Addressing work-related gender-based violence and harassment

Insights from the EU Directive on combating violence against women and domestic violence

Ceren Kasım

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european trade union institute

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Abstract

European Union Directive 2024/1385 on combating violence against women and domestic violence (Anti-VAW Directive) marks a historic moment for equality and equal opportunities in the European Union (EU) and stands out in many aspects. The aim of the Directive is to establish a holistic and effective framework for preventing and combating violence against women (VAW) and domestic violence (DV) throughout the EU. Foremost, it acknowledges that EU Member States have a shared responsibility to take action on these matters. The Anti-VAW Directive introduces detailed provisions and lays down rules with the aim of ensuring effectiveness and enforceability, while its obligations cover four key pillars: prevention and early intervention; protection and access to justice; victim support; and coordination and cooperation. It emphasises that VAW and DV pose a threat to fundamental values and rights, particularly equality between women and men and in the area of antidiscrimination. These forms of violence undermine the rights of women and girls to equality in all areas of life, including the world of work. This paper argues, however, that the Directive falls short of thoroughly regulating gender-based violence and harassment (GBVH) as far as employment is concerned. For instance, it does not make an explicit connection between DV and working life or VAW and occupational safety and health. Cyber violence at work and GBVH through management by artificial intelligence, algorithmic decision-making and digital surveillance are also not thematised, nor is third-party violence in the workplace regulated explicitly. Moreover, by not directly mentioning trade unions and social dialogue, the Directive overlooks important structures within employment. Yet, the Directive is in force and is to be transposed into the national laws of EU Member States by 2027. Besides this, it has the potential to serve as a model for non-EU states for their own national legislation concerning gender-based violence, as seen previously in respect of other EU legislation. Considering this, the paper recommends making the most of the Anti-VAW Directive and using it to tackle GBVH in the world of work until such times as there is European legislation specifically dedicated to work-related gender-based violence and harassment.

Keywords
Work-related gender-based violence and harassment; workplace violence; gender equality; gender-based violence; gender-based violence and harassment; violence against women; domestic violence; EU Law; EU Directive 2024/1385; Anti-VAW Directive; OSH; social dialogue; trade unions.

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Introduction

The first ever binding European Union (EU) legal instrument to address violence against women and domestic violence was adopted on 14 May 2024. Directive 2024/1385 on combating violence against women and domestic violence (Anti-VAW Directive) marks a historic moment in the promotion of equality and equal opportunities across the EU. It symbolises the EU´s dedication to achieving equality not only in terms of legal rights but also in practical, everyday experiences. The Anti-VAW Directive stands currently as the sole European Union legal instrument directly addressing gender-based violence (GBV) against women.

Gender-based violence is prevalent throughout the European Union, with one in three women reporting experiences of physical and/or sexual violence (FRA et al. 2024: 14). Each day, between six and seven women in Europe are killed by their partner or ex-partner, resulting in an estimated total of 2,300 women becoming victims of femicides annually (UNODC and UN Women 2023: 8). The prevalence of physical violence and/or threats experienced by women (excluding sexual violence) ranges from 8.5% to 31.2% across EU countries, averaging 13.5% (FRA et al. 2024: 17). For sexual violence, prevalence varies more widely, from 3.4% to 41.0% at an average of 17.2% (FRA et al. 2024: 17). Additionally, 17.7% of women have experienced violence from an intimate partner, highlighting the urgency of addressing domestic violence (FRA et al. 2024: 20).

The Anti-VAW Directive acknowledges this pressing issue by aiming to establish a comprehensive framework to tackle GBV across the EU. It represents a step closer to gender equality in the EU by criminalising many offences previously unrecognised and pledging preventive, supportive and prosecutorial measures linked with training and coordinated EU-wide policies. The Directive introduces detailed provisions and lays down rules with the aim of ensuring effectiveness and enforceability through a holistic approach, characterised by measures that are all-encompassing and interconnected right across the EU with the aim of addressing current shortcomings and strengthening legal safeguards at national level.

However, the Directive notably lacks detailed regulations on GBV at work, addressing this issue only marginally and indirectly, despite the Directive positioning itself as a legal instrument in support of International Labour Organization (ILO) Violence and Harassment Convention No. 190 (C190), where applicable (Recital 4). There are significant concerns about gender-based violence and harassment (GBVH) at work that therefore remain insufficiently addressed: nearly half of those who have experienced gender-based discrimination have also encountered violence and harassment at work (ILO 2022: 8). Conversely, only two

in ten individuals who have not faced gender-based discrimination have reported such experiences (ILO 2022: 8). Among women in the EU, 30.8% have experienced sexual harassment at work at least once, with the percentage rising significantly to 41.6% among those aged 18 to 29 (FRA et al. 2024: 36, 40). Alarmingly, global data shows that over 60% of survivors of GBVH in the workplace experience repeated incidents (ILO 2022: 8). Work-related GBVH affects not only the workers who experience it, but also employers and witnesses, contributing to psychological and physical harm, increased absenteeism and burnout, and reduced productivity (ILO 2018: 72, 75, 97). Given these factors, work-related GBVH warrants specific and detailed regulation. Thus, a directive claiming comprehensive scope should have more explicitly addressed GBVH at work.

With these considerations in mind, this working paper aims to evaluate the (potential) impact of the Anti-VAW Directive in the world of work. It focuses on the challenges and opportunities it presents for supporting survivors and preventing instances of GBVH that affect their work. The paper begins with an overview of the terminology and the legal framework underpinning the Directive. It then discusses the EU's stance and the developmental pathway that led to the adoption of the Directive. Subsequently, it examines various sections of the Directive, highlighting the changes, improvements and ongoing challenges within its scope with a particular focus on work-related GBVH. The paper then explores the dimensions of work-related GBVH that remain unaddressed within the Directive before the paper concludes.

1. Understanding the Anti-VAW Directive: terminology and background

1.1 The evolution of gender-based violence in international law: from CEDAW to the Istanbul Convention

Gender-based violence is a human rights violation (Art. 3(a) Istanbul Convention) and undermines the dignity and integrity of individuals, harming their self-worth and self-esteem (Pandea et al. 2019: 17, 18). It also jeopardises personal safety and denies women the ability to enjoy their rights and fundamental freedoms on the basis of equality, including the right to life, the right to liberty, security and equality, and the right to just and favourable working conditions (United Nations (UN) Committee on the Elimination of Discrimination against Women (CEDAW) General Recommendation (GR) No. 19). GBV is a form of discrimination (Art. 3(a) IC; CEDAW GR No. 19) which is deeply embedded in structural inequalities (Hunnicutt 2009: 556; MacKinnon 1979) related to stereotypes, prejudices and stigmas. Intersecting gendered power relations (Brubaker 2021: 719) and diverse systems of oppression – such as class, race and migration – (Crenshaw 1991) put women in a position in which they are more vulnerable to GBV (Gill 2018; Hall 1992). Members of minority communities and historically oppressed groups are disproportionately targeted and harmed by GBV (Crenshaw 1991). In this context, GBV serves as a pivotal social mechanism and tool of social domination (Brownmiller 1975; Crenshaw 1991), functioning as a model of correction by example (Pandea et al. 2019: 18).

The terms GBV and violence against women (VAW) – the term chosen by the Directive – gained recognition in international legal instruments at the end of the 1990s. While GBV is a broader term that encompasses violence directed at individuals based on their gender identity, with a disproportionate impact on women, it highlights the socially constructed nature of gender identities and extends to GBV against LGBTQ+ and men (Pandea et al. 2019: 17). VAW specifically refers to violence inflicted on women for gender-based reasons (Pandea et al. 2019: 17). The CEDAW General Recommendation, from 1992, made this connection between these two terms clear:

> … gender-based violence […] is violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. (CEDAW GR No. 19)

Following this, in 1993, the nonbinding UN Declaration on the Elimination of Violence against Women (DEVAW) provided initial definitions, later adopted by other legal documents, defining VAW in relation to GBV:

> … the term 'violence against women' means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. (Art. 1 DEVAW)

The 2011 Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) is the latest legally binding legal instrument within the human rights framework on GBV[1] and the sole binding European human rights document addressing the issue. As with many recent legal international law documents, the Istanbul Convention merges GBV and VAW into 'gender-based violence against women':

> … 'violence against women' is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. (Art. 3(a) Istanbul Convention)

> … 'gender-based violence against women' shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately. (Art. 3(d) Istanbul Convention)

Consequently, the Anti-VAW Directive's choice of the term 'VAW' instead of 'GBV' indicates a more reserved approach compared to other legal instruments.

The EU's accession to the Istanbul Convention in October 2023 was thus a significant advance towards a Europe free of GBV. The Convention also addresses GBVH, specifically in the context of sexual harassment (Art. 40). Some articles can be interpreted to include provisions on work-related GBVH (Pillinger 2017: 16). However, the Convention lacks specific and detailed measures on work-related GBVH and does not explicitly address the roles that employers and unions can play (Pillinger 2017: 16).

Controversy regarding the Istanbul Convention has arisen within the broader European context, particularly concerning the term 'gender'. Critics argue it promotes 'gender ideology' (Butler 2019, 2021), with some national courts declaring it unconstitutional (Bulgarian Constitutional Court 2018) or in disregard of religious beliefs (Amiel 2021; Wittenius 2021). Türkiye's withdrawal from the

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1. Legally binding human rights documents on GBV include: CEDAW 1979 (even though CEDAW does not directly mention GBV, GR No 19 does recognise that GBV constitutes discrimination within the meaning of CEDAW); the Belém do Parà Convention 1994; and the Maputo Protocol 2003.

Convention in 2021 set a concerning precedent (ETUC 2021; Kasım 2023: 197). The reluctance of all EU Member States to participate in the Convention had led to disagreements but, after a lengthy and complicated process, an Opinion of the European Court of Justice facilitated the Convention's ratification by allowing the Council to adopt it through a qualified majority vote, thereby integrating the Convention into EU law (European Commission 2020: 7; d'Ursel 2023: 814). The EU acceded to the Convention within the limits of its exclusive competences; that is, concerning judicial cooperation, asylum and non-refoulement as well as within the institutions and public administration of the Union (Council of the European Union 2023a, 2023b). Given that some EU Member States had not yet ratified the Istanbul Convention,[2] it was crucial for the EU to develop its own legal instrument (S&D 2024) to fulfil its stated commitment to creating a gender-equal Europe free of GBV.

1.2 Recognising work-related gender-based violence and harassment: legal framework and international response

Gender-based violence in the workplace or related to the employment sphere is a long-known, worldwide phenomenon. Workplaces are particularly strongly characterised by asymmetries, inequalities and power imbalances that have the potential to manifest violently, often reinforcing gender stereotypes, and to impede progress towards gender equality. These incidents often reflect deeper societal problems, structurally and inherently connected to gender-based discrimination and perpetuating women's subordination.

Work-related GBVH manifests itself in various forms from physical violence (such as hitting or spitting) to psychological violence (such as insults or bullying) (Baranska and Picard 2024; ETUC 2024b; ILO 2022) among which there is the sexual harassment faced by women workers. In this context, violence refers to 'a generic term that covers all kinds of abuse' (Milczarek 2010: 16); harassment has been defined with different focuses, often considered to include 'bullying', 'mobbing', 'psychological harassment', 'emotional abuse' and 'workplace aggression' (Milczarek 2010: 21ff), whereas the European Framework Agreement on the subject defines harassment as deliberate abuse, threat and/or humiliation (ETUC et al. 2007: 5).

The term 'sexual harassment' provided women with the opportunity to articulate their unique workplace experiences. It first emerged as a legal concept in the late 1970s, influenced by the success of the women's movement in US civil rights litigation (Collier 2024: 576; MacKinnon and Siegel 2004). In 1975, during a New York City Human Rights Commission hearing regarding the case of Carmita Wood, the phrase was used to describe women's struggles (Brownmiller and Alexander

2. Bulgaria, Czechia, Hungary, Lithuania and Slovakia have not yet ratified the Istanbul Convention. Latvia did so on 1 May 2024, after the EU's accession.

1992). Ms Wood had been harassed by her supervisor and, after suffering physical symptoms, resigned but was denied unemployment benefit. According to Farley (2017), this event gave name to a pervasive issue faced by many women: sexual harassment.

The concept slowly gained recognition in legal judgments, with its definition expanding over time, initially in the United States and later internationally[3] (Collier 2024: 576; Heise and Sherwyn 2021: 974ff). In her influential book, MacKinnon (1979) highlighted the social dynamics of workplace (sexual) violence, linking it to social and economic inequalities and arguing that workplace sexual harassment is a form of sex discrimination under existing laws. Consequently, numerous national legal instruments worldwide evolved to prohibit sexual harassment, ranging from quid pro quo situations to ones based on a hostile work environment (Collier 2024: 576; De Vido and Sosa 2021: 86ff; Hersch 2024; Heymann et al. 2023).

Latterly, from 2017, the #MeToo[4] movement brought renewed public attention to the issue of workplace sexual harassment and gender-based violence (Noel and Oppenheimer 2020). This resurgence in awareness also supported the International Labour Organization's efforts to establish a convention specifically addressing violence and harassment at work. As early as 2015, the ILO Governing Body had already decided to introduce a standard setting agenda item on violence against women and men in the work environment (ILO 2015: 4). While ILO Convention No. 111 on Discrimination – according to which sexual harassment is interpreted as a form of discrimination and covered under the protection that the Convention provides (ILO 2016: 9) – and other occupational safety and health (OSH)[5] instruments have together supplied a legal framework, what is lacking is targeted, integrated and comprehensive regulations to prevent, address and redress work-related violence.

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3. A 1974 case is often regarded as the first case related to sexual harassment, although the term 'sexual harassment' was not used: see *Barnes v. Train*, 13 Fair Empl. Prac. Cas. 123 (D.D.C. 1974). The first decision that recognised 'quid pro quo (something for something) sexual harassment' as sex discrimination was from 1976: see *Williams v. Saxbe*, 413 F. Supp. 654 (D.D.C., 1976). In such cases, sexual requests are conditioned as a requirement for employment or as a means of influencing decisions regarding employment benefits. In 1986, 'hostile work environment sexual harassment' was recognised as a form of sex discrimination: see *Meritor Savings Bank v Vinson*, 477 U.S. 57, Case No 84-1979 (US Supreme Court 1986). In these cases, unwanted sexual advances or various types of sexual conduct can disrupt a person's work or create a hostile or offensive working environment. In 1992, the French labour code included a legal definition of sexual harassment for the first time, while in 1994, Germany passed the Act on the Protection of Employees against Sexual Harassment in the Workplace with the aim of safeguarding the dignity of women and men. In 2002, EU Directive 2002/73/EC defined harassment and sexual harassment, this then being transposed to the national laws of the Member States.

4. In 2006, Tarana Burke introduced the term 'MeToo' on social media. Following numerous allegations against Hollywood producer Harvey Weinstein in October 2017, actress Alyssa Milano urged women on Twitter (later X) to use the hashtag #MeToo if they had also faced sexual harassment or assault (Noel and Oppenheimer 2020).

5. Some of the relevant ILO OSH instruments: Occupational Safety and Health Convention 1981 (No. 155); Promotional Framework for Occupational Safety and Health Convention 2006 (No. 187); Employment Injury Benefits Convention 1964 [Schedule I amended in 1980] (No. 121).

The initiative to tackle this gap met with wide support from trade unions (IndustriALL 2019; ITUC 2021) and so, 'to ensure the range of unacceptable behaviour is adequately understood and addressed', the term 'violence and harassment' was adopted (ILO 2016: 9). The result of this initiative was the ILO Violence and Harassment Convention No. 190 (C190), adopted in 2019 as a significant legal document. It applies to occurrences of violence and harassment in the world of work during, linked with or arising from work (Art. 3), aiming to protect all workers, regardless of sex or gender identity, while acknowledging the distinct circumstances of GBVH (Art. 1). Importantly, C190 aligns work-related violence and harassment with OSH policies (Art. 11 and others).

To this end, work-related violence and harassment and GBVH are defined in C190 as follows:

> … the term 'violence and harassment' in the world of work refers to a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm and includes gender-based violence and harassment. (Art. 1(1)(a) C190)

> … the term 'gender-based violence and harassment' means violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment. (Art. 1(1)(b) C190)

GBVH is a comprehensive term that includes violence against women, domestic violence, stalking, sexual harassment and other forms of violence directed at persons of all gender. As of now, C190, along with the Violence and Harassment Recommendation No. 206 (R206), stands as the foremost international legal framework addressing GBVH. In March 2024, the EU Council invited Member States to ratify C190 (European Council 2024); despite this effort, however, at the time of writing, C190 has been ratified by only fourteen EU Member States and is in force in only eleven.[6] This made the need for an EU-wide instrument on work-related GBVH more urgent.

6. C190 is signed and in force in: Belgium (June 2023), Denmark (June 2025), Finland (June 2025), France (April 2023), Germany (June 2023), Greece (August 2021), Ireland (January 2023), Italy (October 2021), Portugal (February 2024), Romania (June 2025) and Spain (May 2022). The Convention is signed but not yet in force in: Austria (September 2024; effective September 2025), Cyprus (March 2024; effective March 2026) and Estonia (December 2024; effective December 2025).

2. EU stance and the pathway to the Anti-VAW Directive

Building upon this foundational understanding, the EU's strategic stance and the evolution of the Anti-VAW Directive illuminate the Union's commitment to addressing these pressing issues.

2.1 Addressing gender-based violence in EU law: the role of the Anti-VAW Directive

Equality between women and men has been a core value of the EU since its inception (European Commission 2020: 1). Despite this, prior to the Anti-VAW Directive, European law lacked a specific EU legal instrument addressing GBV. The only exception was the Istanbul Convention, adopted shortly before the Directive but which has limited applicability (see Section 1.1.). Other legislation which could be applied indirectly has proved to be ineffective (Gasmi 2024: 86).

Table 1 summarises the EU legal instruments relevant to GBV other than the Anti-VAW Directive.

Table 1 **EU legal instruments relevant to GBV other than the Anti-VAW Directive**

Art. 1, 2, 4, 21, 23, 47 Charter of Fundamental Rights of the EU
Art. 2, 3(2) Treaty on the EU
Art. 8, 10, 19 Treaty on the Functioning of the EU
Istanbul Convention (dealing only with those areas where the EU has the sole decision-making competence)
Victims' Rights Directive 2012/29/EU
European Protection Order Directive 2011/99/EU; and Mutual Recognition Regulation No 606/2013
Child Sexual Abuse Directive 2011/93/EU
Anti-Trafficking Directive 2011/36/EU
Compensation Directive 2004/80/EC
Antidiscrimination directives

Source: European Commision 2022: 2ff.

Gender equality received renewed attention and a clearer political focus within the European Commission following the 2019 European elections (Debusscher 2022: 91; Rigotti et. al. 2024: 7). Published in 2020, Gender Equality Strategy envisions a Europe where women and men, in all their diversity, are equal and free to pursue their chosen path in life without the constraints of stereotypical gender norms (European Commission 2020: 2-3). Within this context, the Strategy identifies GBV as one of society's major challenges and a phenomenon deeply

rooted in gender inequality (European Commission 2020: 3). It declares that the EU will make every effort to prevent and combat GBV and to support and protect survivors, setting the ambitious goal of achieving 'a gender equal Europe where gender-based violence is a thing of the past' (European Commission 2020: 3). The European Commission thus committed itself to implementing measures to prevent and tackle GBV.

As part of this commitment, the Anti-VAW Directive was launched in 2022 on a significant and symbolic date for women's rights – International Women's Day (European Commission 2022). This launch was supported by efforts from European women's organisations advocating a European legal instrument to empower women in Europe and to create a safer environment for women, particularly concerning GBV (EWL 2024). The proposal for the directive was innovative and more ambitious than the Directive itself, also encompassing a regulation on sexual harassment and positioning itself as a tool to implement the Istanbul Convention (European Commission 2022: 7; Gasmi 2024: 84). A less progressive deal over the final text of the Directive was, however, eventually reached in the trilogue process between the European Commission, the European Parliament and the Council (Dell'Aquila 2024; European Parliament 2024; Kasım 2024). The finalised Anti-VAW Directive sets minimum standards and is to be transposed into the national laws of EU Member States by 2027 (Art. 49(1)).

The Directive is unique in many respects. It is the first legally binding EU legal instrument that directly addresses GBV, is dedicated to ending violence against women and acknowledges the shared responsibility of EU Member States on the issue (OHCHR 2024). Aligned with the four aims of the Istanbul Convention (Kasım 2024), it advocates a comprehensive approach and covers four key pillars: prevention and early intervention; protection and access to justice; victim support; and coordination and cooperation. The framework aims to address the needs of the survivors of violence against women with a sensitivity regarding sex and gender issues. It serves as a notable example of an instrument that seeks to combine prevention with protection and access to justice. Typically, the EU's policy work functions with insufficient coordination across various areas of GBV. For instance, while gender equality and other antidiscrimination directives focus on promoting individual complaints, they contrast with the collective prevention focus seen in OSH directives. In contrast, the Anti-VAW Directive emphasises policy coordination, making it unique in this regard, too.

2.2 Addressing work-related gender-based violence: evaluating the EU's legal framework and the Anti-VAW Directive

When addressing work-related GBVH, EU law presents fragmented regulations that include both OSH and antidiscrimination directives. Although the link between harassment and OSH has been recognised for some time, these regulations often lack a gender specific perspective, treating sex-based and sexual harassment as isolated incidents involving the survivors (Petroglou 2019: 22-23; Salin and Hoel 2013).

Table 2 **EU legal instruments relevant to work-related GBVH**

OSH Framework Directive 89/391/EEC
EU antidiscrimination directives: • Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) (Recast Directive) • Directive 2010/41/EU on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity • Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (on the grounds of religion or belief, disability, age or sexual orientation) (Employment Equality Directive)
European Protection Order Directive 2011/99/EU
Victims' Rights Directive 2012/29/EU

Source: developed by the author.

Conversely, the EU antidiscrimination directives from the 2000s related to gender equality identify harassment based on sex and sexual harassment as forms of discrimination in areas concerning employment and occupation (Heymann et al. 2023; Petroglou 2019: 23ff). Directives 2006/54/EC, 2010/41/EU and 2004/113/EC specifically address sex-based and sexual harassment in relation to the principle of equal treatment between men and women. Meanwhile, Directive 2000/78/EC ensures freedom from harassment based on sexual orientation, but does not explicitly refer to sexual harassment. Traditionally, EU law interprets harassment and sexual harassment as violations of individual dignity, forms a perspective known as the 'dignity harm approach' (Baer 1995, 2009; Numhauser-Henning and Laulom 2013, Numhauser-Henning 2022; Petroglou 2019). In consequence, its treatment of sex-based and sexual harassment as isolated incidents means that it potentially overlooks broader structural gender discrimination (Numhauser-Henning 2022: 315). In contrast, 'discriminatory approach' highlights the structural inequalities (Baer 1995, 2009; Numhauser-Henning 2022) and views harassment as part of a societal problem rooted in historical inequalities and gendered power imbalances.

Consequently, the EU framework on work-related GBVH has gradually shifted from solely focusing on health and safety and dignity harm to a dual approach incorporating both the dignity harm approach and the discriminatory approach (Petroglou 2019: 22; von Wulfen and Kocher 2024).

Table 3 provides an overview of the EU legal instruments that define 'harassment' and 'sexual harassment'; while Table 4 presents definitions of sex-based harassment, harassment based on sexual orientation and sexual harassment.

Table 3 **EU legal instruments defining harassment and sexual harassment**

Harassment	Art. 2(1)(c) and Art. 2(2)(a) Directive 2006/54/EC: harassment based on sex Art. 3(c) and Art. 4(2) Directive 2010/41/EU: harassment based on sex Art. 2(c) and Art. 4(3) Directive 2004/113/EC: harassment based on sex
	Art. 2(3) Directive 2000/43/EC: harassment based on the grounds of racial or ethnic origin Art. 2(3) Directive 2000/78/EC: harassment based on the grounds of religion or belief, disability, age or sexual orientation
Sexual harassment	Art. 2(1)(d) and Art. 2(2)(a) Directive 2006/54/EC Art. 3(d) and Art. 4(2) Directive 2010/41/EU Art. 2(d) and Art. 4(3) Directive 2004/113/EC

Source: developed by the author.

Table 4 **EU law definitions of sex-based harassment, harassment based on sexual orientation and sexual harassment**

Harassment	'harassment: where an unwanted conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment' Art. 2(1)(c) Directive 2006/54/EC; Art. 3(c) Directive 2010/41/EU; and Art. 2(c) Directive 2004/113/EC
	'Harassment [...] when unwanted conduct related to [sexual orientation] takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment' Art. 2(3) Directive 2000/78/EC
Sexual harassment	'sexual harassment: where any form of unwanted physical, verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment' Art. 2(1)(d) Directive 2006/54/EC; Art. 3(d) Directive 2010/41/EU; and Art. 2(d) Directive 2004/113/EC

Source: developed by the author.

Despite the existing EU legislation on sexual and sex-based harassment, its effectiveness remains limited (De Vido and Sosa 2021: 86; European Parliament 2023: 3; Petroglou 2019: 32). There are various factors that contribute to a low willingness to seek help under civil and criminal law, as indicated by low reporting and access to justice rates (Petroglou 2019: 27; Pichi 2022: 403), demonstrating that the prevention, protection and support measures are insufficient (Pichi 2022: 403). The Anti-VAW Directive could have addressed these gaps: the Gender Equality Strategy includes work-related GBVH (European Commission 2022: 3) while the original proposal also encompassed sexual harassment at work – although only to a limited extent. Furthermore, the European Pillar of Social Rights Action Plan reaffirms these policies (European Commission 2021: 19) and, as commented above, the Directive sees itself as existing in support of C190. Nevertheless, efforts to incorporate specific provisions on work-related violence were unsuccessful, leaving them absent from the final text (EPSU 2024). By not covering employment sufficiently, the Directive deviates from its own desire to be comprehensive. Sections 3 and 4 look at this issue more closely.

3. Exploring work-related gender-based violence and harassment under the Anti-VAW Directive: opportunities and challenges

The evidently limited effectiveness of the existing EU framework for tackling gender-based violence and harassment at work highlights the need for more targeted legislative interventions. While the Anti-VAW Directive's approach to violence against women provides fertile ground for advocacy and policy initiatives aimed at enhancing workplace protections, it still falls short in addressing the intricate realities of work-related GBVH.

As the Directive's transposition in EU Member States is now underway, it holds the promise of influencing global regulatory practices beyond the Union's borders. This phenomenon, often referred to as the 'Brussels effect' (Bradford 2012), suggests that the Directive could serve as a benchmark for other countries developing similar national regulations. Therefore, it is crucial to make use of the Directive's provisions – despite them not being specifically tailored for work-related GBVH – until more focused legislation emerges.

In this context, this section examines the untapped opportunities the Directive offers for reinforcing protections against GBVH at work. It explores the various parts of the Directive and identifies those elements that are or could be particularly useful in workplace settings, while also highlighting the ongoing challenges. It argues that, when transposing the Directive, Member States could make the link between instances of GBV and their effects on the world of work more explicit and use the Directive strategically to enhance protections against work-related GBVH.

3.1 General provisions under the Anti-VAW Directive

3.1.1 Terminology: violence against women vs. gender-based violence

The Directive defines itself by aiming to provide a comprehensive framework to prevent and combat violence against women and domestic violence. It offers the first explicit definition of 'violence against women' in EU law, significantly drawing on the Istanbul Convention (Art. 3(a), (d) and (f)):

> … 'violence against women' means all acts of gender-based violence directed against a woman or a girl because she is a woman or a girl or that affect women or girls disproportionately, that result in or are likely to result in physical, sexual,

> psychological or economic harm or suffering, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. (Art. 2(a) Anti-VAW Directive)

The Directive's regulations on prevention, protection of victims,[7] support and coordination apply to all, regardless of gender (Art. 1(2)). While this marks a progressive step, the Directive lacks a distinct gender perspective (Dell'Aquila 2024) that deeply acknowledges the structural and societal gender-based inequalities contributing to violence. By using VAW as an umbrella term, a phrase that excludes individuals who do not fit within binary gender categories (Dell'Aquila 2024; Spurek and Giner 2023; WAVE 2024), the Directive fails to account for the diverse experiences of all those affected by GBV. Unlike the Istanbul Convention, the Directive does not provide comprehensive definitions separating 'gender' (Art. 3(c) IC) and 'sex', nor does it differentiate clearly between 'gender-based violence' and 'violence against women'. CEDAW has already amended GR No. 19 (see Section 1) with GR No. 35 (CEDAW 2017) by explicitly choosing the phrase 'gender-based violence against women', a more inclusive approach to addressing the issue. C190 uses the particular term GBVH, making it clear that it refers to violence and harassment directed at someone because of their sex or gender (Art. 1(1)(b) C190). As the language is performative (Butler 1988), this interchangeability and lack of clarity in the Directive reflects a missed opportunity to root it firmly in understandings of gender as a social construct and to comprehend violence within its societal context rather than viewing it as an individual problem.

Despite this, the Directive introduces a perspective on violence against women which has the potential to influence workplace regulation, if implemented in an ambitious and progressive way. The definition of violence against women includes all acts occurring both in private contexts, such as families and intimate relationships, and the public sphere, which should include the workplace. Not limited by the perpetrator's identity, this definition encompasses interpersonal violence but also the violence perpetrated by organisations or institutions (Pandea 2019: 23). Consequently, all incidents of GBVH in workplaces and work-related situations should be recognised, covering dynamics including employer on worker, worker on worker – up, across and down the chain of command –, customers/clients, in personal relationship to the worker (such as in domestic situations) and the actions of legal entities.

Moreover, the Directive links economic harm and suffering, referring to all acts of GBV causing or likely to cause economic harm or suffering. In private settings, economic violence may involve seizing the victim's earnings, preventing them from generating income (e.g. by forcing them to work without pay in a family business) or incapacitating them from working through targeted physical abuse (Pandea 2019: 27). In public domains, economic violence might include denying

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7. The 'victim' terminology used in the Directive is problematic from a survivor-centred perspective. Indeed, this is one of its weaknesses. However, this term has been adopted in this paper where it refers to the Directive's provisions; elsewhere, in non-specific contexts, it uses 'survivor'.

access to (equally) paid work or exclusion from certain jobs (Pandea 2019: 27). Moreover, public forms of economic GBVH can force women into economic dependency on their partners due to factors like lower wages, insufficient childcare allowances or benefits which are tied to the partner's income (Pandea 2019: 27). Austerity measures are considered by some to be a form of economic violence (ETUC 2024a: 1). When the Directive is transposed into national laws, violence against women must be assessed to include economic violence as well.

3.1.2 Intersectionality in focus

One of the most visionary aspects of the Directive is its consistent reference and emphasis on 'intersectional discrimination' (Crenshaw 1989). This term highlights how different discriminatory grounds interact multifacetedly. The Directive acknowledges that women facing intersectional discrimination are at an increased risk of GBV (Rec. 6; Art. 16, 33(1), 36(10)). It underscores that intersectional discrimination results from a combination of sex and other grounds (Rec. 6, 71; Art. 21, 33; PICUM 2022) (see Table 5). The Directive addresses intersectional discrimination in key areas such as individual needs assessment, special support and training for professionals likely to come into contact with victims (Art. 16, 33, 36), while it expects Member States to take intersectionality into consideration when implementing all the measures provided for by the Directive (Rec. 6). Ultimately, the Directive's emphasis on intersectionality demonstrates the need for a review and reform of all relevant legal documents in Member States – including those related to work – that lack a gender intersectional perspective, pinpointing the value of transposing the Directive into legislation at national level.

Table 5 lists the grounds explicitly referenced by the Directive that may lead to intersectional discrimination in combination with sex.

Consequently, the Directive extends protection to groups in vulnerable situations who are at risk of all forms of GBV, which are often the least protected and supported in society. In the employment sphere, as noted by ILO data, the likelihood of facing violence and harassment varies between different demographic groups. Certain groups, such as young people and migrants, face a higher risk. Notably, this risk increases when characteristics intersect: young women are twice as likely as young men to experience sexual violence and harassment but, when gender intersects with migration status, the disparity becomes even more pronounced: migrant women are nearly twice as likely as non-migrant women to report such incidents (ILO 2022: 46). In the Directive, however, a direct connection between intersectionality and work-related GBVH is made only in Article 28. This – in conjunction with Article 33 – can be interpreted as requiring Member States to ensure 'specific support for victims of sexual harassment at work', in countries where it constitutes a criminal offence under national law (see Section 4.1.), with particular attention to 'victims experiencing intersectional discrimination'. Ultimately, however, the Directive fails to extend its impact sufficiently to the work settings.

Table 5 **Grounds explicitly referenced by Anti-VAW Directive that may cause intersectional discrimination when combined with sex (according to Recitals 6 and 71)**

Race
Colour
Ethnic or social origin
Genetic features
Language
Religion or belief
Political or any other opinion
Membership of a national minority
Property
Birth
Disability
Age
Sexual orientation
Women with residence status as a dependant or with a dependant's residence permit
Undocumented migrant women
Women applicants for international protection
Women fleeing armed conflict
Women affected by homelessness
Women with a minority racial or ethnic background
Women with disabilities
Lesbian, gay, bisexual, trans or intersex persons
Older women
Women with alcohol and drug use disorders
Women living in rural areas
Women detainees
Women in prostitution
Women with low income

Source: developed by the author.

3.2 New offences introduced by the Anti-VAW Directive

The Directive introduces offences like female genital mutilation, forced marriage and cybercrime into the European legal framework, explicitly criminalising these as forms of GBV (in its Chapter 2). By closing the legal gaps, it advances gender equality in the EU, demonstrating that these issues are not merely products of cultural differences but are rather gender-related crimes (Dell'Aquila 2024).

3.2.1 Cyber violence and its implications for employment

Cyber violence is emerging as a critical issue. The Directive places significant emphasis on addressing cyber violence and, for the first time in the EU, criminalises those forms that predominantly target women due to their gender (Neves 2024). These include the non-consensual sharing of intimate or manipulated material (Art. 5), cyberstalking (Art. 6), cyber harassment (Art. 7) and cyber incitement (Art. 8). These new regulations may create opportunities to address cyber violence in the workplace. Although the Directive does not establish explicit connections with work – aside from its mention of cyber harassment in this context (Rec. 24) – it also does not prohibit such interpretations. This is an area where the national authorities could provide greater clarity during the transposition process and potentially strengthen the protections for those affected.

The non-consensual sharing of intimate or manipulated material involves making sexually explicit content publicly accessible via information and communications technologies (ICT) without consent – such as photographs or audio clips – (Art. 5(1)(b)). The material must be accessible to the public via ICT, which implies it could potentially reach a large audience (Rec. 18). This includes instances of deepfakes (Rec. 19; Neves 2024). The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) emphasises that the non-consensual sharing of intimate or manipulated material can amount to sexual harassment at work under the Istanbul Convention (Art. 40 IC; GREVIO 2021: 18; Tevere 2023: 484). Based on this, it can be concluded that the non-consensual sharing of intimate or manipulated material is a workplace issue and should be categorised as GBVH (ETUC 2022).

Table 6 **GREVIO's list of acts that constitute cyberstalking**

Threats of a sexual, economic, physical or psychological nature
Damage to reputation
Monitoring and gathering of private information on the victim
Identity theft
Solicitation for sex
Impersonating the victim
Harassing with accomplices to isolate the victim
Surveillance or spying on the victim, on the victim's various social media or messaging platforms, on the victim's e-mails and phone
Stealing passwords
Cracking or hacking the victim's devices to access their private spaces via the installation of spyware or geo-localisation apps, or via stealing their devices
Taking on the identity of the other person or monitoring the victim via technology devices connected through the Internet of Things, such as smart home appliances

Source: GREVIO 2021: 19.

Cyberstalking entails ongoing surveillance through ICT to track or monitor an individual's activities without consent (Art. 6): 'track' refers to tracing a person's location and following their movements; 'monitoring' refers to observing a person's activities more generally (Rec. 24). Cyberstalking encompasses, among

other things, threats of a sexual, economic, physical or psychological nature and damage to reputation (GREVIO 2021: 19). Table 6 lists those acts that are considered cyberstalking according to GREVIO; while Table 7 lists those that constitute cyberstalking according to the Anti-VAW Directive.

Table 7 **List of activities constituting cyberstalking according to Recital 21 of Anti-VAW Directive**

Surveillance of the victim by means of ICT
Processing the victim's personal data
Identity theft
Stealing passwords
Hacking the victim's devices, by secretly activating keylogging software to access the victim's private spaces, by installing geo-localisation apps, including stalkerware, or by stealing the victim's devices
Monitoring of victims, via technological devices connected through the Internet of Things, such as smart home appliances)

Source: developed by the author.

Similarly, cyber harassment includes threatening or insulting conduct through ICT (Art. 7(a) and ((b)) and 'cyberflashing', which is the unsolicited sending of explicit material (Art. 7(c)). Recital 24 emphasises that cyber harassment can occur particularly in work settings.

Cyber incitement to violence or hatred targets via ICT a group or individuals based on gender (Art. 8). This presupposes that the incitement is not expressed in a purely private context but publicly through the use of ICT and to a potentially unlimited number of persons (Rec. 26). Women frequently become targets of sexist and misogynous online hate which can escalate into offline hate crimes (Rec. 25). GREVIO categorises sexist hate speech as sexual harassment and emphasises that these acts often contribute to a social climate where women are demeaned, their self-regard lowered and their activities and choices restricted, including at work (GREVIO 2021: 19).

As Recital 18 also indicates, the use of ICT carries the risk of quickly and widely amplifying certain forms of cyber violence. This can pose a significant threat of causing or exacerbating severe and long-lasting harm to the survivor. Cyber violence in an employment context disproportionately affects women. This type of violence can aim to tarnish women's professional reputations, derail their careers or even cause them to lose their jobs, thereby diminishing the reputation and confidence of women workers at all levels, but particularly those in higher positions (Jane 2018: 3; McLaughlin et al. 2012: 625, 627ff.; ETUC 2022). While the Directive emphasises the importance of penalising gender-based cybercrimes, it falls short of detailing how these offences should be managed in work settings.

On the other hand, while the Directive addresses certain forms of ICT-facilitated violence, it notably lacks explicit regulations regarding the role of other modern technologies, such as AI management or algorithmic decision-making, in perpetuating violence at work. Employers using surveillance tools that border on harassment and that perpetuate gender discrimination are not adequately

regulated within this framework, and neither are gender discriminatory AI algorithms, or highly invasive and potentially discriminatory digital surveillance, regarded as a form of GBVH. The evolving nature of technology-mediated violence is posing new threats and challenges at work; without explicit employer responsibilities and clear workplace policy guidance, a significant area of potential harm remains unaddressed.

3.2.2 Recognising aggravating circumstances

The Directive identifies aggravating circumstances in the offences that it criminalises in Art. 3 to 8 and then, in Art. 11, extends this to cyber violence. In recognising aggravating circumstances for offences, including cybercrimes, the Directive broadens its protective scope. Such circumstances include offences driven by the survivor's political beliefs (Art. 11(p)) while the protections are extended to crimes committed against human rights defenders (Art. 11(n)) – defined as individuals, groups or organisations advocating universally recognised human rights and fundamental freedoms (Rec. 17).

Cyber violence is having a significant impact on women politicians and human rights defenders (Rec. 17; Pichi 2022: 401). Violence against trade unionists is also prevalent in the EU (ITUC 2024: 12). As human rights defenders, trade unionists are at increased risk of experiencing GBV, particularly through cybercrime. To enhance protection and deterrence, Member States must be encouraged to consider these factors as aggravating circumstances.

3.3 Protection of victims and access to justice

Beyond criminalisation, the Directive's focus on survivor protection and access to justice presents both challenges and prospects for meaningful implementation. Its core aim is to ensure that survivors of all forms of VAW can access their rights before, during and after criminal proceedings. A key component related to work is the issue of emergency barring and restraining orders to protect survivors or their dependants from immediate harm by preventing offenders from approaching the victim's workplace (Art. 19(1)). Survivors should be promptly notified of any breaches (Art. 19(6)) and any breach should result in effective and proportionate penalties (Art. 19(5)). Still, the Directive does not go into detail on situations such as when perpetrators are workplace colleagues or concerning remote work and domestic violence, leaving room for refinement.

In practice, while all Member States ensure access to the courts as a fundamental right under antidiscrimination directives related to sex-based and sexual harassment, the overall rate of gender equality litigation remains quite low in many (Petroglou 2019: 29). Research indicates that survivors face several common challenges and obstacles which may contribute to the low level of litigation: the cost and duration of legal proceedings; insufficient time limits for initiating lawsuits; restrictive conditions for eligibility for legal aid; inadequate compensation levels; and a lack of skilled and experienced advice and support

(Timmer and Senden 2019: 84). Additionally, deeply ingrained traditional gender stereotypes foster a greater degree of societal tolerance, while claimants often lack confidence that their claims will be believed, compounded by difficulties in providing proof (Timmer and Senden 2019: 84).

Furthermore, there is a stigma in work settings associated with being labelled a troublemaker in such cases, along with a fear of retaliation or victimisation, particularly in small businesses where close or hierarchical relationships with the perpetrator are common and where being discriminated against or dismissed represents a significant problem (Timmer and Senden 2019: 84). The low unemployment benefits also being subject to strict conditions worsen these circumstances, while additional factors – such as barriers to labour market participation, care responsibilities, in-work poverty, unequal pay and an underfunded public sector – play a substantial role in sustaining them: factors which have an impact not only on survivors but also witnesses (Petroglou 2019: 30). Finally, there is also a lack of specific rights in the first place that enable women's and workers' organisations to file lawsuits (Timmer and Senden 2019: 84).

While the Directive promises to ensure that survivors have smooth access to justice, it remains silent on the generally low rate of gender equality litigation. This issue is particularly relevant for survivors of sex-based and sexual harassment at work, as addressed by EU antidiscrimination directives.

3.4 Victim support services

Integral to justice is the level of support extended to survivors which the Directive addresses with varying levels of comprehensiveness. It does emphasise providing special support services to victims, irrespective of whether any formal complaint has been filed. These services also offer work-related support, including financial assistance, support to maintain or find employment (Art. 25(1)(a)) and services for socioeconomic integration after sexual exploitation (Art. 25(1)(f)).

3.5 Prevention, early intervention and the world of work

Promoting preventive measures and early intervention, the Directive supports multi-layered strategies. Preventive measures may include conducting or supporting awareness raising campaigns targeting young people (Art. 34(2)(1)). Furthermore, educational and research initiatives should aim to deepen understanding of various forms of VAW and DV, as well as their root causes (Art. 34(2)(2)). Collaboration with the social partners in developing these programmes is encouraged (Art. 34(2)(3)) (see also Section 4.5).

It is crucial to highlight that these mechanisms might benefit from being extended beyond basic preventive measures to include compulsory and comprehensive education about consent and to challenge negative gender norms (Art. 34 and 35)

(HRW 2024), with a particular focus on groups at heightened risk of intersectional discrimination (Art. 34(4)). Although not explicitly stated, it seems advisable in the context of the workplace to include, as regards prevention and early intervention, a clearly communicated mission statement during recruitment, risk analysis, a complaints system, minimum reporting guidelines and emergency plans (Opperman et al. 2018). Furthermore, consideration could be given to the reorganisation of the workplace or work processes that might exacerbate vulnerabilities to GBVH.

GBVH at work is rooted in a wider climate of injustice and inequality (ILO 2022: 46). In light of this, a key component of prevention and early intervention is the increase of awareness and a deepening in understanding of GBVH at work. This involves tackling social stigma and changing attitudes toward GBVH in order to shift perceptions and behaviours. Adopting a rights-based framework is crucial for the prevention and elimination of violence and harassment. Such a framework should be grounded in human rights and aimed at eradicating inequalities in the world of work that lead to GBVH. Furthermore, it is essential to enhance the capacity of trade unions and institutions at all levels to deliver effective prevention, remediation and support services (ILO 2022: 47). In consequence, the Directive should have explicitly included the employment sphere in its prevention and early intervention mechanisms but, unfortunately, this is missing.

Another aspect of prevention is training which targets officials and professionals across sectors to equip them with the knowledge to prevent, recognise and address GBV (Art. 36). Rooting its aims in human rights, such training should be 'victim centred and gender, disability and child sensitive' (Art. 36(1)). Training would encompass those officials likely to interact with survivors, such as police officers, healthcare professionals, social service staff and educational personnel, but also legal professionals such as judges (including labour law judges), prosecutors, lawyers and court staff (Art. 36). One could argue that OSH professionals and labour inspectors should also be included in such training.

3.6 Coordination and cooperation

In its requirement for comprehensive policies, the Directive envisions coordinated strategies among authorities for effective implementation (Art. 38) and the development of national action plans to tackle GBV with cooperation at Union level (Art. 43). Despite not being explicitly mentioned in the text, one interpretation is that these policies should encompass work-related GBVH. This is something that Member States could certainly make more explicit when transposing the provisions of the Directive into national law.

4. Unaddressed dimensions of work-related gender-based violence and harassment

For all that the transposition of the Directive may yet turn out to be positive in some cases and in some jurisdictions (see Section 3), the conspicuous gap in the Directive centres on its inadequate focus on work-related GBVH. It lacks specific definitions or guidelines addressing work-related violence and harassment and fails to include definitive measures addressing GBVH in that context. Furthermore, it is severely lacking around the issues of OSH, trade unions, social dialogue and intersectionality in employment. When the workplace is referenced, it is limited to the context of sexual harassment and, even then, only to those countries where sexual harassment in the workplace is criminalised (Art. 28, 34, 36) (see Section 4.1.).

Furthermore, the antidiscrimination directives of the early 2000s were developed with reference to the more rigid organisational structures in the workplaces of the past (Petroglou 2019: 28). For instance, Directive 2006/54/EC, which is concerned with employment, does not explicitly cover sex-based or sexual harassment occurring outside the traditional workplace. In contrast, C190 does extend beyond this concept, applying to situations 'occurring in the course of, linked with, or arising out of work' (Art. 3 C190) – including (as Art. 3 goes on to cover) commuting, external business meetings and social activities, as well as home offices and other types of remote work (ETUC 2023a; Petroglou 2019: 28). In this respect, Directive 2006/54/EC falls short of the scope of C190, so the European Commission has missed an opportunity to update its own legislation and ensure its alignment with C190 with reference to the variety of modern workplaces. The Anti-VAW Directive could – and indeed should – have addressed the needs of contemporary work environments. Consequently, the following subsections analyse the critical, yet neglected or inadequately addressed, areas of sexual harassment, third-party violence, domestic violence, occupational safety and health, and the roles of trade unions.

4.1 Sexual harassment

While the Directive references sexual harassment at work, its specific provisions are sparse, applicable only in jurisdictions which criminalise such conduct. The Directive highlights that sexual harassment at work is recognised as a form of discrimination on the grounds of sex (Rec. 65; see also directives 2004/113/EC, 2006/54/EC and 2010/41/EU). It further emphasises the significant negative impacts that sexual harassment can have on what it sees as 'victims' as well as 'employers'.

The Directive emphasises the need for specialised support in cases of sexual harassment at work (Art. 28). It recommends that counselling – whether internal or external – should be accessible to survivors and employers, and that such support should provide guidance on responding to these situations, including the available remedies for removing offenders from the workplace. Nevertheless, what form 'counselling services' should actually take is not clearly defined. The Directive goes on to identify that Member States must include specific actions to combat sexual harassment in their national policies (Art. 34(9)), incorporating preventive strategies like awareness campaigns or youth-focused programmes, especially in sectors with vulnerable workers, developed in conjunction with the social partners (Art. 34(2, 9)). Article 36 mandates training for supervisors in both public and private sectors, as well as for employers, to enable them to identify, prevent and handle harassment issues at work. This training also expressly covers the effects of gender-based violence and harassment in the workplace, including the risks of third-party violence.

Currently, only 15 EU Member States have criminalised workplace sexual harassment, which underscores the Directive's limited direct impact and identifies the areas where national laws need to be enhanced (De Vido and Sosa 2021: 93-94). By linking its regulation to the criminalisation, the Directive veers away from adopting a comprehensive, gender-responsive strategy to tackle these issues (ETUC 2023b). Moreover, it must be highlighted that work-related GBVH is a much broader topic than sexual harassment, which the ETUC Violentometer clearly visualises (ETUC 2024b), although the Directive is silent about this. Here, the failure to provide a definition of rape based on the absence of consent in the Directive – which would be in line with the Istanbul Convention (Art. 36) – is especially concerning (Kasım 2024: 7). Additionally, the existing antidiscrimination directives define sex-based harassment as harassment related to a person's sex (as per Art. 2(1)(c) and Art. 2(2)(a) of Directive 2006/54/EC; Art. 3(c) and Art. 4(2) of Directive 2010/41/EU). In contrast, C190 extends beyond the binary notion of sex (Art. 1(1)(b) C190). The Anti-VAW Directive could thus have been an opportunity to shift the focus from solely sex to gender, advancing an inclusive, gender responsive approach (for details, see tables 3 and 4). In addition, it could have adopted a survivor-centred approach (Gill 2018). Furthermore, the Directive notably does not refer to trade unions or means of social dialogue, resulting in its failure to provide a robust and inclusive framework.

4.2 Gender-based third-party violence and harassment

Gender-based third-party violence and harassment present significant issues within the workplace. These involve actions by clients, customers, service users, patients or the public that can be physical, psychological, verbal and/or sexual, ranging from isolated incidents to systematic patterns (EPSU et al. 2010). These acts, motivated by mental health issues, prejudice or personal biases – particularly on the grounds of gender as well as race or age – pose grave challenges (Pillinger 2024: 19). Notably, third-party violence can have a severe impact on workers'

physical and mental health, escalating absenteeism, turnover and stress-related illnesses (Ivaškaitė-Tamošiūnė 2022: 3-4).

EU LFS data indicates that up to 13% of women and 8% of men report encountering third-party violence at work, with sectors like healthcare and education, in which women dominate employment patterns, among those particularly affected (Baranska and Picard 2024: 9). Furthermore, direct public interaction increases vulnerability; as the European Working Conditions Surveys show, the proportion of workers dealing with angry clients rose from 16% in 2010 to 22% in 2015 (Eurofound 2015; Pillinger 2024: 20).[8]

Despite its prevalence, the current EU legal framework does not explicitly address third-party violence (Pillinger 2022: 4). Directive 2006/54 does not specify the perpetrators when it comes to sex-based and sexual harassment, while it also fails to mention third-party violence explicitly. The Anti-VAW Directive only briefly addresses third-party violence in relation to training mechanisms – and, of course, only in those countries where sexual harassment at work is criminalised (Art. 36(6)). Recital 77 suggests third-party violence might occur when workers face threats from those outside their direct work circle, yet the Directive provides no clear protocols or protections. C190 and R206 take a more inclusive approach, emphasising prevention strategies (Art. 4(2) C190; No. 8 R206), which the Anti-VAW Directive also lacks. In addressing this gap, multi-sectoral guidelines to tackle third-party violence and harassment related to work, signed by the social partners in 2010, were updated in May 2025 to address today's challenges, including issues of digitalisation (EPSU et al. 2010).

However, by omitting guidelines on gender-based third-party violence, the Directive overlooks the unique challenges and forms of violence prevalent in workplace settings. Integrating specific guidelines and policies related to third-party violence, as exemplified by C190 and the updated guidelines, is crucial for enhancing workplace safety and dignity.

4.3 Domestic violence and the world of work

The Directive's omission of domestic violence as a workplace and work-related issue signifies another missed opportunity. Domestic violence results from unequal power dynamics in intimate relationships linked to social domination and economic control (ILO 2021) and includes physical, sexual, psychological and economic abuse (Pillinger 2023). Economic abuse appears in roughly 90% of cases, such as depriving a woman of access to her salary or other resources needed to pay for travel to and from work, or accumulating debts in her name (ILO 2021; Pillinger 2023: 1). It is acknowledged that it frequently involves coercive control

8. Note that the 2021 European Working Conditions Telephone Survey did not include this question, although it was reinstated for the 2024 fieldwork. The results and data of the 2024 survey will available at the end of 2025. Consequently, the 2015 data is the most up to date.

(Pillinger 2023: 1). DV is a form of discrimination which disproportionately affects women (FRA et al. 2024: 19ff; McFerran 2011; Pillinger 2023).

Domestic violence does have an impact on the workplace in the sense that it influences productivity, career growth and overall safety (Copsey 2020; Pillinger 2023) while disrupting attendance, performance and workplace morale (Copsey 2020). Moreover, in remote work scenarios, home and work boundaries are blurred, making domestic violence a work-related issue in such cases (Baranska and Picard 2024: 16; ILO 2021; Kasım 2023: 194).

The Directive identifies domestic violence as an area requiring action:

> … 'domestic violence' means all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit, irrespective of biological or legal family ties, or between former or current spouses or partners, whether or not the offender shares or has shared a residence with the victim. (Art. 2(b))

Nevertheless, the Directive lacks focus on the impact of DV in work settings. In contrast, C190 identifies it as having such an impact (Art. 10(f)), prescribing the responsibilities on states and employers to address it, while R206 includes workplace support, victim leave and safety measures (No. 4). Some EU Member States have implemented workplace protections and rights for victims, such as job adjustments in Spain and paid leave in Italy and Ireland (Baranska and Picard 2024: 38, 40; Copsey 2020). Given the clear approach of C190 and R206 regarding DV as a form of violence with an impact on the work, detailed regulation could easily have been included in the Anti-VAW Directive. Integrating domestic violence considerations into OSH regulations could provide more comprehensive support. By failing to address these overlaps, the Directive has missed an opportunity to provide a holistic framework that considers the intersection between DV and work.

4.4 Occupational safety and health

The Anti-VAW Directive fails to establish an adequate connection between work-related GBVH and OSH. While the OSH Directive addresses various health risks, including those related to psychosocial hazards – which lack a clear definition (Leka and Jain 2024: 30) – its implementation is significantly wanting. Despite obligations on employers to be proactive in preventing violence and harassment using OSH tools, these risks are frequently overlooked (von Wulfen and Kocher 2024). Conversely, C190 effectively utilises OSH instruments to enhance prevention measures (von Wulfen and Kocher 2024), mandating that states include violence and harassment in workplace OSH policies (Art. 11) and that they account for associated psychosocial risks in OSH management (Art. 9(b)). The proposal for the Anti-VAW Directive also included provisions for risk assessments related to occupational safety and health (Art. 37(3) of the proposal), but these were ultimately omitted (ETUC 2023b).

Furthermore, C190 draws attention to specific sectors at higher risk of exposure to violence and harassment (Art. 8(a-b)). By focusing on sector specific solutions,

the Convention emphasises precarious employment, linking these sectors with vulnerabilities (von Wulfen and Kocher 2024; Art. 6). In contrast, the Directive does not address the vulnerabilities of the precariously employed and the groups of women workers most affected by GBVH. Healthcare workers, sex workers and caregivers are particularly vulnerable to GBVH, with night shifts (Ryu et al. 2018) and isolation acting as exacerbating factors (Baranska and Picard 2024: 18). Cyber violence also affects certain professions, including teachers and female academics (Kavanagh et al. 2020), and, when combined with precarious employment (Baranska and Picard 2024: 18), further elevates the risk of GBVH.

The Directive is particularly deficient regarding regulations for migrant women workers in vulnerable situations. The absence of independent or secure residency status significantly increases the susceptibility of these women to violence or exploitation by employers, intimate partners or others (ESWA 2023). Consequently, their likelihood of reporting violence and abuse is decreased (PICUM 2024a), limiting their access to justice and their ability to escape abusive situations, while putting them in a more vulnerable situation to further harm (ESWA 2023). Although the initial proposal included provisions to prevent the sharing of victims' personal data, such as residence status, with the immigration authorities (Art. 16(5) of the proposal), these safeguards were omitted in the final text (Kasım 2024; PICUM 2024b). By ignoring immigrant women workers' vulnerabilities to DV and GBVH, the Directive contradicts its declared intersectional approach (Crenshaw 1991: 1249).

Addressing GBVH as an OSH issue necessitates a focus on OSH stakeholders. This requires developing human rights centred, survivor focused and gender-responsive OSH policies and programmes, along with OSH management systems, national tripartite mechanisms and labour inspections that also consider the needs of transgender and nonbinary individuals. OSH representatives would play a pivotal role, along with works councils and other worker representatives, especially trade unions. This approach also calls for effective company policies to prevent violence and harassment, obliging employers to update and implement strategies to prevent GBVH at work and reorganise work from a gender-responsive perspective. Aligning with international benchmarks like C190 could strengthen prevention policies, ensuring that these crucial intersections are not overlooked but embraced as preventive and protective measures.

4.5 Trade unions, social dialogue, workplace democracy and the Anti-VAW Directive

The Directive's practically nonexistent reference to unions and collective labour law frameworks underplays the strategic influence these have in workplace reforms. Workplace democracy, co-determination and social dialogue are pivotal in shaping workplace cultures and policies. Recognising the crucial role played by trade unions, through means such as collective bargaining, could lead to a fostering of cooperative, sustainable strategies to tackle work-related GBVH and rally various stakeholders around this cause for enduring change. Unionisation thus potentially offers a protective framework and shield against GBVH, empowering

workers in the process, although declining unionisation rates – where this is the case – contribute to increased vulnerability to violence and harassment (Bakırcı 2020: 31). Yet the Directive ultimately fails to utilise the strategic role that trade unions play in combating GBVH. Table 8 lists examples of European trade union initiatives addressing GBVH.

Table 8 **Examples of European trade union initiatives addressing GBVH.**

Gender-based violence and harassment in general	Spain's banking sector has developed a sectoral agreement to include GBVH measures in equality plans (CCOO, UGT 2011). In Spain's public sector, the third Gender Equality Plan (2020) enhances policies on GBVH, including third-party violence. The Austrian union VIDA is leading a campaign for C190 ratification, union education and training on GBVH and stronger laws against staff assaults in transport and health. Bulgaria's transport union FTTUB has negotiated agreements mandating procedures on GBVH with survivor support and the payment of compensation. The social partners (ETUC et al. 2020) have acknowledged the necessity of preventing violence and harassment in the Framework Agreement on digitalisation.
Sexual harassment	Austria's private sector agreements address sexual harassment using a model template for conflict resolution and work design (2021) (GPA-DJP).
Domestic violence	France's professional equality agreements include GBVH, sexism and domestic violence clauses and training provisions in sectors like telecoms (Orange 2021), rail (SNCF 2021), the public sector (2019), postal services (2019) and performing arts (2020). France's Société Générale remote work agreement offers domestic violence information and remote working adaptation for affected individuals. French companies are integrating domestic violence policies into equality agreements, with the CGT union advocating job protection for victims. As part of a French energy sector agreement, one company has partnered with an NGO (FIT – une Femme un Toit) to provide targeted support for victims of domestic violence. Italy's Vodafone agreement includes domestic violence measures integrated into smart working and remote working arrangements, such as increased DV leave, medical and psychological advice and counselling, and emergency telecommunications changes (SLC CGIL, FISTEL CISL and UILCOM UIL, and Vodafone 2020). The Equality Plan in Spain's public administration includes protocols to protect workers from GBVH, sexual harassment and third-party violence and especially domestic violence (2020).
Third-party violence and harassment (TPVH)	Transport union FTTUB's provisions on protection and support for victims of TPVH in Bulgaria include inserting victim support measures in sector agreements and raising awareness of gender-based TPVH through campaigns and studies. Sweden's hotel and restaurant union has developed sexual harassment guidelines, establishing workgroups for TPVH protections (2020). Finland's commerce sector agreement outlines employer duties regarding risk analysis and harassment prevention as well as practical tools on how to handle harassment in the workplace, including the right to stop serving customers harassing staff. Spain's gaming sector agreement defines employer duties to prevent customer aggression, while worker training provisions, addressing the issue as an occupational risk, spell out the employer's responsibilities to prevent aggression from third parties (CCOO 2020).

Cyber violence and remote work	Denmark's food, hotel and domestic sectors agreement includes data protection against cyber harassment. Europe's government sector agreement on digitalisation addresses protections against DV and cyber harassment (2022). A declaration by UNI Europa and banking employers targets remote work risks like cyber harassment and cyberbullying (2021). Spain's CCOO Industria provides remote work guidance, stressing employer responsibility for risk prevention and taking measures against sexual harassment, GBVH, discriminatory harassment and harassment at work. Italy's remote working agreement with Vodafone incorporates domestic violence support into its remote work protocols. Spain's CCOO guidance highlights employer responsibilities for risk assessments to prevent violence in remote work settings.
Occupational health and safety	Ireland's OSH code on workplace bullying provides practical resolution steps for fixed, home or mobile work environments. The Safe Healthcare initiative in the Netherlands involves unions and employers to prevent third party violence in the health sector. Europe's shipping and public transport agreements improve OSH by setting third party violence prevention measures. EU-OSHA's OiRA tool assisted education sector unions with violence risk assessments as an OSH issue during the pandemic.
Work culture and internal policies	Denmark's Dansk Metal has launched a project to change work culture in the male-dominated metal industry. Spain's model protocol ensures all equality plans from 2022 will include provisions on GBVH. Denmark's 3F union has adopted a policy addressing sexual harassment, including it in a whistleblower policy. Dansk Metal's 2019 policy raised member awareness on preventing violence and harassment.
Vulnerabilities	Italian agreements address rising TPVH against staff with vulnerable clients, based on a 2020 memorandum signed with unions.

Source: Baranska and Picard (2024: 47, 50, 63), Pillinger and Wintour (2024: 40, 59) and the third-party violence and harassment project which can be accessed at https://www.thirdpartyviolence.com

A comprehensive strategy that incorporates legislative measures, social dialogue and collective bargaining is essential for achieving a work environment free from GBVH (ETUC 2024a). As outlined by C190 and R206, promoting the effective recognition of the right to collective bargaining can significantly prevent and address violence and harassment, as well as mitigate the impact of DV in the world of work (No. 4 R206). Such a strategy could enhance the capacities of employer and worker organisations to develop and implement effective strategies, including providing support services and improving dispute resolution mechanisms promptly and in a gender-responsive manner (ILO 2022: 47). Moreover, trade union health and safety representatives may also play a critical role in ensuring safer workplaces.

In contrast, within the current Anti-VAW Directive, there are only very limited opportunities for the involvement of the social partners, especially trade unions. Nonetheless, unions can contribute to prevention, early intervention, training and 'multi agency coordination' (Art. 40):

- targeted awareness raising campaigns or programmes aimed at young individuals may be developed in cooperation with the social partners (Art. 34(2)(3));
- media training to counter stereotypical portrayals and victim blaming can also be facilitated by the social partners (Art. 36(8));

- additionally, Member States must establish appropriate mechanisms to ensure effective coordination and cooperation among relevant authorities, including the social partners (Art. 40);
- furthermore, national policies may identify programmes for sectors with high vulnerability to sexual harassment, which can also be developed in cooperation with the social partners, albeit only where such harassment is a criminal offence (Art. 34(9)) (see Section 4.1).

The Directive does emphasise civil society so trade unions, as one of its vital components, are presumably covered (Edwards 2012: 7). Here, it suggests consulting civil society on victim support, policymaking, awareness campaigns and education programmes, among other areas (Art. 41). Additionally, the Directive recognises and empowers women's organisations and specialist services (WAVE 2024), encouraging Member States to consider their expertise in survivor assistance with a gender-responsive and intersectional perspective (Art. 22, 25, 35, 40; EWL 2024). In this sense, women's committees within trade unions can be instrumental in addressing GBVH.

Nevertheless, these opportunities risk remaining largely symbolic. The Directive lacks effective, supportive and practical provisions about trade unions and collective bargaining. Their omission from the framework for addressing gender-based violence, together with the insufficient emphasis on social dialogue and workplace democracy, exposes a significant gap in the Directive's capacity to combat systematic GBVH. Greater involvement of trade unions, along with robust provisions supporting collective bargaining and an enhanced commitment to social dialogue, could substantially strengthen the effectiveness of the identified preventive measures, support mechanisms and implementation processes. Such an approach would promote a truly collaborative effort to eradicate GBVH in every sphere of life.

Conclusion

European Union Directive 2024/1385, aimed at tackling violence against women and domestic violence, is undoubtedly a significant legal stride toward gender equality within the EU. It supplies an innovative framework that addresses several critical areas of GBV, including cyber violence, economic harm and intersectional discrimination. Nevertheless, while the Directive aspires to provide a comprehensive framework for combating violence against women in many spheres, it falls short in directly addressing the specific issues raised by GBVH in the realm of work and thus deviates from its self-claimed comprehensive approach.

The Directive misses significant opportunities for direct, explicit and comprehensive interventions on GBVH at work. Specifically, it does not adequately address the issues of third-party violence, the interconnectedness between domestic violence and work, and the complexities introduced by new emerging forms of violence, such as those facilitated by artificial intelligence and digital surveillance. Additionally, the Directive could have significantly benefited from a framework that explicitly integrates an OSH approach to GBVH, recognising this as both a critical prevention and protective mechanism. It should also have defined the strategic role of the social partners, especially trade unions, in designing, implementing and maintaining efforts against GBVH at work.

As the Directive must be transposed into national laws by 2027, it has the potential not only to set a standard within the EU but also to provide a benchmark for non-EU countries strengthening their legislation against gender-based violence and harassment. The assessment of whether further Union-level measures are needed to address sexual harassment and violence at work more effectively is not envisaged as necessary until 2032 (Art. 45). Therefore, to maximise the existing framework regarding GBVH, the Directive's provisions must be transposed proactively and strategically, surpassing the minimum requirements. The Directive could encourage EU countries to adopt a more gender-responsive approach to GBVH from an intersectional perspective if it is implemented in an ambitious and progressive way. In transposing the Directive, Member States could make the link more explicit between instances of GBVH and the effects these have in an employment context and use the Directive strategically to enhance protections against work-related GBVH. Otherwise, a significant part of women's lives – work – will not have clear, up to date regulations integrating gender-responsive coordinated policies on tackling GBVH.

Therefore, it is important that the EU and its Member States re-evaluate all current equality, antidiscrimination and occupational health and safety regulations

in light of the Anti-VAW Directive. In the long term, it is recommended that Member States follow the invitation of the Council and ratify C190 and/or that the EU enacts its own directive in this area. Recognising work-related GBVH as a human rights violation and a deeply rooted societal injustice necessitates a transformative approach. This involves implementing strategic initiatives and establishing a robust legal framework specifically dedicated to addressing violence and harassment in the world of work, focusing on gender-based violence and harassment, that aims to respond to the demands of modern technology through an intersectional perspective. It further calls for a thorough consideration of concepts such as marginalisation, precarity and related vulnerabilities.

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