

Abstract of advisory report:

[Diversity in employment relationships and working conditions]

[(Diversiteit in arbeidsrelaties en arbeidsomstandigheden, 19/17)]

Safe and healthy working conditions are essential for the long-term employability of a working population, capable of contributing to the Dutch economy, at least until retirement age. This study examines the impact of various labour market trends on the working conditions of workers. The main question submitted to the Council is whether the Netherlands' occupational safety and health system offers adequate protection to *all* workers and whether it will continue to do so going forward.

Background

Globalisation, advances in technology, an increase in flexible employment relationships, and other trends could all have a major impact on the way we work, both now and in the future. The nature of work and how it is organised are changing, among other things due to platforming and the growing number of people working two or more jobs. The rise of flexible and other types of employment relationships in the Dutch labour market is a hot socioeconomic issue. A growing percentage of people no longer work under permanent employment contracts. As the Dutch Government noted in its request for this advisory report, these trends may have consequences for the Dutch economy, employment rate, and labour market.

The advisory report analyses facts and figures on occupational safety and health for various employment relationships. While drawing on existing research reports and sources, the Council has also gone a step further by asking the Netherlands Association for Applied Scientific Research (TNO) to examine in detail information on various types of employment relationships and the associated working conditions. In describing these relationships, the study uses the definitions adopted by Statistics Netherlands (CBS).

Occupational health and safety system

The study starts by reviewing the Dutch occupational safety and health system, encompassing such aspects as employers' and employees' responsibilities, scope, and enforcement and compliance with occupational health and safety legislation.

Employers and employees play a pivotal role in this system; each side has specific responsibilities with respect to implementing health and safety rules. In addition, employers are responsible for ensuring a safe and healthy working environment for their employees and for self-employed persons whose working conditions depend (in part) on their contractor or client.

This allocation of responsibilities applies to a significant proportion of Dutch workers, since many different employment relationships fall within the scope of the Dutch Working Conditions Act. For example, all permanent, fixed-term, on-call, standby, and agency employment contracts, as well as zero-hour contracts. Self-employed persons are covered by the Working Conditions Act when their work assignment involves certain health and safety hazards. Employers that contract self-employed persons must apply the same minimum level of protection that they extend to their own employees. In terms of enforcement, the Dutch Social Affairs and Employment Inspectorate makes no legal distinction between various types of employment relationships, although bogus

schemes, cases of abuse, and other problems make its work more difficult. The occupational safety and health system aims to provide all workers with the same level of protection.

TNO's in-depth study

Although the Dutch occupational safety and health system offers all workers the same level of protection by law, this does not mean that working conditions are equal across the board. TNO's in-depth study has revealed disparities in health and safety levels between various employment relationships. TNO based its study on data obtained within the context of the 2018 Netherlands Working Conditions Survey (NWCS) and the 2017 Netherlands Survey of Self-Employed (NSS). The data are therefore self-reported: workers who participated in the NWCS and NSS responded to questions about health and safety at work, for example about risks that they face in their work and how satisfied they are with the measures adopted by their employer.

TNO's study reveals that the type of employment relationship does indeed make a difference when it comes to occupational safety and health. Flexible workers are more likely to be exposed to certain occupational risks, such as physical strain, dangerous work and hazardous substances, than permanent employees. In the past twelve months, for example, work-related accidents – including those involving lost-time injury of one or more days – have been relatively more frequent among agency and on-call or standby workers than other worker categories. In addition, flexible workers often have less access to occupational healthcare services. At the same time, flexible workers are generally less susceptible than permanent employees to such occupational health and safety risks as work pressure, emotional strain, and inappropriate behaviour.

Self-employed persons often have similar working conditions to those of permanent employees, but, like flexible workers, they are more likely to work irregular hours. At the same time, their working conditions vary considerably from sector to sector, especially among the self-employed: those working in construction, education, and the culture, sport and leisure sector do significantly more demanding work than permanent employees in these sectors, whereas in other sectors their work is similarly or even less demanding.

Although TNO's in-depth research covers the vast majority of employment relationships in the Netherlands, it should be noted that an absence of data makes it impossible for this study to examine occupational safety and health among specific groups of workers, including platform workers and migrants temporarily employed in the Netherlands. In addition, the study does not allow for a comparison of employees and self-employed persons on each aspect of occupational safety and health, for the simple reason that the NWCS and NSS questions differ and because no distinction has been made between agency workers who do and do not work under an agency clause. There are also no data available on the possible cumulative effect of occupational risks among those working two or more jobs.

Conclusions

The study shows that the type of employment relationship influences the level of occupational health and safety. The growing percentage of workers in flexible employment relationships and self-employed persons is important in this context, as such arrangements can influence how stakeholders perceive and take responsibility for occupational safety and health. Moreover, there is more likely to be confusion about rights and obligations for both employers and workers than in the case of permanent employment relationships.

Another point of concern is projects involving multiple partners in which several different parties are responsible for safe and healthy working conditions, for example in the construction sector. In practical terms, these trends may lead to blurred lines of responsibility between employers and workers as the main stakeholders in occupational safety and health policy and to the parties concerned being unfamiliar with those responsibilities. There is evidence that this is happening now, given that workers already

have differing levels of access to occupational healthcare services and that those working in certain employment relationships are more likely to perform hazardous work or suffer more work-related accidents.

Also relevant is the projected increase in the number of employees who have a chronic illness. In 2014, the National Institute for Public Health and the Environment (RIVM) forecast that the number of people with a chronic illness will increase sharply from 5.3 million in 2011 to 7 million in 2030. This also means a rise in the number of working people with chronic illnesses.¹ A sound occupational safety and health policy that allows for these workers can also help them remain in work.

In the light of the above, there is reason to consider how to improve the protection afforded by the existing system and make it more sustainable. It should be noted in this context that, although the allocation of responsibilities is comprehensive enough on paper, real-world practices differ depending on the nature of the employment contract.

Further research into disparities required

The disparities identified by the study appear to relate, at least to some extent, to the nature of the employment relationship or work and the parties' perceived responsibilities with regard to occupational safety and health. A clearer understanding of these factors will be useful in developing a targeted approach to these disparities. The broader context should also be taken into account, including employers' and workers' familiarity with their rights and obligations in relation to occupational safety and health and legal status, and the socioeconomic position of different categories of workers. Another factor to be considered is why employers and workers opt for a particular employment relationship.

Because TNO's in-depth research offers only limited enlightenment regarding a number of specific worker categories, it also raises new questions. These categories include platform workers and migrants working temporarily in the Netherlands. Regarding workers with two or more jobs, the problem is that existing studies do not provide much insight into the cumulative occupational risks that they face, because they base their responses to existing surveys on their primary job and therefore do not discuss the health and safety aspects of their secondary job. To make the existing system future-proof, it is also important to clarify the working conditions of these groups.

Information and awareness

In the shorter term, the main priority is for employers and workers to be more aware of their responsibilities and for better compliance with existing occupational safety and health rules. To begin with, employers and workers need to become more familiar with their mutual responsibilities. They are often inadequately informed, especially when it comes to the less permanent employment relationships. Employers also point out that the changing nature of work occasionally makes it difficult to meet all the obligations laid down in occupational safety and health law.

Better information and awareness should support better compliance with the Working Conditions Act. What may also help in this regard are ongoing initiatives by the social partners and the Ministry of Social Affairs and Employment, including new policy to facilitate and promote the drawing up of a risk assessment, and the SER's Health and Safety Platform. Further encouragement of responsible contracting can also help raise contracting parties' awareness of their responsibilities for health and safety in the workplace.

Introducing occupational medical expertise in primary healthcare can also raise workers' awareness of their rights and obligations with regard to health and safety at work. Within sectors, collective agreements can be made regarding safe and healthy working conditions for all workers, including the self-employed. The SER argued in a recent advisory memorandum that companies should consult more of their workers more often

¹ SER, 2016, Advisory report '*Werk: van belang voor iedereen*'

and at an earlier stage and that they should work on improving information about and awareness of worker rights and obligations in relation to occupational safety and health.

Enforcement and compliance

Monitoring and enforcement are essential within the context of occupational safety and health policy. The occupational safety and health system cannot function properly without adequate monitoring and enforcement. The Social Affairs and Employment Inspectorate must have enough well-qualified inspectors to be able to ensure adequate enforcement. It goes without saying that the Inspectorate must be able to properly enforce the rules for all workers in order to offer them the same level of protection at work. The Inspectorate's capacity is very important in this respect and remains a point of concern. Targeted enforcement in the case of flexible employment relationships requires familiarity with and an understanding of the specific risks to which flexible workers are exposed. Closer cooperation with other government bodies is also required, such as the Employee Insurance Agency (UWV) and the Tax and Customs Administration (*Belastingdienst*), as this will produce a more complete picture of certain employment relationships, for example the possibility of cumulative exposure to occupational risks when someone is working more than one job.

In addition to the Inspectorate's work, the companies involved and the people working there may also have a role to play in compliance, including employee representatives and prevention officers.

Occupational safety and health policymaking

The Council assumes that the findings and conclusions presented in this advisory report will be taken into account as the Government develops its occupational safety and health policy. The Council also wishes to continue its involvement in policymaking with a view to improving the protections extended by the occupational safety and health system.