



COMMISSION OF THE EUROPEAN COMMUNITIES

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**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE
EUROPEAN PARLIAMENT**

transmitting the European framework agreement on harassment and violence at work

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The aim of this Communication is to inform the European Parliament and the Council of the European Union of the European framework agreement on harassment and violence at work, signed by the ETUC, BUSINESSEUROPE, UEAPME and CEEP on 26 April 2007. This is the third autonomous agreement to be negotiated by the European cross-industry social partners, following a consultation by the European Commission under Article 138 of the EC Treaty.

On 23 December 2004 the Commission decided to launch the first stage of consultation of the social partners concerning violence at the workplace and its effects on health and safety at work¹, in the context of the Commission's own agenda in the field of occupational health and safety, set out in the Community Strategy on Health and Safety at Work for 2002-2006.

The European cross-industry social partners subsequently informed the Commission that they would organise a seminar on this issue to explore the possibility of negotiating an autonomous agreement, in line with their social dialogue work programme for 2003-2005. Following this seminar, the organisations prepared their negotiating mandates and officially opened negotiations on 6 February 2006. The negotiations on a framework agreement lasted over ten months and were successfully concluded on 15 December 2006. After approval by the internal decision-making bodies of the four social partner organisations involved in the negotiations, the agreement was officially signed on 27 April 2007 in the presence of the Commissioner responsible for employment, social affairs and equal opportunities, Vladimír Špidla, and presented to the press.

The agreement aims to prevent and, where necessary, manage problems of bullying, sexual harassment and physical violence at the workplace. It condemns all forms of harassment and violence and confirms the duty of the employer to protect workers against them. Companies in Europe are requested to adopt a policy of zero tolerance of such behaviour and to specify procedures to deal with cases of harassment and violence where they occur. These procedures can include an informal stage involving a person trusted by management and the workforce. Complaints should be investigated and dealt with quickly. The principles of dignity, confidentiality, impartiality and fair treatment need to be respected. Appropriate measures will be taken against the perpetrator, including disciplinary action up to dismissal, and the victim will receive support with reintegration, if needed.

The autonomous agreement is to be implemented by the members of the signatory parties, i.e. the national social partner organisations, in accordance with the procedures and practices specific to management and labour and the Member States, as provided for by the first alternative in Article 139(2) of the EC Treaty. It is to be implemented within three years after signature. In the fourth year the Social Dialogue Committee will prepare a report on implementation of the agreement.

¹ C/2004/5220.

While respecting the principle of the autonomy of the social partners, the Commission has a particular role to play in the specific case of autonomous agreements implemented in accordance with the first alternative in Article 139(2), if the agreement was the result of a consultation under Article 138². In particular, the Commission has committed itself to publishing autonomous agreements and to informing the European Parliament and the Council, after conducting an *ex-ante* assessment of the text. This *ex-ante* assessment covers both the representativity of the signatory parties and the content of the agreement.

Representativity: The Commission considers that, as examined in previous studies, the signatory parties are, collectively, sufficiently representative³ of management and labour for them to sign a cross-industry agreement at European level. On several occasions in the past they have demonstrated their capacity to conclude European framework agreements. All the signatory parties have a mandate to represent their members in social dialogue negotiations and have approved the agreement in line with their internal decision-making procedures.

Content: The individual clauses of the framework agreement on harassment and violence at work are in conformity with Community law and its aims are in line with the objectives of European policy on health and safety at work. The agreement takes an action-oriented, rather than a legal, approach to tackle harassment and violence at company level. The Commission considers this agreement a useful contribution by social partners to protecting not only the health and safety but also the dignity of workers and to promoting modern work organisations. As such, the agreement adds value to the relevant EU and national legislation, along the lines set out in the Commission's consultation document.

In the light of this *ex-ante* assessment, the Commission has decided to inform the European Parliament and the Council of the framework agreement on harassment and violence at work. Furthermore the Commission invites the European institutions to promote the agreement by their own means, both by giving it adequate publicity and by supporting implementation at national level.

The Commission will provide any necessary support to the social partners during the implementation process. Furthermore, when the period for implementation expires, the Commission, while giving precedence to the monitoring undertaken by the social partners themselves, will conduct its own monitoring to assess the extent to which the agreement has contributed to achieving the Community's objectives.

² See COM(2004) 557 of 12.8.2004.

³ The assessment of the representativity of the European social partners is based on the three criteria formulated in COM(93) 600. In order to be considered representative, social partner organisations must:

- be cross-industry, or relate to specific sectors or categories and be organised at European level;
- consist of organisations which are themselves an integral and recognised part of Member States' social partner structures and with the capacity to negotiate agreements, and which are representative of all Member States, as far as possible;
- have adequate structures to ensure their effective participation in the consultation process.

ANNEX

FRAMEWORK AGREEMENT ON HARASSMENT AND VIOLENCE AT WORK

26 April 2007

1. INTRODUCTION

Mutual respect for the dignity of others at all levels within the workplace is one of the key characteristics of successful organisations. That is why harassment and violence are unacceptable. BUSINESSEUROPE, UEAPME, CEEP and ETUC (and the liaison committee EUROCADRES/CEC) condemn them in all their forms. They consider it is a mutual concern of employers and workers to deal with this issue, which can have serious social and economic consequences.

EU⁴ 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 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, pupils, etc.
- range from minor cases of disrespect to more serious acts, including criminal offences, which require the intervention of public authorities.

The European social partners recognize that harassment and violence can potentially affect any workplace and any worker, irrespective of the size of the company, field of activity or form of the employment contract or relationship. However, certain groups and sectors can be more at risk. In practice not all workplaces and not all workers are affected.

This agreement deals with those forms of harassment and violence which are within the competence of social partners and correspond to the description made in section 3 below.

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This includes amongst others the following 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

2. AIM

The aim of the present agreement is to:

- increase the awareness and understanding of employers, workers and their representatives of workplace harassment and violence,
- provide employers, workers and their representatives at all levels with an action-oriented framework to identify, prevent and manage problems of harassment and violence at work.

3. DESCRIPTION

Harassment and violence are due to unacceptable behaviour by one or more individuals and can take many different forms, some of which may be more easily identified than others. The work environment can influence people's exposure to harassment and violence.

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 his/her health and/or creating a hostile work environment.

4. PREVENTING, IDENTIFYING AND MANAGING PROBLEMS OF HARASSMENT AND VIOLENCE

Raising awareness and appropriate training of managers and workers can reduce the likelihood of harassment and violence at work.

Enterprises need to have a clear statement outlining that harassment and violence will not be tolerated. This statement will specify procedures to be followed where cases arise. Procedures can include an informal stage in which a person trusted by management and workers is available to give advice and assistance. Pre-existing procedures may be suitable for dealing with harassment and violence.

A suitable procedure will be underpinned by but not confined to the following:

- 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.
- Complaints should be investigated and dealt with without undue delay.
- All parties involved should get an impartial hearing and fair treatment.

- Complaints should be backed up by detailed information.
- False accusations should not be tolerated and may result in disciplinary action.
- External assistance may help.

If it is established that harassment and violence has occurred, appropriate measures will be taken in relation to the perpetrator(s). This may include disciplinary action up to and including dismissal.

The victim(s) will receive support and, if necessary, help with reintegration.

Employers, in consultation with workers and/or their representatives, will establish, review and monitor these procedures to ensure that they are effective both in preventing problems and dealing with issues as they arise.

Where appropriate, the provisions of this chapter can be applied to deal with cases of external violence.

5. IMPLEMENTATION AND FOLLOW-UP

In the context of article 139 of the Treaty, this autonomous European framework agreement commits the members of BUSINESSEUROPE, UEAPME, CEEP and ETUC (and the liaison committee EUROCADRES/CEC) to implement it in accordance with the procedures and practices specific to management and labour in the Member States and in the countries of the European Economic Area.

The signatory parties also invite their member organisations in candidate countries to implement this agreement.

The implementation of this agreement will be carried out within three years after the date of signature of this agreement.

Member organisations will report on the implementation of this agreement to the Social Dialogue Committee. During the first three years after the date of signature of this agreement, the Social Dialogue Committee will prepare and adopt a yearly table summarising the on-going implementation of the agreement. A full report on the implementation actions taken will be prepared by the Social Dialogue Committee and adopted by the European social partners during the fourth year.

The signatory parties shall evaluate and review the agreement any time after the five years following the date of signature, if requested by one of them.

In case of questions on the content of this agreement, member organisations involved can jointly or separately refer to the signatory parties, who will jointly or separately reply.

When implementing this agreement, the members of the signatory parties avoid unnecessary burdens on SMEs.

Implementation of this agreement does not constitute valid grounds to reduce the general level of protection afforded to workers in the field of this agreement.

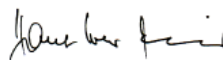
This agreement does not prejudice the right of social partners to conclude, at the appropriate level, including European level, agreements adapting and/or complementing this agreement in a manner which will take note of the specific needs of the social partners concerned.



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