



A detailed  
look at ...

**THE PREVENTION OF  
PSYCHOSOCIAL LOAD AT WORK:  
STRESS, VIOLENCE, HARASSMENT  
and SEXUAL HARASSMENT**



September 2009

Directorate-General for the Humanisation of Work

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## NOTE

Because of the numerous changes to regulations, the brochures in the series “A detailed look at, etc.” are updated nearly every year. If you wish to seek recourse to a right or a benefit mentioned in this brochure, it is always a good idea to check whether you have the latest edition, which you can obtain from the Department of Publications of the Belgian Federal Public Service Employment, Labour and Social Dialogue.

This simplified brochure deals with rules and regulations that are often very complex. It is therefore possible that a number of specific cases shall be found to be lacking from our treatment of the subject. Should you have any questions, or if you would like more information about the subject matter, please refer to the departments and organisations listed in the last part of the brochure. Please note: no rights whatsoever may be derived from this brochure. The only valid sources in this regard are the legislative and regulatory texts themselves.

## M/F

In this brochure, the terms “employee”, “employer”, “confidential counsellor” and “prevention advisor” refer to persons of both sexes.



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# Foreword

Over the last 20 years, a general awareness that violence, harassment and sexual harassment can exist at work has grown. A number of authors have identified the personal and organisational affect that can be caused by stress at work. The living conditions and well-being of employees are influenced not only by safety and health at work, but also by other psychosocial factors such as labour relations in the organisation. It became necessary to react to inappropriate behaviour that has shown to have many adverse psychological, physical, social and even economic consequences.

The first laws aimed at combating sexual harassment at work were introduced more than 15 years ago. The concept of work related psychosocial loading was introduced into employee well-being legislation, as a component of the overall concept of wellbeing. Over the course of time, the general provisions have been supplemented by the addition of preventive and protective measures. Today, a global policy exists on the basis of which the concept of psychosocial loading at work can be effectively addressed.

The most recent and specific provisions on this subject are two laws and a Royal Decree that came into effect on 16 June 2007. This legislation suggests that inappropriate behaviour and psychosocial loading cannot be separated: violence, harassment and sexual harassment at work comprise an integral part of any psychosocial load.

It is a task of the employer to integrate measures to challenge inappropriate behaviour into a policy aimed at the prevention of any psychosocial load. He must therefore pay attention not only to the factors of violence, harassment and sexual harassment, but also all other situations that are also a cause of psychosocial load (such as stress, conflict, etc.).

With these regulations, Belgium has placed itself at the forefront of European countries that combat psychosocial load at work. This battle corresponds entirely to the European objective of investing in the quality of employment.

To help the reader understand these regulations, this brochure first describes the concept of psychosocial loading at work. The various elements for the introduction of a prevention policy are discussed in detail. The resources available to people who feel that they are experiencing an adverse psychosocial loading at work are also addressed. The brochure is concluded with a list of useful resources and addresses.

The brochure is targeted more widely at all those involved with employee well-being at work - both internal and external. More specifically, it is directed toward responsible parties in organisations that are duty bound to put in place measures to meet the requirements of regulations.

# Table of Contents

	<b>Foreword</b> .....	<b>3</b>
	<b>Table of contents</b> .....	<b>5</b>
<b>1</b>	<b>Definitions and range of application of legislation</b> .....	<b>9</b>
1.1	Definitions .....	9
1.1.1	Psychosocial load caused by work .....	9
1.1.2	Stress .....	10
1.1.3	Violence at work .....	10
1.1.4	Inappropriate sexual behaviour at work .....	11
1.1.5	Harassment at work .....	11
1.2	The persons involved .....	13
1.2.1	Employees .....	13
1.2.2	Intended employers .....	14
1.2.3	Third parties .....	14
1.2.4	Remarks concerning the prevention of violence, harassment and sexual harassment at work .....	14
<b>2</b>	<b>Prevention policy</b> .....	<b>15</b>
2.1	Persons involved in prevention policy .....	15
2.1.1	Employers .....	15
2.1.2	The Committee for Prevention and Protection at work (CPPW) ..	16
2.1.3	The prevention advisor specialised in the psychosocial aspects of work (psychosocial prevention advisor) .....	16
2.1.4	The confidential counsellor .....	16
2.1.5	Members of the hierarchic line .....	18
2.1.6	Employees .....	19
2.2	Risk analysis and prevention measures .....	20
2.2.1	A priori .....	20



2.2.2	A posteriori	.21
2.2.3	Specific provisions concerning the prevention of violence, harassment and sexual harassment at work	.22
2.3	Specific provisions for the prevention of stress	.24
2.3.1	Range of application of the various regulatory stipulations	.24
2.3.2	Contents	.24
2.4	Information and advice of the CPPW	.25
2.5	Prevention documents	.27
2.6	Information and training of employees	.28
<b>3</b>	<b>Specialised prevention advisor</b>	<b>.29</b>
3.1	Appointment procedure	.29
3.1.1	In companies with less than 50 employees	.29
3.1.2	In companies with at least 50 employees	.30
3.2	Education	.30
3.3	Incompatibility	.32
3.4	Role of the prevention advisor	.32
3.5	Legal protection	.33
3.6	Professional secrecy	.34
<b>4</b>	<b>The confidential counsellor</b>	<b>.35</b>
4.1	Categorisation	.35
4.1.1	Internal or external	.35
4.1.2	Procedure	.35
4.2	Training	.36
4.3	Incompatibilities	.36
4.4	Role of the confidential counsellor	.37
4.5	Autonomy	.37
4.6	Protection	.38
4.7	Professional secrecy	.38
4.8	Resources	.40
<b>5</b>	<b>Protection of employees</b>	<b>.41</b>
5.1	Internal procedure	.42
5.1.1	Persons that intervene	.42
5.1.2	Course of the internal procedure	.43
5.1.3	End of the internal procedure	.49
5.1.4	The individual complaint file	.50
5.1.5	Access of parties to documents	.51
5.2	Direct appeal to the Inspectorate for Well-being at Work	.52

5.3	Proceedings before the authorised court	53
5.3.1	Civil proceedings	53
5.3.2	Criminal proceedings	55
5.3.3	Administrative proceedings	56
5.4	Choice of courses of action	56
5.4.1	Internal procedure - claim before the Labour Court	56
5.4.2	Complaint filed with the labour prosecutor - complaint filed to the Inspectorate for Well-being at Work	57
5.5	Protection against dismissal	57
5.5.1	Protected persons	57
5.5.2	Nature of the protection	58
5.5.3	Procedure	58
5.6	Psychological support	60
<b>6</b>	<b>Protection of employers and third parties</b>	<b>61</b>
6.1	Steps that an employer may take	61
6.2	Steps that third parties may take	62
<b>7</b>	<b>Sanctions</b>	<b>63</b>
7.1	With regard to the employer as the person responsible for the prevention policy	63
7.2	With regard to the members of the hierarchic line in their capacity as responsible party for the execution of the prevention policy	63
7.3	With regard to an employee that abuses the complaint procedure	64
7.4	With regard to the perpetrator of violence, harassment and sexual harassment at work	65
7.4.1	Disciplinary sanctions	65
7.4.2	Criminal sanctions	66
<b>8</b>	<b>Brochures, resources and reference texts</b>	<b>67</b>
8.1	Brochures	67
8.2	Resources	68
8.3	Reference texts	70
<b>9</b>	<b>Useful addresses</b>	<b>71</b>

# 1

## Definitions and range of application of legislation

### 1.1 Definitions

#### 1.1.1 Psychosocial load caused by work

The concept of psychosocial load encompasses every type of burden of a psychosocial nature that originates during the execution of work or derives from the execution of work and that has harmful consequences for the physical or psychological health of the person.

These consequences can, for example, manifest in sleeping problems, high blood pressure, respiratory difficulties, digestive disorders, and on a psychological level, depression, lack of motivation, fears and suicidal ideation, etc.

Pressure attributable to employment conditions, relational suffering due to certain interpersonal or group conflicts as well as violence, harassment and sexual harassment at work create psychosocial load.

### 1.1.2 Stress

Stress as the cause of psychosocial load is a situation experienced as being negative by an employee or a group of employees that is linked to complaints or dysfunction in a physical, psychological and/or social context and that is the consequence of the fact that employees are unable to meet the requirements and expectations imposed upon them on the basis of their work situation.

### 1.1.3 Violence at work

Violence at work is defined as every act whereby a person is psychologically or physically threatened or attacked during the execution of his work.

Violence at work is expressed predominantly by actions that are implemented at a certain time such as threats, physical aggression (direct blows as well as threats during an armed attack, etc.) or verbal aggression (taunts, insults, teasing, etc.).



Patrick Sheándell O'Carroll

These types of behaviour can find their origin in such catalysts for discrimination as religion, beliefs, disabilities, age, sexual orientation, gender or ethnic origin.

#### 1.1.4 Inappropriate sexual behaviour at work

Inappropriate sexual behaviour at work is defined as every form of unwanted verbal, non-verbal or physical behaviour with a sexual connotation, the goal or consequence of which is a compromise of the dignity of a person or the creation of a threatening, hostile, insulting or injurious environment. Inappropriate sexual behaviour at work can manifest in a variety of ways, both physical and verbal:

- ❖ It can involve leering or lecherous looks, suggestive remarks or insinuations, the display of pornographic material (photos, texts, videos, etc.), compromising proposals, etc.;
- ❖ It can also involve touching, assault and battery, rape, etc.

Such behaviour can also be coupled with the threat of reprisal (dismissal, withholding wage increases, etc.) or with the offer of bartering for privileges (promise of a promotion, salary increase, etc.).

#### 1.1.5 Harassment at work

Harassment at work comprises a variety of similar or different types of inappropriate behaviour inside or outside the company or organisation taking place during a specific period and the goal or consequence of which is that the personality, the dignity or the physical or psychological integrity of a person is compromised during the time that he is at work, that his job is placed at risk or that creates a threatening, hostile, insulting, demeaning or hurtful environment manifesting particularly in words, threats, actions, gestures or one-sided communication.

Such behaviour is frequently associated with religion or beliefs, disabilities, age, sexual orientation, gender or ethnic origin.

The elements that comprise harassment at work are the inappropriate nature of certain behaviour, its repetitious character over a period of time and its consequences.

It does not necessarily involve the identical behaviour recurring again and again. It is enough that such behaviour - even in different forms - takes place over a certain period of time.

The normal practice of authority of an employer cannot be put on the same level as harassment even if the employee experiences certain situations in a negative way, bearing in mind his subjectivity and sensitivity. In order to determine whether abuse is occurring, the normal execution of a person's right to act in a certain way must first be delineated. This means that one must ask himself how a normally careful and alert person would react in similar circumstances and analyse to what degree this behaviour is exceeded. The fact that the person who feels victimised experiences certain behaviour as inappropriate does not necessarily mean that this is indeed the case.

The perpetrator need not necessarily have acted with intent. It suffices that his behaviour has an impact on another person, even if the perpetrator did not wish to evoke such (negative) consequences. The consequences can occur on the level of the person himself (compromise of his personality, dignity, etc.), of his work (the employee's job is placed at risk, etc.) or of the environment (which becomes threatening, hostile, insulting, etc.).

Harassment at work can be expressed in various manners:

- ❖ Isolation of a person by ignoring him and no longer speaking with him, keeping him separate from his colleagues, paying no attention to his presence, creating a disagreement between him and his colleagues, forbidding his colleagues to speak with him, changing his work schedule, not inviting him to meetings, etc.
- ❖ Preventing a person from expressing himself by constantly interrupting him, and systematically criticising him;
- ❖ Discrediting a person by assigning him no tasks whatsoever, failing to consider his opinion, taking away his responsibilities, having him carry out only useless and absurd tasks that do not correspond with his position or that are impossible to carry out, withholding the information he needs in order to carry out his job, over-burdening him with work, making it impossible for him to make progress professionally, withholding the necessary work resources from him, giving him conflicting or vague instructions for the execution of his work, evaluating him unfairly, not granting him the same privileges as other employees, etc.
- ❖ Compromising a person's identity as an individual by belittling him, making fun of him, spreading gossip about him, criticising his religious

convictions, his origin, his private life, joking about his appearance, intimidating him, etc.

- Endangering the health of a person by obliging him to carry out dangerous work, damaging his work equipment and his personal possessions, ignoring his health problems, etc.
- Maintaining surveillance over the deeds and actions of a person, monitoring his telephone use, registering his coming and going, looking through his drawers and handbag/briefcase, etc.

## 1.2 The persons involved

### 1.2.1 Employees

The legal provisions concerning well-being at work apply for all employees.

The term “employees” is understood to mean persons that have accepted the obligation to carry out work in the context of an employment contract for payment, under the authority of another person.

Also on a par with employees are the following:

- Persons that carry out work under the authority of another person other than in the context of an employment contract. For example, officials of all public services that work in a statutory context, persons that carry out activities in the context of a local employment agency (within certain limits: see point 1.2.4), prisoners that carry out work, etc.;
- Persons that take a course of instruction of which the study programme includes a form of work that is carried out at the educational institution or elsewhere. This involves, for example, disabled persons working on the basis of a special apprenticeship for professional training or retraining, etc.;
- Persons that are active in the context of an apprenticeship;
- Trainees;
- Students and apprentices carrying out a form of work in an educational institution as specified in their educational programme.

### **1.2.2 Intended employers**

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All employers in the private and government sector are involved in the prevention of psychosocial load caused by work.

The employer is the person under whose authority the employee commits himself to carry out work during a certain period of time, for payment.

On a par with employers are also those persons that employ persons that are on a par with employees (see point 1.2.1).

### **1.2.3 Third parties**

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Third parties are persons that are not employees of a company but that have contact with its employees during the execution of their work, for example customers, suppliers, service providers, apprentices and students (that are not on a par with employees), persons that receive benefits and employees of a company from outside that company.

The employer must pay particular attention to psychosocial load that these third parties cause.

### **1.2.4 Remarks concerning the prevention of violence, harassment and sexual harassment at work**

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Both persons that declare that they are the object of violence, harassment or sexual harassment at work and persons accused of such behaviour can be employees, employers or third parties.

A differentiation must nonetheless be made between the hypothesis in which the “third party” is accused of harassment and violence and the hypothesis in which he declares that he is the object of such acts.

Mention must also be made of the specific situation of servants and other household personnel (governesses, private tutors, private nurses, au pairs as well as people that work for private persons by way of a local employment agency, etc.) to whom certain measures for protection against violence, harassment or sexual harassment apply (legal appeals, protection against dismissal). On the other hand, these persons are not eligible for such preventive measures as support from the specialised prevention advisor.

# 2

## Prevention policy

### 2.1 Persons involved in prevention policy

#### 2.1.1 Employers

Employers must take all necessary measures to establish a prevention policy.

The employer is responsible for the correct functioning of his company not only on an economic and financial level, but also a social one. If he deliberately - or out of negligence - allows psychosocial load caused by work to arise in his company without taking measures to prevent or correct it, he is defaulting in his obligations to protect the well-being of his employees and is liable for legal prosecution.

### **2.1.2 The Committee for Prevention and Protection in the Workplace (CPPW)**

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The CPPW is a joint industrial body comprised of representatives of the employer and representatives of the employees that is authorised to issue advice, make proposals or issue authorisation concerning certain measures in the area of well-being at work, and therefore also concerning the prevention of psychosocial load caused by work.

### **2.1.3 The prevention advisor specialised in the psychosocial aspects of work (psychosocial prevention advisor)**

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The psychosocial prevention advisor is an expert that has advisory authority with respect to the employer and the employees. He provides support for the employer and the employees in the elaboration and application of the prevention policy. He is a member of the internal service for prevention and protection at work or of an external service for prevention and protection at work.

Employers are obliged to appoint a psychosocial prevention advisor who is responsible for the prevention of violence, harassment and sexual harassment at work. Generally speaking, the same person advises the employer concerning the prevention of the psychosocial load caused by work in general.

The profile, the method of appointment and the role of the specialised prevention advisor is addressed in Chapter 3.

### **2.1.4 The confidential counsellor**

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Confidential counsellors fulfil a significant role in the prevention of violence, harassment and sexual harassment at work. Their presence and intervention in an informal search for a solution facilitates the limitation of the number of substantiated complaints and leads to the possibility of problems that do not in and of themselves entail violence, harassment or sexual harassment at work, but that do cause psychosocial load in a person. Confidential counsellors are above all important for “first-line intervention”. Although it is not required that a company appoints such a person, it is, nonetheless, to be strongly recommended.



The profile, the method of appointment and the role of the confidential counsellor are dealt with in Chapter 4.

### 2.1.5 Members of the hierarchic line

The members of the hierarchic line, i.e. the persons from high to low in the company or organisation that are authorised in one way or another to issue orders to the employees, fulfil the same role in the context of the prevention of psychosocial load caused by work as in the context of general prevention policy.

It is these persons that execute the policy of the employer, each in the context of his own authority and on his own level. Therefore, it is their role to formulate proposals and advice for the employer in the context of the establishment and implementation of preventive measures.

Within the context of their general tasks, they support the policy of the employer in such ways as the following:

- ❖ Obtaining the advice of the (psychosocial) prevention advisor without undue delay;
- ❖ Monitoring to ensure that the distribution of tasks is effected such that they are executed by employees who possess the relevant competency and have received the necessary training and instructions;
- ❖ Supervising the fulfilment of the instructions given to employees;
- ❖ Confirming for themselves that the employees thoroughly comprehend the instructions that they have been given and are able to implement the relevant tasks;
- ❖ Organising the reception of each new employee by appointing an experienced employee who is responsible for providing support for the new employee.

Members of the hierarchic line can be subjected to legal prosecution if they fail to fulfil their obligations stemming from the Well-being Law.

Members of the hierarchic line can play a significant role in the prevention of psychosocial load. A good leadership style, attention to the employees and the organisation of the work can do a great deal to prevent stress and conflicts. Management personnel also play an exemplary role, and the least that can be expected of them is that they refrain from abusing their authority to a point that it might develop into harassment.

## 2.1.6 Employees

Employees must cooperate with the employer and the prevention advisor in the elaboration and application of the prevention policy in the company. They must comply with all procedures and instructions.

In the context of the prevention of psychosocial load, this can be expressed by informing the prevention advisor of stressors they are confronted with and can also be expressed by the employee's own behaviour in relation to conflict.

In the context of the prevention of violence, harassment and sexual harassment, employees have the following obligations:

- ❖ To make a positive contribution to the prevention policy;
- ❖ To refrain from every act of violence, harassment or sexual harassment at work;
- ❖ To abstain from any unlawful use of the complaint procedure (see point 7.3).



## 2.2 Risk analysis and prevention measures

The risk analysis consists of the following:

- ❖ Identifying dangers, i.e. identifying anything that might cause damage to the health of employees;
- ❖ Identifying risk factors, i.e. identifying the collective or individual factors that exert such influence upon a threat that they increase or decrease the likelihood of damage;
- ❖ Evaluating the risks, i.e. establishing the likelihood of damage, and the scope thereof.

Prevention measures will be established on the basis of this risk analysis.

The employer is responsible for executing the risk analysis, but in practice it will be realised in collaboration with the psychosocial prevention advisor.

### 2.2.1 A priori

The risk analysis consists of the employer's identification of situations that might give rise to the occurrence of psychosocial load caused by work. The risk analysis is generally carried out before such a stress situation develops.

In order to identify these situations he will bear in mind the following:

- ❖ The content of the work: its complexity, the autonomy of the employees, their over-burdening, the work speed, etc.
- ❖ The employment conditions: the working hours, the possibility of taking courses of instruction, the remuneration conditions, etc.
- ❖ The working conditions: the work equipment, noise, physical load, etc.
- ❖ The labour relations: the participation of employees in the decision-making process, the support, the consultation on social matters, etc.

The employer must particularly pay attention to situations in which employees come in contact with third parties during the implementation of their work.

Should it be determined that the work might cause psychosocial load, preventive measures must be taken on the level of the organisation as a whole, on the level of the group of workstations or functions and on the level of the individual.

The objective of these measures is to do away with any situations that might cause psychosocial load (measures of primary prevention) or see to it that - if it is not possible to do away with such situations - they can have no detrimental effects (measures of secondary prevention).

### 2.2.2 A posteriori

#### ***A. Recurring incidents***

If incidents of a psychosocial nature occur despite the application of preventive measures, the employer must also carry out a risk analysis if such incidents recur. He must investigate the collective and individual factors that influenced the occurrence of the incidents and establish preventive measures that must be taken on the level of the organisation as a whole, on the level of the group of workstations or functions and on the level of the individual in order to prevent these incidents from recurring.

The psychosocial prevention advisor will be made aware of these facts via employees that have asked his advice, via the members of the hierarchic line that may also request his advice - bearing in mind the events that they have experienced during their work, via the confidential counsellors that must supply him with information on the incidents that occur repeatedly and that they have dealt with, or via the register of facts committed by third parties (see point 2.2.3).

#### ***B. Incidents about which the prevention advisor has issued advice***

This risk analysis is also part of the advice issued by the psychosocial prevention advisor to the employer.

If an employee experiences psychosocial load related to his work, he can contact the psychosocial prevention advisor who may issue advice to the employer if indicated.

Also the employer may ask the advice of the prevention advisor concerning such incidents.

Such advice will include preventive measures situated on the level of the organisation as a whole, on the level of the group of workstations or functions and on the level of the individual. The objective of the advice will be not only to put an end to any possible psychosocial load, but also to prevent its recurrence.

The general risk analysis will also be supplemented on the basis of this advice.

The Belgian Federal Public Service Employment, Labour and Social Dialogue has a variety of brochures and resources that can be useful to persons involved in these issues (see point Chapter 8).

### 2.2.3 Specific provisions concerning the prevention of violence, harassment and sexual harassment at work

#### *A. Registry of third parties acts*

The employer has an additional instrument with which to carry out the risk analysis of issues involving third parties: the registry of third parties acts. This registry is a prevention document that is part of the file on violence, harassment and sexual harassment at work.

If an employee feels that he is the victim of violence, harassment or sexual harassment due to a third party (see point 1.2.3), he must be able to have a declaration placed in the registry. This declaration gives a descrip-



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tion of the acts and the details on those acts. The employee may not be required to divulge his identity. In addition, he must be informed of the possibility of having his declaration placed in the registry.

This registry is maintained by either the confidential counsellor or the psychosocial prevention advisor, if this person is within the company or organisation. It is maintained by the “safety” prevention advisor if there is no confidential counsellor and the psychosocial prevention advisor is external.

The employer and the Inspectorate for Well-being at Work have access to this registry. The registration of acts of violence or harassment in the registry of acts of violence is not on a par with filing a substantiated complaint. It, therefore, does not result in the protection of the employee from dismissal based on reprisal.

### ***B. Internal procedure***

Every company is required to establish specific measures of prevention. This concerns the internal procedure that applies within the company if an employee feels that he is the object of violence, harassment and sexual harassment at work.

The stipulation of the modalities of this procedure requires the prior approval of the Committee for Prevention and Protection at work.

The modalities of the internal procedure that applies within the company and the coordination of the specialised prevention advisor and the possible confidential counsellors must become part of the work rules.

If an employee feels that he is suffering from psychosocial load based on an act of violence, harassment or sexual harassment, he can use this specific procedure. If he files a substantiated complaint in this context, the prevention advisor must implement a risk analysis of the facts specified in that complaint. The result of this analysis must be delineated in a report for the employer (see point 5.1).

### ***C. Organisational preventive measures***

Legislation also emphasises the importance of measures on an organisation-wide scale. One must, after all, not underestimate the influence that

the organisation has on the occurrence of unlawful behaviour. Jurisprudence recognises the following elements as causes of relational stress: heavy work pressure, the fact that the employee has not received the training required in order to do the work demanded of him, an uneven distribution of work pressure, the lack of follow-up to a decision, a deficit in structural communication, a policy based on a lack of confidence, etc.

## 2.3 Specific provisions for the prevention of stress

### 2.3.1 Range of application of the various regulatory stipulations

The Royal Decree of 17 May 2007 concerning the prevention of psychosocial load focused on the prevention of stress. This decree, after all, deals with all situations that create psychosocial load at work. For the entry into force of this directive, the principles of legislation concerning well-being at work in the domain of stress were applied by the collective labour agreement no. 72 of 30 March 1999 regarding the management of the prevention of stress caused by work.

This collective labour agreement, which is still in effect, applies solely to employers in the private sector. Therefore, these principles cannot be imposed upon employers in the public sector. The Royal Decree of 17 May 2007, on the other hand, applies to the private sector and the public sector. In addition, the collective labour agreement deals with stress from a collective point of view, whereas the Royal Decree also considers individual stress issues.

### 2.3.2 Contents

The collective labour agreement, in contrast to the Royal Decree, explicitly emphasises the role of the works council in the prevention of stress that can have consequences for both the organisation of work and working conditions.

Subject to this qualification, the CLA, similarly to the Royal Decree, applies the principles of the law of 4 August 1996 with regard to the well-being of employees during the execution of their work:

- Integrating the issue of stress into the prevention policy;
- Implementing a risk analysis by tracking down risks, evaluating them, and taking preventive measures with the collaboration of the CPPW (and, more specifically, the psychosocial prevention advisor since the entry into force of the Royal Decree) and with the intervention of the consultative bodies (committee);
- Informing and training employees;
- Requiring employees to cooperate in the prevention policy.

## 2.4 Information and advice of the CPPW

If the risk analysis carried out a priori shows that it is necessary to take measures, the CPPW has access to the results of this risk analysis and must issue advice concerning those measures before they can be implemented.

As far as the risk analysis of incidents that occur repeatedly is concerned, the committee must also issue advice prior to the implementation of the necessary preventive measures. Regarding the results of this risk analysis, the committee only has access to the collective and anonymous data. Therefore, the committee has no access to the identity of the persons concerned.

If the prevention advisor has issued advice concerning an individual case, the CPPW cannot issue advice concerning the measures that must be taken in order to stop the psychosocial load, since the members of the committee are not allowed to receive any information concerning identifiable persons. Therefore, the committee can only issue preliminary advice concerning the measures that should be taken in order to prevent such stress in the future. But in this case, the CPPW can only gain access to the collective and anonymous information on the results of the risk analysis.

In practice, such advice will generally be issued at the time when the psychosocial prevention advisor reports over the activities concerning psychosocial load during the preceding year.

As far as the specific domain of violence, harassment and sexual harassment at work is concerned, one preventive measure requires the prior authorisation of the CPPW (and therefore not only preliminary advice).



This concerns the establishment of the regulations concerning the internal procedure when facts are reported. Authorisation is required because this procedure forms the keystone of the protection system of the employees in the company and will become part of the work rules. If no agreement is reached within the PPW committee, the employer must appeal to the Inspectorate for Well-being at Work. Should this intervention fail to lead to an agreement, the employer makes a decision on the condition that at least two-thirds of the members representing the employees in the CPPW have given it their approval.

## 2.5 Prevention documents

In order to concretise the preventive measures in the company, one must establish the priorities, determine the resources required in order to realise those priorities, the methods, the responsible persons, etc.

The global prevention plan is a document that determines the objectives and establishes the programme of the activities that must be developed over a period of 5 years. The annual action plan, on the other hand, establishes the prevention activities of the coming year.

During the establishment of this programme, consideration must also be taken of the prevention activities concerning psychosocial load.

In order to be able to evaluate the prevention policy, the employer must use the results of the risk analysis referred to in point 2.2 and the statistical data that are included in the annual report of the internal service.

This report must contain information concerning the prevention of psychosocial load caused by work, specifically: the preventive measures that were taken the previous year, the statistical data concerning incidents that occur repeatedly, the formal and informal interventions of the psychosocial prevention advisor and the confidential counsellors and the declarations that are recorded in the registry of third parties acts.

The specialised prevention advisor and the confidential counsellor must provide the internal service for prevention and protection at work with the information required in order to prepare this report.

## 2.6 Information and training of employees

With regard to all domains when it comes to well-being at work, the employer has an obligation to provide information to employees concerning the preventive measures that have been taken in the company. This concerns information that the employees need in order to carry out their tasks or to protect their safety or health. This also applies to the measures concerning the prevention of psychosocial load. The employer also has responsibilities with regard to training.

With regard to violence, harassment and sexual harassment at work:

- ❖ Employees must be informed about the possibility of having a declaration placed in the registry of third parties acts and about the obligation to refrain from violence, harassment and sexual harassment. The employer himself chooses the most suitable means of communication.
- ❖ The work rules must specify the contact information for the psychosocial prevention advisor and any confidential counsellor(s) (identity + telephone number + any e-mail address) as well as the specific rules of internal procedure that apply within the company. This information is included in the work rules according to the simplified procedure. This means that the prior consultation of the works council is not necessary and that the procedure with regard to the preparation or amendment of the work rules need not be followed if there is no works council.
- ❖ On the level of training, the employees must be given an explanation of the procedures and instructions, must be able to bring up unlawful behaviour in a discussion and ask questions.

# 3

## Specialised prevention advisor

### 3.1 Appointment procedure

#### 3.1.1 In companies with fewer than 50 employees

Employers with fewer than 50 employees must turn to a psychosocial prevention advisor from an external service for prevention and protection at work (ESPPW). After all, in smaller companies it is relatively difficult, if not indeed impossible, to have the necessary expertise in-house. In addition, the close interpersonal relationships that exist within an SME can prove a hindrance to the good exercise of the tasks of the prevention advisor if he is part of the internal service. The external service PPW will be the one to which the employer already turns for the execution of tasks in the context of general well-being policy, such as in the supervision of health matters. The tasks of this service are being expanded to include the prevention of psychosocial load caused by work, including the prevention of violence, harassment and sexual harassment at work. This is demonstrated in such ways as in the contract that the employer has concluded with this service. The prevention advisor is chosen by the managing body of the ESPPW, but all of the employees (representatives) working for the employer can request to have this person replaced if they do not have confidence in him.

### 3.1.2 In companies with more than 50 employees

Employers with more than 50 employees must have a psychosocial prevention advisor who is either part of their internal service for prevention and protection at work or from the external service for prevention and protection at work. This resolution is taken subsequent to advice from the CPPW.

- ❖ If the employer decides to use an internal prevention advisor, he must first obtain the approval of the entire body of employee's representatives in the CPPW concerning the appointment of this prevention advisor. If he does not receive said approval, the employer must request the intervention of the Inspectorate for Well-being at Work, which will first attempt to bring the parties to an agreement, and if this does not succeed, will issue advice that the employer must pass on to the CPPW. If an agreement is still not reached through this process, the employer must obtain a psychosocial prevention advisor from an external service for prevention and protection at work. The managing body of the ESPPW chooses the prevention advisor, but the entire body of employee's representatives in the CPPW can ask that this person be replaced if they do not have confidence in him.
- ❖ If the employer decides to make use of an external service, the number of tasks of the service with which he is already connected increases, or else he must join such a service (according to the regulations specified in Articles 2 and 3 of the Royal Decree of 27 March 1998 concerning the ESPPW). The managing body of the external service PPW chooses the prevention advisor, but the entire body of employee's representatives in the CPPW committee can ask that this person be replaced if they do not have confidence in him.

## 3.2 **Education**

The psychosocial prevention advisor, whether he belongs to an internal service or an external service, has been required to meet the following three requirements since 1 January 2004:

- ❖ He must hold a university diploma or a diploma of higher education at a university level of which the curriculum includes a considerable

amount of psychology and sociology plus a diploma confirming basic specialisation in the areas of “work” and “organisation”;

- He must have successfully completed a multidisciplinary basic education and a specialisation module “psychosocial aspects of work”. Multidisciplinary basic education is a course of instruction of at least 120 hours, spread over a year. The specialisation module “psychosocial aspects of work” equals at least 280 hours, spread over one or two years;
- He must be able to document 5 years of experience in the field of the psychosocial aspects of work. This experience can have been acquired under the supervision of a psychosocial prevention advisor.

Transitional measures exist with regard to prevention advisors that already held the position of prevention advisor specialised in the psychosocial aspects of work on 1 January 2004.

- If he commenced or concluded the supplementary training of the first level prior to 1 January 2004, if he holds one of the abovementioned basic diplomas and exercises the function at least 1,000 hours per year, the prevention advisor requires no additional education;
- If he commenced or concluded the supplementary training of the first level prior to 1 January 2004, but does not hold one of the abovementioned diplomas, he must complete the specialisation module;

Before 16 June 2007, it was possible to appoint a psychosocial prevention advisor from the internal service that did not meet the abovementioned conditions, if this prevention advisor:

- Had completed supplementary education level I or II;
- Predominantly dealt with problems related to violence, harassment and sexual harassment at work and with other assignments and tasks which are related to the psychosocial load caused by work;
- And has had three years of experience in this area.

This alternative has no longer been possible for appointments that took place after 16 June 2007, but the status of persons who were appointed prior to that date according to the abovementioned conditions continue to be valid.

### 3.3 Incompatibility

The psychosocial prevention advisor may not simultaneously hold the position of prevention advisor authorised for industrial medicine. The industrial doctor can, after all, at some point be confronted with a role conflict, through which the confidence that the employee reasonably has in him can be threatened. This is particularly the case if, in his capacity of prevention advisor-industrial doctor, in the course of a standard periodic medical examination he declares an employee to be disabled. As a consequence of this action, it would be difficult for the employee to ask him to intervene in a conflict concerning harassment at work.

### 3.4 Role of the prevention advisor

In the context of prevention of psychosocial load caused by work, the psychosocial prevention advisor has the following general tasks:

- ❖ Cooperating in the risk analysis;
- ❖ Issuing advice concerning the global prevention plan and the annual action plan,
- ❖ Cooperating with the implementation of preventive measures;
- ❖ Regularly visiting workplaces on his own initiative or upon the request of an employer, employees or their representatives;
- ❖ Evaluating workplaces on his own initiative or upon the request of an employer, employees or their representatives;
- ❖ Investigating incidents and carrying out such investigations as he deems pertinent for the improvement of prevention;
- ❖ Issuing advice on the information and education of employees;
- ❖ Being available to persons in the company for all questions that arise concerning the application of legislation.

In addition to these general tasks, he must carry out a number of specific tasks in connection with violence, harassment and sexual harassment at work:

- ❖ He participates in the elaboration of the procedures that must be followed by employees that declare that they are the objects of violence, harassment or sexual harassment at work;

- He issues advice on the specialised services or institutions that can offer suitable psychological support to employees that are the victims of violence perpetrated by third parties;
- He provides the prevention advisor of the internal service PPW with the data that are pertinent for the preparation of the annual report;
- He gives advice and counsels employees that declare that they are the object of violence, harassment and sexual harassment at work;
- Where relevant, he participates informally in searching for a solution;
- He hears substantiated complaints and depositions;
- He informs the employer concerning the fact that the complainant and the witness are protected against dismissal and informs the employer of their identity;
- He investigates substantiated complaints and proposes effective measures to the employer;
- With the approval of the employee, he contacts the Inspectorate for Well-being at Work, if the situation continues to prevail after his intervention;
- He puts together an individual complaint file and keeps it up to date (see point 5.1.4);
- He consults with the confidential counsellor on a regular basis.

### 3.5 Legal protection

In order to be able to carry out his tasks in complete independence with regard to the employer and employees, the internal or external prevention advisor benefits from special legal protection.

The employer may only terminate the contract with the prevention advisor, terminate the statutory employment (if it concerns a government official), or remove him from his position for reasons that are not related to his independence or for reasons that demonstrate that he is not competent to exercise his tasks, and by following a certain procedure. The prevention advisor has a right to extraordinary damages if his employment contract is terminated or he is unlawfully removed from his post.

### 3.6 Professional secrecy

The psychosocial prevention advisor is obliged to maintain professional secrecy. Therefore, he may release no information to third parties that he becomes aware of during the exercise of his position. There are, however, several exceptions (which are addressed consecutively in the brochure) that enable the prevention advisor to exercise his tasks. Article 478 of the Penal Code also stipulates that a person who is bound by professional secrecy may be released from this obligation if he is called upon as a witness in legal proceedings.

# 4

## The confidential counsellor

### 4.1 **Categorisation**

#### 4.1.1 **Internal or external**

Employers can appoint an employee or a person external to the company or organisation as confidential counsellor. If the psychosocial prevention advisor is part of an external service for prevention and protection at work, the confidential counsellor is also required to be on the staff of the company (unless the employer has fewer than 20 employees). It is indeed necessary that there be a person who is thoroughly familiar with the internal functioning of the company because he could then have a better understanding of situations that might arise and because then at least one of the persons involved would be more accessible to the employees.

#### 4.1.2 **Procedure**

The employer appoints the confidential counsellor or counsellors after the prior agreement of all members representing the personnel within the CPPW. If no agreement is reached, the employer requests the advice of the official responsible for supervision. This official hears the parties and attempts to reconcile their positions with one another. If no reconciliation

is achieved, this official issues advice, a copy of which is sent by registered letter to the employer. The employer informs the committee of the advice of this official within a period of thirty days of being informed of it, before he makes a decision concerning the appointment. If he does not follow the advice of the official, he must also inform the committee of his reasons for this.

Therefore, the employer can appoint the confidential counsellor against the advice of the Inspectorate for Well-being at Work, as long as he informs the committee of his reasons for not following their advice.

## 4.2 Training

Legislation does not stipulate any particular uniform training for confidential counsellors. It does, nonetheless, establish a number of objectives that the confidential counsellor must achieve in the area of skills and knowledge (delineated in the appendix to the Royal Decree). For this reason, in the context of the training he has already completed, his professional experience and basic diploma, the confidential counsellor will choose the training that he will require in order to achieve these objectives. The costs associated with this training, including the relocation costs, are for the account of the employer, and the time required for this is remunerated as working hours.

## 4.3 Incompatibilities

The prevention advisor authorised for industrial medicine may not simultaneously exercise the position of confidential counsellor. The reasons for this are the same as those that apply to the combination of jobs with the position of psychosocial prevention advisor (see point 3.3).

#### 4.4 Role of the confidential counsellor

The confidential counsellor supports the employer, the members of the hierarchic line and the employees during the application of preventive measures. This is concretised in the following tasks:

- He participates in the elaboration of the procedures that must be followed by an employee that declares that he is the object of violence, harassment and sexual harassment at work;
- He provides the prevention advisor of the internal service with the information that is pertinent for the preparation of the annual report;
- He provides the psychosocial prevention advisor information on repeatedly occurring incidents with which he has dealt;
- He gives advice and offers support to employees that declare that they are the object of violence, harassment and sexual harassment at work;
- Where relevant, he participates informally in the search for a solution;
- He hears the substantiated complaints of complainants;
- He passes on substantiated complaints to the psychosocial prevention advisor;
- He consults on a regular basis with the psychosocial prevention advisor. The confidential counsellor and the prevention advisor must collaborate. The confidential counsellor has the right to maintain all contacts with this prevention advisor that are useful for the fulfilment of his task. Therefore, if he considers this necessary he may request advice from the prevention advisor concerning his intervention.

#### 4.5 Autonomy

The confidential counsellor acts alone in cases that he handles without being required to receive orders from anyone.

As he exercises his position of confidential counsellor, he is functionally dependent upon the internal CPPW. This means that, at that time, he is part of this administrative body. This does not, however, mean that the head of the internal service may issue orders to the confidential counsellor regarding the execution of his tasks. The supervisory role with respect to the confidential counsellor is strictly limited to the organisational nature of the service (for example: organisation of the use of the facilities,

the remuneration of costs associated with the exercise of the function, etc.).

In the context of the exercise of his function, therefore, the confidential counsellor may receive no orders whatsoever from his hierarchic superiors. They retain their authority to issue orders solely for the function that this person normally exercises, separately from his function as confidential counsellor.

Furthermore, the confidential counsellor has direct access to the person charged with the daily management of the company or institution.

#### 4.6 Protection

The confidential counsellor may experience no disadvantages from his activities as confidential counsellor.

No person may, in any manner whatsoever, directly or indirectly exert pressure on the confidential counsellor in the exercise of his function, for example in order to obtain information with regard to his function.

If the employer wishes to remove the confidential counsellor from his function, he must follow the same procedure as for the counsellor's appointment (see point 4.1).

The confidential counsellor is free to pass on a case to another confidential counsellor or to the psychosocial prevention advisor if the handling of the case might have consequences for his own professional situation (for example, because both parties are part of his own service).

#### 4.7 Professional secrecy

The confidential counsellor is obliged to maintain professional secrecy. Therefore, he may release no information to third parties that he becomes aware of during the exercise of his function. There are, however, several exceptions (which are addressed consecutively in the brochure) that



enable the confidential counsellor to exercise his tasks. Article 478 of the Penal Code also stipulates that a person who is bound by professional secrecy may be released from this obligation if he is called upon as a witness in legal proceedings.

#### 4.8 Resources

The employer must ensure that the confidential counsellor has the time required for the exercise of his function and that he has access to suitable facilities where he can exercise his tasks in a fully confidential manner.

# 5

## Protection of employees

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If an employee feels that he is experiencing psychosocial load caused by his work, of course he can always inform his superior of this in order to attempt to find a solution.

He can also appeal to the psychosocial prevention advisor who may, where relevant, issue advice to the employer concerning the measures to be taken.

He may also spontaneously consult the prevention advisor-industrial doctor. In fact, this is nothing more than an application of the general principle that any employee may request advice from the prevention service.

However, specific resources exist that are intended for the use of an employee who feels that he is the victim of violence, harassment or sexual harassment at work due to an employee, a member of the hierarchic line, the employer or a third party. He chooses the means that best fit his situation and the goal that he wishes to achieve: appeal to internal procedures, directly contacting the regional management of the Inspectorate for Well-being at Work, or instituting legal proceedings.

## 5.1 Internal procedure

If an internal procedure applies in his company and an employee would like his employer to take measures at his workplace, or if he would like a reconciliation to take place with the defendant, he can appeal to the persons that intervene in internal procedures.

### 5.1.1 Persons that intervene

- ❖ The employee appeals either to the confidential counsellor or the psychosocial prevention advisor in the context of his affinity with one of these persons, the confidence that he has in him or his geographic proximity.

The ways of contacting the confidential counsellor and the psychosocial prevention advisor must be contained in the work rules. This involves an obligation of the employer. If the employer fails to fulfil this obligation, the union representatives as well as the prevention advisor, industrial doctor or social services may help the employee find this information.

As far as an employee of an external company is concerned who feels that he is the object of violence, harassment or sexual harassment at work due to an employee that belongs to the institution in which he carries out his work:

- If he carries out activities on a permanent basis in an organisation, he has the choice of appealing to the confidential counsellor or the psychosocial prevention advisor of that organisation or of his own employer. An activity is considered to be permanent if it is carried out constantly and regularly (for example, if an external company is appointed in order to be responsible for the maintenance of facilities, the preparation of meals for employees, etc.);
  - If he carries out activities that are not permanent, i.e. a well-delineated task that is carried out during a short period of time (for example, if an external company is called upon to repair the roof), he appeals to the confidential counsellor or the psychosocial prevention advisor of his own employer.
- ❖ It may occur that the prevention advisor-industrial doctor, subsequent to a medical examination in the context of the supervision of the health of the employees, determines that the health condition of a certain

employee is being compromised and he suspects that this may be attributable to violence, harassment or sexual harassment at work. In such a situation, he informs the employee of the option of appealing to the authorised prevention advisor or the confidential counsellor. If he determines that the employee is not capable of contacting these persons on his own, with the permission of the employee, he can inform the psychosocial prevention advisor himself of the fact that an employee has a complaint of violence, harassment or sexual harassment at work.

### 5.1.2 Course of the internal procedure

#### *A. . Listening and information phase*

The employee can appeal to the confidential counsellor (or if he prefers, the psychosocial prevention advisor) either personally, by telephone or e-mail or by post. The confidential counsellor (or the prevention advisor) must then hear the employee, within a period of eight days, either during a telephone call or a personal meeting, and provide him with information concerning his options with regard to taking action. This hearing of the employee and the provision of this information can be done immediately by telephone during the very first contact. Particular attention will be paid to the choice of the employee to either, internally, receive information in an informal manner in order to find a solution via intervention or reconciliation, or otherwise to find a solution in a formal manner by way of filing a substantiated complaint.

After he has received this information, the employee will specify his choice.

#### *B. Choice of the informal route*

##### **Intervention**

The employee can ask the confidential counsellor (or the prevention advisor) to intervene with another person (such as a hierarchic superior, the employer himself, a member of the department of human resources, etc.). What is asked of this person can vary considerably and depends upon each specific case. It might consist of asking him to take measures on the level of work organisation (for example, the job description, etc.), employment conditions (for example, the distribution of employees within the

office space, etc.) or to have a meeting with the defendant. The confidential counsellor (or the prevention advisor) can only intervene with this person with the agreement of the employee.

### **Reconciliation**

He can also ask the confidential counsellor (or the prevention advisor) to commence reconciliation proceedings with the defendant.

The object of the reconciliation procedure consists of giving both parties the necessary sense of responsibility by suggesting to each of them that they discuss the matter and listen to each other in order to arrive at an agreement with respect for the interests of both parties.

Reconciliation does not necessarily mean that the two parties must meet. The confidential counsellor (or the prevention advisor) can carry out this reconciliation process by speaking with each individual separately.

The employer is informed of the situation if the complainant specifically requests this or if the intervention of the employer is necessary for the execution of the agreement between the complainant and the defendant. If this is not the case, reconciliation can take place without the knowledge of the employer.

During this informal phase:

- ❖ During the intervention or reconciliation, the confidential counsellor (or the prevention advisor) can give the parties the information that he considers relevant for the success of the informal procedure;
- ❖ It is not the task of the confidential counsellor (or the prevention advisor) to report to the employer, and so he need also not hear witnesses or question persons that comprise a part of the department of the employee who feels that he is a victim;
- ❖ The employee making the complaint is not protected against “revenge” dismissal (see point 5.5).
- ❖ With regard to third parties (private persons or employees of external companies), it is probable that an informal appearance may be possible, to the extent that these persons are identifiable and accessible and prepared to cooperate in the matter. If it concerns employees of external companies, the contracts with the employers of said employees must include stipulations regarding such a situation.

## **End of the informal phase**

This phase is concluded as soon as there are positive results or as soon as, on the other hand, no result appears to be achievable. It is also concluded if the employee wishes to conclude the informal phase before it has been entirely completed. In such instances, the employee may choose the formal route by filing a substantiated complaint (see below).

### ***C. Choice of the formal route***

In addition to such cases as described above, after he has received the necessary information, the employee may also decide to immediately take recourse to the formal route, without making use of the informal procedure.

If an employee feels that he has been the object of violence, harassment or sexual harassment at work due to a third party, he can file a substantiated complaint. The employer is responsible for the well-being of his employees during the execution of their work, also including when an employee has contact with third parties.

### **Obligatory prior meeting**

In all of these cases, the employee must have a personal meeting with the confidential counsellor or the psychosocial prevention advisor (or both) before filing the substantiated complaint.

This meeting is mandatory. It ensures that the employee receives information concerning the elements that his complaint must contain in order to be valid, concerning the course of the procedure as a consequence of this complaint, about the consequences and risks associated with filing a complaint, about his protection against dismissal, etc.

Both the employee and the confidential counsellor or the prevention advisor ensure that this meeting takes place within a period of eight days after the moment when the employee has expressed the desire to file a substantiated complaint.

### **Filing the substantiated complaint**

So as to be valid, the substantiated complaint must be written in a document that is dated and signed by the employee and that contains the following elements:

- ❖ The description of the acts that, according to the employee, constitute violence, harassment or sexual harassment at work;

- ❖ The moment at which and the location where the alleged acts took place;
- ❖ The identity of the defendant;
- ❖ The request to the employer that he take suitable measures in order to put an end to the situation.

The employee hands this substantiated complaint to the confidential counsellor or the prevention advisor. This person signs a copy of the complaint, specifies upon it that a personal meeting has taken place and gives the employee a copy as proof of receipt.

### **Protection**

It is only after the substantiated complaint, confirmed in a document and signed, has been filed that the employee benefits from specific protection against dismissal (see point 5.5).

#### ***D. Information from the employer***

When the confidential counsellor receives a substantiated complaint, he immediately sends it to the psychosocial prevention advisor (possibly by fax or e-mail).

This person informs the employer of the fact that a substantiated complaint has been filed, informs him of the identity of the person filing the complaint and informs him of the fact that this employee benefits from specific protection. He does not send a copy of the complaint to the employer, nor does he inform him of the name of the defendant.

#### ***E. Investigation of the complaint by the psychosocial prevention advisor***

The psychosocial prevention advisor investigates the substantiated complaint in an entirely neutral and independent manner.

He must inform the defendant as soon as possible of the acts for which he is being accused, as soon as he is able to provide all elements in terms of a reply. The defendant receives a copy of his declarations.

Then the prevention advisor hears persons that he considers useful for his investigation. Some persons are witnesses in a legal sense, others not.

The witness is the person that has seen or heard the acts specified in the substantiated complaint himself (direct witness) and whose deposition is included in a dated and signed document. The witness receives a copy of

his deposition. This witness is protected from dismissal. Therefore, the prevention advisor informs the employer of the fact that a deposition has been made, he informs the employer of the identity of the witness and informs the employer of the fact that this employee benefits from specific protection. He does not give the employer a copy of the deposition.

Some persons will be able to provide information concerning the work atmosphere or will be able to provide general information concerning the attitude of the defendant that they have observed at work. They can be viewed as indirect witnesses, and do not benefit from protection against dismissal.

If a third party is the defendant, the same procedure can be followed, to the extent that the defendant that is not an employee of the company is willing to cooperate. If the third party is an employee of another company, it is a good idea to have the manner in which such a complaint will be investigated included in his contract with his employer. The measures that could be proposed with regard to such third parties will often be limited in their scope, since the employer has no authority over such third parties.



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### ***F. Advice from the psychosocial prevention advisor***

As soon as the prevention advisor has carried out his analysis, he gives the employer his written advice.

#### **Contents**

This advice contains a summary of the acts in question, the result of the informal procedure - if one took place, the analysis of the causes of the acts as well as the proposals of measures for putting an end to them, and for improving the system of prevention in the company.

Should sufficient elements exist for this to be done, the prevention advisor must also issue substantiated advice concerning the question of whether these acts can be viewed as violence, harassment or sexual harassment at work and whether they cause psychosocial load on the part of the employee (see definition in point 1.1).

#### **Deadline**

The prevention advisor issues his advice to the employer within a period of three months after the substantiated complaint is filed. If this is impossible for him, he must specify the reasons (for example, a large number of persons that must be heard, sick leave, etc.) in a document that is intended for the employer and the complainant. He may extend this deadline of three months four times, but he must always justify these extensions.

### ***G. Reaction of the employer***

It is the goal of the report of the psychosocial prevention advisor to inform the employer about the situation and the most effective measures that must be taken. The report has the value of the advice of an expert. Therefore, the employer is not obligated to comply with it and to take the measures proposed by the prevention advisor.

The law requires that the employer, who is responsible for the well-being of his employees during the execution of their work, also take measures if that well-being is disrupted by acts of violence, harassment or sexual harassment at work or if an employee is suffering psychosocial load caused by work.

If the employer plans to take individual measures with regard to the complainant or the defendant, he must inform them of such measures in advance.

If these measures mean a change in their employment conditions, the employer provides the person with regard to whom a particular measure is intended with a copy of the report of the prevention advisor, without the portion that applies to proposals for improving prevention in the company. In this way, the employer will hear the employee (who may have a union representative or attorney present at this hearing) before the measures to be taken go into effect.

If the defendant is a third party, of course the options for action on the part of the employer are more limited, in view of the fact that there is no relationship of authority between himself and this third party. Possibly clauses could be included in contracts with such third parties that provide specifications regarding possible measures.

As far as an employee from an external company is concerned, the employer in whose establishment such an employee carries out activities must establish all the necessary contacts with the employer of the employee of the external company, if from the report from the prevention advisor it is noted that measures need to be taken with regard to the relevant employee.

This can concern one of two hypotheses:

- The employee of the external company that carries out activities in the company on a permanent basis feels that he is the object of violence, harassment or sexual harassment at work attributable to an employee of this company and files a substantiated complaint with the confidential counsellor or prevention advisor of the company (see point 5.1.1);
- The employee of the company itself who feels he is the object of violence, harassment or sexual harassment at work attributable to an employee of the external company (whether this person carries out his activities permanently or not).

### 5.1.3 End of the internal procedure

#### ***A. Intervention of the Inspectorate for Well-being at Work***

If the acts of violence, harassment or sexual harassment at work continue after the commencement in effect of measures chosen by the employer, or if the employer fails to take the suitable measures, with the agreement of the employee, the prevention advisor turns to the Inspectorate for Well-

being at Work. In such a case, the prevention advisor holds autonomous decision-making authority that exceeds his normal advisory authority. He is indeed obliged to appeal, even against the will of the employer, to the Inspectorate for Well-being at Work. This autonomous decision-making is tempered only by the fact that the prevention advisor may only take such an action with the agreement of the employee. The Inspectorate for Well-being at Work will also attempt to correct the situation. In contrast to the prevention advisor, the Inspectorate for Well-being at Work holds injunction rights with regard to the employer and can order him to take measures that it stipulates within a period that it specifies.

### ***B. Intervention of the labour prosecutor***

If the intervention of the Inspectorate for Well-being at Work fails, it can establish a *pro justitia* and transfer the matter to the labour prosecutor (who is authorised to prosecute the defendant before the Court due to a violation).

The labour prosecutor will also attempt to ensure that the situation is corrected. He will make his own decision as to the necessity and/or possibility of commencing criminal proceedings.

### ***C. Intervention of the criminal court***

If the labour prosecutor does not dismiss the file, he can summon the perpetrator of the acts, the employer as party responsible for the prevention policy or a member of the hierarchic line as implementer of this policy, before the criminal court (see Chapter 7).

## **5.1.4 The individual complaint file**

One of the tasks of the prevention advisor consists of preparing and maintaining individual complaint files. Such individual complaint files include the following:

- ❖ Where relevant, the document that comprises the result of the reconciliation attempt;
- ❖ The document that comprises the substantiated complaint;
- ❖ The document with which the employer was informed of the fact that a substantiated complaint has been filed;

- The documents in which the depositions of persons that were heard by the prevention advisor are included (complainant, witnesses, defendant);
- The document with which the employer was informed of the fact that a deposition was taken;
- If relevant, the document in which the prevention advisor includes the justification of why he did not issue his advice within three months after the filing of the substantiated complaint;
- The advice that stems from the investigation of the prevention advisor and that is intended for the employer;
- Possibly the request for intervention of the Inspectorate for Well-being at Work.

The specific data of a personal nature that the prevention advisor has determined during the steps that he undertook and that are granted exclusively to him, do not comprise a part of the individual complaint file. This concerns notes that assist him in determining the necessary steps, the elements to which he must pay particular attention, his comments, his personal remarks, his work hypotheses and the notes that he has made during the interview with the persons that are not witnesses.

Therefore, this individual file contains the results of the internal procedure that was carried out. The individual complaint file is retained by the psychosocial prevention advisor and is under his sole responsibility.

### 5.1.5 Access of parties to documents

- No party whatsoever has access to the notes that the prevention advisor or the confidential counsellor make during informal procedures;
- No party whatsoever has access to depositions given in the presence of a prevention advisor as witness, the complainant, the defendant or other persons who were heard. The defendant and the witnesses each receive a copy of their depositions. The defendant has no access to the substantiated complaint, but must indeed be informed of the acts of which he is accused;
- The report of the prevention advisor is released to the defendant and/or complainant in the hypothetical situation referred to in point 5.1.2 - G. Reaction of the employer and point 5.3.1 Civil proceedings;
- Only a person that can demonstrate an interest may have access to the document with which the employer is informed of the fact that a sub-

stantiated complaint has been filed. This interest is automatically demonstrated if one is the complainant or defendant;

- ❖ Only a person that can demonstrate an interest may have access to the document with which the intervention of the Inspectorate for Well-being at Work is requested. This interest is automatically demonstrated if one is the employer, the complainant or the defendant;
- ❖ No party whatsoever has access to the specific data of a personal nature that are established by the prevention advisor by the steps that he has undertaken (see point 5.4).

## 5.2 Direct appeal to the Inspectorate for Well-being at Work

It is recommended to only appeal directly to the Inspectorate for Well-being at Work if a psychosocial prevention advisor has not been appointed for a company, if he is not known or if the internal procedures are not lawful. This is the case, for example, if the employer requires the employee to take leave in order to go to the prevention advisor, if the details on the prevention advisor and the confidential counsellor are not included in the work rules, etc.

In such instances, the Inspectorate for Well-being at Work can commence an investigation into the company, examine its procedures and oblige the employer to correct the situation or to appoint a prevention advisor.

It can carry out this investigation without making the identity of the employee known to the employer. The employee can also authorise the Inspectorate for Well-being at Work to inform the employer of his identity.

If no psychosocial prevention advisor has been appointed and the health and safety of the employee requires this, the Inspectorate for Well-being at Work can declare that the employer is in default and order him to appoint such a person within the period of time that it stipulates, but it may also take immediate action to enforce the employer's correction of the individual case. Only then will the Inspectorate for Well-being at Work investigate the situation.

If the prevention advisor is appointed, the employee knows him and the internal procedure is lawful, it is not expedient to contact the Inspectorate

for Well-being at Work. The Inspectorate for Well-being at Work will in such a case indeed not carry out an investigation of the individual case, but instead refer the employee on to the prevention advisor. The sole task of the Inspectorate for Well-being at Work consists, after all, of determining whether or not the employer is fulfilling his legal obligations.

## 5.3 Proceedings before the authorised court

### 5.3.1 Civil proceedings

#### *A. Report of the prevention advisor*

An employee who plans to file a lawsuit can, in the context of assessing his chances for a favourable outcome of the matter before the court, ask the employer for a copy of the report that the prevention advisor has prepared. The part of the report that applies to the proposal of measures for improving the prevention in the company should, however, not be released to him.

#### *B. Nature of the lawsuit*

The employee can institute legal proceedings before the Labour Court so that the court:

- ❖ Orders the perpetrator, under penalty of the imposition of sanctions, to cease the actions in question;
- ❖ Orders the employer to take preliminary measures with the goal of fulfilment of the relevant legislation;
- ❖ Orders the employer and/or the defendant to pay damages for the loss resulting from violence, harassment or sexual harassment at work.

The first two demands are handled according to accelerated proceedings.

#### *C. Internal procedure*

If an employee directly institutes legal proceedings before the Labour Court without taking recourse to the internal procedure, while this procedure exists and may legally be applied, the court can order this employee to first go through the internal procedure. The legal action is then suspended until the prevention advisor has issued his advice.

#### **D. Legal claimant**

In addition to employees, a number of organisations can institute legal proceedings:

- ❖ The representative employee and employer organisations: for example ACV, ABVV, ACLVB, VBO, AGORIA, etc.
- ❖ The representative employee organisations from the public sector: ACV - Public works, ACOD, VSOA.
- ❖ A number of public institutions and non-profit organisations in which the defence of the interests of victims of violence, harassment and sexual harassment are part of their statutory objective;
- ❖ The Centre for Equal Opportunities and Opposition to Racism: for violence and harassment that is associated with a grounds for discrimination such as ethnic origin, religion, disabilities, etc.;
- ❖ The institute for equal treatment of males and females: for violence and harassment that is associated with the gender of a person.

#### **E. Proof of unlawful acts**

An employee that institutes legal proceedings is not required to actually provide proof that violence, harassment or sexual harassment occurred at work, but he must indeed be able to place facts before the court that allow the court to suspect the occurrence of such acts or to assume its occurrence on the basis of those facts.

The simple allegation that one has been the victim of inappropriate behaviour does not suffice: one must specify the time and place of such acts and precisely identify the persons involved.

For example, it is not sufficient if the complainant alleges before the court that his superior at work maintains a regime of terror and attempts to isolate him from his colleagues. He must describe in concrete terms how this superior enforces this terror, which colleague his superior has forbidden to speak to the complainant, and precisely when this occurred. Therefore, the complainant must substantiate his allegations or produce the beginning of proof of them.

If an employee wishes to prove his allegations on the basis of witnesses, the court may refuse to hear those witnesses if it believes that the argument by which the complainant is attempting to provide evidence was described with insufficient precision in terms of circumstances, location or time.

However, once such proof has indeed been provided, the suspicion is established and it is then up to the defendant to prove that no violence, harassment or sexual harassment occurred at work.

### 5.3.2 Criminal proceedings

Criminal proceedings take place before the criminal court with the goal of having a sanction imposed upon the perpetrator, the employer and/or a member of the hierarchic line. An employee can undertake similar steps in that direction if he believes that the perpetrator has not complied with an injunction that the court has imposed upon him in order to put a stop to unlawful acts.

The objective of criminal proceedings is, subsequently, different from the objective of a procedure that takes place within the company and from civil proceedings.

Criminal proceedings, the goal of which are to prosecute a person accused of an unlawful act in order to investigate his guilt, can be instituted by an employee in various ways:

- ❖ The employee can file a complaint with the police or the labour prosecutor. Criminal proceedings may, however, not necessarily be instituted, in view of the fact that the public prosecutor (public official) is free to decide whether or not to prosecute an alleged perpetrator and possibly an employer or a member of the hierarchic line before the criminal court. With regard to this, the labour prosecutor can ask the Inspectorate for Well-being at Work or the police department to carry out certain tasks. The labour prosecutor, therefore, may decide to classify the file without success because he does not consider it expedient or due to a lack of sufficient evidence.
- ❖ The employee can file a complaint with civil categorisation with the examining magistrate. An investigation will then commence (by such means as asking the Inspectorate for Well-being at Work or the police department to carry out certain tasks) and report on them to the judge in chambers, who will then decide whether or not to commence prosecution or else to place the case before the criminal court.

It must, however, be made known that in this hypothesis, the employee is required to place the estimated costs of proceedings in consignment with the clerk of the court before prosecution commences. Should the defen-

dant be ruled against, the employee is paid back the money that he has deposited. If the criminal court acquits the defendant, all costs of proceedings are for the account of the employee.

### 5.3.3 Administrative proceedings

If an employee is an official, he can ask the Council of State to reverse an administrative juridical act that violates the specific provisions in connection with violence, harassment and sexual harassment at work.

## 5.4 **Choice of courses of action**

### 5.4.1 Internal procedure - claim before the Labour Court

It is important to emphasise the advantages of using the internal procedure (before one commences legal proceedings):

- ❖ In terms of the result: internal solutions can be found for a problem, whereas the court might otherwise simply declare the claim unsubstantiated;



Patrick Sheándell O'Carroll

- In relational terms: instituting legal proceedings against an employer can have the consequence that the relationship between the employee and his employer becomes hardened;
- In preventive terms: internally there is reflection about the causes of the acts that occur and about measures that could be taken within the company in order to prevent their repetition;
- In monetary terms: an internal procedure is less expensive for the employee;
- In terms of the burden of proof: an internal procedure gives the employee an opportunity to collect more elements that might establish the beginning of proof of violence or harassment in the context of legal proceedings (thanks to, among other things, the report of the prevention advisor that could be exhibited to the court).

#### **5.4.2 Complaint filed with the labour prosecutor - complaint filed to the Inspectorate for Well-being at Work**

The employee must be aware that if he files a complaint with the police or with the labour prosecutor with the intention of commencing criminal proceedings in order to bring about a legal investigation, the option of appealing to the Inspectorate for Well-being at Work is effectively ruled out. In such a situation, criminal proceedings commence under the management of a magistrate, so that the Inspectorate for Well-being at Work is bound by the requirement of confidentiality with respect to the investigation.

### **5.5 Protection against dismissal**

A number of protective mechanisms have been introduced such that persons who feel that they are the victim of violence, harassment or sexual harassment at work do not hesitate to speak out regarding the situation in which they find themselves, and can do so without fear of reprisal in terms of their professional career.

#### **5.5.1 Protected persons**

- An employee that has filed a substantiated complaint with the confidential counsellor or the prevention advisor. It is the fact of the filing of the

substantiated complaint that results in the protection, and not the fact of whether or not the complaint is well-founded. The employee is not protected during the informal phase.

- ❖ An employee that files a complaint with the Inspectorate for Well-being at Work. In this case, the protection against dismissal is more effective if the employee that files the complaint authorises the Inspectorate for Well-being at Work to inform the employer of his identity (see point 5.2);
- ❖ An employee that files a complaint with the police, the public prosecutor's office or the examining magistrate;
- ❖ An employee that files a legal claim or for whom a legal claim is filed by a organisation as mentioned above (see point 5.3.1);
- ❖ Employees that appear as witnesses are also protected against dismissal. Considered to be witnesses are both persons that appear as witnesses in the context of internal proceedings (see point 5.1.2) as well as witnesses at legal proceedings, when they are witnesses on behalf of the complainant or the defendant. Witnesses in legal proceedings must themselves inform the employer of the fact that they benefit from protection against dismissal.

### 5.5.2 Nature of the protection

The employer may not terminate an employment contract or unjustifiably and unilaterally make changes in the employment conditions of an employee that has filed a complaint, has issued a deposition or has instituted legal proceedings, except for reasons alien to this complaint, the legal claim or the witness declaration.

These reasons may possibly only have to be demonstrated by the employer after the fact, because the law provides no advance procedure for verifying motivations.

### 5.5.3 Procedure

If an employer terminates the employment contract or changes the employment conditions of a protected person unilaterally, the employee or the employees' organisation of which he is a member may demand his reintegration into the company or the organisation under the conditions that formerly existed. This request for reintegration is not obligatory.

This request is directed to the employer by registered letter within thirty days following the date of the notice of dismissal, dismissal without notice or unilateral revision of the employment conditions.

The employer gives a response within thirty days after the notice with regard to the request, in one of two ways:

- Either the employer reintegrates the employee into the company or he gives him his original position back. In this case, the employer is obliged to pay the wages that had been lost due to the dismissal or the change in employment conditions and to pay the employer's and employee's contributions to those wages;
- Or the employer does not reintegrate the employee. In that case, the employee can place a claim for damages before the Labour Court that, according to the choice of the employee, is either a lump sum corresponding with his gross wages for six months, or else the actual loss incurred by the employee, the scope of which be demonstrated by the employee.

The same damages can be requested immediately from the court if the employee opts to refrain from requesting the abovementioned reintegration.

If the employer has terminated the employment contract or has unilaterally changed the employment conditions in the 12 months following the filing of the substantiated complaint or the witness statement, or commencing at the institution of the legal claim by the employee to 3 months after the judgment becomes final (the judgment becomes final when an appeal is no longer possible, i.e. 1 month after the writ of the judgment), it is up to the employer to prove that the reasons why he dismissed the employee are alien to the complaint, the witness statement or the legal claim (for example, by demonstrating that the dismissal took place prior to the filing of the substantiated complaint, that it is attributable to professional errors of the employee) or that the unilateral revision of the employment conditions is justified (for example, because it was recommended by the prevention advisor, because the measure with regard to the complainant was the only suitable measure and, viewed proportionately, this was the only measure that could be taken in order to correct the situation).

If the employer unilaterally revises the employment conditions of an employee that benefits from protection, i.e. without his agreement, he must be extremely careful if the employee concerned has an employment contract. If the employer makes changes in essential elements of the con-

tract without the employee's agreement, the court might view such changes as an expression of the desire of the employer to terminate the employment contract. This is placed on a par with dismissal, which is forbidden with regard to an employee to whom protection applies.

If the employer wishes to make changes in such contractual elements, he should obtain the agreement of the employee. Then such a change is no longer unilateral. If the employer terminates the employment contract or unilaterally changes the employment conditions after the abovementioned terms, it is up to the complainant - and thus the employee - to prove that this dismissal is associated with the complaint, deposition or legal claim or that the unilateral revision of the employment conditions was not justified.

## 5.6 Psychological support

The employer must refer employees that have been the victim of violence (for definition, see point 1.1.3) perpetrated by third parties (for definition, see point 1.2.3) to specialised institutions so that they will receive suitable psychological support, and the employer must pay the costs of said support. If the facts are viewed as an industrial accident, these costs may also be borne by the insurer. The employer or the insurance can turn to the third party that is responsible for the violence.

# 6

## Protection of employers and third parties

### 6.1 Steps that an employer may take

In the context of an internal procedure, it is inconceivable that an employer might file a substantiated complaint, because it is the specific goal of this procedure to encourage him, in his capacity as the party responsible for the policy of well-being at work, to take the right measures. The employer may nonetheless appeal to the prevention advisor, who will propose measures to him towards putting an end to such situations. However, there are also other steps that he can take, such as the following:

- He can impose disciplinary sanctions on an employee;
- He can dismiss an employee for compelling reasons;
- He can ask the Labour Court to order an employee to cease acts of violence, harassment or sexual harassment at work. If the court declares the claim substantiated, sanctions may be imposed on the perpetrator if he fails to comply with the judgment of the court (see point 7.4.2);
- He can request damages via the same court for the loss that he has incurred as a result of the violence, harassment or sexual harassment;
- He can file a complaint with the police, the labour prosecutor or the examining magistrate.

## 6.2 Steps that third parties may take

A third party cannot make use of the internal procedure because this procedure has been introduced solely for the benefit of employees. The employer is not responsible for the well-being of third parties. However, third parties can also inform the employer of an employee with regard to a situation. The employer may take such steps as the following:

- ❖ He may ask the prevention advisor to propose effective measures to him in this specific case;
- ❖ He may impose disciplinary sanctions on an employee;
- ❖ He may dismiss an employee for a compelling reason.

A third party can also file a legal claim with the Labour Court and ask the court:

- ❖ To order an employee to cease acts of violence, harassment or sexual harassment. If the court declares the claim to be substantiated, sanctions are imposed on the perpetrator if he fails to comply with the judgment of the court (see point 7.4.2);
- ❖ For damages via the same court for loss incurred due to violence, harassment or sexual harassment;
- ❖ He can file a claim with the police, the labour prosecutor or the examining magistrate.

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### **Remark**

*In this type of dispute, some organisations file a legal claim. The rules of procedure are the same as those described in point 5.3.*

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# 7

## Sanctions

### **7.1 With regard to the employer as the person responsible for the prevention policy**

A criminal sanction in application of the Well-being Law can be imposed upon the employer that does not implement a prevention policy in the area of the psychosocial load caused by work, that has no prevention advisor or that does not take suitable measures in response to a substantiated complaint.

If the employer is not prosecuted, an administrative fine can be imposed on the employer.

### **7.2 With regard to the members of the hierarchic line in their capacity as responsible party for the execution of the prevention policy**

Even if they are not the perpetrators of acts of violence, the members of the hierarchic line can be subject to a criminal sanction in implementation of the Well-being Law if they have not fulfilled their obligations concerning the execution of the prevention policy.

### 7.3 With regard to an employee that abuses the complaint procedure

Employees must refrain from all abuse of the complaint procedure that has no other goal than for example, acquiring protection against dismissal or compromising the reputation of the alleged perpetrator of violence, harassment or sexual harassment in the interest of revenge or in bad faith. Various judgments have already sanctioned such employees. However, it should be mentioned that if the court declares a substantiated complaint filed by an employee to be unfounded, this does not necessarily mean that the employee has abused the procedure. The employee could have made a mistake. He may have believed, in good faith, that he was being harassed.

If a belief exists that the complaint procedure is being abused, it is possible to put a variety of sanction mechanisms into action:

- ❖ Dismissal for compelling reasons;
- ❖ The imposition of sanctions that are included in the work rules (these work rules may, incidentally, stipulate that the wrongful use of the law by employees is a compelling reason as mentioned above). Therefore, on a company level, the burden of proof regarding the existence of abuse is on the employer;
- ❖ The employee may be obliged to pay damages;
- ❖ The employee's criminal liability may be compromised on the grounds of slander and defamation of character.

The employee may also abuse the law in order to institute a legal claim. The defendant can then ask the employee to pay damages on the grounds of vexatious and frivolous actions. Then it must be proven that the employee filed the claim in bad faith, with the intention of injuring the reputation of a person, or in an extremely reckless or careless manner. If the court declares the claim unfounded, this does not automatically make it vexatious and frivolous. The employee has the right to make a mistake. If it is ruled that a claim is indeed vexatious and frivolous, the employee must pay the defendant damages, with the order being imposed by the court while bearing in mind the costs of proceedings, the costs of legal counsel and possibly the compromise of the reputation of the defendant.

## 7.4 With regard to the perpetrator of violence, harassment and sexual harassment at work

### 7.4.1 Disciplinary sanctions

A disciplinary sanction may be imposed on an employee who is the perpetrator of certain actions. In the private sector, the employer can delineate a number of sanctions in the work rules that can be imposed upon employees. These sanctions may include the following:

- A moral judgment: denunciation, censure, written warning, etc.;
- A fine, denial of a premium or benefit, etc.;
- A situational change, temporary suspension of the employment contract, etc.

The employer can impose these disciplinary sanctions under the following conditions:

- Only sanctions delineated in the work rules may be imposed. This implies that the employer is well advised to pay considerable attention to these measures when he prepares the work rules;
- The sanctions are only valid if the person concerned is informed of them at the latest on the first workday after the day on which the shortcoming is established by the employer or his subordinate. The earliest time at which the employer can establish such a shortcoming is after he has received the report from the prevention advisor;
- The sanction must be recorded in a registry before the date of the next subsequent salary payment. This registry records the name of the employee concerned, the date, the reason for and the nature of the sanction. If the sanction is a fine, the amount is also specified;
- If the sanction is a fine, the total of the fines imposed per day may not exceed one-fifth of the daily wage;
- The collected fines must be used on behalf of the employees.

The sanction can even go as far as dismissal for compelling reasons. In this case, the employer must prove that the shortcoming is so serious that it is no longer possible to have confidence in the services of the employee.

With regard to officials, sanctions are defined in the legislation that regulates their statute. This involves denunciation, censure, withholding pay, disciplinary transfer, disciplinary suspension, lowering in the pay scale, dismissal or removal from office.

Every employee can dispute disciplinary sanction in the context of an internal appeal or before the court.

#### **7.4.2 Criminal sanctions**

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If an employer or a member of the hierarchic line is the perpetrator of certain acts, he can be subject to both a criminal sanction as delineated in the Well-being Law and a criminal sanction as delineated in Article 442bis of the Penal Code.

If an employee or a third party is the perpetrator of certain acts, they can be subject to criminal sanctions as delineated in Article 442bis of the Penal Code.

Article 88bis of the Well-being Law also delineates criminal sanctions with regard to persons that fail to comply with an injunction by the Labour Court to cease the perpetration of violence, harassment or sexual harassment at work.

# 8

## Brochures, resources and reference texts

In this chapter, reference is made to the brochures issued by the Belgian Federal Public Service (FPS) of Employment, Labour and Social Dialogue, a few resources that are available on-line, and reference texts concerning psychosocial load.

The prevention advisor can use these documents and resources in the execution of his position. They are also directed toward anyone involved in the psychosocial load that is seeking more information on the subject.

### 8.1 Brochures

Anyone that is interested in the following brochures can obtain them free of charge from the Department of Publications of the Belgian Federal Public Service Employment, Labour and Social Dialogue (see address information on page 2). They may also be consulted on the FPS website: [www.employment.belgium.be](http://www.employment.belgium.be), in the “Publications” module (only available in French and Dutch).

- ❖ “*L’analyse des risques/De risicoanalyse*” covers in detail the concept of a risk analysis and the manner in which this concept may be used in order to delineate prevention measures concerning safety and health at work.

- ❖ “*Méthodes et instruments pour une analyse ergonomique et psychosociale/Methoden en instrumenten voor een ergonomische en psychosociale analyse*” provides an overview of the theoretical ideas and proposes methods and analysis instruments to help in creating a pertinent analysis of the ergonomic and psychosocial risks. These brochures also cover the concepts of ergonomics and psychosocial load in the legislation and regulations.
- ❖ “*Le stress au travail, facteurs de risques, évaluation et prévention/Stress op het werk: risicofactoren, evaluatie en preventie*” explains the method that corresponds with the participative approach to the risk analysis. It describes the concepts of stress and professional pressure, elucidates on the explanatory models concerning the appearance of stress at work and the evaluation methods thereof. It also covers the organisational changes and the concept of the employees’ quality of life.
- ❖ “*Violences, harcèlement moral ou sexuel au travail: facteurs de risques organisationnels/Ongewenst grensoverschrijdend gedrag op het werk: organisatorische risicofactoren*” investigates the role of organisational risk factors in the appearance, development and persistence of inappropriate behaviour and violence at work.
- ❖ “*Agir sur les souffrances relationnelles au travail. Manuel de l’intervenant confronté aux situations de conflit, de harcèlement et d’emprise au travail/Van meningsverschil tot hyperconflict. Gids voor wie beroepsmatig tussenkomt en geconfronteerd wordt met conflicten en grensoverschrijdend gedrag op het werk*” covers the different phases in the evolution of a conflict, the prevention of these problems, four major intervention methods and “good transversal practices”.
- ❖ “*Vademecum de diagnostic des cas de souffrance relationnelle au travail/Vademecum voor de diagnose van relationeel leed op het werk*” first offers a list of the types of steps in the diagnosis and subsequently offers professionals a practical help manual for the case-by-case diagnosis.

## 8.2 Resources

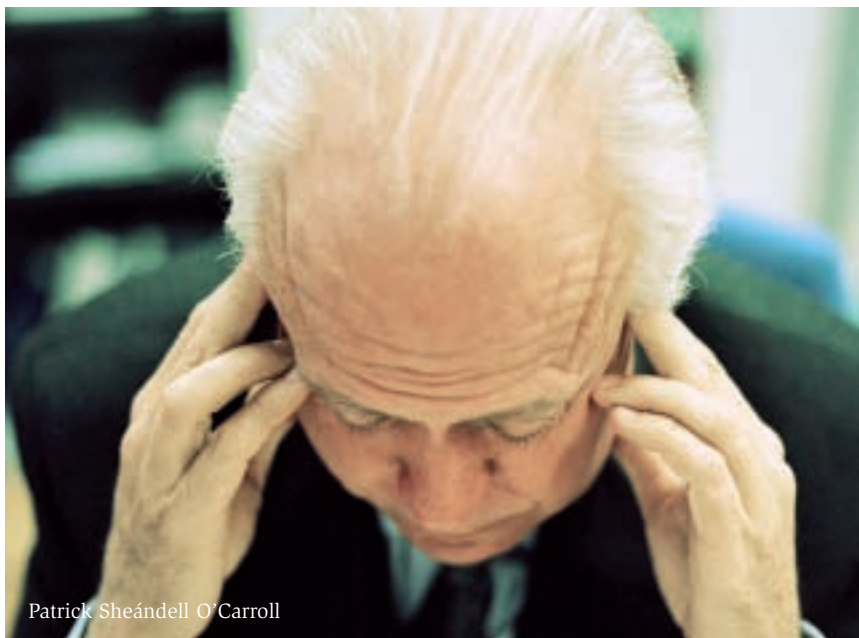
The resources described below are a body of resources with regard to subject matter concerning relational suffering at work, organisational risks, etc. They are intended for the promotion of a psychosocial prevention policy at work and the equipping of professionals in that domain. This concerns diagnosis models, questionnaires, videos, identification instru-

ments, etc. They have been elaborated as a consequence of scientific investigation carried out by the UCL, the ULG, the KUL and ISW Limits, with the support of the European Social Fund and the FPS Employment, Labour and Social Dialogue in the context of the programming from 2000-2006.

These resources are discussed in further detail on the site:

[www.respectatwork.be](http://www.respectatwork.be).

- ❖ WOCCQ (working conditions and control questionnaire): method for establishing a diagnosis of stress and determining the stress factors;
- ❖ S-ISW (short inventory on stress and well-being): instrument that makes it possible to determine the psychosocial and organisational risk factors and their impact upon well-being and to study wrongful behaviour. It measures motivation (including job satisfaction), stress, inappropriate behaviour, absenteeism;
- ❖ RATOG (Risk analysis tools for inappropriate behaviour at work) (companies with more than 100 employees) - RATOG SME (companies with fewer than 100 employees): measures, on the basis of questionnaires, the factors that increase the risk of the occurrence of wrongful behaviour at work. The results are discussed by a multidisciplinary team.



Patrick Sheándell O'Carroll

- ❖ VBBA (questionnaire for the experience and assessment of work) measures both causes of (lack of) well-being, also referred to as stressors, and the consequences of stress. Therefore, with the VBBA, it is possible to analyse both the objective work situation and the subjective experience of it.
- ❖ NAQ (negative acts questionnaire): questionnaire that makes it possible to measure the presence of violence at work in an objective manner. It can be used for the analysis of an individual case.

### 8.3 Reference texts

The regulatory texts with regard to psychosocial load can be consulted on the website of the FPS: [www.werk.belgie.be](http://www.werk.belgie.be) (in Dutch) or [www.emploi.belgique.be](http://www.emploi.belgique.be) (in French).

In order to raise the awareness of the employees of companies, a brochure directed specifically toward them: “Prévention du stress, de la violence, du harcèlement moral et du harcèlement sexuel sur les lieux de travail... en bref/Preventie van stress, geweld, pesterijen en ongewenst seksueel gedrag... in het kort” can be ordered in bulk.



#### Regulatory texts concerning psychosocial load

Chapter Vbis (Art. 32bis to 32octiesdecies) of the Law of 4 August 1996 concerning the well-being of the employees during the execution of their work, amended by the Laws of 10 January 2007 and 6 February 2007 (Belgian Official Journal of 6 June 2007).

The Royal Decree of 17 May 2007 concerning the prevention of psychosocial load caused by work including violence, harassment and sexual harassment at work (Belgian Official Journal of 6 June 2007).

Collective labour agreement no. 72 van 30 March 1999 of the National Labour Council regarding the management of the prevention of stress caused by work, declared generally binding by the Royal Decree of 21 June 1999 (Belgian Official Journal of 9 July 1999).

# 9

## Useful addresses

For additional information and to file a complaint, you can contact the regional management of the Inspectorate for Well-being at Work from the Belgian Federal Public Service Employment, Labour and Social Dialogue:

### ***Bruxelles/ Brussel***

rue Ernest Blerot 1 - 1070 BRUXELLES

Tél. : 02 233 45 46 - Fax: 02 233 45 23

[cbe.bruxelles@emploi.belgique.be](mailto:cbe.bruxelles@emploi.belgique.be) - [tww.brussel@werk.belgie.be](mailto:tww.brussel@werk.belgie.be)

### ***Hainaut***

rue du Chapitre 1 - 7000 MONS

Tél. : 065 35 39 19 ou 065 35 73 50 - Fax : 065 31 39 92

[cbe.mons@emploi.belgique.be](mailto:cbe.mons@emploi.belgique.be)

### ***Liège***

boulevard de la Sauvenière 73 - 4000 LIEGE

Tél. : 04 250 95 11 - Fax : 04 250 95 29

[cbe.liege@emploi.belgique.be](mailto:cbe.liege@emploi.belgique.be)

### ***Namur + Luxembourg + Brabant wallon***

chaussée de Liège 622 - 5100 JAMBES

Tél.: 081 30 46 30 - Fax: 081 30 86 30

[cbe.namur@emploi.belgique.be](mailto:cbe.namur@emploi.belgique.be)

### ***Antwerpen***

Theater Building, Italiëlei 124 - bus 77 - 2000 ANTWERPEN

Tél. : 03 232 79 05 - Fax : 03 226 02 53

[tww.antwerpen@werk.belgie.be](mailto:tww.antwerpen@werk.belgie.be)

***Limburg - Vlaams-Brabant***

*Directiekantoor Hasselt*

TT14, Sint-Jozefsstraat 10.10 - 3500 HASSELT

Tel. : 011 35 08 60 - Fax : 011 35 08 78

[tww.limburg@werk.belgie.be](mailto:tww.limburg@werk.belgie.be)

*Directiekantoor Leuven*

Federaal Administratief Centrum, Philipssite 3A - bus 8 - 3001 LEUVEN

Tel. : 016 31 88 30 - Fax : 016 31 88 44

[tww.vlaamsbrabant@werk.belgie.be](mailto:tww.vlaamsbrabant@werk.belgie.be)

***Oost-Vlaanderen***

Administratief Centrum "Ter Plaeten", Sint-Lievenslaan 33B - 9000 GENT

Tel. : 09 268 63 30 - Fax : 09 268 63 20

[tww.oost-vlaanderen@werk.belgie.be](mailto:tww.oost-vlaanderen@werk.belgie.be)

***West-Vlaanderen***

Breidelstraat 3 - 8000 BRUGGE

Tel. : 050 44 20 20 - Fax : 050 44 20 29

[tww.west-vlaanderen@werk.belgie.be](mailto:tww.west-vlaanderen@werk.belgie.be)