



Debrief note from the Social Dialogue: Harassment and Violence Meeting (7)
4-5 October 2006

The seventh social dialogue negotiation meeting on harassment and violence took place on 5 October and was preceded by a restricted/mini drafting group meeting on 29 Sept and a drafting group (DG) meeting on 4 Oct.

The mini drafting group and the drafting group meetings were convened to work on the content of the chapter 4 - preventing, eliminating and managing problems of harassment and violence at work. The discussions with the employers were very difficult.

For the ETUC delegation the key issues to be covered in this chapter included:

- 3rd party violence (we can accept that it is not specifically mentioned, but it cannot be excluded!) and the need for risk assessment to be carried out. Whether the actual terms “3rd party violence” and “risk assessment” appear as such is irrelevant, as long as the ideas are covered. We are also prepared to add a sentence to cover the idea that 3rd party violence may be better dealt with at sectoral level. Nonetheless, this causes major problems for the employers
- Concept of a zero tolerance approach to violence and harassment – it seems that the employers can live with this idea.
- Collective approach as well as an individual approach to the problem – this is problematic for the employers as they believe the problem is individual in nature only.
- The idea of a confidential mediator who can be brought in to resolve problems – it seems that the employers can live with this idea.
- The role of trade unions and worker representatives in the entire process – it seems that the employers can accept our role in reviewing and monitoring procedures, but not at the initial stages of developing a preventative strategy.

However, we did manage to produce a joint text on 4 October at 17h00 which meets a number of our criteria although we have had to compromise on a number of points.

Among the positive elements to note are:

- Title: the word “preventative” is included which represents a breakthrough – up to now the employers did not believe they had either a role or a responsibility in preventing the problem.
- Structure of the chapter – it begins with measures of a more general and preventative nature (training and awareness raising) before moving to more specific measures to be taken when problems arise.
- Concept of zero tolerance is included
- Idea of a confidential mediator is there, although worded differently
- A non-exhaustive list of measures to be followed includes many of our concerns regarding discretion, non disclosure of information to parties not concerned, speedy investigation, importance of a fair hearing and treatment and the possibility of calling on external assistance where necessary.

- Paragraphs concerning the perpetrator and the victim are also included.
- Involving workers and their reps in the review and monitoring stages of the procedure is included.

It was agreed that a couple of issues which we wanted to include would be best placed elsewhere in the text.

For this reason, we have added the sentence “EU and national law define the employers duty to protect workers against harassment and violence in the workplace” to chapter 1, thereby underlining the duty of employers from the outset and making reference to the various pieces of EU legislation which already exist. Through this reference it is clearly recognised that the framework directive on health and safety is applicable as well as the variety of procedures it foresees, including risk assessment.

A new paragraph has been added to chapter 3 as follows: “Harassment and violence can take many different forms, some of which may be more easily identified than others. They are due to unacceptable behaviour by one or more individuals. The work environment can influence people’s exposure to harassment and violence”. This paragraph recognises both the individual causes and causes of a collective nature, although we note that it needs to be balanced (harassment and violence *is* due to individual behaviour and *may* be influenced by the work environment) when we discuss chapter 3 in greater detail.

Despite the progress made to date, there are a number of shortcomings in this text and some of the points which we have not managed to include in this text are:

- Specific reference to 3rd party violence – this will be impossible, so our strategy is to ensure that while not explicitly mentioned, it must not be excluded and as mentioned above, we are willing to add a sentence to say that it may be best dealt with at sectoral social dialogue level. However, it should be noted that our new proposal for chapter 3 which deals with work environment covers 3rd party and the sentence in chapter 4 dealing with training and awareness raising measures also includes 3rd party issues.
- Specific reference to risk assessment – the employers will not accept this. We can propose adding a sentence such as “ if many cases arise this may indicate organisational problems and warrant further investigation/ assessment”
- No role for workers involvement in the definition / identification stage of the process. However, the last sentence of chapter 4 is very strong and goes further than we had hoped in terms of our role in the review and monitoring of procedures.

Maria Helena Andre underlined both to the trade union group and to the employers in plenary, that despite progress made so far, nothing is agreed until everything is agreed and there is still a lot of work to be done. A final cleaning + tidying up exercise will have to be done at the end of the process to ensure consistency and that all the issues are covered, regardless of where.

It was also agreed that we will be unable to conclude these negotiations by the end of October so the following additional schedule was decided:

25 October – Mini Drafting Group
26 October – Drafting Group
27 October – Plenary Negotiations
28 November – Drafting Group
14 December – Drafting Group
15 December – Plenary Negotiations

Next Steps:

The ETUC secretariat will begin to work on the content of Chapter 3 – the description/definition. We ask colleagues to send us written comments/suggestions on this before the Mini drafting group (25/10) so that these can be taken into account.

The final 2 chapters - non regression and implementation + follow up procedures will also be worked on. We will aim to reinforce what we already have achieved in previous agreements and try to go further; bearing in mind that our social partner work programme 06-08 also covers this.

Encl.: Joint contribution from drafting group 4Oct.

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