



European Economic and Social Committee

REX/445
Towards an ILO standard
against gender-based
violence at work

Brussels, 16 September 2015

OPINION
of the
European Economic and Social Committee
on
Towards an ILO standard against gender-based violence at work
(own-initiative opinion)

Rapporteur: **Béatrice Ouin**

On 19 February 2015, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

Towards an ILO standard against gender-based violence at work.

The Section for External Relations, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 16 July 2015.

At its 510th plenary session, held on 16-17 September 2015 (meeting of 16 September), the European Economic and Social Committee adopted the following opinion by 209 votes to two with five abstentions.

*

* *

1. Conclusions and recommendations

1.1 With its tripartite structure, the International Labour Organisation (ILO) plays an essential role on the world stage in improving the situation of workers and the operation of businesses. The European Union is not a member of the ILO but the EU Member States are, along with the organisations representing European workers and employers. The European Economic and Social Committee (EESC) calls on the EU Member States and European organisations to take action to promulgate European values and achievements internationally, taking into account the global context.

1.2 The European Economic and Social Committee considers that:

- sexual and gender-based violence at work are an impediment to decent work (which respects the dignity and ensures the security, accountability and autonomy of workers);
- gender-based violence at work is a serious violation of human rights and an attack on dignity and physical and psychological integrity;
- it damages the economy and social progress by weakening the bases upon which work relationships are built and by impairing productivity;
- it reflects unequal power relations between women and men and contributes to perpetuating inequalities at work;
- combating it requires the involvement of civil society, in particular the social partners, but also of health professionals, the police and the law to assist victims, as well as the media and teachers to prevent violence;
- it is in society's interest to combat such violence wherever it occurs and to banish it from the workplace.

- 1.3 In November 2015, the ILO Governing Body is to decide whether to put a proposal for an international standard on gender-based violence at work on the agenda of the International Labour Conference (the ILO's decision-making body). The EESC supports this proposal and calls on the Member States and European social partners to do the same.
- 1.4 The EESC calls on the Member States of the European Union, which thanks to Directive 2002/73/EC¹ already have instruments in place for tackling inequalities between men and women and sexual harassment in the workplace, speak with one voice at the ILO.
- 1.5 The European social partners signed a framework agreement on harassment and violence at work in 2007, which is an indication that they are likely to take a joint stance in the debate on the proposal for an international labour standard².

2. **Introduction: the issue of gender-based violence at work**

- 2.1 In the age of globalisation, defining international standards to combat and prevent gender-based violence is necessary in the interests of workers, businesses and countries alike. Violence is a threat to physical and psychological health, are an affront to individuals' rights and dignity, impairs the productivity of those affected and creates costs for the state and society. Tackling and preventing violence is imperative for all. Gender-based violence is one of the main impediments to development.
- 2.2 How the subject has been handled by the ILO:
- 2.2.1 Gender-based and sexual violence both reflect and reinforce inequalities between women and men and have a negative impact on the workplace. The need to combat these inequalities is addressed in a number of ILO conventions:

- Convention 29 on Forced Labour, 1930;
- Convention 97 on Migration for Employment (revised), 1949;
- Convention 100 on Equal Remuneration, 1951;
- Convention 111 on Discrimination (Employment and Occupation), 1958;
- Convention 189 on Domestic Workers, 2011.

Recommendation 200 on HIV and AIDS and the World of Work (2010) advocates that steps be taken to prevent and put an end to violence and harassment at work. Even more recently, Recommendation 204 concerning the Transition from the Informal to the Formal Economy

¹ Directive 2002/73/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 (<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32002L0073&from=EN>).

² <http://www.etuc.org/framework-agreement-harassment-and-violence-work>.

(adopted by the International Labour Conference at its 104th session on 12 June 2015 in Geneva) requires Member States to ensure that an integrated policy framework is included in national development strategies or plans. "This framework should address [...] the promotion of equality and the elimination of all forms of discrimination and violence, including gender-based violence, at the workplace"³.

However, there is currently no standard dealing specifically with the issue of gender-based violence at work.

- 2.2.2 The ILO Committee of Experts has tried to fill this gap: *"[...] sexual harassment undermines equality at work by calling into question integrity, dignity and the well-being of workers. It damages an enterprise by weakening the bases upon which work relationships are built and impairing productivity. The Committee has earlier expressed its view that sexual harassment is a form of sex discrimination and should be addressed within the requirements of the Convention [111]. Thus, in accordance with the Convention's requirements to prohibit sex discrimination and adopt a policy to promote equality of opportunity and treatment, measures should be taken to address sexual harassment"*⁴.
- 2.2.3 In 2008, the Committee noted: *"Another important implementation gap concerns sexual harassment, which is a serious form of sex discrimination and a violation of human rights at work. The Committee therefore recalls its 2002 general observation highlighting the importance of taking effective measures to prevent and prohibit both quid pro quo and hostile environment sexual harassment at work."*⁵
- 2.2.4 At the 320th and 323rd sessions of the ILO Governing Body (13-27 March 2014 and 12-27 March 2015), a number of governments (Germany, Canada, Cuba, France, India, Italy, Mexico, the Netherlands, Sri Lanka, Uruguay and the USA) expressed their support for the proposal for an international standard on violence against women and men in the world of work to equip governments, unions and employers with tools for tackling gender-based violence and sexual harassment and to send out a clear message that this behaviour is a breach of workers' rights. The request was also supported by the ILO Workers' Group and the International Trade Union Confederation.

³ http://www.ilo.org/ilc/ILCSessions/104/texts-adopted/WCMS_377774/lang--en/index.htm.

⁴ Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (1A), International Labour Conference, 91st Session, 2003, p. 463.

⁵ Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (1A), International Labour Conference, 98th Session, 2009, p. 32.

2.3 And in Europe:

- 2.3.1 The European social partners signed a Framework Agreement on Harassment and Violence at Work in 2007, which should mean that they would support a similar regulation at international level⁶.
- 2.3.2 In its opinions on gender equality and its opinion on domestic violence⁷, the EESC has repeatedly expressed its views on the gender-based and sexual violence suffered by too many women around the world. Moreover, the problem is growing: the economic crisis, structural adjustment programmes and austerity measures have contributed to increasing violence at work.
- 2.3.3 The EESC calls on the Member States of the European Union, which thanks to Directive 2002/73/EC⁸ already have instruments for tackling sexual harassment in the workplace, to call with one voice on the ILO to draft an international standard to tackle gender-based violence at work.

2.4 Description of the situation

- 2.4.1 Gender-based violence in the workplace is a serious violation of human rights and an attack on dignity and physical and psychological integrity. Across the world, 35% of women fall victim to direct violence at the workplace, and of these between 40% and 50% are subjected to unwanted sexual advances, physical contact or other forms of sexual harassment. 45% of women in the EU say they have suffered gender-based violence at some point. Between 40% and 45% say they have suffered sexual harassment at work. It is estimated that in Europe, seven women die every day as a result of gender-based violence⁹.
- 2.4.2 Such violence reveals unequal power relations between women and men and contributes to perpetuating inequalities. An expression of the desire to dominate, it is very much in evidence in societies where human rights are violated, but it also continues to exist in democratic societies. It must not be confused with seduction, which requires respect for the other party. Sexual and gender-based violence are not a private matter: combating them is a matter of law and order and public security.
- 2.4.3 Sexist jokes, insults, humiliating jibes, inappropriate gestures, pornographic images displayed on business premises and on the internet (which is a tool used by many workers in their

⁶ <http://www.etuc.org/framework-agreement-harassment-and-violence-work>.

⁷ Opinion of 24 May 2012 on Eradicating domestic violence against women, rapporteur: Mario Soares, SOC/465.

⁸ Directive 2002/73/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 (<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32002L0073&from=EN>).

⁹ 2011 Barometer (National Action Plans on Violence against Women in the EU), European Women's Lobby, August 2011 (www.womenlobby.org).

work), psychological and sexual harassment, rape and other types of sexual assault, domestic violence - what woman can claim that she has never encountered at least one of these forms of sexist behaviour?¹⁰

- 2.4.4 Regardless of where it takes place, gender-based violence can have an impact on the workplace. A European study shows the impact of domestic violence on work and the employability of those subjected to it¹¹, and it is borne out by international studies¹². According to four national surveys (Australia, Canada, New Zealand and the United Kingdom), domestic violence affects employees' engagement, productivity and security. Women who suffer domestic violence may be harassed by their husband or partner at work, raising safety issues for them and their colleagues. They may be absent from work for several days due to injury, or if they continue to go into work their productivity may be affected. In the Australian public services, victims of domestic violence are entitled to take leave. In the private sector, under collective agreements covering nearly 2 million workers, this leave is 20 days.
- 2.4.5 If violence occurs at work and is perpetrated by colleagues, superiors, customers or users, female workers will not feel safe. They may need to take leave to recover from physical or psychological injuries, seek medical assistance or attend civil or criminal court proceedings. Gender-based violence is thus also harmful for employers (loss of productivity, absenteeism, legal proceedings and bad publicity).
- 2.4.6 Violence may occur on the way to or from work. It is a frequent occurrence for women to be harassed, assaulted, manhandled and sometimes murdered in the street or on public transport. This kind of harassment, which targets young people in particular, has lasting repercussions: those affected are left feeling unsafe and vulnerable, which can result in an inferiority complex. For some of them, suffering such violence ends up seeming normal.
- 2.4.7 With the increase in the number of working women, and with more women than men in informal, precarious and domestic work, the number of women victims of violence is also growing. Single mothers are especially vulnerable. These circumstances may be exploited for the purpose of work-related blackmail.
- 2.4.8 High risk groups are children and young people - both girls and boys - who work, victims of forced labour, women economic migrants, women domestic workers, people working in the health services and sex workers. Working alone and dealing directly with the public are additional risk factors.

10 A recent report (April 2015) by the French High Council for Equality between Women and Men argues that ALL women have been subjected to unwanted sexual advances in the street and on public transport. The majority are minors. http://www.haut-conseil-egalite.gouv.fr/IMG/pdf/hcefh_avis_harcelement_transports-20150410.pdf.

11 Domestic violence: the intruder in the workplace and vocational integration, COFACE 2011 http://www.coface-eu.org/en/upload/08_EUProjects/Domestic%20violence-etude-coface-daphne-en.pdf.

12 <https://www.dvandwork.unsw.edu.au/research>.

- 2.4.9 Risk factors related to the working environment depend on women's place in the organisation of work and on how far the working culture is respectful of women. Greater representation of women in decision-making positions would be a good way of preventing violence against them.
- 2.4.10 Gender-based violence has a negative impact on worker productivity. Differences between exposure of women and men to the risk of specific forms of violence in the workplace are compounded by gender segregation. Some women are more exposed to this risk than others: those who are a minority in highly male-dominated environments or who work with people in distress (social workers, prison staff, public service front offices and hospital emergency services, etc.).
- 2.4.11 The risk of violence is also higher in environments where industrial relations are lacking and where there is no collective bargaining to resolve the problem. Trade unions can help victims to find out who to turn to when their rights are violated. There are also other solutions: for example, under Belgian law, a person trusted by management and workers may be appointed, who is available to give advice and assistance.

2.5 Defining and preventing violence

- 2.5.1 Fighting this violence means looking at the specific forms it can take, in order to prevent it. It is necessary to understand the ways it works and condemn its effects in order to clamp down on it and move towards equality between women and men. Training management on gender-related inequalities is a good preventive measure.
- 2.5.2 A binding legal framework needs to be established with a clear definition of the scope and a definition of the offence, specifying that those affected are in a relationship of subordination.
- 2.5.3 Gender-based violence at work, whether it occurs in the workplace or on the way to or from work, can take many different forms, including:
- physical violence;
 - sexual violence, including rape and sexual assault;
 - insults, rudeness, disrespect and contemptuous behaviour;
 - intimidating behaviour;
 - psychological abuse;
 - sexual harassment;
 - threats of violence;
 - aggressive behaviour.
- 2.5.4 It is characterised by unwanted comments or actions relating to gender or sexual orientation, intended to create an intimidating, humiliating, degrading or offensive climate. Small daily

attacks which appear to be innocuous cause victims to feel unsafe. Violence, assaults and humiliation of this kind create an unhealthy working environment.

2.5.5 The European social partners' framework agreement states that "Different forms of harassment and violence can affect workplaces. They can:

- *be physical, psychological and/or sexual;*
- *be one off incidents or more systematic patterns of behaviour;*
- *be amongst colleagues, between superiors and subordinates or by third parties such as clients, customers, patients and pupils, etc.;*
- *range from minor cases of disrespect to more serious acts, including criminal offences, which require the intervention of public authorities."*

The provisions of the agreement stress the need for confidentiality:

- *"It is in the interest of all parties to proceed with the necessary discretion to protect the dignity and privacy of all,*
- *No information should be disclosed to parties not involved in the case."*

The agreement also provides for a complaints procedure and for prevention measures, which could be taken as a basis for the ILO debate.

2.5.6 The internet is used by many employees at work and may spread gender-based violence through degrading images being uploaded, including messages posted on social media. An atmosphere of intimidation, hostility and humiliation can be present in on-line as well as in real-life relationships. The new standard would have to cater for the fact that the internet is used in work relationships and that this form of gender-based violence has to be addressed as well.

3. **Why we need an ILO standard on gender-based violence at work**

3.1 Workplaces are unique environments when it comes to combating violence. An international labour standard could provide guidance on appropriate human resource policies on gender-based violence in a business environment and underpin social dialogue and collective bargaining agreements.

3.2 Neither the current international framework nor national laws provide sufficient protection against gender-based violence in the workplace. In most countries, the fight against gender-based violence focuses primarily on the criminalisation of perpetrators, usually by including sexual offences in the criminal code. Although they are vitally important, these solutions are not always appropriate for workplace relations. As stated by the ILO Committee of Experts, *"Confining sexual harassment to criminal procedures has generally proven inadequate, as they may deal with the most serious cases, but not with the range of conduct in the context of*

*work that should be addressed as sexual harassment, the burden of proof is higher and there is limited access to redress"*¹³. Preventing sexual harassment means convincing employers and workers that sexist behaviour has no place at work. The European framework agreement stipulates that *"Enterprises need to have a clear statement outlining that harassment and violence will not be tolerated"*.

4. **Why civil society should support an ILO standard on gender-based violence**

- 4.1 Gender-based violence is an occupational health and safety issue and is the cause of depression, psychological distress and work-related accidents. The way work is organised must be examined, taking account of social gender relationships, and gender-based surveys must be carried out to clarify these risks.
- 4.2 The social partners are in a good position to listen to victims and help them put together their complaints. Corporate welfare or human resource departments, trade unions, occupational health doctors and specialist advisers are those most involved in protecting the staff concerned. Appointing a specialised person of trust to listen to the victims and to examine dossiers is an option recommended by the European social partners' framework agreement. Women's associations and associations which protect rights or support migrants, to name but a few, are essential to help victims and complement the work of the social partners. The conduct of the social partners themselves must be exemplary, and they must banish sexist and humiliating behaviour from their ranks.
- 4.3 An ILO standard on gender-based violence would benefit society, social dialogue, the working environment and working relations, by:
- ensuring that the social partners are consulted to establish rules and create a framework for dealing with cases;
 - establishing a common definition of what constitutes gender-based violence at work.
 - making employers' and trade unions' responsibilities clear as regards preventing, addressing and remedying gender-based violence at work;
 - helping employers to develop human resources policies incorporating processes, and particularly training, to prevent gender-based violence and deal with its impact in the world of work, including the effects of domestic violence on the workplace;
 - helping employers to establish procedures for reporting complaints and claims;
 - giving employers guidance on how to listen to those affected and examine and process complaints relating to gender-based violence at work;
 - defining employers' responsibility (direct and for others) more clearly in the event of incidences of gender-based violence at work;
 - creating a workplace culture where gender-based violence is not tolerated;

¹³ Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (1A), International Labour Conference, 98th Session, 2009, p. 32.

- improving safety at work and reducing employers' economic losses related to gender-based violence (absenteeism, loss of productivity, legal proceedings, bad publicity, etc.).

5. **Why governments should support an ILO standard on gender-based violence**

5.1 The envisaged standard would help to:

- achieve decent work objectives;
- reduce the vulnerability of people exposed to gender-based violence and increase their financial independence and productivity at work;
- make savings: domestic and workplace violence cost millions in healthcare, legal proceedings, lost pay and sickness pay;
- improve health and safety at work, as well as working relations;
- increase consistency between legal frameworks for eradicating gender-based violence and promoting human rights;
- reduce the costs that arise from gender-based violence.

6. **Proposed content for an ILO standard**

- a broad definition of gender-based violence at work, including the different forms of violence perpetrated in the workplace;
- adoption of a definition of "workplace" that covers the journey to and from work;
- provisions to prevent gender-based violence at work and measures to protect and support those subjected to gender-based violence;
- a description of the groups most affected by gender-based violence: homosexuals and transgender individuals, migrants, workers with HIV/AIDS or a disability, and people subjected to forced labour and child labour;
- safeguarding of a number of employment and social security rights for complainants, including the right to reduce or reorganise working time;
- guidance on drafting internal rules or codes of conduct for businesses and organisations, stipulating that inappropriate or humiliating behaviour towards women or other highly-affected groups will result in professional sanctions;
- guidance on preparing targeted surveys for collecting harmonised statistics;
- guidance on organising training to increase understanding of the mechanisms of domination and segregation of genders at work and develop a culture of non-violence;
- encouraging workplace health professionals to become involved in examining all cases of gender-based violence, as this poses a risk to the physical and psychological health of women workers;
- ensuring due regard for the provisions of Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation¹⁴.

¹⁴

Directive 2000/78/EC (<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32000L0078&from=EN>).

- particular focus on the role of the media in raising awareness, providing information and training: three things which are imperative in order to break the cycle of violence;
- taking account of the new risks related to use of the internet and new technologies.

Brussels, 16 September 2015

The President
of the
European Economic and Social Committee

Henri Malosse
