



Module: EU & national instruments to combat workplace violence / legal basis



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Learning Outcomes

Participants are able to:

- describe the relevant national and European framework to combat workplace violence
- analyze the legal provisions that would apply in the event of an incident.
- apply the best possible solving strategy for the given situation based on the legal framework for the organization and the persons concerned.

Topic 1:

Workplace Violence & the Legal European and National Basis

It offers a comprehensive overview of Frameworks, Directives, Policies and Agreements attempting to tackle the difficult issue of Harassment and Violence at the workplace.

Learning Outcome:

To describe the relevant national and European framework to combat workplace violence

EU-level legislation – Definitions

Harassment is defined as a situation ‘where an unwanted conduct occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment’.

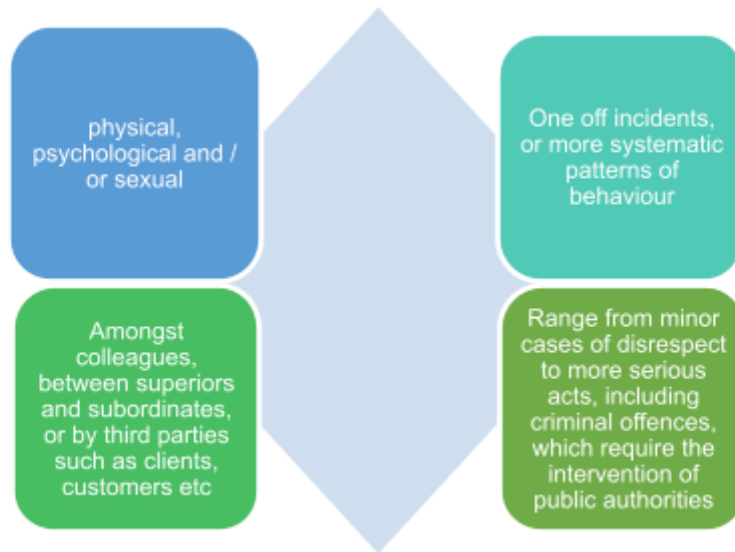
Sexual harassment is said to take place where any form of ‘unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment’.

Directive 2002/73/EC

Different forms of harassment

EU and national law define the employers’ duty to protect workers against harassment and violence in the workplace. Different forms of harassment and violence can affect workplaces.

They can be:



ILO Violence and Harassment Convention 2019

In June 2019, the historic General Conference of the International Labour Organization (ILO) adopted the:

- Violence and Harassment Convention 190 (C190)** and the
- Recommendation 206 (R206)**,

and created a new momentum in the fight against violence and harassment – including gender-based violence and harassment - in the world of work and had a huge significance for workers – particularly women workers

‘violence and harassment in the world of work’

The ILO Violence & Harassment Convention (ILO C190) defines it as:

‘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, [including] gender-based violence and harassment’.

‘gender-based violence and harassment’

The convention defines it as:

‘violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, [including] sexual harassment’.

EU Gender Equality Policies

- **Gender Equality Strategy 2020–2025.**
Contains various references to combating sexual harassment.
- **Digital Services Act 2020**
Addressing online violence targeting women

Relative EU Directives:

- **Directive 2000/43/EC of 29 June 2000**

Implementing the principle of equal treatment between persons irrespective of racial or ethnic origin

- **Directive 2000/78/EC of 27 November 2000**

Establishing a general framework for equal treatment in employment and occupation

- **Directive 2002/73/EC of 23 September 2002**

Amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions

- **Directive 89/391/EEC**

On the introduction of measures to encourage improvements in the safety and health of workers at work

Legal Terms & Definitions

-**Convention:** is a legally binding international agreement,

- **Ratification:** is when governments agree to put the contents of an internationally agreed standard into national law

and practice and it becomes binding (obligatory), and

-**Recommendations:** are non-binding guidelines which give important guidance to governments and are important tools for campaigns and negotiations.

National framework on violence & discrimination of the project countries

From European Legal Frameworks to National Laws

- **European directives** set out the minimum standards for safety and health in the workplace. The EU directives are implemented through the national legislation of Member States.

- Member States may adopt stricter rules to protect workers but their legislation must comply with the minimum standards. As a result, national safety and health legislation varies across Europe.

-A list of the national implementation measures can be found at the end of each directive's abstract in the **EU-OSHA section on European directives**.

After the adoption of **Article 13 Directives, -the Racial Equality and Employment Directives-** in 2000, Member State governments embarked on a process of reviewing and making changes to existing national legislation with a view to ensuring that national law complies with the new Community anti-discrimination standards.

Although this process has not been finished by all Member States, it is safe to say that legal protection against discrimination on the basis of race and ethnicity, religion and belief, disability, age and sexual orientation has been considerably enhanced.

-The European Commission encourages Member States to ratify the **International Labour Organization Convention No 190**, to implement the existing EU rules on protecting workers from violence and harassment and to raise people's awareness of these rules

- By 2022 only **11 countries have adopted a bill to ratify ILO Convention No.190**

- **Only 3 EU Member states** have incorporated the international standard in their national law. France, Greece and Italy

Member States Approach for the prevention and elimination of violence and harassment in the world of work.

According to Article 4 of the ILO C190:

Each Member shall adopt, in accordance with national law and circumstances and in consultation with representative employers' and workers' organizations, **an inclusive, integrated and gender-responsive approach for the prevention and elimination of violence and harassment in the world of work.**

In adopting and implementing the approach referred to in paragraph 2 of this Article, each Member shall recognize the different and complementary roles and functions of governments, and employers and workers and their respective organizations, taking into account the varying nature and extent of their respective responsibilities.

Such an approach should take into account violence and harassment involving third parties, where applicable, and includes:

- (a) prohibiting in law violence and harassment;**
- (b) ensuring that relevant policies address violence and harassment;**
- (c) adopting a comprehensive strategy in order to implement measures to prevent and combat violence and harassment;**
- (d) establishing or strengthening enforcement and monitoring mechanisms;**
- (e) ensuring access to remedies and support for victims;**
- (f) providing for sanctions;**
- (g) developing tools, guidance, education and training, and raising awareness, in accessible formats as appropriate; and**
- (h) ensuring effective means of inspection and investigation of cases of violence and harassment, including through labour inspectorates or other competent bodies.**

Topic 2:

Legal definition of occupational violence

It offers information on the course of proceedings and examples of sectorial initiatives, measures on the part of the employer, consequences and severity of punishment.

Learning Outcomes

- To be able to analyze the legal provisions that would apply in the event of an incident.
- To be able to apply the best possible solving strategy for the given situation based on the legal framework for the organization and the persons concerned.

Definition

The **2007 Framework Agreement on Harassment and Violence at Work**, signed by the European social partners, describes:

-Violence and harassment at work as:

Unacceptable behaviour by one or more individuals [that] can take many different forms, some of which may be more easily identified than others ...

-Harassment occurs when:

one or more worker or manager are repeatedly and deliberately abused, threatened and/or humiliated in circumstances relating to work.

-Violence occurs when:

one or more worker or manager are assaulted in circumstances relating to work.

-Harassment and violence:

may be carried out by one or more managers or workers, with the purpose or effect of violating a manager's or worker's dignity, affecting [their] health and/or creating a hostile work environment.



Guidelines on prevention of third-party violence and harassment at work signed by central governments & sectorial social partners

Harassment and violence by a third party

- for instance a customer, patient or member of the public

third-party violence and harassment as taking a variety of forms

- for example, 'physical, psychological, verbal and/or sexual'; a 'one-off [incident] or more systematic patterns of behaviour, by an individual or group'; 'caused by mental health problems and/or motivated by emotional reasons, personal dislike, prejudices on grounds of gender, racial/ethnic origin, religion and belief, disability, age, sexual orientation or body image

The guidelines were signed by social partners

- by two European trade union federations
- six EU employer organizations
- and the European social partners for the central government administration sector

-In July 2010, the EU social partners agreed on guidelines relating to violence and harassment by a third party.

-In November 2013, the signatory parties adopted a follow-up report on the implementation of their guidelines in which they recommended that 'a social partner agreement on preventing third-party violence could be a further step to a more stringent implementation of the guidelines if there is consensus between the social partners to start any negotiations'.

-On 17 December 2018, the guidelines were signed by the European social partners for the central government administration sector: the Trade Unions' National and European Administration Delegation (TUNED) and European Public Administration Employers (EUPAE).

Developing Workplace Policies on Violence and Harassment – The employer's duty

According to C190, employers together with workers and their union representatives should adopt and implement a workplace policy on violence and harassment, including gender-based violence and harassment.

A Workplace Policy on Violence and Harassment should include:

- A statement that violence and harassment will not be tolerated
- Establishment of violence and harassment prevention programmes with objectives
- Clearly defined employer and worker responsibilities
- Information on complaint and investigation procedures
- Provide that all incidents of violence and harassment will be considered, and acted on
- Protect the privacy of those involved and provide confidentiality for complainants and witnesses
- Protect complainants, victims, and witnesses against victimisation or retaliation.

A more detailed Policy could also include:

- A comprehensive definition of violence and harassment
- Cover all workers, specifically including vulnerable groups and precarious workers
- Cover the world of work, not just the physical workplace
- Dispute resolution and enforcement bodies
- Sanctions, remedies, and support for victim/survivors
- Joint committees to monitor implementation
- Training and awareness-raising about the policy for workers, supervisors and managers
- Enforcement, monitoring and evaluation to ensure the policy is effective.

Company-level initiatives against sexual harassment

-The French energy group EDF's international framework agreement on corporate social responsibility, concluded in March 2018, contains a chapter entitled 'Combating all forms of harassment and violence in the workplace'. Some transnational companies have concluded agreements on the issue of sexual harassment (for example, Unilever, Sodexo, Meliá Hotels International and the AccorInvest group).

-On 3 October 2018, the Carrefour group and the UNI Global Union federation appended a European Works Council declaration 'addressing the issue of violence against women at work' to their framework agreement. The text emphasises the need for training and the organisation of awareness-raising activities. The signatories also call on people to reject 'sexist or degrading comments and behaviour aimed at women in the workplace' and to refuse to let these become commonplace.



Initiatives Relevant links for further reading

- *EuroCommerce and UNI-Europa Commerce (1995), Joint statement on combating violence in commerce, Brussels.*
- *EDF (2018), [Global framework agreement on the EDF Group's corporate social responsibility \(Word\)](#), Paris.*
- *IUF, IndustriALL and Unilever (2016), [Joint Commitment to preventing sexual harassment](#), London.*
- *Sodexo (2017), [Sodexo–IUF Joint Commitment on preventing sexual harassment](#), Dublin.*
- *IUF and Meliá Hotels International (2019), [IUF/Meliá agreement on workplace right](#), Palma de Mallorca.*
- *IUF and AccorInvest (2019), [Agreement on fighting sexual harassment](#), press release, 16 September.*
- *UNI Global Union (2018), [UNI Global Union and Carrefour united in fight to stop violence against women](#), press release, 3 October.*
- [EurWORK European Observatory of Working Life](#)

Further Links

C190 - ILO Violence and Harassment Convention, 2019 (No.190) This is the full text of the original C190.

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190

R206 – ILO Violence and Harassment Recommendation, 2019 (No.206) This is the full text of the original R206.

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R206

Video: What is C190?, Common GUF Campaign This is a video which explains some keys aspects of the Convention.

<https://www.dropbox.com/s/gqbgue68va763p7/C190%20Final%20English.mp4?dl=0>

Mini guide on C190 & R206, International Trade Union Confederation (ITUC) This is mini guide highlights some of the most important parts of C190 and R206.

https://www.ituc-csi.org/IMG/pdf/c190_mini_guide_en.pdf

Frequently asked questions on C190 & R206, International Trade Union Confederation (ITUC)

This document answers some of the most frequently asked questions about C190 and R206.

https://www.ituc-csi.org/IMG/pdf/c190_faqs_en.pdf

ILO Policy Brief. ILO Violence and Harassment Convention No. 190 and Recommendation No. 206, International Labour Organization (ILO), 2020 This policy brief gives an overview of the Convention and Recommendation.

http://www.ilo.ch/wcmsp5/groups/public/ed_dialogue/actrav/documents/briefingnote/wcms_749786.pdf

Outcome of the Meeting of Experts on Violence against Women and Men in the World of Work, International Labour Organization (ILO), 2016 This report provides information from the first Meeting of Experts on Violence against Women and Men in the World of Work.

https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_533534.pdf