

case studies.....



The FNV - Dutch Trades Unions and the Self-Employed

One of a series of case studies by

Alex Bird

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www.alex-bird.com

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I've written many papers over the years, few of which see the light of day through publication, so I'm putting together a few of them in an informal series, and publishing them on my website.

They cover a range of subjects that I hope will be of interest.

Some are of historical interest, some are topics for discussion.

Some have already been published somewhere, in whole or in part.

Most haven't made it.

Having put in so much thought and effort, seeing them lie in a digital vault somewhere on my laptop seems like a waste – hence this small-scale publication effort.

All are free to download from my website at:-

<http://www.alex-bird.com/download-publications/>

Hope you find them of interest.

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Alex Bird 2016 www.alex-bird.com



FNV Unions and Self-Employment

Trades Unions in the Netherlands are affiliated to one of three separate Federations divided along religious and class lines.

Union membership is only 18% of the workforce, although 81% are covered by a collective bargaining agreement.¹

The CNV was founded on May 13, 1909, in Arnhem as a federation of several Christian unions. It was founded in reaction to the socialist NVV, which was founded in 1906. The CNV was more moderate than the NVV. It opposed the idea of class struggle and instead oriented itself towards a corporatist model of the economy. It was an inter-confessional union, intended to represent both Protestant and Roman Catholic workers.

In 1912, however, the Roman Catholic bishops spoke out against inter-confessional unions. All Roman Catholics left CNV and founded a separate Roman Catholic union, the RKWV "Rooms-Katholieke Werklieden Verbond" (Roman Catholic Workers' Union). The CNV orientated itself towards the Protestant Anti Revolutionary Party, with which it formed the Protestant pillar of society.

Because of the increasing desegregation and secularisation of Dutch society and the rising political polarization between left and right, the three major unions, the Socialist NVV, the Protestant CNV and the Catholic NKV opened talks to form one single federation of Dutch unions. In 1974 the CNV left those talks. In 1976 the NVV and NKV merged to form the FNV.

The VCP (Vakcentrale voor professionals) <https://vcp.nl/english> is a non religious national trade union federation in the Netherlands aimed at professionals. It was founded in 1966 as the NCHP, until 1990, when it became the Vakcentrale MHP (Federation of Managerial and Professional Staff Unions), and is now known as the VCP.

The VCP represents technical and managerial workers in over 50 affiliated organisations, most of which are small trades unions and staff associations

The FNV (Federatie Nederlandse Vakbeweging) dates back to 1906. Its forerunners included the originally socialist NVV (Nederland Verbond van Vakverenigingen/Dutch Confederation of Trade Unions) and the Katholiek Vakbureau, predecessor of the NKV (Nederlands Katholiek Vakverbond/Dutch Roman Catholic Confederation of Trade Unions) – two federations that were founded in 1906 and 1909 respectively.

In the 1970s, together with the protestant CNV (Christelijk Nationaal Vakverbond/National Federation of Christian Trade unions), NVV and NKV acknowledged the need for co-operation. NVV and NKV decided to merge to form the FNV, while CNV opted to stay independent.

¹ <http://www.worker-participation.eu/National-Industrial-Relations/Countries/United-Kingdom>

Netherlands, 18% TU membership, 81% collective bargaining coverage

Belgium, 50% TU membership, 96% collective bargaining coverage

UK, 26% TU membership, 29% collective bargaining coverage

On 1 January 1982, the FNV was formally established, representing 1,016,000 members.

Over the years various FNV affiliated unions merged, creating, for example, Abvakabo FNV and FNV Bondgenoten, at the time the two largest unions in the FNV. Also, new trade unions affiliated to the FNV, such as the NVJ (Nederlandse Vereniging van Journalisten/Dutch Journalists' Union), and new unions were created.

Notable newcomer was FNV Zelfstandigen (FNV Self-employed), representing self-employed workers in services, the green sector (gardening, landscaping etc.), tradespeople, ICT, manufacturing, transport and health care.

At the end of 2014 the FNV and FNV unions Abvakabo FNV, FNV Bondgenoten FNV Bouw FNV Sport merged into a main FNV union with 900,000 members, and some unions with together approximately 200,000 members remained affiliated to the FNV independently. The merger was the result of the realisation that a strong counterforce, at the national level but also at the basis in the sectors and companies, was needed against well-organised, calculating employers and a government only interested in budget cuts. Therefore, the FNV chose to organise people in powerful and recognizable sectors within one FNV.

The integrated union has separate Sectors for each profession or trade represented, with specialist officers and support mechanisms.

The affiliated unions are incorporated into the structure, and are represented in the Parliament and Central Board, alongside the representatives of the main union.

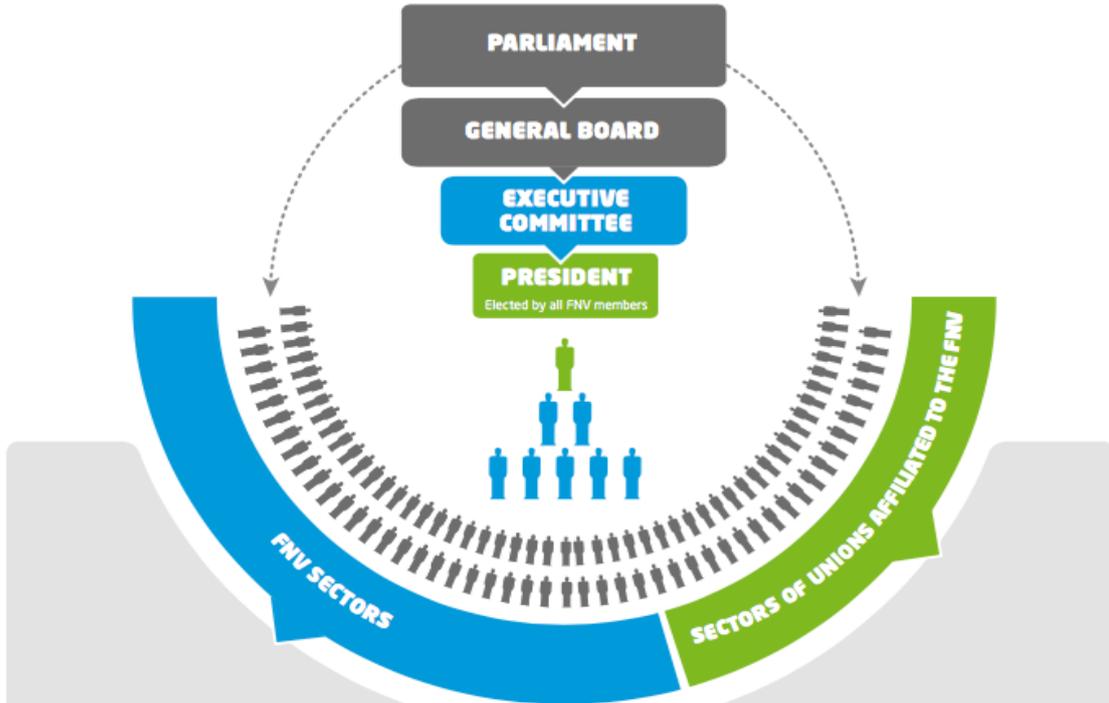
The representation is balanced according to membership

The merger process is continuing, and FNV KIEM has recently merged into the main FNV, with part of its membership forming a separate Sector, and the rest being absorbed into other existing Sectors.

FNV Zelfstandigen has not merged yet, and remains as a separate federated member.

The NVJ (Journalists) are intending to stay as a separate but federated member union, and are not adopting the FNV brand.

FNV UNION STRUCTURE



SECTOR	CHAIRS
Building, construction and social housing	7
Services	7
Trade	4
Industry incl. agriculture	6
Metal	8
Government (local, regional and national)	9
Public Utilities	3
Retired members	8
Sports	1
Beneficiaries	12
Transport	5
Health and social care	13

UNION	SECTOR	CHAIRS
	Creative sector	2
	Graphic and arts	1
	Hotels and restaurants	1
	Catering and recreation	1
	Young	1
	Journalism	1
	Maritime sector	1
	Education	8
	Professional soccer	1
	Athletes	1
	Beauticians and hairdressers	1
	Security (police and military)	4
	Women	1
	Self-employed workers	1



NETWORKS
 Network Roze FNV (LGBT Network), Network Vrouwen FNV (Women's Network),
 Network Wereldburgers FNV (Migrant's Network)

MONDIAAL FNV

FNV Trades Unions for the self-employed

The FNV actively works to recruit the self-employed, although this has not always been the case.

Since 1995 they have had tax advantages, and the government has encouraged the idea that self-employment is a higher status, with greater freedom than employment. These tax advantages have led to employers pushing people into self-employment, and the FNV is careful to work with those who wish to be self-employed, but continue to resist any pressures from employers to do so simply to cut costs.

There are five unions within the FNV family that actively recruit the self-employed, but other sections also have self-employed members, although they are not always identified as such.

The FNV federation has approx. 20,000 identified self-employed members, but the total could be much higher.



FNV Media & Cultuur <https://www.fnv.nl/sector-en-cao/alle-sectoren/media-en-cultuur/> results from the splitting of FNV KIEM. Members from the graphic / pre-publishing, packaging, audiovisual, publishing sectors, inc. welfare recipients and pensioners have a new new 'home'. FNV Media & Cultuur is now a Sector within the main FNV rather than a separate federated union.



FNV Bouw <https://www.fnvbouw.nl> defends the interests of workers and self-employed in construction, wood and furniture industry, housing services and related sectors. FNV Bouw negotiates collective agreements in the construction industry.



FNV Zelfstandigen <https://fnvzpz.nl> is there for the self-employed working for a private company or alone, and has a special service for co-operatives and other businesses. FNV Zelfstandigen has 12,000 members



NVJ, <https://www.nvj.nl> the Dutch Association of Journalists is committed to some 6,300 employees and self-employed in journalism and photo-journalism. It is federated to the FNV but prefers not to take-on the FNV brand.



FNV Mooi! <http://www.fnvmooi.nl> is the largest independent trade union for hairdressers, beauticians, make up artists, pedicures, nail technicians and wellness employees, including freelancers.

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**FNV KIEM** was formed in 1999 to organise artists and creative, almost all of whom are self-employed, and is part of the FNV. It offered traditional union and individual services including legal advice, insurance, training and lobbying.

From the 1950's journalists and artists began to move (or be moved) to self-employment. From 1995 the government have encouraged self-employment with special tax status.

The constituent Unions of the FNV are merging, and FNV KIEM has now been absorbed.

As part of this process it has now split, and the media and creative sections have gone to two different parts of the unified FNV.

The FNV has established a self-employed expertise centre, which will work with all the trade sectors and the federated unions to build on the established expertise in self-employment, and develop new services to meet their needs.

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FNV Zelfstandigen was formed to represent the self-employed, and has members from many sectors including services, the green sector (gardening, landscaping etc.), tradespeople, ICT, manufacturing, transport and health care.

It actively recruits any self-employed person who is not more appropriately a member of the FNV specialist unions for media, construction, journalism or beauticians.

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**The STAR** (Stichting van de Arbeid - Labour Foundation) <http://www.stvda.nl/en/home.aspx> is the most important consultative body of the

three largest trade union confederations (FNV, CNV and VCP), and three largest employers' organisations. The STAR has equal representation, which means that seats on the board are equally divided between employer and employee organisations. Positions are prepared in committees, such as the social security committee and pensions committee.

The STAR makes recommendations to the collective bargaining negotiators in the Sectors and advises in particular on issues that directly affect employers and employees, such as employment, working conditions and professional training. The social partners in the Labour Foundation also regularly consult with government on outlines of socio-economic policy.

Sometimes these consultations can lead to a Central Agreement with the government. Such an agreement can contain guidelines for collective agreements that are concluded by trade unions and employers, but may also include proposals for (revision of) law.

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Collective Bargaining

The Dutch Government is opposed to collective bargaining for the self-employed, as it considers it to be against EU competition laws.

However, the FNV took a dispute to the European Court for Orchestral musicians, and won. They are now contesting a decision by the Minister on an agreement for artists using the precedent of a Government body which sets pay rates for self-employed doctors and nurses.

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### **Co-operatives**

FNV is generally supportive, but has no specific actions yet. It is keen to support co-operative development for the self-employed, and has made flexible arrangements for them on an ad hoc basis.

In healthcare, staff have a collective system for long term care, which is now passing to Municipal Authorities, and is subject to budget cutting. Home nursing is now passing to health insurers, and staff are starting to form co-ops, or moving to join the Buurtzorg scheme<sup>2</sup>, which now has almost 105 of the market. However, the lack of a central bureaucracy and the mix of employed and self-employed there makes negotiating with them difficult for trade unions. Additionally they are covered by the government's health and social care wage rates system, so there is little room to negotiate conditions anyway.

There are some artist co-ops in membership, and FNV will provide legal support to the co-op if it is 100% unionized.

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<sup>2</sup> <http://www.buurtzorgnederland.com> is a not for profit employing qualified staff and providing a range of services from home care to maternity and hospice care

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DeltaMetaal Foundation <http://www.deltametaal.nl> is a not for profit employment agency founded in 1968 by a number of companies, employers' organisations and trades unions in the Rijnmond and Drechtsteden regions, to ensure reliable working relationships and high quality craftsmanship. Its mission is to keep craftspeople employed in the face of cut backs and downsizing, and so ensure the skills are not lost.

DeltaMetaal Foundation has a Board of Trustees consisting of the directors of the 18 participating companies and an Advisory Council on which employers and workers organizations are represented.

DeltaMetaal places workers in temporary and permanent jobs in the metal, engineering and other industries.

It also has an associated co-operative for ZZP'ers (freelancers) which it administers, and FNV has negotiated a special subscription package for them.

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**ZZP Nederlands** <https://www.zzp-nederland.nl>

ZZP Nederlands claims to be the largest *independent* organisation for the self-employed in the Netherlands, although it doesn't quote an exact membership figure, it claims something approaching 11,000 members. It is not affiliated to any of the trades union federations, and acts largely as a professional service organisation, and a provider of relevant insurance services. It offers model contracts, liability insurance, legal representation and political lobbying

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National Insurance and Sick pay

Self-employed workers in the Netherlands do not qualify for sick pay. Employees get 70% of wages (capped at €199) for up to 24 months, and most employers take out insurance to cover this liability.

There have been mutual sick pay funds in the past, but these were closed down by government regulation. They were considered to be insurance schemes, and so had to meet the capital reserves ratios required of major insurance companies, which they were unable to meet.

Self-employed people are starting to take advantage of Bread Funds <http://www.broodfonds.nl> which provide a mutual financial support in a way that gets around Dutch insurance regulations. They are typically between 25 and 50 people in a self-help club, who pledge to pay a regular weekly sum to any other member who is sick. Because the individual's funds are kept separate, and the transfer only takes place after the person falls sick, they are exempted from the regulations. There are now 9,600 members in 228 funds.

However, not all trades unionists are agreed on the place of the self-employed in the social security system. Whilst many trades unionists feel the self-employed should have equal rights with the employed, others worry it will encourage employers to increasingly promote self-employment as an option, and force the unwilling into it.

This debate also centres around the issue of the tax advantages the self employed have, particularly for the employer, and the potential for self-employment to undermine collective bargaining.

Speaking in June 2015, Ton Heerts, the leader of the FNV union, spoke against social services for freelancers in an interview. He says self-employed people making use of disability, sickness and unemployment benefits undermines the entire social welfare system.

Heerts disagreed with the employers' organization AWWN that proposes a more favourable social system for the self-employed. He argued that social services for self-employed are at the expense of regular workers and employers who pay full taxes.

Employers can often reduce costs by hiring self-employed individuals who pay less taxes than regular workers, which conflicts with the labour union push for more permanent contracts.

"I am not completely against self-employed, I am against forced self-employment," Heerts said. He said that because of the benefit there is *"a blurring between employment and entrepreneurship"* in the Netherlands. Heerts believes that these tax benefits should be abolished because regular taxpayers bear their costs.

Several political parties, such as D66 and PvdA, favour legal equalization of self-employed and those with a permanent contract. *"Employers and political parties that advocate it put an axe to the root of the welfare state for which we have fought for a hundred years,"* Heerts responded.

Appendix A

Self-employment law is changing

A self-employed professional or freelancer (*zelfstandige zonder personeel, ZZP'er*) is an entrepreneur without any staff who works for a number of different customers. They have in common that they work at their own expense and risk. During illness or when business is slow, they cannot fall back on a benefit. However, they can make use of various schemes intended to stimulate entrepreneurship. Self-employed professional is not a legal form. Most self-employed professionals have a one-man business or a private limited company (*BV*).

On May 1, 2016, the Dutch VAR system will be replaced by new model contracts. This will make life easier for self-employed ZZP'ers in the Netherlands and it will protect clients. The goal is to provide more clarity for both parties.

Dutch VAR system

In early February, 2016, the Dutch government approved abolishing the VAR (*Verklaring arbeidsrelatie*). VAR is a declaration of independent contractor status, a document stating that the client is hiring a ZZP'er.

It is proof for clients of self-employed professionals or freelancers that they will not be held responsible for any payroll taxes with regard to these professionals working for them.

ZZP stands for *zelfstandige zonder personeel*, which are individuals who work for themselves and do not hire employees. This includes both freelancers and people who run their own company.

Model contracts

The VAR will be replaced by model agreements. There will be general and individual model agreements, as well as model agreements per sector and profession.

The basic purpose remains the same. By concluding a model agreement, both client and contractor know who will be responsible for paying payroll taxes and contributions.

Transitional period

The Dutch government is instituting a transitional period of one year. During this phase, ZZP'ers and clients have the time and flexibility to adjust their agreements and no action will be taken by the government (with the exception of extreme cases of fraud). Starting on May 1, 2017, the Dutch tax agency will begin to monitor the contracts. The exact details will be made available soon, and the Belastingdienst (Dutch tax office) is mainly interested in *schijnzelfstandingheid* or situations involving exploitation of self-employed people.

Schijnzelfstandingheid is when a person has a standard labour contract with an employer but officially declares that they are self-employed. This has been difficult to verify by the Dutch tax authority.

The Netherlands has around 800,000 ZZP'ers who have self-employment as their main source of income. Another 600,000 self-employed use it as secondary income.

It is unknown how many are fraudulent ZZP'ers, but it is estimated that it's less than 10 percent.

If you are a ZZP'er

If you have a VAR from 2014 or 2015 and you will continue to do the same work for the same clients under the same conditions, you can continue to use that in 2016.

If anything changes in your situation, you can apply for a VAR that's valid in 2016 until the new rules go into effect. After May 1, 2016, it is no longer possible to apply for a VAR.

If you currently don't have a VAR you can instead use a new model contract. A number of model contracts are already available for download from the [Belastingdienst website](#) and are free for use by both client and ZZP'er.

More versions will be made available by the Belastingdienst in the coming weeks and months. Each one has a clear explanation for which professions and situations it should be used. They are divided into three categories:

- General model contracts
- Example contracts per sector and profession
- Individual contracts

Individual model contracts

It's possible for an individual to write up their own model contract as well. Prior to entering into a contract with a ZZP'er, a company will be able to send the new model contract to the Belastingdienst for approval.

A client and contractor are not required to submit their model contract to the Dutch tax agency, however. The advantage of using one of the official contracts or getting one approved is that it guarantees that the client will not be held responsible for payroll taxes and contributions.