

ETUC 'Safe at Home, Safe at Work'

BELGIUM

Country Case Study¹



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2017

¹ This report is one of eleven country case studies drawn up under the ETUC's project 'Safe at Home, Safe at Work', the findings from which are consolidated in the final synthesis report for the project.



1. Introduction

1.1 Overview

This report gives an overview of the country case study for Belgium, which is one of eleven case studies prepared for the ETUC project 'Safe at Home, Safe at Work'. It documents the measures taken by Belgium unions to address gender-based violence at work. It covers two specific areas: a) gender-based violence in the workplace 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, as well as the challenges faced by unions and the recommendations made by unions for the future.

1.2 Methodology

In addition to a review of relevant literature and reports, interviews were held in Brussels in June and July 2016, with the following:

- Martine Vandevenne, ABVV-FGBT
- Patricia de Marchi, CGSLB
- Patricia Biard, ACV-CSC
- Marijke Weewauters, Institute for Equality between Women and Men
- Liliane Leroy, Femmes Prévoyantes Socialistes (FPS), trainer and coordinator of the Daphne III project on domestic violence at work

2. Context and legal background

2.1 Gender-based violence at work

Psychosocial risks at work

In Belgium sexual harassment and violence are principally dealt with as psychosocial risks in the workplace, provisions for which were substantially strengthened in legislation in 2014.² The Act on Wellbeing at Work of 28 February 2014 (supplementing the Law of 4 August 1996) specifically addresses violence, harassment and sexual harassment at work. The Law of 28 March 2014 amended the Judicial Code and the Royal Decree of 10 April 2014.

A wider definition of psychosocial risk in the workplace is contained in the amended legislation. Psychosocial risk is defined as "exposure to an environment or behaviour that creates an objective danger over which the employer has some control" and includes sexual harassment, violence and psychological harassment. In addition, to psychological risks and/or physical injury, the legislation also requires employers to address and prevent psychosocial risks arising from work organisation, work content, working conditions and interpersonal relationships at work. There is a specific focus given to the implementation of prevention programmes by the employer, line managers, the workplace prevention and protection committee,³ technical

² This extended the existing provisions contained in the law of 4 August 1996. The 1996 law introduced a specific section concerning sexual harassment in the workplace and introduced prevention advisors in companies to assess risks within the workplace and managing the implementation of the law concerning working conditions.

³ The joint committees on prevention and protection (health and safety committees). Employee members are elected by the workforce. Where no committee has been established the functions of the committee are transferred to the trade union delegation to conclude collective agreements on the issue, and if there is no trade union delegation employers must consult employees directly on health and safety issues in the workplace.

experts in psychosocial prevention, and the 'person of confidence'⁴ (personne de confiance). A 'person of confidence' is recommended in each company to provide confidential advice and information to workers who are victims of psychological or sexual harassment, and they have to complete a five-day training course and an annual evaluation. If there is a conflict of interest, a workers' representative has the right to ask that the person be sidelined. In addition, the new laws introduced measures to encourage victims to report psychosocial injuries, which include protecting victims from reprisals.

The legislation specifies that it is the responsibility of the employer or managers to resolve psychosocial issues, and members of the prevention committee and workers' representatives, can also intervene to resolve psychosocial issues. If these interventions are unsuccessful a formal or informal intervention can be implemented by the 'person of confidence, who can carry out a conciliation process, request a risk analysis and action to resolve a complaint, institute an inspection by the labour inspectorate (CWW) responsible for inspecting workplace safety and health policies. If mediation or intervention by a Labour Auditor is unsuccessful, a last resort is civil court action.

Companies were required to implement the new obligations by 1 March 2015, by detailing details and duties of the psychosocial prevention advisor and the person of confidence, and ensuring that internal procedures are drawn up and made accessible to employees.

Anti-discrimination law

The Gender Act of 10 May 2007 prohibited harassment on the ground of sex and sexual harassment (Article 9) in relation to both employment and access to and supply of goods and services. However, sexual harassment is not referred to in the other two anti-discrimination Acts of 10 May 2007 in relation to other grounds of discrimination and discrimination in general. Under Article 35 of the Gender Act, trade unions, employers organisations and associations with a charter aimed at fighting discrimination are entitled to take legal action in order to uphold the principle of gender equality. Federal authorities have also passed legislation regarding sexual harassment in vocational training and employment relations in the public services, for example, that aim to combat discrimination and sexual harassment.

Since 2014, the Anti-Discrimination Law has covered discrimination against a person in the employment relationship due to their gender. The law sanctioned sexism/sexual harassment in employment relationships in the following way:

...as any gesture or behaviour which, under the circumstances detailed under Article 444 of the Criminal Code, has the purpose or effect of degrading someone, due to his/her gender or where someone treats a person less favourably because of their gender leading to a severe loss of dignity by the victim.

The Act also covers sexual harassment in public places and online sexual harassment, for example, "mocking a stay-at-home father or insulting a woman for wearing revealing clothes". This is defined as acts perpetrated during meetings or in public places, in the presence of several individuals whether intentionally or otherwise, in any place whatsoever in presence of the offended person and in front of witnesses, in writing (whether printed or not), displayed images, sold or exposed to the public eye and even in writing where such writing has not been displayed in public but has been addressed or communicated to several persons.

⁴ 'Person of confidence' is sometimes referred to as 'person of trust', for the purposes of this report 'person of confidence' is used.

An evaluation of Belgium's anti-discrimination laws was carried out by a Commission appointed by the government. The first report of the evaluation was published in 2017, and recommendations have been made to both strengthen and broaden the scope of the laws on anti-discrimination and ensure the full transposition of EU directives on anti-discrimination (Directives 2000/78 / EC and 2000/43). The unions in Belgium are broadly in agreement with the recommendations made; however, the employers are opposed to many of the recommendations.⁵

However, a feature of the Belgium law is that cases of sexual harassment / harassment based on discrimination have to be referred directly to the Wellbeing at Work Act. Article 7 of the Gender Act was amended accordingly so that when an employee who falls within the scope of the Wellbeing at Work Act, complaints of harassment or sexual harassment must rely exclusively on the latter Act. The amendment of the Wellbeing at Work Act in 2014, did, however, specify that harassment, sexual harassment and violence at work may be related with criteria referred to in the three anti-discrimination Acts of 10 May 2007.

According to the review of EU sexual harassment law in the EU, this means that harassment is given preference in the law and that "harassment as a form of discrimination is to a greater or lesser extent 'hidden' behind more general regulations against victimization or violence at work and thus competes with mobbing or bullying."⁶ This is despite the fact that sexual harassment is determined as discrimination under the Gender Act, which in effect makes the anti-discrimination approach redundant in the law.

This approach, according to Jean Jacqmain of the European Network of Legal Experts on Gender Equality means that:

Harassment and sexual harassment are generally not perceived or analysed as gender discrimination... This is a paradox as Belgium was a pioneer in the EU when its second Act on gender equality in employment (Act of 7 May 1999) envisaged sexual harassment as gender discrimination, and as horizontal provisions (Article 5 (9) and (10) providing the definitions and Article 19 laying down the prohibition) of the present Gender Act of 10 May 2007 correctly transposed Directives 2006/54/EC and 2004/113/EC in respect of harassment on the ground of sex and sexual harassment.⁷

The effect of this 'paradox' is that there has been no case law since 2007 whereby harassment or sexual harassment at work are defined as gender discrimination.

National Action Plan to Combat all Forms of Gender-Based Violence, 2015-2020

A new national action plan on gender-based violence was published in 2015, providing an integrated approach to tackling gender-based violence in line with the Istanbul Convention.⁸ Although it does not specifically address sexual harassment or gender-based violence in the workplace, the Ministry of Labour has indicated that a new action plan on violence in the workplace will be drawn up with a specific focus on discrimination. Although there is a

⁵ De Keyser, F et al. (2017) Commission d'évaluation de la législation fédérale relative à la lutte contre les discriminations. Premier rapport d'évaluation. February 2017.

⁶ Numhauser-Henning A and Laulom S (2011) Harassment related to Sex and Sexual Harassment Law in 33 European Countries. p.1. http://ec.europa.eu/justice/gender-equality/files/your_rights/final_harassement_en.pdf

⁷ Jean Jacqmain (2015) European Network of Legal Experts on Gender Equality. Country Report: Belgium. Reporting period 1 January 2014 – 1 July 2015, p.15. Available at: <http://www.equalitylaw.eu/downloads/3760-2015-be-country-report-gender>

⁸ National Action Plan to Combat all Forms of Gender-Based Violence, 2015-2019. Available at: http://igvm-iefh.belgium.be/sites/default/files/press_file_0.pdf

recognised need to address sexual harassment at work, it is not considered to be a priority to change the law as the most recent legal change was made in 2014.

2.2 Domestic violence at work

No legislation exists to specifically prevent and address domestic violence at work, other than provisions set down in criminal law.

Domestic violence is defined by the government as any form of physical, sexual, psychological or economic violence between the members of a same family.⁹ Legislation passed in 2012, introduced a duty on doctors, lawyers or police officers, to inform the authorities when they are faced with situations of partner violence (23 February 2012).

National Action Plan to Combat all Forms of Gender-Based Violence, 2015-2019

The National Action Plan to combat all forms of gender-based violence (2015-2016) is more specific in relation to the workplace in relation to prevention of all forms of gender-based violence. It is based on the framework of the Istanbul convention (which was ratified in 2016) and contains some information relevant to domestic violence at work. The national action plan refers to the role of the private sector, the public sector and the media in contributing to eradicating violence against women, for example, through raising awareness and in drawing up guidelines and self-regulating standards. It states that: “The battle against intimate partner violence often begins at the place of work. Whether you look at it from an ethical, a logical or an economic point of view, such a hands-on approach will benefit everyone.” The private sector is envisaged to play a role in working in partnership with social organisations and raising awareness amongst staff. The public sector is expected to contribute to the prevention of violence through projects aimed at improving people’s safety in public places and on public transport, in preventing sexual intimidation / unwanted sexual behaviour and sexual misconduct in public transport. The following measures to be taken include awareness raising with existing partners within private companies and public enterprises, drawing up a list of good practices in combating and preventing gender-based violence developed by companies, and to include awareness programmes about gender-based violence and sexual misconduct in future management contracts with transport companies.

2.3 Collective bargaining

Collective bargaining coverage is high, standing at approximately 96%.

Collective agreements are legally binding and cover almost all of the private sector through central level bargaining, sector level bargaining and company level negotiations. The Collective Agreements and Joint Sector Committees Act of 5 December 1968 provided for collective agreements to be concluded at a number of levels, including: individual enterprise, activity sector (within a Joint Sector Committee) or national (through the National Labour Council). Collective agreements form a binding contract for employers who are members of an employers’ organization which is a signatory, and all clauses concerning workers’ rights automatically extend to all workers employed by those employers.

In the public sector, unions negotiate protocols, carried out through mandatory negotiation of any proposed changes in regulations.

Collective agreements can also be made binding through a Royal Decree, thereby applying to all employers and workers concerned. One example of this in relation to gender equality is the

⁹ Federal memorandum n° COL3/2006, Brussels, 01/03/2006.

Collective Agreement no. 25 on equal pay, agreed in the National Labour Council on 15 October 1975 and made binding under a Royal Decree of 9 December 1975.

3. Gender-based violence at work

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

As mentioned in Section 2, the framework of legislation on wellbeing at work has largely shaped how unions approach the issue of violence and harassment at work. Unions pointed to some of the problems with this approach, which has had the effect of side-lining sexual harassment into a broader and more generalised framework on bullying and harassment at work.

3.2 Data and evidence

Because of the predominant legal framework is on wellbeing at work/psychosocial risks, surveys often hide sexual harassment in more general statistics on bullying/harassment at work. This means that sexual harassment is generally perceived as harassment in a framework of bullying/mobbing, and not as discrimination. As a result, case law on discriminatory forms of harassment is limited. For example, 456 cases under the Wellbeing at Work Act were reported in the period 2002-2011, of which only 16 were specifically of sexual harassment.

The Foundation for Innovation and Work (established under the Social and Economic Council of Flanders) reported that between 2004 and 2010, 14% of Flemish employees had experienced harassment, which had largely remained stable. However, physical violence increased from 5.4% to 7.5% of employees and sexual harassment increased from 2.1% to 3% of employees.¹⁰

In addition, no data is collected on informal complaints and informal mediation by 'persons of confidence' as this data is confidential. One of the issues highlighted by the Institute for Gender Equality is that they are aware that there has been a big increase in complaints about bullying, but few complaints about sexual harassment.

Some unions are so concerned about rising levels of sexual harassment at work, and the low rate of reporting of the problem, that they are seeking to carry out surveys to use as an evidence base for negotiations with employers. In 2017, the CSC-Alimentation et Services union in Belgium, which organises workers in female dominated jobs in cleaning, services, catering and home help sectors, launched a survey, the results of which will be published on the 10th Anniversary of 'Cleaning Day', on 20 June 2017.¹¹

3.3 Collective agreements and workplace policies

Although unions stated that all workplaces are required by law to have policies and procedures in place, the confederations do not monitor the implementation of workplace policies and agreements. This makes it difficult to gauge how effectively issues of sexual harassment have been addressed in workplace policies and related procedures. In addition, there is no data

¹⁰ Werkbaarheidsmonitor SERV/Stichting Innovatie & Arbeid on <http://www.werkbaarwerk.be>. Cited in Numhauser-Henning A and Lulom S (2011)

¹¹ Information provided by Myreine Kint, Secrétariat politique, responsable genre, CSC Alimentation et Services, Brussels

available on the types and numbers of cases supported by the ‘person of confidence’ in the workplace, as these remain confidential.

The 2007 European Autonomous Framework Agreement on Violence and Harassment at Work,¹² informed the new law on Wellbeing at work and has been used as the basis for advice issued by the National Labour Council. Related to violence and harassment is the national collective agreement concluded in 199 between the social partners and the National Labour Council (CCT n° 72 of 30 March 1999).

The negotiation of workplace agreements is the responsibility of the social partners inside each company. The role of the social partners has been principally to give advice about the implementation of the Wellbeing at Work legislation, particularly with regards to implementation of the law at the inter-professional level. In practice, most companies have established specific procedures and complaints mechanisms, including action plans for managing psychosocial risks and appointment of ‘persons of confidence’. These workplace policies have been negotiated through agreements between the social partners in workplace committees on safety and health at work (‘prevention committees’).

In addition, the National Committee on Wellbeing ‘humanisation du travail’ plays an important role in supporting social dialogue at company levels.

The EU-OSHA ESENER survey, found that in 2009, Belgium, along with Scandinavian countries, had the highest level of workplace procedures implemented on bullying and harassment at work. In Belgium this stood at more than 60% of companies.¹³ However, trade union confederations do not monitor agreements or social partner agreed policies in workplace. This has made it difficult to identify how sexual harassment has been addressed within agreements and policies.

In addition, it has not been possible for the union confederations interviewed to point to good practice workplace agreements or policies – and to do so would require time and resources. The confederations identified the need to monitor the implementation of agreements and policies on violence at work, including how they have included a gender dimension, as an important area for future research.

3.4 Union awareness raising, campaigns and training programmes

Unions have been involved in a range of campaigns and training programmes on violence against women. The following examples were cited by unions interviewed:

- A national union training programme on discrimination and harassment is currently being planned and will run between September 2016 and June 2017. It is anticipated that this will address violence against women.
- In 2004, FGTB, CGSLB and CSC signed a “gender mainstreaming charter”, which gave a commitment to implementing gender mainstreaming policies in their respective unions.
- Unions are very active in the implementation of the legislation on Wellbeing at Work, and particularly the prevention of psychosocial risks and occupational health and safety.
- Trade unions have issued specialized publications on the implementation of the Wellbeing at Work legislation and have carried out extensive training for workplace representatives

¹² 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

¹³ Cited by Eurofound: <http://www.eurofound.europa.eu/observatories/eurwork/comparative-information/violence-and-harassment-in-european-workplaces-extent-impacts-and-policies>

on negotiating workplace agreements, policies and procedures. Psychosocial risk is included in training for new worker representatives in health and safety committees.¹⁴

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

Some informal links and cooperation with civil society and women's organisations have been established.

3.6 Challenges faced by unions

- A significant challenge is that a culture of sexism and sexual harassment still exists in trade unions, which reflects a culture of male dominance. Changing attitudes and raising awareness about gender equality should continue to be a key objective for unions.
- The economic crisis and government austerity measures have had a negative impact on gender equality, which reduce women's possibilities for financial independence.
- The problem faced by women's sections of the unions in progressing a broad range of gender equality issues, including sexual harassment and violence at work, is that there are insufficient women represented in union decision-making structures, particularly in male dominated sectors. "It is more difficult to discuss these issues in some sectors where there is still a strong sectoral segregation, and traditionally male sectors and therefore where the union is also traditionally male." (Patricia Biard, ACV-CSC)
- Although legislation exists for a gender mainstreaming approach, which includes a requirement to carry out gender mainstreaming of all legislation, does not work in practice.
- A further challenge is that current government policy is promoting greater casualisation and flexibility in the market, and specifically to increase part-time work, as labour market measures offering flexibility to employers, while also aiming to integrate more women into the labour market and reconcile work and family life. This flexibilisation is particularly affecting sectors where women predominate, such as retail, services, cleaning, care services and restaurants.
- Growing rates of labour market casualisation and flexibility makes it harder for women to reconcile work and private life, and has the effect of pushing women back into the home. This can have damaging consequences for victims of domestic violence, forcing them to be more financially dependent on men, and consequently making it more difficult for them to leave controlling/violent relationships.

3.7 Recommendations from unions

- There needs to be more education / training at workplace level, and for prevention of violence and harassment to be integrated into all ongoing workplace training. It is vital that workplace representatives are trained to understand how to prevent and act on cases of sexual harassment at work.
- Harassment must be addressed as an issue of discrimination and linked to power relations / inequalities between women and men.
- In the broader context unions have a key role to continue advocating for women to have access to good quality work, equal pay and living wages.
- Unions identified the importance of reinforcing gender mainstreaming and having a gender lens to address discrimination across multiple grounds/intersectionality.

¹⁴ Cited in ETUC /BUSINESSEUROPE-UEAPME/CEEP (2009) Implementation of Framework agreement on Harassment and Violence at work. Yearly Joint Table summarising ongoing social partners activities. Available at http://resourcecentre.etuc.org/linked_files/documents/Final_joint_table_2009%20harassment_violence_EN.pdf

- In the National Labour Council, the social partners should ensure that there are effective procedures and guidance for the fast detection of the problem of sexual harassment and to put a greater emphasis on primary prevention. Reacting quickly is an important part of primary prevention as it will stop a problem before it gets any worse.

4. Domestic violence at work

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

Preventing domestic violence at work is a relatively new issue for unions in the Belgium.

The new National Action Plan on gender-based violence forms the main policy document related to combatting violence, improving the quality of data, preventing violence and supporting victims. Trade unions and NGOs were consulted in the drafting of the national action plan, which will be evaluated with stakeholders, including NGOs and trade unions. Domestic violence at work is an important topic of discussion amongst stakeholders and the Institute is putting place new measures on the prevention of domestic violence at work.

Because domestic violence at work is a new issue in Belgium, the Institute for Equality between Women and Men¹⁵ is currently building a case and is planning on drawing up advice and guidance for the government on how to address domestic violence at work. As Marijke Weewauters of the Institute stated: “We want prevention to start early, we want the victim to talk about it at an early stage, and if possible to give help. We want to start to help them.”

The Institute is currently engaged in discussions nationally and internationally about domestic violence at work. The Institute is a member of the DV@Work Network and has attended seminars and events held by the organisation. The Institute also plans to consult with trade unions about the issue and to explore how the issue can be tackled at workplace level. Some of the Institute’s ideas have already been informally discussed with union representatives and with representatives of ‘persons of interest’. Informal discussions have also been carried out with through the DV@Work network and through the European network of companies under the EU funded CARVE project.¹⁶ As Marijke Weewauters explains:

This is not the political moment to change the law, but we want to build up something to give new tasks within our existing structures. We already have a good structure for tackling mobbing and harassment through the ‘person of confidence’ and we think that best way to go is suggest how victims of domestic violence can talk to the person of confidence, who in turn will try to negotiate with the employer and give advice to the person (perpetrator or victim). We plan to test this in some Ministries. Unions recognise the economic consequences of domestic violence at work and many colleagues already know the problems. We have a basis to test and build up tasks to person of confidence.

In addition to developing an informal role for the ‘person of confidence’, the Institute foresees that prevention advisors, may also have a formal role. However, the Institute believes that it is best to start with an informal process. In addition, the Institute do not consider it necessary to create a new form of leave, rather than existing leave schemes should be the basis for negotiating leave for victims. In addition, discussions with unions has also found that in many

¹⁵ The Institute for Equality between Women and Men is responsible for providing data concerning the situation of women in Belgium. It promotes gender equality in the professional sphere, as well as combating violence and discrimination, and coordinates the National Action Plan against gender-based violence.

¹⁶ Under the CARVE project, there are few company examples in Belgium as companies are at early stage.

cases the workplace offers protection to victims and the need for safety planning in the workplace.

There is also a potentially important role for the issue to be addressed as a safety and health issue in the workplace, on the basis that a victim should be safe in the workplace and protected from stalking and violence by an intimate partner. In time, the Institute would like to see a change in the law to ensure that preventing domestic violence at work becomes a formal role for the 'person of confidence'.

4.2 Data and evidence

According to the National Action Plan on gender-based violence,¹⁷ in 2014 the police registered 39,668 complaints on intimate partner violence and 2,882 complaints about rape.

According to the EU FRA survey,¹⁸ 24% of women stated that they had been a victim of physical or sexual violence by a partner or former partner, which exceeds the EU averages. 22% of women. In the 12 months prior to the study 6% of women experienced gender-based violence, compared with an EU average of 4%.

However, the Institute for Equality between Men and Women note that there is significant under-reporting of violence against women. According to the Security Monitor 2008-2009 only 7.2% of all sexual offenses (sexual assault, rape, indecent exposure, etcetera) are reported. The EU-FRA study, also found that 78% of victims in Belgium did not report the most serious act of violence, committed by their partner, to the police or the authorities. Only 33% of the victims have talked about it with their doctor or in a care centre, 22% with the police, 18% in a hospital, 17% with a legal department or a lawyer and 10% with social services.

A report by the Institute for Equality between Women and Men in 2014 highlighted the extensive economic costs of gender-based violence on companies, citing studies from Europe and North America showing that violence affected concentration and efficiency at work, and made it difficult for women to keep their jobs.¹⁹ An example is given of a French non-profit company, Psytel, estimated that in Belgium, partner violence alone costs 439 million euros a year, of which 288 million euros constitute production losses due to work interruptions, absenteeism, etc.

The Federal Council for Equal Opportunities between Men and Women published an opinion on 9 December 2011²⁰ on the public cost of partner violence, and recommended that the Federal Government to conduct research to estimate the cost of domestic violence in Belgium.

CARVE project

A 2015 study carried out under the CARVE project²¹ with 25 different stakeholders, from enterprises, trade unions, NGOs, researchers, public bodies and business networks. It found that despite an absence of measure in companies to address the impact of domestic violence

¹⁷ National Action Plan to Combat all Forms of Gender-Based Violence, 2015-2019. Available at: http://igvm-iefh.belgium.be/sites/default/files/press_file_0.pdf

¹⁸ European Union Agency for Fundamental Rights (2014) Violence against women: an EU-wide survey. Main results. Luxembourg: Publications Office of the European Union.

¹⁹ Institute for Equality Between Women and Men (2010) Les expériences des femmes et des hommes en matière de violences psychologique, physique et sexuelle. Brussels.

²⁰ Council for Equal Opportunities between Men and Women. Avis n° 132 du 9 décembre 2011 sur le coût public de la violence entre partenaires. Available at: <http://www.conseildelegalite.be/fr/publications/avis>

²¹ CARVE (2015) Involvement of Companies in the Fight against Gender-Based Violence: National study for Belgium (by Estelle Huchet, Françoise Kemajou and Anne-Claire Marquet)

at the workplace, the law on Wellbeing at Work currently provides measures that could be used by employers to prevent domestic violence at work. Many stakeholders interviewed also suggested that the fight against gender-based violence and the prevention of domestic violence could be included in the framework of Corporate Social Responsibility policies. This could help to promote a positive image and reputation for companies.

The absence of measures is explained by a general lack of awareness and training in companies about the issue, an absence of data on the economic impact of domestic violence at work. The study found that professionals in the workplace who could potentially support victims in the workplace (prevention counsellors, support persons, corporate doctors and psychologists, HR managers, wellbeing managers, etc.) do not have background with regard to the issue of GBV. They have never been trained about the cycle of gender-based violence, on how to identify to victims, even less the perpetrators, etc.

The report recommended that companies should work in partnership with other stakeholders to combat gender-based violence. Specific recommendations for companies included giving a clear message against gender-based violence, organizing spaces at work to disclose gender-based violence, formalizing a procedure with identified support actors, providing training in gender training on psychosocial risks, equality and work-life balance; prepare reintegration programmes for former victims. Recommendations were also made for public bodies in providing reliable data on the costs of gender-based violence on companies; carry out campaigns targeted at companies; and to include companies in the future national action plan on gender-based violence; build partnerships and promote companies to take action; and take into account all kinds of enterprises including small and medium sized enterprises.

A national participative workshop was held on 27 October 2015 in Brussels, which drew up a list of best practice approaches and made recommendations for how companies could take an active role in addressing domestic violence at work.

FGBT survey on domestic violence in the workplace.

As part of FGBT's participation in a Daphne III project (2009-2011) a survey was carried out of 382 trade union representatives in the industrial cleaning, public services, metal manufacturing, home help, chemicals and retail sectors. The survey had the following objectives: "to see whether the scheme to keep victims of violence at work held good, to persuade the union's policy bodies to include the issue in trade union training, to open up a problem which is currently only dealt with by our organization's (FGTB) women's committees, to action the scheme and develop expertise with employers."²²

The survey found that:

- Of the union representatives responding to the survey, a minority of men thought violence was an issue for workplace awareness-raising. In contrast, 89% of women thought it should be turned from a matter of private interest into a societal, public health and welfare at work concern;
- 3.30% of union representatives had already been asked directly by victims for help or information (cleaning industry and retail sector);
- Within these sectors, 60% of union representatives had spotted signs of physical or psychological abuse;

²² Cited in COFACE (2011) Domestic violence: the intruder in the workplace and vocational integration. Available at:

http://www.coface-eu.org/en/upload/08_EUProjects/Domestic%20violence-etude-coface-daphne-en.pdf

- However, regarding how domestic violence affects the workplace and access to work, only 5.72% of workplace representatives thought that union representatives needed a "toolkit" to act as a "referral point" to appropriate services;
- Long- and short-term sickness absences and being late for work were the most frequently cited consequences of domestic violence, which pointed to the importance of union representatives negotiating with an employer.

The survey suggested that there is a lot more awareness raising that needs to be carried out with workplace representatives in order to convince them that domestic violence at work is a trade union issue.

Research on the consequences of domestic violence at work, carried out by the Liège-based anti-domestic violence group 'Collectif contre les violences' has highlighted the loss of self-esteem experienced by victims, which makes it difficult to build a positive self-image and maintain social contacts, which are vital in getting to work. In particular, "Experiences of violence-dominated relationships that can make the person reject all forms of authority at work, or be unable to situate themselves in an "authoritarian" set-up leaving them vulnerable to bullying."²³

4.3 Collective agreements and workplace policies

As preventing domestic violence at work is a new issue in Belgium, there are few examples of collective agreements or workplace policies that address domestic violence at work.

The CARVE report²⁴ identified few specific programmes in Belgian companies that have been introduced to prevent gender-based violence. However, a small number of examples were cited of information sessions provided by public companies to raise awareness of mobbing, sexual harassment at work and psychosocial risks, which included broader discussion of gender-based violence. Examples were also given of companies that disseminated information materials as part of the White Ribbon Campaign, Amnesty International's campaign on intimate partner violence and several NGO campaigns on violence against women. A small number of examples were given of prevention counsellors or corporate psychologists who provided support to victims of domestic violence, or through external Employee Assistance Programmes.

In the interviews with unions for this report, unions presented two possible ways in which domestic violence at work could be addressed within the existing framework of law and of collective bargaining.

First, unions cite the precedent set in the April 2009 agreement in the National Employment Council (Collective Agreement no. 100)²⁵, requiring every company to have a preventive alcohol and drugs policy in place.²⁶ This had the effect of formalizing the link between work

²³ Nathalie Mignano, *Violences conjugales : freins ou leviers à l'insertion socioprofessionnelle ? Collectif contre les violences familiales et l'exclusion (CVFE) Violences conjugales : freins ou leviers à l'insertion socioprofessionnelle?* Cited in COFACE (2011).

²⁴ CARVE (2015) *Involvement of Companies in the Fight against Gender-Based Violence: National study for Belgium* (by Estelle Huchet, Françoise Kemajou and Anne-Claire Marquet)

²⁵ CONVENTION COLLECTIVE DE TRAVAIL N° 100 DU 1er AVRIL 2009 CONCERNANT LA MISE EN ŒUVRE D'UNE POLITIQUE PRÉVENTIVE EN MATIÈRE D'ALCOOL ET DE DROGUES DANS L'ENTREPRISE. <http://www.cnt-nar.be/CCT-COORD/cct-100.pdf>

²⁶ The focus is on prevention and aims to address the work related effects of drugs and alcohol at work. The company works council and the workplace health and safety committee have to be informed and consulted about workplace policies; and if no committee is in place the trade union delegation fulfills this role, and if no trade union delegation is present information and consultation has to be carried out with employees directly. To date working groups have been established at a sectoral level to develop guidelines and information about the development of

and private life regarding the prevention of alcohol abuse, exemplifying for the first time a direct connection between home and the workplace. This, the unions argue, connects worker's private lives to their work lives, and opens up the possibility for unions to consider prevention of domestic violence in a wellbeing at work framework. This framework could also extend to perpetrators who may also bring problems at home into the workplace, for example through acts of stalking and violence against a partner or former partner, or against other colleagues. As Patricia de Marchi, CGSLB, argues:

The 2009 national collective agreement on drugs/alcohol and wellbeing at work is clear that if a person drinks at home it has an impact at work, and where there is an impact on workers and on the work it affects their work functioning and that of their colleagues. There is a responsibility on the employer to act. This is a potential to use this system as a basis for addressing the impact of domestic violence at work. We can see the potential for a new regulation specifically covering domestic violence. This is relevant as women who are victims of domestic violence are isolated at work, they have difficulty getting to work, and they may experience financial abuse – this has consequences at work – and the employer should be obliged to do something in the framework of work.

Second, there is a potential to adapt the Wellbeing at Work legislation to cover domestic violence as a psychosocial risk in the workplace. This is particularly relevant because the legislation is specific about the impact of psychosocial risk on work performance and to the execution of work tasks, in amongst other areas, which is relevant to preventing domestic violence at work. In addition, the social partners have a key role in Belgium in giving advice and engaging in social dialogue regarding the implementation of the law at an inter-professional level, particularly in the development of workplace agreements and policies at company level. Specific procedures exist to enable a victim harassment and violence to be protected at work and for committees on health and safety to conclude agreements and policies inside the company, which also include drawing up action plans on psychosocial risks and company plans to enhance workers' wellbeing.

Unions identified a key role for workplace prevention programmes, but were less convinced about the rationale to advocate for leave programmes for victims of domestic violence as this may result in more segregation from employment. Unions argued that it is more important to keep women in work, and for unions to develop specific programmes of temporary flexible leave that protects women's employment. In addition, unions identified the role that protection orders can play in placing an obligation on employers to provide a safe working environment and protection of victims at work.

Daphne III project on domestic violence at work: Job-keeping or vocational integration for victims of domestic violence

FGBT participated in an EU Daphne III programme for preventing and combating violence towards children, adolescents and women, and protecting victims and groups at risk (2007-2013). The project which ran for two years (2009-2011) developed training and tools and carried out research on the issue of domestic violence at work. The project was conceived from a concern about how victims of domestic violence can retain their jobs, and access training and vocational integration if they are outside of the labour market. The project aimed to provide awareness and information to the victims of violence in the workplace or at the time

policies. An example, is the joint committee in the transport sector, which concluded an agreement for 2009-2010 and the construction sector which had already established sectoral agreement prior to 2004.

<http://www.eurofound.europa.eu/observatories/eurwork/comparative-information/national-contributions/belgium/belgium-use-of-alcohol-drugs-at-the-workplace>.

of integration in employment. A training programme was organized for specific target groups (trade union representatives, vocational integration and vocational training facilitators) in order to enable them to assist the victims in finding employment or staying in work.

The project was based on a partnership established by the Confederation of Family Organisations in the European Union, COFACE, and involved the following partners in Belgium: Femmes Prévoyantes Socialistes (FPS) and the FGTB Trade Union, along with NGO partners in Bulgaria, Spain and Greece.

COFACE also published a report 'Domestic violence: the intruder in the workplace and vocational integration', which sets out the project's activities, research and findings.²⁷ A booklet was also produced in French and English "Violence between partners: its impact on the victim's professional life and what can be done to help her".²⁸ The conclusions and recommendations from the project were reported to a European conference held in Brussels on 21-22 November 2011. A Press Release 'Domestic Violence: How does it affect work?' was issued by COFACE for the 2011 conference,²⁹ highlighting the problems faced by victims of domestic violence in finding and keeping a job. It also stated that "Domestic abuse also incurs a high cost to employers through lost productivity, extended absences and sick leave, and harassment by partners at workplaces or training sites."

One of the findings from the project was the role that trade union representatives, along with other trusted link workers, can play in negotiating work arrangements for victims of domestic violence:

Occupational doctors and workplace harassment complaint resolution officers could become trusted "link workers" for victims who see them as able to provide support through listening and referral to appropriate provision. Trade union reps are also best placed to have input into developing a workplace information and prevention policy as part of welfare at work policy, but also to agree on practical arrangements about jobs and negotiate flexibility into working hours. They can also negotiate time off for victims to take the necessary steps to get out of the abusive situation. A "link worker" is any professional, whether personal social service providers or otherwise, who can intervene to help victims of violence keep or get a job: union reps, vocational guidance and training providers, into-work facilitators, occupational doctors, health insurance fund medical officers, workplace harassment complaint resolution officers, etc.

Five areas of intervention were drawn up by the project where link workers could act to help workers or those on job integration/employability schemes enduring domestic violence. They include listening and spotting; awareness and information; referral to specialized resources; adapted working or training arrangements and practical assistance; negotiating a company policy; and supportive legislation to safeguard victims' jobs.

In relation to collective agreements and workplace policies, it is recommended that companies could include protection for victims of violence in their work rules and personnel management practices, such as by offering (time-limited) protection against dismissal, such as exists for pregnant workers. Companies could also develop policies providing for paid leave, extended leave or moving staff who are enduring violence. In addition, companies should get the clear

²⁷ Liliane Leroy, 'Domestic violence: the intruder in the workplace and vocational integration', published by COFACE in 2011. Available at: http://www.coface-eu.org/en/upload/08_EUProjects/Domestic%20violence-etude-coface-daphne-en.pdf

²⁸ Liliane Leroy, 'Les violences entre partenaires: quelles répercussions sur la vie professionnelle, quelles pistes d'action pour aider les victimes?' www.femmesprevoyantes.be

²⁹ Press release, 23 November 2011. http://www.coface-eu.org/en/upload/10_Press/2011.11.22.Pressrelease.daphne-en.pdf

message that workers enduring violence need to know they can get help, that they will not be censured and the discretion about their plight will be assured. In Belgium, all workers have the right to consult the occupational health service without referral free of charge. Employers should ensure that they can give initial support and help to victims of violence, prior to referring victims to external occupational health services. In addition, preventive measures and protection for victims could be based on the 'Welfare at Work Code' which lays down "measures to foster improvements in the safety and health of workers at work".

The overall project evaluation found that there had been a valuable exchange of experiences across the project partners, and through the training of union representatives and link workers, leading to a real awareness of the problem and its underlying human dimension.

The coordinator of the project, Liliane Leroy, FPS, who had a background in psychology, spoke in an interview of the importance of working with trade union representatives to raise their awareness of how they can develop simple workplace measures to assist victims of domestic violence. She highlighted the importance of addressing a wide definition of violence against women, to include financial abuse, and to ensure that trade union representatives, 'persons of confidence' and occupational health and safety doctors and nurses, receive training in how to detect domestic violence in the workplace and provide appropriate and sensitive support for women. A further issue was ensuring that trade unions had the relevant information and expertise to draw up agreements and workplace policies with enterprises. However, she stated that once the project funding had ended and following her retirement, her position was not replaced and that much of the learning from the project was lost.

4.4 Union awareness raising, campaigns and training programmes

Examples of trade union initiatives to address domestic violence at work:

- Under DAPHNE III project, the FGTB study (cited above) pointed out the lack of training of trade union representatives on gender-based violence, and how this was a priority area of action under the project.³⁰
- In 2015, the liberal trade union (CGSLB) in Wallonia organised a week of training for all female and male candidates. Half of this one-day training was dedicated to intimate partner violence.³¹
- In 2009, the socialist labour union (FGBT) organized a workshop in Liège, Wallonia for trade union representatives on the prevention of gender-based violence and the prevention of domestic violence at work.
- The planned new national union training programme on discrimination and harassment (September 2016 and June 2017) will include sessions on violence against women, including domestic violence at work.

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

Links with civil society and women's organisations were established through the Daphne III project (see above)

³⁰ COFACE (2011) Quand les violences domestiques s'invitent sur le lieu de travail ou dans le processus d'insertion professionnelle.

³¹ Cited in CARVE (2015).

4.6 Challenges faced by unions

The most significant challenge is to persuade trade union representatives and workplace health and safety committees that domestic violence is a workplace issue that links the private domain of the home with the public domain of work.

The current social security system assumes women's dependency on men and is unjust for women – it affects women's potential to be financially independent and to have the resources to leave violence/controlling relationships.

4.7 Recommendations from unions

- Preventing domestic violence at work should be included in new workplace policies and procedures and included in the remit of existing institutional mechanisms such as the National Committee on Wellbeing at Work, the role of the 'person or trust/confidence', and in the labour inspection process.
- Policies on prevention of domestic violence at work should be promoted by the social partners in the National Labour Council, and guidance should be issued for the development of effective procedures and fast detection of domestic violence, as a primary workplace prevention measure.
- The Institute for Gender Equality is encouraged to draw up the proposed policy and guidance on workplace policies and practical initiatives in partnership with trade unions and employers.
- It is vital that workplace representatives understand how to prevent domestic violence at work and to approach victims in sensitive ways. It is important to counter stereotypes of victims of domestic violence, and in particular cultural stereotypes. This must be addressed in training programmes.
- It is important to ensure that women have financial independence and that there is an individualised social security system 'droit individuelle'.
- All workers should have access to a time account (modelled on time banking) to enable them to take flexible leave from the labour market. This could be of great benefit for women victims of domestic violence, in permitting them to take short leave from the labour market, for example, for court visits, health checks or psychological and other forms of support. Employers could be persuaded to credit women victims of domestic violence with additional time credits for this purpose.
- Identify, through the networking group on good practices in the Institute for Gender Equality, good examples to share with employers and trade unions as a way of sharing learning about practical initiatives that can be negotiated at workplace level.