

# EU Dialogue, Local Solutions

## **Briefing for the Seminar on Third-Party Violence in France**



Joint project by the European  
social partners in local and regional  
government



with the financial support of the European Commission



## What is third-party violence?

Third-party violence means insults, threats and/or physical aggression at the workplace that is perpetrated by people who do not work there. This includes members of the public, customers, patients, family members and service users, among others. It is any type of physical, emotional or verbal violence committed at work by someone with whom the victim does not have a collegial relationship. 57.4% of workers in the EU have to deal with difficult third parties at work and 4% of the working population have reported being the victims of actual physical violence.<sup>1</sup> Earlier studies point to a broader range of figures of how many workers may be affected, but all identify a growth in the phenomenon, although this could be partly due to better reporting.<sup>2</sup> There is general agreement that third-party violence particularly affects women, as they are disproportionately represented in public-facing roles. Jobs which involve contact with members of the public undergoing upsetting or stressful experiences, which include many roles in local and regional government, not only engender particular risks but are also dominated by women workers.

## Third-party violence in local and regional government

According to the European Agency for Safety and Health at Work, professions at particular risk include nurses and other healthcare workers, people working in service users' homes, such as homecare assistants, social workers and security guards.<sup>3</sup> Workers in local and regional government commonly perform these types of roles. Furthermore, due to the stressful or upsetting contexts in which services are often delivered, such as safeguarding interventions involving vulnerable or young people, local taxation services and social care, the risk of third-party violence towards workers in local and regional government is particularly acute.<sup>4</sup> Finally, because local government is close to citizens and embedded in local communities, workers may live or work near to perpetrators and have to continue to interact with perpetrators in their daily lives. This poses the added risk of continued threats and violence outside of the workplace stemming from an initial incident at work.

## Multi-sectoral guidelines

Poor recognition of the problem and longstanding underreporting of third-party violence has meant a lack of specific policy action in many countries to tackle third-party violence. In response, social partners from diverse sectors came together to tackle the issue at European level. Unions and employers from public services, commerce, security services, education and the hospital sector agreed a series of multi-sectoral guidelines to tackle third-party violence in 2010.<sup>5</sup> The European Federation of Public Services Unions (EPSU) and the Council of European Municipalities and Regions (CEMR), the social partners for local and regional government, both participated in the negotiations and signed on to the final text. The guidelines' stated aim was 'to ensure that each workplace has a results-oriented policy which addresses the issue of third-party violence' by providing 'practical steps that can be taken by employers, workers and their representatives/trade unions to reduce, prevent and mitigate problems'. Specifically, they called upon employers and unions to:



- develop clear policy frameworks for the prevention and management of harassment and violence by third parties, to be incorporated into their general health and safety policies
- take a 'holistic' approach to third-party violence by covering all aspects from awareness raising, prevention and training to methods of reporting, support for victims and evaluation and monitoring
- tailor the approach to third-party violence to each specific work environment
- design policies to tackle third-party violence on continued information and consultation with managers, workers and their representatives / trade unions, and on objective risk assessment and monitoring data
- improve training and information to workers, particularly as regards what constitutes third-party violence and what steps to take if exposed to it, and to managers, as regards how to support workers faced with third-party violence
- provide information to clients, customers, service users, members of the public, pupils, parents and/or patients outlining that harassment and violence towards employees will not be tolerated and that if appropriate legal action will be taken

## **Social partners continue the work faced with a rise in third-party violence**

The guidelines were based on a survey of social partners undertaken in the preparatory phase of the negotiations. Three years later, a follow-up study was conducted,<sup>6</sup> which found several examples of how the guidelines had been implemented on the ground, not least in local governments in Denmark<sup>7</sup> and the Czech Republic.<sup>8</sup> However, despite these and other examples from various sectors, the report found a mixed picture. Some social partners broached the need for an EU agreement to tackle third-party violence, with others also advocating for greater integration of the issue into sectoral social dialogue committees' workplans and more European observation of the problem, potentially by the European Trade Union Institute.

With rates of third-party violence continuing to rise, particularly against women,<sup>9</sup> cross-sectoral discussions continue amongst European social partners. A to assess the impact of the guidelines ten years on is currently underway. So far, a similarly mixed picture is being revealed, with greater awareness, particularly of work environment risks – such as lone working – and of the gendered aspect to third-party violence, but a lack of implementation and monitoring.<sup>10</sup> The issue is also gaining attention at a national level, for example in France (see below), and the UK.<sup>11</sup>

## **ILO Convention 190**

Meanwhile, the issue of third-party violence has won more international currency with the agreement of the International Labour Organisation's Convention 190 on violence and harassment at work.<sup>12</sup> The convention, agreed by the ILO's general conference in 2019, makes specific reference to the issue of violence by third parties and calls on ILO member states to:



- Prohibit violence and harassment in law
- Improve enforcement and monitoring, specifically by resourcing labour inspectorates
- Educate and provide resources to raise awareness with the aim of preventing harassment and protecting vulnerable groups
- Support victims
- Apply sanctions to perpetrators

Unfortunately, only eight countries have so far ratified the convention. As yet, it has only entered into force in Uruguay and Fiji. Only one EU member state, Greece, has completed the ratification process.<sup>13</sup>

## France: a robust legislative framework with gaps in awareness and implementation

Among EU member states, France has one of the more developed legislative frameworks to tackle third party violence. The European multi-sectoral guidelines were transposed through a national agreement in 2010, shortly after their adoption at European level. In 2016, with increasing awareness of the issue of third-party violence in public services,<sup>14</sup> the government modified the 1983 civil service law to introduce the concept of 'functional protection' to ensure a holistic protection of workers from third-party violence.

### What is functional protection?

Functional protection means that the employer has a duty to defend any worker against verbal, physical, psychological abuse or insults to which they might be victim. It is an over-arching approach which includes prevention and awareness raising through to legal support for victims, up to and including the right for the public authority to become a civil party in any judicial proceedings against the perpetrator.

This doctrine of functional protection has been supplemented by a decree in March 2018 which made compulsory prior mediation (*Médiation Préalable Obligatoire*) obligatory in all litigation concerning the local and regional civil service, systematising employees' access to redress through formal channels.<sup>15</sup> Furthermore, Health, Safety and Conditions at Work Committees have a role to play both in individual cases and wider issues of policy and workplace culture. As it stands, these statutory bodies are consulted on instances of violence and harassment by third parties, but their opinions are not binding. Unions in



France are looking at ways of strengthening the role of these committees, potentially by pushing for their opinions to carry more weight, particularly in any resultant legal processes.

However, despite this robust legal framework, many employers are still not aware of their responsibilities within the doctrine of functional protection. Other avenues are open to workers who do not receive the support to which they are legally entitled. For example, since 2018, a pilot including 40 *départements* has instituted Compulsory Prior Mediation for some instances of harassment. A constitutional body, the Defender of Rights, has also existed since 2011 and can be used in cases where authorities do not apply the mechanism of functional protection. Unfortunately, it remains underused.

Despite the patchy awareness of rights and responsibilities under functional protection, prevention initiatives now exist in many areas, including the *départements* of Ardèche, Drôme and Gers. Small municipalities, like the commune of Saint Laurent Nouan, in central France, are also making big strides by setting out clear protocols for what to do if a worker is threatened in person or over the phone.

One larger example is the region of Occitanie. It has developed a clear and systematic process for reporting all instances of third-party violence and set out clear policies for how they should be treated. The regional administration has communicated this to all employees, specifically underlining the broad definition of violence, including verbal abuse, intimidation and discrimination. A dedicated reporting mechanism is made available to workers and a specially trained 'cellule de signalement' (reporting unit) is charged with dealing with allegations and supporting victims.

## Complicating factors in third-party violence: covid-19 and new technologies

As already highlighted, third-party violence continues to rise and has a specific impact on women, and workers in local and regional governments. The global pandemic has also exacerbated third-party violence against some workers in the sector and changed the modalities of violence towards others. Due to the unprecedented nature of recent events, clear data remains lacking. What research exists, for example in the case of health workers,<sup>16</sup> points towards a worsening of third-party violence against those delivering essential services on the frontline. At the most extreme end, misinformation about vaccines has incited fire bombings against vaccine centres in France and Poland<sup>17</sup> and threats to healthcare workers, and even trade union officials, in some countries.<sup>18</sup>

For other workers, the removal of physical contact with the public during lockdowns may have shielded them from the threat of physical violence but made psychological violence and verbal abuse more potent. Without being surrounded by the support networks of colleagues in a physical workspace, employees can find it difficult to report and get support after an incident. For others who have continued to work in direct contact with the public, the risks of covid-19 are joined by the risk of violence and harassment. Service users, patients and citizens



can become more confrontational, in part due to the stresses of the pandemic and frustrations of isolation.

The impact of digital technologies on third-party harassment, despite ample anecdotal and media coverage, still receives little attention, at least in Europe. In the US, the consequences of reputational and psychological damage to workers are starting to be discussed.<sup>19</sup> This lack of a coordinated approach to online risks in Europe is not confined to the workplace, with some pointing to wider deficiencies in legislation to combat cyber bullying and stalking.<sup>20</sup> A deeper understanding of how digital harassment by third-parties affects workers, particularly in light of the pandemic, and the increased reliance on digital tools to deliver public services is needed.





## References

- <sup>1</sup> See: <https://osha.europa.eu/en/tools-and-publications/infographics/third-party-violence-workplace>
- <sup>2</sup> See: <https://osha.europa.eu/en/publications/reports/violence-harassment-TERO09010ENC>
- <sup>3</sup> See: <https://osha.europa.eu/en/tools-and-publications/infographics/third-party-violence-workplace>
- <sup>4</sup> See: <https://osha.europa.eu/en/publications/reports/violence-harassment-TERO09010ENC>, p. 10.
- <sup>5</sup> See: <https://ec.europa.eu/social/main.jsp?catId=521&langId=en&agreementId=5175>
- <sup>6</sup> <https://www.epsu.org/sites/default/files/article/files/Follow-up-Report-Multisectoral-Guidelines-TPV-ALL-SECTORS-FINAL-22-11-13.pdf>
- <sup>7</sup> See: <https://www.forhandlingsfaellesskabet.dk/pjecer/pjecer-i-samarbejde/a/avoiding-harassment-and-violence-in-danish-municipal-and-regional-workplaces-januar-2011>
- <sup>8</sup> See: <https://www.eeagrants.cz/en/closed-programming-period/eea-and-norway-grants-2009-2014/programmes/norway-grants-2009-2014/cz22-global-fund-tripartite-dialogue/cz22-news/2014/final-conference-to-the-project-preventi-1523>
- <sup>9</sup> <https://www.etuc.org/en/document/safe-home-safe-work-final-report-national-country-studies>
- <sup>10</sup> See: <https://www.epsu.org/article/role-social-partners-preventing-third-party-violence-and-harassment>
- <sup>11</sup> See, for example: <https://www.tuc.org.uk/resource/tackling-third-party-abuse-and-harassment> and <https://www.lawscot.org.uk/members/journal/issues/vol-65-issue-07/workplace-harassment-the-third-party-issue/>
- <sup>12</sup> See: [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C190](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190)
- <sup>13</sup> See: [https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:3999810](https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:3999810)
- <sup>14</sup> One survey around this time found that a third of French workers in public services had experienced third-party violence, see: <https://dares.travail-emploi.gouv.fr/enquete-source/conditions-de-travail-les-risques-psycho-sociaux-ct-rps-2016>.
- <sup>15</sup> See: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000036681532/>
- <sup>16</sup> See, [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)31858-4/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)31858-4/fulltext)
- <sup>17</sup> For France, see: [https://www.lemonde.fr/police-justice/article/2021/07/24/attaques-contre-les-centres-de-vaccination-une-violence-politique-difficile-a-qualifier\\_6089376\\_1653578.html](https://www.lemonde.fr/police-justice/article/2021/07/24/attaques-contre-les-centres-de-vaccination-une-violence-politique-difficile-a-qualifier_6089376_1653578.html), for Poland, see: <https://www.politico.eu/article/fire-at-polish-vaccination-center-an-act-of-terror-says-health-minister/>
- <sup>18</sup> France, see: <https://www.nouvelobs.com/coronavirus-de-wuhan/20210910.OBS48462/menaces-contre-les-medecins-il-y-a-une-volonte-de-detruire-ce-qu-on-represente.html>, for the UK, see: <https://www.nursingtimes.net/news/coronavirus/union-leader-and-nhs-staff-targeted-with-vile-abuse-over-covid-19-vaccines-02-08-2021/> and <https://www.bmj.com/content/373/bmj.n1665>; for concerns in Ireland, see: <https://www.irishtimes.com/news/crime-and-law/garda-intelligence-warns-of-attacks-on-vaccine-centres-and-phone-masts-1.4655279>. A recent incident in Germany highlights the risk of physical attack: <https://www.dw.com/en/germany-man-refusing-covid-jab-attacks-health-workers-demands-certificate/a-59088281>
- <sup>19</sup> See: <https://hbr.org/2020/07/what-to-do-when-your-employee-is-harassed-online>
- <sup>20</sup> For example, see: <https://www.theparliamentmagazine.eu/news/article/breaking-cyber-violence>, or for a gendered perspective: <https://eige.europa.eu/publications/cyber-violence-against-women-and-girls>.



with the financial support of the European Commission