

Initial thoughts on review of the 2010 TPVH Guidelines

Discussion paper for brainstorming on 13/6/22

We are coming closer to the stage of policy formulation regarding the key objective of the multisectoral project: to examine the implementation at the national level of the 2010 Guidelines and identify whether and how they might be improved both in terms of content and legal nature.

Below are some initial thoughts to discuss at the brainstorming on 13 June.

They draw from the project research findings and discussions at the five webinars:

- Overall, there is little knowledge of the Guidelines at the national level.
- The Guidelines have not been implemented in the form of a multisectoral instrument in any of the EU member states.
- In one MS, Denmark, the Guidelines have been implemented via agreements in one or two sectors.
- There is little evidence of national collective agreements dealing exclusively with external violence or harassment at work, usually the latter are integrated in broader agreements on OSH and/or gender equality or on the specific issue of cyberviolence in relation to digitalisation.
- There appears to be better knowledge and awareness of the problem from surveys and practice/experience on the ground, and some good practices in tackling the problem. However, preventing and tackling the problem has proven difficult, particularly with rising levels of TPVH during the pandemic.

Possible obstacles to national implementation:

- Not a language issue as the guidelines have been translated in 21 languages
- Insufficient follow-up/awareness-raising actions, and if so by whom, national and/or EU signatory social partners? What types of awareness-raising would be most efficient?
- Multisectoral nature? Not specific, detailed enough? Or too specific in terms of dealing with external violence only?
- Non-legally binding (view shared more by trade unions than employers), which also means the Guidelines are not part of the EU social acquis
- Is there scope for making the guidelines more binding i.e. in the form of an agreement, whether at multisectoral or sectoral level? Or would it make more sense, based on national practices, to make the principle of adopting a clear policy against violence and harassment to be integrated in national collective agreements dealing with gender equality and/or health and safety or both? The added-value of the Guidelines is that it is a dynamic tool which can cater for different options (also see below additional thoughts)
- Other?

Content-wise (mainly based on the 5 webinars)

- Persistence of underreporting of violence possibly linked to the lack of a visible, effective policy at the workplace to deal with violence, and a persistent perception that violence is part of the job in some sectors with no option than putting up with it.
- Yet there is evidence of increasing TPV, gender-based violence including gender-based cyberviolence/harassment and the need to take into account an intersectional

approach. This can point to different factors, more people are ready to speak out but don't trust that something can be done about it, not to neglect also growing frustrations from service users not least linked to digitalisation and fragmentation/dilution of responsibilities in service provision (subcontracting not helping in this regard). It requires finding new ways of tackling the problem in the changing world of work to the benefit of workers but also to the quality and availability of public and commercial services.

- The challenges of holding perpetrators accountable. Sanctions Vs anonymity of violence perpetrators especially in cases of cyberviolence (it is reminded that acc to ILO report most acts of cyberviolence would come from employees/management, unlike physical or verbal non anonymous violence that mostly comes from users/customers).
- Increasing blurring of external and internal violence, which begs the question as to whether it makes sense to separate both.
- The issue of domestic violence acknowledged as a key issue but not yet tackled at workplace level, although some national developments with the introduction of a special leave for survivors of domestic violence (e.g. UK, Italy, Spain and France).
- To bring the multisectoral guidelines in line with international instruments – ILO Violence and harassment Convention No. 190 and related Recommendation 206, Istanbul Convention (LRG social partners) as well as the draft directive on gender-based violence
- Refresh language so that it is relevant to the changing world of work and in the light of the Covid-19 pandemic (LRG social partners).
- Lifecourse approach to OSH and online violence, more younger women affected.
- Better dissemination and reflection on social media.
- Terminology/definitions e.g. bullying, mobbing, harassment (perhaps a glossary of terms)
- Use of mix of legislations: OSH, gender equality, non-discrimination, labour laws/codes with provisions on harassment and criminal law
- The role of OSH prevention through risk assessments, including psychosocial risks, should be up-to-date to take account of new risks from teleworking, new digital systems and data protection. How to integrate TPVH into existing risk assessments and/or carry out stand-alone risk assessments on TPVH stands out as a key issue.
- Role of labour inspectors in preventing and detecting risks of TPVH
- The need to develop joint approach to ensure stronger provisions on involvement of workers and their trade union representatives in risk assessments
- Impact of staffing levels and under-resourced welfare states remains central as part of the broader socio-economic background that needs to be better addressed.
- Access to recourse and justice remains difficult, more actions on prevention are critical.

Additional thoughts

- On the point about whether internal and external violence should be combined, it might be useful to underline the dynamic nature of the guidelines that can provide examples of actions that can be taken in a range of different contexts, including in agreements on OSH, wellbeing at work, gender equality, non-discrimination, labour laws/codes, as well as providing guidance on more detailed practical implementation of agreements/policies at the workplace/sectoral level etc.
- There is definitely a case for more detailed sectoral guidelines (based on research findings and comments made at the steering group level) - maybe this is something that can be best taken forward by the partners in their own sectors?