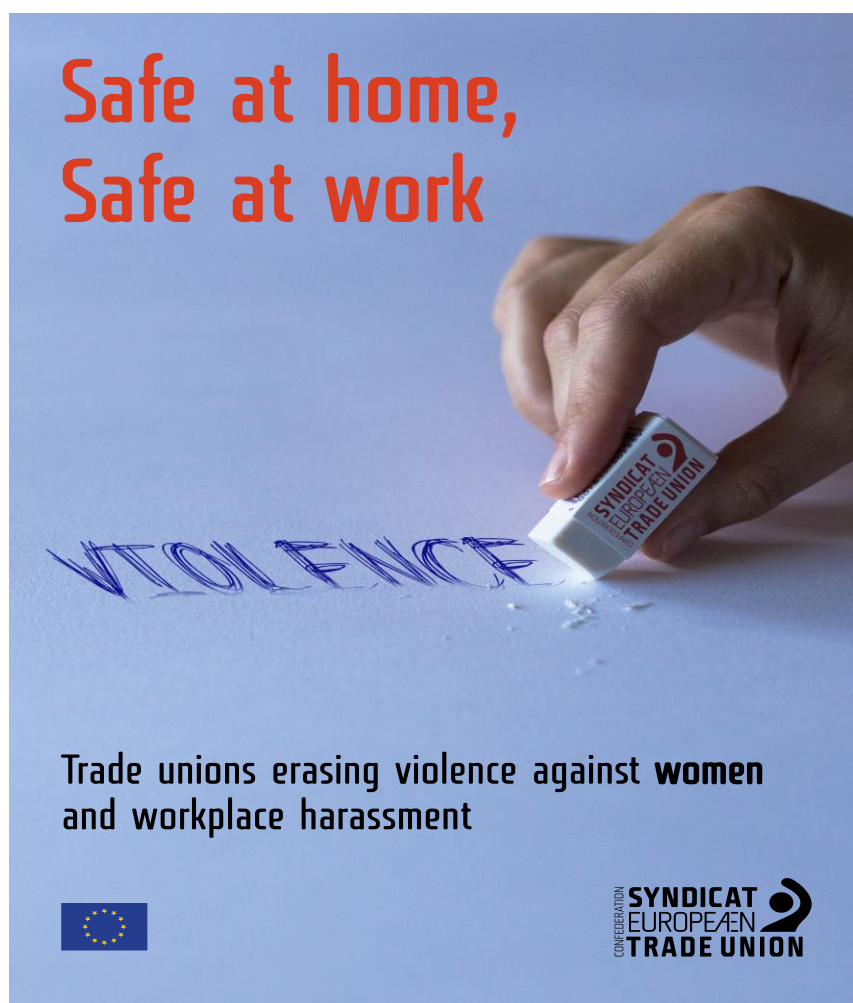


ETUC 'Safe at Home, Safe at Work'

## FRANCE

### Country Case Study<sup>1</sup>



by  
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2017

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

# 1. Introduction

## 1.1 Overview

This report gives an overview of the French country case study, which is one of eleven case studies prepared for the ETUC project 'Safe at Home, Safe at Work'. It documents the measures taken by French unions to address gender-based violence at work. It covers two specific areas: a) gender-based violence in the workplace and b) domestic violence at work. Both aspects of the report are discussed in relation to the overall legal context, the role of collective bargaining and other union initiatives, as well as the challenges faced by unions and the recommendations made by unions for the future.

On the topic of sexual harassment and gender based violence, unions have been very active, particularly since the new law on sexual harassment was adopted in 2012. They consider the issue as a major topic of gender equality, even though there is no legal obligation to bargain on the issue. On the issue of domestic violence, views vary about whether it is or not a topic to be dealt with in companies and by the unions. French Jurisprudence give the employer the responsibility to protect his/her employees against any form of violence occurring on the workplace even if the perpetrator is not connected to work. A very small number of companies have established workplace policies on domestic violence, and unions have so far not been involved in these initiatives.

## 1.2 Methodology

Interviews with ten representatives of three Unions (CGT, CFDT and FO) in Paris in May and July 2016.<sup>2</sup>

### CFGT:

- Marie-Andrée SEGUIN, National Secretary of CFDT in charge with professional equality
- Christophe DAGUE, Secretary General of CFDT Paris
- Marie BUARD CFDT, Project manager in charge with professional equality and discrimination (sector advice and publicity)
- Annick ROY National Secretary for the sectors culture, communication and advice

### CGT:

- Sophie BINET, Leader of the Confederation in charge with gender equality, deputy secretary general for manager and technics (UGICT-CGT)
- An LE NOUAIL-MARLIÈRE, Consultant CGT
- Sabine REYNASA, Member of 'Commission femmes-mixité'
- Maryse THAERON, Member of the 'Commission femmes-mixité'
- Thomas SALGADO, Intern at the 'Commission femmes-mixité'

### FO:

- Gabriel THOISON, union assistant in charge with professional gender equality

Two interviews were held with representatives from the NGO sector:

- Marilyn BALDEK, President of AVFT (NGO against gender based violence at the workplace)

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<sup>2</sup> CFTC did not respond despite to several attempts to interview their union representative. Information on their activities are based on open source research (Internet and reports).

- Simon MICLET, project manager of CARVE for France at FACE foundation

## 2. Context and legal background

### 2.1 Gender-based violence at work

Gender based violence and sexual harassment are prohibited in Labour law<sup>3</sup> and Criminal Law,<sup>4</sup> and violence is prohibited in several Articles in Penal Law, where the employer has the responsibility to protect his/her employees against any risk for her/his health and integrity. Jurisprudence has clarified in 2012 that physical violence committed on an employee in a private context by an external person at the workplace, is also the responsibility of the employer.<sup>5</sup> In August, 2012, the legal definition of sexual harassment in penal, labor and civil servants law was redefined. The Labour and Penal law are complementary and can be simultaneously be claimed by the victim.

Since August 2015, French Labour Law<sup>6</sup> protects employees against any sort of sexist behaviour at the workplace and prohibits any form of sexist behaviour creating an intimidating (...) working environment. The law does not foresee sanctions but these can be pronounced by the employer in internal rules.

The prevention of harassment (sexual, sexist or moral) and the protection against internal violence are part of the general employers' obligations guaranteeing safety and security at work.<sup>7</sup> The employer is obliged to evaluate the risks and to undertake any measures necessary to guarantee the security and to protect the physical and psychological health of his/her employees. Further, he/she has the obligation to prevent the risks of sexual, sexist and moral harassment/mobbing.

France is currently transposing the "4th violence action plan" (2012-2016)<sup>8</sup> with three priorities:

1. Reinforce public action: every declared victim of violence shall be dealt with by public authorities;
2. Protection of victims;
3. Mobilize the whole society on the topic.

In 2013 the government launched a national internet platform and a national wide phone number (3919) for women victims of all forms of violence.<sup>9</sup> Awareness rising campaigns on harassment in the public sphere and on public transport have been operated together with the public transport services (RATP) in 2015. A protocol on harassment in the public sector has been adopted in 2013 declining an action plan in all Ministries.

On 4 May 2012, the French Constitutional Council was declared non-compliant with the Declaration of Human Rights of 1789, Article 222-33 of the Penal Code which punishes a year in prison and € 15,000 for fine 'to harass others in order to obtain sexual favours. Accordingly, Article 222-33 of the Penal Code was repealed and a new Act No. 2012-954 was passed August 6, 2012. It relates to sexual harassment and discrimination related to sexual harassment. The new Act introduced a new much more precise definition: "Sexual harassment

<sup>3</sup> Article 4121-1 Labour Law Code

<sup>4</sup> Art. 222-33 Criminal Law

<sup>5</sup> Judgement of the Social Chamber of the cour de Cassation, 4 avril 2012, n°: 11-10570

<sup>6</sup> Art. 1142-2-1, law of 17/08/2015

<sup>7</sup> Article 4121-1 Labour Law Code

<sup>8</sup> <http://www.familles-enfance-droitsdesfemmes.gouv.fr/dossiers/lutte-contre-les-violences/les-plans-de-lutte-contre-les-violences-faites-aux-femmes/>

<sup>9</sup> <http://www.stop-violences-femmes.gouv.fr>

is the imposition of a person, repeatedly remarks or behaviour of a sexual nature that is impairing its dignity because of their character or degrading humiliating, or create a situation against her intimidating, hostile or offensive. “

The Act also specifies that "sexual harassment is considered the fact that, even without repeated use of any form of severe pressure in order to obtain real or apparent act of a sexual nature, it is sought to benefit of the perpetrator or a third party." The notion of "sexual behaviour" was clarified: it is about, gestures, mailings or objects, attitudes ... Now it is no longer required that the conduct is for the purpose of sexual favors, or conduct that have a directly or explicitly sexual. For example, the behaviour can be characterized by overtly sexist remarks or behaviour, ribald, obscene, such as words or writings constituting repeated provocations, insults or defamation, even non-public, committed because of gender or orientation or gender identity of the victim. Finally, sexual harassment is defined as an act that must affect the dignity of the victim or create a situation intimidating, hostile or offensive, and the victim should not be consenting to all of these actions, which must be imposed. It includes third-party sexual harassment.

Under the new Act, Article L. 1153-1 of the Labour Code and Article 6 of the Law n ° 83-634 of 13 July 1983 concerning the rights and obligations of officials are amended.

- The employer has an obligation to prevent sexual harassment and to view the Article 222-33 of the Penal Code on sexual harassment in the workplace, including the premises or the premises where hiring takes place.
- A mediation procedure may be engaged on the request of any person declaring being victim of harassment or by the presumed perpetrator.
- The occupational physician should advise the employer on the measures to prevent sexual harassment.
- Staff representatives may exercise their right of alert and may engage a legal procedure on behalf of the victim if she/her gives her explicit consent.
- The labor inspector can identify the offense of sexual harassment.

The Act also covers discrimination. Article 225-1-1 of the Penal Code states: "Discrimination comprises any distinction between people because they have suffered or refused to submit to acts of sexual harassment as defined in Article 222-33 or testified such facts, including, in the case I mentioned in the same article, if the words or behaviour were not repeated. '

Harassment is punishable in Penal law by two-years imprisonment and a fine of 30,000 euros in case of aggravating circumstances, the penalty is increased to three years in prison and €45,000 fine. Discrimination is punishable by three-years imprisonment and a €45,000 fine, the penalty may be increased in certain circumstances to five-years imprisonment and a €75,000 fine, especially when such acts are committed by a person holding public authority.

In a legal procedure before the Labour Courts, the victim has to present the facts which allow the judges to presume that she/he is victim of sexual harassment. The defendant has to prove that he/she has not committed an act of sexual harassment but that his/her behaviour is justified by objective means. Before the Criminal Court, the victim has to prove by all means. the facts constituting sexual harassment and the intentionality of the perpetrator.

In case of gender based violence, the employee has the right to abstain from her obligation to work. She/he has to inform immediately her employer about the factual situation, the danger she is facing for her life and her health and the failure to protect her. As long as the protection is not guaranteed, the employee can abstain from work.

## 2.2 Domestic violence at work

There are no explicit legal texts or obligations for the employer or the unions to deal with this issue. Some rare employers (see Section 4) see it as part of their social responsibility (CSR) to prevent, help and support a victim of domestic violence at the workplace.

## 2.3 Collective bargaining

Collective bargaining in France was generalised by law in 1950, which established the industry as the main level for bargaining. In 1971, collective bargaining at the 'inter-professional' (cross-industry) level was also established. One of the paradoxes of the French industrial relations system is that despite its low rate of unionisation, close to 8%, it has a very high rate of collective bargaining coverage, close to 98%. There are two major reasons for this: the extension of collective bargaining agreements by the Ministry of Labour and the legal form of union recognition, according to which each of the five confederations CGT, FO, CFDT, CFTC and CGC were recognised by the government in 1966 as 'representative' at the national level and were therefore entitled to sign collective agreements at any level.

Collective bargaining can take place at three levels: at the national level covering all employees; at the industry level which can involve national, regional or local bargaining; and at company or plant level. At each level there are detailed rules about who can negotiate and the requirements for an agreement to be valid. Industry level agreements are the most important level for negotiation in terms of numbers covered.

In 2004, two major changes in the French system of industrial relations were introduced: it set a majority principle for the adoption of collective bargaining agreements, and gave company level agreements the possibility to derogate from industry agreements, except for negotiations over minimum wages, classifications, supplementary social protection and professional training.

### **Bargaining on professional gender equality:**

Since 2011<sup>10</sup>, companies in France with at least 50 employees have the obligation to bargain on the topic of professional gender equality (égalité professionnelle).<sup>11</sup> Very few companies had company agreements until 2010 as there were no sanctions foreseen. In 2010<sup>12</sup>, 2012<sup>13</sup> and 2014<sup>14</sup>, these obligations were strengthened resulting in companies with over 50 employees having obligations in terms of information and bargaining on professional gender equality, and financial sanctions and exclusion from public procurement procedures were foreseen in cases of non-respect. The obligatory subjects to be dealt with, either in a company agreement or in an action plan, are all strictly linked to the employment sphere and cover professional categories (for example, equal pay, training, qualification, job classification, recruitment, promotion and measure to articulate professional and family responsibilities). Depending of the size of the company, at least three (less than 300 employees) or at least four of these topics have to be dealt with and equal pay is mandatory.

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<sup>10</sup> loi n° 2001-397 du 9 mai 2001 dite loi Génisson

<sup>11</sup> Art. 2242-5 Labour Law foresees a negotiation every year.

<sup>12</sup> loi du 9 novembre 2010 reforming the French pensions

<sup>13</sup> Law of 26 octobre 2012 on the creation of a contract called « contrat d'avenir » and the décret du 18 décembre 2012

<sup>14</sup> Law of the 4th of August 2014 on equality

Since 1982, the Company has to publish an annual report on the situation of women and men in the company,<sup>15</sup> and to submit the report to the works council, unions and every interested employee. This report aims to serve the social partners as an objective basis for their negotiation on equality. Since the sanctions (up to maximum of 1% of the salary mass) were introduced in 2012 and 2014, about 70% of French companies were covered in 2014 by a company agreement or at least a sectoral agreement. In companies with more than 200 employees, a commission on professional equality has to be set up which dealing with the preparing of propositions and actions for the work council meetings.

The issue of violence in the workplace, harassment or domestic violence are not mentioned in the list of the subjects to be dealt with. Therefore, there is no obligation yet to deal with the topic. This has the effect of delaying the good will of the social partners.

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

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

##### **a. Health and safety representation**

Employee representatives on company health and safety committees are the key channel providing an input from employees in this area.<sup>16</sup> The committee must be consulted in on a wide range of issues and in certain circumstances it also has the right to bring in an outside expert, paid by the employer. It is the employer's responsibility to take the necessary measures to ensure the safety and to protect the mental and physical health of the employees.

In larger workplaces the health and safety committee (le comité d'hygiène, de sécurité et des conditions de travail – CHSCT) is the main body protecting employees in the area of health and safety (where there are 50 or more employees). In smaller workplaces the health and safety role of the committee is carried out by employee delegates (délégués du personnel).

The company health and safety committee plays an important role in improving working conditions and it monitors compliance with health and safety legislation. With regard to sexual harassment, its function is to propose action to prevent sexual and moral harassment and undertake enquiries following accidents and occupational diseases or complaints. It must be informed by the employer of any visits by the labour inspectorate and it can present its views to the labour inspector. The employer must also provide the health and safety committee with an annual report setting out the overall position in relation to health and safety and an assessment of the actions carried out in the course of the year. The employer must also present the health and safety committee with an annual plan setting out proposals to reduce risks and improve working conditions. The health and safety committee should meet at least once every three months as well as following a serious accident or potential accident, or when two employee members call for it to meet.

##### **b. Support by the staff delegate(s)**

In each company, employing at least 11 employees, a staff delegate should be elected. His/her tasks consists in defending the rights and demands of the staff and in alerting the employer on

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<sup>15</sup> Annual comparative report on women and men «Rapport de situation comparé » (companies with at least 300 employees), report on the economic situation with regard to women and men from 50-300 employees.

<sup>16</sup> Articles 4523, 4611, 4612 , 4614 and 4615 Labour Code  
Articles L. 4523-1 à L. 4523-17, L. 4611-1 à L. 4614-16, R. 4523-1 à R. 4523-17 et R. 4612-1 à R. 4615-21.

any situation of risk for the health and security of employees.<sup>17</sup> He/she can also present individual claims and demands to the employer, claim the non-application of the internal rules, labour law or collective agreements. The delegate has the « right to alert » the employer<sup>18</sup> on any situation presenting a risk or danger for the health and integrity of an employee. Then, the employer is obliged to respond in a written form and his/her responses are submitted to the Work Inspection. The staff delegate is in direct contact with the Work Inspection and submits any information helping the Work Inspection to proceed to its controls.

### **c. Unions right to act on behalf of the employee**

The representative union may claim on behalf of the employee its rights in case of harassment (moral or sexual) or discrimination in the court. The employee can intervene at any stage and even demand to stop the proceedings. In a case where the employee fails a claim directly, the union may demand the status of an intervening party before the court.

### **d. The Union's right to demand bargaining on violence and harassment**

When entering in the bargaining on “professional gender equality” or the “quality of professional life”, unions can propose and demand the inclusion of a chapter on gender based violence and sexual harassment at work, founded on the employers' obligation to prevention. CGT expressively asks its delegates to do so systematically.

## **3.2 Data and evidence**

The most recent comprehensive survey on sexual harassment at the workplace in France was published in January 2014 by French Rights Defender and undertaken by IFOP institute.<sup>19</sup>

In total, 1005 persons were interviewed, 615 of them were working women between 18-65 years.

- 100% of the women said that it is important to combat sexual harassment at the workplace, 86% found it very important.
- 57% of women work in a professional environment where sexist jokes and remarks occur frequently.
- 57% declare being not sufficiently informed about their rights and the prohibition of sexual harassment.
- 94% declare that sexual harassment is not sufficiently identified as such in the workplace.
- 20% of the interviewed women declare having been victim of sexual harassment in the workplace: 16 % out of them only once, 4 % at least twice.
- In 44% of the cases, the offender was a colleague (22% in 1991/20), in 18% the direct manager (26% in 1991) and in 22% the director/boss (29% in 1991). In 13% it was a client (27% in 1991).
- In 30% of the cases, women worked in a precarious contract (fixed term or internship) and in 25% they were isolated.

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<sup>17</sup> Art. 2313-1 ; 2313-2 Labour Code

<sup>18</sup> Art. 2313-2 Labour Code

<sup>19</sup> IFOP (*French Institut of Public Opinion*), 2015, results of the survey available at:

[http://www.ifop.com/media/poll/2551-1-study\\_file.pdf](http://www.ifop.com/media/poll/2551-1-study_file.pdf). See also:

<http://www.defenseurdesdroits.fr/fr/publications/etudes/enquete-sur-le-harcelement-sexuel-au-travail>

<sup>20</sup> In 1991 a comparable survey was undertaken by the “Institut Louis Harris” ( LH2) for the “Secrétariat d’Etat aux Droits des Femmes et à la vie quotidienne”, by telephone from the 9 the 13 décembre 1991 amongst 1300 Français aged 18 years and more.

- In 31% of the cases, the woman informed her Direction about the situation she was facing, 30% of the women did not speak about it at all. According to an internal survey at AFVT, 95% of women claiming sexual harassment lose their job.<sup>21</sup>
- 7% of the victims searched for support among Union representative, 5% among the Labour Inspection, 43% amongst colleagues and 1% amongst an NGO.
- 5% of the victims brought the offender to court in half of these cases, the offender was condemned.
- 21% of the witnesses of sexual harassment searched for advice and support among Union representatives, 73% amongst other colleagues.
- In 40% of the situations the case ended up in a negative solution for the victim (dismissal, mutation, not prolongation of the contract, blockage of career opportunities).
- In 40% of the cases, a measure/sanction has been pronounced against the perpetrator (sanction, dismissal, mutation).

Union surveys, information campaigns on the topic of sexual harassment and gender based violence refer to this survey.

In 2013, a large survey on sexism and sexual harassment at the workplace<sup>22</sup> was conducted by the French Superior Council on Gender Equality (CSEP) together with the Survey Institute LH2 amongst 15 000 women working in nine big French companies on the basis of a written questionnaire.

- 80% stated that they were regularly confronted with sexist attitudes or decisions, having an impact on their self-confidence, their well-being and their performances;
- 56% of men declare that women are confronted 'regularly' to sexist decisions;
- 86% of men think that this sexist behaviour may modify the behaviour of women;
- In 9% of the situations, the employee talked about it to his/her hierarchy and in 4% to a union representative;
- The report submits 10 concrete recommendations addressing politics, companies and social partners;
- Recommendation N°8 of the report demands for incentives for the Social partners to integrate in their annual perception surveys amongst their member's questions with regard to the relationship between men and women and the frequency of sexism at the workplace.

On the topic of gender-based violence at the workplace, a survey was conducted in 2009 in Saint Denis.<sup>23</sup> It was followed in 2012<sup>24</sup> by a similar survey in the department Essonne covering 1300 female employees.

- 43% of the women declare having experienced in the past 12-month sexist harassment
- 16% sexual harassment
- 45% harassment (moral or sexual) and 4% sexual aggressions or rape.

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<sup>21</sup> Result of analysis of cases treated by AVFT, 2016, quote available at: <http://www.elle.fr/Societe/Interviews/Harcelement-sexuel-95-des-femmes-qui-le-denoncent-perdent-leur-emploi-Quelles-solutions-3097880>

<sup>22</sup> CSEP, (*High council of professional equality between women and men*), "Sexism at the workplace, between reality and denial" 06/03/2015. Available at: <http://www.ladocumentationfrancaise.fr/var/storage/rapports-publics/154000174.pdf>

<sup>23</sup> [https://www.cairn.info/resume.php?ID\\_ARTICLE=TRAV\\_022\\_0059](https://www.cairn.info/resume.php?ID_ARTICLE=TRAV_022_0059)

<sup>24</sup> DIRECCTE (Regional Directorate of companies and work in Essonne), "Survey on sexual and sexist violence's against women in Essonne", survey of 2012. Available at: [http://old.idf.direccte.gouv.fr/IMG/pdf/DIRECCTE\\_VIOLENCE.pdf](http://old.idf.direccte.gouv.fr/IMG/pdf/DIRECCTE_VIOLENCE.pdf)



In 2013, a third survey<sup>25</sup> on the topic of violence was held in the department Haut des Seines. For the first time, unions (CFDT, CFE-CGC, CGT, FO and UNSA), NGOs and other public partners were associated and supported the survey. The results were presented in a conference.<sup>26</sup>

### 3.3 Collective agreements and workplace policies

The French employer has a legal obligation *to prevent sexual and moral harassment* at the workplace. On this basis, he/she could (and should) adopt a workplace policy, an action plan or even negotiate a collective agreement. There is no precise legal definition on how the employer must prevent harassment. Following the jurisprudence, he/she is to a certain extent, responsible for any act of harassment (moral or sexual) occurring at the workplace. Amongst others, the concrete prevention measures in the companies are therefore analyzed by the judges.

In collective bargaining, the issue is addressed in three possible ways: either as an independent chapter of a collective agreement on professional gender equality, in a collective agreement under the issue of the prevention of psycho-social risks (called RPS, Risques Psycho Sociaux) or under the title “quality of professional life” (QVT qualité vie au travail). In all analyzed clauses and agreements, sexual harassment or sexual violence was not defined as sex discrimination.

#### Examples and best practices

On 26 March 2010, the French social partners signed a **national collective agreement “on harassment and violence at the workplace”**.<sup>27</sup> The government extended this agreement with a ministerial decision (arrêté) on 23 July 2010. The national agreement is the legal transposition of the European framework agreement signed in 2007. This national agreement also completes the national inter-professional agreement on stress at the workplace signed on 2 of July 2008, made obligatory by governments decision (arrêté) from the 23th of Avril 2009.<sup>28</sup>

Even though the stipulations of this agreement are mandatory for all employees and employers, there are no concrete measures or sanctions mentioned. It serves as an invitation for unions and companies to “adopt the agreement on the company’s level, to declare that violence and harassment on the workplace are not tolerated and to foresee concrete and appropriate measures of prevention and reaction in case it occurs”.

Further, the national agreement provides a list of items which should be dealt with on the company’s level: appeal procedure, respect of confidentiality, disciplinary sanctions, mediation and external expert. It also underlines the responsibility of the employer to intervene and to adopt appropriate measures and sanctions with implication of the social partners.

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<sup>25</sup> DIRECCTE (Regional Directorate of companies and work in Hauts de Seine), questionnaire on sexual violence against women at work, 2012. Available at:

<http://www.amd92.fr/multimedia/telechargements/article/1063/Enquête%20violence%20femmes%2092.pdf>

<sup>26</sup> Prefect of department of Hauts-de-Seine, conference on “sexist and sexual violence towards women at work”, 26/11/2013, program and contextual elements. Available at: <http://www.hauts-de-seine.gouv.fr/content/download/4763/34091/file/Programme>

<sup>27</sup> National inter-professional collective agreement on harassment and violence at work, signed 26/03/2006, published by Ministry of work, solidarity and public sector. Available at: [http://www.journal-officiel.gouv.fr/publications/bocc/pdf/2010/0021/CCO\\_20100021\\_0021\\_0006.pdf](http://www.journal-officiel.gouv.fr/publications/bocc/pdf/2010/0021/CCO_20100021_0021_0006.pdf).

<sup>28</sup> National inter-professional collective agreement signed on 2/07/2008. Available at: [http://travail-emploi.gouv.fr/IMG/pdf/Accord\\_stress\\_travail\\_Fr.pdf](http://travail-emploi.gouv.fr/IMG/pdf/Accord_stress_travail_Fr.pdf)

**SAFRAN (aerospace/ defense/ security)** adopted in June 2013 a collective agreement with its unions on “prevention of sexual harassment and violence at the workplace”.<sup>29</sup> The agreement covers the following: definition of the concepts of harassment and violence at the workplace; identification of the measures to be taken in order to prevent and to guarantee the security and to protect physical and psychological integrity; identify, alert and treat complains of harassment and violence; support of the victims of harassment and violence, sanctions and measures to protect employees’ health.

**LA POSTE**<sup>30</sup> includes a section VIII in its collective agreement on “professional equality”, signed by all unions on the 3rd of July 2015. This covers “violence and sexual harassment at the workplace, violence committed by clients and domestic violence”. Under the title “prevention of moral and sexual harassment”, it describes its prevention policy as “very voluntary”. It mentions the penal sanctions. Further, La Poste commits itself to inform and to communicate in order to prevent harassment. It describes its internal appeal or treatment procedure in Annex 2. In the case of violence committed by a client, La Poste pays legal fees and reserves its right to file a claim against the client.

**L’UDES** (social and solidarity economy) with twelve branches, concluded a collective agreement for professional equality between women and men in November 2015.<sup>31</sup> Article 9 addresses the combating of gender based violence and sexual violence. It defines the concepts; it underlines the obligation of the employer to prevent sexual harassment; it demands a special article to be inserted into the companies’ rules on the fight against sexism; and it foresees a procedure for dealing with internal and external violence in the workplace.

**The French public sector** adopted on the 8th of march 2013 a first collective agreement on the issue of “professional gender equality”.<sup>32</sup> Chapter 4 of the agreement deals with the obligation to prevent all kinds of gender based violence at the workplace as *well as domestic violence detected at the workplace*. Amongst the definition of the concepts, the legal obligations and sanctions, it foresees training sessions on the topic of health and security at work with a focus on the specificity of gender based violence for all new civil servants and management. It underlines the importance of the role of the CHSCT committee to detect and prevent violence.

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

#### CFDT:

- In 1990, CFDT participated in lobbying for a legal definition and prohibition of sexual harassment and sanctions of employers who do not intervene and discourage sexual harassment. The first law defining sexual harassment was adopted in France in 1992.
- From 2000-2009, CFDT has condemned in its declaration all forms of gender based violence.

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<sup>29</sup> Safran collective agreement. Available at: <http://safran-cfdt.fr/wp-content/uploads/2014/03/SAFRAN-Accord-harcèlement-et-violence-au-travail-04-06-2013.pdf>

<sup>30</sup> La Poste, social agreement on professional equality between women and men, signed 03/07/2015. Available at: [http://www.egaliteprofessionnelle.org/maj/files/upload/documents/type-9/la\\_poste\\_030715.pdf](http://www.egaliteprofessionnelle.org/maj/files/upload/documents/type-9/la_poste_030715.pdf)

<sup>31</sup> Collective agreement on professional equality between women and men in the social economy, signed 26/11/2013. Available at:

[http://www.udes.fr/sites/default/files/public/users/agathe/accord\\_egalite\\_professionnelle\\_signe.pdf](http://www.udes.fr/sites/default/files/public/users/agathe/accord_egalite_professionnelle_signe.pdf)

<sup>32</sup> Protocol of the collective agreement on professional equality in the public sector, 08/03/2013, edited by the Ministry of Public Service. Available at: [http://www.fonction-publique.gouv.fr/files/files/publications/politiques\\_emploi\\_public/20130308-Protocole-d-accord-egalite-professionnelle.pdf](http://www.fonction-publique.gouv.fr/files/files/publications/politiques_emploi_public/20130308-Protocole-d-accord-egalite-professionnelle.pdf)

- In 2009, CFDT Paris launched the training project “respectées”<sup>33</sup> amongst its employees. Between 2009 and 2014 more than 1500 union members and employees of CFDT followed the one-day training session. Training sessions are still held. This project was co-financed by the Regional Council of Ile de France and was based on a cooperation and co-animation with an intervention of a lawyer of the NGO AVFT.<sup>34</sup> A brochure<sup>35</sup> with concrete definitions, examples, jurisprudence and guidelines to prevent sexual violence from the unions perspective was edited. A third edition of this guide with an actualization will be published this year.
- At the general conference of CFDT in Amiens in 2013, the subject of gender based violence at the workplace was stressed as important and the declaration of the secretary general on the importance of the issue was seen as an important milestone.

#### CGT:

- Since the 1990s, different union sections and women committees have been active in awareness raising and campaigning on the subject of sexual harassment and violence.
- Since 2013, every year a conference has been held on the topic.
- A comprehensive image campaign with posters, leaflets etc. for union representatives and employees was launched in 2015.<sup>36</sup>
- In 2016, a conference “gender based violence, how to react?” was held in Paris.<sup>37</sup>
- In order to empower and to inform union representatives in the companies, a brochure “fighting against gender based and sexual violence” was edited in 2016 for the union members.
- In may 2016, CGT claims action plan on gender based violence from the government.<sup>38</sup>

#### FO:

- In March 2016, FO organized a conference in Paris on professional gender equality with a focus on gender based violence and sexism at the workplace. Different experts from the NGO AVFT and the CSEP gave speeches on the outcome of the recent and cited surveys.
- In January 2015, FO published a brochure<sup>39</sup> with guidelines for union representatives on the negotiating a collective agreement on professional gender equality. Sexual and moral harassment are defined from a legal perspective.
- FO participates such as the other unions in the national Commission on the Equality Certification (Label Egalité). With regard to applying companies and institutions, FO has a specific focus on the prevention of sexual harassment and the policy of combatting of sexism. It insists on the inclusion of the ban of sexism in the internal rules of the company. FO also verifies that the company installs an internal appeal procedure for any complaints with regard to harassment and sexism. FO will launch in the near future a new chapter on

<sup>33</sup> CFDT Paris, website with historical background of CFDT. Available at <http://respectees.cfdtparis.com/1990-la-CFDT-revendique-une>

<sup>34</sup> AVFT (Association européenne contre les violence faites aux femmes). Available at: <http://www.avft.org>

<sup>35</sup> CFDT Paris project “respected”. Available at:

[http://respectees.cfdtparis.com/IMG/pdf/guide\\_violence\\_aux\\_femmes\\_bd\\_au16avrim13.pdf](http://respectees.cfdtparis.com/IMG/pdf/guide_violence_aux_femmes_bd_au16avrim13.pdf)

<sup>36</sup> CGT, 2015, poster campaign. Available at:

<http://images.google.fr/imgres?imgurl=http%3A%2F%2Fwww.cgtfinances.fr%2FIMG%2Fjpg%2Faffiche-sexisme-hd.jpg&imgrefurl=http%3A%2F%2Fwww.cgtfinances.fr%2Fvie-des-agents%2Fegalite-discrimination%2Farticle%2F1a-cgt-lance-une-grande-campagne-pour-l-egalite-professionnelle&h=352&w=250&tbnid=6aULqQv3ruNGGM%3A&docid=6PRWleFr2h2EoM&ei=ol-PV97kLYGZgAbYh4eIDA&tbn=isch&client=safari&iact=rc&uact=3&dur=379&page=1&start=0&ndsp=27&ved=0ahUKEwjetNqKpYLOAhWBDMAKHdjDAcEQMwgoKAUwBQ&bih=748&biw=1230>

<sup>37</sup> CGT, program and invitation for the conference “sexist and sexual violence at the workplace; how to react”, 03/02/2016. Available at: <http://www.equipement.cgt.fr/spip.php?article6671>

<sup>38</sup> CGT, article “demand for an action plan to fight against violence”, 20/05/2016. Available at: <http://www.cgt.fr/La-CGT-exige-un-plan-de-lutte.html>

<sup>39</sup> FO, brochure “achieve professional gender equality between women and men”, 01/2015. Available at: <http://www.force-ouvriere.fr/IMG/pdf/guide-egalite-professionnelle.pdf>

its website with information and advice on sexual harassment and violence at the workplace.

#### **CFTC :**

- In July 2012, CFTC submitted ten proposals on professional gender equality to the governmental social conference.<sup>40</sup> Point 7 deals with violence and harassment at the workplace and demands an evaluation of the existing laws. It asks the government for more precise obligations with regard to the prevention of sexual harassment and violence, for example, for an external help and advice service for victims. Further, it proposes that an explicit internal procedure should be obligatory with the implication of CHSCT, an explicit right to alert the employer and the right to restrain from work in case of sexual harassment should be included in the labor law.

### **3.5 Links and cooperation with civil society and women's organizations**

**AVFT**<sup>41</sup> (European Association against gender based violence at the workplace) was founded in 1985 and is the French NGO specializing on gender based violence in the workplace. It is politically independent and defends with a mainly legal approach the rights of women victims of violence before courts and employers. Due to the legal assistance given by its associated lawyers in labour and penal courts, several important judgments in favor of the recognition victims have been ruled. AVFT gives regularly legal statements on political and legal projects and gave very important legal input in 2012 when the government re-defined sexual harassment in the penal and labor law. AVFT cooperates with different Unions (CGT, CFDT, FO...) but insists on its independency. It also trains employees, employers, civil servants, union members ("respectées" in cooperation with CFDT) on the topic.

Unanimously, all interviewed Union representatives underlined the importance of AVFT and the competencies of their staff on the subject.

### **3.6 Challenges faced by unions**

- Even though campaigns are undertaken, the issue is still described as "delicate" for the unions. It is very important that the subject is supported by the Union directory boards. For a long time, this was not the case.
- Male dominated unions in the companies are reluctant and they do not feel at ease to handle a case in their companies. Since victims do very rarely (4-7%) address the topic to union representatives, they think that it is not "really" an issue.
- Further, in general, French companies seem not willing to work in a pro-active way on the subject; they fear that being (pro-) active on the subject means that the subject is a problem internally and this might have a negative impact on their image for clients, candidates or even employees.

### **3.7 Recommendations from unions**

- CFDT asks for gender mixed representations in national and European women rights committees and working groups. Men should be invited to participate in debates and the preparation of Union proposals on these issues and therefore become "models" for other men. Otherwise, men might feel excluded and not concerned.

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<sup>40</sup>CFTC, program for the social conference, point 7 "violence at the workplace", 2012. Available at: [http://www.cftc.fr/e\\_upload/pdf/CFTC-2012\\_conference-sociale\\_Egalite-professionnelle.pdf](http://www.cftc.fr/e_upload/pdf/CFTC-2012_conference-sociale_Egalite-professionnelle.pdf)

<sup>41</sup> AVFT "free and equal", description of missions and actions of the NGO, 2016. Available at: [http://www.avft.org/article.php?id\\_article=1](http://www.avft.org/article.php?id_article=1)

- CGT demands a European directive on gender based violence, a European position on the prohibition of prostitution and free access to abortion (IVG) and a legal reinforcement of employer's responsibility to prevent violence at the workplace.

## 4. Domestic violence at work

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

French Unions are divided on the issue of whether domestic violence is a union priority in the workplace.

Women representatives of the CGT are unanimously in favor of dealing with the topic of domestic violence at the workplace. It is seen as a part of the employers and unions responsibility for the health and integrity of employees. The negative impact of domestic violence on the workplace (absence, illness, problems to concentrate, to perform etc.) are identified as important. The union tries to bargain on the issue whenever they can and demand the employer to introduce the topic.

CFDT Paris recognizes the importance of the topic but prefers at this stage to concentrate on workplace related violence. French employers first have to comply sufficiently with their existing legal obligations internally before the "private" dimension should be added. Otherwise, there is a risk that employers "deviate" by focusing on the private sphere and thereby neglect their internal workplace obligations. The company as such is not seen as an appropriate place for dealing with private matters, rather NGOs and the health sector are regarded as better contacts. Second, there is a risk for the victim to be discriminated directly or indirectly if her private life is revealed. On the basis of stereotypes, a victim of domestic violence might be seen as less performing or less reliable. Other sections of CFDT launched, in November 2015, an awareness raising and information campaign on the subject for the general public. Posters, leaflets and brochures are aimed at informing union representatives, victims and colleagues.<sup>42</sup>

FO is also reluctant to deal with the issue since it does not fall within the scope and responsibility of unions, rather it is seen as the responsibility of government and NGOs. FO, however, insists on the legal protection of the victim of domestic violence against discrimination (dismissal etc.) on the ground of her health or family situation. Further, FO underlines the employers' legal responsibility to protect the victim against any violence linked to his/her private sphere, occurring on the workplace.<sup>43</sup>

### 4.2 Data and evidence

In France, every year more than 223 000 women (1%) are victims of domestic violence committed by their partners.<sup>44</sup>

- 164 000 (0,7%) were victims of physical violence;
- 33 0000 (0,2%) of sexual violence;
- 26 000 (0,1%) were victims of physical and sexual violence;
- 14% of the victims filed a complaint at the Police and 10% sued in Court;

<sup>42</sup> CFDT, poster "don't be ashamed, 25/11/2015. Available at: <https://fr-fr.facebook.com/662267997212643/photos/a.664399746999468.1073741828.662267997212643/737490409690401/?type=1&theater>

<sup>43</sup> Referring to the verdict of the social chamber of the French Supreme Court (Cour de cassation) 04/04/2012, n° of the verdict 11-10570

<sup>44</sup> Ministry of the Interior, survey on the number of dead persons resulting from violence in partnerships, 2014. Available at: <http://www.interieur.gouv.fr/Actualites/Communiqués/Morts-violentes-au-sein-du-couple-118-femmes-decedees-en-2014>

- 83% of employees, who were victims of domestic violence declare having negative effects on their professional situation and their ability to continue to workplace;
- 84 000 declared being a victim of rape; in 90% of the cases, the victim knew the perpetrator;
- 118 women died in 2014 caused by an (ex)husband/partner, 16 more by an non-official partner (lover, one night stand..); 31 men were killed by women (official and non-official relationship);<sup>45</sup>
- 20,4% of women and 6,8% of men between 18-69 years have at least once in their live experienced sexual violence (sexual assaults, rape or tentative of rape).<sup>46</sup>
- 71% of women living in Region “Ile de France” fear sexual harassment in public transport and public space.<sup>47</sup>

There are very few surveys on the impact of domestic violence on the working conditions. Data from the EU Daphne project Companies Against Gender Violence (CARVE)<sup>48</sup> cites the following:<sup>49</sup>

- 83% of employee’s victims of aggressions have negative impact resulting from the violence and have difficulties to keep their job.
- 75% of the perpetrators had difficulties to concentrate and 19% provoked an accident at the workplace

### 4.3 Collective agreements and workplace policies

#### **La Poste**

In its collective agreement on gender equality, signed in July 2015 by all social partners represented in the company, in Section VIII, La Poste foresees a specific chapter on protection against domestic violence and on violence in the workplace. La Poste considers that the company is a privileged space where employees should find help and support, especially in case of domestic violence. The most important measures are as follows:

- The social assistants at each site of la Poste can be consulted in confidence in order to get psychological and practical support;
- A free hotline number (numéro vert) is available for victims;
- La Post has social housing policy and victims who have filed a complaint before a court are given priority access to urgent housing or re-housing measures;
- Management and HR try to find geographic professional “mobility”;
- Numbers of local NGO’s in the area are published on the intranet and the “black board” of site.

<sup>45</sup> INSERM-INED, Survey: « Contexte de la sexualité en France », 2006. Available at:

<http://www.centre-hubertine-auclert.fr/outil/enquete-contexte-de-la-sexualite-en-france-csf-2005-2006>

<sup>46</sup> *ibid.*

<sup>47</sup> RATP (*Parisian public transport services*), survey on harassment /aggression towards women in public transport for RATP, July 2015 available at:

[http://www.ratp.fr/fr/ratp/v\\_139610/contre-le-harcelement-des-femmes-dans-les-transports-la-ratp-agit/print/](http://www.ratp.fr/fr/ratp/v_139610/contre-le-harcelement-des-femmes-dans-les-transports-la-ratp-agit/print/)

<sup>48</sup> The CARVE (Companies against Gender Violence) project, 2014-2016, had an objective to raise awareness and prevent gender related violence committed against women through a comprehensive European campaign led by companies. The project’s purpose is to tackle domestic violence at the workplace.

<sup>49</sup> CARVE (companies against violence), final documentation, 2016, statistics available at: <http://carve-daphne.eu/wp-content/resources/CARVEposterFR.PDF>

## ***Carrefour SA Hypermarchés***

In Art. 2 of its company agreement on gender equality, signed in May 2012, Carrefour states that domestic violence is a problem regarding women and men regardless of their origin or their professional grade with catastrophic consequences for the person concerned. For Carrefour, it is part of its Corporate Social Responsibility strategies to inform and to train employees on the subject. Therefore, the company proposes to test training sessions on some sites and to potentially enlarge the module at the national level.

## ***PSA Peugeot Citroën***

PSA Peugeot Citroën is the second largest car manufacturer in Europe. Violence was addressed in a company-wide agreement in 2009 when a protocol to prevent and combat domestic violence was signed with the former Minister for Employment and Social Relations, Xavier Darcos. The latest agreement of 2014 includes an article on “supporting employees-victims of domestic violence” and encourages the various PSA sites to take action against gender-based violence.<sup>50</sup> The three identified priorities are: 1) relaying national campaigns; 2) training social, medical and HR services; 3) supporting employees-victims of violence.

Each PSA site can implement different actions within its plant to meet these objectives. For example, the Vesoul site reached out to the Information Centre on Women’s Rights and Families (CIDFF) to arrange training for the site’s managers. 150 managers were specifically trained to identify violence against women and an exhibition on the issue was organized. Awareness-raising initiatives were implemented, such as distribution of flyers including self-diagnosis (“Are you a victim?”).

## ***Orange***

The telecommunications company Orange has included in its 2014 agreement on gender equality an article about gender based violence. As part of the “Work organization, work-life balance, health and prevention”, this article offers to put in place an emergency action if a woman files a complaint. This emergency action concerns housing provided by the “Action Logement (housing)” initiative, enabling employees-victims of violence to access alternative housing solutions quickly and with more ease.

## ***Ministries of Finance and Economy***

The French Ministries of Finance and Economy mention gender based violence in their 2015-2017 Gender Equality Plan. The 20th measure aims to raise awareness on moral and sexual harassment through a wide communication, specifying the obligations of the employer concerning prevention. The 21th measure integrates violence issues within the broader policy concerning hygiene, security and working conditions. Although the focus is on violence in the workplace, it is stated that the different actors of prevention (social assistants, occupational health staff) can be alerted about tough professional situations resulting from violence occurring in the personal sphere. The 22th measure consists in providing HR staff and managers with information and tools allowing them to take charge of a situation when needed. The possibility for the relevant staff to create partnerships with specialised NGOs is also mentioned.<sup>51</sup>

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<sup>51</sup> Example cited by CARVE final documentation 2016, page 14. Available at : <http://carve-daphne.eu/wp-content/resources/CARVEguideEN.PDF>

## **Kering**

Kering, a world leader in apparel and accessories, launched its Corporate Foundation in 2009 to combat violence against women.<sup>52</sup> The Foundation focuses on one cause in each of the following regions: sexual Violence in the Americas; harmful Traditional Practices in Western Europe (France, Italy, UK); and domestic Violence in Asia. The Kering Foundation supports NGOs' projects and social entrepreneurs and organizes awareness campaigns involving the 38 000 Group's employees.

To understand what Domestic Violence is, prevent stereotypes and create a supportive work environment for survivors, the Kering Foundation designed a 3-hour training session for Kering's employees with *Fédération Nationale Solidarité Femmes (FNSF)*. Kering has formalized its commitment to training its employee and cascades national campaigns on domestic violence through the signature of a "Charter to prevent and combat Domestic Violence" by Mr Pinault, Chairman and CEO of Kering. It has been signed in France,<sup>53</sup> with FNSF, Italy with DiRe and the UK with Women's Aid. To date, more than 500 Kering employees have attended a training session.

## **Michelin**

**Michelin**, a tyre company, signed an agreement with unions in 2016 on "the development of diversity and professional equality between men and women". One of the paragraphs is specifically dedicated to domestic violence. The company commits to set up measures to improve the provision of care for victims. To that end, Michelin will work closely with the Regional Delegation to Women's Rights. Information about the ways to provide help and support will be disseminated among the occupational health staff, social assistants and human resources staff.<sup>54</sup>

## **RAJA – Danièle Marcovic foundation for women**

The RAJA – Danièle Marcovic foundation for women,<sup>55</sup> is the foundation of French company RAJA, specialized in packaging and is active on the issue with fund raising, information and awareness rising campaigns on domestic violence amongst its employees since 2014.

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

### **CFDT:**

- At the Conference in Amiens in 2013, the general program of the union was adopted for the period 2013-2017; only the decision to tackle the issue violence *at the workplace* was officially taken.<sup>56</sup> Nevertheless, on 25 November 2015, the equality department of CFDT, launched a comprehensive campaign with different visual and written supports for unions and employees on the topic of domestic violence.

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<sup>52</sup> Kering Foundation with focus on gender based violence, available at <http://www.keringfoundation.org/domestic-violence>

<sup>53</sup> Kering foundation context and text of the charters (France / Italy). Available at: <http://www.keringfoundation.org/charters-fight-against-and-prevent-domestic-violence>

<sup>54</sup> Example cited by CARVE page 19. Available at: <http://carve-daphne.eu/wp-content/resources/CARVEguideEN.PDF>

<sup>55</sup> Raja- Marcovici foundation. Available at: [http://fondation-raja-marcovici.com/documents/site/presse\\_communique\\_2010\\_1.pdf](http://fondation-raja-marcovici.com/documents/site/presse_communique_2010_1.pdf)

<sup>56</sup> CFDT, TOG 2013-2017 (general orientations 2013-2017), adopted at the Conference in Amiens, page 42 (section III.3.2.1)



- A poster addressed to victims of domestic violence “n’avez pas honte”; it mentions the fact that the unions representative of CFDT in the company is there also to offer help, advice and support in these cases.
- A poster addressed to the working community has the aim to raise awareness on the subject.
- A brochure addressed to all employees in order to contribute to the general discussion and knowledge on the topic.
- A brochure for union member activists in the companies: it gives concrete information, « keys » to face a victims of domestic violence and to help efficiently.

#### CGT:

For CGT, domestic violence is linked to the workplace and therefore integrated in their actions and reclamations. CGT therefore demands actions to combat any form of gender based violence. In negotiation on gender equality, CGT claims the necessity to always integrate a chapter on domestic violence and demands concrete actions to be taken by the employer.

- In 2014, CGT FP hold a conference in Paris on the topic for its members.
- In 2016, CGT published a brochure on gender-based violence for its representatives, including the issue of domestic violence.

#### FO:

FO does not actively promote the issue. For FO, it is a public, governmental task to adopt effective measures to protect women against domestic violence.

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

- The National Federation on solidarity for women (**Fédération Nationale Solidarité femmes**)<sup>57</sup> is a national wide federation regrouping at least 25 French local NGOs working on the fight against gender based domestic violence. FNSE has created a partnership with Kering foundation in order to inform and train their management on the issue of domestic violence. Since 2014, FNSE professionals are in charge with the official French national help line “3919” giving support and orientation to women facing violence.
- **fit**<sup>58</sup> (a women, a roof/une femme, un toit), is a NGO specialized in the fight against gender based violence. Its focus is the impact of domestic violence on the working situation of women. It trains and informs employers, managers, staff on the detection of domestic violence at work, the consequences and actions to be taken in the companies. In 2016, fit published together with the Centre hubertine auclert and financed by the Region Ile de France a comprehensive guide on the improvement of the access to work for victims of domestic violence.<sup>59</sup>
- **FACE**<sup>60</sup> (foundation agir contre l’exclusion/foundation against exclusion), is a foundation created in 1993 by 13 large French companies with more than 5000 members today. Between 2014-2016, it has conducted an EU project called CARVE<sup>61</sup> (companies against gender violence) for France. A comprehensive brochure on best practices examples in

<sup>57</sup> FNST (National Federation of women solidarity): <http://www.solidaritefemmes.org/index.php>

<sup>58</sup> FIT (une femme un toit/ a women, a roof): <http://www.associationfit.org>

<sup>59</sup> Centre Hubertine Auclert: <http://www.centre-hubertine-auclert.fr/sites/default/files/fichiers/guide-orvf-femmesemploi-web.pdf>

<sup>60</sup>FACE foundation: <http://www.fondationface.org/qui-sommes-nous/>

<sup>61</sup>EU project CARVE 2015/2016: <http://carve-daphne.eu>

five European countries with prevention strategies and concrete proposals on has been published in 2016. The focus is on the impact of domestic violence on the workplace.

#### **4.6 Challenges faced by unions**

- Internally, unions have different positions on how to tackle the issue and do not have a common position internally and at the national level.
- The workload of unions is very large and the capacities are limited.
- They are lacking good practices examples, European and international experiences especially on the domestic dimension.
- Evaluation of existing workplace policies and their impact do not existing in France and on the EU level; they could help to argue in favour.
- Regularly, national wide statistics on gender based violence are missing.
- No specific legal obligation to include violence and domestic violence exists for collective bargaining.
- Specific studies on the economic impact of domestic violence on the economic sector (companies) and estimation of the “gain” by a pro-active work place policy are missing.
- Networking between social partners, companies, NGOs is only very recent (CARVE project).

#### **4.7 Recommendations from unions**

- Edit a guide on European/international best practices on prevention and help at the workplace.
- Evaluate existing workplace policies.
- Carry out research on the economic impact of domestic violence on the business and public sector.
- Propose, at the EU level legislation with participation of unions, action on violence against women, obliging unions to become more active.
- Involve more men at the national and European levels on the issue. Open the women rights committees to active-feminist men.