



Study on the implementation of the autonomous framework agreement on harassment and violence at work

Annex

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Prepared by: Emanuela Carta, Helen Frenzel, Inès Maillart,
Tina Weber, Nora Wukovits



EUROPEAN COMMISSION

Directorate-General for Employment, Social Affairs and Inclusion
Inclusion Unit A2: Social dialogue

E-mail: EMPL-UNIT-A2@ec.europa.eu

*European Commission
B-1049 Brussels*

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Annex 1 Country reports

A1.1 Austria

A1.1.1 Introduction

Social partner organisations in Austria play an important role in OSH in the drafting of national legislation, strategy and guidance, as well as at the sectoral and company level. Historically, Austria has a strong tradition of tripartite interest intermediation and bipartite social dialogue. Social partners are therefore heavily involved in consultations on the formulation of legislation and guidance, including in the field of OSH in general and the prevention of psychosocial risks at work. Collective agreements play a significant role in the field of OSH (for example by regulating working hours), yet – with the exception of a few sectors – have not been used significantly to address this issue of violence and harassment in the workplace. According to the Ministry of Social Affairs, the information technology and social services sector are one of the few examples where collective agreements on violence and harassment in the workplace exist.

Legislation on OSH is well developed in Austria. Whilst violence and harassment in the workplace is not explicitly addressed, provisions to safeguard employees are in place in equal treatment legislation, the civil code and health and safety legislation. However, law enforcement mechanisms have limitations in practice, particularly pertaining to instances of harassment in the workplace.

In order to implement the European autonomous agreement, the cross-industry social partners published a joint brochure (*Belästigung und Gewalt am Arbeitsplatz: Instrumente zur Prävention*) in 2009. No mechanisms were put in place to measure the impact of the guidance document at the company level. Furthermore, from the consultations it became apparent that the European autonomous agreement had no distinguishable effect on social dialogue or political efforts in the field of OSH. Having said that, until recently, violence and harassment at work were a rather neglected issue in Austria and did not occupy a large role in national discussions on OSH. In the last five years, social partner organisations have produced a number of guidance documents and legislative provisions have been introduced to increase the legal recognition of psychosocial risks in the workplace. Mobbing, in particular, has been a central focus in Austria. These recent efforts to raise awareness and safeguard against psychosocial risks in legislation cannot be directly linked to the European autonomous agreement, but some awareness raising effect cannot be ruled out.

A1.1.2 National health and safety legislation and policy on psychosocial risks

Issues surrounding harassment and violence in Austria are mainly governed by OSH legislation, equal treatment legislation and civil code.

Violence and harassment in the workplace, which is not linked to the grounds of discrimination governed by the Equal Treatment Act, is covered by the civil code and health and safety legislation. Paragraph 1157 of the Austrian Civil Code (*Allgemeines Bürgerliches Gesetzbuch*) requires employers to organise the working environment in such a way as to protect the health and safety of the employee. Article 18 of Law on Employees (*Angestelltengesetz*) also imposes a duty of care on the employer. Thus, in instances where harassment in the workplace has verifiable medical consequences, the employer may be liable to pay damages. However, since the obligation to provide proof of the causal relationship between the harassment and the damage falls onto the employee, such claims are harder to make in practice. Employer duties are further defined and it is set out how it should be ensured that these are met in the Law on Employee Health and Safety (*ArbeitnehmerInnenschutzgesetz*), which was last updated in 2012 to include further recognition of the need to address psychosocial risk factors (referred to as “psychological strain” in Austrian legislation). Employers are obliged to take measures to ensure the health and the “integrity and dignity” of the workplace (§ 3). Strain in the workplace is now defined as both physical and psychological. This law, which came into force in 2013, also explicitly

requires employers to take psychosocial risk factors into account in their risk assessment (and in measures to address such risks). When assessing health risks and taking preventative measures (*Grundsätze der Gefahrenverhütung*), Article § 7.4a states that employers are required to consider the “human factor” in the workplace (which now also includes social relations and organisation). However, employers are not obliged to make a zero-tolerance policy on violence and harassment explicit and illnesses resulting from psychosocial risks in the workplace are not generally defined as work-related illnesses. Further, in instances of violence by third parties, some stakeholders consider that there is a lack of clarity concerning employer obligations towards their employees.

The provision that comes closest to the issue is the Equal Treatment Act, which refers to “harassment” at work, in specific situations where harassment is linked to discrimination on the grounds of gender, ethnic origin, religion, conviction, age, sexual orientation or disability. The Equal Treatment Act defines harassment as behaviour which undermines the dignity of the person, which has the purpose or effect of violating an individual’s dignity or creating and intimidating, hostile, degrading, humiliating or offensive environment for that individual. The same law (§ 6) also defines sexual harassment as behaviour in the sexual sphere which undermines the dignity of the person and is unwanted, inappropriate or offensive. In the case of bullying and harassment, the Equal Treatment Act includes the right to compensation for losses suffered both materially and immaterially (personal damage). The Equal Treatment Commission, consisting of three senates and in which social partners are represented, is responsible for reviewing questions relating to the Equal Treatment Act and acts as a forum for mediation between employers and employees. Further, the Ombud for Equal Treatment offers free consultations on violence and harassment issues pertaining to the Equal Treatment Act.

In public service legislation, a provision came into force with the second amendment of public service legislation in 2009, adding a new paragraph called “*Respectful contact (bullying/harassment ban)*” – “*Respektvoller Umgang (Mobbingverbot)*”. This provision refers to acts in the workplace which violate a co-worker’s human dignity or which disrupt cooperation at work and thus “company peace”. In theory, mobbing in the workplace can lead to disciplinary measures being taken towards employees, which can result in sanctions and termination of employment. However, in practice milder sanctions are more likely.

Austrian trade unions and employer organisations have expressed the opinion that recent legislative changes, concerning the aforementioned Law on Employment and Safety and the “Respectful contact (bullying/harassment ban)” paragraph, have not been the result of the European autonomous agreement. Rather, they viewed these legislative developments as the result of a high number of incidences of violence and harassment in certain sectors and the increasing recognition of psychosocial risks as important issues in the workplace.

On a company level, the Labour Constitution Act (*Arbeitsverfassungsgesetz*) gives the works council the right to make recommendations on health and safety matters and creates an obligation, on the side of the employer, to consult and acknowledge them in a timely manner. The employer is also obliged to meet with the works council at least 4 times a year to discuss personal, social, economic and technical matters. At the company level, the works council thus plays an important role in ensuring health and safety in the workplace.

Concerning the enforcement of legal provisions, the Austrian Labour Inspectorate is responsible for ensuring that the Law on Employee Health and Safety is respected. Subsequently, the labour inspectorate carries out inspections based on risk levels. Inspections are also carried out upon requests made by the regional Chambers of Labour. In cases of non-compliance, the labour inspectorate can instigate administrative prosecution procedures, which typically (unless serious infringement occurred) follow a period of time allocated for the employer to adequately deal with the situation.

Definitions

Harassment

Harassment is defined by the GIBG as behaviour which undermines the dignity of the person, which has the purpose or effect of violating an individual's dignity or creating and intimidating, hostile, degrading, humiliating or offensive environment for that individual.

Bullying/Mobbing

Bullying/mobbing is not defined in law. The guidance developed by the social partners to implement the European social partner agreement contains definitions and enumerates the key characteristics of 'mobbing, bossing and staffing', with mobbing being characterised as 'systematic actions over a longer period of time and happening on a regular basis' and are described as 'negative communicative actions' aimed at undermining, isolating or excluding an individual. The term 'mobbing' is used if such actions take place between 'equal's in the workplace (in similar positions of power), whereas 'staffing' is used if such actions are aimed at a superior. 'Bossing' is the term used when such behaviour is targeted at employees of lower rank or seniority.

Violence

The national social partner guidance document (see below) uses the ILO definition of violence. It further goes on to distinguish between 'internal' and 'external' (third party) violence and physical and psychological violence.

A1.1.3 Implementation of the framework agreement

The main tool for implementation of the Agreement in Austria is a joint brochure (*Belästigung und Gewalt am Arbeitsplatz: Instrumente zur Prävention*) published in 2009 which begins with a common declaration signed by Austrian cross-industry social partners (ÖGB and IV, as well as the representative organisation of public service employers VÖWG) and the Chambers of the Economy (*Wirtschaftskammer Österreich*) and Labour (*Bundesarbeitskammer*) in which they welcome the European autonomous agreement and indicates that the document is intended to support employers and trade unions in the implementation of measures to prevent and address harassment and violence in the workplace. The choice of a brochure as the implementation instrument is in line with the overall role played by social partners in the field of OSH. In Austria, trade unions play an important role in offering assistance to workers and, also in partnership with employer organisations and the government, raising awareness of and delivering guidance on health and safety issues in the workplace. Particularly, the Chamber of Labour and the Trade Union Federation (ÖGB) have traditionally acted as bodies disseminating information on and offering advice about psychosocial risks in working environments. The brochure is accompanied by a statement in which the social partners commit themselves to raise awareness of violence and harassment in the workplace. The guidance brochure provides information on the size and nature of the phenomenon in Austria, highlights existing legislative requirements, offers checklists, provides definitions and examples, as well as suggestions on how different aspects of harassment and violence can best be addressed. Suggestions are also provided on where to obtain assistance and further information. Both third-party violence and violence by colleagues and/or managers are covered. Although in 2004 a "Guidance document to implement health and safety management systems in companies" was already published by the social partners (in partnership with the Ministry for the Economy and Labour), it did not address psychosocial risks, violence or harassment in the workplace.

The trade unions and employer organisations feel that the brochure has not increased the national dialogue on violence and harassment. The guidance document may have contributed to raising awareness for violence and harassment issues, however no data is available on the impact of the joint brochure and no mechanisms have been put in place to monitor employer awareness of it nor its effect on company policies. Consultations with the

relevant social partners indicated a demand for the brochure, yet its effect cannot be discerned. Concerning the national discussions on OSH, trade unions, employer organisations and the relevant ministries expressed the opinion that violence and harassment in the workplace had little prevalence in debates, both prior and after the autonomous agreement. Rather, stress, burn-out and the associated costs for employers were considered at the centre of the national debate.

When negotiating what form the implementation of the framework agreement should take, legislative changes were demanded by trade unions, whilst the Chamber of Commerce pushed for awareness raising measures. According to the relevant social partners and ministries, there was significant disagreement over which option constituted the most fruitful strategy to deal with violence and harassment in the workplace. The reasons given by employer organisations for wanting awareness raising measures included the difficulty of translating the multifaceted nature of harassment into law and the perceived high level of legal protection against violence and harassment in Austria. During the consultations, trade unions expressed the opinion that the framework agreement should have stressed the need for legislation and preventative measures, suggesting, for instance, the availability of trained and neutral mediators to guide conflicts in the workplace.

Since 2007, several other guidance documents have been published and measures have been taken, by both social partners and the government, to improve OSH in the workplace. Particularly, mobbing has occupied a central focus in guidance efforts. In 2010 the Fund for a Healthy Austria, in collaboration with the Ministry of Labour, Social Affairs and Consumer Protection and other actors, published a guidance document for public sector organisations on how to effectively prevent and deal with mobbing in the workplace. Similarly, the Trade Union Federation published a brochure on mobbing in 2010, further detailing contact information in Austria's nine states for consultations on mobbing. The guidance document published by the Ministry of Labour, Social Affairs and Consumer Protection for cleaning staff in 2012 also includes a section on psychosocial risks. In 2013, the Carinthian Chamber of Labour further produced an information booklet outlining the definitions of mobbing in the workplace, the existing legal framework to safeguard against it and intervention measures. That same year, the Viennese Chamber of Labour produced a similar document and in 2014 a publication by the Lower Austrian Chamber of Labour followed. However, unlike the joint brochure, they do not explicitly reference being influenced by the autonomous agreement.

Further, trade union members and employer organisations have stressed that the autonomous agreement is likely to have played no role in inspiring these further initiatives. It is worth noting that post-2007 legislative changes to accommodate psychosocial risks in the workplace have taken place and that initiatives to raise awareness of psychosocial risks increased. However, a direct link to the autonomous agreement or an independent effect of the subsequent joint guidance brochure cannot be established. The long-standing tradition of social partner involvement in the field of OSH in Austria makes it harder to discern, as well as less likely, that the autonomous agreement had a distinctive impact on OSH initiatives concerning violence and harassment in the workplace.

There are also a number of unilateral initiatives. An ongoing initiative called "Crime scene workplace (started in 2009). Together against violence at the workplace" has been started by the trade union Vida (transport, social personal and private services). It addresses all forms of violence, in particular verbal abuse, insults and aggression, including physical attacks, and aims to raise awareness of the issue as well as illustrating the everyday strain from which the employees suffer. Within the frame of the initiative, Vida commissioned a survey on the topic, set up a dedicated website with information about the legal situation, personal experiences of employees and works councils and best-practice examples of individual companies. The content is available in different languages to facilitate access to the information also for migrant workers, who are more likely to be victims of violence at the workplace. Moreover, in 2009 Vida organised a conference on the topic in Vienna and initiated an online petition, 'No to violence at the workplace'. In 2010, Vida also launched free first consultations for its members who identify as victims of violence in the workplace. Further, as preventative measures, conflict management seminars on dealing with psychosocial risks are available to its members. To help promote the rights of employees,

Vida also published an online works agreement template for companies. Once implemented with a company's works council, the agreement creates an employer obligation to act in cases of discrimination, violence and sexual harassment in the workplace.

As a further initiative in the field of OSH, the Occupational Health and Safety Strategy 2007-2012 was issued as a joint resolution from the relevant Austrian ministries, social partners and assurance companies. By encouraging cooperation, exchange of relevant information and the establishment of networks involving all national and regional OSH actors, the OSH 2007-2012 Strategy was aimed at ensuring protection of health and safety in the workplace. In addition to mainly focusing on the reduction of accidents at work and occupational diseases in general, it aimed to offer support for and help prevent violence in the workplace (defined as internal and external violence). Specifically, the working group on 'preventing work-related illnesses and occupational diseases' initiated and/or implemented projects, seminars, conferences and guidelines addressing, amongst other health issues, psychosocial strain. This included commissioning a study conducted by the Vienna University of Technology to investigate incidences of mobbing and its causes. Whilst the relevant ministry affirmed that the autonomous agreement by the EU social partners was one of the factors that influenced the content of the strategy, violence and harassment did not constitute a central focus.

A number of initiatives in specific sectors were already in place prior to the implementation of the Agreement. These include training measures in the hospital sector in Vienna, focussing on workplace harassment and violence. The initiative was started in the mental health sector where violence by patients is most commonplace and was extended to geriatric centres, the emergency services and ultimately all hospitals. The trade unions also initiated training for works council representatives to act as a contact point to help address harassment and violence in the workplace. An initiative already launched in 2007 called 'MOBnet', is a cooperative network of employer organisations and trade unions in the health and social services sector representing more than 50,000 employees. The network offers information on methods for prevention and intervention regarding workplace bullying/harassment on a dedicated website and intends to take (unspecified) actions against bullying/harassment at the workplace.

A1.1.4 Incidence of psychosocial risks and trends

There is no global register of incidents of violence and harassment in the workplace or reliable data on the level of employee absence resulting from such incidents beyond the registering of accidents at work, which could include the reporting of violent incidents. However, the Ombud for Equal Treatment keeps a record of consultation cases on discrimination complaints by private sector employees. In the period 2006-2011, the number of consultations fluctuated from year-to-year, ranging from 345 (in 2011) to 494 (in 2009) cases brought to the Ombud for Equal Treatment¹. However, since individuals need to seek support from the Ombud for Equal Treatment, this data cannot be interpreted as indicative of the magnitude of harassment or its trend.

Some sectors are currently in the process of establishing such reporting systems, which will provide an important – albeit sectorally limited – evidence base of trend developments in future.

In the absence of comprehensive registers, it is necessary to rely on limited (and generally one off) survey data regarding the size and nature of the phenomenon of workplace violence and harassment in Austria.

Three recent surveys are available which can provide snapshot data. A survey carried out in 2010 on behalf of the trade union Vida by the Institute for Empirical Social Studies (IFES) as part of the above mentioned project involved a random sample of 1,815 workers in 51

¹ Reports published by the Ombud for Equal Treatment are available at: http://www.parlament.gv.at/PAKT/VHG/XXIV/III/III_00360/index.shtml

companies in the transport, health/wellness and tourism sectors². The survey covered questions including what types of behaviours were considered as violence and harassment in the workplace; the types of harassment and violence which were considered to be present in the workplace (on a one-off or more systematic basis); the types of behaviour workers had experienced themselves (and inflicted by whom); as well as the causes of violence and harassment in the workplace. Approximately 9% of all questioned employees reported having experienced physical violence during their working life, with 26% of employees from the transport sector stating this. “Psychological terror” and mobbing in the workplace was reported by 15% of interviewees and 20% stated having experienced forms of harassment by third parties.

Another survey on workplace bullying was completed on the basis of records gathered by a consultancy organisation providing support to victims of bullying³. This identified and classified different acts of mobbing and identified different groups more or less at risk of different types of mobbing or harassment. This survey found that women were significantly more likely to be victims of mobbing than men (79% and 21% respectively). Most mobbing victims worked in private companies (75%) and white collar workers in the service sector were more likely to be at risk.

Further, the WIFO and Danube University (2011), commissioned by the Austrian Federal Economic Chamber, examined 2007 micro-census data on harassment, mobbing and violence. According to the data, violence and threatened violence was reported by over 1% of employees, with 3.5% stating that they have been exposed to harassment or mobbing in the workplace. Whilst significant gender differences were not found, sector-wide disparities were prevalent. In the education, health and social, as well as transport and information sectors, an above-average of 5% of respondents reported mobbing and harassment. Further, 4.1% of employees working in public administration, defence or social insurance reported having experienced violence or threats of violence. Findings of sectoral disparities mirrored a prior academic study on violence and harassment in Austrian hospitals and psychiatric institutions, which found that 60% of employees reported verbal threats and 16.4% experienced grave bodily harm (predominantly by patients) within a year⁴.

In addition, in 2011 research by the Austrian Institute for Family Studies, commissioned by the Ministry for the Economy and Family, found that more women (42%) than men (32%) reported having experienced “psychological violence” at work in the last three years. An initial one-off poll by the trade union Vida in 2009, as the result of interviewing 200 work council members, also showed that 39% recalled incidences of violence in the workplace.

Similarly, comprehensive studies on the costs of violence and harassment at the workplace unfortunately do not exist. However, studies on economic costs have been conducted that investigate psychosocial strain in general. A study carried out by WIFO and the Danube University in 2011 calculated the economic follow-up costs of psychological work strain in general to be between 2-3.3 billion Euros (or 0.7-1.2% of GDP). Similarly, the Austrian Federal Economic Chamber estimates that the economic costs of psychological illnesses are 7 billion Euros, that 14-25 billion Euros are lost in a year due to employees not interacting sensibly with one another and that work absences due to psychological illnesses average 31.4 days a year⁵.

Although somewhat more data is available on trends in the working environment in general (relationships with colleagues, time pressures, work autonomy etc.), national level trend data on workplace harassment and violence is not available and this area appears to be rather

² Presentation of the study's results at a press conference are available at: <http://images.derstandard.at/2010/02/15/umfrage.pdf>

³ For further information on the data see: Krenn, M. (2014). Austria: Comparative Analytical Report on “Violence and harassment in Europe: emerging factors and new issues” (unpublished).

⁴ Stefan, H. Dorfmeister, G. (2010). Aggression und Gewalt in Krankenhäusern und Geriatriezentren.

⁵ Psychische Erkrankungen kosten jährlich 7 Mrd Euro. Available at: <https://www.wko.at/Content.Node/Plattform-Gesundheitswirtschaft/Studien---Publikationen/Publikationen/Psychische-Erkrankungen-kosten-jaehrlich-7-Mrd-Euro.html>

under-researched. Further, there seems to be no plans to gather more systematic data on violence and harassment in the workplace by trade unions or ministries in the near future.

A1.1.5 Impact of the implementation of the framework agreement

The consensus that emerged from the consultations undertaken for this study was that the autonomous agreement did not have any significant impact on national legislation, employer compliance with health and safety regulations, subsequent activities of social partners or national dialogue. Given the longstanding involvement of social partners in the field of OSH at national (cross-sectoral), sectoral and company level, means that the autonomous framework agreement was unlikely to mark a turning-point concerning national efforts. The recent legislative changes and the increasing number of guidance publications on mobbing, may indicate a heightened awareness of psychosocial risks in the last years. However, no direct connection to the framework agreement, nor the Austrian implementation of it in form of a guidance brochure, can be made.

Most of the consulted stakeholders believed that the legal framework in Austria already offers significant employee protection with regard to OSH. Therefore, violence and harassment in the workplace was thought to be best addressed by raising awareness and increasing national dialogue, rather than instituting legislative changes. However, trade union representatives did criticise the lack of clear mechanisms to prevent violence and harassment in Austria, as well as the underrepresentation of prevention as a focus in the autonomous agreement by the EU social partners. Employer organisations on the other hand consider the existing legislative and guidance framework to be sufficient and emphasise the importance of awareness raising and company level dialogue over any further legislative action.

A1.2 Belgium

A1.2.1 Introduction

Belgian social partners play an important role in the formulation of OSH regulation and policy, including through their involvement in the formulation of national and sectoral legislation and strategy, as well as through their participation in tripartite and bi-partite bodies and collective bargaining at cross-industry and sectoral level. With regard to psychosocial risks there is a national bipartite body – the National Committee for Prevention and Protection of the Workplace (CPPT), which includes employers and employee representatives, can give advice, make proposals or issue authorisation with regard to certain measures addressing psychosocial risk factors. At national level, cross-industry collective agreements can be concluded within the National Labour Council CNT (*Conseil National du Travail/ Nationale Arbeidsraad*) which can address OSH issues of cross-sectoral significance.

In Belgium, in 2000 the issue of harassment and violence at the workplace was already deliberated among social partners, with the intention of providing a legal framework for the prevention for these risks. In 2001, the Belgian Senate then tabled a proposal to amend the health and safety law (*Loi du bien être au travail/Welzijnswet*) to protect workers from harassment and violence, as well as specifying actions for prevention. The amendment passed in 2002 and explicitly defines all forms of harassment and violence. Since then, the law has been revised in 2007 and 2014, to include all kinds of psychosocial risks. In all the reforms, social partners were closely involved in preparing legal revisions.

The Belgian social partners assessed existing legislation and collective agreements in light of the Agreement and considered that no further action was required to ensure implementation as the goals of the Agreement were seen to be met by existing provision.

A1.2.2 National health and safety legislation and policy on psychosocial risks with specific focus on harassment and violence

Since the implementation of the EU Framework Directive on Health and Safety in Belgian legislation on 4 August 1996 (*Loi du bien être au travail/ well zijn op het werk last amended in 2014*), psychological well-being has been a part of the risk assessment carried out by employers. In 2002, the Act was amended and a chapter explicitly addressing violence and psychological or sexual harassment was added. The aim of the amendment was to raise awareness of, and stress the inclusion of harassment and violence incidences in risk assessments, as well as to emphasise prevention strategies. A reason for the 2002 amendment of the act was the public debate (at the time) about a case of suicide that was attributed to harassment in the workplace.

Definitions

Psychosocial risks

Psychosocial risks are defined as the probability that one or more employees may suffer psychological damage which may also be accompanied by physical damage due to exposure to components of the work organization, job content, working conditions, the work environment and interpersonal relationships in the workplace, which the employer can influence and which can be objectively regarded as a danger.

Harassment

Bullying (moral harassment) is defined as every abusive and repeated act of any origin (external or internal to the company or institution), including through conduct, verbal, intimidation, acts, gestures or unilateral writings, with the purpose or effect of violating the personality, dignity or physical or psychological integrity of a worker (or other person to whom the Act applies), jeopardizes their employment or creates an intimidating, hostile,

degrading, humiliating or offensive work environment.

Sexual harassment is any form of verbal, non-verbal or physical sexual act, which affects the dignity of women and men in the workplace.

Violence

Violence at work is defined as every act whereby a person is psychologically or physically threatened or attacked during the execution of his/her work. Violence at work is expressed predominantly by actions such as threats, physical aggression (direct attacks as well as threats during an armed attack, etc.) or verbal aggression (taunts, insults, teasing, etc.).

Employees are also protected against violence and harassment from third parties under the act of well-being at work.

The definitions used with regard to harassment and violence are inspired by the definition of the 2002 European Directives on equality 2000/43/EC and 2000/78/EC. However these definitions have evolved over the course of amendments and reforms.

The Royal Decree of 17 May 2007, which addressed the prevention of psychosocial stress caused by work (including violence and psychological and sexual harassment) placed additional emphasis on the prevention of psychosocial load. The adaptation the act of well-being at work in 2007 was considered necessary, since the newly introduced provision to file a complaint to the Inspectorate of Well-being at Work or Labour Courts, regarding violence and harassment at work, was considered over-utilised by employees. This, in turn, can be attributed to the fact that there were no prior means of internal resolution for such cases and also a general lack of prevention policies at the company level. An evaluation⁶ came to the conclusion that the law should emphasise training and information of all bodies (employers, line managers, prevention councillors, persons of confidence, workers) and clearly inform all stakeholders about the limits of the legislation with regard to harassment and violence at work. The 2007 decree stresses that employers must set up prevention policies to safeguard against psychosocial load in the workplace. Otherwise, employers are liable for legal prosecution. The risk assessment must identify any dangers that could cause stress or other psychosocial risks. In cases where an incident occurs despite the risk assessment, the employer would then have repeat the risk assessment taking into account all facts of such an incident.

Concerning cases of harassment, bullying or violence by a third party in the workplace, employers should keep a register of incidences. However, victims are not obliged to provide the name of the perpetrator in cases where the person is employed by the same company. The registry is maintained either by the confidentiality advisor or the prevention counsellor. Every company needs to have an internal procedure on how to deal with cases of harassment and violence at work. This procedure is subject to approval by the CPPT. In cases where the internal procedure does not resolve the issues at hand, the victim can decide to file a complaint with the Labour Court or the Inspectorate of Well-being at Work. In such instances, the victim is protected from dismissal. Further, the employer should provide psychological support to victims of harassment or violence by third parties.

The Ministry of Labour and Social Policy has carried out an in-depth evaluation of the Act, which was amended in 2002 and 2007. For the purpose of this evaluation⁷ a survey was carried out including all parties involved in prevention procedures (prevention counsellors, confidential person, judicial staff, medical staff active in the prevention, trade unions, employers, and inspectors). The evaluation highlights that the law has achieved its aims, in particular, with regard to the prevention of violence and harassment and raising awareness of these issues at the company level and the public at large. Further, it was considered effective with regard to establishing internal procedures. However, the external procedures (such as complaints at court) were considered too complicated, due to the fact that the

⁶ <http://www.emploi.belgique.be/publicationDefault.aspx?id=4310>

⁷ <http://www.emploi.belgique.be/publicationDefault.aspx?id=34448>

employed definitions are broad and it is therefore difficult to interpret them from a judicial point-of-view. It was further concluded, that the implementation of a risk assessment of psychosocial risks has increased the role of specialised services and advice in this area. However, it was criticised that the role of specialised prevention services and the person of confidence was not explained clearly enough to employees. In addition, the cooperation between these services is not yet fully used and exploited in practice.

Further, the evaluation highlighted that since 2002 not many additional prevention actions have been implemented and that the 2007 modifications did not substantially change procedures at the company level. It was further noted that prevention procedures were predominantly being put in place by large, rather than smaller or medium-sized, companies, due to the incurred costs (such as the cost of hiring a prevention consultant). Employers seemed to fear that risk assessments of psychosocial risks could reveal general issues with the company structure, which could then necessitate a large-scale re-organisation of the company structure.

Finally, the evaluation criticised that the law mostly focussed on harassment and violence in the workplace (even though the range of psychosocial risks to be considered is broader) and that internal procedures only enable complaints with regard to these issues. Thus, the evaluation highlighted that it could prove more efficient to deal with complaints in relation to a broader definition of psychosocial risks (e.g. as soon as tensions or stress is evident).

Further, it should be noted that illnesses resulting from psychosocial risks are not recognised as occupational diseases. However, employees can initiate a court procedure to get ill-health consequences from psychosocial risks recognised as occupational diseases. The law on psychosocial risks rather concerns itself with the prevention of psychosocial risks and dealing effectively with incidences where violence or harassment in the workplace has occurred.

In 2012, the cross-industry social partners deliberated in the NAR-CNT (*Conseil National due Travail*) (advice Nr. 1,808 on the legislation on prevention of Psychosocial Risks at Work)⁸, underlining the importance of psychosocial risk prevention through a prevention advisor and the importance of informal deliberation through a confidentiality person (*vertrouwenspersoon/personne de confiance*) for cases of harassment and mobbing at work. It was considered, that concrete internal procedures are not only needed for complaints but also for raising awareness of psychosocial risks and how to effectively deal with them. Additionally, in November 2013 the Ministry of Labour and Social Policy launched a new legislative initiative to amend the Act on Well-being at work with regard to “burn-out”.

In 2014, a new law was adopted and came into force on 1 September 2014⁹. The new legislation replaces the 2007 legislation. It more explicitly defines the role of all persons complaining about psychosocial risks – including stress and burn-out. The procedures for complaints were also slightly changed. Internally, there is now an informal and a formal procedure available. Furthermore, risk assessment can be conducted at a collective level (including all workers) and at an individual level. At an individual level, workers can now request an individual risk assessment of the work environment from the prevention councillor. The law specifically delineates all the features for each of the outlined procedures. It also strengthens the internal procedures at the workplace. First, every complaint needs to be dealt with internally. Only then, if no solution is found, can the victim launch a complaint at the Inspectorate or the Labour Court. Under the new legislation, complaints can be filed for all kinds of psychosocial risks, while a specific procedure for the protection of the victim is kept for incidences of harassment and violence.

A1.2.3 Implementation of the framework agreement

The autonomous framework agreement has not been implemented as such. This is because in Belgium social partners have prioritised action on harassment and violence since 2001. In

⁸ <http://www.cnt-nar.be/AVIS/avis-1808.pdf>

⁹ <http://www.emploi.belgique.be/defaultNews.aspx?id=41483>

2002, a law explicitly defining harassment and violence in the national context came into force. Social partners have closely monitored and followed the implementation of the law at the sector and company level. Further, they have followed-up court cases linked to this subject. The National Labour Council (CNT) has deliberated several opinions on the application of the legislation in place and existing reforms, including the recent legal change in 2014. Furthermore, social partners have also provided awareness raising activities and training for their members and prevention counsellors. In principle, due to the legal framework in place, it is possible to design individual workplace prevention measures that are mainly carried by the CPPT (at company level) or the prevention consultant. Therefore, it was concluded that specific implementation actions for the framework agreement were not necessary.

A1.2.4 Incidence of psychosocial risks and trends with specific focus on harassment and violence

In the context of the 2002 legislation (revised in 2007 and 2014) on violence and harassment at work, the Federal Ministry of Employment and Social Policy published an evaluation report. In the first year following the implementation of the legislation (July 2002 to November 2003), about 1,157 complaints on violence and harassments were registered at the medical inspectorate and 1,600 complaints with external services for prevention and protection at work, a high number compared to the following years. This high number can be explained by the fact that it was made possible to initiate a complaint procedure, not only for newly occurring incidences of violence and harassment, but also for past incidences. In the period 2004-2007, about 800 complaints were registered every year, the period 2009-2010 counted about 600 complaints on an annual basis. Almost 90% of these complaints concerned bullying, harassment and mobbing, 7% sexual harassment and 4% violence.

The Flemish Workability Monitor¹⁰ of 2010 shows that the percentage of employees experiencing mobbing remained stable, while the percentages of those noticing violence and sexual harassment has significantly increased since 2004. However, the results for 2013 are not comparable with earlier years, since the wording of the question changed from 'noticing' to 'experiencing'.

A1.2.5 Impact of the implementation of the framework agreement

The impact of the framework agreement is difficult to assess. Prior to the 2007 autonomous framework agreement, Belgium had already developed a detailed protective and preventative approach with regard to harassment and violence at work. Actions by social partners relating to harassment and violence did not specifically refer to the European autonomous framework agreement thereafter.

¹⁰ <http://www.werkbaarwerk.be/sites/default/files/documenten/Focus%20ongewenst%20gedrag%202004-2010.pdf>

A1.3 Bulgaria

A1.3.1 Introduction

Violence and harassment in the workplace is an issue which has so far not been high on the national agenda in Bulgaria (with the exception of a few sectors). The extent of the problem is largely underestimated and under-researched. This can be attributed to a number of factors: the legacy of Bulgaria's socialist past, where violence at the workplace (including sexual violence) was considered a taboo subject; the fact that victims face the threat of being laid off or being stigmatised (for example, the victim may be held responsible for what happened if they speak up); the fact that adverse social behaviour is attributed to the hardship of the transition process towards a market-led economy or is considered inherent to an occupation¹¹. Moreover, beyond these cultural aspects, Bulgarian law and law enforcement systems fail to offer effective protection against violence and harassment at the workplace. In certain sectors, however, there is a stronger awareness of harassment in the workplace because of a higher incidence of third-party violence (in the sectors of health care, public transport, commerce, banking, etc.).

Tri-partite social dialogue is organised in the National Council for Tripartite Cooperation and in sectoral councils. The government consults all recognised social partners on all legislation relevant to the social and economic status of workers and/or concern labour relations. In addition, social partners participate in a range of tripartite institutions dealing with issues related to employment, including occupational health and safety institutions¹². In Bulgaria, collective bargaining takes place at the sectoral or company level. In sectors such as education and health care, prevention of stress and psychosocial risks have been included in collective agreements. Collective agreements covering violence at the workplace have been formulated in the areas of health care and transport.

Yet for the most part, violence is conceptualised as gender-based violence and is rarely considered in the context of occupational health and safety policy and newly emerging psychosocial risks¹³. This is also reflected by the fact that current legislation, including the main legal instruments, the Health and Safety at Work Act and the Protection from Discrimination Act, do not explicitly mention and define harassment and violence at work.

The European social partners' autonomous framework agreement has not yet been adopted and implemented in Bulgaria. In 2013, the Confederation of Trade Unions in Bulgaria (CITUB) prepared a draft National Agreement on Stress and Violence on its own initiative, which aims to implement the EU social partners' autonomous agreements concerning harassment and violence in the workplace (2007) and work-related stress (2004). The draft agreement is still to be discussed and signed by the social partners.

A1.3.2 National health and safety legislation and policy on psychosocial risks with specific focus on harassment and violence

Provisions relating to psychosocial risks and violence and harassment in the workplace are contained in different areas of legislation including OSH legislation, equal treatment and antidiscrimination legislation and in the penal code.

¹¹ ILO (2003) Tomev L., N. Daskalova, V. Ivanova; Workplace violence in the health sector. Case study Bulgaria, Geneva 2003, conducted under the Joint programme of WHO, PSI and ILO, http://www.who.int/violence_injury_prevention/violence/interpersonal/en/WV/countrystudybulgaria.pdf

¹² The National Council for Tripartite Cooperation consists of representatives from the main actors and social partners, including the Ministry of labour and social policy, Ministry of Economics, the Confederation of Independent Trade Unions (CITUB), the Confederation of Labour "Podkrepa", Bulgarian Industrial Chamber, Association of industrial capital in Bulgaria, Association "The voice of Bulgarian Business" and Bulgarian Chamber of Commerce and Industry.

¹³ Bulgarian Gender Research Foundation. [Gender Stereotyping - a pervasive and overlooked source of Discrimination against Women in Bulgaria](#), 2012

In Bulgaria, OSH legislation (Health and Safety at Work Act)¹⁴ does not explicitly mention violence and harassment or other types of adverse social behaviour in the workplace. Rather, it establishes general principles for prevention and provides incentives for improvements regarding the safety and health of employees in terms of (i) prevention of occupational risks; (ii) protection of safety and health at work; (iii) elimination of risks and causes of occupational accidents and occupational diseases; (iv) provision of information, consultation and training and (v) stakeholder participation. The act contains more general provision related to the employer's responsibility to carry out risk assessment and implement relevant policies suitable for ensuring a healthy and safe working environment. The risk assessment must cover both physical and psychological risks.

According to information provided by the Ministry of Labour and Social Policy, the assessment of professional and health risks carried out by employers is one of the main methods of prevention outlined in Bulgarian legislation (harmonised with EU law in this area). The requirements for risk assessment in the workplace are laid out in the Health and Safety at Work Act, Ordinance № 5 on the procedure, methods and periodicity of assessing the risk¹⁵ and Ordinance № 7 on the minimum requirements for health and safety in the workplace and the use of work equipment¹⁶. Psychosocial factors defined in Ordinance № 7 include excessive monotony of work activities, inability to control the tasks performed, limited social contacts at work, lack of support *from the management*, insufficient motivation for work and psychological microclimate (§ 1, p. 9 of Ordinance № 7). According to Article 220 of Ordinance № 7, work-related psychosocial factors are controlled and improved by implementing specific prevention programmes for each type of labor to reduce mental tension and stress at work. In this respect, it is the responsibility of the employer in conjunction with specialists from the Occupational Health Services to carry out the assessment of professional risks. The assessment indicates whether any psychosocial risks could stem from the workplace and/or the work activities and if so, what kind of measures to address these could be applied.

The Protection Against Discrimination Act¹⁷ (in force since 2004) outlaws harassment and sexual harassment on the basis of discrimination also laid out in EU law. Among its objectives, is the transposition of many anti-discrimination EU Directives into national legal standards, including Directive 2000/43 / EC (Race Directive), Directive 2000/78 / EC (Framework Directive), Directive 2002 /73 / EC (Directive on the principle of equal treatment for men and women) and Directive 2010/41 / EU of the European Parliament and of the Council (Directive on implementing the principle of equal treatment of men and women engaged in an activity in a self-employed capacity). The act also establishes a specialized body for its implementation, the Commission of the Anti-Discrimination Committee (ADC), while also envisaging a three-tier civil court action against discrimination in civil courts. In June 2013, amendments to the Penal Code criminalised physical assaults on doctors and teachers at the workplace, making it a crime that is punishable by up to 15 years in prison, depending on the degree of the injury. No legal provisions regarding compensation for workers exists.

The Protection against Discrimination Act specifies under Article 17: *An employer who has received a complaint from a factory or office worker who believes that he/she is subject to harassment, including sexual harassment, in the workplace, shall be obliged to immediately hold an inquiry, take measures to stop the harassment, assess culpability and sanction the worker responsible.*

There are currently no specific public prevention policies aimed at preventing and addressing violence and harassment at work.

¹⁴ Health and Safety at Work Act, Available at: <http://www.noi.bg/images/bg/legislation/laws/ZZBYT.pdf>

¹⁵ http://healthsafety-stm.com/downloads/docs/nar_5_ocenka_risk-1.pdf

¹⁶ <http://www.mlsp.government.bg/bg/law/regulation/index.htm>

¹⁷ Protection Against Discrimination Act, Available at: <http://www.refworld.org/docid/44ae58d62d5.html>

As far as such policies exist, they are related to domestic violence, and discrimination against women (e.g., National Programme for Prevention and Protection from Domestic Violence 2013), violence and aggression in schools, and to some extent to racist violence. Similarly, the National Strategy for Promotion of Gender Equality 2009-2015, includes the aim of eradicating of sexual violence. These programmes, while not specifically designed to tackle the issues of violence, harassment and discrimination at work, do serve to raise awareness about these kinds of adverse social behaviour generally, including in the workplace.

A1.3.3 Implementation of the framework agreement

In 2013, the CITUB prepared a draft National Agreement on Stress and Violence on its own initiative, which aims to implement the EU social partners' autonomous agreements in these areas, namely harassment and violence in the workplace (2007) and work-related stress (2004).

The aim of this National Agreement is to provide a framework for policies, actions and measures to be agreed at the branch and company level for raising awareness and preventing stress and violence. The draft agreement is yet to be discussed or agreed with the employers' organisation at the time of writing.

The first steps towards the implementation of the European Agreement autonomous framework agreement were taken at the sectoral level.

In 2009, the Federation of Transport Trade Unions in Bulgaria (FTTUB) and the Municipality of Sofia concluded a Framework agreement on joint actions to prevent and combat violence and harassment against women working on the Sofia urban transport system. The agreement included a methodology for collecting information on cases of violence against women, the formulation of policy recommendations, and the implementation of measures to eliminate violence against women. On the basis of this agreement, in 2010, a survey on workplace violence against women was carried out. Within the framework of this agreement, workshops, training and communication campaigns have also been implemented in 2012 and 2013. Further, FTTUB has also made information available online. The FTTUB has also since signed similar agreements with Bulgarian Railways Passenger Services Ltd, Sofia Airport (2012) and with three further municipalities (2013).

More recently, a multi-annual collective agreement in the transport sector (2012-2014) was negotiated containing a specific chapter on 'Protection against violence at the workplace: Gender equality' (Chapter 11, art.74 -79).¹⁸ It contains provisions for joint actions for the prevention of all types of physical and psychological violence and harassment to all employees and outlines the importance of employers' commitment to a 'zero tolerance' policy towards violence. The collective agreement also contains requirements for the elaboration of special reporting procedure and awareness raising among management and employees. Furthermore, it stipulates support measures for the victims of violence and sanctions for perpetrators. These provisions must be realised through company collective agreements.

A collective agreement in the health care sector has been signed which contains a general requirement (Article 33) for joint actions by employers and trade unions in relation to the prevention of discrimination, all types of physical and psychological violence, as well as harassment.¹⁹

Similarly, in 2001-2006, a programme aimed at tackling violence in the workplace was implemented by the health care federations of the Confederation of Trade Unions in Bulgaria (CITUB) and the confederation of Labour Podkrepa under the ILO, ICN, WHO and Public Service International Joint Programme on Workplace Violence in the Health Sector. The programme included conducting a survey and elaborating two action plans.

¹⁸ <http://www.nipa.bg/sites/default/files/Transport%2018.07.2012%20-%2018.07.2014.pdf>

¹⁹ <http://www.nipa.bg/sites/default/files/Health%2009.08.2012%20-%2009.08.2014.pdf>

A1.3.4 Incidence of psychosocial risks and trends with specific focus on harassment and violence

No official register data exists in relation to workplace violence and harassment. Official data from crime reporting systems only exist for extreme cases of sexual violence (e.g. rape) but links to the workplace are not indicated.

There are only a limited number of surveys on violence and harassment at work. Two national surveys have been identified which have address this issue: the “National Working Conditions Survey 2010” and the “Work Climate Index Surveys in 2010 and 2012”. One sectoral survey examined the issue of violence against women in the Sofia urban transport companies (FTTUB 2010). Below, further information is provided on the methodologies employed in these three surveys, as well as on their findings.

In 2010 the National Survey of Working Conditions²⁰ looked at whether individuals had been subjected to threats of physical violence, actual physical violence from colleagues or a third party; bullying or harassment/sexual harassment. Further, managers and health and safety experts were also questioned on their experience of such incidents in their company. The survey found that people who are subjected to violence, harassment and discrimination in the workplace have a higher incidence of health problems than those who are not. Over half of the individuals who said that they experienced irritability, anxiety and reported being under stress, further stated that they have been exposed to threats of violence, experienced physical violence, bullying or mobbing or have been subject to unwanted sexual attention²¹.

In 2012, a national survey on working conditions was conducted for the purposes of completing the National Occupational Safety and Health Profile (the survey resulted in the preparation of 30 OSH risk profiles for different economic sectors). The survey contained the same questions as the National Working Conditions Survey, thus providing an opportunity to monitor trends between 2010 and 2012.

Regarding findings, management reported slight increases in all types of adverse social behaviour, while employees reported reductions in incidents, except for unwanted sexual attention.

Table 1.1 Trends in types of violence and harassment %

	National working Conditions survey, 2010		General OSH Profile survey, 2012	
	Management	Employees	Management	Employees
Threats of physical violence	1.7	2.4	3.3	2.1
Physical violence from colleagues	0.1	0.3	1.4	0.2
Physical violence from third party	1.1	1.2	2.8	1.0
Bullying / harassment	0.5	1.3	1.9	0.3
Unwanted sexual courtship	0.3	1.5	1.4	2.7

Note: Answers to the Question to the company management: ‘In your company in the last 12 months were there cases of...’ and answers to the Question to the employees: ‘In the last 12 months have you been personally subjected at work to...?’

²⁰ <http://knsb-bg.org/pdf/case--bulq-f-za%20pechat.pdf>

Methodological information are available in <http://www.eurofound.europa.eu/ewco/2012/04/BG12040111.htm>; <http://www.eurofound.europa.eu/ewco/surveyreports/BG1310011D/BG1310011D.htm>; http://www.eurofound.europa.eu/ewco/surveys/national/nationalsurveys_europe.htm

²¹ National Working Conditions Survey, 2012

Another relevant survey is the Work Climate Index Survey²². Two waves of the survey have so far been completed (2010 and 2012) covering both employees and self-employed individuals. Trends reported in the survey show a slight increase in the share of respondents reporting 'psychological harassment, and bullying'; from 3.5% in 2010 to 4.8% in 2012. In 2010 0.1% of respondents reported incidents of physical abuse, beating, unwanted sexual attention and sexual harassment was reported by 0.2% of respondents. In 2012, both types of adverse social behaviour increased by 0.1 percentage points.

A sectoral survey carried out by the Federation of Transport Trade Unions in Bulgaria (FTTUB) on workplace violence towards female employers looked at the experience in four companies operating in the Sofia urban transport system. Women were asked whether they considered themselves to be at risk of violence in the workplace; whether they had ever been exposed to bullying and/or harassment; whether they have been victims of physical violence and in each case who the perpetrator was (covering both internal and external/third party violence).

A1.3.5 Impact of the implementation of the framework agreement

The agreement has not yet been implemented in Bulgaria, but has led to significant activity on the part of the trade union confederation which has prepared a draft of a national framework agreement. Some data collection and awareness raising actions, as well as collective agreements are also in place at the sectoral level. However, here a clear link with the Agreement can not be established.

²²Methodological information are available in <http://www.eurofound.europa.eu/ewco/2012/04/BG12040111.htm>;
<http://www.eurofound.europa.eu/ewco/surveyreports/BG1310011D/BG1310011D.htm>;
http://www.eurofound.europa.eu/ewco/surveys/national/nationalsurveys_europe.htm

A1.4 Croatia

A1.4.1 Introduction

In Croatia, social partners play an important role for setting OSH standards in the workplace, also with regard to psychosocial risks. The social partners are consulted on labour legislation, including OSH legislation. According to Article 6(3) of the Occupational Health and Safety Act of 2014, the representatives of employers and trade unions are members of the National Committee for OSH. Collective agreements can include rules on health and safety in the workplace and workplace representation is essentially ensured by trade unions. Works councils can also be set up in companies and can reach legally-binding agreements with the employer on matters of work organisation and OSH.

With regard to harassment (including sexual harassment) based on grounds of discrimination, Croatian legislation is in line with the relevant EU equal treatment Directives. The Anti-Discrimination Act of 2008 (amended in 2012) and the Labour Act of 2014 prohibit these forms of discrimination, in line with the Recast Directive, the Race Directive and the Equal Treatment Directive.

With respect to harassment that is not based on grounds of and violence at work, there are gaps in the Croatian OSH and broader labour legislation. Harassment and violence at work are not explicitly mentioned either in the Labour Act of 2014 or in the Occupational Safety and Health Act of 2014. The Criminal Code of 2011 (amended in 2012) prohibits mobbing at work as a criminal offence. In civil law cases, mobbing at work is tackled by the Obligations Act of 2005 (amended in 2008 and 2011). The Obligations Act does not regulate mobbing at work but regulates moral damages when so-called personal rights are offended. Victims of mobbing at work can claim moral damages based on the Articles of the Obligations Act regulating personal rights. Although not explicitly mentioned, physical violence at work, as any other physical violence, is regulated by the Criminal Code.

One can conclude that Croatia has not implemented the Autonomous framework agreement on harassment and violence at work. There are currently no initiatives by the social partners in view of such an implementation. According to one of the interviewees, the representatives of trade unions are going to request that the government implement the agreement in legislation within the next 15 months.

A1.4.2 National health and safety legislation and policy on psychosocial risks with a specific focus on harassment and violence

A new Health and Safety at Work Act (Official Gazette No. 71/14) came to force on 19 June 2014. The growing number of injuries at work and professional diseases were given as a reason for drafting a new act. Concerning the new provisions introduced in the new Act, these include the establishment of a new Institute for Improvement of Health and Safety at Work. Its tasks are, among others, as follows: to suggest new programmes, guidelines, methods and models meant for improvement of health and safety at work and to help employers and trade unions in the area of health and safety at work. Besides this Institute, the Labour Inspectorate still has an important role in controlling the application of health and safety rules at work. The new Act regulates in detail the use of audio and video surveillance devices by employers at the place of work. Namely, according to the Article 43(2) of the Occupational Safety and Health Act, the employer is allowed to use surveillance devices in order to control when the employees enter and leave the work premises, as well as to diminish the risk of robbery, violence, theft and similar situations at work. The prevention of stress at work is also covered by the provisions of the new Health and Safety at Work Act. There is an obligation of employers to introduce measures for the prevention of stress at work. Harassment and violence at work are not explicitly mentioned in the Act. In its earlier draft, there was an Article on the employer's obligation in cases of harassment and violence at work in line with the Autonomous framework agreement on harassment and violence at work²³. According to an interviewee who was a member of the working group for drafting the

²³ See: <http://rasprava.mrms.hr/bill/javna-rasprava-nacrt-prijedloga-znr>. According

Occupational Safety and Health Act, the reason why this Article is not a part of the Occupational Safety and Health Act of 2014 is due to the fact that the working group found it difficult to draw a line between the provisions of the Labour Act prohibiting harassment and sexual harassment and the protection supposed to be provided by the Occupational Safety and Health Act.

Besides the Occupational Safety and Health Act, there is also the Act on the list of occupational diseases (Official Gazette No.162/1998 and 107/2007). However, it does not mention psychosocial causes of occupational diseases. It mentions only chemical, physical and biological risks and causes of occupational diseases (Article 3 (2)).

Further, there is a working group drafting a new Act on jobs categorization according to their harmful impact on the health of workers. It should amend the Act on years of service with increased duration (Official Gazette No. 71/99, 46/07, 41/08 and 61/11). The Act on years of service with increased duration does not mention psychosocial risks.

The Labour Act (OG 93/2014) contains provisions on harassment and sexual harassment. Article 134 states that the procedures and measures for the protection of dignity of employees against harassment or sexual harassment shall be governed in a special law, collective agreements, agreements between the works councils and the employer or in employment rules. An employer employing at least 20 workers shall appoint a person who would be authorised to receive and deal with complaints related to the protection of employees' dignity. The employer (or the person appointed) must examine the complaint, establish if harassment has occurred and take all the necessary measures to stop the harassment or sexual harassment. Employers who fail to appoint an additional person to receive and deal with complaints are given additional time to do this (Article 226(1)(22)). Employers who disclose information obtained in the complaint procedure can receive a fine of between 4068 and 7874 EUR (Article 228(1)(19)). The Labour Act contains provisions on the rights of employees affected by harassment (e.g. to stop working until he or she is offered judicial protection, and receive salary compensation). The provision of the Labour Act on the prohibition of harassment and sexual harassment (i.e. provision on protection of dignity of employees) has been part of the Labour Act since 2003 (Official Gazette No. 114/2003). Although it has been amended since then, the substance remained the same.

Harassment at work is also prohibited by other legal provisions on discrimination.

The Gender Equality Act adopted in 2008 prohibits discrimination in employment based on gender and sexual harassment in the workplace. Any alleged violations of the Gender Equality Act may be brought before the Ombudsperson for Gender Equality or are dealt with through the traditional court system.

According to the Anti-discrimination Act introduced in 2008 (OG 85/08, 112/12)²⁴, discriminatory treatment or forms of discrimination include direct and indirect discrimination, harassment and sexual harassment. Discrimination is an unjustified and prohibited difference in treatment on the basis of certain characteristics listed in the Act (race or ethnic affiliation or colour, gender, language, religion, political or other belief, national or social origin, property status, trade union membership, education, social status, marital or family status, age, health status, disability, genetic heritage, gender identity and expression, sexual orientation). According to the Anti-discrimination Act, harassment is defined as *'any unwanted conduct caused by any of the listed grounds with the purpose or effect of violating*

²⁴ The amendment to the Anti-discrimination Act of 2012 introduced amended provisions on justifications of discrimination in order to come in line with the relevant anti-discrimination Council Directives. Furthermore, the definition of sexual harassment is improved to come in line with the Recast Directive.

The new wording of the Article 3(2) is as follows: Sexual harassment is when any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.

Previously, the wording of the Article 3(2) was as follows: Sexual harassment is when any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, when creating an intimidating, hostile, degrading, humiliating or offensive environment.

the dignity of a person, and of creating an intimidating, hostile, degrading or offensive environment.

The Anti-discrimination Act foresees that the Public Ombudsman (as well as specialized Ombudsman such as Gender Ombudsman and Ombudsman for Persons with Disabilities) is responsible for dealing with alleged cases of discrimination. There is no specific national policy on harassment and violence at work.

The Criminal Code (Official Gazette No.125/11, 144/12) regulates mobbing at work as a criminal offence in the Article 133. The protection from mobbing (harassment not based on discriminatory grounds) is not regulated by civil law. It is only possible to claim damages based on the Obligations Act. Namely, the Articles 19(2), 1046, 1048 and 1100 of the Obligations Act (official Gazette No. 35/05, 41/08, 125/) regulate the protection of personality rights.

In an academic paper Grgurev²⁵ argued that there remains a gap in legislative protection of victims of mobbing and suggests three possible models for filling this gap. The most effective protection would be by the way of introducing the provision on the protection of victims of mobbing into the Labour Act, in the same way as the victims of harassment and sexual harassment are protected.

A1.4.3 Implementation of the framework agreement

Social partners in Croatia are involved when drafting the legislation and, at the company level, trade unions can conclude collective agreements that regulate employer obligations concerning psychosocial risks. However, Croatia was not a member of the EU when the agreement was concluded, although the EU social partners explicitly invited the Croatian social partners to implement the agreement. So far no such action has been taken at the national level. According to one of the consultations undertaken for this study, the representatives of trade unions are going to request that the government implement the agreement in legislation within the next 15 months.

A1.4.4 Incidence of psychosocial risks and trends with a specific focus on harassment and violence

A1.4.4.1 National administrative data

No data is available concerning the number of cases reported to authorities, brought to court or to the Ombudsman (the Annual Report of the Ombudsman does not provide a detailed account of the number of complaints concerning harassment and violence at work).

According to the data of NGO Mobbing²⁶, an NGO established to help and educate victims of mobbing at work, it received 489 complaints of mobbing at work in 2013, the Labour Inspectorate received 13 complaints of mobbing at work in 2013 and the Peoples' Ombudsman received 15 complaints in the same period²⁷.

²⁵ Grgurev, Ivana. Pravna zaštita od uznemiravanja na radnome mjestu (Legal protection in cases of harassment and mobbing at work), in: Bodiroga-Vukobrat, Nada; Frančičković, Tanja; Pernar, Mirjana (ed.). Mobbing – Prikazi slučajeva, Društvo psihologa Primorsko-goranske županije, Rijeka, 2008, p. 135-148.

²⁶ See: <http://mobbing.hr/>

²⁷ See: Annual Report of People's Ombudsman of 2013, p. 59

<http://www.ombudsman.hr/index.php/hr/izvjesca/izvjesce-pucke-pravobraniteljice/finish/20-2013/55-izvjesce-pucke-pravobraniteljice-za-2013-po-prvi-puta-objedinjeno-izvjesce-o-stanju-ljudskih-prava-u-hrvatskoj-i-radu-ureda>).

A1.4.4.2 National surveys

Evidence on trends in violence and harassment from national surveys is limited in Croatia. A national survey carried out by the Gender Ombudsperson in 2005²⁸ found that

- the awareness on harassment at work is high;
- 36,6% were witnesses to some form of unwanted conduct at work;
- 37,5% were victims of sexual harassment at work;
- 25,2% believed their employers to be responsible for a lack of protection from harassment and sexual harassment at work;
- 22,3% believed their trade unions responsible for lack of protection from harassment and sexual harassment at work;
- 27% believed that they were well protected from harassment at work and 73% believed the contrary
- 46,6% were not aware of legislative protection guaranteed by the Gender Equality Act, 54,6% were not aware of legislative protection guaranteed by the Labour Act.

A survey carried out among nurses reported in Bodiroga-Vukobrat et al²⁹ showed that

- 45% were victims of sexual harassment;
- 85% were abused verbally;
- a typical nurse-victim of sexual harassment is 19 to 30 years old.

A1.4.5 Impact of the implementation of the framework agreement

The framework agreement has not been implemented and therefore its impact cannot be assessed.

²⁸ Gender Ombudsperson (2005). Survey on the protection of women from unwanted conduct at work

²⁹ Mobbing (Ed. Nada Bodiroga-Vukobrat, Tanja Frančišković, Mirjana Pernar), Rijeka 2006

A1.5 Cyprus

A1.5.1 Introduction

Cyprus has a well-established system of tripartite consultation, which has not been affected by the economic crisis, and social dialogue also remains a strong institution in the country. Collective bargaining takes place at sector level, but mainly at establishment level. General workplace representation is ensured by trade unions, which means that they are responsible for wider company level bargaining as well as health and safety issues.

In 2009, a framework agreement was signed between the government, employer and employee representative organisations, based on the EU-level autonomous agreement on harassment and violence. Dialogue is also underway to ensure that the issue is part of the collective agreements in certain sectors and social partner organisations are encouraged to adapt the EU-level agreement to their sector or company context.

Beyond this, generally speaking, the broader issue of violence and harassment in the workplace is not very present on the national agenda and legislation in this field is weak. Public discussion on the issue of adverse social behaviour in the workplace focuses almost exclusively on sexual harassment. Public authorities (most notably the Gender Equality Committee in Employment and Vocational Training of the Ministry of Labour and Social Insurance), social partners and NGOs have taken measures to inform workers on matters of equality and sexual harassment, with a view to ensuring prevention and the adequate handling of such cases.

A1.5.2 National health and safety legislation and policy on psychosocial risks with specific focus on harassment and violence

Typically, before EU accession, all issues in relation to working conditions were regulated in collective bargaining agreements. The role of the Ministry for Social Affairs was simply to mediate in cases where no agreement could be achieved. Due to European legislation, national legislation developed in a number of areas.

Relevant provisions addressing workplace violence and harassment can be found in OSH, equal treatment and anti-discrimination legislation.

In line with the requirements of the EU Health and Safety Framework Directives, Cypriot OSH legislation places the duty on the employer to assess workplace risks (taking into account such risks as violence and harassment, including third party violence) and on the basis of the results of such risk assessment, the employer should take preventive measures either to eliminate or reduce the identified risks. In relation to psychosocial factors, Cypriot legislation provides that, 'Health in relation to work, indicates not merely the absence of disease or infirmity but encompasses the physical, spiritual and mental elements affecting health and directly related to health and safety at work'. Harassment is defined by law as 'unwanted by the recipient, behaviour associated with the gender of a person which has the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or aggressive environment.

Sexual harassment is defined as a form of sex discrimination under the Equal Treatment for Men and Women in Employment and Vocational Training Act of 2002 (L. 205(I)/2002). Under this Act, sexual harassment is defined as any form of unwanted verbal, non/verbal or physical conduct of a sexual nature, which has the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.

The Gender Equality Committee in Employment and Vocational Training, plays an important role in this field. As already mentioned above, the Committee is a tripartite body (employer, employee representatives, Ministry of Justice and Ministry of Employment). Its activities since 2010 have included the publication of a Code of Conduct on Sexual Harassment in the workplace and other information activities with governments at local level, public information campaigns etc. The Code of Conduct developed by the Equality Committee, is not a binding

document, it has a consultative character, but each company is encouraged to use the Code and to adapt it to their own context.

One argument to encourage the adoption of the Code of Conduct against sexual harassment is that it protects any employer that introduces it, as it is an employer measure for the protection of its staff. Otherwise the employer may be held jointly liable in sexual harassment cases, in both civil and criminal law³⁰. According to the *Gender discrimination in work and employment 2012 survey*, 19% of the owners and managers of enterprises taking part in the survey stated that they apply the recommendations of the Code of Conduct on sexual harassment in the workplace in their enterprise.

A1.5.3 Implementation of the framework agreement

In Cyprus, the implementation of the Framework Agreement has been in line with the role played by social partners in OSH thus far. Regarding psychosocial factors, Cypriot social partners together with the government, signed a tripartite framework agreement on stress at work in 2008. This framework agreement calls for the members of the national level social partners to start dialogue and to implement the agreement adapting it at sectoral or at company level, as necessary. The framework agreement was complemented with a Policy Statement on Harassment and Violence, which included qualitative targets for combating violence and harassment at work and was signed at an official ceremony in the presence of the Minister of Labour. As with the framework agreement on stress, the social partners committed to encourage all their member federations and trade unions to start a dialogue either at sectoral or company level and to specify the agreement to their context in order to implement it. The framework agreement includes targets, to improve the working environment and improve the climate between employers and employees.

Dialogue is also underway between the social partners in Cyprus to address the issue in collective agreements in specific sectors. No information was provided by interviewees on examples of sectors where dialogue is ongoing, however some sectors were mentioned as undertaking activities in relation to stress. These sectors include banking (where the Bank Employee Organisation is very active with questionnaires on occupational stress) and telecommunications (where the CYTA company has received an award by the EU OSH Organisation). Employers (individual companies) in the maritime and hotel sectors have also taken initiatives to combat occupational stress. Sectors where stress and V&H issues are seen as a particular problem, especially following the economic crisis, include banking and construction, which are the sectors most seriously hit by the crisis.

Due to the crisis, the employers' representative organisation at national level has intensively started to emphasize violence and harassment and psychosocial stress as risk factors for OSH. The interviewee, consulted in the framework of this study, noted that employers in general face increasing stress as return to growth is delayed. Employees also face increased stress. Therefore, the Cypriot social partners are trying to soften stress and encourage job security through agreements on flexible employment and on lower salaries, as ways for addressing the crisis

The Pancyprian Federation of Labour has carried out a number of training activities on stress and psychosocial risks. The training was also aimed at increasing awareness of the European framework agreements on work-related stress and harassment and violence at work.

A1.5.4 Incidence of psychosocial risks and trends with specific focus on harassment and violence

As indicated above, in Cyprus, beyond the existence of general legal provisions on risk assessment, the main focus of guidance and the public debate has thus far been on the issue of sexual harassment. However, over the past 5 years, discussion on psychosocial risk factors has increased significantly. Awareness activities and social dialogue have helped to increase awareness of risk factors for violence and harassment. Public debate has also

³⁰ Quote by Argentoula Ioannidou (President of the Gender Equality Committee in Employment and Vocational Training) in news item, <http://www.ant1iwo.com/kypros/2014/10/20/sejoyalikh-parenoxlhsh-sto-xwro-ergasias/>

increasingly included discussion on occupational stress, especially during the economic crisis, and in the context of delayed return to growth in the economy. To date, two surveys have been carried out on this issue.

In September 2007, a study was published by the Ombudsman's office on the various manifestations of sexual harassment in the workplace; the level of incidence of such occurrences and how it is addressed at enterprise level.

According to the survey, workers aged 21-30 are most likely to be victims of sexual harassment at work (61%). The most frequent occurrences were related to unwanted touching, pressure to form a relationship, comments on the body, pressure for a date and unwelcome staring. The survey found that 72% of harassers were married men, with a secondary or tertiary education.

In June 2012, a new study entitled 'Gender discrimination in work and employment' was published by the Gender Equality Committee in Employment and Vocational Training using a mixed method of surveys, telephone and face-to-face interviews. The sample included employees, as well as company owners and directors. This made it possible to analyse the level of incidence of sexual harassment by sector of employment and by type of harassment. Just over 50% of victims of sexual harassment were found to work in the public services, with a further 25% working in semi-governmental organisations (15.2%), and the service sector (10.1%). The types of harassment they experienced were mainly verbal harassment and inappropriate staring.

Of particular concern was the finding that victims considered that their work environment changed following any complaint being made, with subsequent incidents of intimidation and a feeling of being excluded from career opportunities.

Based on existing legislation, official records are only gathered on reported cases of sexual harassment. Such complaints can be lodged with the Inspectors of the Department of Labour of the Ministry of Labour and Social Security or with the Equal Opportunities Ombudsman. The majority of the complaints (53%) lodged with the Department of Labour in the period between 2009-2010 related to sexual harassment in the workplace against women of different ethnic origins working as housekeepers in private residences. However, most of these claims were rejected, others were withdrawn or failed to proceed because the complainants failed to appear at any hearings. Only 6% of the complaints lodged with the Equality Authority involved sexual harassment claims of women, of both Cypriot and foreign origin against their male employers³¹.

According to a forthcoming Eurofound study³², between 2010 and 2013, no cases of adverse social behaviour in the workplace have been brought to trial, with the exception of cases involving sexual harassment. The total number of cases during the 2010-2013 period was four.

In 2009 the Pancyprian Federation of Labour (PEO) created a reporting mechanism to allow complaints to be made in relation to violations of the *Equal Treatment of Men and Women in Employment and Vocational Training Law of 2002*. This initiative is being implemented through visits of trade union officials to enterprises giving individuals the opportunity to report such cases on a dedicated complaints form, which is registered. Depending on the circumstances of each case, negotiations take place with the employer or the case is referred to the competent government service and handled by the PEO's legal and other advisors. Since 2009, five complaints were received via this mechanism regarding sexual harassment, three of which either were settled between the employer and the complainant or referred to the Gender Equality Committee in Employment and Vocational Training. Only one of the two cases was brought before the courts.

³¹ This data comes from a study published by the Gender Equality Committee in employment and vocational training entitled [Analysis of statistical data from complaints of gender discrimination in employment](#).

³² Eurofound (forthcoming), Cyprus EWCO CAR. As part of this study, a telephone interview was conducted with the registrar of the [Court of Labour Disputes](#) (Δικαστήριο Εργατικών Διαφορών)

A1.5.5 Impact of the implementation of the framework agreement

In Cyprus, the European Framework Agreement directly led to the conclusion of a tripartite framework agreement on violence and harassment in 2009. The framework agreement was complemented with a Policy Statement on Harassment and Violence which included qualitative targets for combating violence and harassment at work and was signed at an official ceremony in the presence of the Minister of Labour. Social partners have committed to disseminate this and ensure the inclusion of the issue in sectoral collective agreement. So far, no clear progress on the application of this at sectoral level has been reported. Overall, the level of debate on the issue of violence and harassment has increased in recent years. Stakeholders have attributed this to the crisis and its impact on workers and clients/customers.

A1.6 Czech Republic

A1.6.1 Introduction

The Czech Social Partners have translated the framework agreement on harassment and violence at work in 2007 and published a brochure including all three European framework agreements including stress and telework. No further directly linked action to the framework agreement on harassment and violence at work at national level could be identified. However, the social partners have carried out a legal assessment of the current health and safety legislative framework and lobby for the explicit inclusion of psychosocial risks.

Tripartite negotiation with regard to legislation and policy on health and safety in the workplace occurs at national level and social partners would typically be involved in setting out national strategies.

Collective bargaining typically occurs at company level however there is only limited evidence available that indicates that company level agreements address harassment and violence at the workplace.

Incidences of mobbing seem to have recently increased which was seen as a consequence of the economic crisis.

A1.6.2 National health and safety legislation and policy on psychosocial risks with specific focus on harassment and violence

The notion of harassment (linked to the various grounds for discrimination) was included in Czech legislation in 2004, in line with the implementation of the Community *acquis*. In accordance with Directives (2000/78/EC and 2000/43/EC) and Equal Treatment Directive (Directive 2002/73/EC; Gender Recast Directive 2006/54/EC) harassment and sexual harassment have been defined as specific forms of discrimination. This provision was first introduced in the Labour Code (Anti-Discrimination Act No. 262/2006 Coll). It contained, inter alia, provisions on equal treatment, the prohibition of discrimination and sanctions to be imposed in cases of a breach of such rights and duties. The Anti-Discrimination act defines harassment as *“any unwanted conduct associated with the grounds specified in Section 2 (3), a) taking place with the purpose or effect of diminishing the dignity of a person and creating an intimidating, hostile, degrading, humiliating or offensive environment, or b) which could be legitimately be perceived as a precondition for a decision affecting the exercise of rights and obligations following from legal relationships”*. Sexual harassment was defined in the same act as any conduct of harassment (as set out above) of a sexual nature.

In 2009, Act No. 198/2009 Coll. on equal treatment and legal provisions protecting again from discrimination was adopted. This covers discrimination on the grounds laid down in European legislation and thus covers harassment linked to such forms of discrimination.

Since 2012 (Act Nr. 365/2011 Coll. of Laws) the Labour Code embedded the so-called basic principles of the labour law (see § 1a of the Labour Code) including equal treatment and non-discrimination of employees as basic principles. In 2013, the latter provision was completed by a second paragraph (with effect as of 1 January 2014) and the principle of equal treatment and non-discrimination of employees became one of three basic principles including the employees right to safe and satisfactory working conditions, constitute the pillars of the labour law, which define the values protecting public order in accordance with the new Civil Code Nr. 89/2012 Coll. Article § 1a of the Labour Code on the principle of equal treatment of employees and prohibition of discrimination applies to all employees without any exception. Paragraph 2 of the above-mentioned § 1a, which was integrated into the Labour Code through the 2014 amendment, explicitly defines the principles stated in paragraphs 1a), 1b) and 1e) as subordinate to the category of public order. This explicit regulation is of importance for the consideration of cogency of legal rules in provisions of the Labour Code from the point of view of the new Civil Code (its § 1 paragraph 2) as well as for the consideration of nullity of legal acts infringing the law to such a degree that they apparently disturb public order according to § 558 of the new Civil Code. This regulation

reflects the idea that emphasising the public order is, among others, aimed at the protection of those groups of persons who are vulnerable from the social or economic point of view.

The Czech Health and Safety Act makes reference to psychosocial load. The definition of mental load factors can be found in e.g. VI. No. 178/2001 Coll., as amended (especially Reg. VI. No. 523/2002 Coll.) As follows:

- Forcing the pace of work, which means that the employee cannot choose the pace of work, but are subject to operation of machinery or other persons
- monotonous work, which means a work activity, which is characterized by repetitive actions or motion task with limited staff to intervene in the course of such activities,
- work under time pressure associated with high work-rate and limited possibilities to rest , causing rapid onset of fatigue and lack of possibility of recovery,
- work associated with high demands in negotiations and cooperation between individuals and activities, where the employee is exposed to interpersonal conflict, frustration and negative emotional pressures
- risk to the health of other persons concerning activities in which a worker must be strictly complying with the rules of safe behaviour, labour intensity arises from the potential risk
- work in three shifts and continuous mode
- only work in night shifts.

However, despite including “psychosocial load” it seems not clear if employers have to prevent in particular this type of risks. Risks under the health and safety law have to be interpreted addressing only physical ones. Thus harassment and violence plays a role with regard to physical but not mental threat. There seems to be a lack of clarity at present with regard to what extent psychosocial risks have to be taken into account by employers in the risk assessment.

Since 2004, the penalty for violating employment legislation, including specific cases of discrimination, has been increased by Act No 435/2004 Coll. on Employment. Labour inspections, carried out by labour inspectorates responsible for occupational safety and health until 2005, and since then by the National Labour Inspectorate (*Státní úřad inspekce práce*), can take place unannounced and to cover psycho-social risks. Penalties for non-respect with the labour code will be further increased starting from January 2015.

Currently, prevention of psychosocial risk is under discussion also with the introduction of an obligatory occupational health service provider in the Czech Republic – Act Nr. 373/2011 on Specific Health Services and the Decree Nr. 79/2013 on the Implementation of Provisions of the Act Nr. 373/2011 on Specific Health Services. The Decree provides an obligation for employers to draw on occupational physicians implementing occupational medical examinations in order to supervise the impact of occupational activities, working environment and working conditions on the employees’ state of health and changes in their state of health, to assess the fitness for work, to evaluate the results of performed studies on impacts of specific working conditions on the employees’ state of health as well as to monitor the influence of dangerous factors in working conditions, which can have a long-lasting negative impact on the employees’ health. This framework implicitly includes the monitoring of psychosocial risks at the workplace. It is also of importance that the Decree provides for a special category of risk, namely the "risk of health hazard" covering those workers who are exposed to, above all, the risk of greater stress; this applies, for example, to teachers.

According to a report by Eurofound initiatives which try to tackle work-related violence are in large part performed by the non-profit sector in the Czech Republic. The NGO *Práce a vztahy* (Work and relations) focuses particularly on mobbing, bullying, whistleblowing and bossing. In order to increase awareness of these issues, the NGO carries out video-interviews with victims of mobbing publicises evidence on their website.

Similarly, an online service *Šikana v práci* (Bullying at work) – Mobbing Free Company' has been established for victims or witnesses of bullying but also for managers who would like to prevent bullying in their establishments. The association behind the service provides guidance, organizes lectures, carries out case studies in companies etc.

A1.6.3 Implementation of the framework agreement

The Czech social partners have published a practical information brochure on the 3 autonomous agreements of the European social partners in 2007, which includes their joint translation.

Furthermore, during negotiations on a broad amendment to the Labour Code in 2011 and 2013 discussions were under way on the possibility to amend the Code in order to introduce more concrete wording relating to psycho-social risks. Social partners have undertaken an assessment of the legislation in order to prepare for this process. However, no amendment in this direction has been made since.

A new amendment to the Labour Code will come into force in 2015 increasing the fines for employers not respecting their obligations however no clear link could be established with regard to improving prevention of psychosocial risks or harassment and violence at work.

Since collective bargaining does not take place at the national level in the Czech Republic, the framework agreement has been implemented through company-level collective agreements or sectoral agreements in some cases (in the railway sector, metal, health care sector). Every year, the Czech trade union confederation adopts a recommendation to its affiliates to take the framework agreement into account during collective bargaining at the sectoral level. Yet, there was no clear link to the framework agreement established. In fact, in the Czech Republic the current 2014 EU-OSHA campaign on psychosocial risks seems to have generated more actions than earlier European Social Partner agreements. Various management techniques seem to exist aiming to change workers behaviour and prevent acts of harassment and violence at work (e.g. code of conducts, workplace charters) though according to the employers association interviewed this occurs mainly in companies of foreign ownership rather than in Czech owned companies.

The biggest Czech trade union provides regularly training on anti-discrimination rules including harassment and violence. It also provides guidance to its members on how to prevent psychosocial risks at the workplace including stress and mobbing.

Collective agreements incorporating the issue for violence and harassment were also concluded in a number of sectors and companies (e.g. in the metal industry, construction, services the chemical industry and railways).

In the health care sector, the social partners have jointly implemented an ESF funded project aimed at prevention of violence in the health care sector through social dialogue between 2010 and 2012, which was also partly inspired by the multi-sectoral European agreement on addressing third party violence. The project included a survey on the current situation on the incidence of violence and harassment in the healthcare sector, as well as the production of several handbooks and the development of a training curriculum for employer and employee representatives on how to prevent situations of stress.

A1.6.4 Incidence of psychosocial risks and trends with specific focus on harassment and violence

There is no national register on incidents of violence and harassment in the workplace and evidence therefore relies on survey based information. Since 2008, the number of such surveys has increased.

A number of such surveys have been carried out in recent years in the Czech Republic.

An omnibus survey carried out by GfK Praha was run every 2 years between 2001 and 2007. It measured respondents³³ personal experience with mobbing at work, its duration and frequency.

Second, as a follow-up to the GfK survey, since 2009, the omnibus survey by the marketing agency STEM/MARK has been run every 2 years. Findings show that personal experience with different types of mobbing and/or harassment increased considerably between 2007 (16%) and 2009 (27.5%), which coincides with the onset of the crisis. Data reveal that the incidence mobbing and/or harassment was highest among the youngest age cohort (up to 29). Men (21.3%) and women (20.1%) experienced mobbing to a very similar extent. The survey also indicated that the frequency of mobbing and the period for which the victims are subject to adverse behaviour have increased in recent years. Thus, in the majority of cases mobbing was experienced for more than one year (63% in 2013 comparing to 39% in 2008) and the majority of victims were subject to it at least once a week (2013 data).

In 2011, a questionnaire survey carried out as part of the project 'Don't fear equal opportunities'³⁴ by the NGO Liana aimed to measure the incidence and extent of discriminatory behaviour in companies, including sexual harassment. It was based on standardized questionnaires on a sample of 121 employees of 16 small companies (2-26 employees) and a manager in every company. The results of the survey shows that a considerable number of employees declared being subject to sexual harassment though this affects women more significantly. And discrimination occurs in small companies more often on the grounds of age.

Table A1.1 Results LIANA survey

<i>employees declaration about</i>	Women in %	Men in %
sexual harassment	37,7	23,1
gender discrimination	14,5	5,8
health conditions	2,9	3,8
age	7,2	5,7
religion	1 person	1 person
origin		1 person

<i>employers declaration about</i>	discrimination in%
age	43,8
lack of knowledge about paternity leave	37,5
gender	31,3
family situation	25
unequal salary W/M	12,5
discrimination in general	43,8

³³ Consisting of a representative sample of persons in employment aged 15+.

³⁴ <http://www.liana-vzdelavani.cz/nase-kurzy-a-projekty/nebojte-se-rovnnych-prilezitosti>

Finally, a monthly omnibus survey 'Our society'³⁵ carried out by the Public Opinion Research Centre (*Centrum pro výzkum veřejného mínění*) was conducted between 2008 and 2013. The survey sought to measure the extent of violence and bullying at the workplace and perceptions of their incidence. The share of respondents considering the level of violence and bullying to be 'bad' stood at 5.9% in 2008 and 5.4% in 2013.

At sectoral level, the highest level of survey activity can be found in the education and health care sectors. A survey carried out in the health and social care sector in 2004 and 2010 measured an increase in all categories of violence and harassment with the exception of sexual harassment. The highest incidence concerns personal experience with verbal attacks (38.4% in 2004, 46.3% in 2010). Personal experience with physical violence increased from 12.2% to 16.9% during the same period, and personal experience with bullying/mobbing rose marginally from 13.1% to 13.7%. The data presented could indicate that the level of violence at work was linked to the economic crisis. However, it would be necessary to analyse longer time series to verify this hypothesis. The relatively high incidence of violence and harassment in the sector is linked to the relatively high level of third party violence and harassment.

In 2010-11, a survey on workplace bullying at Czech universities was carried out. It sought to measure the incidence and forms of bullying and its organizational context. It was carried out through an online questionnaire on a sample of 1533 employees and Ph.D. candidates of three public universities, followed by qualitative interviews with selected respondents with experience with mobbing. The results of the survey show that 14,7% of employees and PhD candidates are occasionally excluded from their team which could possibly indicate that some form of mobbing does occur within Czech universities.

The available surveys indicate certain patterns of violence and harassment are linked to greater sectoral propensity in the commerce, health, social care and education sectors. Women are more likely to be victims than men, while men are more likely to be perpetrators.

The study realized by Zábrowská (Zábrowská & Květoň 2012) makes a link between a number of organisational factors and bullying. Factors that are positively correlated with bullying include, low level of cooperation, poor work climate and organisational culture (mainly insufficient support from the management, low level of communication, creation of groups of interest and cliques, and rivalry), and recent organisational changes, in particular an increase of the level of stress, workload and of the volume of tasks, but also personal changes and changes in evaluation of work.

A1.6.5 Impact of the implementation of the framework agreement

Social partners at national level are involved in consultations on national health and safety legislation and strategy through the tripartite body the Council of Economic and Social Agreement of the Government of the Czech Republic having a specific working group on health and safety at the work place. Within this body national social partners have done a legislative assessment and called for the inclusion of a definition of psychosocial risks. The framework agreement was translated and published in a brochure that includes translations of the two previous framework agreements on stress and telework. Due to the fact that there is no national collective bargaining in the Czech Republic, social partners have tried to include definitions of harassment and violence into company collective agreements or other technical management tools such as Code of Conducts. At this stage it is not clear whether there is a direct link to the European framework agreement and there is no clear indication on how many companies address harassment and violence in their company collective agreements.

Awareness raising was essentially based on anti-discrimination laws and in this regard included information about harassment and violence at work. Due to the streamlining of information of equal treatment and non-discrimination of all workers in the basic labour law principles workers have in general a better knowledge about fundamental rights at work.

³⁵ <http://www.soc.cas.cz/en/node/83>

It should be noted that work-related violence remains to a certain degree still neglected in the Czech public discourse. It seems that serious cases of work-related harassment is rather raised by the media. Social partners do not seem to dialogue on the issue of harassment or violence at work.

A1.7 Denmark

A1.7.1 Introduction

Denmark has comprehensive legislation and policies in place to prevent and address violence and harassment, including third party violence. Preventing and addressing psychosocial risks in the workplace has been on the policy agenda for more than a decade. It has been subject to continued increased attention over this period and is one of the priority areas of the 2012-2020 national strategy for OSH.

Social partners play a prominent role in policy development and implementation at national, sector and enterprise level. Their involvement is stipulated by legislative provisions, and, at the enterprise level, also by collective agreements. The framework for social partners' involvement in OHS policy development at national level is the National Work Environment Council (*Arbejdsmiljørådet*³⁶) Detailed guidelines are available at different levels to support implementation of health and safety policies – including specific guidelines on violence, bullying and harassment. In line with the Danish model of interest intermediation and collective bargaining, social partners also play a key role in OSH by negotiating relevant collective agreements.

The Framework Agreement has been implemented by the social partners in Denmark. The approach to implementation has been that of integration the agreement into existing frameworks or wider collective agreements (including pre-existing collective agreements).

A1.7.2 National health and safety legislation and policy on psychosocial risks with a specific focus on violence and harassment

The Danish Health and Safety at Work Act³⁷, of September 2010, as well as related executive orders, provide the main legal framework in place for psychosocial risks, including violence and harassment.

The Danish Health and Safety at Work Act requires every company in Denmark to carry out a risk assessment, which must take into account both physical and psychological risk factors. Employers must develop policies and approaches to prevent and address these risks wherever possible.

The Act furthermore:

- Specifies that health and safety policies are to be implemented through cooperation between the employer and employees at the enterprise level and sets out the framework and participation of the Work Environment Organisation (*arbejdsmiljøorganisation*) to be implemented at the enterprise level (with further specification in the executive orders: Executive order on collaboration on safety and health³⁸ and Executive order on how work must be performed³⁹).
- Sets out the framework and specifies participation for the sector Work Environment Councils (*branchearbejdsmiljøråd*), which are to provide the enterprises within a sector with information and professional guidance on health and safety at work.
- Sets out the framework for and the participation of the national Work Environment Council (*Arbejdsmiljørådet*).

³⁶ See <http://www.amr.dk/>

³⁷ Bekendtgørelse af lov om arbejdsmiljø, 7 December 2010

³⁸ Bekendtgørelse om samarbejde om sikkerhed og sundhed BEK 1181 af 15. oktober 2010
<http://arbejdstilsynet.dk/da/regler/bekendtgørelser/s/samarbejde-om-sikkerhed-og-sundhed-1181.aspx>

³⁹ Bekendtgørelse om arbejdets udførelse, BEK nr 559 af 17/06 /2004

<http://arbejdstilsynet.dk/da/regler/bekendtgørelser/a/sam-arbejdets-udfoelse-559.aspx>

The main new provisions in the 2010 act are related to the planning and training and the more strategic involvement of management. Likewise, while the 2010 act included explicit references to the psychosocial environment (§ 1a), which did not exist in previous legislation, in practice, the psychosocial environment was as an integrated part of health at work.

The Danish Health and Safety at Work Act specifies that it is the employer's responsibility to ensure that working conditions are safe and healthy (§ 15). Hereunder, employers are required to prevent violence and the threat of violence at work. The 2004 Executive Order regarding regulations on how work must be performed⁴⁰ specifies that it is employer's responsibility to plan work as to ensure that work conditions comply with health and safety standards (§ 4), to ensure that work is performed in a safe and healthy manner (§ 7) and to supervise work to this end (§ 16). Furthermore, legislation requires employers to ensure that a workplace assessment (*arbejdspiladsvurdering*, APV) is undertaken. Mobbing and bullying is mentioned in the 2004 Executive Order regarding regulations on how work must be performed (§ 9a). The Executive Order states that work must be conducted in such a way as ensures that the work does not give rise to risks of mental or physical health impairment due to bullying, including sexual harassment. The Executive Order does not further define harassment and violence at the workplace. In contrast the AT Guidelines (which describes how health and safety legislation must be interpreted) define harassment and violence at the workplace.

The Danish Working Environment Authority (WEA, an agency under the Ministry of Employment), has issued Guidelines on bullying and sexual harassment⁴¹ (2002) arising between employees and between employees and managers. The WEA has also issued Guidelines on third party work-related violence⁴² covering physical and psychological violence perpetrated by clients or customers (updated in May 2014) and Guidelines for enterprises on ways to identify psychosocial risks⁴³ (updated in November 2009). In addition to issuing guidelines, the WEA provides advice on how to address harassment and violence at work. Advice includes the issuance of a handbook on the psychosocial work environment⁴⁴ (2004), covering mobbing, sexual harassment and violence at work. Since 2010, the WEA also operates a hotline which provides advice on bullying for employers and employees.

Finally, the WEA carries out different types of inspection in an effort to prevent accidents and sickness and to ensure safe and sound work environments in compliance with national rules. Psychosocial risks, including violence and harassment, form an integral part of the framework for "risk based inspections" (*risikobaseret tilsyn*). Furthermore, two forms of targeted inspections have focused on psychosocial risks. These are: "specific inspections" (*Detailtilsyn*) focusing on a specific limited health and safety issue and "special inspections" (*Særlige tilsyn*). In the 2011-2015 period "special inspections" have as one of their two focus areas the psychosocial work environment. In addition to proactive inspection, employees may submit complaints to the WEA regarding mobbing or sexual harassment, which may be followed up by a specific inspection.

In the event that the WEA has a concrete suspicion that there may be problems concerning the psychosocial work environment, which could constitute a breach of health and safety legislation, it can issue an order to investigate the psychosocial work environment with a

⁴⁰ Bekendtgørelse om arbejdets udførelse, BEK nr 559 af 17/06 /2004

⁴¹ At-vejledning D.4.2 Mobning og seksuel chikane, march 2002 <http://arbejdstilsynet.dk/da/regler/at-vejledninger/m/d-4-2-mobning-og-seksuel-chikane.as>

⁴² At-vejledning D. D3.2-2 Voldsrisiko i forbindelse med arbejdets udførelse <http://arbejdstilsynet.dk/da/regler/at-vejledninger/v/d-4-3-vold-ifm-arbejdets-udfoerelse.aspx>

⁴³ At-vejledning D. D4.1 Kortlægning af psykisk arbejdsmiljø <http://arbejdstilsynet.dk/da/regler/at-vejledninger/k/d-4-1-kortlaegning-psykisk-arbejdsmiljo.aspx>

⁴⁴ See the handbook on the psychosocial work environment at <http://arbejdstilsynet.dk/da/arbejdsmiljoemner/laes-ogsaa/handbog-om-psykisk-arbejdsmiljo.aspx#afs8>

mandatory investigation by authorised health and safety consultants (Executive Order on the use of qualified health and safety consultants in the OHS of 2013⁴⁵).

The Danish strategy for safety and health 2012-2020 has, as one of its three priority⁴⁶ areas, psychosocial problems in the work environment. Included in this strategy is the target to decrease the number of psychosocial incidences by 20% until 2020. Underpinning the strategy are 19 priority initiatives⁴⁷ including:

- *Development of a two track approach for risk-based inspections* with enhanced focus on psychosocial risks (in line with the different inspection types presented above)
- *Focus on the psychosocial work environment.* Working closely with the social partners this initiative aims to develop ways to identify and correct problems in the psychosocial work environment. It is expected to result in a catalogue of methods and tools that companies can use to identify and correct mental health and safety problems as well strategies for company interaction with the WEA, with the aim of ensuring a better prevention of mental health and safety problems at the company level.
- *Measuring the progress of the work environment,* with specific attention to the measurement of the priority themes (including psychosocial problems), is implemented through large scale surveys undertaken every second year, as well as an effect measurement of different OTS policy measures.

In 2013, the Fund for a better working environment and labour market retention (*Fonden for forebyggelse og fastholdelse*) launched a package⁴⁸ to prevent violence in eldercare and residential institutions.

Other initiatives include a national campaign of the Knowledge Centre for the work environment (*Videncenter for arbejdsmiljø* under the Ministry of Employment), which was launched in 2009, focusing on stress and wellbeing at the workplace. One of the main themes/sub campaigns covered the prevention of workplace bullying⁴⁹.

In September 2014, the Danish Government also announced that it intends to present a proposal to amend the Danish Health and Safety at Work legislation. This would be done with the intention to extend the protection against work-related violence and threat of violence outside of the working environment⁵⁰.

A1.7.3 Implementation of the framework agreement

The framework agreement has been implemented by the social partners in Denmark. The approach taken for the implementation has been that integrating the agreement into existing frameworks or collective agreements.

In the **private sector**, the social partners viewed the Framework Agreement in light of existing national policies and collective agreements already in place. It was concluded that existing legislative measures and the national level framework agreement adequately cover and are suited to implement the provisions of the autonomous framework agreement. Therefore, separate implementation would not be required. A Joint Declaration between the Danish Industry (DA) and the Danish Confederation of Trade Unions (LO) covering the

⁴⁵ Bekendtgørelse om brug af autoriserede rådgivningsvirksomheder på arbejdsmiljøområdet, 15. januar 2013
<http://arbejdstilsynet.dk/da/regler/bekendtgorelser/b/brug-af-autoriserede-raadgivningsvirksomheder.aspx>

⁴⁶ See En strategi for arbejdsmiljøindsatsen frem til 2020 at

[file:///C:/Users/hennconsult/Downloads/Aftaletekst%20\(2\).pdf](file:///C:/Users/hennconsult/Downloads/Aftaletekst%20(2).pdf) and

<http://arbejdstilsynet.dk/da/om%20arbejdstilsynet/formaal-og-opgaver/arbejdsmiljoindsatsen-frem-til-2020.aspx>

⁴⁷ See <http://arbejdstilsynet.dk/da/om%20arbejdstilsynet/formaal-og-opgaver/arbejdsmiljoindsatsen-frem-til-2020/de-19-initiativer.aspx>

⁴⁸ Ny forebyggelsespakke for døgninstitutioner- og hjemmeplejebranchen

http://www.forebyggelsesfonden.dk/ny_pakke_vold_og_ulykke.html

⁴⁹ See <http://www.forebyggmobning.dk/Global/Prevent-Workplace-Bullying>

⁵⁰ See for example <http://www.b.dk/nationalt/bare-fordi-du-har-fri-skal-du-ikke-foele-dig-tryk> and <http://www.dr.dk/Nyheder/Politik/2014/09/20/0920011524.htm>

implementation of the Framework Agreement was issued in 2010 to this end⁵¹. However, in order to support the implementation of policies to address harassment and bullying at the workplace, in 2008 the social partners agreed on two sector specific collective agreements.

In the **public sector**, the social partners agreed to implement the Framework Agreement through a wider “Wellbeing Agreement” (*Trivselsaftale*⁵²), implementing the framework agreement as well as a number of other policies covering wellbeing in the public sector.

Seen as the framework agreement is implemented through systems and practices governed by collective agreements, as well as national legislation, this section consequently presents the main elements of these.

Systems and provisions are in place at several levels, supporting policies to prevent harassment and violence at work. National OSH policies are implemented through a “three level system” governed by national legislation, with social partner involvement at all levels:

- **National development** of strategies, guidelines, and other guidance initiatives – supported by inspection and complaint procedures. In 2013 the WEA undertook a total of more than 50,000 inspections (including 27,000 risk-based assessments) and more than 60,000 visits⁵³. 4584 “special inspections” were undertaken in the 2011-2013 period covering two priority areas (psychosocial work environment and musculoskeletal risks). 193 “specific inspections” covering psychosocial work environment are anticipated in the 2013-2015 period. All Danish companies (micro companies excluded) will be subject to generic “risk inspections” in the 2012-2020 period.
- Development of **sector specific** guidelines and guidance to further operationalise and tailor guidance and support sector specific needs. The Sector Work Environment Councils (of which there are 16) issues these guidelines. Examples include:
 - Guidance from the Sector Work Environment Council “Office”: Prevent Bullying⁵⁴
 - Handbook from Sector Work Environment Council “Graphics”: Against bullying⁵⁵
 - Guidance/handbook from Sector Work Environment Council “Finance/ Public Administration”: Bullying⁵⁶
 - Guidance from Sector Work Environment Council “Social and Health: Bullying free environment⁵⁷
- **Implementation of OHS policies at the company level** (mandatory risk assessment by companies taking into account physical and psychological risk factors, work environment organisation and annual health and safety discussion)

However, national legislation and policies, as well as public authorities’ practices for supervision of health and safety policies, have remained unaffected by the framework agreement and main elements have been in place prior to the framework agreement. Interviewees confirm that national OSH policies, strategies and practices have had a focus on the psychosocial work environment (including harassment and violence at the workplace) for more than a decade.

⁵¹ Fælleserklæring mellem DA og LO vedr. implementering af den europæiske rammeaftale om chikane og vold, at http://www.lo.dk/Nyheder/Nyhedsarkiv/2010/12/~media/LO/Aktuelt/nyheder2010/pdf_2010/erklæringOmVoldOgChikane.ashx

⁵² Aftale om trivsel og sundhed paa arbejdspladserne, 2008, at http://www.personaleweb.dk/sites/default/files/Aftale_om_trivsel_og_sundhed_paa_arbejdspladserne_0.pdf

⁵³ See Arbejdstilsynet Årsrapporten 2013 at <http://arbejdstilsynet.dk/~media/at/at/01-arbejdstilsynet/09-publikationer-om-arbejdstilsynet/aarsrapporter/aarsrapport1-2013%20pdf.ashx>

⁵⁴ Forebyg mobning at <http://bar-kontor.dk/Default.aspx?ID=4868>

⁵⁵ Grafisk BAR´s anti-mobbe håndbog at mobning.info

⁵⁶ Mobning at http://www.kl.dk/ImageVaultFiles/id_31132/cf_202/Mobning.PDF

⁵⁷ Mobbefri Zone at http://www.arbejdsmiljoweb.dk/trivsel/mobning/mobbefri_zone

As outlined, the national framework agreements and national legislation provide the framework for the implementation of the Framework Agreement in the private sector.

Beyond the framework agreement however, sector agreements were concluded addressing harassment and bullying which specifically implement the Framework agreement. These sector agreements cover the industrial sector (Protokollat related to the Framework Agreement on harassment and violence at work – of 2009⁵⁸) and the retail sector (Agreement on the implementation of the Framework agreement on harassment and violence at work⁵⁹)

Beyond these sector agreements implementing the framework agreement, wider agreements have been concluded in 2008 covering harassment and bullying in the industrial sector (Agreement on wellbeing at the work place and a good psychosocial work environment⁶⁰) and trade, services and retail (Agreement on treatment of cases of bullying including sexual harassment⁶¹).

With regard to the latter agreements, the social partners have committed themselves to a more prominent role in the workplace to prevent and address violence, bullying and harassment. The agreement is to be implemented at the company level through the cooperation committees with guidance and support provided by the social partners' organisations. Furthermore, the agreements specify that such activities will be assisted where necessary by the social partners' collaboration consultants, which guide the cooperation committees on the implementation of the national framework agreements. Concrete disagreement will be addressed through the industrial relations systems. Finally, the agreements stipulate that inspection related to bullying and harassment will be undertaken by the social partners, substituting for this area the WEA.

More recently, in 2014 the social partners approved the mediation proposal of the national Conciliation Board. This mediation agreement highlights the social partners' commitment to ensuring health and safety at work. It also underlines the social partners' commitment to developing methods to prevent and address psychosocial risks within the framework of national legislation. Further, it highlights their commitment to capitalise on the experience gathered from the collaboration consultants supporting the Cooperation committees work to promote and improve the psychosocial environment.

The "Wellbeing Agreement" (Trivselsaftale) which implements the Framework Agreement in the public sector was adopted by the social partners in connection with the 2008 collective agreement covering all employees in the public sector.

The agreement covers four themes: 1) Welfare 2) Health 3) Sick leave and 4) Violence, bullying and harassment, each underpinned by a number of initiatives⁶².

In the area of psychosocial risks, the agreement sets out the framework for collaboration and engagement of the social partners. It commits the social partners to take action against harassment and violence perpetrated against colleagues, management or a third party.

Considering that national legislation requires the employers to protect employees from violence, bullying and harassment the aims of the agreement were to⁶³:

⁵⁸ See: Industriens Organisationsaftaler 2014-2017 p. 147 at http://www.co-industri.dk/Delte%20dokumenter/341639_organisationsaftaler_2014-2017_final.pdf

⁵⁹ See Butikoverenskomsten page 77 at <http://www.danskerhverv.dk/Raadgivning/Overenskomst/aktuelt-om-Ok2014/Documents/Overenskomster-2014-2017/OK2014-Butikoverenskomst.pdf>

⁶⁰ See <http://www.teksam.dk/Portals/0/Temaer/Psykisk%20arbejdsmilj%C3%B8/Trivsel%20og%20psyk%20arbejdsmil.pdf>

⁶¹ At <https://www.danskerhverv.dk/Raadgivning/Arbejdsmiljoe/Psykisk-arbejdsmiljoe/Documents/Aftale-om-behandling-af-sager-om-mobning-ml-Dansk%20Erhverv-og-Handelskartellet.pdf>

⁶² Vejledning til aftalen om trivsel og sundhed på arbejdspladserne) at http://www.kto.dk/media/10079/vejledning_trivsel_sundhed_arbejdsplads_kl_1947_159.pdf

⁶³ See Ungaa vold, mobning og chikane at http://www.kto.dk/media/10047/Undgaa_vold_mobning_chikane_vejledning.pdf

- Increase awareness and knowledge among employers, employees and their representatives about violence, bullying and harassment in the workplace
- Establish guidelines for workplace efforts to identify, prevent and manage problems related to violence, bullying and harassment in the workplace.

Guidelines are to be established by the central collaborative organ involving employers and employees (HovedMED) at the regional/municipality level. The deadline for the establishment was 1 April 2010. In support of the implementation of the Wellbeing Agreement a guide was issued by the social partners⁶⁴ related specifically to violence, bullying and harassment.

An evaluation of the Wellbeing Agreement at the municipality level was undertaken in 2010⁶⁵. The study concluded that by 2010, guidelines had been developed for violence, bullying and harassment or were in the process of being developed (+80% for bullying and harassment, +95% for violence). The study also concluded that the agreement had directly and significantly impacted the development of guidelines at the municipality level. However, the evaluation results also suggest that guidelines or procedures were in place in many cases, or in process of being developed prior to the agreement.

The impact of the framework agreement at the sector level and company/institution level is lower. However, it can be assumed that implementation has improved since.

Research on enterprises health and safety policies was undertaken by the National Research Centre for the Working Environment under the Ministry of Employment (*Det Nationale Forskningscenter for Arbejdsmiljø*). Survey data from the "Companies Health and Safety Activities⁶⁶" (N=4,800) is available on measures undertaken by companies as from 2012 (with anticipated measurements every two years until 2020).

Survey results indicate that enterprises largely comply with legislative requirements. However, results also suggest that the efforts of enterprises vary across sectors and across enterprise sizes⁶⁷. Survey results from 2012 indicate that:

- Most enterprises have undertaken a work place assessment (arbejdspladsvurdering). However 4% of enterprises have not undertaken any assessment and 7% have not undertaken any within the last three years. Small enterprises differ significantly from large enterprises. Whereas 16% of enterprises with less than 10 employees have not undertaken an assessment, this is the case only for 3% of enterprises with 10-34 employees. Virtually all large companies (+35 employees) have undertaken an assessment (>99%).
- Enterprises undertake the yearly annual health and safety discussions. However, in 16% of the enterprises representatives of employees and management have not discussed the content of the next year's health and safety cooperation and 25% of enterprises have not established how health and safety cooperation is to take place.
- 66% of enterprises have in the last three years undertaken a psychosocial work environment assessment of the workplace – whereas 34% have not. Assessments are least frequent among small enterprises (<10 employees) and among enterprises in the field of installation and repair of machinery and equipment, textile and paper, hairdressers and other personal care, shops and construction. Assessments are undertaken most frequently among day-care centres and hospitals. When considering overall efforts to improve the psychosocial work environment, sectors with the highest

⁶⁴ See Ungaa vold, mobning og chikane

⁶⁵ Evaluering af MED-udvalgenes implementering af Aftale om trivsel og sundhed på arbejdspladserne, undertaken by Epion at http://www.sikkerportal.dk/dsr/upload/7/46/792/Evaluering_MED-udvalg_Trivselsaftale_KL-KTO-SHK_2010.pdf

⁶⁶ Virksomhedernes arbejdsmiljøindsats 2012 at

<http://www.arbejdsmiljoforskning.dk/da/arbejdsmiljoedata/virksomhedernes-arbejdsmiljoeindsats-20>

⁶⁷ See <http://www.arbejdsmiljoforskning.dk/da/arbejdsmiljoedata/virksomhedernes-arbejdsmiljoeindsats-20/virksomhedernes-arbejdsmiljoeindsats-2012/resume>

level of activities are in the field of residential and home care, hairdressers and other personal care, day care centres, doctors, dentists and veterinarians and education.

Activities to prevent harassment and violence at work are not required by law, but are implemented by many enterprises, following the above mentioned AT guidelines and collective agreements. However, survey results also show that such policies are unevenly implemented:

- 53% of enterprises have no policy or guidelines on prevention and management of bullying. Small enterprises (<10 employees) are least active in this area (74% have implemented no concrete policies), whereas 57% of large enterprises have put in place policies and/or practices. The sectors 'Residential institutions and home care', 'hairdressers and other personal care', slaughterhouses, 'day care centres, doctors, dentists and veterinarians' and 'hotel and camping' are most systematically engaged in the development and implementation of policies or practises to prevent bullying. Enterprises in 'Installation and repair of machinery', 'construction and demolition of buildings', 'work', 'electronics' and 'wood and furniture ' sectors are those who least frequently have policies and practices in place.
- 45% of the enterprises have no policies in place to prevent or address violence or threat of violence in the workplace. Enterprises/public sector institutions within the sectors of residential institutions and home care, hospitals, hairdressers and other personal care, education and doctors, dentists and veterinarians – which also are the enterprises where most employees are subject to violence/threat of violence - are those most frequently having put in place policies to prevent and address violence or threats of violence.

A1.7.4 Incidence of psychosocial risks and trends with a specific focus on psychosocial risks

Recent national survey data suggests that violence and threat of violence has been decreasing in recent years. However, this data also suggests that issues of violence and threats of violence persist.

High levels of violence/threat of violence are found in the public sector, with most violence/treats of violence stemming from third parties (patients, pupils, residents in protected homes or nursing homes etc.). Issues with the psychosocial work environment are significantly less frequent in the private sector. This is also illustrated by the relative low number of consultations with collaboration consultants in the private sector related to the psychosocial work environment⁶⁸. Therefore, high levels of violence are likely to be explained by the high number of employees working in the health and care sectors, where issues of violence and threats of violence are significantly more prominent than in other sectors. The issue of sector specific violence and threat of violence has also been illustrated by several surveys⁶⁹.

According to the interviewees, other factors appearing to contribute high numbers in national surveys is the very high level of focus on the psychosocial work environment in general – resulting in higher awareness and more reporting of cases,. In this respect, it may be noted that the number of “improvement notices” (påbud) resulting from WEA inspection and covering the psychosocial work environment (in general) is relatively low⁷⁰.

Research on psychosocial risks

Research on incidence of psychosocial risks is undertaken by the National Research Centre for the Working Environment under the Ministry of Employment (Det Nationale Forskningscenter for Arbejdsmiljø). From 2010 onwards, survey data is available on

⁶⁸ <35 consultations in 2012

⁶⁹ surveys undertaken by Danish Nurses' Organization, the Union of Social and health care workers (FOA) and the Danish Danish Medical Association

⁷⁰ About 600 improvement notices in 2014 covering phycosocial work environment (in general) – of a total of some 18,500 improvement notices. Improvement notices in other areas (musculoskeletal risks, requirements for prevention, risk of accidents) are significantly higher, source:

employees' exposure to psychosocial risks. Large scale surveys, using common indicators, are implemented every second year (from 2012 to 2020) as to measure progress towards the targets set by the Danish strategy for safety and health 2012-2020. The survey "Work Environment and Health"⁷¹ covers employees' exposure to psychosocial risks and employers' activities to prevent these risks.

Consolidated register data on reported cases of violence, harassment and bullying in the workplace is not available. Employers are required to report sickness due to accidents at work. Likewise doctors are required to report sickness due to issue in the workplace. However, the data does not allow the identification of cases of violence, harassment or bullying. Work is currently being undertaken to streamline and consolidate this data. Annual data is not available on the amount of requests made to the national bullying hotline. However, it is estimated that the line receives an average of 10 to 20 enquires per week. In 2013, the WEA received 194 complaints about bullying in the workplace.

Harassment and bullying

The survey on Occupational safety and health in Denmark 2012, which is based on a representative sample of Danish employees and self-employed individuals aged 18-64 (N=16300), included a set of questions on harassment during the 12 months prior to the survey⁷². This surveyed indicated that more than one in ten (12%) of Danish employees experienced bullying within a year. In 2012, 3% of respondents reported sexual harassment at work within the last year. 0.6% reported that they were subject to bullying at least once a month.

Special educators, food and beverage industry employees and production workers are those most frequently exposed to bullying within a year. Special educators, psychologists, social workers, postmen, employees in care functions, fire men and rescue workers, food beverage and tobacco industry workers, machine operators and production workers are those most frequently reporting that they have witnessed bullying at work.

Nurses, physiotherapists, occupational therapists, special educators, passenger service employees and employees in care functions most frequently report that they have been subject to sexual harassment at work within a year. The prevalence of sexual harassment is particularly high among nurses. A 2012 survey indicated that 8% of nurses had been subject to sexual harassment at work within a year, usually undertaken by patients/clients⁷³.

Overall, women are more exposed to harassment and bullying than men. Young women (18-34) most frequently report sexual harassment. Bullying is most prevalent among women above 45.

2012 survey results, and past results from the 2010 Occupational Health Cohort survey⁷⁴, indicate that the share of those having experienced bullying only decreased modestly in the 2010-2012 period (a 0.4 percent point decrease from 2010 to 2012)⁷⁵. In contrast, the share of those having witnessed bullying increased significantly over the same period from 21.4% to 29.0%, potentially suggesting enhanced attention to bullying and harassment. Compared to 2005, the frequency of bullying has also increased (in 2005 8.3% of the Danish employees indicated that they experienced bullying in the workplace within a year⁷⁶)

⁷¹ Work Environment and Health 2012 (Arbejdsmiljø og helbred 2012) at <http://www.arbejdsmiljoforskning.dk/da/arbejdsmiljoedata/arbejdsmiljoe-og-helbred-20/arbejdsmiljo-og-helbred-2012>

⁷² See <http://www.arbejdsmiljoforskning.dk/~media/Projekter/AH2012/Faktaark/6-16--Skaenderier-eller-konflikter-mobning.pdf>

⁷³ Seksuel chikane blandt sygeplejersker i 2012 at <file:///C:/Users/henconsult/Downloads/NOTAT%20Seksuel%20chikane%20blandt%20sygeplejersker%202012.pdf>

⁷⁴ See <http://www.arbejdsmiljoforskning.dk/~media/Projekter/AH2012/Tidsudvikling-AH2012.pdf>

⁷⁵ See trends in the working environment from 2010 to 2012,

<http://www.arbejdsmiljoforskning.dk/~media/Projekter/AH2012/Tidsudvikling-AH2012.pdf>⁷⁵

⁷⁶ See Undgå vold, mobning, chikane, vejledning, 2009 at

http://www.kto.dk/media/10047/Undgaa_vold_mobning_chikane_vejledning.pdf

Violence and threat of violence

The 2012 survey on OSH in Denmark indicates that 6% of Danish employees experienced violence in the workplace within a year. Further, 9% were subject to threats of violence at the working place. 1.5% of employees report that they are subject to violence once per months or more frequently and 2.2% reported that they are subject to threats of violence once per months or more frequently.

2012 survey results, and past results from the 2010 Occupational Health Cohort survey⁷⁷, indicate that the share of those having experienced violence and/or threats at least once a year has decreased in the 2010-2012 period by 1.6 percent points (from 7.5% to 6% and 10.6% to 9%). However, compared to 2005 data, the frequency of violence and threats of violence has increased (in 2005 3.9% of the Danish employees indicated that they experienced violence in the workplace within a year. Further, 7.6% indicated that they were subject to threats of violence in the working place⁷⁸).

Violence and threats of violence stem essentially from users of public services (patients, clients, customers or pupils/students). This is illustrated by the fact that the groups most frequently exposed to violence and threat of violence are nurses, physiotherapists, occupational therapists, social workers, special educators, child care workers and others involved in care for children, employees working in care centres for the elderly, police and prison officers and teachers.

Some employee categories are particularly exposed to violence. A 2014 survey undertaken among employees working in the psychiatric sector indicated that more than half of those surveyed had been subject to violence within the last year. More than two third had been subject to threats of violence⁷⁹. Likewise a 2012 survey among nurses⁸⁰ indicated that almost one third (32%) had been subject to threats of violence within the last year and 13% had been subject to violence. This survey, however, also showed that violence and threats of violence among nurses have decreased over the last decade.

A1.7.5 Impact of the implementation of the framework agreement

The social partners covering the private sector have implemented the framework agreement via existing provisions, while also agreeing to two sector specific collective agreements. Furthermore, additional sector agreements commit the social partners to a more prominent role in preventing and addressing violence, bullying and harassment in the workplace.

In the public sector, measures have been undertaken to implement the framework agreement through a bi-partite agreement between the social partners. The 2008 Welfare agreement, covered a number of issues related to welfare and health at work, in addition to the scope set out by the framework agreement. In the area of psychosocial risks, the main purpose of the agreement was to raise awareness and to ensure the development of guidelines within the public sector, thus complementing existing legislation and practices.

The available evidence suggests that the Welfare Agreement has been implemented across the public sector. It also suggests that the Welfare Agreement has positively impacted the development of guidelines covering violence, bullying and harassment. However, evidence further suggests that guidelines or procedures in many cases were already in place, or were in the process of being developed. In the private sector, the framework has contributed to the development of new sectoral agreements – and thereby enhanced the involvement of the social partners' at all levels in preventing and addressing violence, bullying and harassment.

⁷⁷ See <http://www.arbejdsmiljoforskning.dk/~media/Projekter/AH2012/Tidsudvikling-AH2012.pdf>

⁷⁸ See Undgå vold, mobning, chikane, vejledning, 2009

⁷⁹ FOA Vold i psykiatrien, 2014, at

[file:///C:/Users/hennconsult/Downloads/Vold%20i%20psykiatrienFINALpdf%20\(2\).pdf](file:///C:/Users/hennconsult/Downloads/Vold%20i%20psykiatrienFINALpdf%20(2).pdf)

⁸⁰ Forekomst af vold og trusler om vold blandt sygeplejersker i 2012 at

file:///C:/Users/hennconsult/Downloads/NOTAT_Forekomst_af_vold_og_trusler_om_vold_blandt_sygeplejersker_2012.pdf

There is no evidence to suggest that the agreement has impacted national legislation, social dialogue or data collection. However, it is likely that the adoption of the Framework Agreement through the Welfare Agreement has contributed to raising awareness of violence, harassment and mobbing in the workplace.

A1.8 Estonia

A1.8.1 Introduction

In Estonia, implementation of the European framework agreement on harassment and violence at work has mainly focused on awareness raising and guidance. These activities include, for example, disseminating the framework agreement, training, research and making available web-based resources.

Social partner organisations are involved in tripartite bodies for consultation on amendments of new national legislation and policies, but their role cannot be characterised as being strong in the processes. This is mainly because social partners as well as government have many priorities in the field of OSH and violence and harassment being one of them is not regarded as an issue of very high importance. Further, Estonia does not have a strong tradition of collective bargaining. Sectoral collective agreements are rarely concluded and only exist in some specific sectors, for instance the transportation and health care sectors.

The government and the social partners have acknowledged the importance of combating harassment and violence in the workplace and have increasingly focused their attention on this issue. Thus, the impact on national awareness and dialogue can be considered the biggest impact of the framework agreement.

A1.8.2 National health and safety legislation and policy on psychosocial risks with a specific focus on harassment and violence

The main document regulating occupational health and safety in Estonia is the Occupational Health and Safety Act ([Töötervishoiu ja tööohutuse seadus](#)) adopted by the Estonian Parliament in 1999. Since passing the law in 1999, there have been 21 amendments to the Act, most of them motivated by the need to comply with EU Directives. However, none of these amendments concern psychosocial risks or harassment and violence.

The act imposes on employers an obligation to ensure the health and safety of their employees in all work-related situations. Article 9 defines psychological risk factors as '*monotonous work or work not suitable to the abilities of a worker, poor work organisation, working alone for an extended period of time, or other similar factors that may gradually cause changes in the mental state of a worker*'. The prevention and mitigation of psychological risk factors takes place through the process of risk assessment (as defined in Article 13). Employer must prepare an action plan to prevent or reduce health risks based on the risk assessment.

Although the OSH Act mentions psychological risks at the workplace it does not explicitly speak of violence, bullying, harassment or discrimination.

According to the Employment Contracts Act ([Töölepingu seadus](#)) passed in 2008, the employer has the obligation *to ensure working conditions corresponding to occupational health and safety requirements* (article 28). This also includes creating healthy mental working environment. Paragraph 15 stipulates the duties of employees, including to *refrain from actions which hinder other employees from performing their duties or endanger the life, health or property of the employee or third parties*. In case the employee does not follow these duties (or any other duties prescribed by the law) the act gives the employer the right to cancel his/her employment contract.

The Equal Treatment Act ([Võrdse kohtlemise seadus](#)) was adopted in 2009 and forbids discrimination on the grounds of nationality (ethnic origin), race, skin colour, religious or other beliefs, age, disability or sexual orientation. It also aims to promote equal treatment in organisations and society at large, as well as to provide legal protection to those who are discriminated against. Since harassment is considered a form of discrimination, this article is also concerned with harassment in the workplace⁸¹.

⁸¹ The equal treatment Act. Handbook. http://www.erinevusrikastab.ee/files/VKS_2012.pdf

Harassment is defined as *unwanted conduct on the grounds of nationality (ethnic origin), race, skin colour, religious or other beliefs, age, disability or sexual orientation takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment* (§ 3, section 3). In case the rights of a person are violated on the grounds of discrimination, he/she has the right to demand the discrimination to be ended and compensation be paid for the damage caused (§ 24, section 1). Discrimination disputes are normally resolved by a court or a labour dispute committee.

Further, the Gender Equality Act (*Soolise võrdõiguslikkuse seadus*), passed in 2004, stipulates that an employer is obliged to ensure that employees are protected from gender-based harassment and sexual harassment. An employer is considered responsible for failing their duty of care if he/she was aware or should have been aware that gender-based harassment or sexual harassment occurred and did not act to stop it.

The act defines sexual harassment as *any form of unwanted verbal, non-verbal or physical conduct or activity of a sexual nature, with the purpose or effect of violating the dignity of a person, in particular when creating a disturbing, intimidating, hostile, degrading, humiliating or offensive environment*. Gender based harassment is defined as *unwanted conduct or activity related to the sex of a person with the purpose or effect of violating the dignity of a person and of creating a disturbing, intimidating, hostile, degrading, humiliating or offensive environment* (§ 3, section 5 and 6).

A1.8.3 Implementation of the framework agreement

Systematic implementation of the European framework agreement on harassment and violence at work has been relatively modest in Estonia. However, the issues of workplace violence and harassment have been paid more attention to lately and there is an understanding that the problem needs to be addressed. Therefore, steps have been taken by national authorities and social partners in order to raise awareness and provide guidance on how to address violence and harassment in the workplace.

The Ministry of Social Affairs have disseminated the translation of the European framework agreement on harassment and violence at work. The translation is available on the Ministry of Social Affairs website among other European social partners' framework agreements on the labour market. Also, several trade unions have published it on their websites and the translation of the framework agreement was presented in detail during training courses for Estonian Trade Union Confederation members.

Besides Trade Union Confederation events, more training courses have been organised where the issue of workplace violence and harassment and psychosocial risks has been dealt with. In 2012, the Ministry of Social Affairs held a training course entitled "Psychosocial risks at work – psychosocial risks at workplace and their assessment". The target group of the training were occupational health practitioners (occupational health doctors, ergonomic specialists, occupational psychologists). Recently, the Confederation of Trade Unions of State and Local Government Employees (ROTAL) organized two training courses on third party violence, as part of the international project called "Prevention of the third-party violence through social dialogue".

Dissemination and guidance activities undertaken in Estonia also include research: The Ministry of Social Affairs has recently commissioned a [study on gender and sexual harassment at the workplace](#). Also, ROTAL carried out a survey on third-party violence as a part of the above mentioned project.

The National Focal Point of the European Agency for Safety and Health at Work in Estonia and Estonian Labour Inspectorate are taking part of the EU-OSHA 2014–15 campaign, 'Healthy workplaces manage stress'. The main activities organized in Estonia are:

- seminars and workshops
- disseminating campaign materials
- the Estonian Good Practice Awards competition
- celebrating the World Day for Safety and Health at Work

Employers and employees are provided with guidance on workplace violence and harassment and psychosocial health via several web-based resources:

- Guidance is provided as part of initiatives to tackle the issue of work-related stress. For instance, the website www.stressivastu.ee ('Against the stress') and the [leaflet](#) prepared by the Labour Inspectorate (*Tööinspeksioon*) on work-related stress refer to harassment and violence at work as risks factors.
- In 2012, the Labour Inspectorate (*Tööinspeksioon*) has issued some [guidance](#) on how to act in cases of violence at the workplace.
- The National Institute for Health Development ([Tervise Arengu Instituut](#)) plays a role in raising awareness of these issues via its webpage and occasional lectures to employers.
- There is a special section dedicated for workplace violence and stress at the webpage www.tooelu.ee – a website created by the Ministry of Social affairs gathering information (acts, articles, researches, etc) concerning work environment and employment relationship.

Finally, on 25 September 2014 an agreement on the prevention of third-party violence was signed between the Confederation of Trade Unions of State and the Local Government Employees, the Association of Estonian Cities and the Association of Municipalities of Estonia. The agreement between social partners acknowledges the importance of raising awareness about third-party violence and dealing with this issue. Additionally it stipulates measures to prevent third-party violence and reduce its negative impact. This is the first time that the social partners enter into an agreement concerning workplace violence, seen as in Estonia there has generally been a lack of effective and functional tripartite social dialogue in the field of health and safety.

A1.8.4 Incidence of psychosocial risks and trends with a specific focus on harassment and violence

There is no systematic monitoring on incidents of harassment and violence in the workplace. However, the Labour Inspectorate is registering cases of insults, harassment or threats at the workplace brought to them. Additionally, different surveys provide indications on the occurrence of some forms of harassment and violence at the workplace. However, it is not possible, as of yet, to assess trends over time.

The Labour Inspectorate of Estonia ([Tööinspeksioon](#)) and Estonian Center for Applied Research CentAR carried out the survey '[Prevalence of Psycho-Social Risks in Estonia](#)' in 2010 (N=1,200). According to the survey, during the last 12 months almost 10% of the interviewed employees had experienced harassment and 5% had experienced physical or mental violence. In addition, nearly 1% experienced physical violence. Further, nearly 5% of respondents said that they had experienced unwanted sexual attention in the workplace. At large, harassment was instigated by clients (45%) and colleagues (22%).

The survey [Working Life in Estonia](#) (2009) carried out by Statistics Estonia ([Eesti Statistikaamet](#)) asks employers about some form of adverse social behaviour in the workplace (N= 1,332 organisations). 10% of employers (managers) reported instances where employees were insulted or shouted at during the last 12 months preceding the survey. In contrast, very few of the respondents (less than 1%) admitted that incidences of attack, sexual harassment hampered the work. Nevertheless, it has to be born in mind that underreporting is a common problem for surveys on this topic, since managers may not be willing to openly admit problems of violence and harassment.

The Gender Equality Monitor (GEM) is carried out every four years by the Ministry of Social Affairs ([Sotsiaalministeerium](#)) (N=1500 in 2009 and 2013). According to [GEM 2009](#), 5% of employees have experienced unwanted sexual attention in the workplace.

In 2010 a survey on bullying at work was carried out (N=1941). The results, according to [Tambur & Vadi \(2012\)](#), showed that a quarter of employees were being bullied at work based on their exposure to 22 types of bullying situations. People's self-perception of being bullied was less than half of that. The data also showed that violence or threats of violence

were experienced by 3.6% of respondents. Further, humiliation and insults were more common, every fifth person had experienced such incidences.

Recently the Ministry of Social Affairs commissioned a study of [Gender-based and Sexual harassment at the Workplace](#) (2014) which was carried out by Praxis Center for Policy Studies. The pilot survey (N=1500) found that 16% of Estonians said that they had experienced harassment during their working life. In total, 6% of respondents had experienced gender-based or sexual harassment at work, including 3% of men and 7% of women. Presented with specific types of harassment situation examples, more than half of respondents reported having experienced such situations. An important finding of this survey was that employees are poorly informed about what is considered harassment and are often unaware of their rights. About half of Estonians knew for certain that sexual and gender-based harassment is forbidden by law. Only a third of employees said that they knew about employers' obligation to protect employees from harassment.

Underreporting is also reflected in the amount of official complaints received by authorities. Relatively few cases of insults, harassment or threats at the workplace were brought to the labour inspectors ([Tööinspektsioon](#)) since 2009: 60 in 2009, 94 in 2010, 74 in 2011, 31 in 2012 and 38 in 2013⁸². The Labour Dispute Committees have received and processed smaller numbers of complaints about unequal treatment (including bullying and harassment): 12 in 2009, 9 in 2010 and 13 in 2011. In addition, about 100 notices of threats, insults or harassment at the workplace per year are sent to the Labour Inspectorate in writing or via labour inspectors.

The Labour Inspectorate also gathers statistics about work accidents caused by violence, attack or threats between workers of a company or by third parties. Mostly these cases involve third party violence and work accidents caused by violence between employees are very rare (see the table below).

Table A1.2 Work accidents caused by violence, attack or threats.

	2009	2010	2011	2012	2013
Violence, attack, threats between workers	2	4	2	3	5
Violence, attack, threats by third parties at the workplace	185	212	250	250	226

Source: Estonian Labour Inspectorat

A1.8.5 Impact of the implementation of the framework agreement

The implementation of the framework agreement in Estonia has been mainly conducted through dissemination activities and guidance efforts. Therefore, awareness raising can be considered the main impact of the implementation of the framework agreement. A decade ago, national dialogue on workplace violence and harassment was practically non-existent in Estonian society. However, evidence suggests that this has changed in recent years and that the national authorities, as well as the social partners, now acknowledge the importance of violence and harassment in the workplace, as well as the need to address it.

However, it should be noted that although there is some evidence of an increasing awareness and understanding of harassment and violence at work, associating this change solely with implementation of the framework agreement is problematic. The positive change can be also related to other factors and processes in society (cultural change, economic change, adopting European Union legislation, etc.). Therefore, it is hard to assess the impact of the implementation of the framework agreement.

⁸² The presented data reflects the violence as well as harassment cases and third party violence is also included. Source: information request from the Labour Inspectorate

A1.9 Finland

A1.9.1 Introduction

In Finland, social partner organisations play a significant role in the field of OSH, including at the national (cross-industry), sectoral and company level. There is a strong tradition of tripartite interest intermediation and bipartite social dialogue and collective bargaining in Finland. Therefore, social partners are involved in consultations on the formulation of legislation and guidance, including in the field of OSH in general and the prevention of psychosocial risks at work. In working groups on issues which are of specific sectoral interest, sectoral organisations can also be directly represented. Cross-industry organisations are involved in the Advisory Committee on Preparation of Occupational Safety Regulations of the Finnish Occupational Safety and Health Administration (MSAH). Although collective agreements can contain provisions about OSH, these tend to be of minor significance, with legislation playing the main role in the regulation of the prevention of harassment and violence in the workplace.

National level provisions to prevent violence and harassment in the workplace already existed in Finland prior to the European social partner autonomous framework agreement. National legislation is considered to be strong in Finland and Labour Inspectorates have the power to investigate reported breaches of Occupational Safety and Health legislation.

Therefore, specific implementation actions taken by social partners in Finland have focused on dissemination/awareness-raising and the provision of guidance. The national member organisations of the European signatories drafted a joint brochure and organised awareness raising events. From consultations undertaken for this study, it emerged that trade union representatives believed that the impact of the implementation of the Agreement in Finland was minor, largely because significant national legislation already existed and psycho-social risks have been high on the agenda of social partner organisations and the government prior to the framework agreement. However, according to the employer organisations, the autonomous agreement has had an effect in pushing forward the debate on the national approach towards these issues.

A1.9.2 National health and safety legislation and policy on psychosocial risks with a specific focus on harassment and violence

Legal provisions prohibiting harassment and violence at work are contained in the Occupational Safety and Health Act, the Equal Treatment Act and the Non-Discrimination Act (all of which were in place prior to 2007 and have not been significantly amended since). These Acts apply to all workers in an employment relationship, including those employed by a temporary employment agency, and those employed in a relationship governed by public law (civil servants, municipal workers etc.).

The revised Occupational Safety and Health Act (738/2002) stipulates that the employer must have an occupational safety and health policy to maintain employees' ability to work, taking into account both physical and mental risk factors.

Sec.27 contains provisions concerning the threat of violence at work: *'The work and working conditions in jobs entailing an evident threat of violence shall be so arranged that the threat of violence and incidents of violence are prevented as far as possible. Accordingly, appropriate safety arrangements and equipment needed for preventing or restricting violence and an opportunity to summon help shall be provided at the workplace'*.

Sec. 28 states that it is the duty of the employer to take measures against harassment and other inappropriate treatment of an employee occurring at work and causing hazards or risks to the employee's health. After becoming aware of the matter, the employer shall take measures for remedying the situation, regardless of the reason for the inappropriate action. This applies both to threats coming from within and from outside the company (i.e. third party violence).

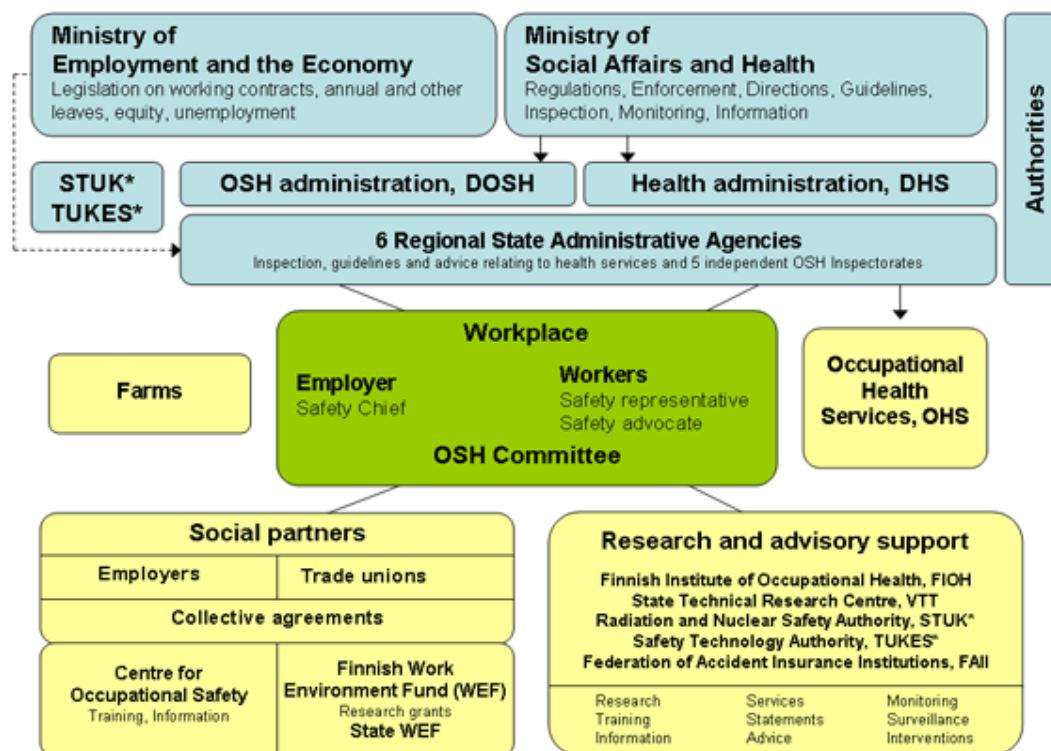
The revised Occupational Safety and Health Act (738/2002) also requires employers and employees to work together with the aim of maintaining and developing OSH in the workplace.

The Equal Treatment Act, adopted in 1995, contains provisions on sexual harassment which is defined as a form of discrimination based on sex. The employer is deemed to be guilty of sex discrimination if he/she has neglected to take all available measures to prevent an employee from being subjected to sexual harassment after he/she has become aware of the matter (Sec. 8 d).

The Non-Discrimination Act, adopted in 2004, prohibits discrimination on other grounds than sex (race, ethnic origin, disability, religion, etc.) and harassment on such grounds. Harassment is defined as *‘the deliberate or de facto infringement of the dignity and integrity of a person or group of people by the creation of an intimidating, hostile, degrading, humiliating or offensive environment’*.

Overall, as shown below, OSH policy in Finland involves different stakeholders.

Table A1.3 Overview of Occupational safety and health in Finland



Source: Website of the Finnish Institute of Occupational Health

The Occupational Safety and Health Administration (MSAH) supervises adherence to legislation, including the Acts regulating the prevention of harassment and violence at work. Monitoring of the observance of these health and safety related acts is supported through workplace inspections. The Labour Inspectorate and its district offices are in charge of monitoring cases of harassment and violence at work and supporting the development of preventive approaches. The Finnish institute of Occupational Health provides research and advisory support. In addition, other bodies involved are the Equality Ombudsman and the Equality Commission, particularly in relation to cases of sexual and other forms of harassment regulated by the Equal Treatment and Non-discrimination Acts.

Overall, the Finnish policy aims to create an environment of ‘zero tolerance’ to harassment and violence at work by emphasizing both the rights of the employees and the responsibility

of the employer to take both preventive actions and to support victims and sanction perpetrators.

Overall, national legislation is considered to be relatively strong and Labour Inspectorates have the power to investigate reported breaches of the Occupational Safety and Health Act (discrimination and equal treatment cases have to be brought directly to the Ombudsman or the courts). However, trade union representatives indicated that only few cases are ultimately taken to court.

A1.9.3 Implementation of the framework agreement

National level provisions to prevent violence and harassment in the workplace already existed in Finland prior to the European social partner autonomous framework agreement; specific practices were also being developed and implemented at the company/organisational level, with the support of social partners.

According to the Final joint report by the European Social Partners on the Implementation of the Agreement (October 2011), specific implementation actions taken by social partners in Finland have focused on dissemination/awareness-raising and the provision of guidance. The Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA), the Central Organization of Finnish Trade Unions (SAK), the Finnish Confederation of Professionals (STTK), the Confederation of Finnish Industries (EK), the Evangelical Lutheran Church of Finland, the Commission for Church Employers, the Commission for Local Authority Employers, and the Office for Government as Employer organized with the Centre for Occupational Safety (TTK) the following initiatives:

- A leaflet incorporating the main messages of the European framework agreement “Good behaviour preferred - inappropriate behaviour unaccepted” (available in English) has been published. This document essentially summarises the content of the European Agreement. The original translation of the agreement into Finnish (prepared by Commission services) was not considered to be of sufficient quality and a new translation was therefore prepared by social partners.
- A series of half-day events aimed at employers and employees was arranged in six locations across Finland between October 2010 and January 2011, in cooperation with the Finnish Occupational Safety and Health Administration (MSAH). According to trade union representatives, these half-day events were not directly related to the implementation of the Agreement, but were already organised as part of a stock taking exercise to ascertain whether existing OSH legislation remained ‘fit for purpose’. According to the employers’ organisation the working group which implemented these events was linked to the autonomous agreement and these series of events were also related to the agreement, since information and a booklet on harassment and violence were provided to raise awareness on the topic.
- A working group was set up with specific focus on violence and harassment (2013-2014). This working group collected information on the availability of statistics and how these have developed in the last years with the aim of providing recommendations on future activities. Within this working group different opinions emerged in relation to what is needed in the country to improve the approach to workplace harassment and violence. For example, trade unions believe that the national legislation needs updating, while employers’ organisations deem the existing legal framework as appropriate and consistent. What is missing instead are awareness raising activities and programmes to educate the public as well as workers. This would complete the legislation and lead to a coherent national approach to effectively tackle the issue of harassment and violence.

Trade union representatives believe that the impact of the implementation of the Agreement in Finland was minor, largely because significant national legislation already existed and psycho-social risks have been high on the agenda of social partner organisations and the government for some time, with training, guidance and events being organised independent of this transposition. For instance, the Occupational Health Institute is currently organising a series of workshops on addressing workplace harassment and violence aimed at interested employers.

According to the employer organisations, the autonomous agreement has had an effect in pushing forward the debate on the national approach towards these issues. This has mainly boosted awareness raising on the topic and on the need to implement a preventive approach rather than reactive when harassment and violence occurs.

The local government sector was among the most active in the transposition of the agreement and prepared a new brochure on addressing harassment and violence in the workplace, with a significant focus on third party violence. This was also partly inspired by the multi-sectoral European agreement on tackling third party violence. A specific communication campaign was also launched for health care workers and employers entitled "Do not hurt your Carer!". This was launched in 2011 by the Union of Health and Social Care Professionals and was partly inspired by some high profile incidents during which workers providing care in individuals' home were killed or injured whilst carrying out their duties.

A1.9.4 Incidence of psychosocial risks and trends with a specific focus on harassment and violence

European and national surveys suggest a relatively high risk of exposure to harassment and violence in Finland. Stakeholders in Finland argue that this is due to the existence (for over 10 years) of a strong legal basis to address workplace violence and harassment which contributes to a greater willingness to talk about and report incidents. Particularly in relation to the reporting of sexual harassment, cultural differences are considered to play an important role. Therefore, it is argued that such trans-national comparisons must be treated with caution.

A1.9.4.1 National administrative data

Finnish authorities do not collect registers or statistics on reported experiences of bullying, harassment, third party violence or other forms of adverse behaviour. Apart from post-traumatic stress related disorders, illnesses arising from exposure to psycho-social risks are not recognised as occupational illnesses. Furthermore, data on absences due to work related illnesses are only gathered after 9 days (the period during which the employer is responsible for paying sick pay). This limits the availability of data on the potential cost of psychosocial risks. Some estimations are nonetheless available.

A1.9.4.2 National surveys

According to the Finnish National Work and Health Survey, which covers a sample of Finnish speaking individuals aged 25-64 who are active in the labour market (2009 N=2377, 2012 N=1748):

- Workplace harassment was experienced by 4% of respondents in 2012 (down from 6% in 2009). This decline was most significant among men (from 4% to 2%) and in the municipal sector (from 10% to 6%).
- The amount of sexual harassment that takes place weekly, once or twice a month or more rarely has increased from 1.9% in 2009 to 3.5% in 2012.
- Exposure to inappropriate behaviours by third parties (daily or weekly) affected 6.5% of respondents in 2012 (with no data available for 2009). Women were more prone to suffer from third party violence than men, and employees in the municipal sector were more exposed than those in the State sector or private sector.
- Threats at work or on the way to work or from work concerned 6.3% of respondents in 2009 and 7.4% in 2012
- Physical violence at work or on the way to work or from work was less commonly reported (3.7% in 2009 and 3.3% in 2012)

Another source of data is the Ministry of Employment and the Economy's Annual Working Life Barometer based on a sample of employees covering the entire working population (2012: N=1552, 2011: N=1204, 2010: N=1053, 2009: N=1059)

- Concerning third party violence, 9% of respondents reported exposure to violence or threats by clients during the previous 12 months in 2012 (compared to 6% in 2009-2011). In 2012, women were more prone than men to face such risks (13%). In addition,

violence or threats by clients were more prominent in the municipal sector (20%) and less common in private services (2-4%) and lowest in the manufacturing sector (1%).

- The share of respondents who had observed bullying by co-workers increased over the past years (27% in 2009, 24% in 2010, 29% in 2011, and 40% in 2012)⁸³. Bullying mostly occurred on an occasional basis; only 2-4% of respondents reported observing continuous bullying. The occurrence of bullying depends on the (changing) financial situation of the organization: in 2012, in organizations with a poor financial situation, as much as 48% of the respondents reported observations of bullying by co-workers at least occasionally; in organizations where the financial situation had deteriorated, the corresponding figure was 58%.

The study on 'Ways of dealing with workplace bullying' released in 2013⁸⁴ was carried out as part of the Harmonious Work Community project of the Forum for Well-being at Work to investigate current practices in workplaces. The survey was based on a sample of supervisors, occupational safety representatives and officers, and trade union officials and shop stewards (N= 1299). The survey showed that half of OSH representatives, one third of supervisors and two thirds of trade union officials surveyed believed that talking about bullying was difficult in the workplace. While two thirds of supervisors said that bullying cases were dealt with appropriately at their workplaces, only one in three OSH representatives and about one in ten trade union representatives agreed with this.

According to trade union representatives, such trends are due to a number of different factors. A significant level of awareness-raising and training on issues of workplace harassment has begun to lead to improvements in company level awareness and provisions to tackle such harassment, contributing to a reduction in the number of incidences. Nonetheless, certain areas remain where incidents of harassment are increasing, primarily harassment linked to discrimination on the grounds of religion or ethnicity, as workforces in certain sectors become more multi-cultural and cultural awareness training is lacking. Third party violence in particular is considered to be on the increase because of cut backs both in the public and private sector, as well as extensions in shop opening hours, which mean that more individuals are now working alone and during times when attacks are more likely. Lone working is also an issue for community care and social workers. Trade unions also argue that the incidence of bullying has increased with greater pressure being placed on individual employees in an environment of staff reductions and greater employer expectations and demands.

An employers' organisation argued that there had been improvements in levels of awareness and knowledge of the phenomenon of violence and harassment. At the same time, increasing trends in third party violence could be measured. This is very likely the result of concurrent causes. Overall, the Finnish society may be considered safer than in the past, however there could be a perception of increasing trends in 'bad' or 'unacceptable' behaviour, such as treat of violence in shops or towards bus drivers. However, it is difficult to assess whether there is a real increase in the phenomenon or a better awareness and lower tolerance than in the past. Recent changes in legislation have been identified as one of the factors that may have affected the recently increasing threats and incidents of third party violence.

According to the employers' organisation there has been an improvement in the general atmosphere of the work environment, mainly related to the fact that the focus of managers is

⁸³ Part of the increase between 2012 and 2011 may be due to changes in the questionnaire.

⁸⁴ The project was funded by different stakeholders, including social partners: the Forum for Well-being at Work, The Centre for Occupational Safety, the Regional State Administrative Agency for Southern Finland, trade union Pro, The Finnish Association of Business School Graduates, The Trade Union for the Public and Welfare Sectors, Tehy - the Union of Health and Social Care Professionals, the TJS study centre, SAK, the Office for the Government as employer, the Finnish Confederation of Professionals, and KT - Local Government Employers.

shifting from pure management of tasks to supporting teams and workers. Managers are now more aware of how to deal with difficult situation in the workplace and how to implement preventive measures in order to ensure better work relations and work environments.

A1.9.5 Impact of the implementation of the framework agreement

The implementation of the Agreement in Finland was of minor importance because of the weight of existing legislations, guidance and awareness-raising activities by social partners already in place for over a decade. For social partners, the issue of psychosocial risks in the workplace has already been of increasing importance of over 15 years and most significantly led to the explicit inclusion of these risks in the revised Occupational Health and Safety Act, which entered into force in 2002. Both employer and employee organisations were also already providing guidance to their member organisation in the field of prevention of psychosocial risks and inappropriate behaviours, and, if necessary, offer legal assistance.

A1.10 France

A1.10.1 Introduction

Legislation on OSH implicitly covering psychosocial risks is in place in France and the prevention of psychosocial risks has gained importance on the national policy agenda in recent years. Social partner organisations in France play an important role in OSH, both through consultations on national legislation and strategy, their involvement in management bodies on the prevention of workplace risks and through collective bargaining at the national, sectoral and company level. Health and safety issues are generally dealt with in collective agreements at the industry or cross-industry level and less frequently at the company level.

On 26 March 2010, in order to implement the European autonomous framework agreement, the social partners at the cross-industry level concluded a [national inter-sectoral agreement \(ANI\)](#) on harassment and violence at work. The agreement laid out a series of principles to guide further collective bargaining. The agreement was extended by a decree of the Ministry of Labour of 23 July 2010 (published in Official Journal of 31 July 2010, p. 14192), which widens its scope of application to all companies in France.

Based on the information collected from interviewees, collective agreements dealing with the issue of violence and harassment were reached in only a few sectors. In the banking and telecommunication sector, collective agreements that explicitly refer to the ANI have been reached. Some other sectors have also adopted collective agreements touching on the issue of third party violence or violence and harassment as part of collective bargaining on psychosocial risks, but they only cover a small share of all sectors.

A1.10.2 National health and safety legislation and policy on psychosocial risks with a specific focus on harassment and violence

Concerning OSH legislation, Part 4 of the French Labour Code, which was last revised in 2007, contains legal provisions on occupational health and safety. These apply to private sector employers and their employees, as well as public administrations involved in industrial and commercial activities, public administrations employing staff under a private law contract and health institutions depending on the State.

The Labour Code does not define or refer specifically to 'psychosocial risks' as such, but this type of risks is, nevertheless, covered by French labour law. Employers are responsible for evaluating the different types of risks affecting each employee and for taking measures to ensure their security and 'protect both their physical and mental health. These measures include: 1. Actions to prevent workplace risks, 2. Information and training actions; 3. The set-up of an appropriate organisation and means. The employer ensures the adaptation of these measures to take into account changes in circumstances and tend to improve existing situations' (article L. 4121-1).

Article L4121-2 states that that one of the general principles of prevention is to 'plan prevention by integrating in a comprehensive manner the technical aspects, the organization of work, working conditions, social relationships and the influence of environmental factors, including risks linked to moral harassment and sexual harassment'.

The employers must inform workers of all health and safety risks and prevention measures taken (Article L4141-1) and provide relevant training. The employer must assess all workplace risks and list them in a specific document called Single Document (*Document unique*), mandatory in all enterprises, administrations and non-profit organisations with at least one employee since 2001 (Article R4121-1 and following articles). In practice, the employer must also assess psychosocial risks in this document.

As confirmed by case law⁸⁵, employers have an 'obligation of result' in the area of occupational health and safety. When a worker's physical or mental health is affected, their

⁸⁵ Cour de Cassation Soc.21 June 2006, N. 05-43914

responsibility is always engaged, even if they had put in place some information, training or prevention measures or were not aware of the risks for workers.

There are also legal provisions in place concerned with moral harassment and sexual harassment in the workplace. Part 1 of the French Labour Code (Individual work relationships, Title V) contains specific provisions on moral harassment and sexual harassment at the workplace. They apply to private sector employers and their employees, as well as the staff of public administrations employed under a private law contract. These provisions pre-date the transposition of EU Directives on equal treatment into French law and the conclusion of the European autonomous framework agreement. A reference to moral harassment in French labour law was introduced for the first time in 2002⁸⁶. The current Article L. 1152-1 of the Labour Code states that 'no employee should suffer repeated acts of moral harassment aiming at or resulting in a degradation of his/her working conditions likely to affect his/her rights or dignity, alter his/her physical or mental health or compromise his/her professional development'. The Labour Code does not specify which types of acts can constitute moral harassment but states that these must be repeated over time to qualify as such⁸⁷. According to this definition, harassment can occur even when the perpetrator has no intention to harm, which has been confirmed by case law⁸⁸.

Concerning sexual harassment, provisions have been in place since 2002⁸⁹. The definition of sexual harassment in the work context was amended in August 2012⁹⁰. As a result, Article L. 1153-1 of the Labour Code states that 'no employees should suffer from acts of 1) sexual harassment, i.e. repeated verbal or physical behaviours with a sexual connotation which either offend dignity due to their degrading or humiliating character or create an intimidating, hostile or offending situation; 2) assimilated to sexual harassment, i.e. any form or serious pressure, including when not repeated over time, whose real or apparent aim is to obtain an act of sexual nature directed towards the offender or a third person'. Discrimination linked to sexual harassment is also prohibited (article L. 1153-2).

The Labour Code prohibits any retaliation against victims and witnesses of moral/sexual harassment through indirect or direct discrimination (article L. 1152-2, L. 1153-2 and L.1153-3). Labour inspectors are in charge of controlling infractions in relation to moral and sexual harassment (article L8112-2).

The Labour Code creates an obligation for employers to:

⁸⁶ Loi n° 2002-73 du 17 janvier 2002 de modernisation sociale

⁸⁷ According to case law, this can happen during a short period of time: Cour de Cassation Soc. 26 May 2010- N. 08-45.521

⁸⁸ Cour de Cassation Soc.10 November 2009, n.08-41.497 ; it can be for instance the result of managerial practices creating psychosocial risks for an employee: Cour de Cassation Soc.10 November 2009., n.07-45.321

⁸⁹ The Law 2008-496 of 27 May 2008, which has transposed the Directives of Equal treatment into French law, prohibits any action with a sexual connotation or discrimination on grounds of ethnicity or race, religion, beliefs, age, handicap, sexual orientation or identity, sex or place of residence '*with the purpose or effect of violating [a person's] dignity or creating a hostile, degrading, humiliating or offensive environment*'.

⁹⁰ On May 2012, the French Constitutional Council cancelled existing legislative provisions on sanctions against sexual harassment, as the definition of sexual harassment was considered to be imprecise. A new law was discussed by the Parliament and Senate and approved in August 2012 (LOI n° 2012-954 du 6 août 2012 relative au harcèlement sexuel). This law revised and completed the definition of sexual harassment in the Labour Code and created similar provisions in the legislation applicable to civil servants not covered by the Labour Code. It also mentioned the prevention of sexual harassment in the article of the Labour Code on general prevention principles in the area of occupational health and safety (Article L4121-2). The same law also introduced additional changes concerning both moral and sexual harassment: apprentices, interns and trainees have been explicitly mentioned in the different articles of the Labour Code on moral and sexual harassment; employers must display information on sanctions foreseen in the Penal Code; discrimination following moral or sexual harassment is the object of specific sanctions and the prevention of moral and sexual harassment is mentioned in the article of the Labour Code describing the role of occupational health services (Article L4622-2).

- take any required measures to prevent moral harassment, and to inform employees, interns, trainees, apprentices and candidates by all appropriate means of the sanctions described in the article 222-33-2 of the penal code (article L. 1152-4)⁹¹.
- take any required measures to prevent, address and sanction sexual harassment; and inform any employee, intern, apprentice, trainee or candidate of the sanctions foreseen in article 222-33-2 of the penal code (article L. 1153-5). The requirement to address and sanction sexual harassment was added by recent legislation on gender equality, adopted in August 2014⁹².
- recall the provisions set in the Labour Code concerning moral and sexual harassment in the employee handbook or *règlement intérieur* (article L.1321-2), which is mandatory in organisations with more than 20 employees.

The Labour Code states that in addition to the employer, the CHSCT and the occupational health services are involved in developing prevention measures: the CHSCT 'can propose actions to prevent moral harassment and sexual harassment. The refusal from the employer must be justified' (article L4612-3), while occupational health services must 'advise employers, workers and their representatives of the provisions and measures required [...] to prevent sexual or moral harassment' (article L4622-2). Staff representatives must report to the employer any incidence of sexual or moral harassment that they are aware of (article L2313-2).

The Labour Code foresees the use of mediation procedures to address cases of moral harassment at the workplace, but their use is not mandatory for the employer: 'a mediation procedure can be put in place by any person in the company who considers him/herself as a victim of moral harassment or by the person who is accused. The choice of the mediator is agreed between both parties. The mediator gathers information on the positions of both parties. He/she tries to conciliate them and submit proposals in writing with a view to stop harassment. If the mediation fails, the mediator informs both parties of applicable sanctions for perpetrators and guarantees for the victims' (article L. 1152-6).

In cases of legal disputes, the plaintiff has to provide evidence of the facts proving the existence of harassment; the employer can then prove that these acts do not constitute harassment and can be explained by objective reasons (article L1154-1).

Trade unions can submit a complaint on behalf of an employee victim of either moral or sexual harassment to the labour court (*conseil de prudhommes*) (article L.1154-2).

Different types of sanctions are applied, including disciplinary sanctions taken by the employer (articles L. 1152-5 and L. 1153-6 of the Labour Code). Discrimination following moral or sexual harassment is punished by 1 year of prison and a fee of EUR 3 750 (article L1155-2). Sexual harassment and moral harassment is punished by 2 years of prison and a fine of EUR 30,000 EUR (article 222-33-2 of the Penal Code).

A1.10.3 Implementation of the framework agreement

On 26 March 2010, in order to implement the European autonomous framework agreement, the social partners at the cross-industry level concluded an [national inter-sectoral agreement](#) (ANI, in French) on harassment and violence at work. This ANI was signed by MEDEF⁹³, CGPME⁹⁴ and UPA⁹⁵ on behalf of employers and by CFDT⁹⁶, CFE-CGC⁹⁷, CFTC⁹⁸, CGT-FO⁹⁹ and CGT¹⁰⁰ on behalf of employees.

⁹¹ Since 2012, the employer had to display the content of this article at the workplace; this obligation was simplified recently in June 2014 (**Ordonnance n° 2014-699 du 26 juin 2014 portant simplification et adaptation du droit du travail**).

⁹² **LOI n° 2014-873 du 4 août 2014 pour l'égalité réelle entre les femmes et les hommes.**

⁹³ Mouvement des Entreprises de France

⁹⁴ Confédération générale du patronat des petites et moyennes entreprises

⁹⁵ Union professionnelle artisanale

⁹⁶ Confédération française démocratique du travail

The ANI lays out general provisions, which have to be taken into account as part of collective bargaining processes at the sectoral and company level. The same method was used to implement the European autonomous framework agreement on stress in France (the corresponding ANI was signed in 2008). Thus, the choice of the implementation instrument can be considered in line with the involvement of social partners in the field of OSH in France. Social partner organisations in France play an important role in OSH, through consultations on national legislation and strategies, through collective bargaining at national, sectoral and company level and also their involvement in managing bodies dealing with the prevention of workplace risks, including psychosocial risks.

The ANI of 26 March 2010 was extended by a decree of the Ministry of Labour of 23 July 2010¹⁰¹, which means that its scope of application was widened to all companies in France. The ANI uses the same definitions of harassment and violence as the European autonomous framework agreement, but includes additional details on what constitutes violence at work: 'It ranges from lack of respect to a display of intentional attempt to harm and destroy, from incivility to physical aggression. Violence at work can take the form of verbal aggression, aggressive behaviour including sexist behaviour, physical aggression'. Further, the ANI acknowledges that there are different forms of harassment and violence, including forms of harassment and violence linked to discrimination on the ground of origin, sex, sexual orientation, handicap (Article 2.2), violence against women (Article 2.3) and internal violence at the workplace and violence committed by third parties (Article 3).

It specifies that employers have to communicate to their workforce that harassment and violence at work will not be tolerated and must develop a set of appropriate prevention measures. Further, the ANI includes some general recommendations on different types of intervention mechanisms that have to be formally implemented by all companies, which are similar to the provisions of the European autonomous framework agreement. These include the appropriate follow-up of all complaints, the respect of confidentiality, the acknowledgement of the views and opinions from all parties concerned, the role of sanctions against false accusations, the possibility to obtain an opinion from a third party outside the workplace and the access to mediation procedures. In its Article 4, called 'Prevention, identification and management of problems linked to harassment and violence at work', the ANI states that in addition to the employer, different stakeholders, such as the occupational health services (*médecine du travail*), the CHSCT committee and the works council play an important role in preventive approaches.

The ANI also stresses the role of sectoral federations of social partners in raising awareness in their respective sectors, and in supporting the development of appropriate tools for companies, especially SMEs.

The relationship between harassment and stress due to inappropriate management practices was one of the most conflictual aspects during the negotiation of the ANI by trade unions and employers. Trade unions argued that the ANI should explicitly mention that types of work organisation and modes of management can generate harassment and violence, which was opposed by employers. The ANI eventually included the statement that 'stress derived from factors linked to the organisation of work, the work environment or poor communication within the company can lead to harassment and violence' (Art 2.1).

A brief initial assessment of the added value of the ANI made by its different signatories is available in the 2010 national report on collective bargaining compiled by the Directorate General for Labour. In their contributions, the representatives of employers (MEDEF and UPA) stressed the role of the ANI as a 'pedagogic tool' to raise awareness within companies and have focused on the importance of preventive approaches. Trade unions considered the

⁹⁷ Confédération française de l'encadrement - Confédération générale des cadres

⁹⁸ Confédération Française des Travailleurs Chrétiens

⁹⁹ Confédération générale du travail – Force Ouvrière

¹⁰⁰ Confédération générale du travail

¹⁰¹ Published in Official Journal of 31 July 2010, p. 14192

ANI an important milestone, but noted the lack of binding measures (CFDT) and difficulties of implementation for SMEs (CFE-CTC). CFE-CTC highlighted that collective bargaining both at the sectoral and enterprise level on psychosocial risks is particularly difficult as one challenge is to address the impact of working conditions and work organisations, rather than considering individual employees. The reference to the role of the CHSCT and occupational health services (which, as mentioned above, is already clearly laid out in the Labour Code) in the ANI was positively viewed by all parties.

Social partners also provide guidance to their members on the issues covered by the ANI to support collective bargaining processes. For example, the trade union CFCT has issued a guide on psychosocial risks to train its members and provides information in the area as part of annual meetings with negotiators at the sectoral level. A dedicated email address has also been set up at the level of the confederation to channel any requests for additional information and support coming from trade union members.

In general, the prevention of psychosocial risks has gained significant importance in the policy agenda in recent years. National conferences organised by the government with social partners discussing working conditions took place in 2007 and 2008. At the time, public authorities have commissioned different expert reports to take stock of the situation and different types of available sources of information available. An official report on the measurement and monitoring of psychosocial risks was published in 2008¹⁰². Indicators on psychosocial risks has been systematically reviewed and discussed within an ad-hoc expert group¹⁰³, which submitted its report in 2011. Six dimensions of psychosocial risks were identified by the experts, including violence and harassment.

Further, the national Plan for health at work 2010-2014 (*Plan santé au travail 2010-2014*)¹⁰⁴, by the Directorate General of Labour (DGT) and social partners¹⁰⁵, includes a specific action on psychosocial risks. One of the tools used to implement the plan is to use the official website on occupational health and safety travailler-mieux.gouv.fr, to raise awareness of different stakeholders.

National policies against violence and harassment at work are also developed outside the scope of occupational health and safety policies. For instance, the 4th interministerial plan to prevent and tackle violence against women (led by the ministry in charge of women's rights and involving other ministries in charge of State reform, social affairs and health, and labour) includes a specific priority action on 'prevention of sexual harassment and violence at work'. A website to raise awareness in the workplace about legislation on sexual harassment was launched: <http://www.stop-harcelement-sexuel.gouv.fr>

A1.10.4 Incidence of psychosocial risks and trends with a specific focus on harassment and violence

Different employee surveys collect information on the exposure to psychosocial risks and/or violence and harassment at work¹⁰⁶. As different definitions have been used across surveys, it is not possible to provide a comprehensive monitoring of trends. The most recent

¹⁰² Nasse P., Légeron P. (2008) Rapport sur la détermination, la mesure et le suivi des risques psychosociaux au travail. Ministère du travail, des relations sociales et de la solidarité Available at <http://www.ladocumentationfrancaise.fr/rapports-publics/084000156/>

¹⁰³ collège d'expertise sur le suivi statistique des risques psychosociaux au travail (2011), Mesurer les facteurs psychosociaux de risques au travail pour les maîtriser <http://www.college-risquespsychosociaux-travail.fr/index.cfm>

¹⁰⁴ http://travail-emploi.gouv.fr/IMG/pdf/PST_2010-2014.pdf

¹⁰⁵ INRS, Anact et Aract, CNAMTS branche AT-MP, INRS, OPPBTP, ANSES, CCMSA, Insee, DGEFP, DIRECCTE, services de santé au travail, Carsat, Cnam, Maap (SAFSL)

¹⁰⁶ The consulted employers' representatives (MEDEF) stressed that employee surveys are based on subjective views.

indicators concerning harassment and violence at work are presented below. They derive from three surveys: the survey on working conditions (CT - *Conditions de travail*), the survey on exposure to health risks at work (SUMER - *Surveillance médicale des expositions aux risques professionnels*) and another survey on health and work (SIP - *Santé et Itinéraire Professionnel*).

Table 1.2 Overview of available recent indicators on harassment and violence

Source	Type of indicator	All (%)	Women (%)	Men (%)
CT 2005 ¹⁰⁷	Often or always exposed to verbal aggression, insults or threats	7.0	8.5	5.7
	Often or always exposed to physical aggression	1.6	1.7	1.5
SUMER 2010	Victim of one type of hostile behaviour at work	22.3	22.5	22.1
	- Of which: despising behaviour (someone 'ignores you', 'impedes you from expressing your opinion', 'humiliates you in public')	7.9	8.5	7.4
	- Of which: denied recognition for one's work (someone 'criticises your work for no reason', 'overloads you with useless or degrading tasks', 'impedes you from working normally')	11.6	11.2	12.0
	- Of which: degrading behaviour (someone 'suggests you are mentally retarded', 'tells you obscene or degrading things', 'makes sexual invitations in an insisting way')	2.8	2.8	2.8
	Subject to at least one verbal aggression from a co-worker or superior	10.2	11.7	10.9
	- Of which: subject to more than one	4.6	5.2	4.9
	Subject to at least one verbal aggression from a third party	12.9	17.8	15.1
	- Of which: subject to more than one	7.9	9.9	8.8
	Subject to a physical or sexual aggression from a third party	1.6	1.7	1.7
	SIP 2010	Subject to a verbal aggression from a co-worker or superior	17	
Subject to a verbal aggression from a third party		25		
Subject to a physical or sexual aggression from a third party		3		

Sources: CT 2005: Enquêtes Conditions de travail 2005 (N=19000), SUMER 2010: Surveillance médicale des expositions aux risques professionnels, 2010 (N=47983) ; SIP 2010: Santé et Itinéraire Professionnel 2010 (N=7381). Period covered: previous 12 months.

According to the SUMER 2010 survey, those who have faced at least one form of hostile behaviour at work were more likely to report having had an accident at work over the last 12 months than those who did not report experiencing hostile behaviour (11.4% against 7.2%). Respondents who indicated having faced hostile behaviour at work were also more likely to take sick leave (23.1% as compared to 15.1%).

A1.10.5 Impact of the implementation of the framework agreement

The impact of the European autonomous agreement and of its implementation tool (the ANI of 26 March 2010) is difficult to assess. Legal provisions were already in place in France; these create obligations for the employer in terms of preventing moral and sexual harassment and regulate the use of mediation procedures. Recent changes made to the legislative framework were not connected to the provisions of the European autonomous

¹⁰⁷ Another wave of the CT survey was carried out in 2013; full results are not available yet.

agreement. From the point of view of employers' representatives, the legislative framework in place is already very strict.

No comprehensive assessment of the impact of the ANI has been carried out so far by social partners themselves. A report on its implementation should be prepared on an annual basis, but such reports have not been made public. However, the 4th inter-ministerial plan to prevent and tackle violence against women has announced that a working group of the High Council for Professional equality (*Conseil supérieur de l'égalité professionnelle*) would take stock of the consequences of the ANI on harassment and violence.

The lack of a major impact may be due to the fact that, as an official report for the Senate¹⁰⁸ noted, the ANI consists of general guidelines and does not impose any binding measures. The responsibility to develop measures (or a charter of good practices) is devolved to collective bargaining processes at the sectoral level or the company level. However, consultations undertaken in the framework of this study have argued that such flexibility is very important and that an obligation for all employers to engage in collective bargaining on the topic of harassment and violence would not be justified. Trade representatives have flagged that the remaining challenge is the dissemination and exchange of good practice on concrete tools and processes used by employers to mitigate and address violence and harassment in the workplace.

The ANI invited sectoral and company-level organisations to negotiate collective agreements at their level, considering their situation and needs. Some examples of collective agreements dealing with harassment and violence can be found. According to annual reports by the General Directorate of Labour of the Ministry of Labour on collective bargaining, two sectoral collective agreements signed in 2011 explicitly refer to the ANI:

- In the telecommunications sector, a collective agreement on stress and psychosocial risks was adopted in May 2011¹⁰⁹. It includes definitions of harassment and violence; identifies risk factors and provides examples of interventions that enterprises can adopt to manage cases of harassment and violence at work and to support affected workers.
- In the banking sector, a collective agreement on harassment and violence at work was reached in June 2011¹¹⁰. The agreement describes five lines of action for companies in this sector. These are: informing all employees (including management and HR) about the nature of harassment and violence at work and different types of risks; training some categories of staff to identify any occurrence (HR, managers, occupational health and safety professionals), identifying and addressing cases through appropriate procedures, developing measures to support victims and protecting witnesses reporting issues and defining sanctions against perpetrators or employees making false accusations.

The consulted trade unions representatives consider that the provisions in place are generally insufficient in terms of coverage of workers, but also in terms of content and scope. Indeed, provisions related to violence and harassment tend to be a quite general (e.g. defining general principles and encouraging dialogue on the issue). They also focus on remediation on a case-by-case basis. According to trade unions representatives, collective agreements fail to integrate an early prevention approach by linking the issue of harassment

¹⁰⁸ Le mal-être au travail : passer du diagnostic à l'action . Rapport d'information n° 642 (2009-2010) de M. [Gérard DÉRIOT](#), fait au nom de la Mission d'information sur le mal-être au travail et de la commission des affaires sociales, déposé le 7 juillet 2010
<http://www.senat.fr/rap/r09-642-1/r09-642-17.html>

¹⁰⁹ Although the title of this collective agreement refers to stress and psychosocial risks, most of its provisions concerns harassment and violence at work. [Convention collective nationale des télécommunications du 26 avril 2000 - Textes Attachés - Accord du 26 mai 2011 relatif au stress professionnel et aux risques psychosociaux](#)

¹¹⁰ [Convention collective nationale de la banque du 10 janvier 2000. Etendue par arrêté du 17 novembre 2004 JORF 11 décembre 2004. - Textes Attachés - Accord du 17 juin 2011 relatif au harcèlement et à la violence au travail](#)

with work organisation and management practices. By focusing only on remediation approaches, collective agreements in place do not address the problem at its the root and cannot have a systemic impact.

Furthermore, some collective agreements dealing with third party violence have been adopted in various sectors, including before the signature of the ANI on violence and harassment. These include the sector of social security administration (February 2009; the agreement focused on staff in charge of controlling infractions)¹¹¹, the sector of guidance and information services for young people (June 2009)¹¹², the sector of safety and security in air transport (November 2011)¹¹³ and *Caisse d'Épargne* April 2013)¹¹⁴. For example, the agreement signed by Caisse d'Épargne (banking sector) focused on inappropriate behaviour and violence occurring during relationships with clients. It describes different forms of inappropriate/violent behaviours and key triggers. In addition to listing possible prevention measures (information and transparency for clients, training of staff, use of and security system/cameras and alert mechanisms); it foresees that a reporting procedure should be in place for incidents together with support for the affected employees. However, according to trade union representatives, collective agreements dealing with third party violence are not common.

Other sectoral collective agreements dealing with psychosocial risks or gender equality may also include provisions concerning harassment and violence at work. For instance:

- The sectoral collective agreement on the improvement of working conditions in pharmacies (September 2009)¹¹⁵ included some provisions on harassment and violence.
- The collective agreement of the pharmaceutical sector on the health of employees¹¹⁶ signed in July 2011 also includes general provisions related to the prevention of harassment. This includes the development of different company policies, such as procedures to address each case, a warning system, a mediation committee and a plan for medical and professional support for the victims.
- In the public sector (national administration, hospitals and local administration), the agreement of 8 March 2013 on gender equality at work plans specific training activities to identify, prevent and address occurrences of sexual and moral harassment will be implemented by public employers.

Overall, only a small number of sectors engaged in collective bargaining on the issue of violence and harassment, compared to the total number of potential sectors. One may conclude that the ANI had a limited impact on sectoral collective bargaining in this area, which seems to have been driven mostly by specific sector-level developments. Indeed, collective agreements dealing with harassment and violence were adopted in sectors where such issues (including third party violence) had already been flagged as key challenges.

¹¹¹ [Union des caisses nationales de security sociale. Protocole d'accord relatif aux perosnnels chargés d'une action de contrôle au sein de la branche recouvrement](#)

¹¹² [Convention collective nationale des missions locales et PAIO du 21 février 2001. \(Etendue par arrêté du 27 décembre 2001 JO du 1er janvier 2002\) \(1\) - Textes Attachés - Accord du 5 juin 2009 relatif à la prévention et à la gestion des incivilités et des violences](#)

¹¹³ [Convention collective nationale des entreprises de prévention et de sécurité du 15 février 1985. Etendue par arrêté du 25 juillet 1985 \(JO du 30 juillet 1985\) - Textes Attachés - Accord du 30 novembre 2011 relatif aux agressions en situation de travail](#)

¹¹⁴ [Caisse d'Épargne. Accord sur les incivilités et les violences à l'occasion des relations commerciales avec la clientèle \(23 avril 2013\)](#)

¹¹⁵ [Accord collectif national du 30 septembre 2009 relatif à l'amélioration des conditions de travail dans la branche professionnelle de la pharmacie d'officine.](#)

¹¹⁶ [Convention collective nationale de l'industrie pharmaceutique du 6 avril 1956. Etendue par arrêté du 15 novembre 1956 JORF 14 décembre 1956. - Textes Attachés - Accord du 6 juillet 2011 relatif à la santé et à la sécurité au travail](#)

Neither the consulted representatives of employee and employer organisations nor the Ministry of Labour collect comprehensive information on collective agreements adopted at the company level on violence and harassment¹¹⁷. Therefore, it is not possible to assess the impact of the ANI on collective bargaining at the company level. For example, some large employers such as RATP (public transport operator), EDF (electricity provider) and France Telecom (telecommunications sector) have adopted some agreements in particular concerning their front-line staff in contact with customers¹¹⁸.

The impact in SMEs cannot be assessed but is expected to very extremely low, as there are no local level bipartite structures in place to support social dialogue.

The low prioritisation of the issue of violence and harassment in company-level collective bargaining was flagged by some representatives of the trade as a key challenge; they reported that very little progress is being made, in relation to the gravity of this issue. They also called for better preventative measures to achieve systemic impact. Currently, not all companies undertake an assessment of psychosocial risks.

The impact of the European autonomous framework agreement and its implementation tool cannot be clearly distinguished from other factors which may have impacted the level of awareness of violence and harassment in the workplace.

Additionally, in France the awareness of the issue of workplace harassment was already relatively high and largely discussed in the media prior to the ANI.

¹¹⁷ Some information on the number of company-level collective agreements dealing with stress and/or psychosocial risks signed after 2008, following the adoption of the ANI on stress is available. As part of the national action plan to prevent stress, the French government had called upon all companies with more than 1000 staff to negotiate a collective agreement by the first of February 2010, or in case of failure of the negotiations, adopt a joint action plan with trade unions and/or staff representatives on the prevention of psychosocial risks. The official website of the Ministry of labour on health and safety at work '*Travailler mieux*' includes a section dedicated to the monitoring of outcomes: all over France, 555 companies had declared that they have signed a collective agreement or initiated a joint action plan with trade unions and/or staff representatives on the prevention of psychosocial risks. The list of companies is available at: http://www.travailler-mieux.gouv.fr/spip.php?page=stress_liste&cla=1

¹¹⁸ Source: information provided by the trade union CGT.

A1.11 Germany

A1.11.1 Introduction

Comprehensive legislation and significant guidance (including guidance co-authored by social partner organisations) on different aspects of harassment and violence is already available in Germany. As a result, the national social partner organisations considered that specific joint steps towards the implementation of the European autonomous agreement were not required beyond dissemination and encouraging implementation at the company level. This was seen to be in line with German social dialogue and industrial relations traditions.

In Germany, there is a strong tradition of tripartite co-operation between the government and trade unions and employer federations on OSH issues, with social partner being consulted on new legislations or policy initiatives. Collective bargaining takes place at industry or company level. Sectoral agreements encompassing health and safety issues are possible, but it is more likely at company level that concrete prevention measures are implemented. Measures on harassment and violence at work have not been the subject of sectoral collective agreements. However at the company level, measures to prevent psychosocial risks, prevention of harassment, violence and mobbing and procedures on what to do in cases of incidents occurring are set out in codes of conduct. Thus, concrete actions on the prevention of psychosocial risks are most likely to be found at the company level.

The national public debate has in recent years primarily focussed on the issue of stress and work related burnout, which is also at the heart of the new work programme and guidance published under the national health and safety strategy.

A1.11.2 National health and safety legislation and policy on psychosocial risks with specific focus on harassment and violence

The German OSH law (*Arbeitsschutzgesetz*; ArbSchG) refers to psychological health in the context of workplace organisation, but does not specifically mention violence and harassment in the workplace¹¹⁹. This legislation has always required employers to carry out risk assessments in relation to all workplace risks and to take reasonable steps to eliminate these. However, in 2013, the law was amended to specifically stress the need to take into account psychosocial risks in risk assessments. The purpose of this amendment, which, so the government argued, does not change the material situation regarding the requirements of employers, has nevertheless had an important impact on raising awareness of the importance of addressing psycho-social risks.

ArbSchG key amendments 2013

§4 No. 1 ArbSchG: Work must be designed in such a way to eliminate risks to life and physical and psychological health as much as possible and to limit any residual risks.

§5 sec.3 ArbSchG: Psychological risks in the workplace are added to the enumeration of risks factors to be taken into account in risk assessment.

To support the implementation of this legislative amendment at the company level, a new guidance document on the implementation of risk assessments taking into account psychosocial risks was published under the common health and safety strategy action line 'psychological risks' (and through the participation of the social partners) in June 2014¹²⁰. An explicit definition of harassment can be found in the Equal Treatment law (*Allgemeines Gleichbehandlungsgesetz* – AGG). Harassment is defined as a disadvantage when unwanted behaviour is related to one ground referred in § 1 (grounds for discrimination), that

¹¹⁹ It is considered that while harassment and mobbing can lead to health and safety risks in the workplace, they are not linked to workplace design (and hence not an explicit part of health and safety legislation). These risks are instead covered by equal treatment legislation.

¹²⁰ GDA, (2014) Empfehlungen zur Umsetzung der Gefährdungsbeurteilung psychischer Belastung; http://www.gda-portal.de/de/pdf/Psyche-Umsetzung-GfB.pdf?__blob=publicationFile&v=5

intend to or violate the dignity of the person and is creating an intimidating, hostile, degrading, humiliating or offensive environment. Sexual harassment is defined as a disadvantage in terms of § 3 para 4, when an unwanted sexual behaviour, including unwanted sexual acts, calls for physical contact of a sexual nature, comments of a sexual nature and unwanted visible displays of pornographic representations, intends to or violates the dignity of the person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment

Also of relevance is paragraph 618 of the civil code, which protects workers from threats to their life and health and makes employers liable for failing to offer appropriate protection.¹²¹

The control authorities for OSH have the function of assisting and providing guidance to employers on how to prevent risks. In 2003, the Federal organisation of OSH control authorities released a guidance note for federal state OSH control authorities on how to advise employers on the risk of “mobbing” (the DE term that refers to harassment – “harassment” is not a term used in this context but the definition was introduced rather by EU rules – Directives 2000/43/EC and 2000/78/EC). The guidance note understands “mobbing” as hostile behaviour in the workplace among employees or between supervisors and employees. The situation is characterised as follows:

- the attacked person feels inferior,
- the attack of one or more persons takes place systematically over an extended period,
- it takes place for the purpose or the effect of exclusion; and
- the person feels threatened or discriminated against.

In 2009, the Federal Institute for Health and Safety and Workplace Medicine (*Bundesanstalt für Arbeitsschutz und Arbeitsmedizin* (BauA)) published a guidance document on mobbing, which makes reference to the social partner framework agreement on harassment and violence in the workplace and provides legal background and guidance on how to address this issue¹²².

Furthermore, there are a wide range of additional guidance documents, information campaigns and telephone hotlines dedicated to the issue of mobbing, including those prepared by occupational accident and health insurance companies, trade unions and other interest organisations (see list of references in the Annex).

There are a number of court cases that relate to mobbing. Such behaviour is seen as a systemic process of creating a hostile, degrading, humiliating and offensive work environment towards one or more persons within a company (between employees, between management and employees). Thus, courts will look at the entire period during which “mobbing” has taken place to establish the systemic intention to degrade the dignity and health of the person subject of harassment. The emphasis here is on the “systemic” nature of the act, since courts will look closely at all behaviours over a period of time to assess whether an individual has been subjected to systematic ‘mobbing’. Short episodes of harsh conversations, for example, will not be interpreted as “mobbing”.

Should a case of harassment not be linked to discriminatory grounds, the employee can rely on the employers duty of care arising from § 241 paragraph 2 and § 242 BGB. The employer is obliged to protect the employee from harassment by supervisors, employees or third parties over whom s/he has influence. The corresponding obligations for the employer as set out in the articles of the AGG, for reasons mentioned in § 1 AGG, may be transferred to cases of “mobbing”. Where the employer cannot intervene, liability could still be assumed on the basis of § 278 and 831 BGB. However, the main issue is the question of when the employer must intervene in an individual case and what measures can be expected of them.

¹²¹ http://www.gesetze-im-internet.de/bgb/_618.html

¹²² Bundesanstalt für Arbeitsschutz und Arbeitsmedizin, 2009; Wenn aus Kollegen Feinde werden ... - Der Ratgeber zum Umgang mit Mobbing; <http://www.baua.de/de/Publikationen/Broschueren/A12.html>

Another issue is that of the burden of proof. It is only when the victim can successfully convince the court that they have been a victim of mobbing, that the burden of proof to convince the court otherwise shifts on to the employer. The burden of proof only falls directly on to the employer in cases where “mobbing” or “harassment” takes place on the grounds that are set out in § 1 AGG.

Currently, the employer has to design the workplace so as to avoid any possible risks to life and physical and mental health, and to ensure that remaining risk is minimized. The employer has the obligation to protect employees from adverse behaviour by supervisors, employees or third parties. Therefore, how such risk assessment is carried out and which policies should be designed to prevent harassment and violence depends on the sector and the individual company. The OSH control authorities, the social partners, the occupational social security bodies and other associations have published a number of guidance materials on how to prevent “mobbing” and in particular psychosocial risks (including recent guidance on taking account of psychosocial risks in risks assessments). Less can be found on internal violence, but in particular for those sectors typically at risk of third party violence can further guidance be found on prevention. Here a significant body of guidance and awareness raising material is available from a range of sources, including insurance bodies, sectoral social partner organisations and regional interest associations (see list of references in the Annex).

In 2013, 5 federal states introduced a proposal¹²³ for a decree on risk assessment in relation to psychosocial risks at the Bundesrat (the lower chamber of the German Parliament), in order to ensure preventive action in this field. The proposal was submitted to the government, who replied that the initiative is useful and that current legislative options are being assessed. The coalition agreement states that the topic will be thoroughly dealt with and the Federal Agency for Health and Safety and Occupational Medicine (BAuA) is currently carrying out a research project to assess the effectiveness of prevention measures. A number of awareness raising activities are already being carried out under the current German health and safety strategy and it's above mentioned specific guidance note on prevention of psychosocial risks¹²⁴. In its response to the proposal from the lower chamber, the government did not rule out future regulations on decrees specifically addressing psychosocial risks, depending on the outcomes of ongoing research.

A1.11.3 Implementation of the framework agreement

A German translation of the European framework agreement was agreed by the cross-industry social partner organisations in April 2008. Beyond this, no specific joint action at the national level has been taken to implement the agreement. There are a number of reasons for this:

- The existing legislative framework and existing guidance (some of which social partner were either unilaterally or involved with in drafting) was considered to already exceed the requirements of the European autonomous framework agreement. Tripartite co-operation between the government and trade unions and employer federations on OSH issues already existed on awareness raising activities and training measures and information and support services (e.g. mobbing hotlines).
- In line with the traditions and practices of industrial relations in Germany, implementation was to take place at the company level, where specific risk assessments and related approaches are developed between by the works council or between employer and employee representatives. This is because, in Germany, concrete actions on the prevention of psychosocial risks are most likely to be found at the company level. At the company level, measures to prevent psychosocial risks, prevention of harassment, violence and mobbing and procedures on what do to in cases of incidents occurring are set out in codes of conduct. These codes are often agreed with the works council, which has a responsibility to oversee the application of health and safety regulations and the implementation of health and safety measures.

¹²³ <http://dipbt.bundestag.de/extrakt/ba/WP17/528/52872.html>

¹²⁴ <http://www.gda-portal.de/de/Arbeitsprogramme2013-2018/Psyche.html>

Unilaterally, the German employers' associations (BDA and ZDH for the employer federations and chambers of crafts and trade) informed their members throughout the negotiations concerning the framework agreement. Both have since consulted with their members about measures taken at sectoral and company level to implement the spirit of the agreement. In both cases, knowledge of the European agreement was considered to be good and has acted as an impetus for further activities at the company level. There was an original proposal from BDA to publish a joint brochure of good practices with the trade union confederation DGB. This did not come to fruition as a specific exercise, but trade union and employers' organisations co-operate on an ongoing basis, not only in the implementation of the work programme of the national health and safety strategy, but also within the INQA initiative, which has published good practice material in this area.

Employers particularly considered that the issues of mobbing, harassment and violence have already been subjected to debate for a number of years. Further, as a result of this, a high level of awareness and available legislation and guidance already exists.

Within the DGB, following a debate in June 2008 in the DGB Committee for workers participation and the works councils, it was decided that no further activity to implement the agreement was to be foreseen as existing legislation was seen to cover all the aspects raised in the text and works council at company level where tasks to ensure implementation. It was emphasised that the European agreement could be used by works councils to review existing agreements and company level practices to suggest potential improvements.

In the wider context of addressing psychosocial risks, it is worth noting that in September 2013, the German cross industry social partners (BDA and DGB) and the Germany Ministry of Labour and Social Affairs signed a common declaration on 'psychological health in the workplace' (*Gemeinsame Erklärung Psychische Gesundheit in der Arbeitswelt*¹²⁵). However, the declaration does not make reference to the European social partner agreements, either on stress or on harassment and violence in the workplace. In its content it primarily focusses on the issue of stress. Stakeholders indicated that in the public debate, more emphasis has recently been placed on the issues of stress and 'burnout', partly because of the significant rise in stress related absences and illnesses (and associated insurance claims and costs) .

In the declaration the signatories:

- Acknowledge increasing the importance of dealing with psychosocial risks in the workplace. Today 13% of cases of work related ill-health/disability arise from psychosocial risk factors (whether arising inside or outside the workplace). The document refers to data from the national statistical office, which estimates the total economic cost of such illnesses at 29 billion Euros.
- In terms of risk factors, the documents specifically refers to increasing pressures felt by workers, including pressure to perform to more and more exacting deadlines, frequent interruptions at work and repetitive work processes. The document makes no reference to bullying, mobbing, harassment or workplace violence. It refers to the Guideline on Advice and Supervision in the case of psychological pressures in the workplace (*Leitlinie Beratung und Überwachung bei psychischer Belastung am Arbeitsplatz*) prepared as part of the Joint German Strategy for workplace Health and safety (*Gemeinsame Deutsche Arbeitsschutzstrategie*¹²⁶).
- The declaration refers to the relevance of existing OSH legislation and the importance of taking psychosocial risk factors into account when carrying out risk assessments and determining prevention strategies. The latter is seen to be the core tool for the prevention of psychosocial risks (see also below). As such better training on factors to look out for (including for SMEs), the involvement of works doctors, worker representatives and other specialists is considered critical;
- Emphasise the importance of prevention, early intervention and rehabilitation to allow workers to return to work.

¹²⁵http://www.dgb.de/presse/++co++7cdd7fac-1606-11e3-8743-00188b4dc422?search_text=Gewalt+am+Arbeitsplatz

¹²⁶ <http://www.gda-portal.de/de/Startseite.html>

The declaration emphasises that the German government considers current legislation to be sufficient and suitable to address workplace psychosocial risks. However, an assessment of its continuing suitability will be carried out towards the end of the current German Strategy on workplace health and safety (which will be in 2018). The ministry commits itself to making funds available for enhanced awareness raising and training measures on this issue. Part of this is the funding of initiatives for sharing guidance and good practice, as is the case through the initiative InQA and its specific initiative 'psychological health in the workplace' (*Psychische Gesundheit am Arbeitsplatz*¹²⁷).

The declaration states that the social partners will support such measures, including through their activities at the workplace level. Prime among these is ensuring that risk assessments covering psycho-social risks are carried out in all workplaces. They will also use their role in the boards of the statutory health insurance providers to foster better awareness raising, advice and guidance on the issue.

Other relevant activities, whether or not directly linked to the European framework agreement, have primarily taken place at the sectoral and company level, including within the different regional chambers.

For example, the retail sector in Germany has been among the most active, with social partner jointly working on measures to prevent robbery attacks on shops and developing risk assessments, prevention measures and hotlines for employers and victims. These measures were also presented as part of a project to disseminate the multi-sectoral guidelines on third party violence. Some joint activities also exist in the hotel and catering and banking sectors, as well as within individual companies. Guidance and preventative measures have also been published, among others, in the health care and postal sector and a significant amount of guidance is available from occupational health insurance companies.

A1.11.4 Incidence of psychosocial risks and trends with specific focus on harassment and violence

There are no national registers linked to incidences of mobbing or harassment and violence in the workplace. Furthermore, the only time series data that exists on the phenomenon is from the Labour Force survey ad hoc modules of 2007 and 2013. According to 2007 Eurostat data 1% of workers have been subject to harassment or bullying, 0,4% have been subject to violence or threats of violence and 14,4% work under time pressure or overload of work.

Other surveys on these phenomena are being carried out on an ad hoc basis through specific projects or research programmes. The most recent national survey on mobbing was published in 2002¹²⁸. A survey of Works Council representatives carried out by WSI shows that the share of council members saying that they have dealt with mobbing issues in the previous two years grew from 31.9% in 2005 to 52.2% in 2011.

The working condition survey conducted by the Federal Institute for Vocational Education and Training (*Bundesinstitut für Berufliche Bildung*, BIBB) and the Federal Institute for Occupational Safety and Health (BAUA) states the share of the workers saying that they never or rarely feel part of a workplace community was 9.9% in 2006 and declined to 8.2 % in 2012. In 2012 (as well as in 2006), 2.4% reported that good collaborative relations with colleagues are rare. The proportion of people who never experienced good collaboration slightly decreased from 0.7% (2006) to 0.5% (2012). The survey did not include any specific question regarding "mobbing", "harassment" or "violence". Furthermore, the survey includes a question that aims to seek information on whether employees have been carrying out work feeling emotional strain or pressure. The answers indicate that 11,8% in 2012 and 12,1% in 2006 have experienced this feeling very often.

A 2005 study on the living situation of women published by the Federal Family Ministry reports that 22% of all women have experienced sexual harassment either at the workplace or at school/university and that most occurrences happen at universities. The data rests on a

¹²⁷ <http://psyga.info/>

¹²⁸ Meschkutat et al (2002); Der Mobbing Report: Eine Repräsentativstudie für Deutschland; <http://www.baua.de/cae/servlet/contentblob/682700/publicationFile/46973/Fb951.pdf>

representative survey, but does not provide data exclusively on either workplaces or school/universities.

Schablon et al (2010) find that 56% of care staff have experienced physical violence and 78% have experienced verbal aggression in the 12 months preceding the survey. In general, 44% of respondents said they experienced physical violence and 68% stated that they experienced verbal aggression once or more per month. The highest frequency of physical violence was found in inpatient geriatric care (63%) and the lowest in outpatient care (40%).

Given that risk assessments are a key tool in the prevention of psychosocial risks, it is particularly relevant that a recent evaluation of the German Health and Safety Strategy (Lißner, L., Brück, C., and Stautz, A.; 2014¹²⁹) found that – according to a survey carried out for the evaluation - just over half (51%) of companies in Germany had carried out a risk assessment. This figure was significantly higher for companies with more than 50 employees (90%) and considerably lower for micro- and small companies (41% of companies with 1-9 employees and 70% of companies with 10-49). Given the significance of micro- and small companies in the German economies this demonstrates that more work remains to be done with regard to training and awareness raising on the importance of workplace health and safety and the role of risk assessment within it. Another survey based study carried out by TNS in 2011 found that 82% of companies argued that the duties of employers were clearly regulated in legislation; only 69% considered the regulation to be easily understandable and 51% of responding companies argued that existing regulations were difficult to implement within their organisation¹³⁰.

A1.11.5 Impact of the implementation of the framework agreement

Comprehensive legislation and significant guidance (including guidance co-authored by social partner organisations) on different aspects of harassment and violence is already available in Germany. As a result, the national social partner organisations considered that specific joint steps towards the implementation of the European autonomous agreement were not required beyond dissemination and encouraging implementation at the company level. This was seen to be in line with German social dialogue and industrial relation traditions. Stakeholders considered that awareness on the issue of violence and mobbing was already high, with significant actions having been taken some 5-10 years ago to provide additional (and ongoing) advice and guidance – including through mobbing helplines. In recent years, there has been greater emphasis on the issue of stress and workplace burnout, as a result of increasing sickness absences and cases of disability caused by psychological factors. This issue has received significant media attention and contributed to an amendment of German health and safety legislation, so as to explicitly include references to the need for psychosocial risk factors in risk assessment, the inclusion of this issue in the new work programme of the national health and safety strategy and the publication of a guidance on how to include such factors in risk assessment. Scientific studies on the scale and nature of the phenomenon are also currently under way and the coalition government has not ruled out further regulatory action in this regard.

While European agreements on stress and harassment and violence have contributed to this debate, they cannot be seen as a main factor in the evolution of policy making in Germany, which was already well advanced. Further, public awareness was already high.

Social partners stress the critical role of workplace implementation, including the role of works councils within this process. Employers' organisation highlighted that internal consultations had shown that there was a high level of awareness of the issue and further action had been taken at sectoral and company level to assist employers keen to deal with this issue. However, it is notable that – given that risk assessment is an important key step

¹²⁹ http://www.gda-portal.de/de/pdf/GDA-Dachevaluation_Abschlussbericht-kurz.pdf?__blob=publicationFile&v=3; this evaluation did not include a specific assessment of activities and measures in relation to psycho-social risk factors.

¹³⁰ Source: Infoblatt Optimierung des Vorschriften und Regelwerkes; http://www.gda-portal.de/de/pdf/GDA-InfoblattVuR.pdf?__blob=publicationFile&v=2

in identifying and ultimately preventing or reducing such risks – a significant number of companies and in particular SMEs are currently not carrying out risk assessments. Employers' associations attribute this to the significant administrative burden imposed by the formal reporting processes required in Germany.

Insufficient scientific evidence and studies on the phenomenon of violence and harassment at the workplace are currently available to chart any substantive trends in this area. Further work on this is currently ongoing.

A1.12 Greece

A1.12.1 Introduction

The role of the social partners in Greece is traditionally strong. With regard to OSH, at national level there is the tripartite Council for Health and Safety at Work (SYAE) comprising a number of stakeholders in the field of OSH such as social partners, occupational health medicines, the Greek Chemists Association and representatives from the Ministries of health, industry, labour and finance. The body participates in the development of the national health and safety at work strategy. A similar tripartite body exists for each Greek prefecture and works as coordinating and consulting bodies for local authorities. Furthermore, social partners are represented in the Council for Social Inspection of the Labour Inspectorate (SKEE) a consulting body of the Labour Inspectorate. At company level, committee for health and safety at work can be set up if the company employs more than 50 workers otherwise workers can elect a representative for health and safety matters. In companies with a works council, the health and safety representation is chosen by the members of the works council. The company level OSH representation assists in risk assessment, monitors working conditions and can make proposals for improvement of working conditions. In companies with a works council, health and safety can be a subject of company level agreements.

Unlike in the case of the stress and telework agreements, which were implemented by national collective agreement, the implementation of the framework agreement on violence and harassment has been placed on the back burner, as a result of the pressing economic issues facing the country and because previous social dialogue structures have been challenged by the need to meet the requirements of various Memoranda of Understanding. More specifically, these mean that national collective agreements are no longer universally applicable, which challenges the way in which autonomous framework agreements were previously implemented in Cyprus (as well as wider social dialogue processes).

Current legislation is in line with the requirements of EU health and safety and equal treatment legislation but does not specifically refer to workplace violence and harassment.

A1.12.2 National health and safety legislation and policy on psychosocial risks with a specific focus on harassment and violence

OSH legislation does not make specific references to violence and harassment, but only contains the general requirement to carry out risk assessment. The Technical and Sanitary Inspectors of the Labour Inspectorate examine whether psychosocial risks and appropriate measures are included in the written occupational risk assessment and advise employers and workers.

The Presidential Decree No. 17/96 provides that in undertakings employing more than 50 workers, the employer must use the services of a labour physician who shall advise the employers, the workers and their representatives on measures regarding the physical and mental health of workers, as well as regarding questions of work physiology and psychology (Article 4).

Law 3896/2010 (article 26), on the 'Implementation of the principle of Equal Treatment of Men and Women in Employment and Labour Relations' dictates that it is the employers' duty to ensure that no employee is subject to unwanted offensive sexual behaviour. Further, Presidential decree 105/2003 (Π.Δ. 105/2003), places the burden of proof on the accused and not the victim in cases of sexual harassment. Law 3500/2006 foresees imprisonment and claims for damages in cases of sexual harassment and forbids laying off a worker who has been subjected to sexual harassment.

The Ombudsman monitors the application of the principle of equal treatment for men and women in matters of employment and work, pursuant to Law 3488/2006, replaced by [Law 3896/2010](#). The Ombudsman works in cooperation with the Labour Inspectorate ([SEPE](#)) concerning sexual harassment. Local labour inspectors inform the Ombudsman about complaints of sexual harassment received in the private sector and the results of actions

undertaken. The Ombudsman is invited to attend the tripartite hearing of the labour dispute and can carry out an additional investigation.

Recently, in October 2011, the Vocational Training Centre of the Labour Institute of the Greek Confederation of Workers prepared a Code of Conduct against discrimination in the workplace. The Code covers all 6 grounds of discrimination, but, however, does not specifically reference violence and harassment in the workplace.

A1.12.3 Implementation of the framework agreement

Earlier autonomous framework agreements of the social partners at European level, were implemented in Greece by being annexed in the National General Collective Agreement. For example, the Agreement on Telework was annexed in the National General Collective Agreement of 2006-2007, while the agreement on Stress in the workplace had been annexed in the National General Collective Agreement for 2008-2009.

However, as a result of the economic crisis, and provisions included in the Memorandum of Understanding (MoU) signed in 2010 between the Greek government and the Troika (the European Central Bank, the European Commission and the International Monetary Fund). The provisions of MoUs signed since 2010, mean that the National General Collective Agreement is no longer universal. Since 2010, social dialogue has all but collapsed in Greece. These very significant institutional changes have moved the debate towards salvaging the social dialogue process itself. As a result, for the moment, according to the employers' organisations, initiatives such as implementing the framework agreement on violence and harassment cannot be pursued by the social partners, in the same way as was done pre-2010 (i.e. by annexing the agreement in the collective agreement). It has been indicated by the Greek Confederation of Greek Workers (GSEE) that they are currently involved in a joint cooperation project between the ILO and the key social partners to reconstruct the social dialogue in Greece. One of the topics covered is discrimination, which touches upon violence and harassment issues.

The social partners both on the employer (GSEVEE) and employee side (GSEE) have set up equality offices, whose main focus is gender equality and promoting women to leadership roles. GSEVEE's equality office also includes a helpline to advise on legal issues, but so far, no sexual harassment issue has been flagged via the helpline since July 2012, when the office was set up.

SEV, an organisation which represents industry employers in Greece (most major enterprises are members of the organisation) has also undertaken relevant dissemination activities. It argued that its members deal with issues of violence and harassment in the workplace through Codes of Conduct adopted by each large company.

National authorities have also been involved in awareness raising and guidance activities since 2007. The General Secretariat for Gender Equality ([GSGE](#)), in charge of the 'National Program for Substantive Gender Equality 2010-2013', has published the '[Counselling Handbook for working women, employers and social partners: We do not tolerate sexual harassment in the workplace](#)'. The documentation centre of the Hellenic Institute for occupational health and safety has compiled a Guidance document (2013) on sexual harassment at the workplace.

In terms of policy making, recent attention has been more significantly on measures to combat domestic violence rather than on violence and harassment in the workplace.

A1.12.4 Incidence of psychosocial risks and trends with a specific focus on harassment and violence

There is very little data available on the incidence of psycho-social risks and violence and harassment in Greece. A very small number of surveys/studies are available, as follows.

The main Greek survey attempting to estimate the occurrence of 'workplace bullying', was conducted in 2008, by the Graduate Programme in Human Resource Management of the

Economic University of Athens¹³¹ This was a survey of 840 junior and middle managers, conducted in Spring 2008. The survey found that 13.2 % of respondents could be clearly classified as victims of bullying and 47 % of respondents were in a 'grey zone' where they experienced negative behaviour but at a lower frequency. Only 39 % were not identified as victims of harassment at work. The study found that these percentages do not differ from findings of similar surveys at EU level.

Regarding sexual harassment, a survey carried out by KETHI in 2004 (Artinopoulou et al, 2004) in a sample of 1,200 women, 15% of respondents reported having indirect knowledge of incidents of sexual harassment at work (through a friend, relative and / or colleague who has experienced abusive behaviors), while 10% of women respondents have been a victim of sexual harassment in the workplace. Among the victims are younger women (16-25 years) at rate of 57.5%. 35.8% of women stated that sexually harassed women were newly recruited, while incidents of sexual harassment decreased with tenure in the workplace.

A recent study by the [National Institute of Labour and Human Resources \(EIEAD\)](#)¹³², provides a description of the phenomenon of harassment at work, and states that this is the first effort to highlight this little understood phenomenon in Greece.

According to a Hellenic Airforce article on mobbing, 1 in 10 staff consider there to be intimidation occurring at work, while 5 % of respondents report incidents of physical violence at their workplace¹³³.

A1.12.5 Impact of the implementation of the framework agreement

Employer representative organisations believe that the impact of the framework agreement in Greece has only been in terms of increased awareness on this issue. Further, the Hellenic Federation of Enterprises (SEV) perceived no impact of the framework agreement on national legislation or on social dialogue, neither on company practices nor on data collection. Any company practices pursued by SEV members in relation to violence and harassment emanated from company policies.

Addressing violence and harassment issues has been put on the back burner due to the prolonged economic crisis since 2008. From the perspective of international organisations, the Troika, the Memoranda of Understanding and the EC's Country Specific Recommendations, do not make recommendations regarding human rights, equality or anti-discrimination in the workplace. From the perspective of the government, the need for spending cuts affects the ability to put monitoring systems in place on issues such as violence and harassment in the workplace. On the part of businesses, the crisis has brought more pressing issues of business sustainability to the forefront, not allowing companies to focus on violence and harassment issues.

Further, there is lack of data on violence and harassment in Greece. The consultations undertaken in the framework of this study noted the need for data collection on the issue, but also noted that data protection issues may add to the complexity of undertaking this. Interviewees see the impact of the agreement as being limited in Greece, mainly because of the economic and social crisis which has meant that the fight against discrimination and the visibility of such issues have receded.

¹³¹ Papalexandri (2011)

¹³² EIEAD (2013)

¹³³ Article on mobbing by Colonel Emiliios Sioros of the Hellenic Airforce, available at: http://www.haf.gr/el/structure/units/gea/dape/pdf/articles_mobbing.pdf

A1.13 Hungary

A1.13.1 Introduction

In Hungary, the government involves the social partners through consultations on draft legislation in the tri-partite Standing Consultative Forum (VKF), which currently includes only three trade union confederations. In general, issues like wages, working time and working conditions dominate the social dialogue agenda, and the role of social dialogue remains restricted in matters of OSH.

The implementation of the framework agreement is limited to the agreement of a joint translation and dissemination activities.

In general, harassment and violence at work is a rather neglected issue in Hungary, to which limited attention is devoted both in political and social discourses.

Approaching the topic from a human rights discourse, significant legislative changes were already adopted in the pre- EU-accession period, when Hungary was required to adopt an act on equal opportunities. The act has not been extended and does not specifically refer to harassment and violence at work. There is no enforceable legal document which defines these terms or which explicitly obliges employers to declare a zero-tolerance statement or to take measures against violence and harassment in the workplace.

A1.13.2 National health and safety legislation and policy on psychosocial risks with a specific focus on harassment and violence

The Hungarian Constitution, enacted on 25 April 2011, states that *'every employee shall have the right to working conditions which respect his or her health, safety and dignity'* (Article XVII (3)).

Since 2008, it is obligatory for employers to consider the psychosocial risks affecting employees and take actions to prevent them. According to the amended Act XCIII of 1993 on Labour Safety (Munkavédelemről szóló 1993. évi XCIII. törvény)¹³⁴, employers must specifically pay attention to the assessment, prevention, reduction or elimination of psychosocial risks related to carrying out work. Psychosocial risks are defined as (paragraph 87, 1/H) *'the sum of impacts affecting a worker at the workplace (conflicts, work organisation, work schedule, uncertainty of employment etc.) that influence his/her responses to such impacts, or in relation to which he/she may experience stress, suffer an accident at work or a physical illness caused by mental strain (psychosomatic illness)'*.

The Hungarian Occupational Safety and Health Inspectorate, who is in charge of monitoring the implementation of the legislation, has issued guidelines for employers concerning the factors they must consider during their assessment of psychosocial risks (published in February 2014). The guidelines contain a separate section on harassment and violence at work. They clearly outline employers' responsibility to protect employees from such treatments, develop strategies and take measures to prevent and deal with cases of harassment and violence. A guide on risk assessment at the workplace (July 2014) was released by the Hungarian Occupational Health and Safety Inspectorate. While the guide mentions psychosocial risks, it does not refer to harassment and violence at work.

According to Article 10 of the Act CXXV of 2003 on Equal Treatment and Promotion of Equal Opportunities (2003. évi CXXV. Törvény az egyenlő bánásmódról és az esélyegyenlőség előmozdításáról), harassment is considered a violation of the principle of equal treatment and is thus prohibited. Harassment is defined as *'a conduct of sexual or other nature violating human dignity related to the relevant person's characteristics defined in Article 8 with the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment around the particular person'*. Protection from harassment applies, regardless of the reason for the harassment, since there is no separate definition of sexual harassment. However, in practice the Equal Treatment Authority, which is in charge of

¹³⁴ The amendment was adopted in December 2007 transposing the EU directive on stress at work.

investigating cases involving the violation of Act CXXV, usually refers to the relevant definitions of related European directives and agreements, including the one of sexual harassment, in their decisions concerning specific cases.

Article 5d of the Equal Treatment Act states that employers and persons entitled to give instructions shall observe the principle of equal treatment (and hence the prohibition of harassment) in respect to employment and work-related relationships. Relationships between employers, superiors and employees fall within the scope of the law (Art. 5 Par d.). While the Act itself does not regulate the relationship of co-workers or harassment committed by third parties (e.g. clients) according to Decision No. 17/2010 of the Equal Treatment Authority (ETA), the employer shall take responsibility for the employees' behaviour at work. The employer cannot treat such behaviour as a personal issue, therefore the employer can be held liable, if he/she is aware of mistreatment and does not take any actions against it (Bálint, Lórodi, 2014). In fact, according to the Equal Treatment Act, in cases of sexual harassment at the workplace, the employer, rather than the harasser, is held liable. The harasser only formally participates in the procedure as a witness.

Article 63(4) of the Equal Treatment Act prescribes the adoption of an Equal Opportunity Plan for companies employing more than 50 workers. The ETA is entitled to control the enforcement of this provision and may impose sanctions in case of non-compliance¹³⁵. The list of companies obliged to have an Equal Opportunity Plan is published on the website of the ETA, as well as indicating their compliance with the legislation. A more effective incentive for companies to adopt these plans was to make EU grant applications conditional on the existence of the plan. As claimed by a trade union representative interviewed in the framework of this study, an increasing number of equal opportunity plans that have been prepared in the past years are a result of this. According to a trade union representative, in addition a trade union issued a special guidance to help the drafting process. The precise content of these plans is not regulated. Therefore, in practice, references to harassment and violence tend to be missing, which proves the limited awareness of these issues.

The Act C of 2012 on the Criminal Code (2012. évi C. törvény a Büntető Törvénykönyvről) also regulates harassment (*'Any person who engages in conduct intended to intimidate another person, to disturb the privacy of or to upset, or cause emotional distress to another person arbitrarily, or who is engaged in the pestering of another person on a regular basis, is guilty of a misdemeanour punishable by imprisonment not exceeding one year, insofar as the act did not result in a more serious criminal offense'* Art. 222 Par. 1) with explicit reference to harassment committed by a person from 'a recognized position of trust, authority or influence over the victim' (Art. 222 Par 3c).

In Hungary, the Labour Code does not directly define violence and harassment at workplace as such, but it can be derived from the general provisions on behaviour at work that any behaviour that threatens, humiliates, or negatively affects the work life of employees is prohibited (Art. 7 Par. 1 of the Labour Code). The Labour Code also recalls that the principle of equal treatment in employment relations must be strictly observed, including for civil and public servant relationships. According to a employers' association representative, during the 2012 modification of the Labour Code, trade unions primarily attempted to push for the incorporation of more specific regulations in regard to harassment and violence at work. However, negotiations were not successful and the legislation has not been improved in this respect.

The Act CLXV of 2013 on Complaints and Public Interest Disclosures (2013. évi CLXV. törvény a panaszokról és a közérdekű bejelentésekről) ensures the right to file complaints and public interest disclosures. The person filing the complaint or public interest disclosures can be anyone and does not have to be the victim himself/herself. From the day of receipt by the competent authority, the complaint or disclosure has to be processed within 30 days. Furthermore, the act specifies a whistleblowing system to report any violation of laws and rules of conduct, to be adopted and maintained by employers (as a possibility rather than an obligation). The act determines the key principles for maintaining such a system, with special

¹³⁵ In practise the Equal Treatment Authority is controlling only the existence of the plan

regard to a fair investigation procedure, as well as the protection of whistleblowers and the processing of their personal data. Complaints can be filed anonymously. However, in this instance the employer can dismiss the complaint and this aspect has to be clarified when the complaint is filed. The legislation on harassment and violence at work tends to be deficient and creates certain regulatory gaps. The key principles stipulated in the framework agreement have not been transferred to national legislation. There is no precise definition and no clear and explicit legal provision on harassment and violence at work. Consequently, a coordinated approach is lacking from authorities' side. The issue is covered by different authorities with limited competences, which reinforces the shortcomings of the regulations.

A1.13.3 Implementation of the framework agreement

In the aftermath of the framework agreement, tripartite consultations started with the active involvement of trade unions and employers' associations. However, the willingness of authorities to recognise the importance of violence and harassment tended to be limited. Trade unions were keen to focus on the transposition of the agreement into legislation. As already mentioned, they raised the issue during the amendment of the Labour Code. Moreover, according to consultations undertaken in the framework of this study, they pushed for a separate legislation on harassment and violence at work. Employers' associations tend to be less active in this respect. From the consultations, it also emerged that the financial crisis and its impacts on companies directed the attention of employers' associations to other fields of interests.

In 2009, the social partners translated the framework agreement into Hungarian and sent it to their members together, with a jointly adopted information note (BusinessEurope, CEEP, ETUC, UEAPME, 2011). The implementation of the framework agreement is, generally speaking, in line with the role played by the social partners in the field of OSH.

Within the confines of the Labour Safety Committee, the interest groups and government representatives meet several (2-3) times a year, to discuss the recent issues and initiatives. The meetings are organized by the National Labour Office and, thus far, harassment and violence at work is not considered a priority issue within the committee.

The implementation of the relevant legislation is executed by different authorities with limited cooperation between them. The most competent institution is the Equal Treatment Authority (ETA). They start investigations based on individual complaints and public interest disclosures. However, they proceed exclusively on the basis of the Equal Opportunity Act. Therefore, they deal only with cases where the principle of equality and non-discrimination is breached, i.e. when sexual harassment occurs in relation to one of the characteristics specified in Article 8 of Act CXXV of 2013. The ETA publishes the most characteristic cases on its website. In regard to harassment cases at the workplace, within the period 2008-2012, there were 13 cases where harassment could be proven and 6 cases which ended with a mutual agreement¹³⁶. In most of the cases, the violations are made on the grounds of gender, ethnicity, or health status of the victim. Another key feature is the negligence of employers and internal employee unions or committees in handling violence and harassment in the workplace.

The issue of harassment and violence at work is often blurred with the topic of stress at work. This is reflected in the practical steps taken by the Hungarian Occupational Safety and Health Inspectorate (HLI), which is obliged by the Act on Labour Safety to control its enforcement. Investigations on harassment and violence do not directly fall within its competency and are only addressed as part of the broader issue of psychosocial risks. Therefore, the inspectorate can instigate a procedure in cases where specific health conditions occurred, which can be identified as the consequence of mistreatment. In this specific field, the scope of its competency, as well as its available tools, are highly limited. The sanctions on employers are relatively weak, but the HLI can oblige and guide the

¹³⁶ 2012 - 1 case Violation det., 1 case – agreement, 2011 – 4 cases – Violation det, 3 cases – agreement, 2010 - 2 cases Violation, 1 case agreement, 2009 – 2 cases violation, 2008 – 4 cases violation, 1 cases agreement)

employers to develop a monitoring strategy, start trainings for employees or set-up further preventive measures. The HLI receives 1-2 complaints annually concerning harassment, which are processed by them. The more specific cases are mostly transferred to the ETA. Furthermore, the HLI primarily controls the relationship between employer and employees, while the relationship between co-workers and third parties are considered out of its remit. In practice, according to a consulted representative, in such cases the inspectors inform and encourage employers to take measures and solve the issues identified.

Dissemination activities and awareness raising campaigns and events are organized at various levels by various actors. These programmes are not primarily devoted to harassment and violence at work, but they do touch upon this issue as well.

The ETA organizes specific training and awareness raising programmes. One of their most relevant initiatives in this regard was the project TAMOP 5.5.5/08/1 Combating Discrimination, Shaping Societal Attitude and Strengthening the Work of the Authority (2009-2013) (<http://www.egyenlobanasmod.hu/tamop/hirek>). This EU-funded project primarily focused on improving the awareness of public servants. Further, relevant actors, such as trade union representatives, members of the law enforcement, non-profit organisations, ethnic governments and educational institutes could join the trainings as well.

The National Labour Office (Nemzeti Munkaügyi Hivatal) (NLO), along with the 'Committee of Senior Labour Inspectors' campaign, started an inspection called "Psychosocial risk assessment" in 2012. The National Employment Service is running a project called "Improvement of the health, safety and surveillance at work" (2012-2015) that aims to reach and inform a wide variety of stakeholders. The project also includes preventive approaches. Further, the NLO takes part in the campaign "Healthy workplaces- manage stress" (2014) initiated by the European Agency for Safety and Health at Work. As the title implies, the awareness-raising campaign is concerned with stress and psychosocial risks at work, but inherently involves discussions on harassment and violence at work as well.

The endeavour of increasing awareness is shared by the employers' organization as well, who joined a European project focusing on stress at work. The project shared good practises in prevention of stress and approached the employers by highlighting the financial losses they might incur if they neglect these aspects.

Another project, run by the Hungarian National Association of Local Authorities in partnership with the Trade Union of Hungarian Civil Servants and Public Employees, focused on the prevention of third party violence at the local level. The project is based on a bilateral Hungarian-Norwegian cooperation to share know-how and best-practices. Special trainings are organized for local governments, with the primary aim to provide education for 20 trainers in Hungary. Another key focus of this project is to map the current status of third party violence in Hungary, with particular attention to high-risk areas, such as social and child protection services.

A1.13.4 Incidence of psychosocial risks and trends with a specific focus on harassment and violence

There is no regular collection of data in Hungary on the incidence of psychosocial risks and, in particular, harassment and violence in the workplace. Yet, some data is available from different surveys.

According to the 2010 survey on working conditions run by the National Employment Service (Munkahelyi foglalkoztatási viszonyok; N=8444), 1% of employees complained about sexual harassment, 1% complained about racial/ethnic harassment and 3% have initiated a disciplinary procedure for violent behaviour or harassment in the workplace.

The National Employment Service has also carried out an employers' survey (N=1000 companies) assessing the significance of aggression and harassment at the company level. In 2012, 30.6% of employers in the survey considered that aggression and harassment were of high significance in their company (compared to 41.6% in 2009).

In 2011, the Körvonal Foundation carried out a survey on psychosocial risks at work, focusing on a one year period prior to the survey (N=426). In total, 18.95% of respondents reported getting into humiliating situations where they could not defend themselves, 8.86% of respondents reported undesired sexual attention at work and 6.29% reported violent threats at work.

Concerning third party violence in the school sector, a 2009 report *Danger at schools* (Iskolai veszélyek) from the Office of the commissioner for educational rights, 23% of teachers were shouted at or insulted, 12% were humiliated and 2% were exposed to physical aggression.

According to IPSOS' Global Advisor monthly online survey carried out in June 2010 (N=238 for Hungary), 5% of employees in Hungary have suffered physical harassment and 7% have experienced sexual harassment at work. Further, according to an international survey conducted by Kelly Services (2009), Hungary is 5th out of 33 countries in terms of the prevalence of health problems related to work.

A1.13.5 Impact of the implementation of the framework agreement

Despite some initial efforts, it was not possible for joint efforts to go beyond the translation and dissemination of the framework agreement. Harassment and violence at work is still not a prominent topic in the national dialogue. Rather, they it is viewed as a personal issue. Employees are not sufficiently aware of their rights and reporting on incidences of violence and harassment at work are stigmatizing for the victims. This perception is reinforced by the often negligent attitude of employers, who, rather than calling for a zero-tolerance stance, tend to downplay the significance of violence and harassment even when reported – as depicted by the numerous cases processed by ETA. Some changes are noticeable in the case of bigger companies, especially international ones, where harassment and violence at work are taken more seriously and preventative strategies and key principles are included in collective agreements. Therefore, in cases of conflicts, active measures are taken.

The firm commitment of authorities to tackle violence and harassment in the workplace is also lacking. This is reflected both in the weak legal framework, as well as in the fragmentation of competences to various authorities and scarce nation-wide monitoring. Due to the limited openness regarding social dialogue and tripartite consultations on this issue, they also seem to be less effective in achieving considerable development. All in all, there are promising initiatives and, to a certain extent, good-will on the side of authorities to deal with violence and harassment at work can be observed. However, their tools are still limited and their endeavours should be strongly backed in order to move forward and actively engage in public discourse to shape public attitudes.

A1.14 Iceland

A1.14.1 Introduction

In Iceland, the social partners exercise a role in influencing health and safety legislation and policy through their participation in relevant tripartite bodies, in particular the Administration of Occupational Safety and Health (AOSH), which is responsible for developing legislation and strategy in this field. In addition to its legislative and policy role, AOSH provides training materials and initiates campaigns on health and safety issues. It is also responsible for inspection and supervision in order to ensure workplaces' adherence to the law on health and safety and regulations; and has carried out research on problems related to psychosocial risk factors, such as mental and physical violence, mobbing and sexual harassment. Collective bargaining primarily takes place at the workplace level and does not significantly deal with health and safety issues.

Currently, the issue of violence and harassment is not considered to be high on the political agenda in Iceland. Trade unions consider that more action is required in this regard. The impact of the European Framework Agreement was limited. The main action taken was a translation of the agreement and a joint assessment of the suitability of existing legislation. The latter led to the judgement that no legislative change was needed to support the implementation of better preventative actions at the workplace level.

A1.14.2 National health and safety legislation and policy on psychosocial risks

The EU Occupational Health and Safety Directive has been transposed in the national legislation by the Act on the Working Environment, Health and Safety in the Workplace (N° 46/1980)¹³⁷ and the Regulation on Organisation and Execution of Work on Health and Safety in the Workplace (N° 920/2006)¹³⁸. The last significant amendment of the Act dates back to 2003. On the basis of this legislation, employers are responsible for workers' health and safety and are required to carry out a risk assessment on physical and psychosocial factors. Employers are also required to have a written programme for health and safety measures in the workplace¹³⁹.

The Act on the Working Environment does not itself make specific provisions on harassment and bullying, but instead refers to specific regulations on harassment and measures against bullying in workplace, Act No. 68/2003, Article 9 (making reference to Regulation No. 1000/2004).

Regulation No. 1000/2004 on measures against harassment in the workplace (Article 3) defines harassment as:

Amendable or repetitive unacceptable conduct, i.e. conduct or behaviour that may lead to humiliation, demean, insult, hurtfulness, discrimination or intimidation and cause bad feelings with the person in question.

Sexual harassment in the workplace and in schools is specifically covered by the Act No. 96/2000 on Equal Status and Equal Rights of Women and Men. The Act holds employers and directors responsible for taking preventative measures, as well as providing a definition of sexual harassment. The Act also includes a prohibition of dismissal after complaints of sexual harassment or discrimination have been lodged. Article 17 on harassment states¹⁴⁰:

Employers and directors of institutions and social activities shall take special measures to prevent employees, students and clients from being subjected to sexual harassment in the

¹³⁷ Available in English: http://www.vinnueftirlit.is/media/almenn-skjol/act_no_46-1980_work_environment_health_and_safety.pdf

¹³⁸ http://www.vinnueftirlit.is/media/efni-a-ensku/reglugerd_um_vinnuverndarstarf_a_vinnustodum_thorarinn_v_07.pdf

¹³⁹ European Association of Labour Court Judges, 12th Annual Conference, 4th and 5th July 2008, Final Report Harassment and Violence at Work, available at: <http://www.ealci.org/documents/Final%20Report.pdf>

¹⁴⁰ Available in English: <http://www.jafnretti.is/D10/Files/Equality%20act.PDF>

workplace, within institutions, during social activities or within schools. Sexual harassment constitutes sexual behaviour that is unreasonable and/or insulting and against the will of those who are subjected to it, and which affects their self-esteem and is continued in spite of a clear indication that this behaviour is unwelcome. Sexual harassment can be physical, oral or symbolic. One event may be considered sexual harassment if it is serious. If a superior is charged with sexual harassment, he/she shall be deemed incompetent to take decisions on the working conditions of the plaintiff during the investigation of the case and a higher superior shall take decisions regarding the plaintiff.

Additionally, the penal code (No. 19/1940) contains provisions on sexual harassment, which is punishable with up to 2 years of prison.

A1.14.3 Implementation of the framework agreement

The main implementation measure for the Framework Agreement on Harassment and Violence in the workplace is a joint assessment of national legislation, to ensure that its provisions are in line with the requirements of the agreement. Since the national regulation of 2004 (Regulation No. 1000/2004) requires employers to clearly state that harassment is not accepted in the workplace and includes measures to be taken in the event that harassment and violence occurs, the social partners deemed that the national regulation already covered the scope of the autonomous agreement. The implementation tool chosen also reflects the fact that collective bargaining at the workplace level does not significantly deal with health and safety issues.

A translated version into Icelandic of the autonomous agreement was jointly produced by the social partners SA (employers' organisation) and ASI (trade union), which have also clearly stated in their publications that harassment and violence in the workplace is not tolerated.

A1.14.4 Incidence of psychosocial risks and trends

No relevant register data exists and no cross-industry repeat surveys measuring the incidence of harassment and violence are available. Existing data is based on ad hoc surveys and tends to focus on research in sectors most affected by third party violence and harassment.

A1.14.5 Impact of the implementation of the framework agreement

The impact of the European Social Partner Framework Agreement on Violence and Harassment in the workplace has been limited in Iceland. It triggered a joint review by the social partner of existing legislation, which was deemed to be suitable for encouraging prevention and not in need of any amendments. Trade unions acknowledge that more awareness raising on violence and harassment in the workplace would be required, but that the European Agreement had little or no impact on the level of discussion on this issue in Iceland.

A1.15 Ireland

A1.15.1 Introduction

In Ireland, at national level, the social partners play an important role in tripartite co-operation on OSH policy and strategy and are consulted on OSH legislation. This is primarily achieved through the tripartite co-operation with the Health and Safety Authority (HAS). As part of this co-operation, social partners were involved in the drafting of a Dignity at Work Charter and various Codes of Practice on the Prevention of Workplace Bullying and Harassment. Further, in relation to psychosocial risks, employers' and trade union organisations have gathered information and provide guidance, but this is often not done jointly. The role of national and sectoral collective bargaining is relatively limited in general, with most agreements being reached at company level.

National OSH legislation does not specifically mention psychosocial risks or violence and harassment, but its provisions are seen to lead to the potential for criminal sanctions for any employer who fails to take action to prevent relevant risks. No special joint actions were taken by social partner to implement the Framework Agreement (beyond the pre-emptive adoption in 2007 of the above mentioned Charter and revised Code of Practice), largely because the spirit of its requirements were already considered to be met in Ireland.

A1.15.2 National health and safety legislation and policy on psychosocial risks

In Ireland, the requirement for risk assessments is covered by the Safety, Health and Welfare at Work Act (2005). Section 8 (2) (b) of the 2005 Act requires employers to manage and conduct 'work activities in such a way as to prevent, so far as is reasonably practicable, any improper conduct or behaviour likely to put the safety, health and welfare at work of his or her employees at risk'. In the same Act, employees are asked 'not to engage in improper conduct or behaviour that is likely to endanger his or her own safety, health and welfare at work or that of any other person' (section 13 (1) (e)). In line with the requirements of the Act, the Health and Safety Authority (HSA) prepared a Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work¹⁴¹.

The 2005 Act has not been amended since its implementation. It does not make specific reference to psychosocial risks, but in practice these risks are considered to be covered by the general duty to carry out risk assessment and to address any risks identified. Section 8 (1), subsection (2)*b* states that *(2) Without prejudice to the generality of subsection (1), the employer's duty extends, in particular, to the following: (b) managing and conducting work activities in such a way as to prevent, so far as is reasonably practicable, any improper conduct or behaviour likely to put the safety, health or welfare at work of his or her employees at risk.* Consequently, this subsection criminalises the failure of an employer in implementing any measure to prevent an 'improper conduct or behaviour', which is an all-encompassing phrase, used in Irish legislation to include anything from sarcastic remarks to physical violence.

Incidents of violence at the workplace can also be prosecuted using criminal law statutes and case law (as bodily harm, grievous bodily harm or assault).

Furthermore, victims of harassment in the workplace can take their case to the Equality Tribunal under the Employment Equality Acts 1998-2011. This statute covers nine grounds of discrimination: gender; family status; civil status; age; race; religion; disability; sexual orientation; membership of the Traveller community. Harassment is defined as "unwanted conduct" under the Act. Harassment must be under one of these nine grounds for the application of this Act.

¹⁴¹ http://www.hsa.ie/eng/Publications_and_Forms/Publications/Occupational_Health/CoP_Bullying.pdf

In relation to this, an Order in the area harassment was published in 2012 by the Ministry of Justice. The Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2012¹⁴², replaces a previous Order of 2002 and aims to define sexual harassment and harassment in the workplace; outlines means of preventing it; and specifies procedures to follow if it does occur and measures to take to prevent its recurrence. The Order can be admissible in evidence but does not impose any legal obligations in itself.

In addition, a Code of Practice on the Prevention of Workplace Bullying came into effect in May 2007. It updates and replaces a previous Code adopted by the HSA in 1989 in accordance with the Safety, Health and Welfare at Work Act. The Code provides practical guidance for employers on identifying and preventing bullying at work and sets out the procedure for dealing with occurrences of harassment and violence. It recommends that such instances first be addressed using the enterprise's internal grievance procedures. If this is unsuccessful in resolving the situations, cases can be forwarded to a Rights Commissioner. Any decisions taken at this level can be appealed via the Labour Court. The number of cases on record in the labour courts is very limited (around 5 since 2001).¹⁴³ At this level, significant settlements have in the past been awarded to workers subject to bullying and harassment. For example, the case *Mairtin v Marino Institute of Education (High Court, Dublin, 2005)* was reported to have been settled for €500,000.; *Quigley v Complex Tool and Moulding (2005)*.

A1.15.3 Implementation of the framework agreement

The implementation of the European Agreement in Ireland built on existing work, more specifically a Charter on Dignity in the Workplace prepared by the Irish Health and Safety Authority in 2007 with the participation of the social partners, which anticipated the conclusion of the framework agreement. In addition, the 2002 and 2007 Codes of Practice on Preventing and Dealing with Bullying and Harassment at Work, Safety, Health and Welfare legislation and the Employment Equality legislation are considered relevant in ensuring that the requirements of the framework agreement are met. With regard to the Codes of Practice, whilst not binding, the courts take account of adherence to these acts when dealing with cases of bullying or harassment. Although employers are not required to have a written policy on preventing and dealing with bullying and harassment at work the failure to have such a policy is taken into account by the Courts in assessing liability in such cases. The drafting and dissemination of the Charter was considered to be one way to encourage more employers to sign a relevant statement.

In order to support the various actions taken in Ireland, even prior to the adoption of the European Agreement two national advisory groups including social partner representation were established. The first advisory group reported in 2001 and it produced an agreed definition on bullying at work. A national independent survey on bullying at work was also carried out at that time. The second advisory group on workplace bullying reported in 2005 and it recommended further research on bullying in the workplace. That research concluded in 2007 did not show any significant increase in alleged bullying in the workplace since the first survey in 2001 (approximately 7.9% of those surveyed believed that they had been bullied at work in the previous 6 months – this compares with 7% in the survey done in 2001).

Since the adoption of the European Agreement, no further joint actions have been taken at cross industry level, because the requirements of the agreement were seen to be met by existing legislation and Codes of Practice. A number of unilateral actions have been taken by Irish social partner organisations to further raise awareness and address the issue. In addition, there have also been discussions on the issue at the sectoral level. One reason for the relative dearth of follow-up actions at different levels is also the onset of the economic crisis, which affected Ireland heavily and put other priorities to the fore.

¹⁴² <http://www.irishstatutebook.ie/2012/en/si/0208.html>

Further, in 2010, the Irish Congress of Trade Unions (ICTU) formed an Advisory Commission on Stress, Bullying and Violence at Work mandated to:

- Examine the effectiveness of existing measures aimed at preventing workplace bullying, stress and violence;
- Examine the effectiveness of the current legal framework, risk assessment and codes of practice;
- Examine the effectiveness of workplace agreements, including clients, students, suppliers contracts in preventing and responding to stress, bullying and violence;
- Examine members and trade union experience and examine the effectiveness of trade union responses to stress, bullying and violence at work;
- Recommend improvements to the legal framework, codes of practice, dispute resolution procedures, workplace agreements and employer responses;
- Identify specific measures that unions can take to promote better workplace environments and combat workplace stress and incidences of bullying and violence in the workplace;

Although the Commission was expected to report back to the ICTU Biennial Conference in 2011, no report has been published to date.

IBEC advises its members on the issue of bullying, harassment and sexual harassment in the workplace through an employment law guideline. Updated in 2013, this guideline aims to identify: the legal position and definitions of bullying, harassment and sexual harassment; means of recognising bullying/harassing behaviour; the effects of bullying/harassment on the individual and organisation; codes of practice on workplace bullying, harassment and sexual harassment. IBEC provides details on the relevant legislation and advises its members on how to draft a bullying and harassment policy within their organisations.

A1.15.4 Incidence of psychosocial risks and trends

Despite gaining a higher profile over the past decade, the issues of violence and harassment in the workplace remain underreported in official statistics, which only record fatal and non-fatal work related accidents linked to 'aggression, fright, shock or violence'. According to the HSA, 7% of non-fatal accidents were linked to such occurrences.

Employees in certain sectors appear especially vulnerable. Indeed, 44% of these accidents were in the 'human health and social work activities' sector, primarily because of the exposure of this sector to cases of third party violence.

Very few to zero cases of harassment and violence at work is generated from colleague to colleague; as a matter of fact, it tends to be public/third-party instigated cases where violence is initiated against workers and where it is believed that this should be a social policy issue, as opposed to ones concerning treatment from the employer. Generally, compliance with the Framework Agreement is thought to be rather strong, but there is a political tangent regarding the cause of the source of violence and harassment.

An indicator of harassment in the workplace found in national statistics relates to the number of cases taken to the Equality Tribunal under the Employment Equality Acts 1998-2011 (see above). The Equality Tribunal's 2012 report for employment equality referrals shows the following: age discrimination (48 cases); disability discrimination (87 cases); family status discrimination (23 cases); gender discrimination (62 cases); civil status discrimination (14 cases); race discrimination (103 cases); religion discrimination (2 cases); sexual orientation discrimination (4 cases); traveller community discrimination (1 case); multiple grounds discrimination (151 cases). However, there is no breakdown of whether these cases involved harassment or discrimination in the workplace.

It is therefore necessary to look to evidence from surveys to obtain a clearer picture of the scale of the phenomenon and its precise nature in Ireland. As noted above, in Ireland violence and harassment both fall under the umbrella term of 'bullying'. The most recent

national survey on the issue was carried out in 2007 by the Economic Social Research Institute (ESRI), entitled 'Bullying in the Workplace: Survey Reports, 2007'¹⁴⁴. The method included a survey of employers and employees and asked respondents a series of questions on several dimensions of the bullying:

- The form of bullying they experienced;
- The perpetrator of the bullying (colleague or customer and their status in the case of colleagues);
- The characteristics of the bully: e.g. poor communication skills; difficulty in working with others; difficulty in delegating responsibility; poor organisational skills; low self-esteem;
- The victim's actions after being bullied, such as considering transfer within company; actual transfer; considering leaving job; actually leaving; sick leave or leaving the workforce altogether on a permanent basis;
- Finally, a number of questions focused on their employer's policy in the area of bullying: whether a bullying policy is in place; if the policy is implemented; the effect of the bullying policy.

The Report found 7.9% (5.8% male; 10.7% female) of employees who responded reported having experience of bullying. The nature of bullying was recorded as follows:

- Verbal abuse/insults: 76.7% (68% males bullied; 82.4% females bullied)
- Physical abuse: 7.7% (11.4% males bullied; 5.1% females bullied)
- Sexual harassment: 4.7% (2.6% males bullied; 6.1% females bullied)
- Intrusion/pestering/spy/stalk: 33.4% (37.1% males bullied; 30.5% females bullied)
- Threats (implicit or explicit): 30.7% (39.3% males bullied; 24.3% females bullied)
- Intimidation/harassment: 62.5% (58.5% males bullied; 65% females bullied)
- Aggression: 50.2% (50% males bullied; 50.6% females bullied)
- Humiliation: 57.9% (50.2% males bullied; 62.9% females bullied)

The report's authors argue that while this survey offers valuable insight into the national situation in Ireland, it is a pre-crisis survey and does not capture the effects of the crisis on the incidence of psychosocial risks. This is considered likely to have increased incidents of bullying.

A1.15.5 Impact of the implementation of the framework agreement

The impact of the Framework Agreement in Ireland has to be viewed against the context of existing legislation and guidance.

At national level, the social partners play an important role in tripartite co-operation on OSH policy and strategy and are consulted on OSH legislation in Ireland. This is done in collaboration with the HSA which has formal working groups on a variety of OSH issues. An example of this work at tripartite level was the preparation of the 'Dignity at Work Charter' signed by ICTU (Irish Congress of Trade Unions), IBEC (Irish Business and Employers' Association) and the HSA (in January 2007¹⁴⁵). The Charter on Dignity in the Workplace was adopted with the goal of encouraging employers to sign and display their commitment of working against discrimination and bullying at workplace level. This was intended to anticipate the agreement, but remains a voluntary tool.

Although IBEC, for instance, has identified the impact of the Framework Agreement in Ireland as minimal, this is considered to be the case because Ireland was seen to be 'ahead of the curve' with regard to existing legislation and Codes of Conduct. It is considered that

¹⁴⁴ <http://www.djei.ie/publications/employment/2007/esrireportbullying.pdf>. In this survey, 'Bullying' is defined as "repeated inappropriate behaviour, direct or indirect, whether verbal, physical, or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment, which could be reasonably be regarded as undermining the individual's right to dignity at work. An isolated incident of the behaviour described in this definition may be an affront to dignity at work but is not considered to be bullying."

¹⁴⁵

http://www.hsa.ie/eng/Publications_and_Forms/Publications/Safety_and_Health_Management/A3_Dignity_at_Work.pdf

although, like stress, violence and harassment are not explicitly covered in legislation, existing provisions mean that the failure to implement measures or initiatives for the prevention of either is a criminal offence. There is a strong risk management approach that covers harassment and violence at work. The social partners and health and safety agency, therefore, consider existing provisions to be sufficient to implement the spirit of the Framework Agreement..

Additional action has been taken in sectors where harassment and violence is particularly prevalent, such as the health and retail sector and the entertainment industry.

No particular impact can be measured on awareness raising or indeed the extent to which relevant data on the phenomenon is gathered at the national level.

A1.16 Italy

A1.16.1 Introduction

The role of social partners in relation to the area of wellbeing, work-life balance and harassment and violence in the workplaces is considered significant¹⁴⁶. At national level the tripartite Permanent Consultative Committee for Health and Safety at Work which (Commissione Consultiva Permanente per la salute e sicurezza sul lavoro) is the main institutional body for negotiations between the national level, regional administrations and social partners¹⁴⁷. Further, the social partners contribute to health and safety matters through public bodies. For example, social partners take part in advisory committees for INAIL¹⁴⁸ (Istituto Nazionale per l'Assicurazione Contro gli Infortuni sul Lavoro) at national, regional and provincial level; they can set up joint committees on OSH, which carry out workplace inspections. In the public sector, the main institutional body through which social partners influence rules in the area of harassment and violence is the committees for gender equality, wellbeing of workers and against discriminations (Comitati Unici di Garanzia per le pari opportunità, la valorizzazione del benessere di chi lavora e contro le discriminazioni, CUG)¹⁴⁹.

Collective bargaining takes place mainly at sectoral, cross-industry, territorial and company level. These collective agreements typically do not include specific provisions in relation to health and safety. However, the legislation (DLgs No 5/2010) specifies that collective agreements can contain specific measures, including guidelines and good practices. Further, national collective agreements (Contratti Collettivi Nazionali del Lavoro, CCNL) have been used to implement European social partner autonomous agreements such as that on telework and stress¹⁵⁰.

In Italy, the national OSH framework is rather complex due to the heavily decentralised governance system from a legislative, administrative and executive point of view.

A1.16.2 National health and safety legislation and policy on psychosocial risks with specific focus on harassment and violence

Over the years, Italian Occupational Safety and Health (OSH) legislation has been built on several pieces of legislation, which include the constitution, the civil law, as well as a series of decrees (including various amendments over time). Furthermore, in line with the Italian governance system and the right of regional government to legislate laws at the national level, only general principles and regions may or may not decide to legislate additional provisions. As a consequence, it is not possible to provide a comprehensive picture of the Italian OSH legislation and specifically how psychosocial risks and harassment and violence in the workplace are treated across the Italian territory. Differences across regions in terms of legislation, enforcement and policies lead to a patchy situation.

The two main laws that transpose the OSH Framework Directive 89/391/EEC and set the guiding principles of the Italian OSH legislation are the Legislative Decree 626/94 (DLgs 624/94) and the Unified Text No 81/2008¹⁵¹ (which unified the DLgs No 81/2008 with the

¹⁴⁶ http://www.cgil.it/Archivio/PariOpportunita/Le%20donne%20cambiano/Ricerca_IRES_Contrattazione_di_gener_e.pdf;
<https://www.ires.it/files/rapporti/Donne%20e%20contrattazione%20%5BSola%20lettura%5D%20%5Bmodalit%C3%A0%20compatibilit%C3%A0%5D.pdf>;

¹⁴⁷ <http://www.lavoro.gov.it/sicurezzaalavoro/MS/CommissionePermanente/Pages/default.aspx>

¹⁴⁸ http://www.inail.it/internet_web/appmanager/internet/home

¹⁴⁹ <http://www.pariopportunita.gov.it/index.php/archivio-dossier/2010-carfagna-qstrumento-unico-contro-le-discriminazioni-al-lavoroq>

¹⁵⁰ Accordo interconfederale sullo stress lavoro correlato, Accordo interconfederale per il recepimento dell'accordo quadro Europeo sul telelavoro

¹⁵¹ <http://www.camera.it/parlam/leggi/deleghe/08081dl.htm>

DLgs No 106/2009). The Unified Text is the law that regulates all aspects of health and safety management in the workplaces, including risk assessment, and the responsibilities of the labour inspectorate.

According to this legislation, employers are required to set up a so called prevention and protection service (Servizio di Protezione e Prevenzione, SPP) comprising a manager responsible for the SPP (RSPP), a health and safety employees representative (RLS) and an occupational health physician. In companies with more than 200 employees or companies in the health sector and mining sector with more than 50 employees, the SPP needs to comprise of internal staff, while in smaller companies it can be external (i.e. with external consultants and doctors). The SPP has the following responsibilities: a) identifying risk factors and carry out risk assessment; b) identifying and implementing preventive measures and safety procedures; c) providing information to employees on OSH risks and procedures¹⁵².

Employers need to carry out a risk assessment every four years, unless there is a significant change in work organisation or processes. The Unified Text states that the general measures to protect the health and safety of workers cover *'the assessment of all risks in relation to health and safety'* (Article 15 Unified Text) and the occupational doctor (as part of the SPP) *'cooperates on the implementation of preventive measures to protect the health and psychophysical integrity of workers'* (Article 25). Psychosocial risks are addressed in the Italian legislation under the work-related stress risks¹⁵³, Article 28 states that the risk assessment:

should cover all risks to the safety and health of workers, including those for groups of workers exposed to special risks including those related to work-related stress, according to the contents of the Europe October 8, 2004, and those related to pregnant in accordance with the provisions of the legislative decree of 26 March 2001, n. 151, as well as those related to gender differences, age and difference due to different country of origins.

Although the Unified Text was issued in 2008 the European autonomous agreement on work-related stress is explicitly covered in this legislation but not the European agreement on harassment and violence.

Although a definition of harassment does not exist in the Italian legislative framework, other pieces of legislation specifically address the issue of harassment, sexual harassment and discrimination in the workplace. In 2005 DLgs145/2005 transposed the European Directive 2002/73/EC on equal treatment for men and women¹⁵⁴. Article 2 of this decree contains definitions of direct and indirect discrimination, and covers harassment and sexual harassment in the workplace. Specifically, the article states that harassing behaviour is considered as discriminatory behaviour, it also regulates the treatment of workers who have complained about harassing behaviour.

The Italian Workers Statute¹⁵⁵ contains provisions on discrimination on the grounds of trade union and political activity, religion, race, language, sex, disability, age or sexual orientation.

Third party violence or harassment is not directly regulated in the Italian legislative framework.

There is a lack of linguistic consistency in this area and different terms and wordings are used throughout official documents from government and social partners, official statistics,

¹⁵² OSHA (2013), Qualitative post-test evaluation of ESENER Overview Report, and National Overview Report Italy <https://osha.europa.eu/en/publications/reports/qualitative-post-test-evaluation-of-esener-overview-report/view>

¹⁵³ INAIL guidelines on stress-related risk assessment http://www.inail.it/internet_web/wcm/idc/groups/internet/documents/document/ucm_portstg_093254.pdf

¹⁵⁴ <http://www.camera.it/parlam/leggi/deleghe/05145dl.htm>

¹⁵⁵ Italian Workers Statute, Rules on the protection of the freedom and dignity of workers and of trade union freedom and union activity in the workplace, and rules on employment Law 300/1970 (Statuto dei Lavoratori, Norme sulla tutela della libertà e dignità dei lavoratori, della libertà sindacale e dell'attività sindacale nei luoghi di lavoro e norme sul collocamento Law 300/1970) <http://www.altalex.com/index.php?idnot=39728#titolo1>

media, as well as in the literature. Different terms are used in Italy to define 'harassment'. In the legal framework presented above and in the official translation of the autonomous agreement from the European Commission, 'harassment' is '*molestie*'¹⁵⁶. However, there is an increasing trend of using the English term '*mobbing*' as an interchangeable term for '*molestie*' and as a term to identify any unsociable behaviour, persecuting or discriminatory behaviour, including sexual harassment; sometimes mobbing is presented as different from sexual harassment '*molestie sessuali e mobbing*'; 'vexatious behaviour' '*comportamento vessatorio*' is also used for harassment, as well as the English word '*stalking*' in the workplace '*stalking nel mondo del lavoro*'; often only the generic wording 'violence against women in the workplace' is used to define any type of sexual harassing behaviour¹⁵⁷.

The topic of violence against women, is gaining momentum in the Italian public debate, mostly due to the increasing relevance of gender-related killing (femminicidi) in the media. In 2012, the UN Special Rapporteur on violence against women urged Italy to take measures¹⁵⁸. In 2013, a new law was approved to ensure a better enforcement of the penal law in cases of violence against women. 'Urgent measures on security and prevention of gender violence' (Law 119/2013)¹⁵⁹. A recent national survey estimated that the costs of violence against women sum up to 17 billion € against 6 million € of costs for prevention¹⁶⁰.

A1.16.3 Implementation of the framework agreement

In the past, national collective agreements (Contratti Collettivi Nazionali del Lavoro, CCNL) have been used to implement European social partner autonomous agreements such as that on telework and stress¹⁶¹.

However, the autonomous agreement on violence and harassment has not yet been implemented. A negotiation table to discuss how to effectively integrate the autonomous agreement into the Italian context has been opened and discussions are ongoing between the social partners.

According to both the consulted employer organisations and trade unions, the main issue concerning the implementation of the autonomous agreement is the introduction of specific procedures and practice in workplace. The Italian industrial structure is characterised by small and micro businesses, for whom it is not straightforward to implement internal procedures, as compared to large and well-structured companies.

According to a trade union representative consulted in the framework of this study, overall the design of the autonomous agreement is considered appropriate for tackling the issue of harassment and violence in the workplace. However, the difficult economic situation for companies and the unstable political context make it more difficult for social parties to find satisfactory solutions for both parties. The consulted employers' organisation disagrees with the statement that the economic crisis has slowed down the implementation process.

¹⁵⁶ <http://eur-lex.europa.eu/legal-content/IT/TXT/PDF/?uri=CELEX:52007DC0686&from=IT>

¹⁵⁷ Some examples of the interchangeable use of the words mobbing, molestie and violence:
<http://www.lavoro.gov.it/ConsiglieraNazionale/Documents/Evidenza/2012/20121206AdesioneConsiglieraNazionaleParit%C3%A0Intesapartisocialisuviolenzadonne.pdf>;
<https://www.ires.it/files/rapporti/Donne%20e%20contrattazione%20%5BSola%20lettura%5D%20%5Bmodalit%C3%A0%20compatibilit%C3%A0%5D.pdf>;
http://www.cgil.it/Archivio/PariOpportunita/Le%20donne%20cambiano/Ricerca_IRES_Contrattazione_di_genere.pdf; http://www3.istat.it/salastampa/comunicati/non_calendario/20100915_01/testointegrale20100915.pdf;
http://www.bollettinoadapt.it/old/files/document/19850ocmin_27_11_12.pdf

¹⁵⁸ http://www.un.org/apps/news/story.asp?NewsID=41069#.U_wV-GNZWM0

¹⁵⁹ Italian legislative framework on gender violence <http://sms.amnesty.it/QuadroNormativo.pdf>; Law 119/2013 “

Disposizioni urgenti in materia di sicurezza e per il contrasto della violenza di genere)

<http://www.gazzettaufficiale.it/eli/id/2013/08/16/13G00141/sq>

¹⁶¹ Accordo interconfederale sullo stress lavoro correlato, Accordo interconfederale per il recepimento dell'accordo quadro Europeo sul telelavoro

¹⁶¹ Accordo interconfederale sullo stress lavoro correlato, Accordo interconfederale per il recepimento dell'accordo quadro Europeo sul telelavoro

Further, the social partners used the official translation of the European Commission as a basis for their national translation. However, the official translation is still awaiting approval.

In November 2012 Cgil, Cisl and Uil presented a document on violence against women in the workplace that urged the implementation of the autonomous agreement on harassment and violence. With the use of this instrument, trade unions intend to promote the topic of harassment and violence in cross-industry territorial agreements and company level agreements. The document also urges the promotion and implementation of preventive measures against violence and gender discrimination in cross-industry territorial agreements and company agreements, as well as training on work-related stress for trade union and health and safety representatives in sectors, such as the armed forces and health and social services¹⁶².

In the private sector, in line with the main features of the Italian collective bargaining system, collective agreements at all levels can contribute to the implementation of the autonomous agreement.

According to the official implementation report from the social partners the implementation instrument for the autonomous agreement would be the integration into existing agreements. In this document, it is reported that social partners in the public sector deem that the essence of the autonomous agreement were already taken into account by the national collective agreements for this sector since 2003.

One example of a collective agreement, where the autonomous agreement has been adopted is the national collective agreement in the postal sector¹⁶³ (Article 62 protection of rights and dignity of workers): *to ensure that the working relationships takes place in a peaceful environment and particularly to avoid, behaviour even of sexual nature which may lead to psychological and moral distress, invasive of the dignity of the person or in conflict with the regular course of the employment relationships, in attendance of a comprehensive legislation on the topic, it will be ensured a behaviour consistent with the principles set out in the European Directives and Recommendations as well as with the principles contained in the Agreement Framework Agreement between the European Social Partners in on harassment and violence at work of 15 December 2006 (approved 26 April 2007).*

According to a consulted trade union representative, the autonomous agreement is little known in Italy and no activities have been implemented to specifically disseminate the agreement.

However, there have been national policy developments in the field of OSH.

These recent contextual developments have an impact on the debate of unsociable behaviour in the workplace. As a consequence, the topic of harassment and violence in the workplace in Italy is starting to be discussed in relation to sexual harassment and violence against women. In 2012 the main trade unions CGIL (Confederazione Italiana del Lavoro), CISL (Confederazione Italiana Sindacato Lavoratori), UIL (Unione Italiana del Lavoro) put forward a proposal to implement the autonomous agreement on harassment and violence focusing on violence against women (Violence against women in the workplaces, Proposal for a memorandum of understanding - La violenza sulle donne nei luoghi di lavoro, Proposta di intesa)¹⁶⁴. This document provides a definition of violence against women:

the term "violence against women" means any act of gender-related violence which results in, or it is likely to result, for women who are the target damage and suffering of physical, sexual, psychological nature, including the threat of implement such acts, coercion, or deprivation of freedom, both public and private

¹⁶²http://www.cgil.it/Archivio/PariOpportunita/25novembre_violenza_donne/PROPOSTA_DI_PROTOCOLLO_DI_I_NTESA_27_11_2012.pdf

¹⁶³ http://www.uglcomunicazioni.it/modules/GestAltro/allegati/all_cont/Testo%20OK%20Ccnl%202010_2012.pdf

¹⁶⁴ http://www.cgil.it/Archivio/PariOpportunita/25novembre_violenza_donne/PROPOSTA_DI_PROTOCOLLO_DI_I_NTESA_27_11_2012.pdf

The linguistic inconsistency adds an extra layer of complexity, which makes it difficult to provide a coherent picture of the activities that might have been promoted at regional level and by different organisations across the territory.

For example, ISPELS has set up a national network for the prevention of psychosocial discomfort in the workplace (Network Nazionale per la Prevenzione del Disagio Psicosociale nei Luoghi di Lavoro)¹⁶⁵. However, it is not clear whether this network is actually active. The website has been last updated in 2010 and contains contacts details of centres established in nine regions. From the information provided on the website, it seems that these centres provide psychological support to victims of bullying and mobbing, but no activities are mentioned in relation to prevention in the workplace. The website also contains a methodological proposal for the assessment of psychosocial risks in the workplace.

Overall, it seems that little is done at national policy level on the topic of harassment and violence in the workplace. For example, the national government campaign on health and safety at work focuses on musculoskeletal and respiratory diseases as work-related diseases¹⁶⁶. The Ministry of Education, University and Research has a national helpline against bullying and the website 'dumpebullo' (smontailbullo)¹⁶⁷ contains information on the helpline and material on bullying, including leaflets, books and information on films and news. The website and the information target young people and bullying in schools. However, bullying in the workplace is not mentioned. Therefore, the leaflet only covers bullying between pupils.

Since the topic of harassment and violence in Italy is mainly discussed in relation to gender based harassment and violence, an important role is played by the Committees on gender equality (Comitati per le pari opportunità)¹⁶⁸.

At national level the committee on gender equality was established in 2006 within the Ministry of Gender Equality to provide technical assistance and know-how for designing policies and legislation and to collect and monitors data throughout the country¹⁶⁹. In 2009, the Ministry of gender equality launched a national campaign against violence in schools (The week against violence, La settimana contro la violenza). During the week against violence, awareness raising activities have been implemented in schools; these included information services and workshops for students, teachers and parents. The campaign covered physical and psychological violence, including violence and discrimination on the ground of ethnicity, religion and gender¹⁷⁰. This campaign also disseminated information on the helpline against bullying of the Ministry of Education. The Committee has signed the Proposal of the trade unions on violence against women in the workplace¹⁷¹.

As previously discussed, it is difficult to provide a full picture of the activities across the national territory, since some regions seem to be more active than others. At regional level some examples of measures found on this topic include The Code of Conduct for employees of the Piedmont Region. This code focuses on sexual harassment, psychological violence and mobbing in the workplace. It provides a background section on national and European legislation, a definition of sexual harassment (*molestie sessuali*) and psychological violence, it establishes the role of the *confidential counsellor* responsible for dealing with incidences and support to the victims and it also clarifies the tasks and responsibilities for this role. The document also highlights the commitment of the regional administration to introducing

¹⁶⁵ <http://www.ispesl.it/networkmobbing/>

¹⁶⁶ <http://www.lavoro.gov.it/SicurezzaLavoro/malattieprofessionali/campagne/Pages/default.aspx>

¹⁶⁷ <http://www.smontailbullo.it/web/index.php?s=1>

¹⁶⁸ <http://www.pariopportunita.gov.it/index.php/commissione-per-le-pari-oppportunita>

¹⁶⁹ <http://www.lavoro.gov.it/ConsiglieraNazionale/Documents/Evidenza/2012/20121206AdesioneConsiglieraNazionaleDiParit%C3%A0Intesapartisocialisuviolenzadonne.pdf>

¹⁷⁰ http://www.cgil.it/Archivio/PariOpportunita/Le%20donne%20cambiano/Ricerca_IRES_Contrattazione_di_gener_e.pdf

¹⁷¹ <http://www.lavoro.gov.it/ConsiglieraNazionale/Documents/Evidenza/2012/20121206AdesioneConsiglieraNazionaleDiParit%C3%A0Intesapartisocialisuviolenzadonne.pdf>

compulsory training on these issues. This document was drafted with the collaboration of the regional committee for gender equality¹⁷². The Tuscany Region has also drafted guidelines on bullying in schools¹⁷³. Already in 2006 the Veneto Region included psychosocial risks in the workplace in their regional policy plan on health and safety at work.¹⁷⁴ Further the Autonomous Province of Trento on its website has a page dedicated to harassment in the workplace (*molestie sul lavoro*)¹⁷⁵.

A1.16.4 Incidence of psychosocial risks and trends with specific focus on harassment and violence

A parallel development of responsibilities for enforcement and surveillance between the National Labour Inspectorate (Ispettorato Nazionale del Lavoro) and the Regional Public Health Agencies (ASLs) characterised the national and regional context in the OSH area. Additionally, inspectorate responsibilities, data collection requirements and insurance systems vary according to economic sectors and occupations.

The official statistics on workplace accidents collected for insurance purposes by INAIL include psychosocial disorders. It is worth mentioning that the wording used in official statistics varies i.e. in some documents psychosocial conditions are identified as 'mental disorders due to work-related stress' and in others as 'diseases to the nervous system' and 'mental and behavioural disorders'. Therefore, it is difficult to clearly understand what is collected in these statistics. Between 2006 and 2010 there has been a decrease in the number of 'mental disorders due to work-related stress' from around 500 to below 400 cases per year¹⁷⁶. According to the INAIL official report on reported cases of occupational diseases, a total of 548 cases of 'mental and behavioural disorders' have been reported in 2013 and 6.266 cases of 'diseases to the nervous systems'. Trends from 2010 show no significant change in the numbers of 'mental and behavioural disorders', while there has been an increase of 'diseases to the nervous system' from 4,829 (11.21% of total occupational diseases) to 6,266 (12.09%)¹⁷⁷.

Since 2002, every four years, ISFOL (The National Research Institute for Vocational Education and Training Employment and Social Policies) carries out a Survey on the Quality of Work (Indagine sulla Qualità del Lavoro in Italia, QDL) which builds on the European Working Condition Survey (EWCS). According to this survey in 2010 around 9% of workers were victims of violations of rights/harassment in the workplace, while around 1% were victims of sexual harassment. The incidence of violations of rights/harassment and sexual harassment were higher in businesses with more than 50 employees, than in smaller companies. From this survey it emerged that the most widespread type of discrimination in the workplace was related to age (5.4%), gender (5.5%) and ethnic origin (3.2%). It is worth noting that age and gender related discrimination decreased, to around 7% in 2006¹⁷⁸.

In 2010 ISTAT (The National Statistics Institute) published the results of a survey 'The discomfort in labour relations' carried out in 2008-2009 as an ad-hoc module of the national survey on the security of citizens. According to this survey 7.2% of workers have been victims of harassment during their work life. Further, 5.2% of workers experienced harassment in the last three years. In the majority of cases, the harassment was constituted

¹⁷² http://trasparenza.regione.piemonte.it/documents/97326/141699/cod_condotta.pdf/6a2fea11-e479-49ab-a726-0f51c67b7e5b

¹⁷³ http://www.toscana.istruzione.it/novita/allegati/2009/aprile/linee_guida_bullismo_web.pdf

¹⁷⁴ http://www.manthone.gov.it/Data/Sites/1/pegaso/PEGASO%202009/2%20Corso%20RLS/4%20Note_sui_rischi_psicosociali.pdf

¹⁷⁵ http://www.pariopportunita.provincia.tn.it/italy/SC/250/A_chi_rivolgersi.html

¹⁷⁶ INAIL (2011) L'andamento delle malattie professionali (2006-2010). (Trends in occupational diseases (2006-2010)) http://www.lavoro.gov.it/SicurezzaLavoro/MalattieProfessionali/Documents/STAT_tabellamalattie.pdf

¹⁷⁷ INAIL (2013) Analisi della numerosità delle malattie professionali (Analysis of occupational diseases) http://www.inail.it/internet_web/wcm/idc/groups/internet/documents/document/ucm_portstg_076109.pdf

¹⁷⁸ ISFOL (2014) Le dimensioni della qualità del lavoro : i risultati della 3. indagine ISFOL sulla qualità del lavoro (ISFOL (2014) The dimensions of quality of work: results from the 3rd survey ISFOL on the quality of work) <http://sbnlo2.cilea.it/bw5ne2/opac.aspx?web=ISFL&opac=Default&ids=19730>

of episodes of unjustified critic or blame (79.9%), followed by verbal harassment (62.7%). The surveys also found that women are more likely to be victims of unjustified blame, verbal harassment and sexual harassment. On the other hand, men were more likely to say that they have been victims of demotions, unjustified stops in their career or physical violence¹⁷⁹.

Further, a recent national survey estimated that the costs of violence against women sum up to 17 billion €, pitted against 6 million € for the costs of prevention¹⁸⁰.

A1.16.5 Impact of the implementation of the framework agreement

According to the trade union, the autonomous agreement has a great potential impact in itself, and could potentially have a significant added value, mainly in terms of tackling third party violence in the workplace. For example the third party violence is increasing in schools; however, due to the economic situation this is perceived as a priority, since schools at the moment lack funds to pay for basic items i.e. paper, electricity, etc... and the majority of teachers are in precarious contracts. Overall, introducing procedures at company level would significantly improve the way in which this topic is addressed. In Italy, the phenomenon of violence in the workplace is not widely spread, while mobbing is increasingly becoming a serious issue exacerbated by the economic crisis and the increase of short term contracts. Employees do not report or press charges due to their fear of losing their jobs. Additionally, at the moment mobbing is regulated by civil law and the legislative procedure to follow is complex and not very clear. Furthermore, the length of the legislative procedure in Italy means, even if charges were made, the proceedings would take years to even start, let alone arrive to a final sentence.

It is worth noting that the consulted employer organisation disagrees with the statement that increasing levels of mobbing in the workplace are related to the economic crisis. Additionally, the employer organisation disagreed with the fact that mobbing is mentioned in relation to the autonomous agreement. According to the interview conducted in the framework of this study, the agreement has a narrower area of application and more focussed objectives, which do not include mobbing.

Since the autonomous agreement has not been implemented and no dissemination activities have been identified, so far there has not been an impact in the Italian context.

¹⁷⁹ ISTAT (2010) Il disagio nelle relazioni lavorative, Anni 2008-2009 (ISTAT (2010) The discomfort in labour relations, Years 2008-2009)

http://www3.istat.it/salastampa/comunicati/non_calendario/20100915_01/testointegrale20100915.pdf

¹⁸⁰ Intervita Onlus (2013) How much it cost the silence? National survey on economic and social costs of violence against women (Quanto costa il silenzio? Indagine nazionale sui costi economici e sociali della violenza contro le

donne)<http://www.intervita.it/public/CMS/Files/616/Intervita%20Ricerca%20Donne%202013%20BROCHURE%20SHORT.pdf>

A1.17 Latvia

A1.17.1 Introduction

In Latvia, the cooperation of social partners at national level takes place in the tripartite body – the National tripartite co-operation council (NTSP). OSH issues are discussed at the Labour affairs tripartite cooperation sub-council (DLTSA), a part of the NTSP institutional system. However, the risks of harassment and violence at work are not included in most collective agreements on sectoral and company level – with a few exceptions in sectors that have a high risk of third party *physical* violence (health care and transport sectors primarily). The Free Trade Union Confederation of Latvia (LBAS) has signed separate agreements with individual industry sectors that cover OSH issues. The prevention of harassment and violence at work is covered among other OSH aspects in these agreements, without giving these issues a particular priority. According to the interviews carried out in the framework of this study, work on OSH was low on the social partners' agenda during the last five years.

The Free Trade Union Confederation of Latvia (LBAS) and Employers' Confederation of Latvia (LDDK¹⁸¹) signed an agreement to implement the autonomous framework agreement on harassment and violence at work on 11 February 2008. The aim of the agreement between LBAS and LDDK was to implement the autonomous framework agreement literally, as it has been agreed by the European level social partner organisations.

According to the report¹⁸² and the interviews undertaken with the representatives of LBAS, LDDK, SME Forum and the Ministry of Welfare in the context of the present assignment¹⁸³, the main impact of the autonomous framework agreement has been to raise awareness of harassment and violence at work among the national level social partners, promote social dialogue on these topics, as well as the inclusion of this topic in training and information seminars.

Some statistics on the occurrence of physical violence, intimidation of employees and sexual harassment at the workplace exist in Latvia. However, the risk of emotional violence in the workplace remains poorly defined by the national legislation and is consequently poorly understood. Hence, incidences of emotional violence remain largely underreported. None of the consulted interviewees could demonstrate a clear link between the autonomous framework agreement and its impact on reducing the occurrence of harassment and violence at work. However, the implementation of the agreement did result in LBAS and LDDK working towards the objectives of the framework agreement.

A1.17.2 National health and safety legislation and policy on psychosocial risks

There is no legislation in Latvia that would define psychological violence in the workplace and regulate the allowed levels of psychological risk factors in work environments. However, several legal acts in Latvia have references to monitoring psychological and emotional factors at work.

The Latvian Labour Protection Law¹⁸⁴ transposes the EU Health and Safety Framework Directive. However, this Law does not make any direct references to violence and harassment at work, nor does it offer definitions of these concepts for the workplace. "Psychological load" is mentioned in the definition of "special risks" (Article 1(19)) without further defining the term. The effects of psychological factors are mentioned in Article 8(3)3,

¹⁸¹ LDDK and LBAS consistently use their Latvian acronyms also in texts in other languages. To ensure consistency these acronyms have also been used in this country report.

¹⁸² LDDK and LBAS report on the implementation of the European framework agreement on harassment and violence at work, April 2011.

¹⁸³ Study on the implementation of the autonomous framework agreement on harassment and violence at work – VT/2013/109

¹⁸⁴ Labour Protection Law, adapted on 20 June 2001 and entered in force on 1 January 2002
http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Labour_Protection_Law.doc

among other risks to be taken into account by the employer, when assessing the health and safety of the work environment.

The Regulation of Cabinet of Ministers "Procedures for the Performance of Internal Supervision of the Working Environment"¹⁸⁵ sets the rules to ensure the protection of health and safety for workers. This Regulation stipulates that psychological and emotional factors need to be considered as a part of the risk assessment in the work environment.

The Cabinet of Ministers "Procedures for Performance of Mandatory Health Examinations"¹⁸⁶, further stipulates that employees who are subject to psycho-emotional risk factors at work need to undergo an obligatory health check once every three years.

Both the above mentioned Cabinet of Ministers issue regulations that are in line with the provisions of the Labour Protection Law. Just like the law, these regulations do not feature definitions of harassment and violence at work (whether physical or psychological).

In addition to OSH legislation, Article 7 of the Latvian Labour Law stipulates that "everyone has an equal right to fair, safe and healthy working conditions, as well as to a fair work remuneration"¹⁸⁷. Article 29 of the Labour Law further forbids differential treatment. Among other things, it stipulates that:

Article 29(4): *"Harassment of a person and instructions to discriminate against him or her shall also be deemed to be discrimination within the meaning of this Law."*

Article 29(7): *"Harassment of a person within the meaning of this Law is the subjection of a person to such actions which are unwanted from the point of view of the person, which are associated with his or her belonging to a specific gender, including actions of a sexual nature if the purpose or result of such actions is the violation of the person's dignity and the creation of an intimidating, hostile, humiliating, degrading or offensive environment."*

Article 100(5) of the Labour Law gives employees the right to terminate their employment contract without complying with the specified notice period in cases where considerations of morality and fairness do not allow the continuation of legal employment relationships.

In line with Article 28 of the Labour Law *"the employer undertakes to [...] ensure fair and safe working conditions that are not harmful to health."* Article 101 of the Labour Law stipulates that employers are entitled to bring disciplinary action against or terminate the employment contracts with employees who have acted illegally or contrary to moral principles¹⁸⁸.

The issue of violence at work, either physical or psychological, is not mentioned in the Labour Law explicitly (it may be argued that it is implied in the provisions of Article 7 of the Labour Law presented above).

It could be argued that harassment and violence are also dealt with indirectly in the Satversme (Constitution) of the Republic of Latvia and in the Civil Law:

- Equal rights principle (article 91 of the Constitution)
- Protection of reputation and esteem (article 95 of the Constitution, article 1635 of the Civil Law¹⁸⁹),

¹⁸⁵ No. 660 of 2 October 2007

http://www.vvc.gov.lv/export/sites/default/docs/LRTA/MK_Noteikumi/Cab_Reg_No_660_-_Internal_Supervision_of_the_Work_Environment.doc

¹⁸⁶ No. 219 of 10 March 2009

http://www.vvc.gov.lv/export/sites/default/docs/LRTA/MK_Noteikumi/Cab_Reg_No_219_-_Procedures_for_Performance_of_Mandatory_Health_Examinations.doc

¹⁸⁷ Article 7(1) of the Labour Law, in force since 1 June 2002

http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Labour_Law.doc

¹⁸⁸ The Labour Law however does not specify if employers are responsible for psychological violence or harassment among its employees if they have not been formally informed about it.

¹⁸⁹ http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/The_Civil_Law.doc

- Inviolability of the person (article 96 of the Constitution).

No new legislation on adverse social behaviour at the workplace, including the consequences for offenders and reparations for victims, has been introduced since the signing of the autonomous framework agreement on harassment and violence at work. The representatives of the social partners interviewed indicated that the European level autonomous framework agreement had no impact on the development of the national labour legislation¹⁹⁰.

Recent ESF-funded research has been undertaken by LBAS on mobbing in the workplace in Latvia. The report published in 2012 notes that, currently, there is no legislation in Latvia that would define mobbing or psychological violence at work¹⁹¹. The study mentions the webpage of the association "Mobingstop"¹⁹² as a source of information on the topic for employers and employees.

The above mentioned study also shows that currently the responsibility of employers in situations of mobbing and psychological violence is not defined by Latvian legislation. As mentioned earlier in this section, Latvian legislation only includes general clauses about the responsibility of employers to ensure a just, safe and healthy work environment and to implement measures to reduce or eliminate risks due to psychological factors identified through risk assessment in their undertakings.

Consultations undertaken in the context of this study also confirmed that currently employers in Latvia are not obliged to introduce instruments and procedures for handling harassment and violence cases, aside from the general obligation to evaluate and address risks in the work environment. According to consultations, if enterprises chose to address these issues, this was done through corporate codes of ethics, mostly in place in bigger companies and branches of international firms.

The study on Mobbing at the workplace also discusses how employees can currently proceed in cases where they have been victims of mobbing, based on existing legal provisions. This includes a possibility to discontinue the work relationship based on important grounds (provided by Section 100 of the Labour Law), reporting to the employer and seeking disciplinary action (based on Section 90), if the employee wishes to continue the work relationship.

Further, the study states that employees can ask the employer to stop the mobbing or to prevent it. There is no regulation regarding compensations to victims of mobbing, but in line with Civil Law, an employee can claim moral compensation at court based on the above mentioned article 1635 regarding moral injury.

However, the social partners, interviewed in the context of this study, highlighted that employees very rarely complain about harassment and emotional violence, with the exception of cases where this violence has resulted in the loss of work capacity due to trauma (in which case according to the Regulation of the Cabinet of Ministers employees are entitled to compensation). The Latvian legislation¹⁹³ includes psychosocial factors as possible causes of occupational diseases. However, these are seldom linked to the conditions at work. According to the SLI data¹⁹⁴ there were four cases in Latvia in 2012 (out

¹⁹⁰ One social partner highlighted the relatively low number of harassment and violence cases at work identified in the country, naming this as a possible reason for these issues being low on political agenda and the perceived absence of a need to tackle these issues through legislative amendments. It must be however also mentioned that other social partners highlighted that many cases of harassment and psychological violence may go underreported due to the reasons outlined in this report.

¹⁹¹ N. Mickeviča (2012) Mobings darba vietā (Mobbing at workplace), LBAS, pg. 19.
http://www.lbas.lv/upload/stuff/201203/mobings.darba.vieta_29.02.2012_1.pdf

¹⁹² <http://www.mobings.lv/index.html>

¹⁹³ The Cabinet of Ministers Regulation No. 908 of 6 November 2006 "Occupational disease investigation and tracking procedures" (in Latvian only: <http://likumi.lv/doc.php?id=147550>)

¹⁹⁴ SLI 2013 Annual Report, pg. 70 (in Latvian only: http://vdi.gov.lv/files/parskats_2013.pdf)

of a total of 1,059) where psychosocial factors were identified as causes of occupational diseases and 10 such cases were registered in 2013 (out of a total of 1,510).

The 'Mobbing at the workplace' study also states that currently Latvian legislation does not include any indication of the burden of proof in mobbing cases. It then draws parallels between situations of mobbing and differential treatment (covered by the Labour Law), stating that the burden of proof rests with employer once an employee has submitted a formal complaint about a mobbing situation. The report, however, also states that an employee may be in a difficult position to substantiate such a complaint and the employer to refute it, provided the concept is not legally defined¹⁹⁵.

Finally, the study recommends amendments to legal acts that would introduce a distinction between mobbing, stress and violence at workplace, their definitions in the work environment. Further, it recommends introducing a system for their monitoring. The study also recommends social partners to come up with guidelines that would provide examples for prevention and monitoring of mobbing at work. According to the representative of LBAS, the development of such guidelines is still planned. However, it is not currently a priority.

A1.17.3 Implementation of the framework agreement

As mentioned the European autonomous agreement has been implemented through a Joint Declaration¹⁹⁶ signed in 2008 between [LDDK](#) and [LBAS](#). After this agreement a number of initiatives were carried out to support the national implementation. These included several information meetings of LBAS with the regional trade union consultants and organisations, a conference on violence at work in the healthcare sector, LDDK information seminars for their members and other employers, as well as mainstreaming of the issues covered by the autonomous agreement into some collective agreements at local and sectoral level¹⁹⁷.

While LDDK and LBAS continue to promote the inclusion of harassment and violence at work issues in local and sectoral agreements, the topics have not been a priority for the last four years. Aside from the above mentioned LBAS study on 'Mobbing at the workplace', the topics of harassment and violence at work were also included in the study 'Work conditions and risks in Latvia 2012-2013'¹⁹⁸. One of the thematic annexes of this report was entitled "Psycho-emotional work environment risk factors" and contains the results of employers' and employees' surveys on these risks¹⁹⁹, including a sub-section on 'Physical violence, intimidation and sexual harassment at the workplace'.

Also, in relation to a seminar²⁰⁰ involving European and Baltic social partners held in Tallinn in 2012, the social partners from the Baltic countries prepared action plans for the implementation of the framework agreement on harassment and violence at work²⁰¹. At the time, Latvian social partners agreed to develop guidelines for the implementation of the autonomous agreement. However, due to shifting priorities in the post-crisis period, the development of guidelines has been postponed until these questions find greater resonance in society.

¹⁹⁵ In cases mobbing is undertaken by colleagues, rather than employer, the study recommends introducing a clause to the Labour Law placing the burden of proof with the accused party.

¹⁹⁶ The Declaration does not foresee concrete rights or responsibilities of the signing parties, but rather a joined commitment to implement the European autonomous agreement.

¹⁹⁷ LBAS. PowerPoint presentation "Implementation of the European framework agreement on harassment and violence at work in Latvia" (2010)

¹⁹⁸ A study implemented in the context of an ESF project. Full report (no annexes) can be found at: <http://www.lddk.lv/wp-content/uploads/2014/01/Working-conditions-and-risks-in-Latvia-2012-2013.pdf>

¹⁹⁹ The annex presents data from the surveys undertaken among employers and employees on a number of risk factors, including direct contact with people who are not employees, monotonous work, lack of time, carrying and moving heavy objects, draught and many others.

²⁰⁰ EU Social Dialogue and the implementation of EU Social Dialogue Instruments, 22-23/05/12 in Tallinn, Estonia <http://erc-online.eu/wp-content/uploads/2014/04/2013-00109-E.pdf>

²⁰¹ The action plans focused on the implementation of three Framework Agreements regarding Telework, Work related stress and Harassment and violence at work.

Examples of past activities linked to the implementation of the framework agreement at the sectoral level include the conference 'Against violence and harassment in the work place' organised in 2009 by the Trade Union of Health and Social Care Employees of Latvia ([Latvijas Veselības un sociālās aprūpes darbinieku arodbiedrība, LVSADA](#)) and the conference in the education sector 'Stress and violence free work environment' organised by the Latvian Trade Union of Education and Science Employees ([Latvijas Izglītības un zinātnes darbinieku arodbiedrība, LIZDA](#)).

The outcomes of these conferences have been described in LBAS' information booklet, entitled "Handbook on the implementation of the European social partners work programme 2009-2010 and European social partners' framework agreements"²⁰². The handbook outlines the content of the framework agreement and provides practical examples from interviews with representatives of trade unions, employer organisations and other partner organisations regarding their practical implementation and related challenges²⁰³. Additionally, LBAS, in cooperation with the Ministry of Welfare, has produced and published information material on the psychosocial work environment²⁰⁴.

LDDK and LBAS also implemented ESF funded projects that were concluded at the end of 2013, that provide consultations on labour rights and protection. The organisations are required to continue these consultations for an additional five years – as a means of ensuring the sustainability of the project. The project also developed a website (www.darbariski.lv) for employers to assess the OSH situation, as well as to promote a healthier work environment. Further, LBAS offers consultations free of charge to its members. An interviewed representative of LBAS noted that a high number of such consultations were already delivered, but also indicated that none of these related to issues covered by the framework agreement. Outside the scope of these consultations, the representative also pointed out that they are aware of only one case of sexual harassment at work, which was handled anonymously and a settlement was reached before bringing the case to the court. It was also noted that it is extremely difficult to find proof for each parties' claims in a dispute, since each side can produce arguments why the other side is interested in slander, especially when no external witnesses can be consulted and the harassment was kept secret. A representative of LDDK also reported that there have been no consultations with employers specifically related to violence or harassment at work.

Further, OSH issues in SMEs have received additional attention in Latvia since the SME Forum²⁰⁵ was created in 2012. The aim of the SME Forum is to channel the relevant information to SMEs on national and EU policy initiatives and to provide a feedback link from SMEs to policy makers. SME Forum organises 'Small business day' in Latvia's regions with the support of LBAS and the State Revenue Service (SRS), promoting, among other things, OSH issues. In addition, MVU Forum plans to sign an agreement with LBAS on the implementation of EU social partner framework agreements. According to the representative of the Forum, promoting awareness about the employers' duty to protect workers against violence and harassment at work is especially important in SMEs. To achieve this, particular instruments need to be put in place to identify such situations and help to prevent them.

LBAS has also signed a cooperation agreement²⁰⁶ with the State Labour Inspectorate (SLI) regarding cooperation in labour relations and occupational health and safety areas. In the

²⁰² Rokasgrāmata par Eiropas sociālo partneru darba programmas 2009.–2010. gadam un Eiropas sociālo partneru pamatnolīgumu īstenošanu un ieviešanu praksē. Rīga, LBAS. 2010. http://www.lbas.lv/upload/stuff/201004/rokasgramata_es_programmas.pdf

²⁰³ The handbook covers three European social partners' framework agreements on teleworking, stress, harassment and violence at workplace.

²⁰⁴ Psihosociālā darba vide. Within the project "Practical application of the legislation regarding labour relations and occupational safety in sectors and companies" (No. 1DP/1.3.1.3.2./08/IPIA/NVA/001) with financial support of the EU European Social Fund and Latvian government. Rīga: LBAS, Ministry of Welfare, SIA "Inspecta Prevention".2010. <http://www.lbas.lv/upload/stuff/201103/psihosocialadarbavide.pdf>

²⁰⁵ an organisation representing undertakings with less than 50 workers. Enterprises with more than 50 workers and their associations are represented by LDDK.

²⁰⁶ LBAS and the SLI. Agreement on cooperation. 26 April 2012.

framework of this agreement, LBAS and the SLI have agreed to inform each other about possible breaches of the labour legislation or in the area of OSH. Among other things, the agreement also aims to promote risk assessment in enterprises that have trade union representatives and involve the employee representative in this assessment. The agreement does not specifically refer to the assessment of psycho-emotional risk factors.

According to a representative from the Ministry of Welfare, materials and tools aimed at the prevention of accidents at work and occupational diseases are developed on a yearly basis. These and other activities are funded from the state budget and agreed upon in the Information Council, consisting of the representatives of the Ministry, the SLI, LDDK and LBAS, and ensuring the involvement of social partners in the planning of these activities. The representative of the Ministry also reported that increasing attention is being devoted to public information about psycho-emotional risks, as Latvia takes part in an EU-level campaign focusing on this topic²⁰⁷.

A number of initiatives have also been implemented by NGOs specifically on the topic of harassment and violence in the workplace. One example, is the awareness raising campaign run by the crisis centre SKALBES as part of the EU funded project 'Violence against Women in the workplace...Let's talk about it!'. The project aims to collect good practices on the prevention of mental health issues linked to violent and harassing behaviour against women in the workplace, as well as raise awareness of this issue in Latvia²⁰⁸. SKALBES also runs a support service ('Support Circles') in cooperation with the Centre for Public Policy ('Providus'²⁰⁹), to support victims of violence at the workplace.

A1.17.4 Incidence of psychosocial risks and trends

As mentioned, the ESF project publication *Work conditions and risks in Latvia 2012-2013*²¹⁰ includes data from surveys conducted among employers and employees surveys on, among other things, the occurrence of physical violence, intimidation and sexual harassment at the workplace (outlined in Table 1.1). This study also presents data from the SLI regarding accidents at work that were caused by violence, including such accidents that resulted in death. It needs to be noted that due to the relatively small number of such cases, it is difficult to identify general trends in the occurrence of violence and harassment at workplace in Latvia, especially considering the problem of underreporting highlighted. The data from the SLI may be indicative of the scale of psychological violence at the workplace, only to the extent that it is related to cases of physical violence that actually result in body harm, work incapacity or death.

According to this employers' survey, 3%²¹¹ of employers reported that their employees have been subjected to physical violence in 2013. This is lower than in 2010 (9%) and slightly higher than in 2006 (2%)²¹². In 2013, physical violence was more often reported by employers in the health and social care sector (39% of all respondents from this sector – or 20 cases). The incidence of physical violence in other sectors was limited to one to three

http://www.lbas.lv/upload/stuff/201205/vdi_lbas_vien_2012.pdf

²⁰⁷ https://www.healthy-workplaces.eu/lv?sourceid=banner&utm_source=home&utm_medium=banner&utm_campaign=campaign

²⁰⁸ Violence against women at work... Let's talk about it! The mental health impacts of violence and harassment against women at work. Mental Health Europe –Sante Mentale Europe aisbl, 2009 – 2010; 2011, <http://www.violence-against-women.eu/home.html>.

²⁰⁹ http://www.providus.lv/public/index_en.html

²¹⁰ A study implemented in the context of an ESF project. Full report (no annexes) can be found at: <http://www.lddk.lv/wp-content/uploads/2014/01/Working-conditions-and-risks-in-Latvia-2012-2013.pdf>

²¹¹ The way data is presented in the report (i.e. in percentages of respondents), it is impossible to deduct a concrete number of cases reported. Furthermore, these 3% include employers who have reported that "All their employees", "More than a half of employees", "Around a half of employees" and "Less than a half of employees" have faced violence. So the number of actual cases would also depend on the size of the firm represented by the employer.

²¹² The question posed to the employers was "Please indicate how many of your employees have been subject to the following risk factors at workplace? (n=1044 in 2013 and 2010, n=1058 in 2006).

cases. According to the 2010 employers' survey, employees were most often subject to physical violence in the health and social care sector (35% of respondents from this sector or 27 cases), while in 2006 28 physical violence cases were reported and only four of these occurred in the health and social care sector. According to the 2013 employers' survey physical violence was reported to a greater extent in the big companies with more than 250 employees (around 40%), older companies (11% in companies established before 1990) and in the public sector, as opposed to private and non-government sectors.

Similarly employers were asked to comment on how many of their employees have been subject to intimidation at their workplace. In 2013, 3% of employers reported that intimidation is a problem in their workplace, with 9% in 2010 and 2% in 2006 stating this. In total, according to the report, 43 intimidation cases were reported in 2013, as opposed to 84 cases in 2010 and 28 in 2006. Again, according to the employers, intimidation at the workplace is a major problem in the health and social care sector (15 cases in 2013), while employers from other sections reported one or two cases. The health and social care sector was also the sector where most intimidation cases were reported by employers during the 2010 and 2006 surveys. Just like physical violence, intimidation is a problem particularly in the public sector and larger companies.

Around 1% of respondents to the employers' survey reported that their employees have suffered from sexual harassment in 2013, as compared to 3% of employers (or 34 respondents) in 2010 and one respondent in 2006. Again, most such cases have been reported in the health and social care sector (11% or 9 cases) and individual cases in other sectors in 2013. Around 20% of employers from the health and social care sector reported incidences of sexual harassment in 2010 (a total of 13 cases). Sexual harassment was more often reported by representatives of big companies (16% of respondents from companies with 250 and more employees) and in the public sector.

The data from the employers' survey seems to suggest that employees in the health and social care sector, are most often subject to physical violence, intimidation and sexual harassment at their workplaces. It can be assumed that the cases reported by the employers related to acts of physical violence, intimidation and sexual harassment were perpetrated mostly by third parties.

Table A1.4 How often do you have the following situations at your place of work?

	Undesired sexual harassment at workplace			Psychological intimidation or threats of it at workplace			Physical violence or threats of it at workplace		
	2006	2010	2013	2006	2010	2013	2006	2010	2013
Rather often	4	2	2	55	64	55	13	9	13
From time to time	6	6	6	180	189	152	57	53	43
Rarely	29	21	24	254	279	255	88	123	106
Never	2379	2326	2131	1935	1829	1904	2261	2176	2201
Hard to say	37	23	38	31	17	17	36	17	20
Often+time to time+rarely	1.6%	1.2%	1.3%	19.9%	22.4%	19.4%	6.4%	7.8%	6.8%
Never	96.9%	97.8%	89.4%	78.8%	76.9%	79.9%	92.1%	91.5%	92.4%
Hard to say	1.5%	1.0%	1.6%	1.3%	0.7%	0.7%	1.5%	0.7%	0.8%
Total respondents	2455	2378	2383	2455	2378	2383	2455	2378	2383

Source: *Work conditions and risks in Latvia 2012-2013* (n=2455 in 2006, n=2378 in 2010 and n=2383 in 2013)²¹³

Data from the employee's survey offers different data on the frequency of violence and harassment in the workplace. Overall, in 2013 6.8% of the respondents indicated that they have faced physical violence at work. This is more than a double of the share reported by employers (3%) that year. Around 19% of the respondents to the employees' survey reported that they face intimidation at their workplace, either often, time to time or rarely, while only 3% of employers reported this as a problem in 2013. Furthermore, 1.3% of

²¹³ The 2013 data for sexual harassment provided in the report does not add up to 100% (sum of the responses is 92.4%).

employees reported that they faced situations of sexual harassment in the 2013 survey (around 1% of employers reported that this is a problem at their workplace). According to the report, women face situations of sexual harassment, violence and intimidation more often than men. And most respondents reporting such incidents are aged 25-44 and receive their salary "in an envelope"²¹⁴.

The results of the employees' surveys confirm that incidences of physical violence (18%), psychological intimidation (30%) and sexual harassment (4%) most frequently occur in the health and social care sector. The share of respondents who reported psychological intimidation at work increases with the education level of the respondents (28% of respondents with higher education reported that they face psychological intimidation at work in 2006). There is also a higher incidence of psychological intimidation, as a person rises up the carrier ladder (32% of respondents in the positions of higher management reported having faced psychological intimidation, 27% in middle management, 24% among specialists, 22% among assistants, around 30% in the service sector and in the military, 16% among qualified workers and 10% among low skilled workers.

Those respondents to the employees' survey who indicated that they encountered incidents of physical violence or threats of physical violence, psychological intimidation and sexual harassment were further asked to name the perpetrators. The overview of their responses is provided in Table 1.2.

Table A1.5 Which persons at your workplace have caused the following situations?

	Undesired sexual harassment at workplace			Psychological intimidation or threats of it at workplace			Physical violence or threats of it at workplace		
	2006	2010	2013	2006	2010	2013	2006	2010	2013
Employer	3	2	1	91	122	74	2	5	2
Direct supervisor	3	1	1	122	129	104	7	6	5
Other colleagues	8	6	3	75	78	88	14	9	22
Clients	18	15	20	269	291	273	118	146	123
Others	-	1	1	9	12	9	9	10	6
Hard to say	9	5	6	21	16	22	9	16	12
Employer+supervisor	15.4%	10.3%	6.3%	43.6%	47.2%	38.5%	5.7%	7.0%	4.3%
Other colleagues	20.5%	20.7%	9.4%	15.3%	14.7%	19.0%	8.9%	5.7%	13.6%
Clients	46.2%	51.7%	62.5%	55.0%	54.7%	59.1%	74.7%	92.4%	75.9%
Others	NA	3.4%	3.1%	1.8%	2.3%	1.9%	5.7%	6.3%	3.7%
Hard to say	23.1%	17.2%	18.8%	4.3%	3.0%	4.8%	5.7%	10.1%	7.4%
Total respondents	39	29	32	489	532	462	158	158	162

Source: *Work conditions and risks in Latvia 2012-2013* (2006: sexual harassment n=39, psychological intimidation n=489, physical violence or its threats n=158; 2010: sexual harassment n=29, psychological intimidation n=532, physical violence or its threats n=158; and 2013: sexual harassment n=32, psychological intimidation n=462, physical violence or its threats n=162)²¹⁵

The data from the employees' survey suggest that clients (including children and their parents) are the persons account for half of all incidences of sexual harassment and psychological intimidation and a large majority of situations resulting in physical violence. However, significant shares are also caused by other colleagues and direct work supervisors or employers. Around 40% of respondents, who reported facing psychological intimidation at the workplace, indicated that this is the result of actions by their direct supervisors or employers. In 2006, around 36% of respondents who reported situations of sexual harassment pointed out that these had been caused by their colleagues or employers. In 2010 this number was as high as 31% and 16% in 2013.

²¹⁴ The term used in Latvia to indicate that the salary or a part of the salary is paid in cash without employers paying social security contributions from this part of the salary.

²¹⁵ The percentages in the table amount to more than 100% - this suggests that some employees were facing threats from several groups among the listed types of perpetrators.

As mentioned, SLI collects information about reported accidents at work, including those caused by violence and those with a lethal outcome. An overview of this data is presented in Table 1.3.

Table 1.3 Accidents at work caused by violence in Latvia

Year	Accidents at work caused by violence	Lethal accidents at work caused by violence
2002	49	4
2003	40	5
2004	39	2
2005	59	4
2006	94	1
2007	97	0
2008	101	2
2009	82	2
2010	106	1
2011	91	1
2012	80	2
2013	86	2

Source: SLI 2013 Annual report²¹⁶

According to the 2013 SLI Annual report around 5% of all the accidents at work were due to violence that year. The SLI data also indicated that in the period 2002-2013 26 people died as a result of violence at work. While there the number of incidences of lethal violence has decreased in the last 10 years, the number of accidents at work due to violence has, in fact, been rising from 49 in 2002 to 86 in 2013, with a considerable spike during the crisis years – 101 in 2008 and 106 in 2010.

A breakdown of the latest data received from the SLI²¹⁷ shows that in the past five years (2009-2013) most accidents at work due to violence have been recorded in the land transport sector, (23% of all cases), followed by security services (13%), postal services (12%), healthcare (12%) and retail (7%) sectors. Of all the accidents as a result of violence, 2% were classified as serious and 2% as lethal. In other words, two people, on average, sustained serious injuries and one or two persons suffered lethal accidents at work due to violence every year in this period. Most people involved in accidents at, as a result of violence, were 25 to 54 years old (71%)²¹⁸, 62% were male and 38% female.

A1.17.5 Impact of the implementation of the framework agreement

According to interviews with the social partners conducted in the framework of this study, the framework agreement on harassment and violence at work has helped the Latvian social partners to promote dialogue in the areas covered by the agreement, led to the organisation of a number of information activities for stakeholders (conferences, seminars and meetings with members) and contributed to a better institutional awareness of the topics covered by the agreement (as indicated by the number of publications discussing this topic). As compared to the previous involvement of the social partners in the field of OSH in Latvia, which was reported as weak, the main impact of the autonomous framework agreement seems to have been to increase social partner involvement in this area, in particular with regard to psychosocial risks.

Apart from raising awareness amongst members of social partner organisations and provisions covering violence and harassment issues being included in sectoral social partner

²¹⁶ http://www.vdi.gov.lv/files/parskats_2013.pdf

²¹⁷ The data were provided by a representative of the LDDK

²¹⁸ The data is not correlated with the overall size of the labour population in these age groups. According to the SLI data, 11% of the people involved in accidents at work due to violence were 18-24 years old, 28% were 25-34 years old, 22% had 35-44 years, 22% were 45-54 years old, 15% were 55-64 years of age and 2% were over 65.

agreements, there was no observable impact of the autonomous framework agreement on the wider awareness of the public or on company practices.

A1.18 Liechtenstein

A1.18.1 Introduction

In Liechtenstein, social partners have to be consulted by the government concerning all legislation relating to employment and working conditions, including OSH. However, it depends on the government in power, whether social partners are encouraged to proactively work on the development of legislative changes or proposals. In general, social partners negotiate collective agreements at industry level. These agreements can be extended by law to all workers of the sector or are valid only between those that signed the agreement. In collective agreements, social partners have recently introduced a clause that aims to guarantee a respectful work environment and to prevent forms of psychosocial risks, including sexual harassment, violence and mobbing. Currently, in 14 subsectors in manufacturing an extended sector collective agreement exists, in which the trade union **Liechtenstein** Employees' Association (LANV) has managed to include an article about 'personal integrity and equal opportunities'. However, no reference or action related to the Autonomous Framework agreement has been found.

In the recent past, incidences of mobbing seem to have increased as well as psychosocial risks in general (particularly stress and burn-out). However, no specific data is currently available. LANV, the sole trade union has increased its awareness raising activities recently and is about to develop a brochure on how to prevent and deal with cases of mobbing. The occupational health and safety legislation states that employers have to implement a risk assessment, also covering psychosocial risks. The general labour law protects employee's personal integrity, also from third parties, and explicitly covers sexual harassment. However, the definitions under OSH and labour law do not provide a specific definition for violence, harassment or mobbing.

A1.18.2 National health and safety legislation and policy on psychosocial risks with specific focus on harassment and violence

The decree on health and safety at the workplace (*Verordnung vom 16. Juni 1998 über die Sicherheit und den Gesundheitsschutz der Arbeitnehmer am Arbeitsplatz*) specifies that the employer has to take into account psychological risks during the risk assessment. Furthermore, the law on industry, manufacturing and commerce (*Arbeitsgesetz from 29 December 1966*) includes under Article 6 (about the employers obligations on health and safety) that the employer has to guarantee the integrity of each employee's personality and explicitly mentions sexual harassment in this regard. In fact, the employer has to protect employees against sexual harassment, also from third parties. In general, harassment and violence is thus covered by prevention measures from the employer side. However, "mobbing" or violence are not specifically determined.

Further, the labour inspectorate (Amt für Volkswirtschaft) provides general information about mobbing and prevention by providing links to respective material from the Swiss inspection office. A significant share of workers are insured by the Swiss occupational insurances. This means that data on incidences of occupational accidents or leave, due to incidences of psychosocial risks, violence or harassment, would be recorded by the Swiss insurances. However, in Liechtenstein only cases that were directly signalled to the inspectorate are officially known. The number of incidences treated by the inspectorate is very low.

In general, the inspectorate works with companies and controls preventive measures. For the next five years, the inspectorate will focus its control and prevention activities on the prevention of psychosocial risks. Specific training has been provided to labour inspectors. Thus, the prevention of psychosocial risks can be considered a priority.

A1.18.3 Implementation of the framework agreement

The agreement has not been implemented directly. A number of social partner activities exist on the issue of harassment and violence. Legislation is in place to protect the integrity of workers but could be improved in particular with regard to the definition of mobbing and all forms of harassment.

Psychosocial risks seem to be a factor that is discussed more broadly. Currently, the trade union LANV offers seminars on how to prevent mobbing at the workplace. Due to the fact that mobbing and

harassment is not specifically defined by law, the union has exerted pressure to insert an article about 'personal integrity and equal opportunities' into sector collective bargaining agreements. Currently, in 14 subsectors in manufacturing an extended sector collective agreement exists. The inserted article on 'personal integrity and equal opportunities' foresees that workers and employers work together to establish an environment in the company that encourages open communication and respectful treatment, so that abuse, violence, sexual harassment and mobbing can be prevented. This Article is included in all agreements that the trade union concludes. It aims in particular to raise awareness and to determine specific preventive policies. The LANV is also preparing a booklet on mobbing that provides more information about this practice and how employees can protect themselves. The LANV is also preparing to set up a mobbing counselling service for employees and employers to provide more extensive and concrete help in practice.

A1.18.4 Incidence of psychosocial risks and trends with specific focus on harassment and violence

No information is available on the incidence of psychosocial risks.

A1.18.5 Impact of the implementation of the framework agreement

No specific text, collective agreement or action referred to the autonomous agreement has been implemented.

A1.19 Lithuania

A1.19.1 Introduction

In Lithuania, social dialogue structures are relatively weak²¹⁹. The union density is 14%²²⁰ and collective bargaining coverage is among the lowest in Europe²²¹. Collective bargaining can take place at all levels; however, collective agreements are typically concluded only at company/organisational level. At the national level social partners can reach agreements to set out general priorities and directions of policies. However, only a few exist and these do not focus on OSH issues.²²²

National dialogue on OSH takes place in the tripartite Occupational Safety and Health Commission (*Darbuotojų Saugos ir Sveikatos Komisija*) established by the Law on Safety and Health at Work (2003)²²³. This is the *consultative* body for the Minister of Social Affairs on issues of OSH legislation and strategy, allowing the social partners the possibility to comment on draft legislation and policies.²²⁴ Accordingly, while the legal framework seems to provide for social partners' involvement in OHS, their actual role and activism in OHS seems to remain limited. The same applies to the role of workers' representatives at the enterprise level, as well as to the commitment of high-level management to OHS.²²⁵

As was the case with the agreements on telework and stress, no actions have thus far been taken at national level to implement the autonomous agreement.

Despite increasing concerns about violence and harassment at work in Lithuania, this problem remains underemphasised and often unreported. This situation is conditioned by (1) the lack of information on harassment at work both among both workers and among employers; (2) and an unwillingness to report and speak up about these problems.

A1.19.2 National health and safety legislation and policy on psychosocial risks

In Lithuania, occupational health and safety is mainly regulated by the Labour Code,²²⁶ the Law on Safety and Health at Work (2003),²²⁷ and several administrative regulations adopted pursuant to it. Relevant provisions regarding (the definition of) harassment are also contained in the respective laws on equal treatment.²²⁸

The *Law on Safety and Health at Work* does not explicitly mention violence (nor does the Labour Code) but – in line with the EU Framework Directive on OHS - imposes the general duty upon the employer to ensure safe and healthy working environment in all aspects related to work. This includes psychosocial factors. Moreover, from Art. 44(1) and (4) of the Law on Safety and Health it becomes clear that instances of violence related to work –

²¹⁹ M. Mailand & J. Due (2004), Social Dialogue in Central and Eastern Europe: Present State and Future Development, *European Journal of Industrial Relations*, Vol. 10 p. 179. See also Commission Staff Working Paper on the Implementation of framework agreement on stress, SEC (2011) 241 final, p. 18.

²²⁰ European Agency for Safety and Health at Work, European Risk Observatory Report (2012), *Worker representation and consultation on health and safety. An analysis of the findings of the European Survey of Enterprises on New and Emerging Risks (ESENER)*, p. 22.

²²¹ SEC (2011) 241 final, p. 60; Eurofound report, *Social Dialogue in Micro and Small Companies*, 2014, p. 14.

²²² The same conclusion has been reached in the Commission Report regarding the implementation of framework agreement on work-related stress, SEC (2011) 241 final, p. 60. This (low coverage by collective agreements) has been confirmed by email correspondence with the Lithuanian authorities (Ministry of Labour and Social Security) with regard to institutions providing social services.

²²³ Art. 6 *Lietuvos Respublikos Darbuotojų Saugos ir Sveikatos Įstatymas*, 1 July 2003, IX-1672, last amended 15 July 2014.

²²⁴ *Ibid.*

²²⁵ European Agency for Safety and Health at Work, European Risk Observatory Report (2010): *European Survey of Enterprises on New and Emerging Risks. Managing safety and health at work*, p. 25 et seq.

²²⁶ *Lietuvos Respublikos Darbo Kodeksas*, 4 June 2002, IX-92620, last amended 10 July 2014.

²²⁷ *Lietuvos Respublikos Darbuotojų Saugos ir Sveikatos Įstatymas*, 1 July 2003, IX-1672, last amended 15 July 2014.

²²⁸ Law on Equal Opportunities (men and women), *Moterų ir Vyrų Lygių Galimybių Įstatymas*, 1 december 1998, VIII-947, last amended on 15 July 2014 and Law on Equal Opportunities, *Lygių Galimybių Įstatymas*, 18 November 2003, No. IX-1826, last amended 2 July 2013.

where they cause damage – are considered as work-related accidents which may be investigated by the Labour Inspectorate. The inspectorate, however, notes that reporting of violence, in particular psychological violence, is rare. Psychological violence at work is not explicitly covered by Lithuanian health and safety legislation.²²⁹

According to the Law on Health and Safety at Work - and in line with the requirements of the EU Framework Directive - the employer is responsible for conducting *risk assessment* at the workplace. The procedure for assessing occupational risk is governed by the Regulation for Occupational Risk Assessment approved by Order No A1-159/V-612 of the Minister for Social Security and Labour and the Minister for Health of the Republic of Lithuania of 16 October 2003 (Žin., 2003, No 100-4504). In 2012, the New Regulations on Occupational Risk Assessment were approved by the Order No A1-457/V-961.

The regulation for occupational risk assessment provides that such assessment includes - next to biological, chemical, ergonomic and other – psychosocial factors (Art. 3 and Art. 16(2) of the regulation). Such factors are defined as factors which - due to conditions of work, work requirements, work organisation, work contents and relations among workers as well as among workers and the employer - cause psychological stress to workers. Psychosocial factors are to be assessed on the basis of the 'Methodological instructions regarding assessment of psychosocial risk factors' of 2005.²³⁰ This methodological guidance was approved following the implementation of the Framework agreement regarding work-related stress.²³¹ It defines work-related stress as a worker's reaction to the adverse psychosocial factors regarding working conditions, work requirements, work organisation, work contents and work relationships (those among workers themselves and among workers and the employer).²³² Risk assessment must be followed by the development of a suitable prevention strategy, which must also be approved by the employee health and safety representative. A leaflet of the State Labour Inspectorate (referred to above) contains recommendations regarding psychosocial risk factors and assessing stress at work and advice to workers, employers and workers' representatives.²³³

While the main provisions relating to OSH do not explicitly cover the term 'violence', as discussed above, this is different with regard to harassment. The Labour Code provides that *sexual* harassment constitutes a gross breach of work duties which may attract disciplinary sanctions.²³⁴ The Law on Equal Opportunities (general) equally considers harassment as a form of discrimination when conducted on one of the grounds for discrimination, if it aims at or results in violating the dignity of a person and strives to create or creates an intimidating, hostile and degrading or offensive environment. Under this law, these grounds include sex, race, nationality, language, ethnic origin & affiliation, social status, religion and beliefs, age, sexual orientation and disability.²³⁵ The Law on Equal Opportunities (of men and women) considers sexual harassment as a form of discrimination and defines it as undesirable conduct related to sex of a person, which aims at or results in violating the dignity of a person, especially by creating an intimidating hostile, degrading, humiliating, offensive environment.²³⁶ This legislation is primarily aimed at implementing the EU equality directives.

In addition to those provisions, the Criminal Code contains more general (relevant not only in the workplace context) provisions regarding sexual harassment, defamatory statements and insult.

²²⁹ Physical violence in general (not only in workplace context) is addressed and exposed to criminal liability by the Criminal Code, Art. 140.

²³⁰ *Psichosocialinių Rizikos veiksmų tyrimo metodiniai nurodymai*, approved by Minister's order of 24 September 2005, No. V-669/ A1-241.

²³¹ SEC (2011) 241 final, p. 60.

²³² Para. 2 of the guidance.

²³³ Valstybinė Darbo Inspekcija, *Psichosocialiniai rizikos veiksniai ir streso darbe vertinimo rekomendacijos* 2012.

²³⁴ Arts. 235-237 Labour Code.

²³⁵ Art. 2(5) *Lygių Galimybių Įstatymas*, 18 November 2003, No. IX-1826, last amended 2 July 2013.

²³⁶ Art. 2(6) *Law on Equal Opportunities (of men and women)*, *Moterų ir Vyrų Lygių Galimybių Įstatymas*, 1 december 1998, VIII-947 last amended on 15 July 2014.

There is no explicit mention of psychological violence (mobbing) in the applicable workplace legislation. This has implications for, *inter alia*, enforcement, as discussed further below.

There is no new legislation relating to work-related stress, violence or harassment being currently drafted in Lithuania and there are no pending (or planned) legislative proposals in this regard.

A project currently carried out (2013-2014) by the Hygiene Institute aims at assessing the psychological risk factors of employees in the mental health sector and preparing recommendations for improvement of psychosocial work environment of these workers.²³⁷

As mentioned above, in 2006 the Minister of Health approved a training programme on assessment of ergonomic and psychosocial risk factors,²³⁸ which aims at awareness-raising: informing OHS professionals about psycho-social risk factors, their impact on health and their assessment using modern methods. A number of seminars or consultations are organised by the Labour Inspectorate.

The difficulties in establishing the *actual* levels of compliance with OHS legislation are well-known and well-documented.²³⁹ The data provided by the respective labour inspectorates in different European countries are only of limited help in this respect. First, the available (annual) enforcement reports of such inspectorates only cover *detected* noncompliance. Given the fact that only a small proportion of business organisations will be inspected in a given year, the levels of *undetected* noncompliance will remain unknown.²⁴⁰ This is further exaggerated by the fact that violations relating to violence and harassment are much more difficult to detect/identify when compared to, for example, violations of the applicable technical standards. With regard to the data regarding *detected* noncompliance to be found (at least partially) in the State Inspectorates' reports, the data provided is not specific enough to ascertain the numbers of violations with regard to workplace violence and harassment. According to the Annual report of the Lithuanian Labour Inspectorate, the inspectorate has carried out 5429 inspections in 2013 and identified 28124 'irregularities' (the term does not contain any indication as to their seriousness). No specific information is available on the level of infringements relating to psycho-social risks; 12,4 % of irregularities were related to risk assessment.²⁴¹

In 2011, the Labour Inspectorate has conducted inspections in 13 public institutions providing social services, checking the work conditions of social workers. It was reported that in 7 out of those institutions, social workers have been subject to psychological or physical violence.²⁴²

Generally, in cases of violence, employees or their representatives may file **complaints** to the Labour Inspectorate. Yet, according to the inspectorate, complaints about violence are extremely rare. In the interviewees' view, this is complicated by the fact that the legal provisions do not explicitly address psychological violence/mobbing. The difficulty of collecting *evidence* to prove a phenomenon as elusive as mobbing was also listed among the factors inhibiting complaints to the inspectorate. This may further be related to the rather high degree of tolerance of the phenomenon of mobbing in Lithuania, discussed under section 1.1. According to an interviewee, lack of reporting of instances of violence does not inevitably mean its absence but the widespread reluctance to 'publicise' it. Finally, this

²³⁷ Vilniaus miesto psichikos sveikatos slaugytojų psichosocialinių darbo (taip pat ir smurto darbe) veiksmų įvertinimas ir rekomendacijų slaugytojų psichosocialinės darbo aplinkos gerinimui parengimas (2013-2014), available at http://www.hi.lt/content/prof_sveik_tyrimu_skyrius.html, last accessed on 29 September 2014.

²³⁸ Training programme on assessing psycho-social risk factors, approved by Order No V-12 of the Minister for Health of the Republic of Lithuania of 4 January 2006 (Žin., 2006, No 5-179).

²³⁹ See for example L. Tilindyte (2012), *Enforcing Health and Safety Regulation. A Comparative Economic Approach*, Intersentia, p. 214 et seq and studies referred to therein.

²⁴⁰ For example National Audit Office (NAO) 2003, Fisheries Enforcement in England April 2003, HC 563.

²⁴¹ State Labour Inspectorate report 2013 (Ataskaita apie Darbuotoju Saugos ir Sveikatos Bukle bei Darbo Istatymu Vykdyma Lietuvos respublikos Imonese, Istaigose ir Organizacijose 2013 metais), available at http://www.vdi.lt/Tekstai/Tekstai_Temos.aspx?Tema_ID=39, last accessed on 29 September 2014.

²⁴² Email correspondence, Ministry of Labour and Social Affairs.

confirms the generally well-known and well-documented phenomenon of *general reluctance of workers to complain* to labour inspectorates, observed in many countries.²⁴³ Lithuania is no exception in this regard, while the general levels of reporting may still differ.

Labour Disputes Commission (Darbo Ginčų Komisija). Art. 287 *et seq* of the Labour Code provide for the establishment of a commission to solve labour disputes consisting of representatives of both employer and employees. It is, however, noted that the Commission does not (yet) have the power to settle disputes regarding mobbing as Lithuanian legislation does not explicitly address it.²⁴⁴

With regard to *harassment* (which is defined as a form of discrimination in Lithuanian legislation, as discussed above), there is an option of filing a complaint to the Equal Opportunities Ombudsman's Office (*Lygių galimybių kontrolieriaus tarnyba*) within the Ombudsman's complaints' investigation procedure. The details regarding such complaints are provided on the Ombudsman's website.²⁴⁵ While a complaint should include information on the complainant, the Ombudsman may also take a decision to start investigating an anonymous complaint. In cases of harassment, including proceedings before courts, there is a presumption that there was an act of discrimination (incl. harassment) until the accused person proves otherwise ('reversed burden of proof'). In other words, the rules regarding evidence are rather beneficial to the victim. Nevertheless, the Ombudsman notes that complaints regarding harassment are extremely rare (less than 5 per year).²⁴⁶ This, again, confirms the common problem of underreporting. In addition to investigating complaints, the Ombudsman's office further disseminates information on equality and organises training activities dealing with, among other things, harassment.

A1.19.3 Implementation of the framework agreement

The above sections pointed to the weak structures of social dialogue in Lithuania. The yearly joint tables 2008-2011 adopted by the European Social Dialogue Committee, summarising on-going social partners activities in implementing the Framework agreement on violence and harassment (2007) do not list any activities reported by the Lithuanian social partners.²⁴⁷ Similarly, no/insufficient reporting of Lithuanian social partners has been highlighted with regard to the Framework Agreement on Work-related stress (2005). The same applies to the framework agreement on telework.²⁴⁸ Since the reporting process for the social partner monitoring completed, no further actions have been taken.

The current legal framework regarding OHS, discussed above, largely implements the provisions of the EU framework directive on OHS and the provisions on harassment the EU equality directives. The term (psychological) violence is not explicitly being mentioned, while harassment is defined as a form of discrimination and is dealt with in the laws regarding equal opportunities. The regulation concerning occupational risk assessment, which includes psychosocial factors, was adopted in 2003. Psychosocial factors are defined as factors which - due to conditions of work, work requirements, work organisation, work contents and relations among workers as well as among workers and the employer - cause psychological stress to workers. The methodological guidance of 2005 regarding the assessment of psychosocial risk factors²⁴⁹ was approved following the implementation of the Framework

²⁴³ Weil, D. & Pyles, A., 'Why Complain? Complaints, Compliance and the Problem of Enforcement in the US Workplace', *Comparative Labor Law & Policy Journal*, (27) 2005, p. 59-92; Weil, D., 'A Strategic Approach to Labour Inspection', *International Labour Review*, (147) 2008, p. 349-375.

²⁴⁴ Profsajungų Naujienos 03-09-2014, *Dar Kartą apie Mobingą*, <http://www.lprofsajungos.lt/?lang=lt&mid=1&id=4630>, last accessed on 27 September 2014.

²⁴⁵ www.lygybe.lt; The procedure for complaints is governed by the Law on Equal Opportunities (of men and women), *Moterų ir Vyrų Lygių Galimybių Įstatymas*, 1 december 1998, VIII-947 last amended on 15 July 2014.

²⁴⁶ For annual reports of the Ombudsman see <http://www.lygybe.lt/lt/metines-tarnybos-ataskaitos.html>, last accessed on 30 September 2014.

²⁴⁷ A list of the joint tables is available under <http://www.ueapme.com/spip.php?rubrique77>, last accessed on 29 September 2014.

²⁴⁸ Ibid.

²⁴⁹ *Psichosocialinių Rizikos veiksmų tyrimo metodiniai nurodymai*, approved by Minister's order of 24 September 2005, No. V-669/ A1-241.

agreement regarding work-related stress.²⁵⁰ A leaflet of the State Labour Inspectorate containing recommendations regarding assessment of psychosocial risk factors at work and advice to workers, employers and workers' representatives was adopted in 2012.²⁵¹ This legislative framework is being viewed as sufficient by the national authorities; no further legislative initiatives are currently being drafted.

An information campaign organised by the EU-OSHA 'In safe working places stress can be managed' is being carried out in Lithuania until 2015 and aims at disseminating information aimed at both employers and employees.

The above sections noted that the legal OHS provisions which implement the EU framework directive create the framework for the involvement of workers/social partners in OHS, yet the activism of workers and social partners in general with regard to OHS, and more specifically to violence and harassment, remains limited. There was a mention among the interviewees that this might be due to the fact that social partners attach relatively more importance to the currently 'more pressing' concerns such as pay or (youth) unemployment, which is of particular importance in the current socio-economic climate. Further, it has been noted that there is insufficient public pressure to tackle the problems of work-related stress.

When it comes to enforcing the OHS provisions through labour inspectorates and/or the equal opportunities ombudsperson, the problem of tackling psychological violence and harassment, both rather elusive phenomenon, the under-reporting of the problem as well as lack of an explicit reference to psychological violence/mobbing in the applicable legislation were raised as issues complicating such enforcement.

Nevertheless, with respect to OSH some public prevention policies have been initiated in Lithuania, even prior to the framework agreement.

In January 2006, a programme of training for the assessment of ergonomic and psychosocial risk factors was approved by the Minister for Health of the Republic of Lithuania.²⁵² This training programme aimed to increase knowledge on and raise awareness regarding psychosocial factors among occupational safety and health professionals.

The State Labour Inspectorate has signed agreements with the social partners²⁵³ aimed at developing social dialogue and joint measures in the areas of employment relationships and occupational safety and health. On its website, the Inspectorate has further published recommendations regarding development of social dialogue in OHS, in which it lists, comments on and clarifies the legal provisions regarding such dialogue in OHS.²⁵⁴ During inspections, inspectors of the State Labour Inspectorate promote the implementation of measures from the action plan contained in the agreement and advise employer and employee representatives in enterprises on the practical application of those measures. In other words, the focus of labour inspections is not always 'strict enforcement' and sanctioning but, in the first place, giving advice, guidance and consultation (e.g. on risk assessment).

Further, in 2010-2012, the Institute of Hygiene took part in an international project funded under the Leonardo da Vinci programme. The programme was coordinated by the Norwegian Work Research Institute and aimed at the exchange of good practice in conflict management at work, in order to reduce risks of violence in the workplace. One of the project deliverables was a publication of a handbook on conflict management at work in

²⁵⁰ SEC (2011) 241 final, p. 60.

²⁵¹ Valstybinė Darbo Inspekcija, *Psichosocialiniai rizikos veiksniai ir streso darbe vertinimo rekomendacijos* 2012.

²⁵² Ergonominių Rizikos Veiksnių Vertinimo Kursų programa, approved by Minister's decree on 4 January 2006, No. V-12.

²⁵³ The national trade union associations (the Lithuanian Labour Federation, the Lithuanian Trade Union Confederation and the Lithuanian trade union Solidarity) and the national associations of employers' organisations (the Lithuanian Industry Confederation and the Lithuanian Confederation of Business Employers)

²⁵⁴ Available on the website of the inspectorate: http://www.vdi.lt/Tekstai/Tekstai_Temos.aspx?Tema_ID=39, last accessed on 30 September 2014.

Lithuanian small and medium enterprises (SMEs).²⁵⁵ In 2011, the HI published guidance on how to manage psychological violence in the workplace on the basis of good practice experience from across Europe and beyond.

A1.19.4 Incidence of psychosocial risks and trends with specific focus on harassment and violence

In 2009, the government adopted a strategy on health and safety in the workplace covering the years 2009-2010.²⁵⁶ The Action Plan provided, *inter alia*, for the development of research and studies in the area of OSH, most notably psychosocial risk factors (including violence and harassment). Despite this, research remains fragmented and insufficiently representative as it only tends to cover specific regions, sectors or institutions. Because of a lack of repeat surveys based on similar parameters and carried out regularly, trend developments are difficult to ascertain.

Three surveys investigate adverse social behaviour in the workplace at the national level.

First, in 2013, the Lithuanian National Statistical Office carried out a survey on work related accidents and work related illnesses and did cover psychosocial risks including harassment and violence in the workplace. The survey was part of the LFS ad hoc module on health and safety. The survey used a sample of 7,400 individuals residents aged 15 and over, who were in employment during the period of the survey or 12 months before the survey. Findings show that 17% of employees (19% of women and 16% of men) were exposed to factors at work likely to impact their mental health. The factor most commonly mentioned as being likely to impact mental health was excessive workload (14% of the respondents). Physical violence or threats of violence were reported by 2.5% of employed individuals, while psychological violence (harassment, humiliation, undermining) in the workplace had been experienced by 2.5% of male employees and 4.9% of female employees. Of the victims of psychological violence at work, one fifth was employed in the trade sector and one sixth in the area of health care or social work.²⁵⁷

In 2010, [Vytautas Magnus University \(VDU\)](#) conducted a survey to analyse the prevalence of mobbing in the private and public sectors. This study showed mobbing to be most commonly found in the education and culture sector, IT, financial and insurance activities, public administration and health and social work ([Vveinhardt, 2010](#)).

Third, according to European Working Conditions Survey (EWCS) 2010, 16.1% of Lithuanian employees reported being subjected to adverse social behaviour (violence or harassment) at work (EU-28 – 14.9%). A marked difference exists in the perceptions of employees and managers concerning the incidence of violence and harassment in the workplace. Indeed, the European Survey of Enterprises on New and Emerging Risks 2009 in Lithuania revealed that, according to managers, problems of bullying, harassment or violence at work are not relevant for their companies. 92.8% of managers said that bullying or harassment are not a concern at all in their establishment; 82.9% of managers reported that violence or threat of violence are not a concern at all in their establishment.

A number of sectoral surveys have been carried out, mainly focussing on sectors where third party violence is most prevalent (health and social care, social services, education etc.).

In 2011, the [Lithuanian Social Research Centre](#) carried out a study on occupational well-being of social work employees. The survey covered 5% of all employees in this sector (LSTC, 2013).

A survey carried out among health care workers by the Institute of Hygiene and the Lithuanian University of Health Sciences in 2011/12 reported that over a period of 12 months 47.7% of the responding doctors (45.9% of women and 35.8% of men) and 29.2% of the

²⁵⁵ Higienos Institutas 2012. Konfliktu Prevencija. Rekomendacijos Mazoms Imonems, available under <http://www.hi.lt/content/conflictman.html>, last accessed on 30 September 2014.

²⁵⁶ By Order No 669 of the Government of the Republic of Lithuania (25 06 2009).

²⁵⁷ Statistics Lithuania, Nelaimingi atsitikimai darbe ir kitos su darbu susijusios sveikatos problemos (accidents at work and other work-related health problems), available under <http://osp.stat.gov.lt/pranesimai-spaudai?articleId=1759602>, last accessed on 29 September 2014.

responding teachers (31.1% of women and 17.2% of men) had suffered psychological violence/harassment in the workplace. Humiliation was reported as the most common manifestation.

A survey of mental health nurses covering 105 such nurses from Klaipėda County Hospital found that 62.5% of nurses (66.7% of men and 61.3% of women) had suffered violence at work. In addition, 42% of male and 37% of female nurses reported having been exposed to psychological pressure (Istomina et al, 2010).

A survey carried out in 2010 among nurses in Kaunas county found that the most widespread adverse social behaviours included harassment and mobbing linked to the non-provision of information at work (exclusion), being shouted at or being the target of spontaneous anger or rage, repeated reminders of errors or mistakes, being forced to do jobs below one's competences, and being subjected to opinions undermining work performance. According to the findings, 12.3% of the nurses were exposed to one of the above-mentioned negative behaviours at least once a week, 17.1% of the respondents were simultaneously exposed to 2 and more forms of adverse behaviours at work. Nurses affected by negative behaviours in the workplace more often complained of various health disorders, felt stress and tension, and had lower job satisfaction (Vasilavičius et al, 2010).

Furthermore, according to researchers, Lithuanians tend to endure pressure at work for a longer period than employees in Western countries: in the latter countries employees endure pressure in the workplace for six months on average, whereas in Lithuania this can last for 2-3 years.²⁵⁸ The fact that mobbing and psychological violence are often perceived as a quasi-natural aspects of relations at work can in.²⁵⁹ This also has implications for reporting/complaints and thus enforcement, as discussed further below (section 1.3).

The above mentioned factors are compounded by the lack of systematic research that would enable an objective and detailed assessment of incidence of adverse social behaviour. Surveys do, however, indicate that mobbing is more commonly spread in economic activities related to service provision, such as education, social work and health care. Commentators stress that while the concept of mobbing is *not yet sufficiently known* in Lithuania, it is an emerging (albeit to a great extent tolerated) phenomenon.²⁶⁰ It is difficult to ascertain in how far his perception of increasing mobbing is due to its increased incidence or due to the increased *awareness* of this phenomenon.

A study carried out by the Lithuanian Hygiene Institute (*Higienos Institutas*) in the cities of Vilnius and Klaipėda in 2008-2010 reports that one out of three male respondents and about one out of two female respondents experience psychological violence at work during a 12 months period. Women experience bullying more often than men; more bullying seems to be occurring in the health sector and social work. The victims have been bullied more frequently by their superiors than by their colleagues or customers (third-party violence).²⁶¹ A report by the European Agency for OHS, referring to a Lithuanian study reports that 68% of respondents were bullied at work.²⁶²

These findings are in sharp contrast with the recent data published by Statistics Lithuania (2013), according to which psychological violence (incl. harassment) was experienced by 2,5

²⁵⁸ Vveinhardt 2013a.

²⁵⁹ Ibid.

²⁶⁰ P. Žukauskas & J. Vveinhardt (2010), The Model of Managerial Intervention Decisions of Mobbing as Discrimination in Employees' Relations in Seeking to Improve Organization Climate, *Inžinerine Ekonomika*, Vol., 21(3), p. 307; Jonas Gričius (State Labour Inspectorate) in the newsletter of the Lithuanian trade union of workers in education (December 2013), available at: http://www.lsdps.lt/index.php?option=com_content&view=article&id=1889%3Aignalinoje-diskusija-apie-psichologin-privert-darbe&catid=48%3Anewsflash&Itemid=101, last accessed on 24 September 2014.

²⁶¹ Lithuanian Hygiene Institute (*Higienos Institutas*), *Psichologinio smurto darbo vietose paplitimas, pasireiškimo formos ir rizikos veiksniai*, 'Mokslo darbai' Nr. 14, Vilnius 2014. The study relied on questionnaires returned by 315 workers from Vilnius and 251 from Klaipėda. See also European Agency for Safety and Health at Work, European Risk Observatory Report (2009), *Workplace Violence and Harassment: a European Picture*, p. 58.

²⁶² European Agency for Safety and Health at Work, European Risk Observatory Report (2009), *Workplace Violence and Harassment: a European Picture*, p. 58.

per cent of working men and by 4,9 per cent of working women; 2,5 per cent workers experienced physical violence or threat of violence (see also section 1.4).²⁶³

In general, it is therefore hardly possible to discern any general trends in incidence of workplace violence & harassment in Lithuania, let alone to link those to the ineffectiveness of the implementation of the framework agreement.

A1.19.5 Impact of the implementation of the framework agreement

The current legislative/regulatory framework with regard to OHS, and in particular workplace violence and harassment, largely implements the EU health & safety and equality directives and predates the Framework Agreement on Violence and Harassment. As mentioned, some legislative changes regarding psychosocial risk factors at work have been implemented following the implementation of the Framework Agreement on Work-related Stress, but such changes were not made with direct reference to the agreement. This includes, for example, the adoption of the 'Methodological instructions regarding assessment of psychosocial risk factors' of 2005.²⁶⁴ The State Labour Inspectorate seems to be taking an active role in promoting knowledge on psychosocial risk factors at work and regularly publishes guidance materials, such as for example the 2012 recommendations on assessment of psychosocial factors and stress.²⁶⁵ From the available information, the impact of the framework agreement on violence and harassment on national legislation does not seem to have been substantial.

While the legal framework provides for workers' involvement and social dialogue, there still seems to be lack of activity on the side of the social partners in implementing the framework agreement on violence and harassment. Stakeholders consulted for this report indicated that the awareness of the issue of workplace stress, violence and harassment is increasing and that that more attention is increasingly being paid to psychosocial risk factors.

The available research reports show a rather low commitment of high-level management to OHS and/or neglect of the existence of workplace violence and harassment problems in their workplaces.²⁶⁶ Again, increased attention to information dissemination/information campaigns/dissemination of best practice manuals (e.g. those published by the Hygiene Institute) may change this in future.

²⁶³ Statistics Lithuania (Lietuvos Statistikos Departamentas), Nelaimingi atsitikimai darbe ir kitos su darbu susijusios sveikatos problemos (accidents at work and other work-related health problems), available under <http://osp.stat.gov.lt/pranesimai-spaudai?articleId=1759602>, last accessed on 29 September 2014.

²⁶⁴ *Psichosocialinių Rizikos veiksnių tyrimo metodiniai nurodymai*, approved by Minister's order of 24 September 2005, No. V-669/ A1-241.

²⁶⁵ Valstybinė Darbo Inspekcija, *Psichosocialiniai rizikos veiksniai ir streso darbe vertinimo rekomendacijos* 2012.

²⁶⁶ European Agency for Safety and Health at Work, European Risk Observatory Report (2010): *European Survey of Enterprises on New and Emerging Risks. Managing safety and health at work*, p. 25 et seq.

A1.20 Luxembourg

A1.20.1 Introduction

Social partners are strongly involved in matters relating to health and safety at national or industrial level. A national tripartite body, the Economic and Social Council (CES) of the Grand-Duchy of Luxembourg is the consultative permanent institution of the Government regarding economic and social orientation of the country. The CES represents the central and permanent think-tank of the social dialogue and the social and labour dialogue on the national level. Sectoral and company level bargaining is the most common form of collective bargaining in Luxembourg. At the sectoral level, collective agreements can deal with health and safety issues. In fact, the banking sector has reached a collective agreement on harassment, fighting in particular moral harassment, which is so far not covered by legislation. The agreement foresees that employers should adopt a zero-tolerance policy in relation to moral harassment and prevention and training activities should be implemented.

The joint agreement on harassment and violence at work (2009) was a major step forward in increasing awareness surrounding the issue and establishing a strong legal basis to protect workers. Further, legislative changes might take place in 2015, after the assessment of the implementation of the joint agreement.

A1.20.2 National health and safety legislation and policy on psychosocial risks

At present, psychosocial risks are not defined by law. Despite this, legal recourse is possible for employees.

In Luxembourg, a distinction can be made between sexual harassment, harassment based on discrimination, moral harassment and violence at work. While the first two cases of harassments are embedded in legislation, the third type – moral harassment or ‘mobbing’ – and violence at work are not.

A number of articles in the Labour Code explicitly address the issues of sexual harassment and moral harassment²⁶⁷:

Articles defining the issue of sexual harassment, include, articles L.162-12 (content of national and inter-professional agreements), L. 241-1 (definition; form of discrimination), L. 245-1 to -8 (general provisions), L. 251-1 to L. 254-1 (equality of treatment in the workplace with respect to the principle of non-discrimination on the grounds of religion or conviction, disability, age, sexual orientation, race or membership of an ethnic group), L. 521-4 (unemployment measures linked to harassment) of Labour Code. Sexual harassment can be physical or verbal and non-verbal. The definition of sexual harassment supposes an intentional element on the part of the perpetrator, when one of the following conditions is fulfilled: (1) the behaviour is abusive and offensive for the victim, (2) the fact that a person refuses or accepts such behaviour from the employer, an employee, a client or a supplier is used explicitly or implicitly as the basis of a decision affecting the rights of that person in the domains of professional training, employment, promotion, salary or all other decision concerning their employment and (3) such a behaviour create a climate of intimidation, hostility, or humiliation towards the victim.

The Act of November 28th 2006 on equality of treatment in the workplace defined the notion of harassment based on discrimination for the first time in Luxembourgish Labour Law. Relevant articles included articles L. 162-12 (content of national and inter-professional agreement) and L. 251-1 (harassment as a form of discrimination) of Labour Code. As in the case of sexual harassment, harassment based on discrimination supposed intentionality,

²⁶⁷ For more information, see European Association of Labour Court Judges, 12th Annual Congress, 4-5 July 2008, Vienna, “Final Report. Harassment and Violence at Work”, pp101-109, <http://www.ealcj.org/documents/Final%20Report.pdf>. The analysis proposed here explicitly addresses the legal basis for employees in the private sector. In the case of civil servants, sexual and moral harassment are addressed in the section on civil servants' duties, Article 10 §2 modified by Law 19 May 2003 on the statute of State civil servants

which is presumed when, (1) a person is treated less favourably than another in a comparable situation on the basis of one of the motives related to religion or conviction, disability, age, sexual orientation, race or membership (supposed or real) to an ethnic group or (2) an indirect discrimination is produced when a disposition, a criterion or an apparently neutral practice is likely to cause a particular disadvantage for persons of a religion or a conviction, of a certain handicap, of a certain age, sexual orientation, race or membership (supposed or real) of an ethnic group with respect to another person.

Moreover, a plaintiff can invoke Article 3 of the **Council Directive 2000/78/EC of 27 November 2000, establishing a general framework for equal treatment in employment and occupation which defines harassment based discrimination by unwanted conduct (related to discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation)** that takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

Further, the employer has the duty to act to ensure that any case of sexual or harassment based on discrimination, of which he is aware, cease immediately, whether the perpetrator is the employer, a hierarchical superior, a work colleague or a 3rd party having professional relations with the employer (clients, suppliers).

On 25th June 2009, the Luxembourg social partners (OGB-L, LCGB and UEL) signed a joint agreement on harassment and violence at work²⁶⁸. The aim of this agreement was to transpose the European Framework Agreement 2007. In 2010, following a request from the social partners, the national agreement became legally binding (“déclarée d’obligation générale”) and thus applicable to all companies legally established in Luxembourg and to all workers bound to them by an employment contract. The joint agreement on harassment and violence signed by the social partners in 2009 (see section on implementation) provides for the first time a definition of moral harassment and violence at work. Prior to this agreement, only a definition of sexual harassment and harassment based on discrimination was defined by law (see above).

Definitions provided in the 2009 joint agreement on harassment and violence at work

“**Moral harassment**” occurs when a person within the company commits towards another company member, **repeated and deliberate**, wrongdoing whose object or effect are:

- either to undermine their rights or dignity;
- or damage their working conditions or jeopardize their professional future by creating an intimidating, hostile, **degrading**, humiliating or offensive environment;
- or affect their physical or mental health.

Based on the above definition, moral harassment does not suppose intent on the part of the perpetrator. It follows that inappropriate or insensitive behavior or acts of human resources management may constitute moral harassment.

To date, jurisprudence has ruled that acts of moral harassment include, unfair or unequal treatment, misuse of disciplinary power, lack of transmissions of useful information, discrediting someone in front of colleagues, the isolation and refusing to communicate, successive changes in functions²⁶⁹.

Violence at work: assaulting a worker through deliberate acts that have the effect or purpose of impairing the other person’s physical or mental integrity. The Luxembourg agreement goes beyond the European framework agreement on the definition of workplace violence, since it expressly states that the agreement also applies to the prevention of workplace violence perpetrated by 3rd parties. This point was added at the request of the social partners.

²⁶⁸ <http://www.eurofound.europa.eu/eiro/2009/08/articles/lu0908019i.htm>

²⁶⁹ CSJ of 28 June 2007, n° 30994, CSJ of 26 May 2011, n° 35822, TT of 12 February 2004, n° 735/04

A bill relating to the protection against moral harassment in the workplace was submitted to national parliament (*Chambre des Députés*) on 4 July 2002. The Council of State (*Conseil d'État*) – an institution whose role is to advise the national legislature – gave its opinion on 15 November 2005 and the bill was sent back to a parliamentary committee 30 July 2009.

Article L.162-12 of the Labour Code does, however, impose the obligation of including a provision against sexual and moral harassment, including 'mobbing', in every collective agreement and to include sanctions that can be taken in this framework. Accordingly, the basis for legal action for damages to the employee, that is victim of moral harassment, can be found in Article 1134 of the Civil Code, which states that 'the agreements legally entered must be executed in good faith by the parties to the convention'. The employer, thus, has the obligation to take all the necessary measures to prevent or make cease all forms of moral harassment within the workplace. In the case of moral harassment, the burden of proof rests with the victim, who needs to prove that there was *de facto* moral harassment (precise facts and dates), that the employer was aware of it and did nothing to remedy it, and that he/she incurred damages as a consequences of this moral harassment. The Labour Inspection Office ("Inspection du travail et des mines" ITM) has the legal obligation to control the application the law in the area of workers' protection against sexual harassment (according to L. 245.8) and the principles of equality of treatment at work (harassment based on discrimination) (according to L.254.1)²⁷⁰. For instance, in the case of a complaint by an employee, the Labour Inspection Office may launch an inquiry and attempt to launch a conciliation process among the parties involved.

A Centre for Equality of Treatment ("Centre pour l'egalite de traitement"²⁷¹) can assist an employee victim of harassment based on discrimination, by informing her/him of her/his individual rights, the legislation and the jurisdiction, prior to engaging in any form of legal action.

Concerning sexual harassment, according to article L. 245-6 (1) of the Labour Code, a trade union representative (delegue syndical) or, in her/his absence, a workers' representative (delegation du personnel), is responsible for protecting the personal against sexual harassment and can propose preventative action to the employers, if he or she deems it necessary. The trade union representative and workers' representative can assist and counsel a worker who has suffered sexual harassment. During an inquiry into sexual harassment, the employee victim of sexual harassment has the right to be accompanied and assisted by trade union representative and workers' representative in an interview with the employer.

In terms of policy supporting this legislative framework and preventing all types of psychosocial risks, information on all types of harassment, stress, and violence at the workplace is provided on the websites of the Ministry of Health (on mobbing and moral harassment)²⁷² as well as the Labour Inspection Office²⁷³ (ITM).

A1.20.3 Implementation of the framework agreement

Social partners are strongly involved in matters relating to health and safety at national or industrial level. Subsequently, the main implementation instrument of the European autonomous agreement is the Joint Agreement on Harassment and Violence at Work of 25th June 2009 signed by Luxembourg social partners (OGB-L, LCGB and UEL)²⁷⁴.

The aim of this agreement was to transpose the European Framework Agreement 2007. Upon the request of the signatory social partners, the government incorporated the agreement in a Grand Ducal regulation of 15th December 2009, which was published in the Official Gazette (Memorial A N°3) of 13 January 2010. The social partners acted on the basis of Article L. 165-1 of Labour Code. In 2010, the agreement was declared "generally binding".

²⁷⁰ <http://www.itm.lu/home.html>

²⁷¹ <http://cet.lu/en/>

²⁷² <http://www.sante.public.lu/fr/impacts-milieu-vie/sante-travail/010-sante-mentale/harcelement-moral/index.html>

²⁷³ <http://www.itm.lu/home/securite---sante/prevention-des-risques-psychosoc.html>

²⁷⁴ <http://www.eurofound.europa.eu/eiro/2009/08/articles/lu0908019i.htm>

In this agreement, the national social partners identify harassment and violence at work as being unacceptable behaviour that can affect all employees. This agreement also sets out guidelines on raising awareness among employers, workers and their representatives, as well as preventing and addressing acts of harassment and violence at work.

In essence, the 2009 agreement requires companies to establish a transparent procedure (thus in principle written) on the prevention and management of harassment and violence at work, after consultation with staff representatives. This procedure may be done either at the enterprise level or at the sectoral level. The implementation of this procedure, however, will not "impose unnecessary burdens on small businesses". In practice, if the employer becomes aware of a case of moral harassment in the workplace, he/she has the obligation to conduct an inquiry and put an end to wrongful behavior.

The procedure that the employer is required to put in place should cover:

- The indication that no form of harassment or violence will be tolerated within the company, and that it is everyone's responsibility to ensure that this principle is respected;
- Sensitization of company members: sensitization should be done through internal communication procedures and should address the definition of harassment and violence, procedures in place to prevent and address it, and the disciplinary sanctions in place.
- Preventative measures: preventative measures against harassment and violence will be determined in consultation with workers' representatives and can be agreed in part or in whole through sectoral agreements. Preventative measures should be adapted to the size of the company and the nature of its activities. They should cover the following:

informing and training employees on company policy concerning the prevention and protection against harassment and violence;

identifying a competent interlocutor in area of harassment and violence at work

Defining procedures at the victim's disposal to obtain support and help

In the case of violence at the workplace, employers must also elaborate a plan of risks and also make the necessary arrangements in the physical workplace to prevent 3rd party violence.

- A procedure for managing cases of harassment and violence: this procedure should be elaborated in consultation with workers' representatives and can be agreed in part or in whole through sectoral agreements. The procedure should be based on a number of principles, including, the confidentiality of complaints and their impartial handling, and ensuring that complaints are examined immediately and addressed within a reasonable time period. Moreover, each complaint should be supported by detailed information. False accusations will not be tolerated and disciplinary actions and sanctions can be taken in such cases, which could lead to the termination of the employment contract. The analysis and treatment of complaints can be supported through external assistance. Finally, victims will benefit from in-company support; the nature of this support will be determined within the company if no collective agreement is applicable.
- The clear determination of disciplinary sanctions against the perpetrators of the harassment: these disciplinary sanctions will be determined on the basis of consultations with workers' representatives. Sanctions may include the termination of the employment contract.
- The protection of victims and witnesses from harassment or violence: victims and persons who have testified to acts of harassment or violence will not be subjects to reprisals.

In the case of the occurrence of an act of violence or harassment, the employer is obliged to carry out an internal evaluation covering, most notably, (1) the effectiveness of the current preventative measures in place, (2) an ex-ante evaluation of new alternative preventative measures and (3) a review of the procedures currently in place for managing cases of harassment and violence. This evaluation will be done in consultation with workers' representatives.

An assessment of the implementation of the 2009 joint agreement on harassment and violence at work was originally planned to be carried out 5 years after its entry into force (the

end of 2014), however, this has not yet been done. The Government will decide if new legislation is necessary after this assessment.

Moreover, the social partners in the banking sector in Luxembourg signed an agreement on harassment on 9 July 2013²⁷⁵, following the conclusion of the national agreement on 25 June 2009. The agreement requires that employers adopt the principle that moral harassment is unacceptable and will not be tolerated, as well as adopt awareness-raising measures and provide training on prevention and protection.

Further, national activities in the field of OSH have been organised since 2007.

In 2012, the Ministry of Labour and Employment and the Ministry of Health in partnership with the Inspection of labour and mines (ITM) and the Department Health at work (la Division de la Santé au Travail) launched a campaign against psychosocial risks, including violence and harassment²⁷⁶.

Employers Organisations have also had a role in communicating the content of the Joint Agreement on Harassment and Violence at Work 2009 to their members. For instance, the "Federation des Artisans"²⁷⁷ presented the agreement to their member associations at their annual General Conference and via articles in its monthly magazine. Similarly, training is also provided to company management and employees (at the employer's request, in order to sensitize them to the issue of harassment and violence and other psychosocial risks at work.

Employers Organisations are also supporting members through the provision of practical instruments. The "Federation des Artisans" is in process of developing a web page which would provide a practical instrument to its members (for the most part SMEs) on evaluating occupational health and safety risks; while it will initially focus on physical risks. A section on their homepage is dedicated to psychosocial risks.

Furthermore, the prevention departments of the Services for Occupational Health (financed by the enterprises) are responsible for organising activities designed to promote health and wellbeing at the workplace, including prevention of psychosocial risks in companies.

Finally, employers' associations are leading in the European Campaign on psychosocial risks at the national level. A special toolbox will be developed together with the Multisectorial Service for Occupational Health (STM) helping enterprises, especially SMEs, to manage psychosocial risks at the workplace. However, very few SMEs have established a written procedure as outlined in the 2009 agreement²⁷⁸.

A number of NGOs and associations have also begun to more actively disseminate information on moral harassment at the workplace. For instance, Mobbing Asbl published in 2009 "[A guidebook for victims of moral harassment and for their interlocutors](#)"²⁷⁹. Similarly, the trade union of the employees of the financial sector (SESF²⁸⁰) and Mobbing Asbl collaboratively published in 2011 a guidebook entitled "Act to free yourself from mobbing. Advice to prevent moral harassment in the workplace or to react against it"²⁸¹.

A1.20.4 Incidence of psychosocial risks and trends

In Luxembourg, psychosocial risks are not defined legally or statistically.

The most important survey on the issue of psychosocial risks in Luxembourg was published in 2012 by the Chamber of Employees (CSL)²⁸² – an independent body placed under aegis of the Ministry of Labour, which is involved in reflexion and consultation, directly associated

²⁷⁵ <http://www.eurofound.europa.eu/eiro/2013/09/articles/lu1309011i.htm>

²⁷⁶ A video on this theme was prepared: <https://www.youtube.com/watch?v=TDvIb0E4gFo>

²⁷⁷ <http://www.fda.lu/>

²⁷⁸ Interview 13/08/14 with a member of the Federations des Artisans

²⁷⁹ Available at <http://www.mobbingasbl.lu/index.php/fr/publication-francais>

²⁸⁰ <http://sesf.lu/files/2011/04/Brochure-mobbing.pdf>

²⁸¹ Available at: <http://sesf.lu/files/2011/04/Brochure-mobbing.pdf>

²⁸² <http://www.csl.lu/index.php>

with the legislative process in the country – under the title "Contribution to a study of the well-being in the workplace in Luxembourg" (Contribution à une étude sur le bien-être au travail au Luxembourg)²⁸³. It aimed to collect information on workers' own perception of working conditions. It was carried out by the Opinion Polls Institute TNS-ILRES between December 2009 and January 2010 and based on interviews with 1,537 workers, including 903 workers residing and working in Luxembourg and 634 cross-border workers from Belgium, France and Germany. A dedicated section of the interview questionnaire was on "Psychosocial strain in the workplace".

The survey found that in the area of violence, 7% of the interviewed persons expressed dissatisfaction regarding physical aggression in the workplace, of which 13% reported constant/frequent problems. Moreover, 31% expressed dissatisfaction regarding verbal aggression in their job, of which 17% reported constant/frequent problems.

In the area of harassment, the survey found that 5% expressed dissatisfaction regarding harassment by their co-workers, of which 38% reported constant/frequent problems. Moreover, 11% expressed dissatisfaction regarding harassment by their direct supervisors/managers, of which 50% reported constant/frequent problems.

Another important source of information on the incidence of mobbing in the workplace is the "Quality of work – Index Luxembourg", which is a tool developed in 2012 by the CSL in collaboration with the research institute INSIDE (Integrative Research Unit on social and individual development) of the University of Luxembourg. The index aims to survey workers on their experience and perception of the workplace. Workers were asked to rate from 1-5 their perception of mobbing in their work, 1 indicating a very high incidence of mobbing and 5 the absence of mobbing. The sectors in which mobbing was felt the strongest was in research, the financial sector and the food industry; conversely, mobbing was felt the least in the field of education and among workers in the area of transport and merchandise.

Further, in 2011, the Research Institute for the Quality of Life (Institutul de Cercetări pentru Calitatea Vieții, (ICCV) carried out a study on 'Study on Mobbing and other Forms of Discrimination at Work in Romania/' 'Studiu asupra fenomenului de mobbing și a unor forme de discriminare la locul de muncă în România' (coordinated by coordination of Cristina Toma and Sorin Căce). More than half (52%) of interviewees reported that working conditions have effects on health; 5.42% of interviewees reported symptoms related to strenuous working conditions; managers (6.43%) were more likely to report symptoms of stress than employees with no managerial responsibilities (5.22%). A total of 9.4% of interviewees felt isolated by their colleagues, 15.4% of these reported a negative impact on their work and 10% on their health conditions.

A1.20.5 Impact of the implementation of the framework agreement

In Luxembourg, social partners are strongly involved in matters relating to health and safety at national or industrial level. At the workplace level delegates or joint company committees have co-determination rights in this matter. Sectoral and company level bargaining is the most common form of collective bargaining in Luxembourg.

As detailed above, the main implementation instrument of the European autonomous agreement is the Joint Agreement on Harassment and Violence at Work of 25th June 2009, signed by the social partners. The aim of this agreement was to transpose the European Framework Agreement 2007. In 2010, following a request from the social partners, the national agreement became legally binding ("déclarée d'obligation générale") and, thus, applicable to all companies legally established in Luxembourg and to all workers bound to them by an employment contract.

In general, the 2009 Agreement sparked new research and increased awareness and interest among different actors on this issue. Illustrating this, in 2009, the Chamber of Employees (CSL) created a new unit on "health, security and wellbeing issues in the

²⁸³ Available at <http://www.csl.lu/component/rubberdoc/doc/1385/raw>. Eurofound has published a report on this survey, available at <http://www.eurofound.europa.eu/ewco/surveyreports/LU1012011D/LU1012011D.htm>.

workplace in Luxembourg". Since its creation the CSL has commissioned a number of surveys and published a number of practical guides on working conditions and psychosocial risks in the workplace. The CSL has published a number of practical guidebooks, including in 2010 the "Violence and moral harassment in the workplace: action for prevention"²⁸⁴ and, more recently, in 2014, "The prevention of psychosocial risks"²⁸⁵ guidance documents.

²⁸⁴ <http://www.csl.lu/component/rubberdoc/doc/682/raw>
²⁸⁵ <http://www.csl.lu/component/rubberdoc/doc/2092/raw>.

A1.21 Malta

A1.21.1 Introduction

National OSH legislation does not specifically cover harassment and violence in the workplace, although risk assessment should cover these risk factors. At the policy level, the greatest emphasis has in recent years been placed on the issue of sexual harassment and third party violence, with some national awareness raising campaigns. A tripartite body, the Malta Council for Economic and Social Development (MCESD), brings together trade unions, employers and government representatives for the purposes of discussion on new legislation and employment relevant strategies. The Council has so far not addressed OSH issues and psychosocial risks. Collective bargaining generally takes place at the company level in the private sector. In the public sector collective agreements can be negotiated at sectoral level.

The impact of the Framework Agreement has been limited in Malta as there has been no clear implementation action.

A1.21.2 National health and safety legislation and policy on psychosocial risks

The Occupational Health and Safety Authority Act (2000)²⁸⁶ does not specifically mention harassment and violence, however it requires employers to ensure health and safety at work and to carry out risk assessment in relation to both physical and psychological risk factors and to take measures to prevent and address these.

The Employment and Industrial Relations Act (2002)²⁸⁷ regulates discriminatory behaviour on the grounds of religion or religious belief, disability, age, sexual orientation, and racial or ethnic origin. Additionally, it explicitly governs sexual harassment (but no other forms of harassment) (Cap 452):

Harassment. 29. (1) It shall not be lawful for an employer or an employee to harass another employee or to harass the employer by subjecting such person to any unwelcome act, request or conduct, including spoken words, gestures or the production, display or circulation of written words, pictures or other material, which in respect of that person is based on sexual discrimination and which could reasonably be regarded as offensive e, humiliating or intimidating to such person. (2) It shall not be lawful for an employer or an employee to sexually harass another employee or the employer by ...

It is interesting to notice that the Act also regulates victimisation behaviour (Cap 452):

Victimisation. 28. It shall not be lawful to victimise any person for having made a complaint to the lawful authorities or for having initiated or participated in proceedings for redress on grounds of alleged breach of the provisions of this Act, or for having disclosed information, confidential or otherwise, to a designated public regulating body, regarding alleged illegal or corrupt activities being committed by his employer or by persons acting in the employer's name and interests

The act also regulates threats and use of violence. No specific distinction is drawn between violence between colleagues and third party violence.

The act was amended in 2012 in regard to the definitions of discrimination.

The Act on Equality between Men and Women is another piece of legislation which deals with discrimination, harassment and sexual harassment²⁸⁸.

Between 2010 and 2013 the National Commission for the Promotion of Equality (NCPE) implemented numerous activities on harassment, sexual harassment and discrimination in

²⁸⁶ <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8890>

²⁸⁷ <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8918&l=1>

²⁸⁸ http://msdc.gov.mt/en/NCPE/Documents/Home/Welcome/chp_456_updated_2012.pdf

the workplace. These include targeted awareness campaigns, training, information services and support in understanding the legislation and its implementation²⁸⁹.

A1.21.3 Implementation of the framework agreement

In 2010, Guidelines were created for businesses to safeguard employees' health at work as well as combat third-party violence. The guidelines encouraged business owners, managers and employees to develop strategies to mitigate the effects of third-party violence. Beyond this, no joint actions have been taken on this issue since the signature of the Framework Agreement. The link between these Guidelines and the Framework Agreement is not clearly stated. In term of unilateral actions, in 2013 the Malta Unions of Teachers (MUT) launched a campaign to raise awareness on workplace bullying²⁹⁰.

The General Workers Union (GWU), delivers training and information sessions to workers on a variety of topics, other partners include the Foundation for Social Welfare Services (FSWS).

A1.21.4 Incidence of psychosocial risks and trends

The National Commission for the Promotion of Equality (NCPE) supports victims of discrimination, investigates and monitors complains for compensation. According to NCPR, the majority of complains received by them refer to gender and sexual harassment. In 2013 two cases of sexual harassment were filed with the Commission, a decreasing trend from 2009 when 6 cases were reported. In 2012 a total of 12 cases of gender discrimination in employment were reported, a constant decreasing trend is seen from 2009 when 25 cases were reported.

Conversely, increasing numbers in cases of discrimination, harassment and victimisation have been reported to the Industrial Tribunal (IR), in 2012 a total of 18 cases whereas in 2009 only 2 cases were reported.

The only survey that has been identified in Malta with reference to psychosocial risks is the 2007 Labour Force Survey (LFS) ad-hoc module on health and safety.

In 2010 the Occupational Health and Safety Authority (OHSA) carried out a study on work environment. The study found that psychosocial risks factors were perceived as increasing in the workplace and the most common causes of stress and burnout were workload (41.9%), pressure from deadlines (38.7%) and long working hours (25.8%)²⁹¹.

Discrimination in the area of employment has been found by ad-hoc studies in the area of discrimination, these include the annual report from NCPE, an NCPE study on LGBT groups²⁹².

A1.21.5 Impact of the implementation of the framework agreement

There is a lack of co-ordination of activities in this area, with joint guidelines on third party violence being the only common activity in the area since 2007. The links between this and the framework agreement are not clearly stated. Beyond this, actions exist at the level of individual employer and trade union organisations to raise awareness of the phenomenon, but their impact is considered to have been limited against the background of broader economic concerns.

²⁸⁹ http://msdc.gov.mt/en/NCPE/Documents/Our_Publications_and_Resources/Annual_Reports/NCPE%20Annual%20Report%20low.pdf;
http://msdc.gov.mt/en/NCPE/Documents/Our_Publications_and_Resources/Annual_Reports/annual_report_2012_en.pdf;

²⁹⁰ <http://edcommut.blogspot.co.uk/2013/04/the-ugly-face-of-work-place-and-work.html>

²⁹¹ <http://ohsa.org.mt/Portals/0/docs/RSFR.pdf>

²⁹² http://msdc.gov.mt/en/NCPE/Documents/Our_Publications_and_Resources/Annual_Reports/annual_report_2009_en.pdf; https://secure3.gov.mt/socialpolicy/admin/contentlibrary/Uploads/MediaFile/lgbt_research.pdf

A1.22 Netherlands

A1.22.1 Introduction

Health and safety in the workplace is a topic that is dealt with by social partners at national, industry and company level but it is national legislation that sets out a general floor of rights. A number of sectoral covenants *arbocatalogi* (voluntary codes on risks and measures to be taken to improve the work environment) deal with the issue of harassment and violence. The issue of psychosocial risks including harassment and violence has been high on the agenda of social partners for the past 20 years. National legal framework of health and safety obliges employers to carry out a risk intervention on psychosocial risks. Concepts of harassment, bullying, aggression and violence are explicitly mentioned. The employer is liable for any harm caused to his employees. On the other hand, the research found that in particular incidences of violence and aggression (external and internal) have remained stable or increased since 2009. This can have numerous reasons, e.g. due to higher levels of awareness of workers more incidences were signalled, or the work environment was affected by effects of the economic crisis leading to more difficult economic conditions, or the high share of workers employed in the Dutch services sector thus leading to higher incidence rates of violence. On the other hand there is also evidence that legislation actions taken by social partners have not yet been efficient to generate a culture of risk assessment or prevention despite the number of campaigns and explicit mention in legislation of harassment and violence.

The implementation of the framework agreement has been through a joint recommendation at cross-industry level which recommends that the issue be addressed at sectoral and company level.

A1.22.2 National health and safety legislation and policy on psychosocial risks with specific focus on harassment and violence

Different aspects of workplace harassment and violence are covered in distinct pieces of legislation. These include the Working Environment Act (*Arbeidsomstandighedenwet, last amended in 2007*), the Civil Code and the General Act on Equal Treatment (*Algemene wet gelijke behandeling, last amended in 2014*).

Article 7:658 of the Civil Code regulates the responsibility and liability of the employer vis à vis the employee. The employer must prevent (as far as possible) any harm from coming to the employee (and his/her possessions) at the workplace. The employer is liable for damage if he fails to prove that he has met these obligations. Pursuant to case law the burden of proof in cases concerning harm suffered at work is generally heavy for the employer and light for the employee. On the basis of the Civil Code, it is possible for an employee who has become a victim of harassment to claim compensation for material and immaterial damage from his employer.

The Working Environment Act which implements the EU Framework Directive on Health and Safety obliges the employer to carry out risk assessment and to put in place measures to prevent them. The Act obliges employers to: 1) identify causes of psychosocial risks (risk inventory), 2) implement measures to eliminate or reduce exposure, 3) provide information and instructions to employees, and 4) report and register accidents related to violence and harassment that lead to hospitalisation of an employee. The concepts of violence and aggression, sexual harassment, and bullying are explicitly mentioned in the articles that refer to psychosocial risks.

Where appropriate, this includes a policy to combat harassment and violence at work. The working environment service' (*arbodienst*) to which the employer is affiliated can offer support in developing this policy. Affiliation to a 'working environment service' (essentially and occupational health physician service) is mandatory for all employers. The task of this service is, *inter alia*, to examine sick workers, determine the cause of their illness and to assist in their reintegration process. Worker representatives play an important role in the

implementation of the general objectives set out by the legislator as the employer most consult them on the 'inventory of risks' and measures to be taken to address them.

The Working Environment Act bases its protection from violence and harassment on a list of factors which can lead to stress at work: sexual harassment), aggression and violence, harassment („*pesten*“ which can be described as an intimidating form of teasing or bullying without the use of violence), and high work pressure (‘*werkdruk*’ which is a psycho-social risk factor consider to fall outside the scope of harassment). The term „*pesten*“ (a form of harassment) implies an intention to do harm. But the term „*intimidation*“ (intimidating harassment, for example related to sex, religion, race) does not necessarily require such intention, for example in the case of rude remarks and discriminating jokes. A distinction is made between physical harassment (violence) and psychological harassment („*pesten*“) but this distinction is not sharp (for example ‘aggression’ can stop short of becoming violent), neither does it lead to different legal consequences. ‘Intimidation’ is often very close (or even equal) to discrimination. The Working Environment Act includes protection of workers against harassment by third parties such as clients and pupils. The Working Environment Act offers protection against harassment regardless of the reason for the harassment. In addition, there are other legal provisions which offer specific protection against discrimination, including discriminating forms of harassment. Equal Treatment legislation offers special protection against discriminating forms of intimidation and harassment.

The General Act on Equal Treatment prohibits discrimination on the grounds of religion or belief, political view, race, sex, sexual orientation and marital status. In addition there is separate legislation, *inter alia* concerning sex and age discrimination at work. Employees who claim their rights or who protest against harassment are generally protected against victimisation if the harassment falls within the scope of antidiscrimination legislation. The General Act on Equal Treatment contains provisions to this effect (Articles 8 and 8a). If the harassment cannot be brought within the scope of explicitly forbidden discrimination, the employee is still protected against victimisation, even without an explicit provision. For example, the Court will not accept a dismissal if it results from victimisation. If victimisation leads to material or immaterial damage, it is possible for the employee to base a claim on Articles 7:658 and/or 7:611 of the Civil Code (see above). Very serious forms of harassment (for example including violence or severe forms of racial discrimination) may also lead to criminal prosecution under the Penal Code.

In case of incidences of harassment or violence at work there is no specific obligation in the Work environment Act that the employer should implement specific sanctions with regard to the perpetrator. This can be negotiated by the social partners in an “arbocatalogus” (see above. 1.2.) Furthermore, the arbocatalogus should best also set out specific process norms on how to assess the linked damage and determine a rule as to who should launch a complaint against the perpetrator as this is not specifically mentioned in under the OSH legislation.

A1.22.3 Implementation of the framework agreement

A number of actions were taken by social partners both at the cross-industry and at the sectoral level to implement the Agreement. In 2008, a joint recommendation was adopted by the cross-industry social partners organised in the Stichting van de Arbeid (VNO-NCW, MKB, LTO, FNV and CNV). The recommendation refers to the agreement and calls upon the social partner organisation and their affiliated business and members to take serious steps to prevent violence and harassment in the workplace. The document recognises that workplace harassment, violence and bullying are already covered by national legislation and emphasises that Dutch legislation does not distinguish between third party violence and violence or harassment occurring between staff. Furthermore, it includes some basic data on the incidence of violence and harassment in the workplace in the Netherlands, which transnational statistics show to be relatively high compared with other EU countries. This is attributed to the relatively high share of employment in the service sector, which violence (and particularly third party violence) is more widespread.

The remainder of the document reiterates the main provisions of the European framework agreement and indicates how this should be implemented at company level. The Annex provides a full translation of the Agreement and relevant legislative references from existing Dutch legislation, as well as further sources of information.

In conclusion, the partners represented in the Labour Foundation recommend that the social partners jointly raise awareness of the issue; support their members in dealing with the issue and drawing up suitable policies at company level and encourage companies to draft clear procedures and processes to prevent and deal with workplace harassment and violence.

As previously indicated, at sectoral level the implementation of legislation (and indeed the spirit of the joint recommendation) is often done through sectoral covenants. These exist in the public and private sector, but are particularly likely to contain provisions on violence and harassment in the public and service sectors, where the incidence of violence and harassment – and third party violence in particular – is greater. In addition to the covenant, the social partners in the Dutch public sector signed in 2009 a voluntary ‘safe workplace’ agreement, which has led to the conclusion of a number of similar enterprise specific agreements. The 13 sector social partners in the public sector signed a zero tolerance agreement. Enterprise level agreements usually include provisions on prevention, reporting, monitoring, support for victims of aggression, provisions for dealing with perpetrators and set out the specific role of the works council. Social partners in the public sector developed a model *arboconvenant* in particular for harassment and violence. However this model does not specifically refer to the European autonomous agreement.

Further inspired by the European multi-sectoral agreement on third party violence, the Association of Netherlands Municipalities (VNG) and municipal trade unions signed a new collective agreement, which contains a section on policies to reduce harassment and violence in the workplace. It provides that municipalities should appoint a harassment and violence co-ordinator to ensure management level buy in to the measures as well as sustained attention on the issue. It should also contribute to the development of good practices and procedures and the adoption of a clear incident reporting systems. While in 2008, 52% of employees reported incidence of violence or harassment, in 2010, this figure was 48%.

A collective agreement for the health care sector 2009-2011 also specifically referred to the need to establish a clear inventory of sectoral risks, including workplace violence. In the transport sector, a collective agreement draws specific attention to the issues of sexual harassment and the appointment of a confidential counsellor, as well as the establishment of a complaints procedure.

Since the adoption of the recommendation, a number of studies have also been carried out, including on third party violence and on harassment and violence aimed at political representatives in the local government sector.

A special website (www.arboportaal.nl/agressieintimidatie) has been set up by the Dutch government at the request of the social partners which offers advice and guidance on the issue. Various public awareness raising campaign have also been launched, particularly relating to the issue of aggression against public servants.

The social partners in the construction section – more particularly for workers in housing associations – have developed an online toolkit on how to prevent harassment and stress at work (<https://www.flowarboportal.nl/>). The service also includes an advisory desk for enterprises to get specific advice and coaching.

A1.22.4 Incidence of psychosocial risks and trends with specific focus on harassment and violence

At present, there is no national register for incidents of workplace violence and harassment. However, as a result of the work of a public sector task group, several sectors in the public services have implemented or are in the process of establishing a national system for registering incidents of workplace violence (public administration, municipalities, policy service, social security agency, ambulance service, public transport). Despite increasing

awareness, it is considered that there reports a high rate of under-reporting (see Brekelmans et al, 2013).

Sector	Number of employees	FTE	Number of reported incidents	Nature of incidents
Dutch railways	25,000		5,513 (2012) ²⁹³	50% verbal abuse, 40% threats/intimidation, 10% other
Police	40,000		6,034 (2012)	
Social security agency	16,000		530 (2012)	35% verbal abuse, 56% threats/intimidation, 9% physical violence
Ambulance service	5,000		289 (2011)	52% verbal abuse, 13% threats/intimidation, 34% physical violence, 1% sexual harassment

Beyond these sectoral data based on emerging reporting systems, key sources of data are the Netherlands Working Conditions Survey, currently being carried out on an annual basis (in future every 2 years) by TNO (approximate number of respondents 23,000) and the Netherlands Employers Work Survey (also being carried out by TNO) which surveys around 5000 enterprises.

In 2012, 24% of Dutch employees experienced third party violence , while 15% experienced violence on the hands of work colleagues. These figures have been rather stable since 2009. At the same time, the number of employees being exposed to bullying (both internal and external) is slightly decreasing. The results can also be compared with trade union workers survey 2010 (FNV) where 13% of workers signalled that they experience aggression every week and 18% experienced harassment every week.²⁹⁴

Significant differences are found between various groups of employees (see Van den Bossche et al, 2012). Regarding external workplace violence main risk groups are:

- Women, younger workers, employees with intermediate educational level
- Employees who work part-time, employees who work at night
- Employees with frequent client contact
- Workers in the following sectors: police and justice, health- and social care, secondary education, retail trade

The risk groups for violence and harassment from colleagues are rather different, being more likely to consist of men, middle-aged workers, migrant workers, disabled workers and individuals working in industry, the sale and repair of motor vehicles, the justice sector and the postal and telecommunications sectors.

The survey in 2012 also shows that the risk of harassment and violence increases considerably with the size of the company.

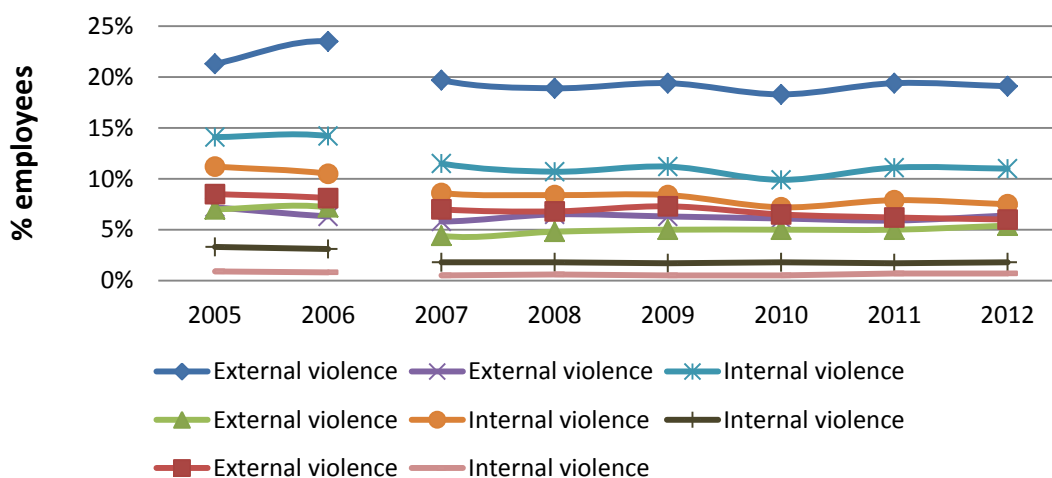
The employers' survey further asks about whether the enterprise has carried out a risk assessment. In 2010, 49% of the employers replied "yes" while in 2012 it concerned only 46%. The survey also aims to inquire whether employers have nominated a prevention officer in their company. In 2010 26% of employers replied that at least one prevention officer was present in the company while in 2012 it was only 24%. On the other hand in 2010 28% of employers carried out this role themselves compared to 26% in 2012. There seems to be a trend that enterprises are saving costs in the area of prevention. It also shows that

²⁹³ Only 12% of which were reported to the police.

²⁹⁴

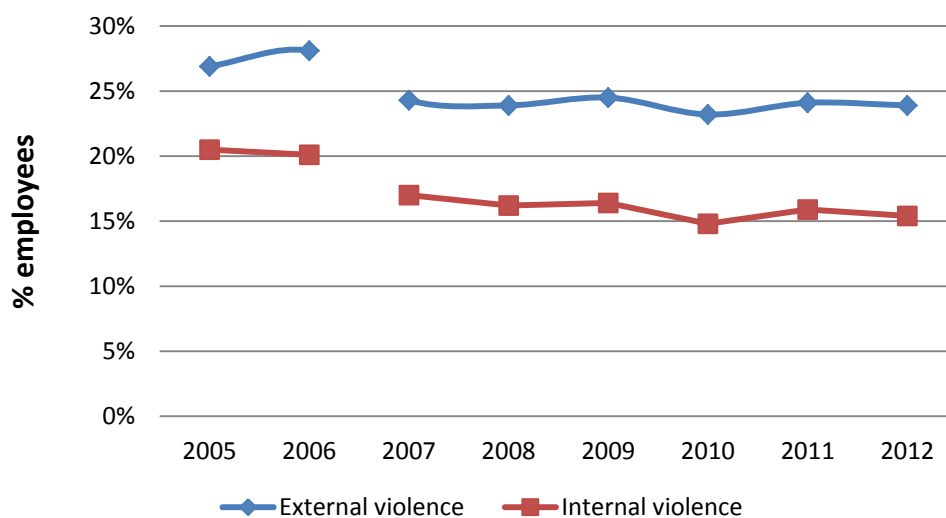
there is a trend that only half of the enterprises are actually taking action with regard to risk assessment and prevention. It should be further noted that in 2012 16% of enterprises indicated that they did not follow the legal obligation to have an occupational health prevention service (company doctor or prevention services). In addition it seems that enterprises are not well informed about changes in the Arboret (OSH legislation) – only 30% replied that they agreed to be well informed about changes in the law recently in 2010 and in 2012 55% of enterprises replied that they were well informed about the Arboret. In addition, enterprises indicated in 2010 that only 13% knew whether social partners determined a specific arbocatalogus setting out more specific OSH prevention measures.

Figure 1: Trends in prevalence of workplace violence in The Netherlands*



Source: NWCS (TNO/Statistics Netherlands)
 * In 2007 the NWCS was slightly changed (heading/position of workplace violence section)

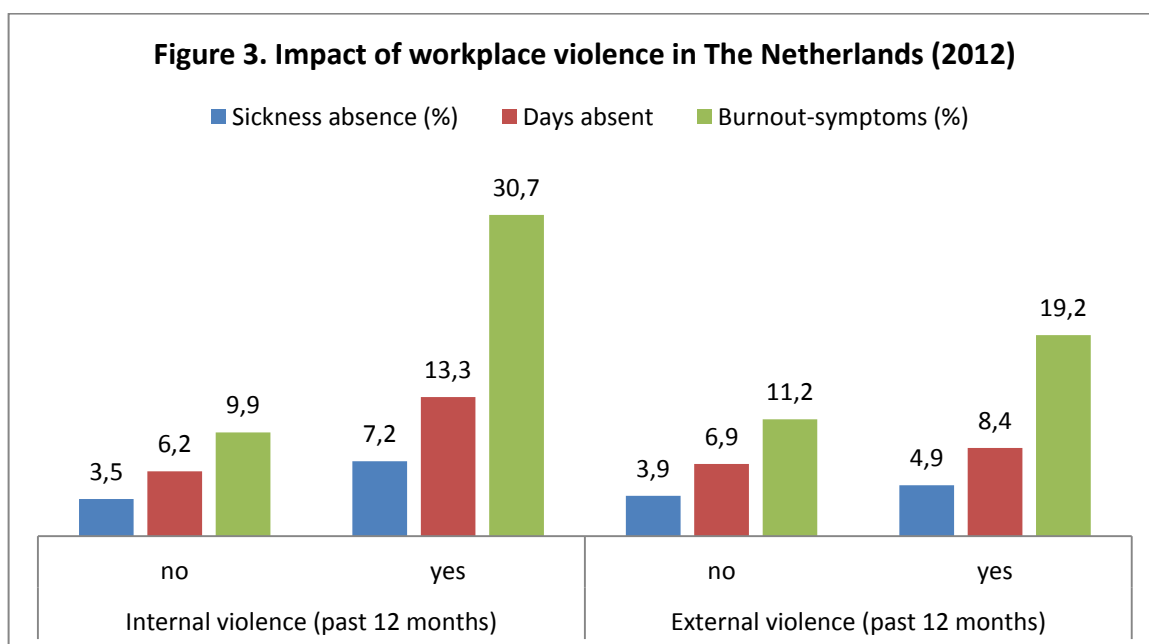
Figure 2: Trends in prevalence of workplace violence in The Netherlands*



Source: NWCS (TNO/Statistics Netherlands)
 * In 2007 the NWCS was slightly changed (heading/position of workplace violence section)

Although most indicators of work quality are relatively stable in the Netherlands, indicators on work insecurity and lack of autonomy are increasing and it is considered that these could give rise to further incidents of harassment and violence.

TNO also gathers information about the impact of workplace violence and harassment on absences from work. Figure 3 summarises the findings from 2012. Data show that the impact of workplace violence on sickness absence (percentage/days lost) remained stable in the past few years. The impact on psychological well-being (measured by burnout-symptoms) has increased slightly since 2007.



Source: NWCS (TNO/Statistics Netherlands)

A study by Van den Bossche et al. (2012) investigated the long term impact of both internal and external workplace violence, based on the (longitudinal) Netherlands Working Conditions Cohort Study. This study included the following outcomes: burnout symptoms, sickness absence, general health status, ability to work until retirement age, willingness to work until retirement age, job satisfaction, work performance, turnover intention (desire to leave at current employer) and employability (physical/mental). The study found that internal violence had a greater impact in the long term on sickness absence, turnover and (lack of) willingness to work to retirement age. The impact of internal violence and harassment was also longer lasting. Nonetheless, external violence also had an impact on burnout symptoms in the longer term.

A1.22.5 Impact of the implementation of the framework agreement

Despite the numerous activities to prevent harassment and violence no specific collective agreement or arbocatalogi was found that explicitly mentioned the autonomous framework agreement. Social partners have been already active to deal with harassment and violence before the Agreement from 2007. It is thus difficult to assess what kind of momentum the agreement generated in the Dutch context. One of the main health and safety risks at work was psychosocial risks including a quite high number of incidences of aggression and bullying, as well as third party violence. Social partners were already alert with regard to psychosocial risks and together with government engaged in broader awareness raising activities. It is not clear at this stage if the agreement has brought something new to the Dutch legal framework with regard to protection and prevention from harassment and violence.

In fact, while presently it seems that social partners have taken quite a high number of initiatives, in sector arbocatalogi, recommendations, hotlines for help, awareness raising activities etc. However with regard to the number of incidences in particular aggression (internal and third party) it appears that they remained the same or increased since 2007.

Research on the implementation of arbocatalogi carried out in 2010 and commissioned by the Labour Foundation²⁹⁵ shows that in 2010 a bit more than half of the Dutch workforce was covered by an arbocatalog but also that the glass was only half full. The research also mentioned that in those arbocatalogi that were part of the research the topic of stress and work pressure were part only of a few arbocatalogi. The report did not analyse the coverage with regard to harassment, aggression or violence but one can take from the research that much more work would be needed in particular to effectively implement those arbocatalogi. In fact social partners at industry level or central level worked on the conclusion of the arbocatalogi but some stakeholders argue that more work is needed to raise awareness among companies (in particular SMES) and workers covered by the agreement to effectively show results in the data, which is also affected by a variety of other factors.

²⁹⁵ Heijink, J.; Oomens, S. (2011) De werking van arbocatalogi, Evaluatie van het project arbocatalogi van de Stichting van de Arbeid – accessed at:
http://www.stvda.nl/~media/Files/Stvda/Brochures/2010_2019/2011/20110200_arbocat.ashx

A1.23 Norway

A1.23.1 Introduction

Social partner organisations in Norway have traditionally played a significant role in the development of OSH policy and approaches, including in the field of preventing harassment and violence in the workplace. Tripartite involvement in OSH strategy, policy design and implementation is important in Norway. Such agreements provide for an overall framework and leave scope for social partners to negotiate bilateral agreements, both at a sectoral and company level. They further engage in promotional actions by setting and revising guidelines at a sectoral level. Collective agreements (and particularly agreements on more inclusive workplaces) have also focussed on psychosocial risks and placed a strong emphasis on prevention. Targeted legislation exists on these issues and there have been a multitude of guidelines, knowledge banks and awareness raising campaigns developed, even prior to the implementation of the Framework Agreement.

Therefore, the main focus of the implementation of the framework agreement in Norway has been to ensure that the policy focus in the various tripartite working groups remains on issues surrounding psychosocial risks and violence and harassment in the workplace, following a 2004-2008 campaign. A number of initiatives have also taken place at the sectoral level, which have put more emphasis on the issue of workplace violence, than had previously been the case.

A1.23.2 National health and safety legislation and policy on psychosocial risks

In Norway, the issues of harassment and bullying are a high priority on the policy agenda. This is demonstrated by the strong legal framework in place, as well as by the number of national policies and measures implemented by the government and social partners. In the legal framework a number of laws deal with violence, harassment and bullying in the workplace and, specifically, harassment on the grounds laid down in EU law (gender, ethnicity, age etc.).

Legislation on the issue of harassment and violence at work has been in place in Norway since the 1970s. As such, the 2007 Autonomous Framework Agreement is not seen to require anything new beyond already existing provisions in legislation and through workplace level risk assessment, which requires employers to take psychosocial risks (and threats of violence and harassment) into account.

The Work Environment Act²⁹⁶ contains provisions in relation to violence, discrimination and harassment in the workplace. Although the act does not provide a legal definition for violence and harassment, these issues are covered in a number of areas: Employees duty to cooperate (section 2-3), requirements regarding the psycho-social working environment (section 4-3) and prohibition of discrimination (section 13-1). The relevant provisions are detailed below:

- Employees shall ensure that the employer or the safety representative is notified as soon as employees become aware of harassment or discrimination in the workplace (section 2-3(d))
- Employees shall not be subjected to harassment or other improper conduct (section 4-3 (3))
- Employees, shall as far as possible, be protected against violence, threats and undesirable strain as a result of contact with other persons (section 4-3 (3))
- Direct and indirect discrimination on the basis of political views, membership of a trade union, sexual orientation, disability or age is prohibited (section 13-1 (1))
- Harassment and instruction to discriminate persons for reasons referred to in the first paragraph are regarded as discrimination (section 13-1 (2))

²⁹⁶ <http://www.arbeidstilsynet.no/binfil/download2.php?tid=92156>

Other pieces of national legislation also contain provisions on discrimination, which address particular aspects of harassment. These include the Equality Act²⁹⁷, which deals specifically with discrimination on the ground of sex; the Discrimination Act²⁹⁸, which prohibits discrimination on the ground of ethnicity, origin, colour, language, religion and belief; and the Discrimination and Accessibility Act²⁹⁹, which regulates discrimination on the ground of disability. The most recent amendments of these Acts date from 2013 (largely focussing on structural changes and an inclusion of sexual orientation as one of the groups for discrimination). A discussion has been going on at national level to assess the possibility and advantages and disadvantages of merging the legislative framework on harassment and violence, which remains unresolved.

A1.23.3 Implementation of the framework agreement

In 2008, the Norwegian cross-industry social partners discussed and agreed upon a translation of the autonomous agreement. The Norwegian version was also signed by social partners, who were not members of the European signatory parties. The autonomous agreement was then presented by LO (the Norwegian Confederation of Trade Union) and NHO (the Norwegian Employers' Association) at a national conference on bullying and harassment and at the council meeting of the Norwegian Labour Inspectorate Authority. A working group was also established between the Authority and all the signatories of the translated version of the autonomous agreement. The national project 'Working without bullying' presented in the previous section was one of the joint activities of this group.

Although national legislation is generally considered to be strong on these issues, LO had demanded more specific regulation on harassment and violence in an amendment of the Working Environment Act. This was rejected by NHO, who did not consider further regulation in this field to be necessary. The Labour Inspectorate established a tripartite forum to consider this further. As part of this, a working party was established on 'violence and threats of violence in the workplace'. The mandate for the working party is to review research in this area and to make any recommendations on further actions. The working group will submit a report to the regulatory forum on January 2015.

In 2009-2010, a national conference on harassment and violence at work was organised by the social partners jointly with the Labour Inspectorate. During the conference, examples of practices were presented from employers which had developed company policies and guidelines to prevent and manage harassment and violence in the workplace.

In addition, the social partners – together with the Norwegian Labour Authority – have developed a guideline on preventing bullying and harassment in the workplace. Further action has also been taken at the sectoral level. In 2010 a new Agreement on more Inclusive Workplaces was signed by KS (Norwegian Association of Local and Regional Authorities) and Unio (Confederation of Unions for Professionals) for four years. The innovation in the new agreement was a stronger focus on the prevention of psychosocial risks. The social partners in the health and education sector have also developed dedicated guidelines on harassment and violence in the workplace.

Furthermore, some unilateral action has also been taken. LO has published an information brochure about bullying and harassment entitled 'What can employee representatives do?'³⁰⁰. This brochure details the difference between bullying and conflicts – what employees experiencing bullying should do and where they can go for help. The information contains an overview of the different relevant legislations and provides users with instructions on where to seek more information.

The Labour inspectorate also published a guidance document on violence and harassment in the workplace developed with the participation of the social partners. It contains definitions

²⁹⁷ Likestillingsloven, <http://lovdata.no/dokument/NL/lov/2013-06-21-59>

²⁹⁸ Diskrimineringsloven, <http://lovdata.no/dokument/LTI/lov/2005-06-03-33>

²⁹⁹ Diskriminerings- og tilgjengelighetsloven, [Diskriminerings- og tilgjengelighetsloven](http://lovdata.no/dokument/LTI/lov/2005-06-03-33)

³⁰⁰ <http://www.lo.no/Sprak/English/>

and guidance on prevention and how to cope with these issues, so as to continue work. Furthermore, good practice information is gathered in a *Bank of Ideas*.

At the policy level, numerous initiatives have been implemented on harassment and violence in the workplace, with a strong focus on the issue of bullying. For example, the first manifesto against bullying jointly signed by local and regional authorities, education providers and trade unions dates back to 2002³⁰¹. Under this manifesto, awareness raising campaigns have been run over the years. The 2013 campaign 'Adults create friendships – together' targeted workers in contact with children and young adults with information against bullying addressed to managers and employees in schools, kindergartens, school health, child health clinics, NGOs etc. throughout the country³⁰².

Further, national tripartite work on HVW was undertaken during a 4 year campaign in 2003 – 2007, which concluded just before the agreement. Tripartite focused on psychosocial risks, with a particular focus on bullying at the workplace. A lot of research was conducted and documentation and guidelines were developed as part of this work.

In 2005, the Government launched a national project (2005-2007 'Working without bullying') against bullying in the workplace. Through the years, the campaign included dissemination activities on national media, training programmes for managers and union representatives, as well as guidelines and other information tools³⁰³. In 2009 the Norwegian Media Authority launched 'Use your head' - the biggest national campaign against cyber bullying³⁰⁴.

In addition, tripartite agreements on more inclusive workplaces have been negotiated from 2001. Each agreement remains in force for 4 years. The latest such agreement dates from March 2014 and focusses on preventative health and safety action in the workplace, with a focus on the prevention of psychosocial risks. A conference on progress in the implementation of the agreement is scheduled for November 2014. The National Risk Observatory (NOA) looked at the incidence of violence and harassment and found that the public sector faced the greatest challenges in this area.

A1.23.4 Incidence of psychosocial risks and trends

Traditionally, Norway has a rich data infrastructure which also covers psychosocial risks at workplace. Every three years Statistics Norway³⁰⁵ (SSB) carries out the Survey of Living Conditions³⁰⁶ (LKU), which also includes questions related to adverse social behaviour (under bullying, violence and sexual harassment) in the workplace. StatBank Norway in the SSB website has easily downloadable data on working environment, survey on living conditions and sickness absence. Data from 2013 show that 31% of workers have experienced bad relationships between employees and management and 2% have been exposed to harassment by co-workers. Trends from 1993 show a significant reduction with reference to the bad relationships between employees and management (from 42%), while harassment by co-workers has decreased slightly (from 3%). In 2013, 5% of respondents said that have been victim of unwanted sexual awareness, remarks or similar for at least a couple of times in a month, this proportion has increased since 1993 (3%)³⁰⁷.

³⁰¹ Signatory parties are the Norwegian Association of Local and Regional Authorities (KS), Parents' Committee for Primary and Secondary Education (FUG) trade union and Union of Education Norway,

http://www.regjeringen.no/upload/KD/Vedlegg/Grunnskole/Manifest_mot_mobbing2011_2014_hefte_web.pdf

³⁰² <https://www.utdanningsforbundet.no/Hovedmeny/Grunnskole/Vi-mener/mobbing/Kampanje-Voksne-skaper-vennskap--sammen/>

³⁰³ <http://www.udir.no/Laringsmiljo/Arbeid-mot-mobbing/Manifest-mot-mobbing/Voksne-skaper-vennskap/Filmer/Voksne-skaper-vennskap---sammen/>

³⁰⁴ <http://www.telenor.com/media/press-releases/2009/launching-norways-biggest-campaign-against-digital-bullying/>

³⁰⁵ <http://ssb.no/en/forside;jsessionid=B40594260639D2F4CC84B6480426F53F.kpld-as-prod11>

³⁰⁶ <http://www.ssb.no/en/arbeid-og-lonn/statistikker/arbmiljo>

³⁰⁷ Working environment, survey on living conditions, Data downloadable from <https://www.ssb.no/statistikkbanken/selecttable/hovedtabellHjem.asp?KortNavnWeb=arbmiljo&CMSSubjectArea=arbeid-og-lonn&PLanguage=1&checked=true>

Additionally, studies have been carried out on the relationship between adverse social behaviour and management styles, as well as the relationship between work performance and job satisfaction³⁰⁸.

A1.23.5 Impact of the implementation of the framework agreement

In Norway, the social partners clearly have a substantial role in determining national OSH strategy and setting out priorities. National tripartite work on HVW was undertaken during a 4 year campaign in 2004-2008, which concluded just before the agreement. Therefore, tripartite work had previously focused on psychosocial risks, with a particular focus on bullying at the workplace. Considering the significant focus already placed on the issues of harassment and bullying, prior to the Framework Agreement, its impact in Norway has mainly been to ensure that the policy focus in various tripartite working groups remains on issues surrounding psychosocial risks and violence and harassment in the workplace, following the 2004-2008 campaign.

Even in a well-developed legislative environment, such as that in Norway, disagreements remain between employers' and trade union organisations about the level of detail with which these questions should be regulated. It could be argued that the framework agreement, and the cross-industry social partner guidelines on third party violence, encouraged a somewhat greater focus on workplace violence. Previously, there had been a greater emphasis on the issue of bullying.

³⁰⁸ Matthiesen, SB and Einarsen S. 'Perpetrators and targets of bullying at work: Role stress and individual differences', *Violence and Victims*, 22(6), 2007, pp. 735–753.; Hauge, L. J. Skogstad, A and Einarsen S. 'Relationships between stressful work environments and bullying: Results of a large representative study', *Work and Stress*, 21(3), 2007, pp. 220–242; Berthelsen, L. Skogstad, L. Hauge, L.J. Nielsen, MB and Einarsen, S. Resultater fra en landsrepresentativ og longitudinell undersøkelse, Bergen, University of Bergen, 2008.; Jordfald, B., Trygstad, S., Vold og trusler i finansnæringen, Fafo-rapport 2012:54 64, <http://www.fafo.no/pub/rapp/20281/index.html>

A1.24 Poland

A1.24.1 Introduction

In Poland, the main national level social dialogue institution, the Tripartite Commission for Social and Economic Affairs (*Komisja Trójstronna ds. Społeczno-Gospodarczych*) is consulted on all relevant policy matters. However, the Commission does not at present have a specific working group on health and safety. Further, since June 2013 trade unions have effectively suspended their participation in the Commission, due to their dissatisfaction with the negotiations on the proposed Labour Code amendments and the government. Collective bargaining in Poland takes place primarily at the company level. Therefore, health and safety matters are not a priority in collective bargaining at the national and sectoral level.

The definition of mobbing was introduced into the Polish Labour Code in 2004. The European autonomous agreement on harassment and violence (2007) intensified the dialogue between the social partners on psychosocial risks at work. In 2008, the trade union NSZZ Solidarność initiated and coordinated a project co-financed by the European Commission (Industrial Relation and Social Dialogues budget) to carry out the necessary background work needed for implementation of the agreement. In March 2011, following this work and negotiations, the social partners signed the Declaration on harassment and violence. Inter alia, it foresaw the establishment of the Working Group on harassment and violence, which was initiated in June 2011. The Group prepared model procedures for employees and employers aimed at preventing harassment and violence at work. The group also aims to create a platform for dialogue, with institutions focused on legal aspects of labour relations. In April 2014, the Working Group broadened the scope of its work to include stress related to work and this was reflected by its revised title, namely the Working Group on Psychosocial Risks.

A1.24.2 National health and safety legislation and policy on psychosocial risks with specific focus on harassment and violence

In Poland, the European Health and Safety Framework Directive has been transposed by the Labour Code and the Regulation of the Labour and Social Affairs (26 September 1997). The legislation currently in force in relation to OSH includes the following laws: Labour Code, Law on occupational medicine, some laws applicable to specific work conditions (e.g. Law on underwater work) and a series of regulatory acts, such as 'PN-80/Z-08052: Safety at Work, Dangerous and Harmful factors present at the workplace: Classification' and 'PN-N-18002:200, Management system of health and safety at work: General guidelines of occupational risk assessment'³⁰⁹. These laws and regulations contain the obligations to assess occupational risks by taking into account all risks in the working environment. However, no explicit reference is made to psychosocial hazards in the workplace.

The Labour Code defines, under its Article 94-2, mobbing as any action of persistent and long-term harassment or intimidating actions directed at an employee, which negatively affects her/his professional self-esteem. These actions cause or aim at humiliating an employee and/or separating or excluding them from the team. The Code further clarifies that an employee suffering from ill-health, due to actions of mobbing, or who leaves employment explicitly due to being subjected to mobbing, may claim compensation from the employer. In practice, the employee has to provide proof of acts of mobbing and a legal procedure against an employer, which is lengthy and difficult.

The Labour Code does not define any procedures that may apply in the case of third party violence. Trade unions are currently lobbying for a coverage of this issue by the labour legislation and for it to include commitments for the prevention of such violence.

³⁰⁹The list of relevant laws and regulations can be found at

http://www.ciop.pl/CIOPPortalWAR/appmanager/ciop/pl?_nfpb=true&_pageLabel=P203223601332862477814

In 2009, the Labour Code was amended to implement the European Anti-discrimination Directives. Harassment is defined as unwanted behaviour, which can cause or aims to violate the dignity of a workers, creating a humiliating and hostile atmosphere. Harassment is considered to be a form of discrimination. Sexual harassment is also understood as a form of discrimination based on gender. It is defined, under Article 18 §6 of the Labour Code, as any undesired behaviour of a sexual nature or referring to the employee's gender, which aims to violate or in effect violates the employee's dignity, especially by creating a threatening, hostile, humiliating, degrading atmosphere. Such behaviour can be comprised of physical, verbal and non-verbal elements (sexual harassment; § 6). According to a Numhauser-Henning and Laulom (2012) report on sexual harassment, Poland still has a "sexism tolerant culture", in which accusing someone of sexual harassment is difficult. Prevention policies seem to be not yet efficient enough to achieve a cultural change in this regard.³¹⁰

The definition of mobbing was introduced in the Labour Code in 2004, prior to the signing of the European autonomous agreement on harassment and violence of 2007. The definition has been introduced because mobbing was not previously defined by law. The inclusion can be seen as a response to a number of mobbing cases that were recorded by the National Labour Inspectorate (PIP). However, in the opinion of the trade unions consulted in the framework of this study, the inclusion of the definition of mobbing into the Labour Code means that people working, not under a regular employment contract, but on the basis of popular civil law contracts (*umowa o dzieło*; *umowa zlecenie*) are not effectively protected against mobbing. In 2013, around 14% of those employed in enterprises with at least 10 employees (and probably a larger share of employees of microenterprises) had civil law contracts.³¹¹

The Criminal Code, under Article 218, states that an employer who maliciously or on purpose violates employees' rights is subject to a fine, restriction of personal liberty or imprisonment.

A1.24.3 Implementation of the framework agreement

The European autonomous agreement was implemented in March 2011 through a joint declaration signed by the Polish social partners NSZZ Solidarność, OPZZ (Ogólnopolskie Porozumienie Związków Zawodowych), FZZ (Forum Związków Zawodowych), PKPP Lewiatan (Polska Konfederacja Pracodawców Prywatnych Lewiatan), KPP (Konfederacja Pracodawców Polskich), ZRP (Polish Craft Union Związek Rzemiosła Polskiego) and Business Centre Club (Business Centre Club – Związek Pracodawców).

Soon after the signature of the European Agreement, a translation (based on the text translated by the European Commission in all official languages) was published on the NSZZ Solidarność website. Further, members of BusinessEurope (PKPP Lewiatan) and UEAPME (Polish Craft Association) presented the agreement to their statutory bodies. The signing of the Agreement was also covered by the Polish newspapers. The social partners were not satisfied with the language of the original translation and decided to provide another translation. The new version has been discussed and agreed among social partners.

The implementation process was led by the trade union NSZZ Solidarność, which since 2008 has coordinated a project co-financed by the European Commission to carry out the necessary background work. Other social partners supported the project by providing know-how advice. The background work involved several initiatives including the organisation of an international conference and the publication of the text on the agreement, which was distributed among social partners. In 2009, Solidarność officially invited the other social partners to negotiate the implementation of the agreement. Solidarność asked the Ministry of Labour to assess the extent to which the legislation met the provisions of the Agreement. The National Labour Inspectorate (PIP) and Central Institute for Labour Protection (CIOP)

³¹⁰ Numhauser- Henning, A., Laulom, S., (2012) Harassment related to Sex and sexual harassment law in 33 European countries, Discrimination vs. Dignity, a report for the European Commission

³¹¹ GUS (2014), Central Statistical Office Warsaw.

were asked to share data on violence in the workplace, as well as to participate in the negotiations in a consultative role. Within the framework of this project, two rounds of negotiating workshops were held with six social partners (NSZZ Solidarność, OPZZ, FZZ, PKPP Lewiatan, KPP, ZRP), training courses were provided for trade union leaders and brochures promoting the European agreement were disseminated. Social partners held different views on three key areas: the need to introduce new legislation, the inclusion of psychosocial risks in the risk assessment and third party violence.

One of the first steps in the process, involved discussing the existing legal provisions, with reference to combating violence in the work environment, with the government and the Central Institute of Health and Safety at Work. The main issue concerned whether psychosocial risks should be considered risk factors within the legal framework. Doing this would have implied an assessment of risk factors according to the Polish legislation. However, it emerged from the consultations undertaken for this study, that contrasting views between the Ministry of Labour and the Central Institute of Health and Safety at Work did not allow for clarifications on this matter.

During the implementation of the framework agreement, trade unions suggested a joint declaration to ensure cooperation at all levels of collective bargaining and highlighted the need to consider a revision of the legislation, with a greater involvement of trade unions in drafting anti-mobbing policies. Third party violence remained an open issue between the social partners. The employers' position remained that third party violence relates only to some sectors and some threats fall within the area of criminal law, rather than constituting the employers' responsibility. The Declaration on harassment and violence was eventually signed by all the parties on 24 March 2011.

Since 2008, there has been a more lively dialogue between social partners on OSH issues, stimulated by the European autonomous framework agreement. This is because the framework agreement led to the establishment of the Working Group on harassment and violence in June 2011.. It consist of two representatives from each of the six partners (NSZZ Solidarność, OPZZ, FZZ, PKPP Lewiatan, KPP, ZRP). The group aims to promote actions to prevent harassment and violence at the workplaces and to create a platform for dialogue between institutions focused on legal aspects of labour relations. At present, the main achievement of this working group has been to prepare and agree upon a model of procedures that might be introduced by employers in order to prevent mobbing³¹². This model is currently being promoted among employers, who appear to be increasingly aware of the importance of establishing such a procedure. On 25 April 2014, the working group on harassment and violence at work has been transformed into a working group for psychosocial risks. Its main tasks include the exchange of experiences and sharing of good practices with regard to harassment, violence and stress at work. The working group meetings are organised on a regular basis, with the most recent one being held on 1 December 2014. OPZZ hosts the working group website³¹³.

A1.24.4 Incidence of psychosocial risks and trends with specific focus on harassment and violence

The national institutions responsible for research in the area of health and safety, including harassment and violence at work, are the Central Institute of Labour Protection (Centralny Instytut Ochrony Pracy, CIOP), The Nofer Institute of Occupational Medicine (Instytut Medycyny Pracy im. J. Nofera, IMP), National Labour Inspectorate and the Central Statistical Office (Główny Urząd Statystyczny, GUS).

³¹² Zespół ds. Zagrożeń Psychospołecznych, Mobbing – Polityka Antymobbingowa. Working group for psychosocial risks. http://www.opzz.org.pl/zdszp?p_p_id=110_INSTANCE_t2W1oOUf4PcC&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column1&p_p_col_count=1&_110_INSTANCE_t2W1oOUf4PcC_struts_action=%2Fdocument_library_display%2Fview_file_entry&_110_INSTANCE_t2W1oOUf4PcC_redirect=http%3A%2F%2Fwww.opzz.org.pl%2Fzdszp%3Fp_p_id%3D110_INSTANCE_t2W1oOUf4PcC%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-1%26p_p_col_count%3D1&_110_INSTANCE_t2W1oOUf4PcC_fileEntryId=1054295.

³¹³ <http://www.opzz.org.pl/zdszp>

In Poland, there appears to be little solid data and research on the health and well-being of victims, the labour market behaviour of victims or the costs incurred due to violence and harassment.

In contrast, data on hazards related to working conditions (but excluding psychosocial risks) and on work-related health problems are regularly collected and published by the Central Statistical Office. The incidence of accidents at work has been broadly stable for the last decade or so, oscillating at around 7 cases per 1000 employed per year. In contrast, accidents leading to serious health consequences and those with fatal consequences have roughly halved between 2000 and 2013 from 0.1 to 0.05 incidents per 1000 employees (for accidents with serious health consequences) and from 0.5 to 0.024 per 1000 employees (for fatal accidents).³¹⁴

Further, there is no system to annually monitor work-related violence and harassment. There is one large-scale representative survey carried by the Central Statistical Office, conducted approximately once every five years.

The survey was part of the first wave of the European Health Interview Survey (EHIS), conducted 2006-2009 in 17 EU member states³¹⁵. The EHIS survey asked about the extent to which a respondent was exposed at the workplace with three answer options: severely exposed, somewhat exposed, and not exposed. According to this survey, 5.5% of those employed declared that they were at risk of being exposed to mobbing or harassment in the workplace. Amongst them, 1.1% declared that they were at a high risk of being exposed and 4.5% indicated a moderate risk of being exposed. The risks were higher for females than for males (6.4% as compared to 4.8%). The professional groups most exposed to mobbing and harassment were technicians and professionals (8.7%), specialists (8%) and office workers (7.8%). Moreover, 3.4 % of those employed declared being at risk of experiencing violence or the threat of violence at the workplace. In these cases, risks were reported as higher by males (4%) than by females (2.6%). The groups most exposed to the risk of violence or threats of violence were technicians and professionals (4.8%) and plant and machine operators (4.7%).

Poland is participating in the 2nd wave of the EHIS survey, with field work being carried between September and December 2014.

One other source of information on harassment and discrimination is a project on psychosocial risks carried by the trade union NSZZ Solidarność and the The Nofer Institute of Occupational Medicine.³¹⁶ The project has, in particular, developed comprehensive tools for assessing psychosocial risks at the workplace. These tools have been tested in a survey carried out among employees of enterprises undergoing transformation from 15 selected sectors (defined along the lines of organisational structures of Solidarność)³¹⁷. A high share of respondents indicated having experienced mobbing (17.3%), discrimination (13.1%) and sexual harassment (3.9%). However, the survey was not representative and, hence, the results cannot be generalised to draw lessons about the magnitude of these problems in the whole economy or even in the specific sectors.

³¹⁴ For a historical comparison see summary at

http://www.ciop.pl/CiOPPortalWAR/appmanager/ciop/pl?_nfpb=true&_pageLabel=P1401037871334841682883&html_tresc_root_id=11288&html_tresc_id=300003025&html_klucz=10972&html_klucz_spis=

³¹⁵ Eurostat, European Health Interview Survey (EHIS);

http://epp.eurostat.ec.europa.eu/portal/page/portal/microdata/european_health_interview_survey. The report on Poland is available as GUS (2011), The general health of the Polish society in 2009, (Stan zdrowia ludności Polski w 2009), Warsaw; http://old.stat.gov.pl/cps/rde/xbcr/gus/ZO_stan_zdrowia_2009.pdf.

³¹⁶ The project website: <http://www.psychostreswpracy.pl/>.

³¹⁷ IMP (2013), Results of the research carried in the project 'Impact of improvements in psychosocial work conditions on economic costs in enterprises undergoing modernisation and adaptation processes' (Wyniki badań przeprowadzonych w ramach projektu „Wpływ poprawy psychospołecznych warunków pracy na ograniczenie kosztów ekonomicznych w firmach przechodzących procesy modernizacyjne i adaptacyjne - projekt badawczy”), Łódź, <http://www.psychostreswpracy.pl/images/pliki/raporty/Raport%20glowny.pdf>.

A1.24.5 Impact of the implementation of the framework agreement

The recent developments concerning the OSH social dialogue between social partners, including the joint position of trade unions and employers organisations on the need to introduce psychosocial factors, to define the work environment and to strengthen the prevention of stress at work, show the growing understanding of the importance of various OSH aspects by the social partners³¹⁸. However, it is difficult to directly attribute these developments to the framework agreement.

Nevertheless, the work on the implementation of the framework agreement has strengthened the social dialogue on OSH issues between the social partners and their awareness raising activities. ,

Significant efforts have been reported to raise awareness of violence and harassment in the workplace. NSZZ Solidarność, as an example, regularly provides trainings on mobbing, harassment and violence at work for all interested parties and for social labour inspectors. Further, interviewed trade union representatives, believed that employees are becoming more and more aware of their rights and the means they can use in cases of violence occurring in the workplace. At the same time, employers appear to better understand the importance of implementing procedures that may help them to prevent mobbing and violence at work. Efforts by employers are also believed to be driven by the desire to improve their public image, so that it is easier to attract suitable candidates for positions. Also, having established procedures to prevent and appropriately deal with mobbing, harassment or violence, is viewed as important in case incidences are brought to court.

³¹⁸Social partners' recommendations on actions related to stress at the workplace can be found at <http://www.cech.nowysacz.com.pl/n1048-rekomendacje-stresowe-partnerow-spolecznych.html>.

A1.25 Portugal

A1.25.1 Introduction

The issue of violence and harassment had a rather low profile in Portugal until recently. It could be considered that the Framework Agreement has assisted in raising the profile as significantly more activities are now under way in relation to awareness raising, the development of guidance and the delivery of training.

Collective agreements and workplace representatives play an important role in shaping the OSH framework, including the consideration of psycho-social risks. At cross-industry level joint activity remains limited and effort to draft jointly supported guidance on the issue failed. At sectoral level relevant collective agreements have been negotiated.

A1.25.2 National health and safety legislation and policy on psychosocial risks with specific focus on harassment and violence

The legislation on occupational health and safety (Law 102/2009) recognises psychosocial factors as occupational risks and states that employers should adapt the work environment to reduce these risk factors. The Law 102/2009 makes several reference to psychosocial risk factors. It is referred to in Clauses d) and e) of Article 15 on *General obligations of the employer*. Clause d) stipulates that it is obligatory for employers *to ensure, in places of work, that exposure to chemical, physical or biological agents and psychosocial risks do not pose a risk to the health and safety of the employee*. In Clause e), employers are required to *adapt work to the individual, especially as regards the design of work places, the choice of work equipment and the choice of working and production methods, with a view, in particular, to mitigating monotonous and repetitive work and reducing psychosocial risks*. The third mention of psychosocial risks is in Section II (*Generally prohibited or constrained activities*), Article 48 on the *Prohibited or conditioned activities*, whereby it is stipulated that *chemical, physical or biological agents or other factors of a psychosocial nature that may have hereditary genetic effects [...] are prohibited or conditioned activities for individuals*.³¹⁹

The legal framework does not contain provisions or refers specifically to violence at work; this topic is indirectly mentioned in different pieces of legislation. The Constitutional Law specifically recognised workers' rights in relation to health and safety protection at work "... the right to personal identity, to the development of personality..., to the good name and reputation, to image and to protection against any form of discrimination" and "...every worker, without making any distinction related to age, sex, race, citizenship or ideology has the right to labour organisation in socially dignifying conditions..." as well as the right "...to work in health and safety conditions". The crimes identified in the Penal Code of offences in relation to physical integrity, insults and offence to honour and public standing are also applicable to cases of violence at work.

The Labour Code contains a definition of harassment, which was revised in February 2009 (Law 7/2009)³²⁰. Harassment is defined as "all unwanted behaviour, based on discrimination in the workplace which has the effect of disturbing or constraining the person with regard to his dignity, or creating an intimidating, hostile, degrading, humiliating or disruptive environment". Sexual harassment is also addressed in the Labour Code, as defined in Clause 2.

Overall, in the Portuguese legal framework the boundaries between harassment as a form of discrimination and other forms of violence in the workplace, such as mobbing and bullying, are unclear. As a results, harassment is mainly seen as mobbing.

The 2008-2012 National Occupational Health and Safety Strategy supported awareness raising events on stress and introduced a duty of monitoring the implementation of the European autonomous agreement for the National Council of Occupational Hygiene and

³¹⁹ Lei n.º 102/2009 de 10 de Setembro available at <http://dre.pt/pdf1sdip/2009/09/17600/0616706192.pdf>

³²⁰ Lei n.º 7/2009 de 12 de Fevereiro available at <https://dre.pt/pdf1s/2009/02/03000/0092601029.pdf>

Safety (CNHST). The objective of the Council's monitoring is to identify where there have been successes or failures of the strategy overall. The emphasis here is on stress rather than violence or harassment.

The technical department within the ACT dealt with this strategy. In 2008, some books on good practices and prevention measures on psychosocial risks were developed: these focused on stress and harassment. Later, in 2010, a project on HVW was implemented. Besides this, several studies have been carried out on the subject of HVW, seeking to establish the incidence of the phenomenon.

The topic of harassment and violence in the workplace is gaining importance in the political debate. The V National Action Plan for Prevention and Combat of Domestic and Gender Violence 2014-2017 (V Plano Nacional de Prevenção e Combate à Violência Doméstica e de Género 2014-2017) includes a reference to sexual and psychological harassment. The majority of this plan focusses on domestic violence, however, Activity 12 is designed to provide good practice guides on addressing violence in the workplace.

A1.25.3 Implementation of the framework agreement

A translation of the agreement was discussed and agreed by national social partners in 2008³²¹. The Commission for Equality in Labour and Employment (Comissão para a Igualdade no Trabalho e no Emprego, CITE) established by the Authority for Working Conditions, in 2013 produced a guide on 'Prevention and fight against harassment at workplace: a self-regulation support instrument' ("Prevenção e combate de situações de assédio no local de trabalho: um instrumento de apoio à autoregulação"). A number of public bodies, trade unions and confederations participated to the drafting of this document which aims at supporting employers in implementing procedures and raise awareness on the topic. However, the employers' associations decided not to be part of the final signatories and to withhold their support in disseminating the guide. In the perspective of the employers' organisation (CIP), the guide was insufficiently clear, including in regard to the legal situation and examples given therein were considered to confuse the situation.

Beyond this, the autonomous agreement was implemented through sectoral social partner agreements and awareness raising activities. In 2008 a clause on harassment and violence at work was introduced in the Hospital sector collective agreement.

A number of initiatives have been implemented in Portugal to raise awareness on the topic of harassment and violence and disseminate the autonomous agreement. In 2007, under an EQUAL funded project 'Acting for Equality' several awareness raising actions directed at union representatives were implemented, both at sectoral and regional level. Under the same initiative the project 'Acting for Equality in Schools' aimed at raising awareness in schools, teachers received training on how to deal with violence in the workplace and in the family. This initiative was supported by the Men and Women Equality Commission which has dedicated particular attention to the topic of harassment and violence.

The CGTP-IN (General Confederation of Portuguese Workers) disseminated the Agreement among its members, in meetings and in information on the website. In 2011 the CGTP-IN organised the V National Conference on Equality between Men and Women (360 participants) which was an important arena to raise awareness on the topic and the autonomous agreement.

The trade union UGT (General Union of Workers) set up a working group linked to the Women's Committee to discuss the topic of harassment, the working group produces annual reports and organises biannual meetings. The union also organised seminars and dissemination events to raise awareness of the issue and the agreement.

The government Committee followed and supported some workers victims of harassment at the workplace and reported remarkable issues in enforcing the existing legislation. In 2009 a seminar on harassment was organised to raise awareness among union negotiators. A

³²¹ <http://www.ugt.pt/SHST/AcordoSobreAssedioeViolencianoTrabalho.pdf>

symposium targeted to working women and young workers aimed at raise awareness on violence at work, stress and harassment. The UGT commissioned a study on harassment in the banking sector covering 25,000 workers³²². The UGT also developed some sample standard clauses on harassment and violence in the workplace to be used in the public sector.

CIP (the Confederation of Portuguese Industry) disseminated information on the Agreement through articles published in associated newspapers. APOCEEP (CEEP national affiliated organisation) was involved in the implementation of the agreement and reported that progress was made in terms of the number of companies adopting relevant policies.

A1.25.4 Incidence of psychosocial risks and trends with specific focus on harassment and violence

In recent years, there has been increasing activity with regard to studies on the topic of harassment and violence in Portugal, some of which is ongoing. The information so far available in relation to harassment and violence in the workplace refer to administrative sources and sectoral data collection.

The Directorate-General of Health (Direção-Geral da Saúde, DGS) runs the Observatory on Violence against healthcare professionals at workplace (Observatório da Violência contra Profissionais de Saúde no Local de Trabalho). The observatory provides a template available online to anonymously report episodes of violence in the workplace. Between 2008 and 2011 a total of 476 episodes of violence have been notified to the Observatory, this includes all type of violence (e.g. sexual harassment, discrimination, psychical and moral violence etc...), violence from colleagues and from third parties. Not surprisingly, nurses are the professional group most affected by episodes of violence. The Commission is about to launch a national survey on harassment at work.

The Commission for Equality in Labour and Employment receives notification of episodes of violence and harassment in the workplace. From 2009 to 2012 a total of 8 episodes of sexual harassment were signalled, 11 on moral harassment and 2 on sexual and moral harassment. In 2011 a total of 606 inspections were conducted by the Authority for Working Conditions (Autoridade para as Condições de Trabalho, ACT) in relation to harassment in the workplace and 140 notifications were issued. The number of inspections in relation to harassment rose from 409 in 2009 to 606 in 2011.

The phenomenon of underreporting is significant in Portugal.

No surveys have been conducted and the only study identified refers to a 2010 doctoral thesis on the banking sector: 'Bullying at Work: An Application to the Portuguese Banking Sector' (Assédio Moral no Trabalho: Uma Aplicação ao Sector Bancário Português, see reference above).

Lopes (2008) discusses the negative impact of moral harassment on workers' mental health and the decrease of productivity at company level.

According to the Portuguese Labour Inspectorate, in 2013, there were 23 reported cases of harassment in the workplace.

A1.25.5 Impact of the implementation of the framework agreement

The issues of harassment and violence are now increasingly discussed in Portugal, which can at least partly be attributed to the Framework Agreement. Portugal participates in the EU campaign on psychosocial risks, but joint actions by social partners remain limited. It is notable that the tripartite work on drafting guidance on workplace violence and harassment ultimately failed to find the support of the peak employers' organisation for the reasons highlighted above.

In the meantime, awareness raising and training activities are being organised by the government and the labour inspectorate.

³²² Ana Teresa Verdasca, [Workplace harassment – the case of the Portuguese banking sector](#)

A1.26 Romania

A1.26.1 Introduction

In Romania, the phenomenon of harassment and violence at work is not specifically addressed in the legislation but rather indirectly by the Law 319/2006 on Safety and Health at Work, the Law 202/2002 on Equal Opportunities among Women and Men, and the Labour Code (Articles 39 and 175).

Annex 22 of the Methodological Norms for the enforcement of the Law No. 319/2006 on Safety and Health at Work approved by the Government Decision No. 1425/2006 includes a section called “Mental and Behavioural Disorders”. It is compulsory to report these illnesses if they consist of reactive syndromes caused by professional factors such as stressful situations or events at work Annex 23 on *Professional Diseases and their main potential causes* mentions occupational-related diseases such as (a) ischemic heart disease caused by increased professional physical and psychological demands, and (b) neuroses and other neuropsychiatric disorders caused by work-related stress. However, the legislation fails to clearly define the causal factors associated with work-related stress. Recent initiative and activities³²³ of the Labour Inspectorate are aimed to identify causal factors of work-related stress, including psychological harassment (such as humiliation, psychological violence, threatening, professional undermining, and professional isolation), and its effects. Within the Labour Inspectorate there is a growing interest to promote more specific legislation on work-related stress.

At national level, *the tripartite social dialogue* is regulated and carried out by the Economic and Social Council (ESC) was established as a consultative body of the Government and Parliament in 1997. ESC includes civil society representation, trade unions and employers. Its advisory opinion accompanies each draft bill submitted to the Parliament debate prior to be adopted. ESC is the main consultative body within the national tripartite social dialogue. However, in the recent years, ESC’s influence /contribution to the tripartite dialogue in the country significantly decreased because of Government’s decreasing interest in engaging in the structure (the Government has the responsibility to appoint in ESC the civil society’s representatives, which was indefinitely postponed since 2011).

Bipartite social dialogue (trade unions, employers) is mainly found at the negotiation and conclusion of the Collective Labour Agreements. In Romania, they are concluded at national level, at sectoral level and at company level respectively, on condition that the company is having 21 employees at least. The Government, through the Labour Inspectorate, appears more engaged to act on the issue of harassment and violence than the social partners. The Trade Unions and Employers’ Organizations consider the topic to be a ‘luxury’; the most important topics for on the collective bargaining agenda in times of economic crisis being, in their view, the job stability and decent wages. Social partners claim that they do not have the capacity to implement measures in line with the Framework Agreement because they lack sufficient resources and because they prefer to prioritize the two aforementioned issues .

A1.26.2 National health and safety legislation and policy on psychosocial risks with specific focus on harassment and violence

In Romania, in accordance with the legislation in force (Law No. 319/2006 and the Methodological Norms for the enforcement of the Law No. 319 on Safety and Health at Work approved by the Government Decision No. 1425/2006), the employer has the responsibility for occupational safety and health and ‘for all the employment related aspects’ (Art. 6, Law No. 319/2006). The employer’s responsibilities in accordance with the Law No. 319/2006, Art. 7, consist of:

- a) ensuring workers’ safety and health,

³²³ An OSH awareness campaign called “European Week for Health and Safety at Work”, survey on equal opportunities (which included items on psychological harassment), a national campaign on equal opportunities and anti-discrimination (on site controls of the employers on how they implement in practice the Law 202/2002).

- b) preventing the occupational risks,
- c) ensuring workers' information and training,
- d) providing the organizational framework and the instruments for the implementation of the safety and health measures.

Art. 14 of the Methodological Norms for the enforcement of the Law No. 319 on Safety and Health at Work, details the modalities the employer disposes of in order to organize the prevention and protection activity within the enterprises of all the activity sectors, both from the public and private

The European Health and Safety Framework directives are transposed by the Labour Code (art.171 of Law 53/2003) and the Health and Safety at Work Act (Law 319/2006). Employers are obliged to ensure the health and safety of their employees; however, psychosocial risks are not specifically mentioned by this legislation as part of the employers' responsibilities in terms of risk assessment and prevention. Overall, Romanian legislation does not specifically address harassment and violence in the workplace. The Labour Code, even after the recent changes, makes no reference to harassment. The only provisions are those of Article 39 para (1) e) and f) which indicate that the employee has the right to dignity at work. Occupational safety and health at work must be understood not only as physical health but also as mental or moral health of the employee. As per Article 175 of the Labour Code, this only partially covers the harassment of employees i.e. only where harassment leads to illness proven with medical records. Situations where employees are subject to harassment without such behaviour leading to an (officially recognised) worsening health situation, moral degradation, or degradation labour relations are not covered by the law.

Harassment and violence topics are indirectly covered by the Law 202/2002 on equal opportunities and equal treatment of men and women (which transposes EU Directive 2002/73/EC), by the National Strategy for equal opportunities among women and men 2014-2017 (Government Decision 1258/2004), and by the National Strategy for Preventing and Combating Discrimination 2007-2013 (Minister Order 286/2007).

In the Law 202/2002 (Article 4), the terms harassment and sexual harassment are defined as follows:

“c) harassment means an unwanted conduct related to the sex of the person, with the object or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment;

d) sexual harassment means an undesirable behaviour with sexual connotations, expressed physically, verbally or nonverbally, with the object or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.

g) discrimination based on sex means direct discrimination and indirect discrimination, harassment and sexual harassment of a person by another person at work or in another place in which he/she operates and any treatment less favourable due to the rejection of such conduct by the person or by his/her exposure to such conduct.”

Also, the Law 202/2002 (Articles 6 and 11) stipulates that: “Rejection behaviour of harassment by a person or subjecting a person to such behaviour cannot be used as a basis for a decision affecting that person”.

“Constitutes discrimination based on sex any unwanted conduct defined as harassment or sexual harassment, with the purpose or effect of: a) creating an intimidating, hostile or disincentives workplace atmosphere for the person affected; b) adversely affect the situation of the employee in terms of promotion, remuneration or income of any kind or access to professional training and development, in its refusal to accept an unwanted conduct related to sex.”

The first objective of the National Strategy for Preventing and Combating Discrimination 2007-2013 refers to “enhancing protection against discrimination, including victimization,

harassment or incitement to discrimination". However, the Strategy does not include any concrete measure specifically addressing harassment.

The National Strategy for Equal Opportunities for Women and Men 2014-2017 submitted by MoLSFPE and whose government approval is still pending is more specific concerning what and how harassment and violence will be addressed. However, when it comes to violence, it explicitly addresses gender-based violence. Thus, *Chapter VII - Directions for Action, Section 5 - Gender Violence, Sub-section 5.1. Control of harassment and sexual harassment in the workplace* stipulates the followings:

- a) Preparing an analysis of the phenomenon of harassment and sexual harassment at work in companies in Romania and on the procedures and practices used by them for the prevention and management of cases of harassment and sexual harassment in the workplace;
- b) Organize information and awareness-raising campaigns among employers and employees about the negative effects of mobbing and sexual harassment in the workplace.

Sub-section 5.2. Control of gender-based violence refers to the organization of awareness-raising campaigns about gender-based violence.

Chapter VIII - Expected results and indicators, Section 5 - Gender Violence, Sub-section 5.1. Control of harassment and sexual harassment in the workplace stipulates the following:

a) preparing an analysis of the phenomenon of harassment and sexual harassment at work in companies in Romania and on the procedures and practices used by them for the prevention and management of cases of harassment and sexual harassment in the workplace. *Indicators include:*(1) one report on the extent of mobbing and sexual harassment at work both in the public and private sectors and on the procedures and practices used by public and private employers for the prevention and management of harassment and sexual harassment in the workplace; (2) one seminar on harassment and sexual harassment in the workplace, to be planned as a an event for launching the aforementioned report and defusing good practices used by public and private employers in combating and managing harassment and sexual harassment in the workplace; (3) the number of organizations receiving the report.

b) Organize information and awareness campaigns among employers and employees about the negative effects of mobbing and sexual harassment in the workplace. *Indicators include:* (1) the number of events at central and local level; (2) the number of employers and employees participating in the information campaign; (3) the number of partners joining/attending the information campaign; and (4) the number of information materials developed and distributed during the information campaign.

Sub-section 5.2. Control of gender violence: Organization of awareness campaigns and awareness about gender violence. Indicators include: (1) the number of cities in which the campaign is conducted; (2) the- number of partners participating in the awareness-raising campaign; and (3) the design of 3 types of posters; (4) at least 1,000 posters of each type posted.

Despite the fact that normative acts of the Romanian legislation regarding certain practices to combat discrimination have no explicit, direct reference to the phenomena of "mobbing" and "bullying", in certain professional fields (medicine, education, and public administration), there is already a fairly consistent legislation in place on combating and preventing discrimination against certain categories of citizens, for example, people with disabilities and Roma.

With a view to preventing and combating undesirable behaviour in in the workplace, two types of interventions have been put in place:

- non-legislative interventions, such as codes of practice, the provisions of collective bargaining agreements, and other non-legislative measures;

- legislative interventions based on specific provisions aimed at preventing violent behaviour at work, including psychological violence.

Non-legislative interventions to combat activities or actions likely to be classified as "mobbing" can be taken on the basis of indirect elements specified in collective bargaining agreements. For the first time, such provisions were introduced in the national collective bargaining agreement for 2007-2010. Article 96 of this agreement (also included in the national collective bargaining agreement for 2011-2014) states the following: "(1) the parties agree to strive to promote a normal work climate in compliance with the law, collective contracts at unit level, rules of procedures, and the rights and interests of employees and union members; (2) to create and maintain a work environment that encourages respect for the dignity of each person; collective contracts at the unit level will stipulate procedures for settling complaints of individual employees amicably, including those on violence or sexual harassment, in addition to what is stipulated by law."

Under the legislation, and in accordance with these terms, some non-legislative provisions to prevent and combat violence and harassment in the workplace should be reflected in the internal regulations of public and private working units/entities/organisations. Some private organizations, especially multinationals, have codes of good practice in labour relations. They define some elements to prevent and combat mobbing.

A1.26.3 Implementation of the framework agreement

No information is available to date on the implementation of the Framework Agreement. There is a very limited awareness concerning the existence of the Framework Agreement among stakeholders in Romania. In fact, both the field data collection and the desk review indicated only a limited awareness of the Agreement within the Ministry of Labour, Family, Social Protection and Elderly (MoLFSPE). None of the sources indicated an involvement in implementation or monitoring of the implementation of the Framework Agreement. All social partners mentioned the lack of resources (financial and human) as an important reason for not implementing the necessary measures in accordance with the Framework Agreement. Similarly, social partners noted that they prioritised the issues of job stability and decent wages in times of economic crisis. This is reflected not only in their discourse but also in their lack of engagement in the area of harassment and violence. For example, the representatives of the National Council of Small and Medium Enterprises and of the National Council of Free Trade Unions "Fratia" attended a meeting in Sofia³²⁴ aiming at stimulating social dialogue. During the meeting and soon after the two partners were expected to draft an Action Plan for the implementation of the Framework, which there is no evidence they actually did so³²⁵.

A1.26.4 Incidence of psychosocial risks and trends with specific focus on harassment and violence

The only surveys carried out on psychosocial risks and harassment and violence in the workplace relate to the national data collection for the 2007 and 2013 ad-hoc module on Health and Safety at Work of the Labour Force Survey (LFS), which is carried out by the Romanian National Institute of Statistics (Institutul Național de Statistică, INS). The results show a decrease in the numbers of people reporting working conditions likely to affect their mental health (from 1,674 to 1,356). 'Pressure and workload' was the factor reported most often (14.9%), while physical violence or threat of physical violence had an incidence of 1.3% and harassment of mental violence of 1.2%. The main difference by gender was reported in relation to physical violence or threat of physical violence (1.8% for men against 0.7% for women). Data by economic sectors are not available.

³²⁴ *EU Social Dialogue and the implementation of EU Social Dialogue Instruments* (Sofia, 11-12 April 2012) organised by ETUC, Business Europe and UEAPME

³²⁵ The Action Plan cannot be traced from any public source and the representatives of the two social partners were either elusive when asked about this document.

According to the study "There is psychological violence in the workplace?" (2013)³²⁶, nine out of ten Romanian employees declare they are affected by mental violence at work. They believe that their managers mentally abuse their subordinates, which is why most of the employees feel humiliated at work, overworked, or confused about the tasks they have to fulfil. One out of five employees considers that psychological violence at work is generated by conflicts arising between colleagues. Prolonged period of crisis increase pressure on management to deliver results, employees' fear of being laid off or of the companies to be closed have significant effects on the mental state of employees. More and more employees feel that they are humiliated by their bosses or their colleagues, which impact their productivity levels as well as their health.

In 2011 the first Anti-Mobbing Centre was established, following an ESF funded project 'Women Count!/[Femeia contează!](#)'. The centre provides legal and psychological support to victims of psychological harassment at work. Between 2011 and 2013 the centre supported more than 100 victims of psychosocial harassment. Unfortunately, the Center was not a sustainable project and its activity stopped when the ESF funding ended.

In 2011, the Research Institute for the Quality of Life (Institutul de Cercetări pentru Calitatea Vieții, (ICCV) carried out a 'Study on Mobbing and other Forms of Discrimination at Work in Romania'/' [Studiu asupra fenomenului de mobbing și a unor forme de discriminare la locul de muncă în România](#)' (coordinated by coordination of Cristina Toma and Sorin Cace). More than half (52%) of interviewees reported that working conditions have effects on their health; 5.42% of interviewees reported symptoms related to strenuous working conditions; managers (6.43%) were more likely to report symptoms of stress than employees with no managerial responsibilities (5.22%). A total of 9.4% of interviewees felt isolated by their colleagues, 15.4% of these reported a negative impact on their work and 10% on their health conditions.

The above mentioned study reported a list of risk factors for mobbing deriving from improper relationships at work. These are summarized in the table below.

		No	Yes, me	Yes, a colleague
One of your colleagues or yourself repeatedly...				
1	Dissonant with the team; do not integrate into the team	79.4	2.0	19.5
2	Laugh at him; make fun of him; target of gossip	73.9	4.9	24.7
3	It is criticized; target of reproaches	71.1	7.4	25.7
4	Is insulted, offended by colleagues or bosses	81.3	4.2	16.5
5	Is summoned to meetings with colleagues / off duty actions, does not mingle with colleagues during breaks	90.5	2.0	8.1
6	Is ignored; is not allowed to have their say, is interrupted when speaking; his opinion does not matter	89.7	2.5	8.9
7	His tasks are often changed; given workloads without notice	89.7	4.6	7.6
8	Is assigned difficult tasks; a lot of work; often stays overtime; work over his qualification	89.1	5.2	8.7
9	Is assigned tasks shunned by others or below his qualification	91.1	3.6	6.7
<i>Be and only once...</i>				
10	Exposed to "digging" or stealing ideas, work results or harassed (not announced the change / program meetings work, new tasks is given, and changes are made on works / routes / plan employment)	89.3	4.3	8.1
11	Is placed to work in an isolated place; work is given because of which no longer interact with colleagues	95.0	1.6	4.1
12	Ridiculed, humiliated in front of colleagues	90.8	1.9	8.8

³²⁶ Online survey conducted on a sample of 1,180 respondents

One of your colleagues or yourself repeatedly...		No	Yes, me	Yes, a colleague
13	Is hit/pushed into an argument with the boss or colleague	96.8	0.8	2.6
14	Is blackmailed, harassed, intimidated, threatened with violence	97.0	1.2	2.2
15	Exposed to conditionality of sexual nature; subject of advances of a sexual nature.	97.9	0.7	1.6

The 2013, the National Council for the Control of Discrimination (Consiliul Național pentru Combaterea Discriminării, CNCD) reported as having dealt with a total of 77 cases of psychological/moral harassment of which 8 were confirmed, 21 not confirmed, 13 were classified, 4 were considered as not being of the CNCD competence and 31 are currently pending.

A1.26.5 Impact of the implementation of the framework agreement

There is no desk review or field evidence indicating any impact of the Framework Agreement. The incipient progress in the country in the domain of combating harassment and violence in the workplace is the result of a gradually increasing level of civic action of very few actors in the domain (e.g. lawyers specialized in labour law, sectoral trade unions).

A1.27 Slovakia

A1.27.1 Introduction

Slovakia has thus far not implemented the autonomous framework agreement on harassment and violence at work. Although social partners and other public and private stakeholders acknowledge the need to pay increased attention to addressing the phenomena, harassment and violence at work remain at the margin of national policy debates. Legislation covering psychosocial health and safety risks lacks cohesion and does not provide an effective legal framework for preventing and dealing with harassment and violence at work. Recent communication campaigns and events organised by social partners, labour inspectorates and NGOs have helped to raise public awareness and media attention about workplace bullying and provided helpful information on ways to deal with the issue. Nevertheless, these activities have not sufficiently addressed the existing legislative and procedural shortcomings.

In Slovakia, at the national level, social partner interest representation on OSH issues is through the tripartite body, the Economic and Social Council. It is common procedure that social partners at national level (and indirectly also at sectoral level³²⁷) are involved in the consultation process and drafting of health and safety legislation and OSH strategies, though there is no specific legal obligation to do so. National and specific sector-level social partners³²⁸ are furthermore involved in the Coordination Committee for OSH, which is the main advisory body to the Ministry of Labour, Social Affairs and Family in the field of health and safety at work. With regard to the autonomous framework agreement on harassment and violence at work, to date, the Economic and Social Council has not implement the agreement by law or by any other means.

Based on available evidence, there has been an increase in the incidence of violence and harassment in recent years, although it reportedly remains below EU average levels. To what extent this reflects an actual increase in the occurrence of violence and harassment at work, an increased willingness of victims to report such behaviour or intensified public debate and media coverage remains largely unexplored. This is partly because of a lack of reliable and comparable trend data since standardised and regular data collection is lacking.

The framework agreement had no real impact on social dialogue, occupational safety and health (OSH) legislation and the collection of relevant data. There remain gaps in the implementation of the agreement related to legislative provisions on harassment and violence in the workplace and the internal rules on how to identify, prevent and resolve cases of harassment and violence.

A1.27.2 National health and safety legislation and policy on psychosocial risks

Relevant legal texts governing violence and harassment in the workplace can be found in different areas of legislation, including general labour law, OSH, equal treatment and anti-discrimination legislation, as well as the penal code and public health legislation.

In line with EU framework health and safety legislation, Slovak law places a number of general obligations on employers in the area of occupational health and safety:

- The Labour Code Act No. 311/2001 Coll. under article 147 imposes an obligation on employers to ensure the occupational health and safety of employees, to establish necessary preventative measures and a suitable OSH management system.
- Act No. 124/2006 Coll., on safety and health at work, further develops the obligations placed on employers in relation to ensuring a safe working environment and risks prevention. § 5 (1) states that the employer is obliged to implement measures necessary to ensure occupational safety and health, including the provision of information,

³²⁷ Representatives of sector-level social partners are nominated as members of the Economic and Social Council by the national (cross-industry) organisations.

³²⁸ For example, representing chemical and pharmaceutical industries.

education and the appropriate organisation of work and resources. Furthermore, under article §6 (1), the employer is obliged to ensure that chemical, physical and biological factors, as well as factors affecting occupational mental stress and social factors, do not threaten the safety and health of workers. The employer is required to identify dangers and threats and elaborate a written document on risk assessment for all activities carried out by employees.

- Act No. 125/2006 Coll. on labour inspection lays down rules for the control and enforcement of the two above-mentioned laws.
- Act No. 355/2007 Coll. on the protection, support, and development of public health also defines obligations for employers to protect employees against workplace risks (including psycho-social risks) and for these to be identified through risk assessment.
- Ordinance of the Ministry of Health of the Slovak Republic No. 542/2007 Coll. on health protection against physical stress, occupational mental stress, and sensory stress at work specifies procedures for assessing occupational mental stress, criteria of occupational mental overload, and measures to eliminate or reduce mental stress to the lowest possible levels.

These OSH related acts do not contain any explicit provisions on workplace harassment or mobbing (Olšovská, A., 2013). However, by referring to the Anti-Discrimination Act (Act No. 365/2004), which defines harassment and sexual harassment as specific forms of discrimination, the Labour Code de jure forbids these forms of discriminatory behaviour in the workplace.³²⁹ Pursuant to the Anti-Discrimination law, harassment is considered as behaviour which "causes or may cause the creation of intimidating, hostile, embarrassing, degrading, disgracing, humbling or abusive environment and whose purpose or impact of which is or may be to interfere with the freedom or human dignity" of the victim.³³⁰ Sexual harassment is defined as "verbal, non-verbal or physical behaviour of sexual character, the purpose or impact of which is or may be the violation of human dignity, and which creates an intimidating, degrading, disgracing, humbling, hostile or abusive environment". However, not all forms of workplace harassment must necessarily have a discrimination background. According to the law, there must be a discriminatory motive to consider harassment (or sexual harassment) discrimination.

Physical and sexual violence at the workplace can also be addressed by Act. No. 372/1990 Coll. on offences or the Penal Code (Act. No. 300/2005 Coll.).

There have been no recent legislative changes regarding harassment and violence at work.

Existing legislation does not specify rules for employers and employees pertaining explicitly to dealing with workplace harassment and violence. However, the Labour Code (Article 13) states that (i) employers are obliged to treat employees in labour-law relations in accordance with the principle of equal treatment, (ii) enforcement of rights and obligations arising from employment relations must be in compliance with good morals, (iii) nobody may be persecuted or otherwise sanctioned in the performance of labour-law relations for submitting a complaint, charge, or proposal for criminal prosecution against another employee or the employer, (iv) employers may not, except for grave reasons, intrude upon the privacy of employees in the workplace by monitoring, keeping records of telephone calls and checking e-mails without giving notice in advance.

At present, employees have the right to submit a complaint to the employer in connection with the infringement of rights and obligations and/or failure to comply with the above conditions. The employer is obliged to respond to such complaints without undue delay, perform retrieval, refrain from such conduct, and eliminate the consequences thereof. Employees, who assume that their rights or interests were violated, may refer to a court and seek legal protection. Based on anecdotal evidence, however, the number of victims who

³²⁹ The same applies also to the Civil Service Act (Act No. 400/2009 Coll. on the civil service) which refers to the Anti-Discrimination law.

³³⁰ The enactment of legal definitions of harassment (since 1 September 2007) and sexual harassment (since 1 April 2008) have been enforced by the European Commission due to the improper and/or insufficient transposition of European directives (2000/43/EC, 2007/78/EC and 2004/113/EC).

decide to resolve cases of harassment or violence at work by judicial means tends to be low. Apart from an overall poor judicial performance (lengthiness of proceedings, non-transparency, etc.) which discourages victims to take legal action, stakeholders assume that victims more generally conceal their problems for fear of retaliation or job loss. In accordance with the Anti-Discrimination Act, persons also have the right to protect their rights (including those applying to labour-law relations) by out-of-court dispute resolution and mediation³³¹.

Victims of workplace harassment and violence may request practical and legal assistance from their employer, workplace unions, the labour inspectorate, but also to the Public Defender of Rights (public ombudsman) and the Slovak National Centre for Human Rights (when harassment or bullying occur for discriminatory reasons).

A1.27.3 Implementation of the framework agreement

Despite a number of awareness raising initiatives being launched in recent years, neither the social partners nor the Slovak government have taken sufficient steps so far to implement the framework agreement on harassment and violence at work (HVW agreement). Moreover, there are no specific plans to implement the agreement in the near future. The obvious reason is that these phenomena are not considered to be policy priority in Slovakia. There is circumstantial evidence showing that social partners have not fully identified with their key role in the implementation of the HVW agreement, instead referring to the responsibility of the government and the legislator to ensure necessary legislative reforms. Moreover, the fact that regulations covering harassment and violence at work are scattered across different areas of legislation has not contributed to the clarity regarding implementation requirements and responsibilities.

Nonetheless, social partners and other stakeholders have launched a number of activities to increase public awareness of psychosocial risks in the workplace. A 2012 OSH report published by the Slovak trade union confederation (KOZ SK)³³² emphasises the importance of addressing new psycho-social risks, including mobbing and violence at work. The report notes that newly emerging psycho-social hazards are significantly increasing the risk of accidents at work. The report recommends that (1) legislation be amended to include a new category of risk (now categorised under 'common occupational risks') covering the severity of psycho-social hazards at workplace level and (2) that occupational medical services cover these new hazards. These recommendations are reiterated in the 2013 trade union report on OSH, which stresses that although the number of workplace accidents is gradually decreasing, psychosocial risks are responsible for an increasing share of accidents (almost 60% in 2013).³³³

In 2013, KOZ SK published a number of declarations calling on employees to report incidents of violence and harassment to their trade union representatives. It also provided guidance on addressing workplace mobbing and bossing.³³⁴ Similar initiatives have also been taken by sectoral trade unions, including in the telecommunications sector. In the education sector, a code of conduct has been developed to address violence and harassment directed at teachers and other school staff. A conference on mobbing and bossing in the education sector called for the adoption of special anti-mobbing legislation.³³⁵

Similarly, a growing number of private companies have recently introduced provisions against violence and harassment into their corporate codes of conduct; a Eurofound report³³⁶

³³¹ Mediation is regulated by Act No. 420/2004 Coll. on mediation, enabling to resolve also labour-law relations.

³³² http://www.kozsr.sk/page_sk/bozrp/rocna_sprava_2012_komplet_4.pdf

³³³ http://www.kozsr.sk/page_sk/bozrp/sprava_bozrp_2013.pdf

³³⁴ http://www.kozsr.sk/page_sk/21_8_2013_sikanovanie_na_pracovisku.pdf

³³⁵ <http://www.nso.sk/component/content/article/14-sample-data-articles/167-zavery-z-konferencie-qbossing-a-mobing-v-slovenskom-skolstveq.html>

³³⁶ Add reference, forthcoming

underscores examples of such a practice in the SLOVNAFT Plc. Refinery³³⁷, Skanska (a construction and development group³³⁸) and Slovenské elektrárne, a.s.³³⁹ To the best of our knowledge, there have been no joint actions taken by the social partners at national or sectoral level.

The National Labour Inspectorate (NIP) has launched in recent years several activities to raise awareness among employers and employees of psychosocial risks, their implications and ways to address them. As the EU-OSHA's focal point, the NIP launched in April 2014 a series of national seminars within the Healthy Workplaces 2014-2015 campaign called 'Healthy workplaces without stress'.³⁴⁰ The Labour inspectorate organised presentations on addressing psychosocial risks at work, including harassment and violence, in the biggest national job fair World of Work. Another programme called 'Safe enterprise' aims to motivate employers to introduce effective OSH management systems by awarding ministerial certificates for universal safety and health standards, including favourable social and cultural interactions in the workplace.³⁴¹ With a view to transposing the EU Framework Directive on OSH, the NIP has issued a booklet on stress.³⁴² The booklet contains tools for both employers and employees to identify the triggers and symptoms of stress. This includes the identification of triggers linked to a 'poor social climate' and mobbing.

The Slovak National Centre for Human Rights (SNSLP) and a number of NGOs also campaign, provide information, and support employees that of victims of violence and harassment. In reaction to an increasing number of notifications received on workplace bullying, the SNSLP has recently published a press release on bullying, mobbing and bossing. The SNSLP developed a training programme on the identification, elimination and defence against bullying, mobbing and bossing, intended primarily for labour office staff. In addition to the training component, the centre prepared a brochure with practical advice for victims of workplace bullying.³⁴³ In recent years, the civil society organisation "Práca a vzťahy – Work and Relations" has helped raise awareness about bullying at the workplace, through several conferences and the publication of survey results.

A1.27.4 Incidence of psychosocial risks and trends

In Slovakia, there is no standardised and regular collection of data on the prevalence of workplace violence and harassment. Most of data available is collected by way of special-purpose (and usually one-time) surveys and ad hoc studies. As expected, there are no single definitions of the phenomena and terminology varies depending on the survey methodology, purpose and design.

Official register data exists on cases of harassment (based on discrimination) reported to the National Labour Inspectorate.³⁴⁴ Here, figures are only available on all complaints linked to discrimination in employment relations (not only those of harassment), which made up 0.7% of complaints registered in 2013 (2.0% in 2012 and 1.7% in 2011). However, a 2011 report by the Slovak National Centre for Human Rights notes that labour inspectorates are increasingly carrying out investigations into workplace bullying³⁴⁵.

³³⁷ <http://www.slovnaft.sk/repository/903011.pdf>

³³⁸ http://www.skanska.sk/cdn-1cbbd2f13b5cb91/Global/About%20Skanska/Downloads/eticky_kodex_sk.pdf

³³⁹ <http://www.seas.sk/data/file/56/eticky-kodex.pdf>

³⁴⁰ <http://www.safework.gov.sk/?t=46&s=126&ins=nip>

³⁴¹ <http://www.safework.gov.sk/?t=46&s=118&ins=nip>

³⁴² http://www.safework.gov.sk/?id_fa=34&ins=nip

³⁴³ <http://www.snslp.sk/#page=2538>

³⁴⁴ For practical purposes, the National Labour Inspectorate makes use of an unofficial definition of bullying (mobbing and bossing) which is interpreted as such behaviour of co-workers or superiors which aims to make a victim's life in the workplace embarrassing.

³⁴⁵

http://www.snslp.sk/CCMS/files/Spr%C3%A1va_o_dodr%C5%BEiavan%C3%AD_%C4%BEudsk%C3%BDch_pr%C3%A1v_vr%C3%A1tane_z%C3%A1sady_rovnak%C3%A9ho_zaobch%C3%A1dzania_a_pr%C3%A1v_die%C5%A5a%C5%A5a_v_Slovenskej_republike_za_rok_2011_ISBN.pdf

Based on a representative survey carried out in 2006 (Holubova, 2006), nearly two thirds of the Slovak population considered workplace bullying to be relatively widespread. Similarly, harassment and sexual harassment are also considered to be fairly common phenomena by nearly half of the respondents. A more recent survey carried out by sectoral trade union OZ KOVO in 2013 and reported by Olsovska (2013) found that 46% of workers considered bullying to be present in their workplace.

In 2012, an EU-wide survey on violence against women was conducted on behalf of the EU Fundamental Rights Agency. Data for Slovakia revealed that 37% of women experienced sexual harassment in a workplace context. Women in the age bracket 40-49 years and educated to a tertiary level were most likely to experience this form of harassment, a finding potentially linked to the high prevalence of this category of worker in public sector occupations. This is confirmed by a study on the incidence of mobbing in the public sector (Fuksova, K., 2007). This study found that 65% of respondents considered mobbing as a serious problem in their workplace, while 30% said that they have not been confronted with mobbing so far and cannot pass a judgement. Reasons behind mobbing were identified as being fear of job loss, poor interpersonal relationships and inadequate staffing policy.

As indicated above, the education sector is another area where harassment and violence (particularly from parents and pupils) are commonplace. Karikova and Nabelkova (2010) estimate, based on own research, that 15% of teachers are exposed to mobbing in the workplace. More than 38% of respondents believe that mobbing and bossing are present and/or widespread in the education sector. A troubling statistic shows that 46% of victims of harassment were driven to consider not only a change in the workplace but also in profession. Prevalence of psychosomatic disorders and the use of tranquillisers was identified to be more prevalent among victims of workplace harassment.

Further sectoral research is available in the manufacturing sector. The already mentioned survey carried out by OZ KOVO found that 44% of respondents had personal experience with bullying and 56% witnessed bullying of other persons during their working life. Men reported a higher incidence of experience with bullying (69%) compared to women (31%). In 80% of cases the perpetrator was a man. In 34% cases, the perpetrator was a direct superior; in 31% of cases another, more senior, member of staff, and in 30% of cases a colleague of equivalent rank. Reports of bullying were particularly prevalent among employees aged 51-62 and 31-40 with secondary level education. The survey also asked how workers would like to see this issue addressed. Trade unions were considered to play a key role in this regard, with anonymous reporting also considered a possibility.

As illnesses resulting from psychosocial risk factors are not classified as occupational diseases, there are no readily available data on sick leave resulting from workplace violence and harassment. Individual data are presumably available from medical reports but these are not publicly available. Another possible source of information is the sickness insurance database of the Social Insurance Agency (this needs to be verified).

It is obvious that the (non-implementation of the) HVW framework agreement has not impacted on national data collection.

A1.27.5 Impact of the implementation of the framework agreement

Since the implementation of the framework agreement has not been carried out, there has been hardly any direct impact on legislation, social dialogue, or company practice. While the social partners typically contribute to legislative changes through the tripartite Economic and Social Council, this procedure was not followed since no new legislative texts were adopted to transpose the framework agreement into national law.

Awareness activities, although not referring directly to the HVW agreement, have helped to raise awareness among employers, employees and the general public on the issue. As well as having a preventative role, these campaigns serve to inform victims of harassment and bullying about legal and practical resources available.

There remain particular gaps in Slovakia's legislative framework on harassment and violence at the workplace and the rules on identifying, preventing, and resolving cases at company

level. To address these gaps, it is important that partners at the tripartite level, in cooperation with other stakeholders (labour inspectorate, civil society):

- Agree on terminology and legal definitions of the phenomena.
- Adopt specific legal provisions on harassment and violence at work. This can be done either by drafting separate legislation, or more feasibly, by modifying existing legislation, specifically the Labour Code and the Act on Safety and Health at Work. The purpose of the amendments would be to enact provisions that (i) explicitly define and forbid harassment and violence in the workplace, (ii) lay down an obligation for employers to develop an internal system of formal rules (or code of conduct) that are to be applied to prevent and resolve existing cases of violence and harassment. Consideration should also be given to the inclusion of HVW as a new category of occupational health and safety risks and cause of occupational diseases.
- Improve the legal and procedural framework to punish perpetrators as well as protect and support victims of harassment and violence at work. In this respect, it is necessary to discuss measures (i) to streamline and shorten legal proceedings related to labour-law disputes (e.g. special court proceedings for labour-law disputes, improved out-of-court mediation), (ii) to improve support provided to victims (e.g. reduction and/or exemption from legal charges, assistance provided from public legal resources or specialised NGOs, stipulation of adequate financial compensation), and (iii) to tighten punishment of perpetrators (financial and non-financial sanctions, blacklists, etc.³⁴⁶).
- Ensure regular and standardised surveying of data on workplace violence and harassment.

³⁴⁶ See also Olsovska (2013)

A1.28 Slovenia

A1.28.1 Introduction

In Slovenia, national legislation is the main mechanism governing the area of health and safety and psychosocial risks. Social partners can play a significant role in bringing about changes at national and company level. At national level, tripartite negotiation takes place in the Economic and Social Council (ESS). Changes to the legislative framework are first negotiated between social partners and the Government in the ESS. The agreed outcomes of these negotiations are officially transmitted through non-binding 'social agreements'. The points agreed and presented in the social agreements feed the process of drafting new and amended legislation. The topic of health and safety at work is traditionally regulated by national legislation; therefore changes in this area needs to be included in the legislative framework and are always negotiated at tripartite level.

To date the main impact of the European autonomous agreement on violence and harassment has been the reassessment of the national legislation (in 2007 and 2013) and the subsequent inclusion of new provisions on harassment and violence in the Safety and Health Act and the Employment Relationships Act. The proactive role of social partners was paramount to introducing clauses in line with the European autonomous agreement.

Numerous activities and projects have been implemented by the trade unions to support the implementation of awareness-raising and preventive measures in the workplace. These include training for union representatives, a statement of zero tolerance to be used as a basis for workplace negotiations, a toolkit to support the resolution of disputes, and the dissemination of the European autonomous agreement (at events, on websites).

Similarly, the Employers' Association of Slovenia (ZDS) published a guidance note on harassment and violence for its members, has organised dedicated workshops, and provides ad-hoc advice to its members. The Chamber of Craft and Small Business of Slovenia (Obrtno podjetniška zbornica, OZS) is encountering major difficulties in implementing preventive measures in line with the European autonomous agreement. A key challenge in this regard is that of formulating policies and procedures that could be realistically implemented in micro and small companies.

The autonomous agreement has not only triggered a national discussion on harassment and violence at work and brought about legislative changes, it has also had a significant impact in the workplace. In the last years, there has been a significant improvement of workers' awareness of inappropriate behaviour and their rights in this area. According to interviewees, the fact that employers are compelled to have in place a zero tolerance statement and establish preventive measures has had a remarkable impact on the increase of reported instances and court cases related to harassing behaviour.

A1.28.2 National health and safety legislation and policy on psychosocial risks

In Slovenia, the prevention of violence and harassment in the workplace is governed by several pieces of legislation³⁴⁷.

In 2011, the new Safety and Health at Work Act (Zakon o varnosti in zdravju pri delu, ZVZD-1³⁴⁸) was passed. This OSH legislation contains general provisions in relation to employers'

³⁴⁷ Employment relation law ZDR-1 (Zakon o delovnih razmerjih, ZDR-1), UL RS 21/2013; Civil servant law ZJU (Zakon o javnih uslužbencih - ZJU), UL RS 56-2759/2002, RS 110-5389/2002, RS 2-70/2004, RS 23-770/2005, RS 62-2777/2005, RS 75-3364/2005, RS 113-5004/2005, RS 21-830/2006, RS 68-2952/2006, RS 131-5492/2006, RS 33-1764/2007, RS 65-2817/2008, RS 69-3014/2008, RS 69-3015/2008, RS 40-1700/2012, RS 63-2514/2013; Regulation on civil servant dignity (Uredba o ukrepih za varovanje dostojanstva zaposlenih v organih državne uprave), UL RS 36-1705/2009, RS 21-784/2013; Labour market law ZUTD (Zakon o urejanju trga dela - ZUTD), UL RS 80-4304/2010, RS 40-1700/2012, RS 21-785/2013, RS 63-2512/2013, RS 63-2511/2013, RS 100-3600/2013, RS 17-540/2014, RS 32-1320/2014; Health and safety at work law- ZVZD-1 (Zakon o varnosti in zdravju pri delu ZVZD-1), UL RS 43/2011; KZ-1 (Kazenski zakonik, KZ-1), UL RS 55-2296/2008, RS 66-2875/2008, RS 39-1876/2009, RS 91-3913/2011

³⁴⁸ <http://www.uradni-list.si/1/objava.jsp?urlid=201143&stevilka=2039>

responsibilities towards the health and safety of workers in the workplace; it also includes provisions on third-party violence (article 23) and violence, mobbing, harassment and psychosocial risks (article 24)³⁴⁹.

Harassment and violence in the workplace is specifically regulated by the Employment Relationships Act (Zakon o delovnih razmerjih, ZDR-1)³⁵⁰. This law was first amended in 2007 with the aim of reviewing the conditions of workers' dismissal; however, on this occasion changes in line with the European agreement on harassment and violence at work were also made. In 2013, the Act was further amended and significant changes were made in the area of harassment and violence. Article 6(a) with the title '*prohibition on sexual and other harassment and bullying at the workplace*' states that³⁵¹:

(1) Sexual and other harassment is prohibited. Sexual harassment is any form of undesired verbal, non-verbal or physical action or behaviour of a sexual nature with the effect or intent of adversely affecting the dignity of a person, especially where this involves the creation of an intimidating, hateful, degrading, shaming or insulting environment. Harassment is any undesired behaviour associated with any personal circumstance with the effect or intent of adversely affecting the dignity of a person or of creating an intimidating, hateful, degrading, shaming or insulting environment.

(2) Sexual and other harassment referred to in the preceding paragraph shall be deemed to be discrimination pursuant to the provisions of this Act.

(3) Rejection of action and behaviour referred to in the first paragraph of this article on the part of an affected candidate or worker may not serve as grounds for discrimination in employment and work.

(4) Bullying at the workplace is prohibited. Bullying at the workplace is any repetitive or systematic, reprehensible or clearly negative and insulting action or behaviour aimed at individual workers in the workplace or in connection with work.

The Criminal Code (Kazenski zakonik³⁵²) was also amended in 2008 with provisions and sanctions in cases of harassment. The penal code envisages penalties including imprisonment in the case that damages to someone's health is proven to be related to harassing behaviour.

Other parts of the national legislative framework include provisions on mobbing in the workplace and a decree in the public sector which contains preventive measures and actions to be taken in case of incidences of mobbing, violence and harassment (Uredba o ukrepih za varovanje dostojanstva zaposlenih v organih državne uprave³⁵³).

The Slovenian legislative framework obliges employers to ensure that measures are taken to prevent, control, manage and eliminate violence and harassment in the workplace. Employers are required to have a written statement where the definition of harassment is provided together with procedures and steps to follow in cases of violence and harassment, as well as a reference name within the company in charge of these issues. In cases where employers do not take actions and employees decide to take their case to court the burden of proof is on employers (i.e. the employer needs to demonstrate that harassment or violence did not take place), therefore court rulings are more likely to be in favour of workers. According to the employers' organisation (ZDS), this is an incentive for employers to ensure that clear policies and procedures are in place. According to a 2008 survey, there were no reported cases where employers would refuse to react (i.e. take measure) in cases of reported instances of harassment and violence. The survey did, however, highlight a lack of

³⁴⁹ Eurofound (2012) Psychosocial risks in the workplace in Slovenia

<http://www.eurofound.europa.eu/publications/htmlfiles/ef1245.htm>

³⁵⁰ <http://www.uradni-list.si/1/objava.jsp?urlid=201321&stevilka=784>

³⁵¹ An English version of the Act is provided in

http://www.mddsz.gov.si/en/legislation/veljavni_predpisi/employment_relationships_act/

³⁵² www.uradni-list.si/1/objava.jsp?urlid=20082296

³⁵³ <http://www.pisrs.si/Pis.web/pregledPredpisa?id=SKLE7890>

awareness among workers of what qualifies as unwanted forms of behaviour³⁵⁴. The issue of underreporting due to lack of awareness and information was also underscored by the interviewee from the employers' organisation (ZDS). In informal environments, such those found in small and micro companies, to clearly identify the boundaries of what qualifies as harassment and violence is a challenge.

The Labour Inspection Act³⁵⁵ (Zakon o inšpekciji dela) regulates inspections, the supervision of law enforcement, collective agreements and general acts that regulate labour relations and safety and health at work.

According to interviewees, at national policy level little is done on this topic. The Chamber of Craft and Small Business of Slovenia (Obrtno podjetniška zbornica, OZS) lamented the lack of a holistic approach; at national and European level topics are addressed in a fragmented manner which makes it more difficult to seriously implement measures which could effectively address the issue. For example, harassment and violence could be included among a wider health and safety strategy, as well as employment measures.

A1.28.3 Implementation of the framework agreement

Since the legislation is the main national instrument regulating health and safety (i.e. collective agreements do not deal with these issues), social partners negotiated with the central government the integration of specific provisions on harassment and violence in the Slovenian legislative framework. The Safety and Health at Work Act and the Employment Relationships Act were reassessed and amended in 2007 and in 2013 to include provisions on harassment and violence in accordance with the autonomous agreement.

In line with the traditional role played by social partners in the formulation of social policy and labour law, where social partners and the Government negotiate non-binding social agreements within the Economic and Social Council (ESS), which feed into the process of drafting new and amending legislation, Social partners had a proactive role in the amendment of the legislative framework through the 9th chapter of the 'social agreement' signed by the Slovenian social partners for the years 2007-2009³⁵⁶. The original intention was for this agreement to be transposed into a national collective agreement to fully implement the autonomous agreement on harassment and violence. However, the national collective agreement was never signed and the harassment and violence agreement is mainly transposed through internal company guidance or sectoral agreements.³⁵⁷

Following the provisions of the national legislation and in line with the European autonomous agreement, the Employers' Association of Slovenia (ZDS) prepared a guidance note, available to its members for a small fee. The note contains measures to implement and steps to take in order to prevent harassment and violence at work. The guidance also contains a general overview of the issue and the benefits related to the prevention of harassment and violence at work. The ZDS provides information by means of leaflets and workshops on the topic of mobbing and harassment at work. Ad-hoc advice and direct support is also offered to employers through a helpline and via email. Typically, the main reason employers seek advice is to obtain legal information and understand the steps to be taken in disputed cases.

The Association of Free Trade Unions of Slovenia (Zveza Svobodnih Sindikatov Slovenije, ZSSS) is particularly active on the topic of harassment and violence at work. A number of

³⁵⁴ ESP (2011) Implementation of the 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, <http://resourcecentre.etuc.org/Agreements-57.html>

³⁵⁵ <http://www.uradni-list.si/1/objava.jsp?urlid=199438&stevilka=1523>

³⁵⁶ Socialni sporazum za obdobje 2007–2009, (Uradni list RS 93-4614/2007), Social Agreement for period 2007-2009 (Official Journal RS, No. 93/2007)

³⁵⁷ Socialni sporazum za obdobje 2007–2009, (Uradni list RS 93-4614/2007), Social Agreement for period 2007-2009 (Official Journal RS, No. 93/2007) [http://www.tax-fin-lex.si/Login.aspx?returnUrl=http://www.tax-fin-lex.si/DocumentText.aspx?rootEntityId=aE_d4974e65-889a-48a7-b8a4-1fc3660b3446\\$createDate=2007-10-12\\$activeDate=2007-10-02\\$q=socialni.sporazum](http://www.tax-fin-lex.si/Login.aspx?returnUrl=http://www.tax-fin-lex.si/DocumentText.aspx?rootEntityId=aE_d4974e65-889a-48a7-b8a4-1fc3660b3446$createDate=2007-10-12$activeDate=2007-10-02$q=socialni.sporazum)

projects have been implemented to raise awareness on the issue and support union representatives in negotiating workplace measures with employers. ZSSS projects on this topic include:

- Better health at work through training of workers OSH representatives³⁵⁸. This project is co-financed by the Health Insurance Institute of Slovenia (duration period 2013-2014), it aims at enhancing workers' occupational health and increasing the number of elected workers safety representatives. Through this project an e-network of workers safety representatives has been established and will be given professional training. On the basis of the European autonomous agreement, a zero-tolerance statement on harassment has been developed ('a violence and harassment non-tolerance statement of the employer') and is presented during this training. ZSSS advises its union representatives to propose this tool to employers during consultations;
- Model for mediation - A tool to achieve equal opportunities on the labour market³⁵⁹. This research project was carried out in 2008-2009 with the financial support of European funds. It entailed the preparation of a mediation tool-kit to support the resolution of disputes and complaints of harassment in the workplace. The project also aimed to improve the help made available to victims of discrimination and provide guidance on training and education.

ZSSS promotes the transposition of the social partners' agreement on harassment and violence in several ways. This includes providing an unofficial translation of the autonomous agreement³⁶⁰ (which has not been signed by employers' organisation), organising public conferences and events on the topic of harassment and violence, and providing trainings for workers representatives. Moreover, all European agreements are accessible in Slovenian on the ZSSS website³⁶¹. To support employers in complying with the legislation, the trade union has prepared a draft statement on zero tolerance for workers representatives to propose to employers³⁶².

ZSSS was also a partner in a number of projects related to psychosocial risks, including, the "Support Programme for Employers and Employees for reducing Work-related Stress and its Adverse Effects"³⁶³ (an output of the project was the IDTS, an on-line tool for risk assessment of psycho-social burden at workplace³⁶⁴) and "health at work through targeted management of psycho-social burden"³⁶⁵ (this project updated the risk assessment tool of psycho-social burden in the workplace). Additionally, ZSSS, in cooperation with ZDS and other partners, is working on an on-going project financed by the Ministry of labour: "Modernization of industrial relations through modernization of collective agreements"³⁶⁶. This project aims at analysing the Slovenian industrial relations system to establish the right national environment in order to implement European instruments, including the autonomous agreements.

³⁵⁸ Boljše poklicno zdravje delavcev z usposabljanjem delavskih zaupnikov za varnost in zdravje pri delu, 2013-2014: http://www.sindikar-zsss.si/index.php?option=com_content&view=article&id=1100:usposabljanje-delavskih-zaupnikov-varnost-in-zdravje-pri-delu&catid=21:opis-projektov&Itemid=26

³⁵⁹ MODEL ZA MEDIACIJO - orodje za doseganje enakih možnosti na trgu dela, 2008-2009: <http://mediacija.zsss.si/en>

³⁶⁰ Document in Slovenian has been provided

³⁶¹ http://www.sindikar-zsss.si/index.php?option=com_content&view=article&id=604&Itemid=209

³⁶² Document in Slovenian has been provided

³⁶³ Program podpore za delodajalce in zaposlene pri odpravljanju stresa, povezanega z delom in pri zmanjševanju njegovih škodljivih posledic - PPDZ-S, (2010-2012)

³⁶⁴ <http://dmi.zrc-sazu.si/sl/strani/stres-na-delovnem-mestu#v>

³⁶⁵ Skrb za zdravje zaposlenih skozi usmerjeno obvladovanje psihosocialnih obremenitev (2013-2014) <http://dmi.zrc-sazu.si/sl/programi-in-projekti/skrb-za-zdravje-zaposlenih-skozi-usmerjeno-obvladovanje-psihosocialnih#v>

³⁶⁶ Posodobitev industrijskih odnosov skozi spodbujanje prenove kolektivnih pogodb (2013-2014) http://www.sindikar-zsss.si/index.php?option=com_content&view=article&id=1066:posodobitev-industrijskih-odnosov-skozi-spodbujanje-prenove-kolektivnih-pogodb&catid=21:opis-projektov&Itemid=26

According to ZSSS representatives, these projects constitute preparatory work for the next round of national collective negotiations, where ZSSS will re-negotiate the inclusion of harassment and violence at work in the collective agreements.

According to the Chamber of Craft and Small Business of Slovenia (Obrtno podjetniška zbornica, OZS), small businesses face a number of difficulties in implementing European autonomous agreements at national level, including the autonomous agreement on harassment and violence. Indeed, small businesses often lack the financial resources to implement relevant activities (such as awareness raising campaigns and other types of support) and would benefit from further support from European social partners in relation to clear guidance on how to implement the autonomous agreement at national level. Another issue relates to the fact that European instruments, including the autonomous agreement on harassment and violence, are designed mainly in a way that makes it difficult for SMEs (Small and medium enterprises) to implement the required changes. SMEs do not operate within a strategic business framework (as exists in large companies) and relations between colleagues are typically informal. Thus, the lack of a clear definition of what is considered to be 'harassment' and guidance on procedures for different types of business, means that for a small business (where the boundaries between formal and informal are blurred and colleagues are often friends or relatives), it is more difficult to have a clear statement on what is considered to be harassing behaviour and clear internal procedures. Moreover, the OZS interviewee highlighted that a lack of education and general awareness of harassment and violence in the workplace also acts as a barrier to implementing preventive measures.

At the sectoral level, the Healthcare Trade Union (Sindikat delavcev v zdravstveni negi Slovenije, SDZNS) and SOS Association with the Chamber of Nursing and Midwifery Services of Slovenia are carrying out a joint project, "Advisory Phone for people with experience in violence in the workplace", where they provide support and information to people who were victims of harassment or violence.

An ESF funded project carried out in 2013-2014 analyzed the state of the implementation of all European autonomous agreements at the national level. According to this project, only four sectoral collective agreements mentioned the European autonomous agreement on harassment and violence³⁶⁷. This includes, for instance, the Collective Agreement for Banking and Savings Bank Activities.

A1.28.4 Incidence of psychosocial risks and trends

The Labour Inspectorate, placed in the Ministry of Labour, Family and Social Affairs, is in charge of investigating health and safety in companies and collecting reported cases of wrongdoing. The National Institute of Public Health (Nacionalni inštitut za javno zdravje³⁶⁸) also collects data on sick leave and accidents at work, reported by employers.

According to a report published by the National Institute of Public Health³⁶⁹ in 2007, a total of 429 incidents were reported in relation to shock, fear and violence, 195 incidents relating to third party violence, and 25 incidents relating to violence between colleagues. The majority of these incidents occurred in the public sector. A 2012 report by the Labour Inspectorate³⁷⁰ reported 60 cases in which the work environment was considered 'inadequate' to protect workers against discrimination, violence and harassment (i.e. a violation of preventive measures according to legal provisions).

The Labour Inspectorate and other government departments have recently carried out a number of surveys on this topic, often in cooperation with trade unions. A survey on

³⁶⁷ Public sector: http://www.sindikat-zsss.si/index.php?option=com_content&view=article&id=245&Itemid=103

Private sector: http://www.sindikat-zsss.si/index.php?option=com_content&view=article&id=244&Itemid=102

³⁶⁸ <http://www.ivz.si/>

³⁶⁹ http://www.ivz.si/Mp.aspx?ni=188&pi=5&_5_FileName=311.pdf&_5_MediaId=311&_5_AutoResize=false&pl=188-5-3.

³⁷⁰ http://www.id.gov.si/fileadmin/id.gov.si/pageuploads/Splosno/LETNA_POROCILA/LETNO_POROCILO-2012/Inspektorat_RS_za_delo_-_Letno_porocilo_za_letno_2012-20.05.2013.pdf

preventive measures in the workplace in 132 companies was carried out in 2009 by the Government Office of Equal Opportunities (Urad za enake možnosti, UEM)³⁷¹. In 2007, the government's Office for Equal Opportunities (Urad za enake možnosti, UEM) conducted a survey on different forms of harassment at work³⁷². The survey investigated verbal and non-verbal sexual harassment, physical sexual harassment, and other forms of harassment related to gender, religion, sexual orientation, disability, education, age and nationality. The relationship between the victims and the perpetrators and the reaction of the victims were also investigated. A survey on psychosocial risks was carried out by the Labour Inspectorate in 2010. A total of 106 employers and 520 employees were surveyed. More than one quarter (26%) of respondents reported having been victim of some kind of harassment; however, only 5% of employers said this type of behaviour had been reported in their company³⁷³.

A number of sectoral studies on this topic have also been carried out. In 2007, the main trade union in the banking sector (Sindikat bančništva Slovenije) carried out a survey on bullying³⁷⁴. Similarly, in 2009, a survey on bullying at work was carried out among trainee doctors³⁷⁵; 70.8% of trainee doctors reported having been victim of bullying. In 2010, a second wave of a survey on violence against nurses was carried out among 692 nurses (the first wave was carried out in 1999)³⁷⁶. Results showed that in 2010-2011, 78.8% of nurses reported having been a victim of violence (mostly from patients), compared to 72.3% in 1999.

A1.28.5 Impact of the implementation of the framework agreement

The main impact of the autonomous agreement in Slovenia has been the re-assessment of the legislative framework and significant amendments made in 2007 and 2013 to the Employment Relationships Act and the Safety and Health at Work Act.

The ZSSS representative emphasised that because Slovenia joined the EU in 2004, there was no tradition of transposing European instruments into national social dialogue; a fact which has slowed down the process of transposing European autonomous agreements.

ZSSS has been a member of the European confederation since 2004, while the employers' association (ZDS) joined more recently. According to the ZSSS representative, this has had an impact on the extent to which European autonomous agreements are implemented nationally, since ZSSS was the only organisation who felt compelled to transpose them at the national level. Moreover, it emerged from the interview with the ZSSS representative that recent amendments to national legislation have revoked the obligation for employers to be part of a national employers' organisation. Therefore, the fear of losing members has also had an impact on the level of commitment of the employers' organisation (ZDS) in persuading enterprises to implement European autonomous agreements, since these are seen as further nuisances from employers, especially since the economic crisis has put further pressure on businesses.

Despite this, the ZSSS interviewee highlighted that the autonomous agreement has had an impact at national level, mostly in terms of awareness among social partners and policy-makers. European autonomous agreements have triggered the national debate on the issues of stress, harassment and violence, and psychosocial risks, which until recently were topics unknown (or unspoken of) in Slovenia. Following the autonomous agreement on harassment and violence, social partners are compelled to take this issue into account in their agenda and debates. The fact that social partners are more reactive to the increasing

³⁷¹ Other partners included the Confederation of Independent Trade Unions of Slovenia (Konfederacija Neodvisnih sindikatov Slovenija, KNSS) and Education, Science and Culture Trade Union of Slovenia (SVIZ)

³⁷² <http://www.arhiv.uem.gov.si/fileadmin/uem.gov.si/pageuploads/RaziskavaNadlegovanje.pdf>

³⁷³ http://www.id.gov.si/fileadmin/id.gov.si/pageuploads/Splosno/LETNA_POROCILA/LETNO_POROCILO-2012/Inspektorat_RS_za_delo_-_Letno_porocilo_za_letno_2012-20.05.2013.pdf

³⁷⁴ http://www.sbs.si/files_vsebine/20091112122621410/Mobbing_brosura.pdf

³⁷⁵ <http://www.mf.uni-lj.si/dokumenti/9e6eccc7fdd765242ff7e6e21a258bf8.pdf>

³⁷⁶ <http://www.siol.net/Novice/Zdravje/2011/12/MedicinskeSestreNasiljeRaziskava.aspx>

cases of complaints by their members also points to the fact that there is in general more awareness of this issue.

According to the ZSSS and ZDS interviewees, trends in society and among employers are also changing. Recent amendments to the national legislation have had a significant impact on the level of incidents reported and on the number of court cases related to the issue of harassment and violence in the workplace. The amendments to the Employment Relationships Act in 2013 included the introduction of a higher maximum 'punitive' sanction and the possibility for employees to sue employers on the grounds of 'damage'. These amendments have had the positive effect of increasing awareness among employees of their rights and create a strong incentive for employers to establish preventive measures and clear procedures to address harassment and violence in the workplace.

According to employers' representatives, the lack of a clear definition of what qualifies as harassing behaviour and the possibility of a high compensation for employees has led to an increase of false (or unclear) claims. Accordingly, employers are increasingly asking ZDS and trade union representatives for support in implementing preventive measures as well as advice on dealing with legal procedures. Trade union representatives, for their part, argue that the Employment Relationships Act provides a clear definition of harassment.

The ZSSS representative stressed that an important barrier to the successful implementation of the autonomous agreement is the lack of commitment on the part of the European employers' organisation in providing clear guidance to their national members. This was confirmed by the two employers organisations who lamented the fact that agreements signed at European level are not followed up by clear steps and support at national level; thus limiting the potential impact of these instruments nationally.

The impact of the agreement on SMEs was reported to be very limited. It appears that SMEs, more than large companies, struggle to implement procedures and measures to tackle harassment and violence at work according to the principles of the European autonomous agreement. According to the representative of small businesses in Slovenia, the European agreement is not tailored to tackle the issue in small companies since it requires a level of resources and a strategic approach which are unrealistic for SMEs. For example, what type of procedures can be implemented in cases of harassment in companies with three or four employees? How to define harassment in environments where procedures and relations are informal and often people are friends or relatives? Furthermore, what could be considered as unprofessional behaviour in a large company it is often believed as acceptable and normal in small companies.

In addition, the representative of small businesses in Slovenia lamented the lack of targeted policies and allocated financial resources at national and European level to implement the autonomous agreement and tackle the issues of harassment and violence in the workplace. One of the main issues highlighted relate to the fragmented approach and the lack of a national strategic vision on how to address psychosocial risks in the workplace.

A1.29 Spain

A1.29.1 Introduction

In Spain, legislation on the issue of harassment and violence at work was in place prior to the implementation of the European autonomous framework agreement. While Spanish OSH legislation implicitly covers psychosocial risks, other legal acts cover the issue of harassment in the workplace. The prohibition of harassment in a work context is explicitly included in the Penal Code, while sexual and gender-related harassment is covered by specific legislation on gender equality. These texts establish obligations for employers in terms of prevention and remediation measures.

At the cross-industry level, social partners play a role in the formulation of national OSH policies and are involved in the elaboration of the national strategy for health and safety at work. They are represented in the tripartite National Commission for Safety and Health at Work (*Comisión Nacional de Seguridad y Salud en el Trabajo, CNSST*). The CNSST includes a specific sub-group on psychosocial risks, which includes experts in the area from both the trade union and employer sides. OSH is dealt with in collective bargaining processes at the cross-industry, sectoral/regional level and company level.

In 2008, Spanish cross-industry social partners committed to implement the European autonomous framework agreement on violence and harassment at work by encouraging collective bargaining at the sectoral and company level. Trade unions are the most active in supporting awareness-raising activities and developing (or updating) guidance and information material.

A1.29.2 National health and safety legislation and policy on psychosocial risks with a specific focus on harassment and violence at work

The [Law on the prevention of workplace risks](#)³⁷⁷ 31/1995 aims to promote the health and safety of all workers. An initial evaluation of work-related risks must be undertaken by the employer and regularly revised. For each identified risk, the employer must take the measures required to eliminate or mitigate it within a specific timeframe. Although the law does not explicitly refer to psychosocial risks (or to harassment and violence at work), it has a very general scope. The rights of workers to be protected against psychosocial risks may hence be derived from this law³⁷⁸.

The [Organic Law 5/2010](#)³⁷⁹ introduced the notion of harassment (*acoso*) in a work context in the Penal Code. It describes as a penal offence the action taken by individuals '*who, within the workplace or in a public administration, abuse of their position repeatedly to take actions that are hostile or humiliating and, even if not constituting a degrading treatment, lead to a serious harassment of the victim*'.

In addition, sexual and gender-related harassment (*acoso sexual; acoso por razón de sexo*) is also the object of specific provisions which apply to the workplace.

The [Royal Legislative Decree 5/2000](#) approving the consolidated text of the law on infractions and sanctions in the social field³⁸⁰ states that sexual harassment, harassment on

³⁷⁷ Ley 31/1995, de 8 de Noviembre, de Prevención de Riesgos Laborales. (BOE 10.11.1995) y sus posteriores modificaciones

³⁷⁸ Cristóbal Molina Navarrete (2013) *El diálogo social como vía de progreso en la cultura preventiva: la experiencia del Acuerdo Marco Europeo sobre Violencia y Acoso-AMEVA* in Casos reales de Violencia y Acoso en el Trabajo. Análisis interdisciplinar de las sentencias más relevantes. Observatorio Vasco sobre el Acoso Moral ; <http://www.acosomoral.org/documentos/previas.pdf>

³⁷⁹ Ley Orgánica 5/2010, de 22 de junio, por la que se modifica la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal (BOE 23.6.2010).

³⁸⁰ Real Decreto Legislativo, de 4 de agosto, por el que se aprueba el texto refundido de la Ley sobre Infracciones y Sanciones en el Orden Social.

ground of racial or ethnic origin, religion or beliefs, disability, age and sexual orientation and gender-related harassment are very serious infractions.

The [Organic Law 3/2007](#)³⁸¹ aimed at ensuring the effective equality between men and women defines sexual harassment in its article 7 as *'any behaviour, verbal or physical, of sexual nature which aims at or results in offending the dignity of a person, in particular when an intimidating, degrading or offensive environment is created'*, and gender-related harassment as *'any behaviour taken based on the gender of a person, which aims at or results in offending his/her dignity, in particular when an intimidating, degrading or offensive environment is created'*.

The Organic Law states in article 48 that:

1. *'enterprises will promote working conditions that preclude sexual harassment and gender-related harassment and put in place specific procedures for preventing and for dealing with complaints and claims. To this end, measures could be established on the basis of negotiations with workers' representatives, such as the development and dissemination of codes of good practices, information campaigns or training activities'*.

2. *Workers' representatives should contribute to the prevention of sexual and gender-based harassment at work by raising awareness among workers and reporting to the management about misconducts they are aware of'*

The Organic Law also made amendments to the [Workers' Statute](#)³⁸²; the revised version states that *'all workers have the right to 'the respect of their privacy and dignity, including protection against harassment on grounds of racial or ethnic origin, religion or beliefs, disability, age or sexual orientation and against gender-based harassment or sexual harassment'*. Similarly, the law added the harassment of a co-worker or manager into the list of valid grounds for disciplinary dismissal (Article 54 of the Worker's Statute).

Furthermore, the Article 62 of the Organic Law 3/2007 created an obligation for public administrations to negotiate with workers' representatives a protocol to address sexual and gender-based harassment. Such a protocol must cover (as a minimum) the four following aspects: a commitment from the public administration, or related public body, to prevent and apply a no-tolerance policy towards sexual and gender-based harassment; provisions in terms of information to staff; confidentiality in the treatment of complaints; and the identification of contact points for affected workers in need of support.

At the national level, the Ministry of Employment and Social Security is in charge of controlling the implementation of the legislation and coordinating the development of policies in the area. Importantly, Spanish regional administrations also design and implement policies to mitigate psychosocial risks as part their OSH policies. Representatives of each region as well as the social partners are represented in the tripartite national commission on health and safety at work (CNSST). The CNSST has recently approved an agreement which includes important policies on psychosocial risks.

The main national policies and institutions are briefly described below.

The Spanish Strategy for Occupational Health and Safety 2007-2012 (agreed between the central government, regional authorities and social partners) included as one of its key objectives to develop and consolidate the culture of prevention in Spanish society. The Strategy states that special attention should be paid to psychosocial risks. This emphasis is however not new since training on psychosocial risks had been included in the curriculum for OSH specialists many years prior.

The different bodies under the Ministry of Employment that play a role in enforcing or supporting the national policy on psychosocial risks are:

³⁸¹ Ley Orgánica 3/2007, de 22 de marzo, para la igualdad efectiva de mujeres y hombres

³⁸² Estatuto de los Trabajadores. It does not cover self-employed workers.

- The Labour and Social Security inspectorate (*Inspección de Trabajo y la Seguridad Social*, ITTS) is responsible for enforcing the application of the OSH legislation, taking into account psychosocial risks including violence and harassment. It has elaborated specific standards concerning violence and harassment at work³⁸³. The [technical criteria](#), known as CT 69/2009, were revised in 2009 to take into account new developments including the European autonomous framework agreement and Spanish case law³⁸⁴. The technical criteria apply to forms of physical internal violence (understood as occurring between workers from the same company or at the same workplace) and psychological violence, including sexual harassment, moral harassment and discriminatory harassment at work³⁸⁵. These criteria state that companies must promote working conditions that prevent violence and harassment from happening at the workplace, as well as establish specific procedures/protocols to deal with cases and complaints from affected workers. In 2012, the ITSS also published a [handbook for inspectors on psychosocial risks](#).
- The National Institute of Safety and Health in the Workplace (*Instituto Nacional de Seguridad e Higiene en el Trabajo*, INSHT) plays an important role in carrying out research, promoting awareness of psychosocial risks at the workplace, and encouraging the development of preventive actions. The INSHT issues guides, reports and prevention notes providing recommendations for businesses and workers, as well a tool for workers to help detect and document cases of harassment. The INSHT has also developed a free service to help companies assess workplace related risks called [Prevencion10.es](#).

In addition, the Foundation for the prevention of work-related risks (*Fundación para la Prevención de Riesgos Laborales*) focuses on the improvement of health and safety conditions, especially in small companies, via support to training actions and technical assistance. The Foundation's board is composed of representatives of national and regional public administrations, employers' organisations and trade unions.

Both the INSHT and the Foundation for the prevention of work-related risks actively support social partners' initiatives in the area of prevention of psychosocial risks. They finance projects in terms of technical assistance, information and awareness-raising.

A1.29.3 Implementation of the framework agreement

The 2008 cross-industry agreement for collective bargaining or *Acuerdo interconfederal para la negociación colectiva* (ANC) explicitly refers to the European autonomous framework agreement on harassment and violence at work, which is included as an annex. The ANC was signed by the representative trade unions – the General Union of Workers (UGT) and the Trade Union Confederation of Workers Commissions (CC.OO.) - and employers organisations - Spanish Confederation of Employers' Organisations (CEOE) and the Spanish Confederation of Small and Medium-sized Enterprises (CEPYME) - and published in the official journal on 14 January 2008³⁸⁶.

The 2008 ANC states that signatories '*have shared its content [the European autonomous agreement] with the negotiating parties and various representatives of employers and trade unions, adapting it in this way to the Spanish reality, so it can be used to improve the working conditions and good practices of companies*'.

Although an ANC is not legally binding, it places a duty on the signatories to take action as part of collective bargaining at sectoral, regional or company level. Examples of relevant collective agreements are provided below, in the section on "Impact of the implementation of the framework agreement". A similar process had been used to implement the European

³⁸³ Criterio Técnico 69/2009 en materia de violencia y acoso en el trabajo.

³⁸⁴ These have substituted the previous criteria in place, dating back to 2003 (CT 34/2003)

³⁸⁵ Third-party violence is not included, to be covered by other technical criteria.

³⁸⁶ The 2008 ANC was an extension of the 2007 ANC: The full text (*Prórroga para el año 2008 del Acuerdo Interconfederal para la negociación colectiva 2007*) is available at: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2008-627

autonomous framework agreements on teleworking and work-related stress in Spain, which were annexed to the 2003 and 2005 ANCs respectively.

According to the consulted stakeholders, since 2008 no additional collective agreement referring to the European framework agreement or on the issue of harassment and violence at work has been reached at the cross-industry level.

The two main cross-industry federations of trade unions in Spain actively contribute to such processes by disseminating information and expertise on psychosocial risks at work, in close cooperation with public authorities.

- The General Union of Workers (UGT) is running a [permanent observatory of psychosocial risks](#) (*Observatorio Permanente de Riesgos Psicosociales*) with the financial support of different public bodies, which plays an important role in raising awareness and disseminating good practice.
- The Trade Union Confederation of Workers Commissions (CC.OO.) manages the [trade union institute for work, environment and health](#) (*Instituto Sindical de Trabajo, Ambiente y Salud*, ISTAS), whose objective is to improve working conditions and promote workers' health. Since 2003, the ISTAS has been providing a free [online tool](#) called CoPsoQ-istas21 to help enterprises to carry an evaluation of psychosocial risks. Two versions of the assessment tools are currently available for enterprises with 25 workers or more and enterprises with less than 25 workers. ISTAS is also producing guidance for trade unions representatives in the field of health and safety to take action in the field of psychosocial risks³⁸⁷.

Employer organisations including the Spanish Confederation of Employers' Organisations (CEOE) and the Spanish Confederation of Small and Medium-sized Enterprises (CEPYME) offer support to their members in terms of assessment of workplace related risks, including psychosocial risks.

The CEOE has recently completed a report analysing existing methods for identifying and assessing psychosocial risks³⁸⁸. The report highlights the challenges for companies and especially SMEs in addressing this type of risk, linked to the complexity of the conceptual and regulatory framework and multiplicity of definitions and approaches. Key obstacles include the confusion between the identification and assessment of psychosocial risks and the current lack of differentiation between policies according to the sector, occupation, company size, etc. According to the CEOE³⁸⁹, the mental well-being of workers is also impacted by factors external to the workplace and preventive approaches should focus on those psychosocial risks that are clearly linked to the work activity.

A summary of the European framework agreement had been prepared by the CEOE in 2007³⁹⁰. Representatives of the CEOE confirmed that since the signature of the 2008 ANC, information about the European autonomous framework agreement has been disseminated via a range of publications and information sessions³⁹¹.

Trade unions play an even more active role in sharing information about the European autonomous agreement and in providing guidance to facilitate sectoral or company-level collective bargaining in the area of harassment and violence at work.

³⁸⁷ Guía del delegado y delegada de prevención para la intervención sindical, organización del trabajo, salud y riesgos laborales (2005)

³⁸⁸ This report was prepared with the financial support of the Foundation of the prevention of work-related risks. CEOE (2013) Análisis de la percepción empresarial en material de identificación y evaluación de riesgos psicosociales.

³⁸⁹ Source: Written contribution from CEOE.

³⁹⁰ Available at:

[http://195.235.104.240/Aplicaciones/Web/FREMAPin.nsf/ae036d146474c22bc12571e0003b36e4/6725ead7a660d42ac12572e4003b727c/\\$FILE/Resumen%20CEOE.pdf](http://195.235.104.240/Aplicaciones/Web/FREMAPin.nsf/ae036d146474c22bc12571e0003b36e4/6725ead7a660d42ac12572e4003b727c/$FILE/Resumen%20CEOE.pdf)

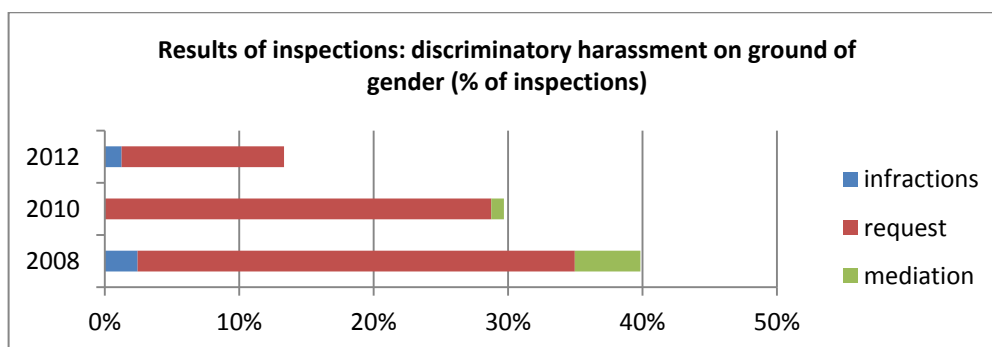
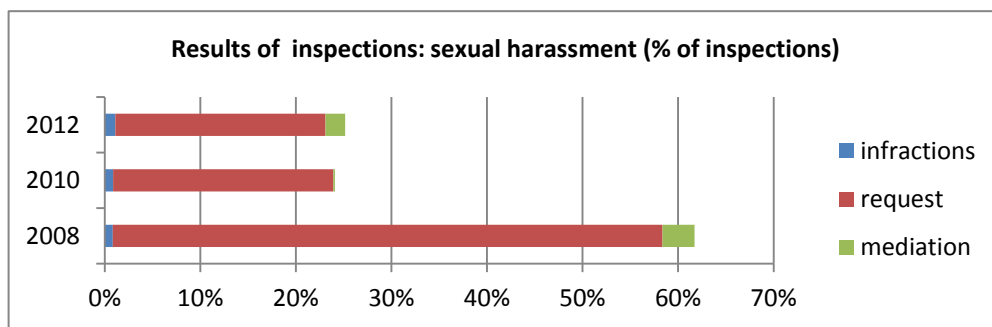
³⁹¹ Source: written contribution from CEOE

For instance, the UGT's [permanent observatory of psychosocial risks](#) serves as a platform for the dissemination of information, with 55 prevention fiches available online providing recommendations on the prevention of adverse social behaviour at the workplace, some of which specifically cover harassment and violence issues. In 2008, the UGT produced a more detailed guide in Spanish on '[Violence at the workplace and its manifestations](#)'.

UGT also published in 2013 a note with examples of collective agreements at the national, regional and company level dealing with harassment and violence, illustrating how the European autonomous framework agreement can be implemented³⁹². The same year, UGT produced a [guide for negotiating company agreements](#) to prevent and solve psychological and physical violence conflicts at the workplace, which provides additional information for employee representatives.

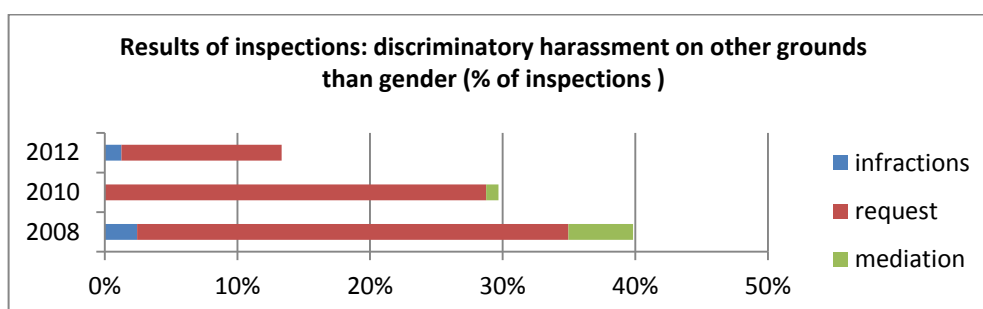
A1.29.4 Incidence of psychosocial risks and trends

Annual activity reports from the Labour Inspectorate (ITTS) do not include detailed data on the number of accidents or infractions linked to psychosocial risks. However, they contain information on the results of inspections with regard to employers' duties to address sexual harassment, discriminatory harassment on ground of gender, and discriminatory harassment on other grounds. As shown in the graphs below, the share of inspected companies which have received a request by the labour inspectorate to take action in these areas has decreased over time³⁹³.



³⁹² Observatorio de riesgos psicosociales (UGT). Ficha de prevencion 50/2013. Acuerdo marco Europeo de violencia en el trabajo: Ejemplos

³⁹³ The objective of a request is that the employer adopts some measures within a certain timeframe to implement the legislation.



Source: Annual reports from ITTS 2008, 2010 and 2012.

The employee survey on working conditions (*Encuesta Nacional de Condiciones de Trabajo, ENCT*), which takes place on a regular basis, provides some information on exposure to inappropriate behaviour at work. According to the ENCT, Spanish workers are more frequently exposed to verbal aggression than physical violence.

Table A1.6 Exposure to specific situations at the workplace, 2011 & 2007

%	2011	2007
Verbal aggressions, rumours or social exclusion	7.3%	2.9%*
Physical violence threats	3.8%	3.8%
- Physical violence committed by persons belonging to the workplace	0.6%	0.8%
- Physical violence committed by persons not belonging to the workplace	2.4%	3.8%
- Sexual harassment (unwanted sexual pretensions)	0.4%	0.7%

Source: INSH, *Encuesta Nacional de Condiciones de Trabajo. 2011 and 2007*. *Note: different wording than in the 2007 questionnaire

Some of the sectors most exposed to violence at work are found in the public sector (healthcare, administration and education sectors).

The ENCT 2011 survey suggests that workers victims of verbal aggressions, rumour or social exclusion, are more likely to directly deal with third parties, to have too much work and feel overwhelmed, and to carry out very complex and difficult tasks. More than a quarter of workers who work always, very often, or often in direct contact with third parties consider that human or material means required to guarantee their security are insufficient³⁹⁴.

In addition, workers exposed to violent behaviour are most likely to develop health problems such as headaches, sleeping problems, stress and anxiety.

According to some interviewees³⁹⁵, the economic crisis may also have increased the occurrence of psychosocial risks in the workplace, as well as workers' fear to report cases of harassment and violence to management and labour courts.

No employer surveys focusing on harassment and violence at the workplace could be identified based on the information collected from stakeholders.

However, a 2009 survey on managing health and safety in companies (*Encuesta Nacional de Gestión de la Seguridad y Salud en las Empresas, ENGE 2009*) provides some data in relation to the evaluation of psychosocial risks³⁹⁶:

³⁹⁴ INSHT (2011) VII Encuesta Nacional de Condiciones de Trabajo 2011

³⁹⁵ Interview with INSHT

³⁹⁶ <http://encuestasnacionales.oect.es/>

- 27.6% of companies had not evaluated psychosocial risks;
- Among the 72.4% which had done so, 20.9% had not identified any need for measures, 5.8% were considering the introduction of measures and 30.8% had adopted measures.

Representatives of CEOE have stressed that the employers' opinion should be taken into account to provide a balanced assessment of the situation.

A1.29.5 Impact of the implementation of the framework agreement

As legal provisions concerning harassment and violence in the workplace were already in place in Spain, there was no impact of the European autonomous framework agreement on the legislation. However, the provisions of the European autonomous framework agreement were taken into account as part of the 2009 update of the technical criteria used by the Labour Inspectorate concerning physical internal violence and psychological violence, including sexual harassment, moral harassment and discriminatory harassment at work (CT 69/2009).

The Ministry of Employment and Social Security collects statistical information on developments in collective bargaining³⁹⁷ but it is not possible to extract information on the number of collective agreements that contain provisions on harassment and violence at work. The 2011 report on the implementation of the European autonomous framework agreement prepared by European social partners includes some examples of sectoral collective agreements in Spain, both at the national and regional level, which contain provisions on harassment and violence³⁹⁸.

Additional examples of sectoral collective agreements that contain provisions related to the European autonomous framework agreement on harassment and violence have been compiled in a note from UGT's Observatory of psychosocial risks published in 2013³⁹⁹. The note highlights that while some collective agreements only include general references to the need to address harassment and violence⁴⁰⁰, others are more precise. For instance, the collective agreement for the chemical industry sector 2011-2012 includes an elaborate protocol to prevent and address cases of harassment, which companies that have not established their own protocol can use.

Information can also be derived from a survey led by the department of labour relations of the confederation of employers (CEOE), based on a sample of sectoral and company collective agreements. Among the 94 sectoral collective agreements covered by the survey, 39.4% recall that harassment is an infraction, 27.7% provide a definition of harassment, and 21.3% include a procedure to address cases of harassment. Provisions in relation to violence and harassment can be found in the collective agreements of the food and drinks sector, some services sectors, the chemical and the metal industries.

At the company level, examples of provisions related to harassment and violence can be found in some collective agreements, but it is difficult to assess if these were directly or indirectly inspired by the European autonomous framework agreement. Some examples

³⁹⁷ <http://www.empleo.gob.es/estadisticas/cct/welcome.htm>

³⁹⁸ Examples of such national sectoral agreements include the 2008 National Collective Agreement of Engineering Companies and Technical Consultancies (which has incorporated the agreement as a recommendation clause) and the 2007 National Collective Agreement on the Paper and Graphic Arts Trade Cycle (which makes reference to a specific negotiation body tasked to examine the incorporation of the Agreement's clauses). At the regional level, examples of relevant sectoral agreements include the collective agreement dealing with harassment and violence at the workplace in the Hotel Sector signed by the Madrid Hotel Employers Organisation, the UGT and the CCOO.

³⁹⁹ Observatorio de riesgos psicosociales (UGT). Ficha de prevencion 50/2013. Acuerdo marco Europeo de violencia en el trabajo: Ejemplos, <http://portal.ugt.org/saludlaboral/observatorio/fichas/FichasObservatorio%2050.pdf>

⁴⁰⁰ E.g. the collective agreements in the hairdressing sector includes reference to the legislation, while the collective agreement for notaries and employees includes a general statement of principle to prevent harassment.

have been outlined in the 2011 report by European social partners and, in the above-mentioned note prepared by the trade union UGT. One of the examples, highlighted by UGT as a good practice, is the protocol agreed at Telefónica Móviles España in 2012 to deal with alleged cases of moral, sexual or gender-based harassment at work.

Concerning sexual and gender-based harassment, a recent expert report (2013) commissioned by public authorities has examined 57 collective agreements in private companies that contain some provisions in the area⁴⁰¹. Only approximately one in five included a reference to the European framework agreement, while more than a third included a reference to the 2007 Organic Law on gender equality. The report notes that the level of detail and scope of these provisions varies. Close to half of the collective agreements studied only contained general statements of principles and did not include a detailed protocol of action to deal with alleged cases. While close to 60% of the agreements reviewed explicitly mentioned the objective of abolishing harassment, less than a quarter contained provisions to strengthen the rights of affected workers.

An important milestone was the introduction of the action protocol against harassment at work by the State Administration in 2011⁴⁰². Other protocols against harassment have been adopted, for instance in the public administration of the region of Valencia (focusing on moral harassment)⁴⁰³ or the University of Extremadura (April 2013)⁴⁰⁴.

As direct consequence of the 2007 Organic Law on gender equality, a number of collective agreements dealing with sexual or gender-based harassment have been adopted in the public sector, but no comprehensive overview is readily available. The above-mentioned expert report, published in 2013, mapped 13 collective agreements dealing various forms of harassment⁴⁰⁵.

The emphasis on the issue of harassment and violence in the workplace is growing in Spain. This can partly be attributed to the impact of the European autonomous framework agreement, but many other factors are playing a role, including national policies and legislation and previous activities. Trade unions' activities build on pre-existing initiatives. For example, the trade union CC.OO had produced a number of guidelines and tools linked to prevention of psychosocial risks prior to 2007. Employer representatives consider that it is very difficult to assess any direct impact of the European autonomous framework agreement.

Both public authorities and trade unions consider that the issue of violence and harassment should be discussed as part of psychosocial risks, which they recognised as key priority for OSH policies. It is expected that the new Spanish strategy for OSH until 2020 (currently under discussion) could have a greater focus on psychosocial risks, as proposed by trade unions.

Overall, the issue of harassment and violence at work is receiving increasing attention in Spain. Various examples of relevant provisions in collective agreements at the sectoral or company level can be found, but it is difficult to assess the actual impact of the European framework agreement.

However, harassment and violence at work remain very sensitive issues for employers. The CEOE has expressed the view that the scope of European autonomous framework

⁴⁰¹ INSHT (2011) VII Encuesta Nacional de Condiciones de Trabajo 2011 ;<http://www.insht.es/Insh>

⁴⁰² [Resolución de 5 de mayo de 2011, por la que se aprueba y publica el Acuerdo de 6 de abril de 2011 de la Mesa General de Negociación de la Administración General del Estado sobre el Protocolo de actuación frente al acoso laboral en la Administración \(BOE 1. 6. 2011\)](#)

⁴⁰³ [Protocolo de actuación ante el acoso moral en el trabajo \(mobbing\) en la administración de la Generalitat.](#)

⁴⁰⁴ [Universidad de Extremadura.RESOLUCIÓN de 11 de abril de 2013, de la Gerencia, por la que se ejecuta el Acuerdo Normativo adoptado por el Consejo de Gobierno por el que se establece el Protocolo de actuación frente al acoso laboral en la Universidad de Extremadura.](#)

agreement is limited to harassment and violence, and that such issues should be discussed separately from psychosocial risks. In their view, some forms of violence and harassment occurring at the workplace are largely unpredictable and cannot be derived from the work activity as such. The CEOE also argues that the current conceptual and regulatory framework in Spain concerning psychosocial risks is unclear. In that regard, they recommend the following lines of action: dealing separately with third party violence and harassment/mobbing and other psychosocial risks; developing technical assistance to promote prevention; and supporting and exchanging good practice, with a special focus on SMEs.

A1.30 Sweden

A1.30.1 Introduction

Discussion among social partners in Sweden regarding occupational safety and health (OSH) has been ongoing for a number of years. Sweden had well-established legislation and procedures relating to harassment and violence at work long before the implementation of the autonomous framework agreement on harassment and violence at work. Indeed, many of the requirements presented in the agreement are already exceeded by national legislation and regulation.

Consequently, the agreement has not had any noticeable impact on the way social partners engage in this area or led to any specific programmes or measures. This limited impact can be attributed to the coverage of existing legislations and regulations, as well as the voluntary status of the agreement and the lack of a European Labour Court that can resolve disputes relating to harassment and violence at work.

A1.30.2 National health and safety legislation and policy on psychosocial risks with specific focus on harassment and violence

Since 1977, the prevention of ill-health and accidents in the workplace has been regulated by the Work Environment Act. The Act holds employers responsible for the prevention of ill-health and accidents in the workplace (Chapter 3, section 2). The Act does not specify ill-health and accidents further and does not specifically mention harassment and violence. Since 2008, the Work Environment Act has been complemented by the Discrimination Act which aims to combat discrimination (including harassment and sexual harassment) and in other ways promote equal rights and opportunities regardless of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age. In particular, the Act requires employers to have:

- a company policy, which clearly states that the company does not tolerate harassment related to gender, ethnicity, age and the other grounds of discrimination laid down in EU law,
- an action plan with a definition of harassment, examples of harassing behaviour, information on steps to be taken by employees and employers in cases of harassment, persons responsible for the investigations and consequences for perpetrators of harassing behaviour; and,
- training for managers on regulations, rules and prevention of harassment⁴⁰⁶.

In 1993, the Work Environment Authority also developed the Violence and Threat in the Work Environment regulation (AFS 1993:2). The regulation stipulates that:

- The employer shall investigate the risks of violence or threat of violence, which may exist in the workplace and shall take such measures as may be occasioned by the investigation,
- Work shall be arranged so as to avert the risk of violence or threats of violence as far as possible,
- Employees shall have sufficient training and information and receive sufficient instructions to be able to do their work safely and with adequate security,
- In work where there is a risk of recurrent violence or threats of violence, the employees shall receive special support and guidance,
- Workplaces shall be positioned, designed and equipped in such a way as to avert, as far as possible, the risk of violence or threats of violence,

⁴⁰⁶ Equality Ombudsman (DO), Trakasserier (Harassment) <http://do.se/Forebyggga-diskriminering/Arbetslivet/Trakasserier/>

- The employees shall have the possibility of summoning prompt assistance in a violent or threatening situation,
- A task which entails a palpable risk of violence or threats of violence shall not be performed as solitary work,
- Cash-in-transit (CIT) operations shall be organised and conducted in such a way as to afford adequate security for the employees,
- Incidents and occurrences involving violence or threats of violence shall be recorded and investigated; and,
- Employees subjected to violence or threats of violence shall be given prompt assistance and support for the prevention or alleviation of both physical and mental injury. The employer shall have special routines for this purpose.

The above regulation is complemented by the Victimisation at Work regulation (AFS 1993:17). The provisions in the regulation apply to all activities in which employees can be subjected to victimisation. By victimisation is meant recurrent reprehensible or distinctly negative actions, which are directed against individual employees in an offensive manner and can result in those employees being placed outside the workplace community. The general provisions of the regulations states that:

- The employer should plan and organise work so as to prevent victimisation as far as possible.

The employer shall make clear that victimisation cannot be accepted in the organisations. The regulation also sets out a number of routines that should be followed by the employer:

- Employers should have routines for the early detection of signs of, and the rectification of such unsatisfactory working conditions, problems of work organisation or deficiencies of co-operation as can provide a basis for victimisation;
- If signs of victimisation become apparent, counter-measures shall without delay be taken and followed up. In doing so, a special investigation shall be made to ascertain whether the causes of shortcomings of co-operation are to be found in the way in which work is organised; and,
- Employees who are subjected to victimisation shall quickly be given help or support. The employer shall have special routines for this.

Notably, a new regulation on organisational and social work environment (AFS 2015:X) has been proposed to replace AFS 1993:17 (as well as 1990:18 and 1980:14). The proposal is currently going through a consultation process.

Importantly, the impact assessment of the proposed regulation highlights that the victimisation at work regulation is currently difficult to implement. For example, it states that too often the discussion is focusing on whether certain behaviour is acceptable or not, rather than establishing the actions required to provide a safe and protective work environment. These problems have been further amplified by the feelings of shame related to many incidences of harassment, including bullying. Another problem associated with the traditional model for dealing with work environment issues is that it is hard for the employer and trade union representatives to mediate in harassment cases. For example, in some cases the harassment may come directly from the manager. Moreover, bullying and other forms of harassment are complex socio-psychological phenomenon, which may involve several individuals at the workplace.

The purpose of the new regulation is therefore to provide a better organisational and social work environment, by, for example, providing a clearer definition of harassment at work and ensuring that employers have established routines for dealing with such behaviour.

A1.30.3 Implementation of the framework agreement

Social partners in Sweden have been active in the area of harassment and violence long before the implementation of the autonomous agreement; and initiatives have been run both

unilaterally and jointly. Therefore, it is not always straightforward to differentiate the activities that have been implemented in relation to the agreement.

For example, in 2003, the Central Government Social Partners' Council (Partsrådet) agreed to support public agencies to make improvements in the work environment, leading to the development of a nationwide programme "Satsa Friskt" (Invest in Health). The programme focused on six areas, of which one was harassment and violence. As part of the programme, a website was developed (www.hotpajobbet.se), providing guidance on how to prevent and reduce harassment and violence in the workplace. The programme also funded the development of other information, booklets and tools relating to harassment and violence in the workplace. During its final phase, knowledge sharing activities, such as seminars and workshops on the topic of prevention of harassment and violence were also organised across agencies in the state sector.

- More recently, the social partners agreed to establish a programme through the Central Government Social Partners' Council in order to support local partners in their efforts to prevent, collaborate and manage threats and violence at work. In particular, the programme, which ran during 2013, set out to achieve the following activities: Establish how the physical and psychosocial work environment, and thus the security at work, affects the conditions for change and development and working time arrangements, including overtime. Special focus should be directed at ensuring that employers are supported by the local employer organisation and that there are appropriate supporting documents or methods. In this context, special attention should be placed on work environments where threats and violence is likely to be more prominent.
- Establish the existence and risks of solitary work in work environments, in which the employee may have powers to take action against individuals and thus come into physical contact with the person in a way that involves a risk of threat or violence.
- In organisations with a risk of threat or violence and with high level of security for other reasons there may be other consequences of this, such as the need for preparatory work and security checks or similar before starting work. The relationship between risk and security, as well as other issues that affect the work environment, should therefore be highlighted.

The link between these programmes at the European framework agreement is not evident, although it is understood from the consultations that harassment and violence at work was discussed more intensively during the negotiations of the framework agreement.

Furthermore, soon after the autonomous framework agreement was signed, the Swedish social partners jointly translated the text (through the Translation Fund) and began the dissemination of the Swedish version from Spring 2008.

Additionally, social partners in the private sectors have issued a joint declaration stating that the autonomous agreement provides guiding principles in relation to initiatives to identify, prevent and deal with harassment and violence in the workplace.

Other actions implemented in relation to the autonomous agreement include the following:

- In 2009, the Swedish Union of Local Government Officers (SKTF) ran a seminar on examples of good practices across EU Member States on third party violence;
- In 2008 the Confederation of Swedish Enterprise, the Swedish Trade Union Confederation (LO) and the Council for Negotiation and Cooperation (PTK), published the book "Undvik mobbning på jobbet" (Avoid bullying at work). The book focuses on prevention of bullying at work through a systematic approach in controlling the work environment, in relation to this the EU autonomous agreement is also mentioned; and,
- In 2005, the social partners in the municipal sector signed a collective agreement on cooperation and work environment and included a joint commitment in relation to the implementation of EU autonomous agreements. On this basis, in 2009 a group in charge of dealing with EU-related topics was set up with the responsibility to report to the joint Work Environment Council (Kommunernas och Landstingens Arbetsmiljöråd). This group

is also working on the implementation of the European multi-sectoral guidelines on third party violence. Following a joint project focused on work related violence in schools a book (Trygg på jobbet, Secure at work) on preventing harassment and violence was published and distributed to schools throughout the national territory. Social partners in this sector organise an annual Nordic work environment conference, the agreement on harassment and violence and other autonomous agreements are amongst the topic covered.

Other activities⁴⁰⁷ which have been implemented independently from the autonomous agreement, include books and seminars from Prevent (an organisation owned by Confederation of Swedish Enterprise) focusing on the links between the work environments (e.g. conflicts, behaviour etc...) and the likelihood of developing harassing behaviour, as well as prevention and management. In 2010 the Vocational Training and Working Environment Council for transport trades (TYA) published a report on threats and violence towards taxi drivers. Training programmes and activities run by companies and member organisations of the Confederation of Swedish Enterprises. Also safety representatives seem to be particularly, mainly on the topic of violence, and the trade unions consistently run seminars and trainings on harassment and violence in the workplace.

One of the interviewees noted that part of the problem with the implementation of the autonomous framework agreement is that there is a lack of a well-functioning tripartite advisory body addressing occupational safety and health issues in Sweden (as specified in the ILO convention 187, Article 4.3a). The Government would argue that this exists at the Government department level, but the interviewees argued that this is currently not fit for purpose.

Following the signing of the agreement, there was an intention from the social partners to integrate the framework agreement in the collective agreements. However, this intention has not yet been realised.

A1.30.4 Incidence of psychosocial risks and trends with specific focus on harassment and violence

Psychosocial risks are investigated by the Swedish Work Environment Authority ([Arbetsmiljöverket](#)) through pre-arranged visits to employers. The Authority also publish a number of reports on this topic every year based on surveys (see below). The Authority also has a clear mandate from the Swedish Government to disseminate information and knowledge on the working environment and working conditions. Within this remit all reports produced by the Authority are easily available and downloadable for free on the website. Additionally, the Work Environment Authority support the dissemination of studies and research carried out by other institutions and academics. Harassment and adverse social behaviour in the workplace are topics with high priority on the agenda of the Authority.

The 2013 report on occupational accidents and work-related diseases shows that violence, assault, threat, etc. has been the main cause for reported occupation accidents for 13.7 % of women and 4.9 % of men (8.6 % overall)⁴⁰⁸.

Arbetsmiljöverket runs two surveys which include psychosocial risks in the workplace: the Work Environment Survey and the Work Related Disorders Survey. They are both run as complementary sections of the Labour Force Survey (LFS) and Statistic Sweden (SCB).

- The Work Environment survey covers a sample of 16,000 workers aged 16-64 and investigates adverse social behaviour as part of psychosocial disorders. The survey asks respondents whether they have experienced conflicts or arguments at the workplace with others than managers and colleagues; violence or threat of violence; bullying from managers or colleagues; sexual harassment from managers; sexual harassment from

⁴⁰⁷ http://www.ski.se/MediaBinaryLoader.axd?MediaArchive_FileID=5e00a46a-8787-4b04-b180-eef17c5a821e

⁴⁰⁸ Arbetsmiljöverket (2014) Occupational accidents and work-related diseases 2013 (Arbetsskador 2013)

others than managers and colleagues; gender based harassment from managers and colleagues.

- The Work Related Disorders survey covers a sample of 20,000 workers aged 16-24; the survey investigates the consequences of adverse social behaviour from a self-assessment perspective. The survey asks whether respondents have experienced problems with anxiety, concerns, depression or nervous disorders due to bullying or harassment, violence or threat of violence, stress or other psychological issues.

Data from the Work Environment survey shows that in 2013:

- 9 % of men and 8 % of women experienced bullying from managers or colleagues over the past 12 months;
- 1 % of men and 3 % of women have been victims of sexual harassment by their manager over the past 12 months
- 2 % of men and 7 % of women have been victims of sexual harassment from others than managers and colleagues over the past 12 months;
- 11 % and 18 % of women have been exposed to violence or threats of violence in past 12 months;
- 4 % of men and 13 % of women have been exposed to gender-based harassment from managers or colleagues in the past 12 months;
- 35 % of men and women have been involved in conflicts or arguments involving others than managers and colleagues in the past 12 months.

Trends from 2007 do not show any significant changes over time.

Data from the Work Related Disorders survey shows that in 2012:

- 0.5 % of women and 0.2 % of men have work-related disorders as result of bullying and harassment;
- 0.5 % of women and 0.3 % of men report that they have a work-related disorder as a result of threats or violence;
- 10.5 % of women and 5.6 % of men have had work-related disorders as a result of stress and psychological strains.

Again, the data shows that there have been no significant changes in recent years.

Given the long tradition of tackling psychosocial risks a rich body of literature addresses different aspects of psychosocial risks and work environment issues. This includes studies on the relationships between working conditions and adverse social behaviour⁴⁰⁹; studies on causes of adverse social behaviour among those group of workers most affected (e.g. workers in schools, health sector, transport sector)⁴¹⁰; studies on the impact of sociocultural and gender differences on the level of incidence of adverse social behaviour, as well as on investigation and management procedures⁴¹¹. Other studies focus on the levels of reported adverse social behaviour cases in Sweden⁴¹².

⁴⁰⁹See, for example, Strempl (2013), Projekt rapport – Inspektionskampanj SLIC 2012, psykosociala Riskbedömningar; Göransson, Näswall & Sverke (2011), Psykologiska perspektiv på hot och våld i arbetslivet; Wikman, Estrada & Nilsson (2010) Våld i arbetslivet – en kriminologisk kunskapsöversikt

⁴¹⁰ See, for example, Göransson et al. (2011), Kunskapsöversikt – Hot och våld i skolan: en enkätstudie bland lärare och elever; Hallberg (2011) Kunskapsöversikt – Hot och våld inom vård och omsorg; Strandberg, et al. (2008), Våld och hot i kollektivtrafiken

⁴¹¹ See, for example, Edvardsson, (2011), "Att omvandla arbetsplatsproblem till problem hos person. Grovt kvinnoförtryck vid en forskningsavdelning på universitet", Örebro Universitet; De los Reyes, & Yazdanpanah, (2011), Kunskapsöversikt – Våld och genus i arbetslivet; Knight, Göransson & Sverke(2011) "psykologiska perspektiv på hot och våld i skolan – ur ett jämställdhetsperspektiv

⁴¹²See, for example, Wikman, S., Estrada, F., & Nilsson, A. (2010) Våld i arbetslivet – en kriminologisk kunskapsöversikt, Arbetsmiljöverket, Rapport 2010:4

The relatively new topic of cyber harassment is also investigated by the Work Environment Authority and it seems that this topic is starting to be investigated in some sectors particularly exposed, such as the media sector⁴¹³.

A1.30.5 Impact of the implementation of the framework agreement

The general perception from the consultations undertaken for this study is that the framework agreement has not had any significant impact on national legislation, social dialogue and/ or awareness of the issue. To a considerable extent, this can be attributed to the fact that it does not have any legislative power and, thus, can only be used in an advisory capacity. It is believed that the agreement would be much more effective if there was a European Labour Court that would be able to resolve disputes in this area.

The data presented above do not either show any significant impact on the incidences of violence and harassment at work.

Discussion among social partners in Sweden regarding occupational safety and health (OSH) has been ongoing for a number of years. Recently, it appears that the social partners have shifted their focus more towards bullying and harassment from colleagues and managers (including from third parties). An example of this is provided by the recent publications from the Swedish Trade Union Confederation (LO)⁴¹⁴. Social partners and other stakeholders are also looking to learn from experiences in the education sector.

⁴¹³ Arbetsmiljöverket reports: Göransson, S. et al, 2011, Psykologiska perspektiv på hot och våld i arbetslivet – Kunskapsöversikt; Göransson, S. et al. (2011), Kunskapsöversikt – Hot och våld i skolan: en enkätstudie bland lärare och elever; A survey from the Swedish Union of Journalists (SJF) carried out in 2009

⁴¹⁴ LO (2011) When someone is being bullied at work [När någon mobbas på jobbet]
http://www.lo.se/english/this_is_lo

A1.31 UK

A1.31.1 Introduction

In the UK, European autonomous social partner agreements have all been implemented through joint guidance developed by the UK social partner organisations in co-operation with relevant government departments and agencies (such as the Health and Safety Executive in this case). This method of working was developed with the implementation of the first such agreement (the telework agreement) and has been followed ever since because there is no other established forum for permanent tripartite interest intermediation between the government and the social partners. Furthermore, cross-industry social partner organisations are not mandated to bargain collectively and sectoral bargaining in the UK is relatively weak, particularly in the private sector.

The UK guidance of harassment and violence in the workplace primarily provides a tool to bring together information on existing legislation and guidance on the issue. As such, it has been considered useful by employers, but – in the view of the trade unions – has had limited impact on actual company practice. The guidance explicitly covers third party violence and indeed available trend and survey data in the UK very much focusses on the issue of workplace violence, rather than any other aspect of the harassment and violence phenomenon. As a result of the recent introduction of the Equalities Act, which were not linked to the implementation of the European social partner agreement, increasing focus is being placed on issues of harassment on the different grounds of discrimination, with employers' organisations reporting a growing demand for guidance by employers on this issue.

A1.31.2 Role of the social partners in OSH with specific focus on psychosocial risks⁴¹⁵

In the UK, the features of the industrial relations framework, as well as established institutional structures of governance of some of the arms' length government agencies have a significant impact on their involvement with OSH issues. The UK is characterised by strong decentralised collective bargaining, with cross industrial national social partner organisations not mandated to bargain collectively and relatively few sectoral collective agreements (mainly limited to the public sector and former nationalised industries). Terms and conditions are therefore primarily agreed at the company level. There is no strong tradition of co-determination at the company level, although there are requirements for companies to have health and safety representatives.

Similarly, there is no strong tradition of tripartite or indeed bipartite social dialogue, although the government does consult social partners on policy issues affecting the workplace and works with social partners to develop guidance in the area of employment relations. In the area of OSH, social partners are more strongly involved in strategy development because of the tripartite nature of the governance structure of the Health and Safety Executive and ACAS which have important responsibilities in this area.

Regular meetings take place between social partners and relevant agencies to discuss strategic approaches in this field.

The implementation of European social partner agreements provides an additional impetus for social partner collaboration at the national level, which might otherwise not exist. A model has been developed whereby the relevant government Department (BIS) facilitates social partner interactions to implement such European texts. This has been the case for all European autonomous social partner agreements thus far.

In a number of sectors particularly affected by third party violence, there have been significant activities (in some cases joint activities) by trade unions, employer and other

⁴¹⁵ This section will eventually form part of the separate part of the final report which focusses on the role of the social partners in OSH and will not be part of the summary national reports on the implementation of the framework agreement.

stakeholders to develop campaigns, guidance and disseminate good practice on how to tackle these forms of violence.

At company level the employer has the obligation to consult with employees or their representatives (normally a recognised representative from a trade union or an elected person) on health and safety issues. The representative for health and safety (ROES) if coming from a union has the right to investigate hazards and risks causing accidents at work, investigate on workers complaints, carry out inspections and consult with health and safety inspectors. The employer has the obligation to provide the representative with all necessary information to carry out his tasks. If the ROES is not member of a union his rights are more limited and cannot carry out any inspections. The ROES has in this case more of a consultative function.

In terms of psycho-social risks, stress and workplace violence have in the past largely trumped the issue of harassment in terms of activities and initiatives, which is also reflected in the collection and availability of data. More recently, with the introduction of the Equalities Act (see below) there has been increasing emphasis on harassment on the grounds of different forms of discrimination and it remains to be seen if this will result in the availability of greater data sources on this issue.

A1.31.3 National health and safety legislation and policy on psychosocial risks

Measures to prevent, as well as remedies relating to workers' exposure to violence and harassment in the workplace are governed by a wide range legislation in the UK depending on the specific aspect (and type of violence or harassment) being dealt with. This includes civil, criminal, OSH and anti-discrimination law, as well as sector specific legislation.

Under British law, it is an offence to lay your hand on another person without their consent. The latter is considered to be assault and the precise charge (and penalty) depends on the seriousness of the injury inflicted and the specific circumstances. Such an act would generally constitute a breach of *criminal law* and would be pursued through the general law enforcement authorities.

In addition, *health and safety legislation applies* to risks from violence (including verbal abuse), just as it does to other risks at work. This falls under the responsibility of the Health and Safety Executive or local authorities, who are responsible for enforcement.

Failure to protect an employee's health and safety at work may also constitute a breach of contract (*civil law and labour law*). Employers have a duty of care towards their workers. If the employer fails in this duty of care (for example by allowing harm to come to the employee through violence and harassment at work, an employee can resign and claim constructive dismissal on the grounds of breach of contract.

Furthermore, workers who are assaulted, threatened or abused at work may also be entitled to claim damages against the employer or individuals under *civil law*.

Anti-discrimination (equalities) law constitutes the primary protection from harassment in relation to the grounds for discrimination set out in EU law. The Equalities Act 2010, covered protections for employees who were being harassed by colleagues as well as third parties. This included making the employers liable for harassment by third parties on the grounds of sex, age, disability, gender reassignment, race, religion or belief and sexual orientation if it had occurred on two or more previous occasions, the employer was aware of the behaviours and had not taken reasonable steps to prevent it happening again. This specific provision in relation to third party harassment was repealed in October 2013. However, in practice this does not make it impossible to claim for third party harassment, as it can be pursued under direct discrimination provisions or a conventional harassment claim. The introduction of the Equalities Act and the specific provisions it introduced in relation to harassment on the grounds of different forms of discrimination has arguably had the most significant impact on the policy debate – and in relation to guidance provided – in recent years.

Further recent changes include amendments in the health and safety inspection regime. Changes dating back to 2012 imply that there will no longer be routine inspections of low and

medium risk premises. Amendments to RIDDOR guidelines mean that employers report incidents leading to 7 days of absence rather than the periods of 3 days that pre-dated April 2012, thus linked to reduce significantly the number of incidents reported.

Relevant legislation includes the following set out in the box below (only the most relevant are mentioned, for a full list see Annex A of the Joint Guidance). The subsequent box contains some of the key definitions in law and guidance.

Health and safety
<p>The Health and Safety at Work etc Act 1974 (HSWA) sets out the legal duty of employers to ensure, so far as it reasonably practicable, the health, safety and welfare of their workers when at work;</p> <p>The Management of Health and Safety at Work Regulations 1999 govern the requirement to carry out risk assessment; decide what to do to prevent or control the risks; and develop a clear management plan to achieve this;</p> <p>The Corporate Manslaughter and Corporate Homicide Act 2007 introduced a new offence, so that companies and organisations can be found guilty of corporate manslaughter as a result of serious management failures resulting in a gross breach of a duty of care, i.e. where serious failures in the management of health and safety result in a fatality.</p>
<p>The Safety Representatives and Safety Committees Regulations 1977; and (b) the Health and Safety (Consultation with Employees) Regulations 1996 – These Regulations contain requirements on the employer to inform, and consult with, employees in good time on matters relating to their health and safety.</p> <p>The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) – Govern the requirement for employers to notify their enforcing authority in the event of an accident at work to any employee resulting in death, major injury, on incapacity for normal work for three or more days⁴¹⁶.</p>
Harassment & discrimination
<p>In all strands of discrimination, it is not the intention of the perpetrator which defines whether a particular type of conduct is harassment but the effect it has on the recipient. For a verdict of harassment to be reached, it must occur in circumstances where it would appear to a reasonable third party that it would amount to harassment.</p> <p>The Public Order Act 1986 (S5) makes it an offence to use threatening, abusive or insulting words or behaviour, or disorderly behaviour, within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby;</p> <p>The Criminal Justice and Public Order Act 1994 makes it a criminal offence to cause harassment or distress, defined as using threatening, abusive or insulting words or behaviour, or disorderly behaviour, or displaying any writing, sign or other visible representation which is threatening, abusive or insulting updated by the Criminal Justice Act 1998 – to cover common assault;</p> <p>The Sex Discrimination Act 1975 (Amendment) Regulations 2008 provides an expanded definition for sexual harassment as 'related to her sex or that of another person'.</p> <p>The Sex Discrimination Act 1975 (amended in 2003) gives protection against discrimination and victimisation on the grounds of sex, marriage or because someone intends to undergo, is undergoing or has undergone gender reassignment;</p> <p>The Sex discrimination (Indirect Discrimination and Burden of Proof) Regulations 2001 give additional protection relating to sex discrimination in matters of employment, self-employment and vocational training;</p> <p>The Race Relations Act 1976 gives protection against discrimination and victimisation on the grounds of race, colour, nationality, ethnic or national origins. The regulations that amended the Act (Race Regulations 2003) also give a stand alone right to protection from harassment on the grounds of race and ethnic or national origin;</p> <p>The Disability Discrimination Act 1995 gives protection against discrimination and victimisation on the grounds of disability;</p> <p>The Employment Equality (Sexual Orientation) Regulations 2003 gives protection against discrimination and harassment on the lesbian/gay – 'opposite sex' – heterosexual – and 'both sexes' bisexual;</p> <p>The Employment Equality (Religion or Belief) Regulations 2003 give protection against discrimination and harassment on the grounds of religion or belief and no religion or belief;</p> <p>The Employment Equality (Age) Regulations 2006 give protection against discrimination and harassment on the grounds of age;</p> <p>Under Article 3 of the Human Rights Act of 1998, inhuman and degrading treatment is prohibited. Employers that do not prevent bullying and harassment outside the context of the equality legislation may therefore be in breach of this Act;</p> <p>Protection from Harassment Act 1997 – in terms of Section 8 of this Act every individual has the right to be free from harassment and the person must not pursue a course of conduct which amounts to harassment of another.</p>

⁴¹⁶ Since 2012, 7 or more days.

Sector specific legislation
<p>Section 547 of the Education Act 1996 (c.56) makes it an offence to cause nuisance or disturbance on school premises with a related power, exercisable by a person authorised by a local education authority, to remove a person committing the offence;</p> <p>Clauses 146-148 of the Criminal Justice & Immigration Act (2008) provide powers for a constable or an authorised member of NHS staff to remove a person suspected of causing a nuisance/ disturbance on NHS hospital premises. This enables the NHS to tackle (i.e. without having to wait for the Police) low-level disturbance behaviour (intimidation, swearing, blocking of staff from performing their duties) and help to prevent the escalation of such behaviour to more serious offences such as assault on NHS staff.</p>
Definitions
<p><u>Harassment</u></p> <p>Harassment is defined in the Equalities Act 2010 as 'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'.</p>
<p><u>Bullying</u></p> <p>Bullying is not specifically defined in law. ACAS gives the following definition 'Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient'.⁴¹⁷</p>
<p><u>Violence</u></p> <p>The Health and Safety Executive defines work-related violence as 'an incident in which a person is abused, threatened or assaulted in circumstances related to their work'. This can include verbal abuse or threats as well as physical attacks.</p>

A1.31.4 Implementation of the framework agreement

In the UK implementation of the autonomous framework agreement was through the preparation, promotion and dissemination of Joint Guidance⁴¹⁸. The preparation of the Joint Guidance followed a similar process as was used for the implementation of the autonomous framework agreements on telework and stress. Because there is no strong tradition of bipartite social dialogue between cross-industry trade union and employers' organisations in the UK and neither the CBI or the TUC are mandated to conclude collective agreements, drafting of implementing texts essentially takes place between the CBI, TUC and CEEP UK (PPE at the time) with the support of the Department for Business, Innovation and Skills. A specificity is the fact that UEAPME does not currently have a member organisation in the UK and as a result no SME representative organisation (for instance the Federation of Small Businesses (FSB) or the Forum of Private Business (FPB)) was party to negotiations on the implementation of the agreement. As was the case with the implementation of the stress agreement, discussion also involved the Health and Safety Executive (HSE). The HSE is an independent body with a tripartite board responsible for regulation, enforcement, the collection of statistics and research in the field of workplace health and safety. Unlike in previous implementation process of autonomous agreements, discussions additionally involved the Advisory, Conciliation and Arbitration Service (ACAS), who are responsible for providing information, advice, training conciliation and other services for employers and employees to help prevent or resolve workplace issues (including those relating to workplace harassment and violence).

⁴¹⁷ The ACAS guide on Bully and Harassment (<http://www.acas.org.uk/index.aspx?articleid=1864>) states that bully and harassment may be against one or more people and may involve single or repeated incidents ranging from extremes forms of intimidating behaviour, such as physical violence, to more subtle forms such as ignoring someone. It states that examples include, among other things: unwanted physical contact; unwelcome remarks about a person's age, dress, appearance, race or marital status; jokes at personal expense; offensive language; gossip; slander; isolation or non-cooperation and exclusion from social activities; coercion for sexual favours; setting impossible deadlines; persistent unwarranted criticism; personal insults.

⁴¹⁸ Preventing workplace harassment and violence: Joint guidance implementing a European social partner agreement; <http://www.hse.gov.uk/violence/preventing-workplace-harassment.pdf>

Throughout the process of negotiation, the CBI, TUC and CEEP UK were responsible for the drafting of the guidance, with BIS, HSE and ACAS providing support, input and comment within their respective remits.

The Joint Guidance provides the following:

- Information about the scale of the issue in the UK;
- The aim of the European framework agreement and the guidance;
- A definition of harassment and violence;
- Information about the responsibilities of employers and employees in preventing, identifying and managing harassment and violence;
- Details on implementation and follow up; and
- Annexes providing details of the UK legislative framework on harassment and violence, existing guidance and current statistics.

The Joint Guidance emphasises that '*any form of harassment and violence against workers, whether committed by co-workers, managers or third parties in unacceptable*'. In terms of definitions of harassment and violence, the guidance re-iterates those provided in the European framework agreement. It emphasises that while harassment and violence can affect any workplace or worker, it is stated that existing data shows that sectors most at risk are those with the greatest likelihood for third party violence to occur, through acknowledging the importance of the guidance in regard of this issue.

Following the legislation which places the onus for risk assessment and prevention on the employer, the guidance emphasises that the '*responsibility for determining the appropriate measures to prevent and deal with harassment and violence in the workplace rests with the employer*'. However, it acknowledges the important role played by workers and their representatives (where recognised) in informing such prevention measures, as well as in reporting incidents. The guidance states that although '*bullying is not specifically dealt with in the EU agreement... this guidance is however intended to complement measures being taken in the UK to tackle bullying, for example the Dignity at Work Partnership Project*⁴¹⁹'. Employers are therefore responsible for assessing the risk to their workers, how these can be prevented and/or controlled and to draw up specific plans to achieve this. They are also responsible for establishing clear grievance and disciplinary procedures in line with the ACAS code of practice. They must also consult with the workforce and their representatives about risk assessments and action arising from them. It is also the responsibility of the employer to make workers aware of their policy on harassment and violence. In addition, it is stated that employers should provide a clear statement that harassment and violence will not be tolerated; be clear about what constitutes unacceptable behaviour; provide a statement of their overall approach to preventing and dealing with such risks; provide information and advice to workers on their rights, how to report incidents and support available to victims; make clear that everyone will have a fair hearing and that false accusations will not be tolerated.

The document also commits the social partners to disseminate the document and raise awareness. Furthermore, three years after the publication of the guidance, its distribution and impact is to be evaluated.

The Joint Guidance was launched at a seminar held at the offices of the European Commission's representation in London in November 2009. Since then, an evaluation of the impact of the guidance was carried out through two surveys, in particular to assess how the guidance has been used. This highlighted that the main uses were for providing training, spreading awareness, for reference and general information and developing policy and procedure. 250 individuals responded to the second survey, 86% of which highlighted that they have an existing policy. More than 60% of respondents who had read the guidance felt that it had helped to improve their approach. A follow-up survey was conducted from September 2011, and efforts will be made to extend awareness of the guidance in SMEs.

⁴¹⁹ www.dignityatwork.org

A1.31.5 Incidence of psychosocial risks and trends

At the national (and cross industry level), data are mainly limited on the occurrence of violence (or fear of threats of violence) in the workplace. Fewer comparable and longitudinal data are available to map trends in relation to harassment. The main sources for the former are:

- RIDDOR reports which are published on a regular basis. As indicated previously, this used to record any incidents leading to absences from work of more than 3 days, but this has now been increased to 7 days (2012) leading to problems with comparability and an overall drop in the number of incidents reported. The question asked is 'select the kind of accident which best describes your incident – with physical assault being as specific reporting category.
- The Crime Survey for England and Wales (CSEW) provides data from 2001/2 on an annual basis and gathers information on incidence of work related violence. With 46,000 interviewees the sample is relatively large.
- In addition, the TUC conduct a biennial survey of employee health and safety representatives, asking them what they believe to be the 5 health and safety issues that workers are most concerned about.
- Furthermore, there are a number of sectoral surveys which provide relevant data, for instance the British Retail Consortium's Annual Retail Crime Survey which shows the level of violence against retail workers. The NHS also gathers statistics on physical assaults on NHS staff.

Table 1.4 Violence at work 2006-7 to 2012-3

	2006-7	2007-8	2008-9	2009-10	2010-11	2011-12	2012-13
Number of victims							
Assaults	156,000	112,000	168,000	153,000	165,000	n/a	n/a
Threats	211,000	194,000	176,000	183,000	184,000	n/a	n/a
All violence	355,000	293,000	327,000	318,000	331,000	n/a	323,000
Number of incidents							
Assaults	288,000	204,000	321,000	310,000	341,000	n/a	332,000
Threats	397,000	352,000	305,000	366,000	313,000	n/a	317,000
All violence	684,000	556,000	627,000	677,000	654,000	643,000	649,000

Data show that 1.4% of working adults were victims of one or more violent incident at work in 2012-3. The figures have been rather stable in the last few years. Men are more likely to be victims of violence at work than women (1.6% compared to 1.2%). Around 60% of victims reported one incident, while 16% reported two and 24% three or more incidents.

Over the last decade there has been a downward trend in the incidence of workplace assaults and threats of violence, with an overall decline of 28%.

Figure 1.2 Trends in workplace violence, assault and threats 2002/3-2012/3

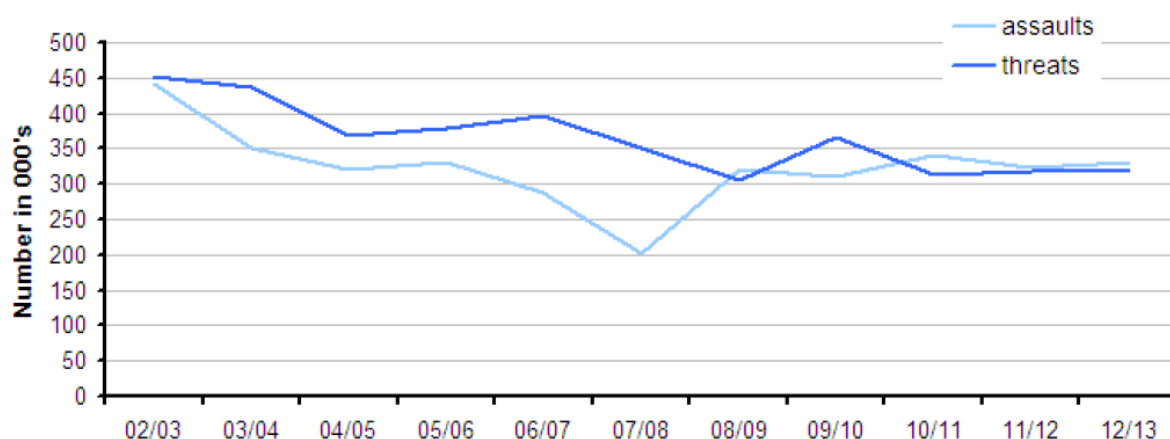


Table 1.5 RIDDOR reported accidents and injuries resulting from violence at work

Year	Fatal accidents	Major accidents	Absences of over 3 days
2009/10	1	929	5172
2010/11	0	965	5170
2011/2	0	920	5524
2012/3	3	761	3367 ⁴²⁰

Source: RIDDOR reported data (2009-2012)

No separate data are available for sexual harassment as these are recorded under general sexual discrimination claims. Other surveys focus on issues such as job security, well-being at work etc, but do not ask specific questions about workplace violence and harassment. They do, however, indicate increasing incidence of stress resulting from increasing fears about job security and from feelings of having to work harder as a result of the recession (and associated layoffs which left remaining staff with greater workloads)⁴²¹.

Giga et al (2008) estimate that staff absenteeism and turnover directly linked to bullying cost the UK economy £13.85 billion per year. Carter et al (2013) find that exposure to bullying can have serious consequences on mental health and well-being, as well as showing physical manifestations through musculo-skeletal complaints and an increased risk of cardio-vascular disease. Bullying and harassment is also found to affect worker motivation, leading to reductions in individual and company performance (e.g. Deery, 2011 and Carter, 2013), primarily as a result of burn out and higher staff turnover.

Data focusses strongly on some sectors where violence and harassment is considered to be more of an issue, such as the health care sector, retail and the wider public sector.

A1.31.6 Impact of the implementation of the framework agreement

The legislative framework on this issue in the UK was already relatively well developed and the broader issue of violence and harassment from an OSH perspective was in some senses 'overshadowed' by the introduction of the Equalities Act 2010, which shifted the emphasis of policy and guidance (both by bodies such as ACAS, but also employers' organisations) to the issue of harassment based on the various grounds of discrimination. In the view of employers, the implementation of the European framework agreement through the joint guidance document not only raised awareness but provided employers with a 'one stop'

⁴²⁰ Absence criteria changed from 3 to 7 days.

⁴²¹ For instance Skills an Employment Survey 2012; 2011 Workplace Employment Relations Survey.

guidance document to turn to for advice on policy, legislation and good practice in this field. Website feedback shows that the guidance is significantly consulted by employers and other interested parties and remains relevant (although ACAS has subsequently updated its guidance to take account of some of the legislative changes introduced since the adoption of the guidance).

From the perspective of the trade unions, whilst being useful in bringing together information on the existing legislative framework and guidance, the implementation of the European social partner autonomous framework agreement through the joint guidance has had limited impact on company practice.

Overall, the implementation of European social partner agreements has strengthened co-operation between national social partner organisations in the absence of a formalised process of tripartite interest intermediation. However, this excludes representations of SMEs who are not in membership of the EU representative body (UEAPME).

It is not possible to draw any correlations between developments in trend data on harassment and violence in the workplace with the implementation of the guidance.

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[Tipificación como delito del Acoso Laboral](#)

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Annex 3 Role of Social Partners in the field of OSH

A3.1 Introduction

This Annex aims to provide information on the role of social partners in the field of OSH to better understand the context of the implementation process and tools used for implementation at national level of the European autonomous framework agreement on harassment and violence at work. Furthermore, it aims to assess the general role of employer and trade union organisations with specific reference to psychosocial risks and violence and harassment in the workplace. The implementation of European autonomous framework agreements in accordance with Article 155 (2) TFEU is strongly linked to the national framework of industrial relations and health and safety representation models, being – as foreseen in the Treaty – based on ‘procedures and practices specific to management and labour and the Member States’. In this context, it should be noted that workplace health and safety representation models do not always follow the national industrial relations model but are de facto strongly influenced by it.

Over the past 5-10 years, most countries report an increase in the emphasis being placed on psychosocial risks in the workplace. In these debates, the main focus is on the issues of stress and burn-out but also harassment and violence and more particularly third party violence. There is a general awareness among social partners about psychosocial risks and in some countries social partners have taken relevant actions, including in Belgium, the Netherlands, Germany, France, Norway, Spain, Slovakia, Slovenia, Sweden and the UK (within or outside the scope of the implementation of the Agreement). Particular emphasis is placed on how to prevent these risks in practice within the realities of each workplace. While most health and safety legislation in the EU and EEA countries (directly or indirectly) obliges employers to include the prevention of psychosocial risks in risk assessments, at the practical level it appears challenging to assess these risks. In this area, in a number of countries social partners play an important role by engaging in particular projects that aim to develop tools on how to carry out a proper risk assessment of psychosocial risks. This is the case for example in France, Spain, Slovenia, Sweden, Norway and Finland. A number of trade unions have carried out specific studies to gather information about the incidence of harassment and violence and general working conditions more broadly – notably in Austria, Belgium, Germany, the Netherlands, and Norway.

In many countries social partners aim to raise awareness on psychosocial risks more broadly and specifically on stress, harassment and violence at work. In cases where social partners are able to dispose of specific in-house knowledge on risk assessment, prevention, training and advisory services on dealing with psychosocial risks they play an important role in providing the right tools to company health and safety representatives and can considerably influence strategies and shape best practices in this area.

Nevertheless, OSH issues are typically not dealt with in collective bargaining with some exceptions, e.g. Sweden, Denmark and France, and in those countries where works councils in companies are present and the company’s health and safety strategy is more widely discussed and determined among employers and workers representatives. Instead, social partners participate via tripartite or bipartite bodies in the formulation of national health and safety at work strategies and legislation.

A3.2 Role in the preparation of OSH legislation and strategy

Social partners can influence OSH legislation at different levels and in different ways. At the national level this is achieved through the strong representation of cross-sectoral social partners either on tripartite or bipartite institutional bodies. In many countries, but in Central and Eastern Europe in particular, such representation is through tripartite committees involved in the discussion and drafting of strategy and legislation, including on OSH. In other countries there is a long-standing, more or less formal process of tripartite interest intermediation between governments and social partner organisations which are consulted and involved in such process as a matter of course. In almost all EU Member States there

are tripartite bodies that play an influencing role on OSH legislation, OSH norms and national OSH strategy. In Bulgaria, Estonia, Finland, France, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Slovenia, Spain and the UK specific tripartite bodies exist which deal with occupational health and safety issues. In Denmark, Bulgaria, France (regional) and Slovakia specific sector bipartite bodies exist to determine strategies for OSH and provide for guidance and awareness raising activities and materials.

Based on the information gathered for each country on the role of social partners with regard to the involvement at national level in drafting OSH legislation and setting of national strategy of OSH the following map has been drawn (see Figure A3.1). This shows that the involvement of social partners in drafting OSH legislation and setting the national strategy is strong in Norway, Sweden, Finland, Denmark, the Netherlands, Iceland, Ireland, Latvia, Belgium, Luxemburg, France, Spain, Germany, Slovakia, Slovenia, Croatia, Austria and Bulgaria. Reasons explaining this assessment include the presence of strong tripartite bodies that provide information and research in the area of OSH besides the social partners' strong involvement in drafting OSH legislation and national OSH strategies. It can also mean that a strong tradition of tripartite cooperation exists, as is the case in the Nordic countries. In other cases social partners can significantly influence OSH legislation within tripartite bodies if agreement between social partners can be reached such as in Austria, Slovenia, France or the Netherlands.

Tripartite bodies can also play a significant role in determining the implementation of European autonomous agreements. At the very least they provide a forum to discuss implementation more specifically even if no further actions were taken. In the following countries European autonomous agreements have been discussed in the tripartite body (not exhaustive): in Austria, Bulgaria, Czech Republic, Cyprus, Latvia, Luxemburg, Slovakia and Slovenia.

In other countries bipartite bodies can play an important role. This is, for example, the case in Belgium where social partners can conclude collective agreements at national level on matters of OSH (e.g. stress) and can provide formal opinions on legislative proposals with regard to all employment related matters including OSH. These opinions have to be cited in the explanatory texts of the law. The advice is taken into account by government but not always implemented in the legal texts.

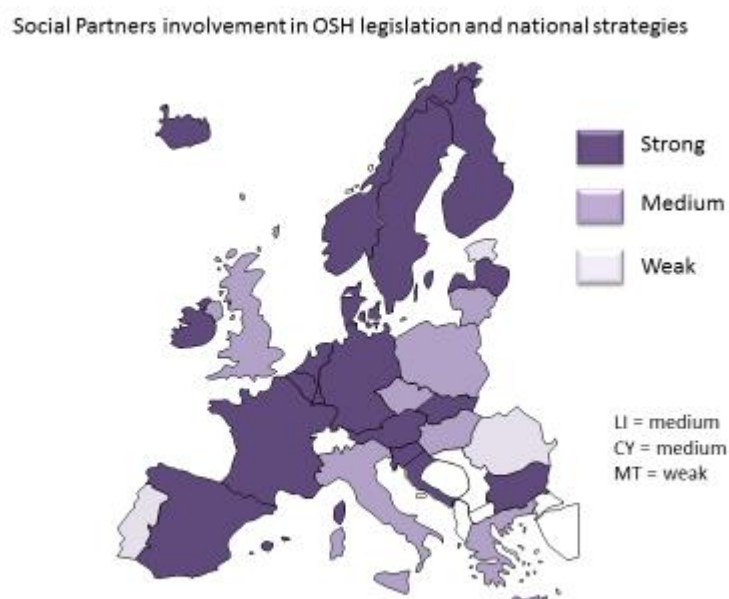
In Ireland the national Health and Safety Authority is managed by a tripartite management board which thus give social partners specifically a way to influence on overall strategies, projects and guidance. The same is true for the Health and Safety Executive in the UK.

In the case of Germany the situation is quite specific as social partners are part of the management board of the occupational health care and accident insurance. Social partners are involved in the definition of occupational hazards. The insurance also funds research projects and provides extensive guidance to companies with regard to risk assessment. They influence in this way the practical implementation of OSH legislation. Social partners are involved in a tripartite research initiative on improving the work environment by providing - among other things - guidance material and validation of best practices. The social partners were also involved in drafting the national strategy on psychosocial risks and they recently concluded a tripartite action framework with regard to prevention of psychosocial risks. Social partner involvement is thus occurring in different areas on an ad hoc basis but which can still be significant. The situation is similar in Norway and Iceland.

Finally, another specificity is seen in the case of Cyprus where tripartite cooperation on matters of OSH has a long tradition. In Cyprus a tripartite body aiming to combat discrimination handles in particular complaints with regard to sexual harassment which thus also directly involves social partners in handling incidents.

It should be noted that national frameworks for social dialogue have been significantly weakened in the aftermath of the economic crisis either due to reforms or political instability (or frequent changes of governments). This is notably the case of Romania, Portugal, Greece, Cyprus and Italy.

Figure A3.1 Involvement of social partners in drafting OSH legislation and strategy (an assessment based on country information)



The following table provides an overview of the tripartite bodies that are consulted with regard to occupational health and safety legislation and strategy and provides some additional information on the tradition of tripartite cooperation and involvement in drafting OSH legislation and strategy.

Table A3.1 List of relevant tripartite bodies

Country	Relevant OSH tripartite bodies and tradition of tripartite cooperation
Austria	Social partners are represented on the Advisory Council for Economic and Social Affairs. There is a long standing tradition of tripartite cooperation with regard to information and awareness raising in this field. Social partners and the Austrian Chamber of Labour (trade unions) and the Austrian Federal Economic Chamber are consulted on relevant legislation. In the case of the implementation of the agreement no common position could be reached – while employers preferred awareness raising measures, workers wished to get a link to legal obligations with regard to the risk assessment or a mediation officer. The result was the drafting of a joint guidance document. In addition there is a tripartite Commission on Equality – which handles all cases relating to breaches of equality legislation including on equality at the workplace inquiring into cases of harassment on the grounds of discrimination.
Belgium	The bipartite committee Comité National de Travail (CNT)/ Nationale Arbeidsraad – gives opinions on employment related matters and can negotiate cross-sector collective agreements that can be extended by Royal Decree. The issue of psychosocial risks has been discussed for some years. In 1999 an agreement on the prevention of stress was concluded and extended to the private sector. The issue of harassment and violence was first debated within the CNT in 2001 when a legislative proposal in Parliament was tabled simultaneously.
Bulgaria	There is a strong tradition of tripartite consultation on OSH matters. The National Council on Working Conditions is the standing body responsible for coordination, consultation and cooperation for the development and implementation of occupational safety and health policy at national level. There are regional councils in all local administrative districts to ensure trilateral cooperation for safety and health at work. There are also committees on working conditions in all undertakings,

Country	Relevant OSH tripartite bodies and tradition of tripartite cooperation
	providing a platform for dialogue between employers and employees; and at sector, regional and municipal level Committees and Working Groups on labour conditions.
Croatia	Since 2014, peak employer and trade union organisations are involved in the National Committee for OSH.
Cyprus	Tradition of strong tripartite cooperation – the Pancyprian Safety and Health Council (PSHC) is a tripartite consultative body covering all OSH issues – the tripartite Gender Equality Committee on Employment and Vocational Training – deals with complaints on sexual harassment.
Czech Republic	The tripartite Economic and Social Council is consulted on employment related legislation. It has played a significant role in deciding the way of transposition of European framework agreements. It has a working team on work safety.
Denmark	The bipartite Sector Work Environment Councils plays a significant role in awareness raising, advice and guidance.
Estonia	The tripartite OSH Committees are engaged in setting national priorities – however they do not have a strong influence.
Finland	The Advisory Committee on Preparation of Occupational Safety Regulations of the Finnish Occupational Safety and Health Administration and the Advisory Committee on Occupational Safety and Health play an important role. Almost all legislation and policies are based on a tripartite consensus. The Bipartite Centre of Occupational Safety and Health (TTK in Finnish) engages in research. Due to the increasing importance of psychosocial risks this aspect was explicitly included in 2002 after tripartite negotiations.
France	The National Institute of Research and Security for the Prevention of Work Accidents and Professional Diseases – has a bipartite board of management; the National Agency for the Improvement of Working Conditions (ANACT) has a tripartite management board – which coordinates regional associations on the improvement of working conditions (ARACT) which has a bipartite management boards – these agencies ; the Conseil Économique, Social et Environnemental which needs to be consulted on legislative proposals also with regard to work conditions is composed of social partners but also includes other civil society groups
Germany	No specific tripartite consultation body – general cooperation and consultation of social partners takes place in specific fields. Occupational health insurance and disability insurance bodies have social partners on the bilateral board of representation – tripartite projects are in place to raise awareness
Greece	The National Health and Safety at Work Council is a tripartite body with an advisory function on all matters related to health and safety at work. The Hellenic institute for occupational health and safety is a body that provides guidance, prevention activities and research on work related hazards. It has a bipartite management board. Social partners are also represented in the Council for Social Inspection of the Labour Inspectorate.
Hungary	The National Council of Reconciliation of Interests is an institutional body for tripartite cooperation. All issues related to working conditions are discussed in this body. The body can conclude voluntary agreements. The Labour Safety Committee is particularly consulted for health and safety rules. It can formulate non-binding recommendations on questions relating to health and safety at work.
Iceland	Strong tradition of tripartite dialogue – however no specific institutional body
Ireland	The Health and Safety Authority consults widely with social partners on OSH related issues and has a tripartite management board.
Italy	Permanent Consultative Committee for Health and Safety at Work – the body assesses the implementation of the national health and safety rules, delivers proposals to improve legislation, provides for awareness raising activities and validates best practices. However this body seems to be not very active in recent years. Social partners in the public sector are also active in committees for gender equality, wellbeing of workers and on anti-discrimination (Comitati Unici di Garanzia

Country	Relevant OSH tripartite bodies and tradition of tripartite cooperation
	per le pari opportunità, la valorizzazione del benessere di chi lavora e contro le discriminazioni, CUG; Comitati per le pari opportunità, Comitati paritetici sul fenomeno del mobbing)
Latvia	National tripartite co-operation council (NTSP). OSH issues are discussed at the Labour affairs tripartite cooperation sub-council (DLTSA)
Liechtenstein	Social partners are consulted. There is no specific tripartite body dealing with OSH. Depending on the government's political orientation social partners have more or less influence on OSH legislation
Lithuania	The tripartite Occupational Safety and Health Commission is the consultative body for OSH legislation and strategy, allowing the social partners the possibility to express their views on draft legislation and policies.
Luxemburg	The Economic and Social Council (CES) – is consulted on broader social policy and all legislation concerning employment conditions, it decides also on the form of implementation of European framework agreements.
Malta	The Occupational Health and Safety Authority is a tripartite body establishing consultative strategies on national policies regarding occupational health and safety; advising the government on occupational health and safety and related regulations; promotes the dissemination of information and best practice relating to occupational health and safety. The Council for Economic and Social Development (MCESD) a tripartite body that consults and advises the government on sustainable economic and social development; the Employment Relations Board has to be consulted on any issues relating to employment at both the national and sectoral level
The Netherlands	Social partners are consulted in the tripartite Socio-Economic Council on employment related matters including OSH, psychosocial risk are those from which workers suffer the most in Netherlands, thus government and social partners have been active in the prevention of those risks by raising awareness. Focus in recent years was on third party violence in particular in the public sector due to prominent incidents portrayed in the media.
Norway	Tripartite involvement in OSH strategy, policy design and implementation is important in Norway. Such agreements provide for an overall framework and leave scope for social partners to negotiate bilateral agreements both at a sectoral and company level. Social partners clearly have a substantial role in determining national OSH strategy and setting out priorities. There is no tripartite institution as such.
Poland	The Tripartite Commission must be consulted on legislation concerning the labour market, state benefits and employment rights and it has nine separate permanent working groups looking at specific issues including health and safety. Tripartite agreements can be reached within this body
Portugal	Tripartite agreements can be concluded in the Permanent Committee for Social Dialogue within the Economic and Social Council
Romania	The National Tripartite Council for Social Dialogue including members of civil society rather than members of government, it is a consultative body providing advice on the national minimum wage. It can conclude social pacts and monitor their implementation
Slovakia	The Economic and Social Council is consulted on all employment and working conditions related matters. At sector level bipartite bodies can be created to negotiate OSH guidelines
Slovenia	The Economic and Social Council (ESS) is consulted on all matters relating to labour law and is the main tripartite body. For matters of health and safety legislation it is the tripartite Council of Health and Safety at Work that provides advice. There is tradition of tripartite cooperation in these matters.
Spain	National Commission for Safety and Health at Work (Comisión Nacional de Seguridad y Salud en el Trabajo). The National Commission includes a specific sub-group on psychosocial risks, which includes experts from both the trade union and

Country	Relevant OSH tripartite bodies and tradition of tripartite cooperation
	employer sides. The Commission provides formal opinions on actions taken by public administration on the prevention of occupational risks. The current health and safety Act specifically encourages social partners to take active measures at workplace level through company agreements.
Sweden	The Central Government Social Partners' Council (Partsrådet) is a tripartite body that sets out strategic policy issues and advises local social partners also in the area of work environment measures. The body is currently very active with regard to psychosocial risks and harassment and violence in particular in the public/municipal sector.
UK	The Health and Safety Executive (HSE) consults with social partners and has a tripartite management board. There are sector specific or specialist advisory committees, boards and councils which are consulted by the HSE before developing specific guidelines or codes of conduct. The Advisory, Conciliation and Arbitration Service (ACAS) includes members from social partners in its management board though is not set up as a tripartite body. It provides advice and training to employees and employers to improve working environments. Activities have specifically focussed on psychosocial risks and violence rather than harassment. Due to the recent adoption of the Equalities Act there has been greater focus on harassment based on different forms of discrimination.

A3.3 Role of collective agreements in OSH

This section considers the level at which collective agreements are typically concluded and whether collective agreements play a significant role in setting out sector specific OSH standards or more favourable standards with regard to national legislation.

It should be noted that Europe is characterised by a remarkable heterogeneity of industrial relations systems, social dialogue and coverage of collective agreements across Member States.

While coverage of collective agreements at cross industry and particularly sectoral level is quite high in the EU 15 (except for the UK and Ireland), in the EU-10 Member States coverage is below 45% of workers (except Slovenia)⁴²². Consequently, the influence of social partners and social dialogue on matters of health and safety differs across countries. Additionally, this fosters a lively debate about whether “soft law” measures such as autonomous agreements are enough to show strong effects⁴²³.

For this study it is particularly relevant to assess whether OSH is an issue that is typically regulated in collective agreements rather than determining solely the coverage of agreements. Coverage has been taken into account when assessing the significance of collective agreements, yet specific efforts with regard to the implementation of the agreement on harassment and violence have been particularly acknowledged in the weighting for the purpose of this study.

The countries in which collective agreements have a strong significance are France, Denmark, Luxemburg, Cyprus and Spain. The reasons for this classification are based on different grounds. In the case of France collective agreements can be negotiated at cross-industrial level and which are extended by ministerial decree to all workers. France had concluded an inter-sectoral national agreement on harassment and violence at work extended to all workers.

⁴²² Visser, J. (2009) ‘ICTWSS Database, Database on Institutional Characteristics of Trade Unions, Wage Setting, State Intervention and Social Pacts in 34 countries between 1960 and 2007’, Institute for Advanced Labour Studies, AIAS, University of Amsterdam, available online at: [http://www.uva-aias.net/208]

⁴²³ Ertel et al (2010), European social dialogue on psychosocial risks at work: Benefits and challenges, European Journal of Industrial Relations, 16(2), pp.169–183.

In Cyprus the autonomous agreement was also implemented by a tripartite framework agreement on violence and harassment in 2009. The framework agreement was complemented with a Policy Statement on Harassment and Violence which included qualitative targets for combating violence and harassment at work.

In Denmark the most relevant level for more specific OSH rules is sector level collective bargaining. However, company level collective bargaining has also increased. At company level within the cooperation committees (works council) worker representatives and employers negotiate specific OSH procedures for the company level. At branch/site level specific bodies are established to implement those procedures in practice. The European framework agreement was implemented through a national collective agreement in the public sector. In the private sector it was considered that existing collective agreements were sufficient to cover the spirit of the agreement.

In Spain, in 2008 implementation was reached by a cross-industry agreement for collective bargaining or *Acuerdo interconfederal para la negociación colectiva* (ANC) which explicitly refers to the European autonomous framework agreement on harassment and violence at work. The agreement is though only binding among signatory parties though obliges them to take action. Recently sector level and workplace collective agreements include specific provisions on harassment and violence or prevention of psychosocial risks.

In Luxemburg collective agreements at sector level play a significant role to set out specific OSH measures. A national collective agreement implementing the European Framework Agreement was extended by the government to become universally binding.

The countries with medium significance of collective agreements in OSH are the Netherlands, Germany, Austria, Sweden, Malta, Latvia, Czech Republic, Norway, Finland, Slovakia, Slovenia, Bulgaria and Liechtenstein.

In Germany and Austria company level agreements increasingly seem to provide for company specific OSH standards. Nonetheless, health and safety is often set out in codes of conduct and strategies that do not have the same legal status as a collective agreement.

In Sweden OSH issues are mainly dealt with in workplace level collective agreements. There are so-called work environment agreements at workplace level determining the number of safety representatives and the functioning of the working group on health and safety.

In the Netherlands OSH is mainly regulated by law though social partners play an important role to set out more specific rules at sector level. This is done by voluntary health and safety catalogues which determine sector specific rules. Also sector collective agreements sometimes regulate specific OSH areas such as in municipalities and health care sector on third party violence.

In Malta collective bargaining takes place mainly at company/workplace level and often includes OSH issues. In fact trade unions have even accepted to include wage penalties for workers not complying with health and safety standards.

In Bulgaria there are agreements on the prevention of harassment and violence in the transport and health care sector. In Latvia, harassment and violence at work are not included in the most part of collective agreements on sectorial and company level – with the few exceptions in the sectors involving high risk of third party *physical* violence (health care and transport sectors primarily).

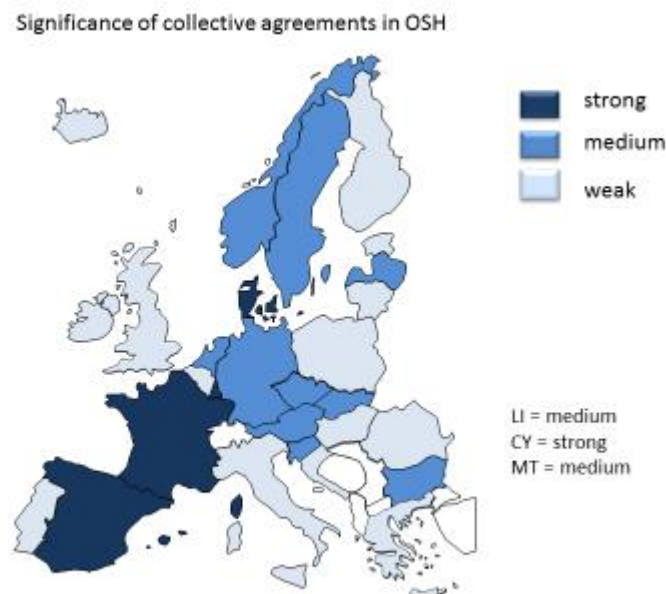
In the Czech Republic the main level of collective bargaining is sector and company level. In some sectors the issue of harassment and violence was of concern such as in the transport and health care sector. Social partners have included this topic into their collective agreements these specific sectors.

In Slovakia OSH issues can be covered in national, regional and company level agreements. Also in Norway national level basic agreements can contain general measures on OSH which can be further specified at sector or company level. However, it is usually by workplace health and safety representation that standards are implemented. In Slovenia, with recent legislation reforms in the health and safety law, OSH issues are increasingly

dealt with by the works council leading to inclusion in company level collective agreements. In Liechtenstein social partners have recently included in all of their newly negotiated collective agreements a clause for “zero tolerance” of mobbing and sexual harassment.

In Finland, Iceland, Italy, UK, Ireland, Belgium, Greece, Hungary, Croatia, Poland, Portugal, Romania, Lithuania, and Estonia collective agreements do not play a significant role in OSH related matters for different reasons. In Finland and Iceland collective agreements do not play a significant role with regard to OSH due to the fact that OSH is mainly regulated by law and implemented at workplace level. In Finland employers agree with unions and safety representatives on all measures taken and risk assessments are carried out in a cooperative tradition. In Italy, the European framework agreements used to be implemented by national collective agreement. However collective agreements do not usually include provisions on OSH. Specific sectorial OSH bipartite bodies rather provide for good practices or set out general guidelines and organise projects on promotion of health and safety at the workplace. In Portugal collective bargaining used to be carried out mainly at national level covering all employees through the system of extension of agreements by the government. However since the recent reforms in collective bargaining, the company/organisation level has reached much higher importance. However company level collective bargaining occurs mainly in big companies or in the public sector where trade unions are strong. This has decreased considerably the amount of collective agreements let alone coverage on specific health and safety issues. The same holds true for the case of Greece where framework agreements used to be negotiated at national level however due to the crisis collective bargaining is further developed at sector or company level. OSH issues were occasionally addressed in the national collective agreements covering all professions and sectors. At this stage it is not clear to what extent OSH issues are covered in company level agreements. However their number has significantly dropped since the crisis. Also in Romania, a recent reforms in the industrial relations framework has shifted the collective bargaining from national to company level agreements. For OSH issues it is however not common yet to make use of collective bargaining agreements despite a strong legal framework that could support conclusion of agreements. In Belgium, OSH standards and risk assessment processes are determined by legislation and thus collective bargaining is non-existent on OSH matters. In Croatia, collective bargaining mainly occurs at the enterprise level. Works councils can reach collective agreements often specifying the number of health and safety representatives and their specific tasks and roles with regard to prevention and implementation of preventive measures. However only very few companies make currently use of this possibility. In Belgium workers' representative are actively involved at the workplace on the implementation of OSH safeguards. In Poland, Hungary, Lithuania and Estonia, collective bargaining typically occurs at company level however OSH matters are not typically part of collective agreements. Specific guidelines could be negotiated at national level or sector level OSH bipartite or tripartite bodies. Finally, in the UK and Ireland there is rather a tradition of employee consultation and limited bargaining is ongoing. OSH standards are implemented by specific codes of conducts and guidelines.

Figure A3.2 Significance of collective agreements in OSH (an assessment based on country information)



In a number of countries OSH standards are set in the national legislative framework and can be further specified in OSH DIN norms or by OSH authority guidelines (having thus a legal value) and can be furthermore specifically implemented via collective agreements. It appears that collective bargaining agreements rather deal with the concrete implementation of legal OSH standards or the framing of the role and area of intervention of workers health and safety representatives. The Swedish example seems to be a very specific case where workers representatives negotiate at company level work environment agreements which set out very precisely yearly strategies and financial resources for their implementation. It was furthermore noted that sectors that are exposed to a higher number of occupation hazards will also more typically conclude sector specific agreements or guidelines. On the other hand psychosocial risks concern all sectors. From current research with regard to collective agreements and harassment and violence it can be noted that the most bargaining activities at sector level are linked to violence from third parties in those sectors that are specifically exposed to such a risk and in which workers' representation at the workplace is highest.

From the research conducted it cannot be concluded that either the significant influence of social partners through tripartite bodies or in shaping OSH legislation or the strong significance of collective bargaining leads to an improvement of workplace environment and effective prevention of psychosocial risks. However both contribute to awareness raising and risk prevention. Effectiveness of OSH safeguards depend on a number of other factors linked to workplace level industrial relations and employer and employee engagement, as well as enforcement measures. Finally it should be highlighted that SMEs are not well represented in tripartite OSH bodies or in collective bargaining. It has variously been noted that the preparation of risk assessment and the effective prevention of occupational hazards is most difficult for SMEs due to a lack of specialist staff and supporting networks. This is also due to the fact that legal frameworks on health and safety representation do not take sufficiently account of their particular situation.

A3.4 Role of trade unions and employers at company level

A3.4.1 Relationship of workplace and health and safety representation – the role of trade unions

Research on the relationship between social dialogue and the improvement of working conditions shows that the existence of employee representation in the workplace can be a

determining factor in improving working conditions⁴²⁴. This has also been the conclusion of the European Agency for Safety and Health at Work when analysing the survey results of the European Survey of Enterprises on New and Emerging Risks (ESENER)⁴²⁵. It concludes that OSH management measures are more likely to be effective in workplaces in which there is worker representation, and in particular where that is combined with high management commitment to health and safety. The report also highlights that representation for health and safety often follows the general model of workplace representation.

The following figure maps the use of the two characteristic workplace representation models in European countries – the single channel in which trade unions are essential in workers workplace representation; and the dual channel in which elected workers representatives coexist with trade union worker representation. The figure below characterises two types of dual channel systems: those countries in which workers’ representatives sit together in with an employers’ representative in a workplace representation body, and those countries in which the representation body is composed only by workers’ representation. In reality, the “dual channel” model can be characterised in different ways and “dual” means that the roles of workers delegates and trade unions are at the same time different but also complementary. Trade unions also play a significant role in the “dual channel” system with regard to workplace representation. In both systems only trade unions can conclude collective agreements.

Figure A3.3 Map of European workplace representation systems at the company level



Source: ETUC (2013), “Health, safety and risk prevention: improving information, consultation and participation in enterprises”

Workers’ health and safety representation models are based on a variety of legal thresholds of employees in a company to elect a health and safety representative. In most countries 50 employees is the general threshold to set up joint health and safety representation bodies. In countries where no specific threshold or below 10 employees are set representation of workers can also be possible in SMEs. In a number of countries such as Belgium, the Czech Republic, Italy, Latvia, Luxembourg, the Netherlands, Poland, Portugal and Slovakia, employers can carry out the role of safety representative.

⁴²⁴ Voss, E. (2009), Working conditions and social dialogue, Eurofound, Dublin.

⁴²⁵ Cockburn W. eds EU –OSHA (2012) Worker representation and consultation on health and safety, An analysis of the findings of the European Survey of Enterprises on New and Emerging Risks, European Risk Observatory, Report, Luxembourg

Figure A3.4 Map of thresholds for health and safety representation



Source: ETUC (2013), "Health, safety and risk prevention: improving information, consultation and participation in enterprises"

However the threshold is not the sole characteristic with regard to health and safety representation models. Others include the number of health and safety representatives per number of employees, which is particularly important with regard to joint health and safety committees; the framework for election of safety representatives, the role and tasks of safety representatives and joint health and safety committees and the operational means provided including training to safety representatives and finally the protection and timeframe to carry out the tasks play a significant role. Taking into account all of these factors many different models can be observed. Health and safety representation is much broader in its institutional set up than workers' representation models. In order to compare countries, simplified models were developed on the basis of the observed characteristics set out in legislation of health and safety representation and divided into three models. The first one is the "co-decision" model in which there is either a strong cooperation by health and safety representatives with the works council having broad consultation and co-decision rights or a specialised committee on health and safety exists which co-exist with the works council and has similar powers. Secondly, the "safety representatives" model which is characterised by the fact that safety representatives are either trade union representatives or can only be nominated by trade unions, or elected safety reps are often trade union members. This model is furthermore characterised by an underlying active participation approach in shaping the companies health and safety strategy by providing representatives with powers to monitor and sometimes control OSH safeguards, participate in risk assessment and handle of complaints. The third one is a "mixed model" which is essentially characterised by the fact that the health and safety representative body is rather a consulting body, giving advice and making proposals. Health and safety representation is elected, trade unions or workers' representative can potentially play an influencing role in designing the OSH company strategy within this model.

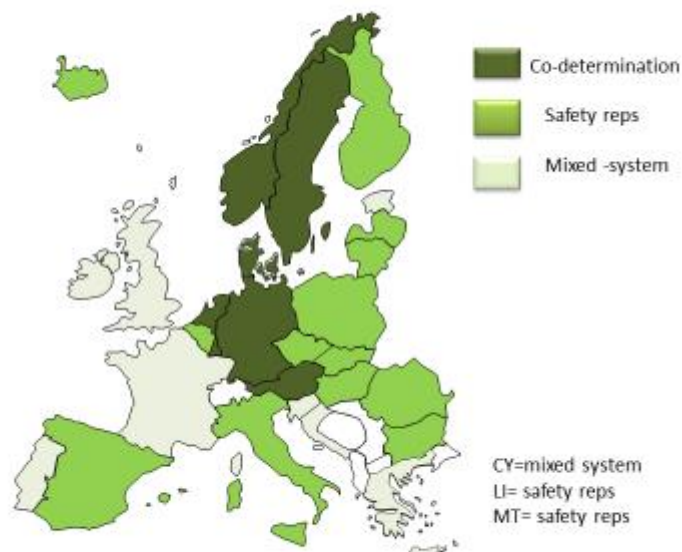
The following figure presents a map of the health and safety representation models based on preliminary findings. According to the map the "co-determination" model can be found in Norway, Sweden, Denmark, Germany, the Netherlands, Austria and Luxemburg. Despite having co-decision or cooperation powers in many cases it depends also on the services, information and tools that are available for health and safety representatives to carry out their work in an efficient manner. Also co-decision can depend on the overall attitude that employers have towards health and safety management to carry out risk assessments and improve the work environment.

The “safety representatives” model can be found in Finland, Iceland, Belgium, Spain, Italy, Hungary, Slovakia, Poland, Lithuania, Latvia, Czech Republic, Romania, Bulgaria, Malta and Liechtenstein. Within this model there are variations to the extent of possible active participation. In many cases this would depend on the attitude of the employer, on the attitude of the union or representative and also what kind of tools are available and training accessible to help representatives carry out their function.

The “mixed-system” model can be found in Portugal, Greece, Cyprus, Slovenia, Croatia, France, Ireland and UK. However the UK and Ireland are somewhat apart as they have a tradition of employee consultation which can also be designed in a proactive way. In workplaces where trade unions are recognised the model is actually close to the “safety representatives” model. In France the system is quite an institutionalised system of consultation. However in combination with employee delegates the system is also very close to the “safety representatives” model. In Portugal, Greece and Cyprus the health and safety body has a pure consultative role. In Slovenia, there is a works council that deals among others with OSH issues however has only consultation powers whereas at the same time trade union representatives could influence company policies via collective bargaining activities.

A consultation body can also contribute actively to the building up of a company’s health and safety strategy and is no less efficient than the other two models if both sides are taking their roles seriously.

Figure A3.5 Typology of health and safety representation (based on the assessment of country information)



The fact that a majority of countries are characterised by the “safety representatives” model demonstrates that trade unions have a significant role to play with regard to health and safety representation. Their role in the workplace can be particularly influential in cases where national trade unions develop a national strategy, set out guidelines for risk assessment in particular of psychosocial risks, set up advisory bodies, provide specific toolkits on prevention and help victims of harassment and violence for example. In this regard the example of Spain should be mentioned. The Trade Union UGT is running a permanent observatory of psychosocial risks (Observatorio Permanente de Riesgos Psicosociales) with the financial support of different public bodies, which plays an important role in raising awareness and disseminating good practice. Trade union CC.OO manages the trade union institute for work, environment and health (Instituto Sindical de Trabajo,

Ambiente y Salud, ISTAS), whose objective is to improve working conditions and promote workers' health all across Spain. It has developed a free online tool to help with the risk assessment of psychosocial risks. It also produces specific guidance for union safety representatives to take action on psychosocial risks. Also in the Netherlands many different tools, guidance and advisory services are run by social partners to advise companies on psychosocial risks. The tripartite INQA project has an important role in Germany in awareness-raising, and dissemination of good practice can support the work of works councils. Nevertheless, at this stage one needs to bear in mind that trade union density is on average 25% in the EU with the Scandinavian countries being significantly above this average and France much lower. It should also be noted that while this analysis has made comparisons on the basis of the legal health and safety representation models other realities need to be taken into account.

Health and safety is often a neglected issue at enterprise level. In Slovenia and Slovakia only half of enterprises dispose of a works council. While the legal set up of health and safety representation in Romania provides in particular joint health and safety committees with strong powers, in reality OSH is often not a topic that is discussed as it is not a priority and often costly for employers. This would contrast to Norway where four out of five employees reported having a safety delegate in 2007⁴²⁶. There are seemingly quite important differences among European countries with regard to the effective health and safety representation thus discrepancies between what is stated in the legal framework and practice. In a number of countries, social partners still experience challenges to negotiate beyond core competencies (pay, working time) and to provide the support and resources to their members or elected health and safety delegates. This also raises the question over authority that European, national or sectoral unions have over their members. In many cases there is no hierarchy level or clear cooperation among the different levels which also explains why current legal frameworks are underused in particular with regard to collective bargaining. Another factor that should be retained is that in many countries there is no framework for social partners to implement European autonomous agreements. In particular, on how to reach the company level if it is not via changes in statutory law. This raises questions over the union membership and representativeness, their ability to cooperate with a wide variety of stakeholders and their problem-solving capacity that could considerably improve influence at the workplace on OSH strategies.

Besides support from social partner bodies/institutes and tripartite OSH bodies it should be mentioned that health and safety representation can also find quite significant support from occupational health prevention services which are composed of medical specialists such as occupational health doctors, psychologists, ergotherapists and other specialists. In particular in Scandinavian countries, Germany, Austria, Belgium and the Netherlands such services exist extensively. They often have their representation bodies which develop guidance with regard to risk assessment. Also the Inspectorate can be an active partner for social partners with regard to the prevention of psychosocial risk cooperating closely with social partners to increase risk assessment and awareness.

Despite evidence suggesting that take up of health and safety representation is not fully achieved the regulatory impact in setting out a framework for representation has certainly influenced the increase of overall take up in recent years. Due to missing data it is difficult to assess today the actual impact of health and safety representation. The literature seems to focus on sharing best practices rather than on evaluations.

A3.4.2 Roles and responsibilities of employers

In all European countries (based on the EU health and safety framework Directives) the employer bears the overall responsibility with regard to accident prevention and health and safety issues through risk assessment and the prevention of such risks, but should consult

⁴²⁶ <http://eurofound.europa.eu/observatories/eurwork/articles/other-working-conditions/role-of-employee-participation-in-improving-working-environment>

with employees and/or their health and safety representatives. In addition, the employer has to protect and respect the integrity of each employee internally and externally.

In Sweden, Finland and Denmark the health and safety acts determine that cooperation with employees dealing with health and safety should be envisaged. The law provides a rather pro-active role for employees in contributing to the development and prevention. In most legal frameworks the inactive tense with regard to the employees' role in the area of prevention gives more responsibility to the employer, which may serve to limit their involvement in practice. It is notable that even in countries with generally strong employee representation, such as Germany, a recent evaluation found that nearly half of businesses (and significantly more SMEs and micro company) do not carry out any form of risk assessment. Employers' organisations ascribe this to the lack of guidance, appropriate manpower and heavy administrative burden associated with such assessments.

A3.5 Evolution role of social partners in the field of OSH

The main influence social partners exert on OSH policies and legislation is through tripartite or bipartite consultative bodies. This is particularly true in countries that have a specific tripartite/bipartite body working only on OSH issues. In some cases, after discussions in the aforementioned bodies this can lead to the conclusion of national collective bargaining agreements though this depends on national industrial relations systems. In the following countries this has happened in the case of the autonomous agreement on harassment and violence at the workplace for example in Cyprus, Latvia and Luxemburg.

Collective agreements do not play a significant role currently (only five countries rated as having a "strong" role and those five countries have implemented this agreement via national or cross-sectoral agreement, and another 6 countries have previously done so) to further specify regulatory aspects and improve the level of protection taking into account also sector related aspects. In the majority of cases social partners have chosen to implement the European autonomous agreements by joint action plans or joint awareness raising activities. Due to the fact the previous autonomous agreement was on stress, another psychosocial risk factor it has had at least the effect to increase the awareness of psychosocial risk factors in the past 5 years in 15 European countries: Austria, Belgium, Czech Republic, Germany, Denmark, Estonia, Greece, Spain, Lithuania, Luxemburg, Poland, Portugal, Slovenia, Slovakia and UK.

However this must be interpreted with caution as in some countries psychosocial risks were already discussed at national level prior to the agreement or the increase in awareness is not always strictly linked to the agreement. Health and safety legislation that dealt with psychosocial risks or harassment and violence (or both) before the European autonomous agreement existed in for instance: Belgium, Finland, France, Ireland, Netherlands, Norway, Sweden and Denmark. In some countries the national OSH strategy included emphasis on addressing psychosocial risks or harassment and violence at the workplace for instance Austria, France, Liechtenstein and Hungary.

Therefore, whether there is a direct link between awareness raising and the European agreement on stress or harassment and violence at work is difficult to assess but it is estimated that there are in general several reasons for this finding. On the one hand five countries have implemented via national cross-sectoral collective agreement the European social partner agreement on harassment and violence at work which has typically generated a national debate and was linked to further awareness raising activities. On the other hand awareness has increased as in a number of countries media has covered more extensively prominent cases of suicide related to work stress and pressures, for example in Belgium, Germany and France. Yet, in others studies highlighting that the number of days of absence or request for work incapacity due to psychosocial risks at work have increased over time, such as for example in Germany, Austria, Latvia, Liechtenstein and Croatia. In other the awareness of harassment as increased more particularly due to the implementation of the anti-discrimination framework, as is the case for many Central and Eastern European countries, or the UK. In other countries psychosocial risks gained in importance due to the impact on the economic crisis generating higher work pressures and an concern about

redundancies, this was the case in Greece and Portugal. In Slovenia and Luxemburg legislation has changed due to the implementation of the framework agreement of harassment and violence. Thus awareness raising activities have certainly increased the level of overall awareness. In the case of Sweden, an impact assessment found a deficiency in current health and safety law with regard to the explicit coverage of harassment. Thus currently, discussions are carried out increasing further the already high awareness level of social partners on this issue. In Liechtenstein, collective agreements were recently concluded containing a kind of 'zero tolerance' clause on mobbing, sexual harassment and violence.

In 13 countries no change of awareness was registered. Within this group of countries one needs to separate those where awareness has been already high and those where awareness has remained the same among social partners or the intention at least to change legislation has not changed. In Belgium, the Netherlands, Finland, France, Ireland, Norway and Iceland the awareness has been already high and considerable changes had been already introduced either timely at the same time as the European framework agreements or earlier. In Italy and Romania other priorities such as industrial relation reforms or as well the economic crisis has led to no further increase in activities (or at least no information provided as in the case of Italian regions) with regard to awareness raising. Cyprus has implemented the framework agreement back in 2009 via national collective agreement however the effects of the economic crisis impacted on further implementation at workplace level drifting the awareness away to other more pressing issues.

While awareness levels have seemingly increased among some social partners in EU and EEA countries in the past 5 years, it remains difficult to appropriately assess whether awareness raising activities have successfully reached health and safety representatives, employers and workplace level trade union members. This is due to the fact that evidence of company policies on harassment and violence is rare and not collected (see also the limited survey carried out for this study). Sometimes, general public awareness has been raised more prominently due to specific cases of mobbing that were highlighted in the media thus not directly involving social partners.

In some countries trade unions provide for assistance to workers experiencing harassment or violence and assist in the mediation of cases. This is, for example, the case in Belgium, Bulgaria, Germany, Latvia, Liechtenstein, Austria, Cyprus and France.

One of the reasons for the challenges that social partners encountered in implementing measures to prevent psychosocial risks is that prevention needs to draw on much broader definition of "work environment" and "well-being" as simply ill-health prevention. The psychosocial dimension requires an assessment of particular workplace organisation from a holistic point of view and needs to take into account various factors of workplace relations. This is on the one hand an opportunity for social partners to re-assess the way of conducting risk assessment and prevent in general. It can even have an impact on the overall company structure and the way of "doing business" – a viewpoint which is generally opposed by employers.

It must also be borne in mind that the psychological well-being of a worker is also influenced by factors external to the enterprise and it has proven difficult to disentangle factors related to the workplace for which the employer should be responsible. With regard to harassment and violence at work the definition of moral harassment has also proven to be the most difficult to agree on, while dealing with third party violence seems to be more straightforward. At this stage few best practice examples with regard to the prevention of harassment and violence exist, and there is no "best practice" that could be promoted as definitions in particular in relation to harassment are rooted in a cultural context.

From a legal perspective harassment claims are difficult to pursue in the courts thus formal and informal company internal procedures play a much more prominent role in dealing with incidents. This can also be an opportunity for trade unions and workers' representatives to get strongly involved in such kind of mediation. However it seems that mediation by an "independent" or "neutral" person is preferred in such a context. Yet, this issue is once more linked to cultural perceptions.

Table A3.2 Role of Social Partners in the field of Occupational Health and Safety

Country	Involvement of social partners in the preparation of legislation and policy in the area of health and safety (strong, medium, weak) ⁴²⁷	Role of collective agreements in OSH (strong, medium, weak) ⁴²⁸ – at what level typically concluded	Minimum number of employees for health and safety representation/ joint health and safety committee	Role of health and safety representation for the prevention and management of psychosocial risks at company level (typical tasks)	Is the role of health and safety representative typically performed by a trade union member (yes/no)	Trend in involvement of social partners in last 5 years on health and safety in particular with regard to psychosocial risks, harassment and violence, at national level (increase, no change, decrease)
AT	Strong	Medium	10	The health and safety representatives have the right, according to the Labour Constitution Act, to ask the employer to implement necessary measures or make proposals on improvements for OSH.	Yes (but often mixed)	Increased

⁴²⁷ Strong – in case of a formalised Tripartite/bipartite body that is consulted on employment and health and safety legislation and in particular if it includes a specific working group on health and safety or more particularly on psychosocial risk; medium – in case of a tripartite/bipartite body but typically does not include a specific working group on health and safety or the there is only an ad-hoc or not regularly consulted tripartite/bipartite body; however social partners can be involved in other OSH related bodies that influence the application of OSH law; weak – no tripartite body; social partners do not typically need to be consulted (institutional function) on OSH related matters.

⁴²⁸ Strong – collective agreements at all levels typically regulate aspects of OSH and more particular on psychosocial risks, or there is the possibility for national cross-industry or sectoral collective agreements that can be extended to the majority of the workforce (at least some existing examples dealing with OSH); medium – there are just some examples of collective agreements that deal with aspects of OSH (typically at sector level) or company level; weak- aspects of OSH are not dealt with in collective bargaining, examples of voluntary codes or very few examples of collective agreements.

Country	Involvement of social partners in the preparation of legislation and policy in the area of health and safety (strong, medium, weak) ⁴²⁷	Role of collective agreements in OSH (strong, medium, weak) ⁴²⁸ – at what level typically concluded	Minimum number of employees for health and safety representation/ joint health and safety committee	Role of health and safety representation for the prevention and management of psychosocial risks at company level (typical tasks)	Is the role of health and safety representative typically performed by a trade union member (yes/no)	Trend in involvement of social partners in last 5 years on health and safety in particular with regard to psychosocial risks, harassment and violence, at national level (increase, no change, decrease)
BE	Strong	Weak	50 (20 in the mines and quarries and 10 in the diamond industry)	The health and safety committee is a consultative body – the employer has to obtain the opinion of the committee on a wide range of issues. The employer must provide reasons for not following the advice of the committee. Companies have include psychosocial risk in the risk assessment and the committee has to provide advice in advance of implementation. The trade union representative can refer victims of harassment, bullying or (threats of) violence to the company ‘confidence’ person or the prevention consultant.	Yes. Only unions can nominate employees for election to the joint health and safety committee.	Increased

Country	Involvement of social partners in the preparation of legislation and policy in the area of health and safety (strong, medium, weak) ⁴²⁷	Role of collective agreements in OSH (strong, medium, weak) ⁴²⁸ – at what level typically concluded	Minimum number of employees for health and safety representation/ joint health and safety committee	Role of health and safety representation for the prevention and management of psychosocial risks at company level (typical tasks)	Is the role of health and safety representative typically performed by a trade union member (yes/no)	Trend in involvement of social partners in last 5 years on health and safety in particular with regard to psychosocial risks, harassment and violence, at national level (increase, no change, decrease)
BG	Strong	Medium	50	Employee members of the committee have information rights and are granted access to all documentation of the employer on this matter. The body also monitors any risks for “labour traumatism” and decides about training on health and safety issues.	Yes, but can be mixed	No change
CY	Medium	Strong	10 for a health and safety committee (which is presided over by the health and safety representative)	The committee has solely an advisory role and must be consulted by the employer in relation to risk assessment and prevention plans. It also informs employees about health and safety hazards. At the moment, the health and safety representatives or committees do not cover issues of violence and harassment.	Yes	No change

Country	Involvement of social partners in the preparation of legislation and policy in the area of health and safety (strong, medium, weak) ⁴²⁷	Role of collective agreements in OSH (strong, medium, weak) ⁴²⁸ – at what level typically concluded	Minimum number of employees for health and safety representation/ joint health and safety committee	Role of health and safety representation for the prevention and management of psychosocial risks at company level (typical tasks)	Is the role of health and safety representative typically performed by a trade union member (yes/no)	Trend in involvement of social partners in last 5 years on health and safety in particular with regard to psychosocial risks, harassment and violence, at national level (increase, no change, decrease)
CZ	Medium	Medium	10 for health and safety representation (or if company is smaller, trade unions would typically carry out this task)	Cooperation to carry out the risk assessment; trade unions can carry out inspections however do not have a right to request changes in cases of deficiencies.	Yes	Increase in awareness
DE	Strong	Medium	5 for works councils, 20 for a health and safety committee	The works council has information and consultation rights regarding measures taken by the employer on workplace health and safety and can make proposals on additional OSH measures.	Yes	Increased
DK	Strong	Strong	10	The work environment organisation leads and coordinates the enterprises work on health and safety, guides the development of activities to protect employees and controls the work on health and safety.	Yes	Increased

Country	Involvement of social partners in the preparation of legislation and policy in the area of health and safety (strong, medium, weak) ⁴²⁷	Role of collective agreements in OSH (strong, medium, weak) ⁴²⁸ – at what level typically concluded	Minimum number of employees for health and safety representation/ joint health and safety committee	Role of health and safety representation for the prevention and management of psychosocial risks at company level (typical tasks)	Is the role of health and safety representative typically performed by a trade union member (yes/no)	Trend in involvement of social partners in last 5 years on health and safety in particular with regard to psychosocial risks, harassment and violence, at national level (increase, no change, decrease)
EE	Weak	Weak	10 for a health and safety representative, 50 for a health and safety council	The representative cooperates with the trade union and employee representatives in the workplace. The council determines the annual OSH strategy and is responsible for its implementation.	No	Increased
EL	Medium	Weak	50	A labour physician should advise the employers, the workers and their representatives on measures regarding the physical and mental health of workers.	Mixed	Increase in awareness-raising activities; decline in legislation/policy making processes
ES	Strong	Strong	6 for one OSH representative; 50 to establish a joint health and safety committee	The representative cooperates with the employer to carry out a risk assessment; suggest measures for risk prevention.	Yes	Increased

Country	Involvement of social partners in the preparation of legislation and policy in the area of health and safety (strong, medium, weak) ⁴²⁷	Role of collective agreements in OSH (strong, medium, weak) ⁴²⁸ – at what level typically concluded	Minimum number of employees for health and safety representation/ joint health and safety committee	Role of health and safety representation for the prevention and management of psychosocial risks at company level (typical tasks)	Is the role of health and safety representative typically performed by a trade union member (yes/no)	Trend in involvement of social partners in last 5 years on health and safety in particular with regard to psychosocial risks, harassment and violence, at national level (increase, no change, decrease)
FI	Strong	Weak	10 for a health and safety representative. 20 for a health and safety committee	The representative has a right to information on health and safety and has the right to examine the employer's health and safety programmes, where it is provided by an external organisation. In cases of "immediate and serious danger to an employee's life or health", the representative has the right to interrupt work.	Yes	No change
FR	Strong	Strong	11 for a health and safety delegate, 50 for a health and safety committee	The committee contributes to the analysis of work-related risks and has to put in place all preventive actions considered necessary.	Yes	No change
HR	Strong	Medium	20	A consultative body aimed at the improvement of OSH.	Yes	Increase

Country	Involvement of social partners in the preparation of legislation and policy in the area of health and safety (strong, medium, weak) ⁴²⁷	Role of collective agreements in OSH (strong, medium, weak) ⁴²⁸ – at what level typically concluded	Minimum number of employees for health and safety representation/ joint health and safety committee	Role of health and safety representation for the prevention and management of psychosocial risks at company level (typical tasks)	Is the role of health and safety representative typically performed by a trade union member (yes/no)	Trend in involvement of social partners in last 5 years on health and safety in particular with regard to psychosocial risks, harassment and violence, at national level (increase, no change, decrease)
HU	Medium	Weak	50 (for a health and safety representative and a committee). If there are less than 50, a representative can be elected.	Internal health and safety rules can only be issued with the agreement of representatives or the committee. Representative can ask the employer to introduce a company OSH policy and can refer matters to the health and safety inspectorate.	Yes	No change
IE	Strong	Weak	No size threshold	Employers are obliged to consult safety representatives 'in good time' on all OSH matters. In general, they are a consultation body without having significant powers to intervene in a company's OSH strategy. However, the safety representative has access to all information relating to the risk assessment or inspectorate controls.	No	No change

Country	Involvement of social partners in the preparation of legislation and policy in the area of health and safety (strong, medium, weak) ⁴²⁷	Role of collective agreements in OSH (strong, medium, weak) ⁴²⁸ – at what level typically concluded	Minimum number of employees for health and safety representation/ joint health and safety committee	Role of health and safety representation for the prevention and management of psychosocial risks at company level (typical tasks)	Is the role of health and safety representative typically performed by a trade union member (yes/no)	Trend in involvement of social partners in last 5 years on health and safety in particular with regard to psychosocial risks, harassment and violence, at national level (increase, no change, decrease)
IT	Medium	Weak	No size threshold	Implementation of the prevention measures and to advise the employer about possible changes in the work environment. He/she should receive all information from the health and safety authority.	The representative does not have to be from a trade union	No change
LT	Medium	Weak	50 for health and safety committee	Representatives participate in all actions carried out by the employer to improve the work environment and prevention of accidents. They also participate in the risk assessment, and have the right to require from the employer to take the necessary steps to improve the health and safety of employees.	Yes	Increased
LU	Strong	Strong	15 for workers delegation; 150 for joint company delegation	Employer has to consult with worker representatives on the procedures of prevention of harassment and violence, and procedures to handle cases and set sanctions.	Yes	Increased

Country	Involvement of social partners in the preparation of legislation and policy in the area of health and safety (strong, medium, weak) ⁴²⁷	Role of collective agreements in OSH (strong, medium, weak) ⁴²⁸ – at what level typically concluded	Minimum number of employees for health and safety representation/ joint health and safety committee	Role of health and safety representation for the prevention and management of psychosocial risks at company level (typical tasks)	Is the role of health and safety representative typically performed by a trade union member (yes/no)	Trend in involvement of social partners in last 5 years on health and safety in particular with regard to psychosocial risks, harassment and violence, at national level (increase, no change, decrease)
LV	Strong	Medium	5	Trusted employee representatives have the right to participate in the internal supervision of the working environment, including in the evaluation of work environment risks, planning of the labour protection measures as well as co-operate with the employer and the labour protection specialist in improvement of the working conditions	No	Increased with regard to awareness
MT	Weak	Strong	No size threshold	Health and safety representation is informed by the employer on risk assessment and prevention measures. Workers OSH representatives can suggest additional prevention measures.	No	No change

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NL	Strong	Medium	25 for prevention officer; more than 50 for the works council	The works council has to approve the company's risk inventory; a cooperative approach with regard to implementation; works council has to be consulted on any changes.	Mixed	No change
PL	Medium	Weak	250 for joint health and safety committees, below only trade unions can nominate a workers representative for health and safety representation	Consultation of representative on measures for prevention and risk assessment. The social labour inspector (trade union role) can monitor the implementation of risk assessment and can make suggestions to improve the work environment.	Yes (but it can be mixed)	Increased
PT	Weak	Weak	No threshold size	Consultation of representative on risk assessment and prevention matters. Representatives can make proposals for improvement.	No	Increased

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RO	Weak	Weak	10 for workers delegate, more than 50 for a joint health and safety council	Tasks and duties of the Joint OSH Committee are more extensive, it monitors implementation, assesses risks and hazards, deals with complaints and can investigate on accidents. Employer has to provide a reasoned opinion if they reject proposals for measures for new initiatives.	No information provided	No change
SE	Strong	Strong	50 for a joint health and safety committee (below this task is carried out by trade union representatives)	The health and safety representatives actively monitor safeguards against ill-health and accidents, as well as the employer's compliance with legislative requirement. They participate in the implementation of preventive tasks and can request that the employer investigates to improve a specific work environment. The employer has to provide a reasoned statement in case of refusal to change.	Yes	No change

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SI	Strong	Medium	20 for works councils	Information and consultation rights of the works council in the area of health and safety. However also trade unions can monitor implementation of OSH rules at the workplace.	Mixed	Increased
SK	Strong	Weak	Trade unions ensure as well OSH representation – no size threshold, employer appoints representative on health and safety in companies with more than 51 employees, joint committees in companies with more than 100 employees	Trade unions have a specific right to carry out safety inspections, make proposals for improvements and request employers to remove deficiencies. Employee representatives also have a right to carry out safety inspections in the workplace, make suggestions for improvements and report deficiencies to the labour inspectorate. They should be involved in all related discussions with the employer. They actively participate in risk assessment.	Mixed	Increased

Country	Involvement of social partners in the preparation of legislation and policy in the area of health and safety (strong, medium, weak) ⁴²⁷	Role of collective agreements in OSH (strong, medium, weak) ⁴²⁸ – at what level typically concluded	Minimum number of employees for health and safety representation/ joint health and safety committee	Role of health and safety representation for the prevention and management of psychosocial risks at company level (typical tasks)	Is the role of health and safety representative typically performed by a trade union member (yes/no)	Trend in involvement of social partners in last 5 years on health and safety in particular with regard to psychosocial risks, harassment and violence, at national level (increase, no change, decrease)
UK	Medium	Weak	No threshold size	Information and consultation role only, cooperate on the development on guidance or codes of conduct at company level.	No	Increased
IS	Medium	Weak	10 for a health and safety representative	The representative allows workers to make complaints and be the link to AOSH.	A works council can be established representing only workers grouping elected union members and facilitating their work	No change
LI	Medium	Medium	50 for a works council	The works council consults about employment conditions. The employer should discuss health and safety issues with the works council. The works council can make proposals on improving health and safety at the workplace. Should the employer not follow the proposal, the employer still has to provide a reason.	Yes	Increased

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NO	Strong	Medium	20 employees for representation, 50 for a joint health and safety committee	Monitor the work environment and suggest better solutions to improve work environment. Joint body is a mere consultative body. Each year a joint assessment of the implementation should be provided.	No information provided	No change

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