harassment during clinical clerkships in Dutch medical schools. *Medical Education*, 42(5), 452-458. DOI: 10.1111/j.1365-2923.2007.02935.

<sup>16</sup> Add reference

### 3.3 Collective agreements and workplace policies

During the 1990s FNV adopted a series of recommendations on the position of women in the labour market, one of which was a special recommendation on sexual intimidation on the workplace, which included the development of complaints procedure and appointment of 'persons of confidence' who were trained to address sexual harassment. This led to a lot of activity in collective bargaining. One example at the time was an agreement in the catering industry, which covered workers who had to travel to and work in other locations to provide catering services. The union was able to persuade all employers to sign agreements on preventing sexual harassment on the basis that if all catering employers adopted agreements on the issue, it would reduce unfair competition between catering companies who may lose assignments if they are not prepared to address sexual harassment.

However, over time the 'person of confidence' role was broadened to cover all forms of undesirable behaviour, bullying and harassment. Today 90% of workplaces have 'persons of confidence', but few deal specifically with sexual harassment. There is a general assumption that the issue of sexual harassment has been solved and this has led to the issue not being prioritized by unions. As Catelene Passchier, FNV, stated: "We will have to admit that today these debates are mostly about violence in the workplace and third-party violence - sexual intimidation doesn't get a lot of attention today."

Since the mid-1990s, a large number of collective agreements have included provisions obliging employers to prohibit sexual harassment and/or to set up a complaints procedure and provide for counselling in the workplace. According to Rikki Holtmaat,<sup>17</sup> in 2004, 44% of workers in the Netherlands fell under a collective agreement that contained provisions concerning (sexual) harassment at work. However, she argues that since then collective agreements have become a less important mechanism as more employers have established their own codes of conduct and complaints procedures. Codes of conduct and internal policies on workplace procedures on sexual harassment have been issued in many different sectors of the economy, and particularly by large employers in industry and retail, healthcare, education, and sports.

Many collective agreements contain provisions for complaints committees where victims of sexual harassment can make complaints. However, unions interviewed for the report stated that the issue of sexual harassment has been replaced with an overall focus on general workplace violence and harassment. Under this integrated approach sexual harassment has become invisible. As one interviewee stated: "If we do it as a general approach, we find that we forget women."

#### Examples of collective agreements

The 2007 European Autonomous Framework Agreement on Violence and Harassment at Work<sup>18</sup> has been translated into Dutch and is annexed to the implementing recommendation concluded by the national social partners in November 2008.<sup>19</sup> The **recommendation on**

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<sup>17</sup> Rikki Holtmaat, in Numhauser-Henning A and Laulom S (2011) Harassment related to Sex and Sexual Harassment Law in 33 European Countries. [http://ec.europa.eu/justice/gender-equality/files/your\\_rights/final\\_harassement\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/your_rights/final_harassement_en.pdf)  
[http://ec.europa.eu/justice/gender-equality/files/your\\_rights/final\\_harassement\\_en.pdf](http://ec.europa.eu/justice/gender-equality/files/your_rights/final_harassement_en.pdf)

<sup>18</sup> BusinessEurope, ETUC, CEEP and UEAPME (2011) Implementation of the European Autonomous Framework Agreement on Harassment and Violence at Work. Final joint report by the European Social Partners adopted at the Social Dialogue Committee on 27 October 2011. Available at: [https://www.etuc.org/IMG/pdf/BROCHURE\\_harassment7\\_2\\_.pdf](https://www.etuc.org/IMG/pdf/BROCHURE_harassment7_2_.pdf)

<sup>19</sup> Cited in: [https://www.etuc.org/IMG/pdf/BROCHURE\\_harassment7\\_2\\_.pdf](https://www.etuc.org/IMG/pdf/BROCHURE_harassment7_2_.pdf)

**harassment and violence at work**<sup>20</sup> was agreed by the Dutch social partners in the National Labour Foundation. It recommends that the parties engage in collective bargaining at sector and company level and take serious steps to prevent and combat harassment and violence at work. It states that it is in everyone's interests to promote mutual respect in the workplace as this contributes to a company's success and to employee job satisfaction.

In the **public sector, safety and health at work codes and voluntary agreements** have been established between the social partners on how to deal with violence and harassment at work, including prevention and awareness-raising. A voluntary safe workplace framework agreement in 2009 led to a number of safe workplace agreements that agree rules, prevention, reporting and dealing with cases, as well as care and support for victims.

The 2010 agreement of the **Association of Netherlands Municipalities (VNG) and municipal trade unions**, contained a new section on policies to reduce harassment and violence. It provides for the appointment in municipalities of a harassment and violence coordinator, the adoption of best practices and procedures, and an incident reporting system. This joint action between employers and trade unions has led a reduction in number of incidents in local government, as noted in the report 'Aggression and Violence'.<sup>21</sup> In 2008, 52% of employees reported incidents, while in 2010 the figure decreased to 48%.

In the **hospital sector**, the Collective Agreement for Hospitals 2009-2011 recommended a number of measures to prevent violence including risk inventory that gives special attention to "tackling work pressure, aggression, physical strain and violence". In the health sector unions have highlighted the need to do more tackle sexual harassment by third-parties (clients and patients). The FNV union official responsible for occupational health and safety in the sector has an objective to raise awareness about the issue, including writing a brochure. The box below provides the guidance on sexual harassment for managers in University hospitals. It is one of few guidance documents that defines and deals specifically with sexual harassment.

***Information in the health and safety regulations on sexual harassment for managers in university hospitals***<sup>22</sup>

Specific guidance on sexual harassment covers the following areas: definition of sexual harassment, your task, you observe sexual harassment, complain about colleagues and prevention.

**Definition:** Sexual harassment occurs when a person's behaviour towards another is sexually charged. Think of direct requests, indirect allusions, touching, assault, rape, sexual comments or sending or suspending sexual images in the workplace, whether through social media. The perception of the victim is key. Not how behaviour is intended, but how it is perceived, is decisive.

**Your task:** The Working Conditions Act contains provisions to ensure the safety, to protect the health and promote the welfare of employees. In short, the manager of superior should bear the concern for a safe and pleasant working environment. That goes beyond the protecting of an individual employee. The supervisor needs to take active and preventive measures to protect employees against sexual harassment and to address sexual behaviour. Think also of staff as cleaners, trainees and temporary employees.

<sup>20</sup> VNO-NCW, MKB-NL, LTO-NL (employers' organisations) and FNV, CNV and MHP (trade union organisations) Joint recommendation on harassment and violence at work, 5 November 2008

<sup>21</sup> Add reference

<sup>22</sup> <https://www.dokterhoe.nl/artikel/20/ongewenst-gedrag/82/wat-kunt-u-zelf-doen/369/seksuele-intimidatie>



#### *You observe sexual harassment*

- Talk to the perpetrator about his behaviour;
- Make concrete agreements on improving behaviour, record these agreements and have them signed. Evaluate the agreements;
- Point out to the perpetrator of the consequences of his behaviour and record this;
- Use the annual appraisal to re-evaluate;
- Involve the person of trust in the approach;
- If necessary, contact the company doctor, the social services or HR;
- Put things down in the personnel file;
- Take disciplinary measures, if necessary, in consultation with HR, the person of trust or the legal department.

#### *Complain about colleague*

How do you deal with a complaint from someone in your team about a colleague:

- You realize that the reporter has taken a major threshold and take it seriously;
- Ask what the reporter wants with the complaint;
- Ask for the facts and do not go off on emotions;
- Do not take sides;
- Concentrate on the behaviour;
- Gather information quickly;
- Ask the reporter to provide a (written) report of any cases in word usage, time, location and specific descriptions;
- Speak with both parties separately and, if necessary, with both parties at the same time;
- Disapprove of the unwanted behaviour and indicate how you wish people to behave on the shop floor and proceed as in 'You observe sexual harassment'.

#### *Prevention*

- You realize that you have a role model and act accordingly;
- Make the policy of harassment known in the department;
- Question during annual interviews as an integral part to the perception of the work environment;
- Be alert to the atmosphere and level regularly how employees experience;
- Be alert to (short frequent) sickness;
- Demand for the prevention of sexual harassment in the RI & E.

In the **transport sector**, the collective agreement for the public transport sector gives specific attention to sexual harassment and makes recommendations such as appointing a confidential counsellor and establishing a complaints procedure. (see box below)

#### ***Collective labour agreement “Multimodaal vervoer” (multimodal transport), 2014-2015<sup>23</sup>***

Article 81: Sexual intimidation and discrimination: “The employer shall conduct a policy within his company aimed at preventing and countering sexual harassment and discrimination against workers employed by him. In annex 18 of this Agreement are recommendations of the CAO parties included, by means of which the referred policy above can be supported.”

Annex 18 (related to Article 81 Sexual intimidation and discrimination

CAO parties recommend to support a policy referred to in Article 81 aimed at preventing and countering sexual harassment and discrimination, in consultation between management and the works council to:

<sup>23</sup> [https://www.fnv.nl/site/alle-sectoren/caos/caos/393757/Multimodaal\\_Vervoer\\_cao\\_2014-2015.pdf](https://www.fnv.nl/site/alle-sectoren/caos/caos/393757/Multimodaal_Vervoer_cao_2014-2015.pdf)

- Appointment of a person of trust who is supposed to have the confidence of the workers, to whom they can focus in case of incidents of sexual harassment for advice and support
- Appointment of a complaints committee who investigate complaints authority
- The complaints Committee advises the employer in case of a valid complaint about the content of the sanction
- Both the person of trust and the complaints committee should have sufficient facilities to carry out their functions adequately the employer will pay attention to the awareness and prevention of sexual harassment and discrimination.

The **hotel sector** is one sector not covered by a collective agreement and is included as part of negotiations for an agreement in the tourism sector. In hotel, unions highlight the vulnerability of many women cleaners, many of who are isolated and some are victims of trafficking. There has been recent evidence from the government of abuse of women working in embassies who are attacked and enslaved.<sup>24</sup>

### Health and Safety catalogues

Another way in which violence and harassment has been tackled through joint employer-union negotiations is through the agreement of 'Health and Safety Catalogues', which are legally binding. The development of these catalogues is unique to the Netherlands. Under the Social and Economic Council, social partner representatives at sector or company level are required to agree on detailed policies, with their agreements recorded in a Health and Safety Catalogue.

They also inform the work of the labour inspectorate. The social partners have the responsibility to determine the form and content of a Health and Safety Catalogue. This work is assisted by the Labour Foundation, which has issued guidance to assist the social partners through the Health and Safety Catalogue Guidance Committee. In its Explanatory Memorandum, the Government states that "It is the social partners' responsibility to develop Health and Safety Catalogues at national and in particular at sector level."<sup>25</sup>

Although there is no formal monitoring of the Health and Safety Catalogues as such, but it is part of the general monitoring task of the Labour Inspectorate (SZW). It is based on collaboration to draw up detailed guidance on issues such as aggression and violence at the workplace and in relation to third-party violence. Catalogues can be either sector specific or where relevant if can cover several sectors where there are similar policies and solutions to workplace violence. The overall objective is to draw up standardized rules and guidelines to implement regulations laid down in the Dutch Working Conditions Act.

Some of catalogues have been drawn up with specific instructions that deal with violence and harassment. Examples include catalogues in the services sectors, including pharmacists, taxis, petrol stations and vocational training schools, ambulance services, banks, utility companies, and other government institutions. However, unions interviewed for this country case study stated that in this work, sexual harassment and gender based violence are rarely addressed in the safety catalogues.

### 3.4 Union awareness raising, campaigns and training programmes

In the late 1980s early 1990s FNV was very active in campaigns to end gender-based violence. During this time the union established, in cooperation with NGOs, a support centre for women who had experienced sexual harassment. The support centre was subsidized by the government for five-years. This, Catelene Passchier, FNV, argues, "helped to put the issue on

<sup>24</sup> 14 July 2016, Fair Work report

<sup>25</sup> Labour Foundation (2007) What is a health and safety catalogue?

the agenda more widely. It was a step forward and helped to bring the issue of power relations into the debate.”

FNV acknowledges that the situation in the workplace has changed since the early campaigns carried out on sexual harassment. Rising levels of women’s employment, positive developments on gender equality at work, and greater awareness that overt forms of sexual harassment and violence are unacceptable, does not necessarily mean that the problem has gone away. Today it is more likely the case that sexual harassment is subtler and as Catelene Passchier, FNV, argues that: “It is like equal pay, we find today the more subtle cases rather than overt discrimination. It is the same thing with sexual harassment, but it still happens in more subtle ways.” FNV believes that it is important to create a momentum and raise the issue in the trade union movement, including giving attention to the range of groups who may feel unsafe at work, for example, because they have a Muslim religion, they are a migrant worker or because they are LGBT.

In relation to discrimination, violence and harassment of LGBT people, FNV has developed a platform to discuss LGBT issues, which has the objective to create a safe working environment and prevent discrimination against LGBT workers. In 2014, the Dutch government and the social partners unanimously agreed on the tripartite advice of the Social and Economic Council which pays specific attention to which pays specific attention to LGBT issues, including violence and harassment at work.<sup>26</sup>

The Women’s Committee of FNV transport has been very active in combating violence against women. FNV transport co-financed an international conference held by the International Transport Federation (ITF) on violence against women in Bali. A blog was developed enabling workers and unions to post and discuss violence against women.

The transport union has, through the ITF, carried out projects on awareness raising and training amongst truck drivers and long distance coach drivers about trafficking, including the need for everyone who boards a coach to have a passport. The union has established a direct phone number for coach drivers to enable them to contact the border police ahead of approaching a border. The union has made them aware of the signs of trafficking and holds regular meetings with the police on the issue.

FNV transport has participated in an application submitted by the European Transport Federation (ETC) for an EU-funded project on violence in transport. If the application is successful it will involve research on participating countries and a training programme on sexual harassment as an issue of occupational health. FNV transport believe that occupational health is an issue that members are happy to discuss; however, when discussions go deeper and tackle sexual harassment there is resistance from members. FNV transport believes that it is important to address the problem and raise awareness as a key part of the debate about safety in transport.

One of the largest hospitals, Leiden Hospital FNV has carried out a campaign on violence and bullying at work, which is a particular issue faced by women workers. The union raised awareness and held meetings with workers and management across the hospital. Although the initiative was broad based, gender based harassment was not discussed.

The public authorities, with the close involvement of the social partners, have tackled the problem of aggression and developed a number of prevention programmes. For example, the Ministry of the Interior and Kingdom Relations launched the “**Safe Public Service**” project in

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<sup>26</sup> <http://www.eurofound.europa.eu/observatories/eurwork/articles/working-conditions-labour-market-law-and-regulation/working-life-experiences-of-lgbt-people-and-initiatives-to-tackle-discrimination>

2008. The programme focuses on third-party violence towards providers of public services such as police, health care and education, and work closely with unions, employers and other stakeholders to reduce third-party harassment or violence at work. The programme uses social media to reach the general public and has an interactive awareness campaign.<sup>27</sup>

An annual award is given to organisations that have demonstrated a successful approach to address violence against employees. The partners include the Ministry of the Interior and Kingdom Relations, representatives of employers and employees, the Dutch Centre for Crime Prevention and Safety and Victim Netherlands.

A **special website** was set up by the Dutch government at the request of social partners dealing with the violence and harassment.<sup>28</sup> It offers a wide variety of information related to aggression and harassment at work, ranging from information about the scale of the problem tips on how to communicate with and involve the works council.

A national '**stop aggression day**' has been organised jointly by the government and the social partners to draw attention to violence and harassment at work.

In the public sector several projects have addressed **third-party violence against public service workers**, for example, in the labour inspectorates, tax services, public prosecution services, legal public relations services and prison services. Networks on violence and aggression in central government have been created. A model code of conduct and integrity policy was made obligatory for all central government public employers.

A campaign was launched by the Ministry of Social Affairs and Employment in 2016 to raise awareness about discrimination, mobbing and sexual harassment in the workplace. The campaign entitled '**Undesirable behaviour? Not for me**' is based on a poster and a radio message, employers and employees are called on to discuss and see the grey area between an innocent joke and undesirable behaviour and to speak out about it at work before it is too late. The TNO is involved in the campaign, as well as the Labour Inspectorate which has launched a self-inspection tool for employers to understand the forms of undesirable behaviour (see below). The campaign message is that 'when these behaviours are combined with a heavy workload, they double the risk of stress, which is the No. 1 cause of occupational diseases in the Netherlands, and job burn-out.'<sup>29</sup>

A further resource that unions believe could be utilized in the future is the Labour Inspectorate's health and safety check online tool, introduced in 2016. It is a 'self-inspection tool' for employers and workplace representatives to assess the state of play of occupational health and safety. It includes checklists on psychosocial risks and work pressure, including 'bullying, intimidation, sexual intimidation' and 'third-party violence'. This enables employers to identify areas of risk and to carry out a more detailed thematic review to address the problem.

### 3.5 Links and cooperation with civil society and women's organisations

FNV has a long history of links with civil society and women's organisations dating back to the early women's movement.

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<sup>27</sup> One of the programme's interactive awareness campaigns (<http://www.youtube.com/watch?v=VLE5216Uie4>) has won a SpinAward for creativity in interactive communication.

<sup>28</sup> [www.arboportaal.nl/agressie-intimidatie](http://www.arboportaal.nl/agressie-intimidatie)

<sup>29</sup> <http://www.eurogip.fr/en/eurogip-infos-news?id=4308>

### 3.6 Challenges faced by unions

The biggest challenge raised by interviewees is that sexual harassment has not been sufficiently prioritised in collective agreements, workplace policies and workplace risk assessments. Because unions dealt with the sexual harassment in the 80s and 90s there is an assumption that the problem has been solved.

As Jessica van Ruitenbreg, FNV, argued the FNV decided to participate in the ETUC project because the union currently does little to incorporate a gender aspect to its work on health and safety. She identified the need for an evidence base, possibly through an on-line members' survey, which could help to identify the problem and start a discussion amongst members, and persuade the union to develop more concrete policies and actions in the workplace.

Precarious employment and the flexibilisation of the workforce are highlighted as contributing to rising levels of violence and harassment. Although existing legislation protects workers in formal/protected employment, workers in precarious jobs face uncertainty and insecurity. This results in under-reporting of violence and harassment as many workers fear of retaliation if they make complaints. Insecure and casualised work also means that workers are at a greater risk of violence and harassment.

A further challenge is that there is an absence of data and research on sexual harassment at work. As Renee Romkens, Director of ATRIA, notes this is related to the fact that policy is increasingly gender-neutral:

It is a big challenge that the law is gender-neutral and is very ambivalent on gender-sensitive measures. We need a process of awareness raising that shows that gender-sensitivity is not about taking sides...but we have moved to a gender-neutral approach and we need to get back to having a gender analysis on the table...We need to draw up a gender-based research agenda.

### 3.7 Recommendations from unions

- It is important that European and ILO instruments are agreed and implemented to deal with sexual harassment at work, as this issue has slipped off the agenda of trade unions and employers in the Netherlands.
- Sexual harassment should form a central part of occupational health and safety policies in the future. This means ensuring that effective measures are in place to address sexual harassment as a core psychosocial risk, and for it to be included in risk assessments.
- The social partners have an important role to provide guidance on how safety catalogues and other guidance materials (draw up jointly by the social partners to implement rules on occupational health and safety to be addressed in sectoral or workplace agreements) can address the issue of sexual harassment at work.
- Provide training in the workplace for the 'person of confidence', occupational doctors and workplace health and safety representatives about sexual harassment, the forms it takes and how it can be prevented. Integrate training on sexual harassment into the yearly occupation safety and health training carried out for workplace representatives. The five-day programme, which includes psychosocial risks at work, could include half a day on gender-based violence.
- Draw up detailed guidelines and checklists for workplace health and safety representatives on how to prevent and tackle sexual harassment / sexual intimidation in the workplace.
- Start a debate about gender-based violence for people in precarious and casualised work.



- Carry out a FNV online member survey on sexual harassment at work to identify the problems of gender-based violence at work. This could be modelled on the TUC survey carried out in the UK in 2016.
- Raise the issue of gender-based violence through the FNV's youth structures, and carry out consultations with young people in the union. This could use the mechanisms adopted in the FNV project 'Young and United', which has addressed a range of issues faced by young people in the labour market.

## 4. Domestic violence at work

### 4.1 Introduction: the role of unions in addressing domestic violence at work

Unions are only just beginning to address the issue of domestic violence at work, and unions interviewed identified this as an important future priority.

### 4.2 Data and evidence

Police data shows that over 56,000 domestic crime reports are entered into the police database each year of which an estimated 500,000 are domestic violence incidents. It is also estimated that 100,000 children witness domestic violence each year.<sup>30</sup>

The FRA study found that 41% of respondents from the Netherlands had been a victim of physical violence, which is higher than the EU average of 31%. In the FRA survey, 22% of all Dutch women said that the physical violence they experienced was perpetrated by a partner or ex-partner. Approximately half the victims of violence from their current partner had experienced more than one violent incident, and approximately two-thirds of victims had experienced repeated violence. Nearly one third of those who experience this violence have seen their lives changed drastically as a result. 80% of cases are committed by men.

According to ATRIA,<sup>31</sup> the FRA data correspond with the results of the first Dutch study carried out in 1992 into the prevalence of intimate partner violence, where one in five women (20.8%) reported that they had experienced physical violence from a partner or ex-partner. In a more recent Dutch study, published in 2010, over 11% of the women surveyed reported having been the victim of 'obvious domestic violence' by a partner or ex-partner in the past five years.<sup>32</sup> The term 'obvious domestic violence' includes the various forms of physical and sexual violence, together with: keeping an eye on / following (stalking), hitting with an object, suffocating/strangling/burning and injury or attempted injury with a knife or weapon. Less serious forms of violence (such as humiliating or threatening to cause physical pain) were only included as 'obvious violence' when the victim had experienced more than ten such incidents.

ATRIA's (2016) report on violence against women recommends that new prevalence research should be carried out in the Netherlands, using a methodology that allows for reliable and comparable results. Other recommendations concern the need for more research to be given to women's safety at home, on integrated approaches to prevention and protection, awareness raising and breaking taboos, and that more attention needs to be given to combating cyber violence, including violence in social media. Regarding sexual harassment at work and particularly of highly educated women needs to be addressed systematically. The report recommends that: "For prevention purposes, and in view of the potential economic impact (sick

<sup>30</sup> <http://www.huiselijkgeweld.nl/english/factsheet>

<sup>31</sup> Renée Römkens, Tim de Jong & Hanna Harthoorn (2016) Violence against women European survey results in the Dutch context. Amsterdam, ATRIA.

<sup>32</sup> Van der Veen & Bogaerts, 2010

leave), it is urgent and important that employers and unions pay attention to this issue, supported by research on how to address the problem effectively.” (p.45)

### **4.3 Collective agreements and workplace policies**

Domestic violence at work is a new workplace issue for unions in the Netherlands and no specific agreements or workplace policies were identified in this country case study.

One of the reasons why domestic violence has not been seriously considered as a workplace issue in the Netherlands is because it is a sensitive issue, and there is a pronounced separation between work and private life.

As Jessica van Ruitenburg, FNV argues:

What you do at home is very separated from what you do at work. Domestic violence or care issues are not talked about a lot...there is an assumption that the employer has a responsibility to provide a safe working environment, but it is assumed to not be the employer's role to give advice about what you do in your private life, even if this concerns issues such as unhealthy lifestyles, food consumption or alcohol consumption. Persuading the employer and the occupational health and safety committee that they should look at domestic violence as a workplace issue will be difficult.

When unions address domestic violence at work, this tends to be informal, leading to individual negotiations with an employer to help support a victim at work. An example was given from the transport sector where an employer recently approached the union as he was concerned about a female employee. He asked for the union's help as he did not want to sack the woman from her job. The union officer spoke to the woman and found out that she experienced violence during the night; the union officer negotiated with the employer to give her afternoon and late shifts in order that she could sleep in the morning, and she gave information about specialist support services.

### **4.4 Union awareness raising, campaigns and training programmes**

As mentioned in Section 3, FNV was very active in the 1990s in carrying out campaigns and awareness raising on gender-based violence.

Some unions run training courses that highlight the issue of gender-based violence at work. FNV transport is very active in programmes on combating violence against women through the European Transport Federation and the International Transport Federation. As Brigitta Paas from the FNV Transport Union stated: “I always say in my training to trade union representatives that 1 in 3 women are victims of gender-based violence, I try to make them aware how much it happens in their surroundings. Many of the men are very shocked about this. But it is very difficult to talk about it.”

Unions interviewed suggested that they need to do more to raise awareness and open up discussions about domestic violence at work. One suggestion is to make contact with survivors of domestic violence and to involve them in union training and discussions about domestic violence at work. This is based on a FNV philosophy that ‘we are not speaking about you, we are speaking with you’. This could help to show that it is an issue ‘you should not be ashamed of’, and that by telling the stories of how domestic violence affects work women may be more willing to approach a union representative.

## 4.5 Links and cooperation with civil society and women's organisations

Dutch unions have a long history of links and cooperation with women's organisations, dating back to the early women's movement.

### **The 'New Future' project (FNV in partnership with the Dutch Women's Council and local or regional shelter organisations).**

A project 'De Nieuwe Toekomst' (The New Future) gives focus to the participation and financial independence of victims of domestic violence. This new approach aims to provide support to women who no longer wish to be dependent on social welfare. The target group are women who have been subjected to domestic violence, and who, after spending time in shelters or receiving other forms of social support, are ready to take steps towards a better future for themselves and their children. Interventions include support in actively searching for a job, a ten-week training programme 'Toekomstwerkplaats' (The Future Workshop), a personal coach who supports them for nine-months, and working as a volunteer. The goal is to enable the women to gain financial independence, since this is the best form of protection against domestic violence.

A pilot project in 2012-2013 conducted in the province of Overijssel shows that this approach leads to good results: more than half of the participants now partake in education, work, or are active in the voluntary sector. Today the project is being delivered in eight local authorities. It is carried out in collaboration with the police, social services, women's shelters and the Dutch Women's Council. It is funded by the Ministry of Education and participating local authorities contribute to funding.

### **Dutch Institute for Gender Equality and Women's History, ATRIA**

An interview with ATRIA<sup>33</sup> identified possible areas for collaboration between unions, employers and women's organisations in developing research and guidance on the prevention of domestic violence at work. ATRIA has an objective to persuade employers to take more concrete actions to prevent violence against women in the workplace. According to Renee Romkens, Director of ATRIA, "...employers are just not aware of the costs they incur by not tackling domestic violence at work...We need a solid underpinning for this work."

Renee Romkens, Director of ATRIA, highlighted an absence of data and research on domestic violence at work. ATRIA's research has identified the issue of inter-generational transfer of violence and the importance of addressing protective factors such as "the personal strength of women, their labour participation and the caring attitude of men may also be of great importance."<sup>34</sup> ATRIA has called for new strategies to address violence in gender-sensitive ways, taking account of growing diversity and complexity of society and in women's social lives.

### **Veilig Thuis 'Safe at Home'**

An interview was held with the organisation Veilig Thuis (Safe at Home), a statutory organisation which has since 2015 had the responsibility to provide an integrated response to child abuse and domestic violence. It recognises that domestic violence is also a form of child abuse when witnessed by children. Veilig Thuis has established a five step code 'Meld Code'

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<sup>33</sup> Renée Römken, Tim de Jong & Hanna Harthoorn (2016) Violence against women European survey results in the Dutch context. Amsterdam, ATRIA.

<sup>34</sup> Majone S, et al., (2016) Prevention of intergenerational violence in the Netherlands and Europe: exploring what works: summarizing conclusion. Available at: <https://www.atria.nl/search/collection/book/show/111795>

for first responders who come into contact with children and adults (for example, schools, childcare, hospitals, GPs and police). It gives guidance on how to respond to and report on child abuse and domestic violence. It is a very important instrument for first responders and training is provided on how to use the 'Meld Code'. The organisation provides advice and carries out investigations, and refers women to safe accommodation and support services, provided by the Blithe group.

Although the organisation does not provide support for women in employment, it is an area that is of great interest, particularly as great efforts are taking place to make professionals such as GPs, hospitals, child care centres and other organisations aware of child abuse and domestic violence. This is an area that potentially could lead to work with employers. The organisation highlighted the critical stage of violence when women seek refuge, as often they have been forced to leave their jobs. Currently the only link with employers' stems from the legal requirement on Veilig Thuis to alert an employer if there is a dangerous situation for a woman, for example, if a perpetrator has a gun or weapon. Benne Holwerda, Programme Director of Veilig Thuis, Amsterdam, stated:

There is a culture of silence on this issue in the workplace...it is important to have strategies to keep women in employment and for an employer to assist a woman with safety planning. Often the workplace is the only point of contact for the woman outside the home, but it can also be the only place where the perpetrator can find a woman after she leaves a violence relationship...there may also cases where bullies in the workplace may also be perpetrators of violence at home.

In Rotterdam, a specific project (see box below) has been established through the public health agency (GGD) to model an initiative in the workplace based on the 'Meld Code' model. Although the project's written information makes no specific reference is made to the role of unions, it is clear that union involvement in developing company practices on domestic violence at work will have significant added value to initiatives of this nature.

A domestic violence at work project has been initiated in the Rotterdam-Rijnmond Public Health Service (GGD).<sup>35</sup> Rotterdam GGD, the public provider for prevention in health care, has drawn up a reporting code for companies, as part of its aim to provide good healthcare that is accessible to everyone. It is responsible for implementing the statutory 'Meld Code'. Rotterdam GGD reports that workers who have domestic violence problems regularly take sickness leave from work, which impacts on productivity and increases stress and tension at work. An estimated 10-15% of absenteeism in the Netherlands is due to domestic violence, resulting in costs to employers of between €74 and €192 million per year.

The Rotterdam GGD has formed a network of companies and recommends that companies implement policies and workplace supports to help victims of domestic violence, including training of social workers, occupational health and HR consultants. The network aims to recruit a number of leading companies in Rotterdam who will act as 'ambassador firms'. The network has produced a toolkit and reporting code in partnership with companies. Plans are in place to draw up a reporting code 'Meld Code' for businesses, along the line of the statutory 'Meld Code' for reporting on domestic violence and child abuse which became mandatory under a national law in 2013 for professionals working in care, welfare and education. Although companies are not obliged by law to report on domestic violence and child abuse, it is recognised that employers also need to tools to support professionals in and tackle the signs of domestic violence and child abuse. In Rotterdam, HR professionals and

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<sup>35</sup> See: [http://www.ggdrotterdamrijnmond.nl/huiselijkgeweld/professionals/bedrijfsleven-en-huiselijk-geweld.html?tx\\_rkdownload\\_pi1%5Bfileid%5D=1426&cHash=e61c1bc658436011b8547cadac85672e](http://www.ggdrotterdamrijnmond.nl/huiselijkgeweld/professionals/bedrijfsleven-en-huiselijk-geweld.html?tx_rkdownload_pi1%5Bfileid%5D=1426&cHash=e61c1bc658436011b8547cadac85672e)

occupational health consultants working in human resource management, offer in-company training for professionals to identify signs of domestic violence and offers tools to address it in the workplace.

#### 4.6 Challenges faced by unions

Several challenges were raised by unions including the difficulties in persuading employers and unions to discuss the 'private' realm of the home, and specifically how domestic violence affects women at work and how unions and employers can be proactive in preventing domestic violence at work.

#### 4.7 Recommendations from unions

- FNV member panels are a possible mechanism for commencing a consultation on gender-based violence and domestic violence at work. Through a member panel research, surveys and projects can be initiated on specific topics. Approximately 1500 members are involved in different member panels.
- Domestic violence at work could be raised as an issue through works councils, committees on health and safety and working with the 'person of confidence'.
- A key role could be played by the 'person of confidence' in the workplace, who could potentially have a role in having confidential conversations with victims of domestic violence. Interviewees recognised that these 'conversations' require training for the skills, empathy and understandings, and also to have knowledge of when to intervene, when to stand back and who a victim can be referred to for specialist services.
- Legal obligations on employers to address and prevent absenteeism from work could also be extended to prevent domestic violence at work.
- Develop projects to pilot prevention of domestic violence at work policies and programmes. One suggestion was made for the City of Amsterdam, as an employer, to implement a project as an extension of the work carried out to implement the 'Meld Code' and identify violence and abuse in the family. "It would be interesting to move up a notch to find out what they are doing for their employees experiencing violence." (Benne Holwerda, Programme Director, Veilig Thuis)
- Occupational doctors could also be trained to 'spot the signs' and sensitively provide advice and guidance to victims of domestic violence, particularly as victims record high rates of sickness absence. The key issue is opening up a space for conversation rather than solving a problem.
- The five steps contained in the 'Meld Code' could easily be adapted and applied to employers.
- Raise awareness, through the FNV member's panels, youth and women's structures about the importance of union action to prevent domestic violence at work and the importance of early intervention.
- Information leaflets / good practice guidelines could be disseminated across FNV, and particularly into the health and safety representatives in the workplace, to raise awareness.
- Carry out training for workplace health and safety representatives on domestic violence at work, for example, in the annual training provided for health and safety representatives.
- Raise the issue in tri-partite and bi-partite structures, such as the Social and Economic Council, the Labour Foundation, as well as in the Ministry of Social Affairs and the Labour Inspection.
- A European / international policy framework should aim to raise awareness about domestic violence at work, and this should be progressed through the proposed new ILO Convention on violence at work.