

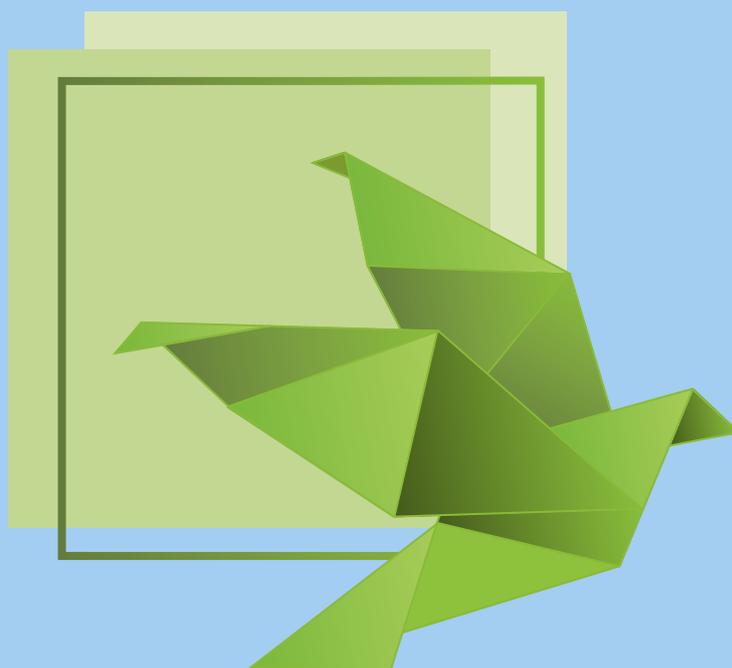


International
Labour
Organization



Report V (2A)

Ending violence and harassment in the world of work



**International
Labour
Conference**

108th Session, 2019

International Labour Conference, 108th Session, 2019

Report V(2A)

Ending violence and harassment in the world of work

Fifth item on the agenda

International Labour Office, Geneva

ISBN 978-92-2-131736-4 (print)
ISBN 978-92-2-131737-1 (Web pdf)
ISSN 0074-6681

First edition 2019

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CONTENTS

	<i>Page</i>
LIST OF ABBREVIATIONS	v
INTRODUCTION	1
REPLIES RECEIVED AND COMMENTS	5

LIST OF ABBREVIATIONS

Employers' and workers' organizations

International organizations	IFJ	International Federation of Journalists
	IndustriALL	IndustriALL Global Union
	IOE	International Organisation of Employers
	ITF	International Transport Workers' Federation
	ITUC	International Trade Union Confederation
	IUF	International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations
	PSI	Public Services International
Albania	BiznesAlbania	Union of Albanian Business
	BSPSH	United Independent Trade Unions of Albania
	KSSH	Confederation of the Trade Unions of Albania
Algeria	CGEA	General Confederation of Algerian Enterprises
Argentina	AEFIP	Asociación de Empleados Fiscales e Ingresos Públicos
	APOC	Asociación del Personal de los Organismos de Control
	CGT-RA	General Confederation of Labour of the Argentine Republic
	CTA-A	Confederation of Workers of Argentina (CTA Autonomous)
	CTA-T	Confederation of Workers of Argentina (CTA Workers)
	UEJN	Union of Employees of the National Judiciary
	UIA	Argentine Industrial Union
	UITOC	Unión internacional de Trabajadores de Organismos de Control
Australia	ACCI	Australian Chamber of Commerce and Industry
	ACTU	Australian Council of Trade Unions

Austria	BAK	Federal Chamber of Labour
	ÖGB	Austrian Confederation of Trade Unions
	WKÖ	Austrian Federal Economic Chamber
Bahrain	GFBTU	General Federation of Bahrain Trade Unions
Bangladesh	BEF	Bangladesh Employers' Federation
	BFTUC	Bangladesh Free Trade Union Congress
	BJSD	Bangladesh Jatiyatabadi Sramik Dal
	BJSL	Bangladesh Jatiya Sramik League
	BLF	Bangladesh Labour Federation
	BMSF	Bangladesh Mukto Sramik Federation
	BSSF	Bangladesh Sanjukta Sramik Federation
	Belgium	CSC
CGSLB		General Confederation of Liberal Trade Unions of Belgium
FGTB		General Federation of Labour of Belgium
VBO-FEB		Federation of Enterprises in Belgium
Benin	CNP-Bénin	Conseil national du Patronat du Bénin
Brazil	CNI	National Confederation of Industry
	CUT	Single Confederation of Workers
	UGT	General Union of Workers
Bulgaria	CITUB	Confederation of Independent Trade Unions of Bulgaria
Burkina Faso	CNPB	National Employers' Council of Burkina Faso
	CNTB	National Confederation of Workers of Burkina
Cambodia	CCTU	Cambodian Confederation of Trade Union
Cameroon	CSAC	Confederation of Autonomous Trade Unions of Cameroon
	SYNDUSTRICAM	Syndicat des industriels du Cameroun
	UGTC	General Union of Workers of Cameroon
Canada	CEC	Canadian Employers Council
	CLC	Canadian Labour Congress
	UFCW	United Food and Commercial Workers International Union
Chile	CPC	Confederation of Production and Commerce
	CUT	Single Confederation of Trade Unions of Chile

China	ACFTU	All-China Federation of Trade Unions
	CEC	China Enterprise Confederation
Colombia	ANDI	National Employers Association of Colombia
	ASDECCOL	Asociación de Servidores Públicos de los Órganos de Control de Colombia
Costa Rica	CTC	Confederation of Workers of Colombia
	CMTC	Costa Rican Workers' movement confederation
	CSJMP	Juanito Mora Porrás Social Confederation
	CTRN	Confederation of Workers Rerum Novarum
	UCCAEP	Costa Rican Federation of Chambers and Associations of Private Enterprise
Côte d'Ivoire	CGECI	General Confederation of Enterprises of Côte d'Ivoire
	FESACI	Federation of Autonomous Trade Unions of Côte d'Ivoire
Croatia	CEA	Croatian Employers' Association
Cyprus	OEB	Cyprus Employers and Industrialists Federation
Democratic Republic of the Congo	COSYLAC	Confédération des syndicats libres et autonomes du Congo
	FEC	Federation of Enterprises of the Congo
Denmark	DA	Confederation of Danish Employers
	FTF	Salaried Employees and Civil Servants Confederation
	LO	Danish Confederation of Trade Unions
Dominican Republic	CASC	Autonomous Confederation of Workers' Unions
	CNUS	National Confederation of Trade Union Unity
Egypt	FEI	Federation of Egyptian Industries
Estonia	EEA	Estonian Employers' Association
Finland	EK	Confederation of Finnish Industries
France	CGT	General Confederation of Labour
	FO	Force Ouvrière
	MEDEF	Movement of Enterprises of France
Gabon	CPG	Gabonese Employers' Confederation
Georgia	GEA	Georgian Employers' Association
	GTUC	Georgian Trade Union Confederation

Germany	BDA	Confederation of German Employers' Associations
	DGB	German Trade Union Confederation
Greece	GSEE	Greek General Confederation of Labour
	SEV	Hellenic Federation of Enterprises
Guatemala	CACIF	Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations
	CUSG	United Trade Union Confederation of Guatemala
	UNSI TRAGUA Histórica	Trade Union Confederation of Workers of Guatemala
Guinea	CNPG	Conseil National du Patronat Guinéen
Hong Kong, China	HKCTU	Hong Kong Confederation of Trade Unions
Hungary	BUSINESSHUNGARY	Confederation of Hungarian Employers and Industrialists
Iceland	ASI	Icelandic Confederation of Labour
	SA	Confederation of Icelandic Employers
India	AIOE	All India Organisation of Employers
	EFI	Employers' Federation of India
Indonesia	APINDO	Employers' Association of Indonesia
	KPBI	Confederation of United Indonesian Workers
	KSBSI	Confederation of Indonesian Prosperity Trade Union
	KSPI	Indonesian Trade Union Confederation
	KSPN	Confederation of National Trade Union
	KSPSI	Confederation of All Indonesian Trade Unions
	SARBUMUSI	All Indonesia Muslim Workers' Union
	Israel	Histadrut
Italy	MAI	Manufacturers' Association of Israel
	CGIL	Italian General Confederation of Labour
	CIDA	Italian Confederation of Managers and Other Professionals
	CISL	Italian Confederation of Workers' Trade Unions
	Confindustria UIL	General Confederation of Italian Industry Italian Union of Labour

Japan	JTUC-RENGO	Japanese Trade Union Confederation
	Keidanren	Japan Business Federation
Kenya	COTU-K	Central Organization of Trade Unions - Kenya
	FKE	Federation of Kenya Employers
	KUCFAW	Kenya Union of Commercial Food and Allied Workers
	KUDHEIHA	Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers
Latvia	LBAS	Free Trade Union Confederation of Latvia
Lesotho	ALEB	Association of Lesotho Employers and Business
Madagascar	GEM	Groupement des entreprises de Madagascar
Malaysia	MTUC	Malaysian Trade Union Congress
Mali	CSTM	Trade Union Confederation of Workers of Mali
Mauritania	CGTM	General Confederation of Workers of Mauritania
Mauritius	NTUC	National Trade Union Confederation
Mexico	COPARMEX	Employers' Confederation of the Mexican Republic
	UNT	National Union of Workers
Republic of Moldova	CNSM	National Trade Union Confederation of Moldova
Mongolia	CMTU	Confederation of Mongolian Trade Unions
Montenegro	CTUM	Confederation of Trade Unions of Montenegro
	MEF	Montenegrin Employers' Federation
Morocco	UMT	Moroccan Labour Union
Namibia	NEF	Namibian Employers' Federation
Nepal	ANTUF	All Nepal Trade Union Federation
	FNCCI	Federation of Nepalese Chambers of Commerce and Industry
	GEFONT	General Federation of Nepalese Trade Unions
Netherlands	CNV	National Federation of Christian Trade Unions
	FNV	Netherlands Trade Union Confederation
	VNO-NCW	Confederation of Netherlands Industry and Employers

New Zealand	BusinessNZ	Business New Zealand
	NZCTU	New Zealand Council of Trade Unions
Nicaragua	ATC	Agricultural Workers' Association
	CST	Sandinista Workers' Confederation
Nigeria	NECA	Nigeria Employers' Consultative Association
	NLC	Nigeria Labour Congress
Norway	LO	Norwegian Confederation of Trade Unions
	NHO	Confederation of Norwegian Enterprise
	Spekter	Arbeidsgiverforeningen Spekter
	Unio	Confederation of Unions for Professionals
	YS	Confederation of Vocational Unions
Pakistan	EFP	Employers' Federation of Pakistan
	PWF	Pakistan Workers' Federation
Panama	CONATO	National Council of Organized Workers
	CONUSI	National Confederation of United Independent Unions
	CS	Trade Union Convergence
	CTRP	Confederation of Workers of the Republic of Panama
	CUT-A	Central Unitaria de Trabajadores - Auténtica
Paraguay	CUT-A	Central Unitaria de Trabajadores - Auténtica
Peru	CATP	Autonomous Workers' Confederation of Peru
	CONFIEP	National Confederation of Private Business Institutions
Philippines	ECOP	Employers' Confederation of the Philippines
	NTUC	National Trade Union Centre
	SENTRO	Center of United and Progressive Workers
Poland	NSZZ Solidarność	Independent and Self-Governing Trade Union "Solidarność"
	OPZZ	All-Poland Alliance of Trade Unions
Portugal	CIP	Confederation of Portuguese Industry
Romania	CPC	Employers' Confederation Concordia
Russian Federation	RSPP	Russian Union of Industrialists and Entrepreneurs
Saint Lucia	SLEF	Saint Lucia Employers' Federation
Senegal	CNP	National Council of Employers
Serbia	SAE	Serbian Association of Employers
Singapore	SNEF	Singapore National Employers' Federation

Slovakia	AZZZ SR	Federation of Employers' Associations of the Slovak Republic
Slovenia	ZDS	Association of Employers of Slovenia
South Africa	BUSA	Business Unity South Africa
	COSATU	Congress of South African Trade Unions
	FEDUSA	Federation of Unions of South Africa
Spain	CCOO	Trade Union Confederation of Workers' Commissions
	CEOE	Spanish Confederation of Employers' Organizations
	CEPYME	Spanish Confederation of Small and Medium-Sized Enterprises
	UGT	General Union of Workers
Sweden	SN	Confederation of Swedish Enterprise
	LO	Swedish Trade Union Confederation
	TCO	Swedish Confederation of Professional Employees
	Saco	Swedish Confederation of Professional Associations
Switzerland	SGV-USAM	Umbrella Organization of Swiss Small and Medium Enterprises
	UPS	Swiss Federation of Employers
	USS-SGB	Swiss Federation of Trade Unions
Thailand	ECOT	Employers Confederation of Thailand
Tunisia	UGTT	Tunisian General Labour Union
Turkey	HAK-IS	Confederation of Turkish Real Trade Unions
	TISK	Turkish Confederation of Employers' Associations
	TÜRK-İŞ	Confederation of Turkish Trade Unions
United Kingdom	CBI	Confederation of British Industry
	TUC	Trades Union Congress
United States	AFL-CIO	American Federation of Labor and Congress of Industrial Organizations
	USCIB	United States Council for International Business
Uruguay	CIU	Chamber of Industries of Uruguay
Bolivarian Republic of Venezuela	CTASI	Independent Trade Union Alliance Confederation of Workers

Viet Nam	VCCI	Viet Nam Chamber of Commerce and Industry
Zambia	ZCTU	Zambia Congress of Trade Unions
Zimbabwe	ZCTU	Zimbabwe Congress of Trade Unions
Other abbreviations		
	WGDAW	Working Group on the issue of discrimination against women in law and in practice

INTRODUCTION

In accordance with the decision of the Governing Body of the International Labour Office at its 325th Session (October–November 2015), the agenda of the 107th Session (May–June 2018) of the International Labour Conference included a standard-setting item on “Violence against women and men in the world of work”, with a view to a double discussion.¹ The term “violence” was later replaced by “violence and harassment”, as suggested by the tripartite Meeting of Experts on Violence against Women and Men in the World of Work, held in Geneva from 3 to 6 October 2016, with the aim “to ensure the range of unacceptable behaviour is adequately understood and addressed.”²

In preparation for the first discussion in 2018, and in accordance with article 39 of the Standing Orders of the Conference, the Office prepared two reports: Report V(1)³ and Report V(2).⁴ The Conference Standard-Setting Committee on Violence and Harassment in the World of Work (“the Committee”) considered these reports and adopted its own reports, containing the summary proceedings and conclusions⁵ which were, respectively, approved and adopted by the plenary of the Conference on 8 June 2018.⁶ At the same sitting, the Conference also adopted the following resolution:⁷

The General Conference of the International Labour Organization,

Having adopted the report of the Committee appointed to consider the fifth item on the agenda,

Having in particular approved as general conclusions, with a view to the consultation of Governments, proposals for a Convention supplemented by a Recommendation concerning violence and harassment in the world of work,

Decides that an item entitled “Violence and harassment in the world of work” shall be included in the agenda of its next ordinary session for second discussion with a view to the adoption of a Convention supplemented by a Recommendation.

¹ ILO: *Minutes of the 325th Session of the Governing Body*, [GB.325/PV](#), para. 33(a).

² ILO: *Report of the Director-General: Fifth Supplementary Report: Outcome of the Meeting of Experts on Violence against Women and Men in the World of Work*, [GB.328/INS/17/5](#), Appendix I, para. 33.

³ ILO: *Ending violence and harassment against women and men in the world of work*, [Report V\(1\)](#), International Labour Conference, 107th Session, Geneva, 2018 (published in 2017).

⁴ ILO: *Ending violence and harassment in the world of work*, [Report V\(2\)](#), International Labour Conference, 107th Session, Geneva, 2018.

⁵ ILO: *Reports of the Standard-Setting Committee: Resolution and proposed Conclusions submitted for adoption by the Conference*, in [Provisional Record No. 8A](#), and *Summary of proceedings*, in [Provisional Record No. 8B\(Rev.1\)](#), International Labour Conference, 107th Session, Geneva, 2018.

⁶ ILO: Plenary sitting: *Reports of the Standard-Setting Committee: Violence and Harassment in the World of Work*, in [Provisional Record No. 8C](#), International Labour Conference, 107th Session, Geneva, 2018. In accordance with the practice established in 1988, the report of the Committee was published and is available to member States in its entirety, as is the record of the discussion of the item in the plenary sitting of the 107th Session of the Conference.

⁷ ILO: *Resolution to place on the agenda of the next ordinary session of the Conference an item entitled “Violence and harassment in the world of work”*, International Labour Conference, 107th Session, Geneva, 2018.

In the light of this resolution, and in conformity with article 39(6) of the Standing Orders of the Conference, the Office prepared Report V(1),⁸ containing the texts of a proposed Convention and Recommendation based on the Conclusions adopted by the Conference at its 107th Session. The texts were formulated on the basis of the first discussion by the Conference and took into account the replies received to the questionnaire contained in the preliminary report.⁹ Pursuant to the Standing Orders, the report was communicated to governments, so as to reach them no later than two months from the closing of the 107th Session of the Conference.

In accordance with article 39(6) of the Standing Orders of the Conference, governments were invited to send, after consulting the most representative organizations of employers and workers, their suggested amendments or comments, so as to reach the Office by 8 November 2018.

Governments were also requested to inform the Office, by the same date, whether they considered that the proposed texts provided a satisfactory basis for the second discussion by the Conference at its 108th Session (June 2019), and to indicate which organizations of employers and workers they had consulted. Such consultations are also required by Article 5(1)(a) of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), for countries that have ratified this Convention. The results of the consultations should be reflected in the governments' replies.

At the time the present report was prepared, the Office had received replies from constituents from 101 member States, including the governments of the following 57 member States: Algeria, Argentina, Austria, Bangladesh, Belgium, Brazil, Bulgaria, Burundi, Cameroon, Canada, Chile, Colombia, Cyprus, Denmark, Ecuador, Egypt, Estonia, Finland, France, Georgia, Germany, Hungary, Indonesia, Islamic Republic of Iran, Israel, Italy, Kuwait, Mali, Malta, Mauritius, Mexico, Montenegro, Morocco, Myanmar, New Zealand, Niger, Nigeria, Norway, Oman, Panama, Paraguay, Peru, Philippines, Poland, Qatar, Russian Federation, Senegal, Spain, South Africa, Sweden, Switzerland, Thailand, Tunisia, Uganda, United Kingdom, United States and Uruguay.

Most governments indicated that their replies had been drawn up after consultation with organizations of employers and workers. Some of those governments incorporated in their replies the opinions expressed by these organizations on certain points, while others transmitted their observations separately. In some cases, replies were received directly from employers' and workers' organizations. The International Trade Union Confederation (ITUC) and the International Organisation of Employers (IOE) also sent replies.

A reply was received from the United Nations Working Group on the issue of discrimination against women in law and in practice (WGDAW), in which the WGDAW supported the process and offered suggestions.

To ensure that both the English and French texts of the proposed Convention and Recommendation are received by governments within the time limit established in article 39(7) of the Standing Orders of the Conference, Report V(2) has been published in two volumes. The present volume (Report (V(2A))) has been prepared on the basis of replies received from governments and employers' and workers' organizations, and contains the essential points of their observations. It is divided into three sections: general observations; observations on the proposed Convention; and observations on the proposed Recommendation. Some replies provided information on specific national contexts; while this information is useful for the Office's work, it has not been reproduced.

The Office notes that some replies contained detailed, technical comments, including extensive proposals for alternative text. In view of the restrictions on the length of Conference reports, replies have

⁸ ILO: *Ending violence and harassment in the world of work*, Report V(1), International Labour Conference, 108th Session, Geneva, 2019 (published in 2018).

⁹ ILO: Report V(1) published in 2017, op. cit.

not been reproduced in full, and the Office has, to the best of its ability, summarized the central ideas. Similar suggestions have been grouped together. When no comments were received on specific provisions, no Office commentary has been made.

Many employers' and workers' organizations, including the IOE and the ITUC, have collaborated to provide the same or similar observations on many provisions of the proposed texts; a summary of the observations is presented as a consolidated reply. The workers' organizations collaborating in this way are: ANTUF, CTASI, ATC, BFTUC, BJSD, BJSL, BLF, BMSF, BSSF, CASC, CATP, CCTU, CGIL, CISL, CMTC, CNUS, CONATO, CONUSI, CS, CSJMP, CST, CTA-T, CTC, CTRN, CTRP, CUSG, CUT (Brazil), CUT (Chile), CUT-A, DGB, FEDUSA, FESACI, GEFONT, GSEE, GTUC, HAK-IS, Histadrut, HKCTU, IndustriALL, ITF, ITUC, IUF, JTUC-RENGO, KUCFAW, KUDHEIHA, LBAS, NSZZ Solidarność, PWF, SENTRO, UGT (Spain), UIL, UNSITRAGUA Histórica, ZCTU (Zambia), ZCTU (Zimbabwe). The employers' organizations collaborating in this way are: ACCI, AIOE, ALEB, ANDI, APINDO, AZZZ SR, BDA, VCCI, BEF, Business Mauritius, CEA, CEC (Canada), CEC (China), CGEA, CGECI, CNP (Senegal), CNP-Bénin, CNPG, Confindustria, CPC (Romania), SN, ECOP, EFI, EFP, EK, FEC, FEI, FKE, FNCCI, GEM, IOE, MEDEF, MEF, NECA, OEB, RSPP, SA, SLEF, TISK, UPS, USCIB, VNO-NCW, ZDS. Most comments closely followed the structure of the proposed texts and specified the parts to which they referred. Where this was not the case or where submissions corresponded to another provision, the Office has, to the best of its ability, referred observations to the relevant sections of the report.

The bilingual Report V(2B) contains the English and French versions of the proposed texts of the Convention and Recommendation, as amended in light of the replies received, and for the reasons given in the Office commentaries as set out in the present volume. Some minor drafting changes have also been made, in particular to ensure full concordance between the two language versions of the proposed instruments. If the Conference so decides, these texts will serve as a basis for the second discussion, at the 108th Session (June 2019), with a view to adopting a Convention supplemented by a Recommendation concerning the elimination of violence and harassment in the world of work.

REPLIES RECEIVED AND COMMENTS

I. GENERAL OBSERVATIONS

Governments

Argentina, Canada, Finland, France, Kuwait, Mali, Malta, Montenegro, Nigeria, Norway, Oman, Peru, Qatar, Switzerland: The proposed texts provide adequate basis for second discussion.

Canada, Mexico, Paraguay: Promote gender-responsive/inclusive language.

Belgium: Reference social and economic cost of violence and harassment.

Bulgaria, Cyprus, Hungary: Support adopting instruments providing adequate protection from violence and harassment in the world of work and that are widely ratifiable.

Burundi: The Office's work is well done, consistent.

Cameroon: Quality of the Office texts is appreciated.

Canada: Supports a Convention clearly defining terms and scope and a Recommendation providing practical guidance.

Denmark, Norway: Convention should contain general principles and be efficient, enforceable and broadly ratifiable.

Finland: Proposed texts are excellent basis for further deliberations. Resolve ambiguities regarding definitions and scope.

Georgia: The texts are supported.

Israel: Instruments need to be practical, flexible and effective.

Mali, Senegal: The Africa group's concerns have been taken into account.

Mexico, United Kingdom: Support adopting a Convention supplemented by a Recommendation.

Niger: Proposed texts reinforce innovative approaches and are welcomed.

Nigeria: Protecting victims is the ultimate goal.

Peru: Instruments should address impact of corruption on violence against women.

Philippines: No objection to the Office commentaries.

Poland: Adopting international standards against harassment in the workplace is appropriate.

Russian Federation: Instrument goes beyond original purpose and contains controversial provisions that go beyond the scope of labour law. A "soft" law instrument is called for.

Spain: In Spanish, replace "trabajadores y/o trabajadoras" with "personas trabajadoras", except for provisions only referring to women, and replace "velar" with "asegurar".

Sweden: Questions about responsibility for counteracting violence and harassment should be clarified. Recommendation should be less detailed, more flexible.

Switzerland, United States: Definitions and scope are too broad.

United States: Add a general clause regarding sovereign and diplomatic immunity.

Uruguay: The Tripartite Commission supports adopting a Convention and Recommendation. Office texts are a substantive advancement towards achieving consensus.

Employers

Consolidated reply, CONFIEP, VBO-FEB: The Office's reference that points 1 to 23(c) of the conclusions, as amended, were carried by a "clear majority" is contested. While agreeing on the importance and necessity of reaching an agreement, the proposed instruments contain too many implementation and ratification barriers.

BiznesAlbania: Fully agree on the proposed Convention and Recommendation. The IOE's comments are fully supported.

BUSA: A Convention risks excluding some inappropriate behaviours and the most vulnerable groups. A Recommendation is preferred and could be linked with the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).

BUSINESSHUNGARY: The proposed text cannot be supported, as it would be difficult to implement at national level. Key proposed definitions overly extend employers' responsibilities, including small and medium enterprises and family businesses.

BusinessNZ: The IOE's changes are generally agreed to. A Recommendation is preferred.

CACIF: A Convention is not supported, as violence and harassment are criminal not labour matters.

CBI: Supports a Convention, supported by a balanced, practical Recommendation.

CEC (Canada): A Convention is supported if employers' concerns are addressed.

CEOE, CEPYME: Texts do not take into account companies' varying circumstances, with protective measures only benefiting workers. Attribution of responsibilities is directed at employers and governments.

CIP: The texts lack legal clarity, are too prescriptive and do not provide a basis for the practical implementation.

COPARMEX: The instrument should be a Recommendation.

CPG, EK: Proposed texts would imply changes to national legislation.

DA: A Convention should contain only general principles, taking into account national differences and enterprises' capacities. Replace "should" with "could"/"may" in the Recommendation. Add a preambular paragraph reading: "Acknowledging that the overall protection for all against violence and harassment shall be provided by member states by criminal laws, legal procedures and institutions to secure criminal justice."

ECOT: The text should be practical, effectively enforced and implemented, and given effect through national mechanisms.

EGP, SNEF: Support the IOE's position.

GEA: The objectives and inspiration of the proposed Convention are fully shared.

MAI: An employer acting to prevent and handle incidents of violence and harassment should be exempt of liability.

MEDEF: The text should be pragmatic and applicable to all the companies, and allow companies to assume their obligations.

NEF: A Recommendation, with the possibility to be linked to the Occupational Safety and Health Convention, 1981 (No. 155), might be a stronger and more effective tool than a broader-scoped Convention.

NHO: To be broadly ratified and implemented, the Convention must contain general principles without being too detailed, excessive or imposing unrealistic requirements.

SEV: Any employer responsibilities must be appropriate to the diverse range of businesses that would be required to implement them, including small and family businesses.

SGV-USAM: The texts are, in parts, vague and unclear and, in others, too detailed. Even if the second document contains recommendations, it may give rise to obligations and extensive regulation.

SN: The texts are too detailed. Employer responsibilities must be appropriate to the diverse range of businesses, including small and family businesses.

UCCAEP: Replace "world of work" with "workplace" throughout text.

VBO-FEB: The proposed texts do not provide clear definitions, clarity about roles and responsibilities, and practical measures. The approach should focus on preventing and stopping violence and harassment, not on identifying/investigating victims and perpetrators.

WKÖ: There is no need for a Convention, as the scope extends beyond the world of work.

Workers

Consolidated reply: The proposed texts are generally considered as a satisfactory basis for further discussion. Where no specific comments are provided, the changes proposed by the Office are agreed to. In order to ensure a working environment free from violence and harassment for all, basic rights and principles should be properly addressed in the Convention, rather than in the Recommendation.

ACTU: Where no specific comments are provided, the changes proposed by the Office are agreed to.

ACTU, ASI, CGIL, CISL, CLC (Canada), COTU-K, FNV, CNV, FO, GTUC, IFJ, ITF, ITUC, LO (Denmark), FTF, LO (Norway), MTUC, PSI, TUC, UFCW, UGT (Spain), UIL, Unio, YS: The proposed texts form a satisfactory basis for further discussions.

AFL-CIO: Support a Convention.

BSPSH: We fully agree on the proposed Convention and Recommendation.

CCOO: Throughout the Spanish version of the text, replace “trabajadores” with “personas trabajadoras”.

CGT: In the French version of the text, replace “travailleurs” with “personnes qui travaillent”.

CGTM, CTRP, FGTB: Supports a Convention and a Recommendation.

CITUB: The main issue of the proposed instruments is to cover all workers.

CNSM: Supports the draft Convention, with no objections.

COSATU: Where no specific comments are provided, the changes proposed by the Office are supported. Supports the Recommendation in its entirety.

CTA-A: There is a need to promote an international standard through a Convention and Recommendation.

CTUM: The proposed texts bring greater clarity for further discussions.

KSSH: Supports the final version of the Brown Report.

LO (Sweden), TCO, Saco: State that the Recommendation is not a binding instrument.

NLC, NTUC (Philippines): The text must be clear and consistent.

NZCTU: Where no specific comments are provided, the changes proposed by the Office are agreed to.

OGB: Supports the initiative on a Convention and a supplementary Recommendation.

OPZZ: The adoption of international regulations providing for protection against harassment in the workplace is welcomed.

UGTT: Eliminating all forms of violence and harassment in workplaces is a priority.

UNSITRAGUA Histórica: Reaching a tripartite agreement is important.

USS and Travail.Suisse: The first discussion was a major step in the right direction. Definitions, scope, responsibilities and flexibility still need to be addressed.

United Nations

WGDAW: A strong Convention is needed that incorporates detailed measures, provides appropriate redress to those who experience violence and harassment, employs a gender perspective and an intersectional approach, and recognizes that women are often disproportionately and differently affected. Domestic violence and other forms of violence within the private sphere can have a significant impact on women’s working lives, and States should mitigate such violence and its impacts. Women’s voices should be included in the finalization of the Convention and Recommendation, to make these instruments as effective and inclusive as possible.

OFFICE COMMENTARY

A significant majority of governments and workers’ organizations that have replied appreciated the quality of the proposed texts of the Convention supplemented by a Recommendation and considered that they provide a satisfactory basis for further discussion at the 108th Session of the Conference. Many employers’ organizations characterized the first discussion as not having

reached agreement on key issues and expressed general concern about the implementation of the texts.

Overall, governments and employers' and workers' organizations emphasized the importance of the topic at hand and the need to reach an agreement. Many replies contained specific proposals for modifying the draft texts further, particularly regarding the clarity of definitions and scope and the responsibilities and circumstances of different actors, which are reflected under the relevant provisions of the proposed texts. Proposals on language, such as using gender-responsive language in French and Spanish, adding flexibility and aligning the various language versions of the texts, are also noted.

Based on the replies, the Office has made changes to the proposed texts, consequently renumbering the provisions. For ease of reference, where numbering has changed, the replies received and corresponding Office commentaries are presented according to the structure and provision numbers contained in Report V(1), 2018, followed in parenthesis by the current numbering in Report V(2B).

II. OBSERVATIONS ON THE PROPOSED CONVENTION CONCERNING THE ELIMINATION OF VIOLENCE AND HARASSMENT IN THE WORLD OF WORK

Preambular paragraph 4

Governments

Argentina: Reference the Belém do Pará Convention.

Indonesia: No objection is expressed.

Qatar: The UN Declaration on the Elimination of Violence against Women is the closest international instrument to the scope of the Convention.

Tunisia: Reference the Domestic Workers Convention, 2011 (No. 189).

Workers

UNT: Add ILO Convention No. 102 and Recommendation No. 202 on social security, Conventions Nos 81 and 129 on labour inspection, Convention No. 156 on workers with family responsibilities, Conventions Nos 73 and 143 on migrant workers, and Convention No. 183 on maternity protection.

OFFICE COMMENTARY

In accordance with the Office commentary in the sixth preambular paragraph, the text remains unchanged.

Preambular paragraph 5

Governments

United States: Replace “the right of everyone to” with “that it is imperative to pursue”.

Employers

CIU, CNI, CPC (Chile): Replace “world of work” with “workplace, both public and private”.

Workers

CGT: Replace “including” with “particularly”, to avoid suggesting that women would not be affected by the other parts of the text.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Preambular paragraph 6

Governments

Argentina, Chile, France, Indonesia, Morocco, Panama, Paraguay, Qatar, South Africa, Uganda: Support Office proposal.

Bangladesh: Remove “is a form of human rights violation”.

Austria, New Zealand: Do not support Office proposal.

Belgium: The Office proposal can be supported if the rest of this paragraph is maintained.

Bulgaria: The Office’s proposal is not supported. Recognize that violence and harassment “can impair the enjoyment of human rights” and that member States are obliged to promote, respect and protect human rights.

Canada: The Office proposal is acceptable. Insert “or abuse” after “violation” in the fourth paragraph. Maintain the rest of the sixth paragraph.

Finland: Remove “form of”.

Germany: Support Office proposal. Insert “some forms of” before “harassment” in the fourth paragraph.

Hungary, United Kingdom: The following wording is suggested: “Recalling that Members have an obligation under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms, and that violence and harassment in the world of work can impair the enjoyment of human rights, ...”.

Italy: The current text of the sixth paragraph and addressing the issue in the fourth paragraph are supported.

Mexico: The Office proposal is acceptable. Insert “and a threat to the principle of equality and non-discrimination” before “enunciated”, and “are unacceptable and incompatible with decent work” at the end.

Spain: Add a paragraph recalling that “Violence and harassment at work are manifested with greater virulence in situations that are more difficult to demonstrate, that is, those situations of basic organic and functional dependence, in which the employer not only has greater capacity to act, but also to hide the malpractice.”

Sweden: Suggesting that all forms of violence and harassment constitute human rights violations is inappropriate.

United Kingdom, United States: There is no right to freedom from violence and harassment in the world of work, and human rights can only be violated by States.

United States: Replace “is a form” with “impede the enjoyment”.

Employers

Consolidated reply, CEOE, CEPYME, CONFIEP, VBO-FEB: As currently presented, the “range of unacceptable behaviours and practices” would include all types of offences, including minor ones with a single occurrence. Categorizing automatically minor offences as human rights violations is flawed.

The language taken from Convention No. 111 should not be used, as it relates to discrimination. The provision should read “enunciated by the Universal Declaration of Human Rights”, and not refer to other international instruments. The sixth paragraph should read “considering that violence and harassment in the world of work can impair the fulfilment of human rights ...”.

BusinessNZ, CBI: Violence and harassment might not always be human rights violations.

CIP: Violence and harassment can undermine respect for human rights rather than being a human rights violation.

CIU, CNI, CPC (Chile): Modify the wording as follows: “Noting that violence and harassment in the workplace, both, public and private, can undermine human rights, and threaten equal opportunities, and is unacceptable and incompatible with decent work.”

CPG: Move the mention to paragraph 4.

ECOT: Replace “constitute a violation” with “can impair the fulfilment”.

SAE, UCCAEP: Modify the sixth paragraph to read “... can impair the fulfilment of human rights ...”.

Workers

Consolidated reply, ACTU, ASI, CITUB, CLC, CMTC, FGTB, IFJ, LO (Norway), MTUC, NZCTU, Unio, YS: Support Office proposal, provided that the remainder of the sixth preambular paragraph is retained.

BAK: No objection to the proposed wording.

CCOO: Support Office proposal to modify the sixth paragraph, and the wording “a violation of human rights”. The sixth paragraph should not be integrated into the fourth.

CGSLB: Refer to the social and economic costs of violence and harassment, as well as to workplace culture as an instrument for its prevention. “Form of human rights violation” is agreed.

CGT, CSC: Support Office proposal. Make reference to the social and economic cost of violence and harassment.

COSATU: The concept of “structural violence” in contexts where patriarchal practices are normalized could be useful.

CTUM: A direct link could be made between paragraphs 4 and 6.

FO: Moving the paragraph is opposed. Add “economic security” before “equal opportunities”.

NTUC (Philippines): Support Office proposal.

TUC: The following wording is suggested: “Recalling that Members have an obligation under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms and that violence against women and girls is a violation of human rights. Violence and harassment in the world of work is a threat to equal opportunities, is unacceptable and incompatible with decent work, and ...”

UGT (Brazil): Support “a form of human rights violation”.

UGT (Spain): Support Office proposal in paragraph 4. If paragraph 6 remains, use “a human rights violation”.

OFFICE COMMENTARY

The majority of workers’ organizations and a number of governments expressed support for the Office’s proposal, while the majority of employers’ organizations and some governments disagreed. Several replies from governments and employers’ organizations indicated that all forms of “violence and harassment” may not always be considered a human rights violation, and various alternative texts were proposed, some of which included the phrase “can impair the enjoyment of human rights”. The Office recalls that this point was the subject of extensive discussions in the Committee. As no common position emerged from the replies on how to clarify or improve upon this language, the text remains unchanged.

Preambular paragraph 7

Governments

Uganda: “In order to facilitate the prevention of such behaviours” is redundant.

Employers

Consolidated reply, UCCAEP: Replace “recalling” with “considering”, and remove “important”.
SAE: Remove “important”.

OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged, except for the addition of the term “and practices” after “behaviours” to better align with Article 1(a) (now 1(1)(a)) of the Convention.

Preambular paragraph 8

Governments

Mexico: Insert “as well as her/his professional and economic development”.

United States: Insert “can” before “affects”.

Employers

Consolidated reply, UCCAEP: Insert “negatively” before “affects”.

CIU, CNI, CPC (Chile): Replace “world of work” with “workplace, both public and private”; add “negatively” after “affects”.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Preambular paragraph 9

Governments

Mexico: Rearrange the ninth and tenth paragraphs to read: “Recognizing that violence and harassment also negatively affects the quality of public and private services, the organization of work, workplace relations, worker engagement, enterprise reputation and productivity” and “Recognizing that violence and harassment are acts of discrimination that may prevent persons, particularly women and groups in situation of vulnerability, from accessing, remaining and advancing in the labour market.”

United States: Insert “can” before “affects”.

Employers

Consolidated reply, CIU, CNI, CPC (Chile), UCCAEP: Insert “negatively” before “affects”.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Preambular paragraph 10

Employers

Consolidated reply, CIU, CNI, CPC (Chile), SAE, UCCAEP: Remove “the promotion of”.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Preambular paragraph 11

Governments

Chile: Insert “in the world of work” after “gender-based violence and harassment”. Delete “girls”.

Employers

Consolidated reply, CEOE, CEPYME, CONFIEP, VBO-FEB: After “girls”, include a reference to “lesbian, gays, bisexual, transgender, intersex, and gender-non conforming persons”, because they are also disproportionately affected by gender-based violence and harassment. Insert “abuse of” before “unequal gender-based power relations”.

CGECI: The consolidated reply regarding LGBTI cannot be supported.

CIP: Maintain a reference to other vulnerable groups.

FEI: Be mindful of countries’ social, cultural and constitutional contexts. Remove “acknowledging that ... women and girls”; refer to “abuse of unequal power relations”.

NEF, NHO: Include LGBTI persons.

UCCAEP: Add “the abuse of” before “unequal”.

Workers

ACFTU: Refer specifically to lesbian, gay, bisexual and transgender persons.

CCOO: Replace “disproportionately affected” with “mainly affected”.

COSATU: Add “and other sectors” after “girls”.

UGT (Brazil): Replace “recognizing” with “adopting”.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Preambular paragraph 12

Governments

Chile: Delete the text. Domestic violence is not linked to situations occurring at or on the occasion of work.

Indonesia: Delete text after “safety”. While domestic violence may affect workers’ performance, this inappropriately mandates State parties to overcome it.

Uganda: Refer to governments and social partners instead of “world of work, its institutions and governments”.

United States: Insert “at work” after “safety”. Remove “as part of other national measures”. Insert comma after “institutions”.

Employers

Consolidated reply, UCCAEP: Replace “the world of work, its institution and governments” with “all stakeholders in the world of work, especially governments”.

CIU, CNI, CPC (Chile): Remove “world of work, its institutions and”. Domestic violence is unacceptable but escapes employers’ control.

UCCAEP: Domestic violence is important but belongs to another sphere of regulation.

Workers

CCOO: Refer instead to “victims of domestic violence” or “victims of gender-based violence”.

CNV, FNV: Support wording on domestic violence.

UGT (Brazil): Include “work” before “productivity”.

OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged. Based on the replies proposing to include a more specific reference to actors involved, and with the view to improving clarity on this point, the words “the world of work, its institutions and governments” have been replaced with “governments, employers’ and workers’ organizations and labour market institutions”. The term “national” has been removed for further consistency with changes previously made in Articles 7 and 9 of the Convention in Report V(1) (now Articles 8 and 10).

I. DEFINITIONS AND SCOPE

Article 1 (chapeau)

Employers

BUSA, CEC (Canada): Lack of a definition of “employer” is concerning.

UCCAEP: Relate scope to employment relationship and workplace.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Article 1(a)

(Article 1(1)(a))

Governments

Algeria: The following definition is proposed: “The term violence and harassment in the world of work is any unilateral act of any nature, verbal, non-verbal or physical, voluntary or involuntary, abusive, unacceptable, repeated or occasional, affecting the rights of the worker and his physical or moral dignity, which may affect his physical or mental health or endanger his employment, and which may even affect the professional climate or his personal circle during a work contract or in the workplace”. Include in an additional subparagraph that violence and harassment includes acts related to work processes and acts directed towards the person.

Argentina: The Tripartite Commission replaces “that aim at, result in or are likely to result in” with “that aim to cause or are likely to cause”, and inserts the following “Such behaviours must be determined by national legislation or by the competent authority, after consultation with the organizations of employers and workers concerned and taking into consideration the international standards on the matter.” Supports an indicative, non-exhaustive list of behaviours and practices.

Austria: The Convention should clarify that member States can apply their own national definitions of violence and harassment. Interpreting “harm” should be left to member States and translated as “Beeinträchtigung” in German.

Austria, Bulgaria, Cyprus, Estonia, Finland, France, Germany, Hungary, Malta, Norway, United Kingdom: An indicative list of behaviours is not supported; it could unnecessarily prolong discussions.

Bangladesh, Italy, Kuwait, Morocco, New Zealand, Niger: Support an indicative list of unacceptable behaviours and practices.

Belgium: The Office proposal is supported, if the concepts can be adapted by national law according to national circumstances. Establishing separate definitions in the Convention is not suitable; the most important elements described clarify enough what is to be addressed, and further specifying the concepts would not clarify the different responses to different behaviours. A list of behaviours or practices in the Recommendation is not supported. Violence and harassment is complex and rarely limited to a single behaviour. If included, the list should present examples, not definitions.

Bulgaria, Cyprus, Hungary, Malta: While separate definitions were originally favoured, a single definition can be acceptable, if States can maintain separate definitions in national legislation and implement obligations separately.

Canada: Supports a single definition; it encompasses diverse cases and situations. An indicative list could be limiting and is not supported.

Chile: A non-exhaustive, illustrative list would give flexibility. Review proposed text, as it can result in an extensive understanding of violence and harassment.

Colombia: Separate violence and harassment; keeping them together can cause difficulties with national law.

Denmark: A list of behaviours and practices in the Recommendation is not supported.

Ecuador: Separate “violence and harassment” and specify “gender-based violence”.

Finland: The definition provides flexibility, but a separate implementation of the concepts at the national level is not provided for. Insert “as defined by national law”.

France: A single concept is not incompatible with the existence of two different terms within national laws. Replace “unacceptable” with “unwanted”. Clarify whether legislation that requires repetition criteria for some acts is compatible with the proposed texts.

Germany: A single definition is not opposed, if there is flexibility for national responses. “Range” is preferred over “continuum”. A single act of violence can also be punishable.

Israel: Definition is too broad. Insert “and offensive” after “practices”. Some behaviours might require a response after a single occurrence and others after further occurrences.

Kuwait: Delete “gender”.

Mauritius: Including “discrimination” in the definition would clarify whether it constitutes a form of harassment.

Mexico: An indicative, non-exhaustive list of behaviours in the Recommendation is pertinent and should take into account specific behaviours concerning sexual and labour harassment, and discrimination.

Niger: Replace “refers to a range of unacceptable behaviours ...” with “encompasses all individual or collective unacceptable behaviours ...”.

Oman: A non-exhaustive list of behaviours in the Recommendation may be necessary, as it is difficult to define harassment precisely, because of personal, cultural and social differences.

Paraguay: Keep “violence and harassment” as a single concept and include an indicative list of behaviours.

Panama: Include an indicative, non-exhaustive list mentioning social isolation and acts targeting employability, reputation and physical and mental health.

Peru: A single definition facilitates implementation in diverse situations.

Qatar: An indicative, non-exhaustive list of behaviours is not supported; it may reduce the adaptability of the concept.

South Africa: “Violence and harassment” as a single concept is accepted. Any further definitions in the Recommendation could limit governments who define the terms differently; include an indicative non-exhaustive list in the Recommendation.

Spain: Separate definitions are more appropriate, although they can be treated in the text in a joint manner. Clarify “economic harm”. Supports an indicative and non-exhaustive list of behaviours.

Sweden: Keep a single definition and allow Members to use separate definitions in domestic law. A list of what constitutes violence and harassment is unnecessary.

Switzerland: An indicative list in the Recommendation is not supported. Replace “unacceptable” with “illegal”.

United Kingdom: Supports a single definition if States can maintain separate definitions at national level and implement laws and policies separately. Replace “unacceptable” with “unwanted”.

United States: Violence and harassment comprise a range of behaviours. Replace “term” with “terms” and use separate quotation marks for “violence” and “harassment”, for Members to define each term separately or together. Insert “but are not limited to” before “gender-based”.

Uruguay: Introducing an indicative list is a good practice in national legislation.

Employers

Consolidated reply, CEOE, CEPYME, CIU, CNI, CONFIEP, CPC (Chile), SEV, UCCAEP, VBO-FEB: A single definition for two distinct concepts does not provide leeway to accommodate national laws. It creates a barrier to ratification and implementation, leaves no concrete directions and may require modifying legislation. Without clear definitions, it will be challenging to identify hazards and take appropriate measures. Insert the following separate definitions: “the term violence shall mean all acts or threats exerted through coercion or arbitrary deprivation of liberty that have the purpose or reasonably foreseeable effect of causing physical, psychological, or sexual harm or suffering” and “the term harassment should be understood as any form of unwanted comment or conduct which has the purpose or reasonably foreseeable effect of creating an intimidating, degrading or offensive environment for the person”. Include an indicative, non-exhaustive list setting out generally recognized and universally accepted categories or acts in the Convention.

BUSA, ECOT, NEF: Use separate definitions of violence and harassment.

BusinessNZ, CNPB: Define violence and harassment separately and clarify that harassment must include the idea of repetition.

CBI: An alternative is to clarify that separate national definitions would meet the requirements of the Convention, if they classify the range of behaviours as either violence or harassment.

CEC (Canada): Include an element of reasonableness, for example: “can reasonably be expected to cause”.

CGECI: Maintain Article 1(a) and add the separate definitions proposed in the consolidated reply in (i) and (ii). Regarding economic harm, employers sometimes take measures leading to economic consequences that should be excluded from this definition.

CIP: Supports an illustrative list of behaviours to clarify the scope of each separate definition. Together with the damage to the victim, always take into account the intention of the perpetrator.

DA: Refer the definition to national law, or define violence and harassment separately.

EK: Violence and harassment imply different means of intervention; define separately. Physical violence is usually a single act; harassment is often a long-term behaviour.

Keidanren: Use separate definitions, as sanctions and remedies differ.

MAI: Distinguish between violence and harassment. Define harassment as “Repetitious offensive conduct which does not derive from material reasons knowingly and systematically directed against an individual on a number of separate occasions with the purpose of creating a hostile environment within the work framework”. A list of cases will include interim situations and create general interpretations.

MEDEF: Delete “a range of unacceptable behaviours and practices” and “are likely to result”. Definitions proposed by the consolidated reply are supported except for “reasonably foreseeable”.

SAE: Include separate definitions for violence as “acts of direct or indirect exercise of force that have the purpose, result in or there is a possibility to cause physical, psychological, sexual suffering or economic harm and includes gender based violence” and harassment as “any form of unwanted or unacceptable conduct, practices or threats that have the purpose, result in or there is a possibility to cause intimidating, degrading, or offensive environment and includes gender based harassment.”

SGV-USAM: A list of behaviours is opposed.

SN: The practical application of a single definition is unclear.

UIA: Avoid a single concept of “violence and harassment”, but, if accepted, avoid ambiguity. Adopt wording from Convention No. 182, and refer to national legislation.

Workers

Consolidated reply, ACTU, ASI, CLC, CMTU, CTC, CNV, FNV, FO, LO (Norway), UGT, Unio, YS: Support a single definition to encompass behaviours and practices that present elements of both violence and harassment. An illustrative, non-exhaustive list in the Recommendation could provide useful guidance, but it should not become a definitive list in practice.

BAK, CCOO, GFBTU, LO (Sweden), TCO, Saco: Support an indicative, non-exhaustive list in the Recommendation.

CGIL, CISL, UIL: Support a single definition. Include both consequences of harm and reasons for its occurrence (commercial pressures and stress due to new technologies and acceleration of work rhythm).

CGSLB: A definition leaving flexibility to Members is supported, but a list is not.

CGT: Definition is supported. “Unacceptable” is vague and subjective. A list of behaviours is not supported.

CGT-RA, CITUB: Separate “violence and harassment” into two.

CGTM, CMTU, CTUM, FTF, IFJ, JTUC-RENGO, LO (Denmark), MTUC, NTUC (Philippines), TUC, UGT (Brazil), UMT: Support a single definition.

CIDA: Leave a generic definition without examples.

COSATU, NZCTU: A single definition and a list in the Recommendation are supported.

CSC, FGTB: Support the concept of “violence and harassment”. An indicative list of behaviours is not accepted, but providing examples of such behaviours is supported.

CSTM: There should be a definitive list of behaviours illustrating how violence and harassment can be manifested.

CTA-A: Current definition could imply that “violence and harassment” occurs only if all elements are present. Perpetrators may cause harm unintentionally.

CTRP, GTUC, ITUC, LBAS: A single concept does not require a single definition to be maintained in national legislation.

CUT (Chile): Clearly guarantee workers’ rights to freedom of association.

FEDUSA: Add “unwelcome requests for sexual favours”.

GFBTU: “Violence” should include physical and moral violence.

FO: Remove “unacceptable”.

NTUC (Mauritius): Use “violence and harassment” disjunctively, so the existence of either is sufficient to take appropriate actions.

LO (Sweden), TCO, Saco: Opposed to separate definitions in national law.

TUC: Replace “unacceptable” with “unwanted”.

UGTT: Union representatives should be protected against harassment.

OFFICE COMMENTARY

Most replies from governments either expressly supported the single concept of violence and harassment as currently drafted or proposed minor drafting changes while maintaining a unitary understanding. Some indicated that the current definition provided flexibility to address diverse situations. Some governments would agree to a single concept, provided it was made clear that such a definition would be compatible with a single definition or separate definitions in national legislation. A few governments stated that they did not support a single concept.

Most replies from workers' organizations were supportive of a single concept, as it would permit covering a wide range of behaviours and practices, while avoiding potential gaps in application. Conversely, most replies from employers' organizations called for separate definitions of "violence" and "harassment", suggesting specific wording to this effect. In their view, a split definition would enhance the text's clarity, help identify the corresponding measures and facilitate ratification and implementation.

The Office recalls that it had invited comments on the possible inclusion of an indicative, non-exhaustive list of behaviours illustrating how violence and harassment can be manifested or setting out generally recognized categories or forms of violence and harassment. In their consolidated replies, workers' organizations noted that such a list could be helpful; employers' organizations supported including a list that would take into account their proposed separate definitions of "violence" and "harassment". Some governments supported the inclusion of a list, arguing it would provide helpful guidance, while others rejected it on the grounds that it would be difficult to agree on its content and would lead to unnecessarily prolonged discussions.

In the light of the replies received, the single concept of "violence and harassment" has been retained. In Report V(1), the Office clarified that a single concept enables Members to opt for a single or separate definitions at national level. However, noting the concern of some governments about the need to make such a possibility explicit, and the wish of several employers' organizations to improve clarity and facilitate ratification, the Office has inserted a second paragraph in Article 1 clarifying that "violence and harassment may be defined in laws and regulations as a single concept or separate concepts." In light of this change, Article 1(a) becomes Article 1(1)(a).

As views were divided on the inclusion or the content of an indicative, non-exhaustive list in the Recommendation, a list has not been added.

Article 1(b)*(Article 1(1)(b))***Governments**

Chile: Add "in the world of work" after "gender-based violence and harassment".

Colombia: Separate and define gender-based violence and harassment.

Finland: Clarify if it can be addressed separately at national level.

Islamic Republic of Iran: Include "in accordance with the applicable national laws and regulations" after "disproportionately".

Kuwait: Delete "Gender".

Mexico: Observe Article 1 of the CEDAW, where discrimination against women includes gender-based violence.

New Zealand: Supports the text.

Peru: Clarify that “gender-based violence and harassment” also covers LGBTIQ.

Poland: Delete.

Spain: Replace with “violence and harassment directed towards persons by reason of their sex or due to their gender, or that disproportionately affect persons of a specific sex, and includes sexual harassment”. This aligns with the Istanbul Convention.

United States: Begin the provision with “The term ‘gender-based’ as applied to violence and harassment means ...”. Remove “or affecting ... disproportionately”. Insert “or otherwise creating a hostile work environment for persons of a particular sex or gender”.

Employers

Consolidated reply, CEOE, CEPYME, CIP, CONFIEP, UCCAEP, VBO-FEB: Insert “sexual orientation, gender identity or intersex status” after “their sex or gender”, to be consistent with the list of groups in the Recommendation and take into account that LGBTI persons are also disproportionately affected by gender-based violence.

FEI: A solution should be found to ensure protection for all and avoid ratification barriers due to ignoring certain countries’ social, cultural and constitutional contexts.

NHO: LGBTI persons are disproportionately affected and should be protected in Articles 1(b) and 6.

Workers

CCOO: Remove “disproportionately”.

CGT-RA: “Directed at persons because of their sex or gender” is redundant.

UNT: Define as “any action or conduct based on the subordination and abusive exercise of power that causes physical, sexual, patrimonial, economic, psychological or moral damage and that threatens or diminishes sexual rights, reproductive and labour rights of women in the world of work.”

OFFICE COMMENTARY

There was wide agreement during the Committee’s first discussion regarding the term “gender-based violence and harassment” and its definition. While some replies called for various modifications, no common position emerged. The text, therefore, remains unchanged. For editing purposes and because of the addition of Article 1(2) as described in the Office commentary of Article 1(a), Article 1(b) becomes Article 1(1)(b).

Article 1(c)

(Article 2)

Governments

Algeria: The following is proposed: “The term ‘worker’ covers persons in a manual or intellectual activity, engaged to execute work in a full-time or part-time activity for an employer, in return for a salary, in all the sectors, both in the formal and informal economy, whether in urban or rural areas, in air or maritime space, as defined by national law and practice, as well as persons working irrespective of their contractual status, persons in training, including interns and apprentices.”

Argentina, New Zealand, Paraguay, Panama, Peru, South Africa: Office proposal supported.

Austria, Denmark, Estonia, Hungary, Malta, Norway, United Kingdom: Replace “the term ‘worker’” with “This Convention covers/applies to” and insert “workers and” before “employees”.

Austria, Cyprus, Estonia, Hungary: Definition can present obstacles to ratification; it should be established at national level.

Austria: Clarify that persons not falling within the meaning of “worker” at national level are protected only where a connection to the employment relationship exists.

Belgium: Office changes supported, but jobseekers and job applicants should not be considered “workers”, and persons whose employment has been terminated would be covered already.

Brazil: Definition of “worker” is too broad, including actors beyond employer’s control. Replace “as well as” with “and may include”, and delete “jobseekers”.

Bulgaria, Finland: Formulate provision to refer to scope of protection.

Canada: Insert “This Convention also applies to” before “persons in training”. Alternatively, replace the wording, from “persons in training ...” with “This Convention also applies to all other persons granted access to the workplace that are performing a duty for the employer, or that are applying or interviewing for a job with the employer.”.

Chile: Delete last part of subparagraph, starting with “as well as ...”.

Colombia: Define “worker” according to national laws.

Denmark: Definition is too broad. Self-employed persons and jobseekers and job applicants should not be included.

France: Definition could be an obstacle to ratification. An alternative would be to include the categories mentioned in Article 1(c) without considering them “workers”.

Germany: Definition is an obstacle to ratification. The following wording is proposed: “The Convention applies to workers and other employees as defined by national law and practice, regardless of their contractual status, persons in training, including interns and apprentices, workers whose employment has terminated, volunteers, jobseekers and job applicants, both in the formal and informal economy, whether in urban or rural areas, and in all sectors.”

Italy: The following wording is proposed: “The term ‘worker’ covers persons in all sectors, both in the formal and informal economy and whether in urban or rural areas, irrespective of their contractual status, including persons in training, and volunteers as defined by national law and practice.”

Islamic Republic of Iran: Remove “volunteers”, “jobseekers” and “job applicants”.

Malta: Definition of “worker” should be decided at national level.

Mexico: Workers whose employment has been terminated, volunteers, jobseekers and job applicants need to be protected, but they do not fall inside the labour arena.

Morocco: Replace “suspended workers” with “workers whose employment relationship has been terminated.”

Norway: Definition too broad. Jobseekers, job applicants and workers whose employment has been terminated are protected in non-discrimination and criminal law but are not defined as workers in national law.

Philippines: Reservation is expressed to including “workers whose employment has been terminated”.

Russian Federation: Include a definition of “employer”.

Spain: Definition of “worker” is too broad. Domestic workers and workers in the informal economy can be “employees” if requirements are fulfilled. For those included in the text, such as “volunteers” and “persons in training”, employers’ obligations should not increase disproportionately. In Spanish, replace

“situación contractual” with “modalidad contractual”, and “los trabajadores despedidos” with “los trabajadores cuyo empleo haya terminado”.

Sweden: Definition of “worker” is broad and may make ratification difficult, as it covers workers whose employment has been terminated, jobseekers and job applicants.

Switzerland: Distinguish between “workers” in the strict sense and people in contact with the world of work by breaking the subparagraph, at “law and practice”, into two subparagraphs.

Tunisia: Add domestic workers.

Uganda: Add “For purposes of this instrument”.

United States: Since there is no definition of “employer”, no need to define “worker.” Include these categories in Article 3.

Uruguay: The Office text, complemented by the proposed new Article on different and complementary responsibilities, aligns with the instrument’s objectives.

Employers

Consolidated reply, BUSA, CONFIEP, UCCAEP, VBO-FEB: The current definition poses barriers to implementation in national law. Read in conjunction with operational provisions, employers’ responsibilities extend to persons not working for an employer or outside the employers’ control. Preferably, delete the current definition. Otherwise, divide the section into: “Definitions”, including violence and harassment and gender-based violence and harassment; and “Scope”, including to whom the instrument applies and the concept of “world of work”. Extend the scope to all persons, not just workers. Begin this provision with “This Convention covers: all persons in all sectors ...” and insert “employers and” before “employees”.

BDA: This provision should read: “This Convention covers employers and employees as defined by national law and practice, as well as dependent employed persons working irrespective of their contractual status, persons in training, including interns and apprentices, volunteers and job applicants.”

BUSA, UCCAEP: Concern expressed regarding including “workers whose employment has been terminated” and “jobseekers”.

CBI: Replacing the definition of “worker” with the intended coverage will extend protection to all persons intended to be covered and facilitate implementation.

CEC (Canada): Narrow language to ensure employers’ obligations apply to matters they control. In some cases “worker” can be broader than “employee”, but not in all cases, like with jobseekers.

CEO, CEPYME, CIP: Replace “the term ‘worker’” with “This Convention covers” and place under “Scope”.

CGECI: Replace “the term ‘worker’ covers” with “This Convention covers”.

CIU, CNI, CPC (Chile): Modify as follows: “The term ‘worker’ shall include what is defined in this respect, by the law of each member State.”

CNPB: Cover employers and review the definition of “worker”, as employers could be responsible for people they never met and in places and situations beyond their control.

COPARMEX: Those included in “persons in training ... job applicants” have no connection or employment relationship with the employer.

DA: Employers should only be responsible for workers according to definition in national law. Do not include self-employed, jobseekers and job applicants; replace definition with a provision establishing scope.

EK, NHO, SEV: Definition is contrary to definitions in national law.

Keidanren: Delete “jobseekers” and “job applicants” and limit to “workers” under employment contract.

NEF: Including “trainees”, “workers whose employment has been terminated” and “job applicants” is generally agreed to, but not “jobseekers”.

SGV-USAM: Employers’ responsibility should not apply beyond end of employment contract.

SN: Definition includes groups outside employers’ control.

UIA: Delete concept of worker, as people included are already protected. These groups might be separated in different paragraphs, specifying States’ obligations.

Workers

Consolidated reply, CLC: The Office proposals are supported, though not the interaction between this definition and the new Article after Article 4. A broad definition of “worker” is essential to “leave no one behind”. This is in line with Convention No. 181, which considers jobseekers as workers, and Recommendation No. 200, which covers a wide range of categories. In alignment with Recommendation No. 204, provide protection measures and access to remedies for informal economy workers.

ACTU, CCOO, CMTU, CNV, COSATU, CTA-A, CTUM, FEDUSA, FGTB, FNV, FO, GSEE, IFJ, NTUC (Philippines), LO (Sweden), TCO, Saco, UMT, ZCTU (Zimbabwe): Support a broad definition of “worker” to provide broad coverage.

ASI, CGIL, CISL, CITUB, CTC, FTF, LO (Denmark), LO (Norway), UIL, Unio, UGT (Spain), YS: The Office proposals are supported. Concerns are expressed regarding the interaction with the possible new Article after Article 4.

CGSLB, ACV-CSC: “Jobseekers and job applicants” is supported, although the extent of employers’ responsibility is not the same as with workers in service or dismissed.

CGT: Jobseekers and job applicants are those more exposed to violence and are covered by other ILO instruments. Take into account changes in workers’ status due to digitalization of work and the platform economy.

CGTM: Refer to “workers and women workers”. Include all categories of workers, from formal or informal sectors and jobseekers.

CGT-RA: Delete “jobseekers and job applicants”.

FGTB: Even if the employer does not have or no longer has the same responsibilities towards these workers, they must have the same protection.

GSEE: Some workplaces, groups, sectors or occupations are at a higher risk, particularly sex work.

CTRP, GTUC, ITUC, LBAS: “Worker” would apply only for the purpose of the Convention and would not require changes in national laws.

Histradut: Extend protection to all in the workplace, including customers, clients or suppliers.

MTUC: Office proposals supported.

NLC: “Worker” must cover everyone in any form of work, including in the informal economy, temporary or permanent, jobseekers, trainees, volunteers and those on industrial attachment.

NZCTU (New Zealand): Insert “suspended or” before “terminated”.

PSI: Insert “public and private” after “sectors”.

TUC: Broad definition of worker is especially helpful where workers’ potential vulnerability is exacerbated by reduced formality, such as in pre-employment.

UGT (Brazil): Replace “persons working ... contractual status” with “unemployed workers”.

UGTT: Protect suspended workers according to legislation.

UNT: Add “as well as persons who work in a subordinate relationship”.

OFFICE COMMENTARY

The replies from governments, employers’ and workers’ organizations concurred that no one in the world of work should be subject to violence and harassment, thus confirming the general agreement reached at the first discussion of the Committee. There were, nonetheless, different views on how to reach this shared position. Some replies from governments and numerous workers’ organizations agreed with the wording of Article 1(c) in Report V(1), with workers’ organizations indicating the importance of broad coverage, and noting that ILO Convention No. 181 considers jobseekers as workers.

Most governments and a number of employers’ organizations indicated that the understanding of “worker” in the instrument could go beyond what is stipulated in national law and that this could represent an obstacle to ratification.

Several governments and employers’ organizations proposed alternative text with a view to addressing this concern. Some governments suggested replacing the expression “the term ‘worker’ covers” with “This Convention applies to” or “This Convention covers”, which would change the nature of the provision from definition to scope. Along the same lines, the employers’

organizations' consolidated reply suggested splitting the chapter on "Definitions and scope" into two different chapters and moving this provision to the chapter entitled "Scope".

The Office considers that these proposals could address the majority of concerns expressed in the replies, without undermining the common wish to ensure that all people are duly protected against violence and harassment. The suggested proposals would leave the definition of "worker" to national law and practice, while providing for wide coverage and protection.

As regards the categories of persons referred to in this provision, several employers' organizations suggested inserting the word "employer" before "employees". The Office notes that this provision covers individuals rather than legal entities and, therefore, adding a general reference to "employers" would be too broad. Specific individuals, such as managers and supervisors, could be added to this provision, although the Office notes that they would be covered by the current language. Should broader protection of individuals be considered necessary, the Office suggests that a reference to managers, supervisors and operators of businesses, which are included under occupations in the International Standard Classification of Occupations (ISCO-08), could be inserted.

In the light of the replies, the provision has been reformulated as follows: "This Convention covers workers and other persons, including employees as defined by national law and practice, as well as persons working irrespective of their contractual status, persons in training, including interns and apprentices, workers whose employment has been terminated, volunteers, jobseekers and job applicants, in all sectors, both in the formal and informal economy, and whether in urban or rural areas." The chapter "I. Definitions and scope" has been divided in two: "I. Definitions" and "II. Scope"; Article 1(c) becomes Article 2 and is placed under "II. Scope". The subsequent Articles have been renumbered accordingly.

Article 2 (chapeau)

(Article 3 (chapeau))

Governments

Austria: Scope should cover all places, persons and situations related to work performance. Including teleworking can make it difficult to differentiate from domestic violence. Situations listed are mostly outside employers' control.

Brazil: Insert "including" at the end. Insert a paragraph reading "(b) This Convention does not apply to violence and harassment committed by third parties, when the form of work organization: (i) does not give cause to it; or (ii) does not disproportionately increase the risk of its occurrence".

Canada: Insert "where there is a risk identified".

Chile: Replace "linked with or arising out of work" with "due to or on the occasion of work".

Colombia: Scope covers situations beyond the control of those responsible. Leave definition to national legislation.

Cyprus, Estonia, Malta, United Kingdom: Clear limitations of responsibility are necessary.

Denmark, Norway: This provision makes employers responsible for incidents beyond their control. Insert "and in accordance with national law and practice".

Finland: A broad definition presents a challenge vis-à-vis actors' obligations and responsibilities, particularly employers. Seek guidance from Convention No. 155 referring to employers' direct or indirect control.

Germany: Supports a broad definition of “world of work”.

Indonesia: Include “Performing religious services”.

Italy: Insert “as far is reasonable”, particularly in (c), (d) and (f).

New Zealand, Panama, Peru, South Africa: Support the text.

Spain: Supports a broad definition beyond physical workplace if circumstances are work-related and employer exercises control over places and actors concerned.

Sweden: The broad definition of “world of work” can be an obstacle to ratification.

Tunisia: Insert subparagraph on “means of transport”.

United States: Remove “in the world of work”.

Uruguay: The evolution of work requires an inclusive view of the working environment.

Employers

Consolidated reply: Read in conjunction with Article 9, employers could be held liable for spaces they have no control over and for areas beyond places where people work. Some spaces collide with state public safety responsibilities, like commuting, and others create problems regarding an individual’s private life. Place provision under “Scope”. Insert “during work or industrial actions” in a new subparagraph.

BusinessNZ, NEF: Replace “world of work” with “workplace”.

CGECI, EK, NHO, SEV, CIP, ECOT, VBO-FEB: “World of work” goes beyond employers’ control.

CEC (Canada): “World of work” is too broad.

CEOE, CEPYME, CONFIEP: Include “world of work” under “scope”.

CIU, CNI, CPC (Chile): Remove: “in the world of work occurring in the course of, linked with or arising out of work”.

SN, UCCAEP: “World of work” goes beyond employers’ control. Delete “in the course of, linked with or arising out of work”. Add new subparagraph (a): “during work or industrial actions”.

Keidanren: Add “as appropriate” after “arising out of work”.

MEDEF: Cover employer-provided accommodation only if employers have control over perpetrators within a labour relationship.

UIA: The situations included are vaguely connected with the workplace.

UCCAEP: Replace “world of work” with “workplace” throughout the texts.

Workers

ASDECCOL, CGT, CTA-A, FO, GTUC, LO (Norway), TÜRK-İŞ, UGT (Brazil), UMT, Unio, YS: Preventing violence and harassment beyond the workplace is supported.

ASI, CGTM, CTRP, ITF, ITUC, LBAS, NLC: Support the text.

BAK: Article 2 should not be exhaustive.

KPBI, KSBSI, KSPI, KSPN, KSPSI, SARBUMUSI: Add “in the process of recruitment and employment relation”.

CNTB: Include harassment at worker’s home.

COSATU: Supports the text. In male-dominated sectors, women do not have decent facilities and are more vulnerable to sexual harassment and assault.

Article 2(a)

(Article 3(a))

Governments

Paraguay: Supports including public and private spaces.

Spain: Including “public and private spaces” is cause for concern, as violence unrelated to work, including in domestic spaces, should be excluded from the scope.

Employers

CEC (Canada): Employers have limited ability to implement programmes and report on violence and harassment outside the workplace.

Workers

KPBI, KSBSI, KSPI, KSPN, KSPSI, SARBUMUSI: Add “and domestic” after “private”.

CCOO: Include private households where domestic workers work.

CGT: Including informal workers and domestic workers is important.

CGT-RA: Refer to spaces “whenever they are the victim’s place of work”.

Article 2(b)

(Article 3(b))

Governments

Belgium, South Africa, Spain: Support Office proposal.

Chile: Add “provided that they are located at the workplace and/or related to work”.

Germany: Refer only to employer-provided places.

Hungary: Add “and as far as reasonable to” at the end.

Mexico: In Spanish, replace “vestuarios” with “vestidores”.

Paraguay: Clarify that this provision refers to employer-designated places.

Switzerland: Add “to the extent that these places are organized or made available by the employer”.

Employers

CIU, CNI and CPC (Chile): Add: “provided that all these facilities are located within the workplace or are under the direction of the company”.

Workers

BAK, FGTB, CCOO, UGT (Brazil): Office proposal supported.

KPBI, KSBI, KSPI, KSPN, KSPSI, SARBUMUSI: Add “clinic, lactation room, elevator or lift, body checking conducted by security or employer before or after entering work premises”.

CGT-RA: Modify as follows: “In every place where the worker carries out activities related to his/her work, such as sanitary, washing and changing facilities, resting places, canteens, which are under the responsibility of the employer.”

Article 2(c)

(Article 3(f))

Governments

Austria: Subparagraph (c) is problematic, as workers are largely autonomous in choosing the commute.

Bulgaria, Estonia, Malta, United Kingdom: Insert “as far as reasonable” before this subparagraph.

Germany: Add “so far as is reasonably practicable” before “when commuting to and from work”.

Paraguay: Add “providing that it is a direct route in one or the other direction”.

Switzerland: Add “that are organized by the employer”.

United States: Insert “if the commute is on paid time or is under the employers’ control”.

Employers

BUSA, NEF: Do not include commuting where it is outside the employer’s remit.

CEC (Canada): Subparagraph (c) is problematic, as it is generally covered in national laws.

CIP: Merge (c) and (d).

CIU, CNI, COPARMEX, CPC (Chile), Keidanren, SAE, SGV-USAM: Delete.

Workers

CGT-RA: Refer (c) to national legislation.

Article 2(d)

(Article 3(c))

Governments

Germany: Insert “so far as is reasonably practicable” before “during work-related trips”.

Switzerland: Modify as follows: “During work-related trips or travel or events strictly related to work”.

Employers

BUSA, NEF: Reference to work-related social activities is opposed. Add “over which the employer presides”.

COPARMEX, SN: Delete.

Article 2(e)

(Article 3(d))

Governments

Austria: Cover work-related communications.

Uganda: Do not limit to “communications enabled by information and communication technologies”.

United States: Insert “including those” before “enabled”.

Employers

Consolidated reply, UCCAEP: Replace “work-related communications” with “communications in the course of work”.

CIU, CNI, CPC (Chile): Add “when they are the company’s responsibility”.

Workers

CGT-RA: Add “when they take place at a hierarchical level in the same company”.

Article 2(f)

(Article 3(e))

Governments

Spain: Concerns are expressed on the lack of the employer's control over "employer-provided accommodation".

Employers

DA: Employers cannot be responsible for employees' free time, even if accommodation is employer-provided.

Keidanren: Delete.

Workers

KPBI, KSBSI, KSPI, KSPN, KSPSI, SARBUMUSI: Reformulate: "provided accommodation by employer".

OFFICE COMMENTARY

A number of governments and workers' organizations supported the current language. Several other governments proposed qualifying the provision, particularly subparagraph (c), including by referencing reasonableness, control, or national law and practice. Employers' organizations considered that, reading this provision in light of Article 9 (now Article 10), employers could be held liable for spaces they have no control over and for areas beyond places where people work; they also proposed including a reference to industrial actions.

In the light of the replies and on the basis of language suggested by a number of respondents, the Office has inserted the words "so far as is reasonably practicable" in subparagraph (c) and has reordered the subparagraphs, so that it becomes subparagraph (f). This is with the view to addressing concerns that commuting could be understood as having a broader scope than other elements mentioned in the provision.

The Office observes that the common element raised by a number of replies was the need to attribute, or divide up, actors' responsibility for particular situations or spaces. The Office notes that, as the employers' organizations' consolidated reply pointed out, Article 2 (now Article 3) establishes the general scope of application of the Convention. This provision identifies the situations and places where violence and harassment may take place. It does not refer to any obligations or liability of specific actors, which are set out in Parts IV to VII of the Convention.

Article 3

(Article 4)

Governments

Algeria: Include contractors and senior executives. Add "in all sectors" after "representatives".

Austria: Delete "victims and". Clarify who is protected and who can be considered as perpetrator. Only workers are protected under labour law.

Belgium, Morocco, New Zealand, Panama: Office proposal supported.

Bulgaria: The general public, per se, cannot be perpetrators or victims of violence and harassment.

Canada: Clarify if considering clients, customers, users, patients and the public as “victims” could imply punitive action against workers. Remove mention of these categories and insert them in a new paragraph as “perpetrators”.

Chile: Remove third parties as it exceeds the scope of the world of work. Insert “For these purposes, representatives will be considered as those defined in national law and practice”.

Colombia: Considering third parties as victims and perpetrators hampers focusing on the victim.

Israel: Replace “and third parties, including clients ...” with “and may include third parties, such as ...”.

Kuwait: Place provision as Article 2.

Mexico: Office proposal not opposed.

Oman: Place provision inside Article 1.

Paraguay: Remove third parties because they are not under employers’ control.

Peru: Recognize that those who are not workers or employers, but that interact with them, can be victims or perpetrators.

South Africa: Insert “public authorities and enforcement agents” after “representatives”.

Spain: Insert a paragraph: “However, the provisions of the present Convention will be applicable to each one of them according to the respective levels of responsibility, rights and obligations in consonance with [the new Article after Article 4]”.

United States: Separate the definitions of victims and perpetrators so that “victims” includes employers and workers and their representatives, as well as those cited in Article 1(c); and “perpetrators” includes workers, irrespective of their contractual status; employers; representatives of workers and employers; persons in training, including interns and apprentices; volunteers; and third parties.

Employers

CIU, CNI, CPC (Chile): Replace “world of work” with “workplace” and add “when the events occur in the company’s facilities or under the employer’s power”.

Keidanren: “Victims” should only include workers. “Perpetrators” should include employers, workers and, under certain conditions, their respective representatives and third parties.

MAI: Impose an obligation upon employees’ organizations to take steps to prevent and handle violence and harassment by employees.

UIA: Clarify that the Convention applies to third parties only at the workplace or in places under employers’ power of direction. If wording is maintained, define Members’ and social partners’ responsibilities.

VBO-FEB: The following wording is proposed: “Employers and workers, and their respective representatives, and third parties, including clients, customers, service providers, users, patients and the public should refrain from acts of violence and harassment.”

Workers

BAK: Include persons performing civilian service, interns and persons in training.

KPBI, KSBSI, KSPI, KSPN, KSPSI, SARBUMUSI: Add “public service and law enforcement officers”.

CGT-RA: Add “When the events occur in the workplace or under the employer’s responsibility”.

CNTB: Include apprentices and interns.

CTA-A: Delete employers and third parties as victims. It dilutes the relevance of power relations and places workers at the same level with employers, and can lead to implementation difficulties.

ITF: Including third parties is welcomed; transport workers face increased risk of violence from third parties.

JTUC-RENGO: Include third parties as victims and perpetrators.

NLC: Supports the text.

TÜRK-İŞ: Take into consideration violence by third parties.

UNT: In Spanish, eliminate “o” between “trabajadores” and “sus respectivos”.

OFFICE COMMENTARY

Among government replies, several suggested including additional categories of persons, and others suggested moving this Article elsewhere in the Convention. Many governments focused on improving or clarifying language, specifically in relation to third parties. No consolidated replies from workers’ or employers’ organizations were provided regarding this provision. Among those replies received, employers’ organizations indicated the need to limit their responsibilities, in particular to the workplace or events under the employer’s power. Workers’ organizations’ replies generally supported the provision, with some suggesting the inclusion of additional categories of persons.

Based on the replies received, and to further clarify the provision with respect to third parties, the Office has divided the provision into two subparagraphs and has made drafting changes, including the addition of “in accordance with national law and practice” in (b). This is with a view to separating out third parties and giving more flexibility to Members regarding whether, and to what extent, third parties are to be considered victims. Language in the provision has also been aligned with Article 1(c) (now Article 2).

CORE PRINCIPLES

Article 4(1)

(Article 5(1))

Governments

Algeria: Insert “irrespective of its nature”.

Israel: Replace “right” with “importance of”.

New Zealand: Supports text.

United States: Replace “the right to a” with “their responsibility to pursue a”.

Employers

CIU, CNI, CPC (Chile): Replace “Member” with “State”.

Workers

FGTB: Office changes are supported.

Article 4(2) (chapeau)

(Article 5(2) (chapeau))

Governments

Austria: The list of subparagraphs should be non-exhaustive.

Belgium: Clarify whether the phrase “according to national laws and circumstances” refers to the instrument through which to adopt such approach, or the content.

Israel: Replace “that includes” with “that include, as appropriate”.

New Zealand, Peru: Support text.

Tunisia: Insert two subparagraphs reading “prohibiting unfair dismissal as a form of violence and discrimination against women” and “establishing and providing for equality of treatment and equal opportunities and ensuring decent work for all without discrimination”.

Employers

CIU, CNI, CPC (Chile): Replace “Member” with “State” and “world of work” with “workplace”.

SGV-USAM: The gender-responsive approach is unclear.

UCCAEP: Replace “shall” with “could”.

Workers

BAK: Sexual harassment affects people entering the labour market. Young people should be covered.

KPBI, KSBSI, KSPI, KSPN, KSPSI, SARBUMUSI: Add “and mass-based or civil right organization” after “employers’ and workers’ organizations”. Add a new point: “ensuring state budget allocation to implement this regulation”.

FGTB, CGSLB, CGT, CSC: Inserting “in accordance with national law and circumstances” may empty Member’s obligations.

CGT-RA: Insert “all forms of violence”.

Article 4(2)(a)

(Article 5(2)(a))

Governments

Israel, Sweden, United Kingdom, United States: Remove “all forms of”.

Kuwait, Oman: Define “all forms” in light of social and cultural differences.

Sweden: Insert “and addressing” after “prohibiting”.

Switzerland: Remove “all forms of” and insert “in the world of work, including gender-based violence and harassment”.

Tunisia: Add “and human trafficking”.

Employers

SN: Not all member States may be able to prohibit “all forms of” violence and harassment.

Article 4(2)(b)

(Article 5(2)(b))

Governments

Austria: Replace “ensuring” with “indicating” or “promoting”.

Algeria: Insert “according to the specificity of members” at the end.

Article 4(2)(c)

(Article 5(2)(c))

Governments

Sweden: Insert “or strategies” after “strategy”.

Switzerland: Text is too prescriptive. The following is proposed: “Take violence and harassment into account in the prevention policy”.

Article 4(2)(d)

(Article 5(2)(d))

Governments

Algeria: Insert “of national law and practice” after “monitoring”.

Germany: Insert “where necessary” before “strengthening”.

Spain: In Spanish, reformulate this provision as follows: “establecer y reforzar mecanismos de aplicación y seguimiento”.

United States: Replace “and” with “or”.

Employers

SGV-USAM: Remove the “monitoring mechanism”.

Workers

CCOO: Insert “of the measures proposed” after “mechanisms”.

Article 4(2)(e)

(Article 5(2)(e))

Governments

Chile: Clarify what access to remedies entails.

Mexico: Insert “that safeguard their life, integrity and respect their dignity and human rights”.

United States: Replace “ensuring” with “providing”.

Article 4(2)(f)

(Article 5(2)(f))

Governments

Austria: In German, replace “Strafen” with “Sanktionen”, as no penalties can be imposed under Austrian labour law.

Germany: Insert “where necessary” at the end.

Oman: Replace with: “Incriminating acts of violence and harassment through texts providing for penal sanctions”.

Sweden: Not limiting to criminal law is important.

Switzerland: Move paragraph (f) after (a).

Employers

CIU, CNI, CPC (Chile): Add: “including cases of fraudulent complaint or notoriously illegitimate use of the rights and procedures provided in this Convention”.

Workers

BAK: Sanctions should be effective, proportionate and dissuasive. Dissuasive compensation entitlements should be provided.

KPBI, KSBSI, KSPI, KSPN, KSPSI, SARBUMUSI: In subparagraph (f), add “and implementing” after “providing”.

Article 4(2)(g)

(Article 5(2)(g))

Governments

Algeria: Provision should read: “developing tools, guidance to prove the cases of violence and harassment, and education, training and awareness-raising activities;”.

Niger: Insert “for a behavioural change” at the end.

Workers

BAK: Supports subparagraph (g). Target groups for training, guidance and awareness-raising measures should be mentioned, such as the judiciary, enterprises and managers.

Article 4(2)(h)

(Article 5(2)(h))

Governments

Algeria: Redraft this provision: “ensure the protection of the defendants in the case of false statements and the confidentiality of the investigation and its results”.

Belgium, Morocco, Panama: Support Office proposal.

Ecuador: Replace “world of work” with “work environment”.

Mexico: Office proposed change does not represent a great impact.

Peru: Replace “means of inspection and investigation” with “means to monitor compliance with laws on protection against work-related violence and harassment”.

Qatar: Clarify meaning of “competent bodies”.

South Africa: Replacing “labour inspection” with “labour inspectorates” is accepted.

Employers

COPARMEX: Insert obligation to provide training on inspection procedures and inspectors’ powers.

MAI: External control powers of supervisors should be limited; internal enforcement mechanisms at the workplace are preferred.

SGV-USAM: Delete provision.

Workers

OPZZ: Articles 4(2)(h) and 10(h) should consider disparities in the scope of states' inspection activities. Emphasize the preventive role of labour inspectorates, as specified in Paragraph 19 of the Recommendation.

UGT (Brazil): Office proposal supported.

OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged. In 4(2)(a) (now 5(2)(a)), the term “all forms of” has been removed. As the Office indicated in the first discussion of the Committee, removing “all forms of” does not have significant implications, as the definition of “violence and harassment” contained in Article 1(a) (now 1(1)(a)) would apply. The deletion is also consistent with amendments adopted in the course of the Committee’s first discussion regarding Articles 7 and 9 (now Articles 8 and 10).

In the light of the replies on 4(2)(d) (now 5(2)(d)), “and” has been replaced with “or”. This change is made for further clarity and on the understanding that “or” can indicate cumulative or alternative conditions, depending on the national law and circumstances, in line with the chapeau.

New possible Article after Article 4

(Article 5(3))

Governments

Argentina, Bangladesh, Canada, Chile, Colombia, Ecuador, Indonesia, Israel, Italy, Kuwait, Oman, Panama, Paraguay, Peru, Qatar, Uruguay: Support new provision.

Austria, Bulgaria, Cyprus, Denmark, Estonia, France, Germany, Hungary, Malta, Norway: Subparagraph (a) should clarify that employers are only responsible for situations under their direct or indirect control. Subparagraph (b) is not supported.

Belgium, Morocco: Office proposal is not opposed.

Finland: Clarify this provision so it does not expand responsibility of individual workers.

Mexico: Office proposal is feasible.

New Zealand: Move provision to Preamble.

South Africa: Provision is not supported. Align with language from Article 8 of Convention No. 161.

Spain: Supports proposal. In subparagraph (a), clarify that the national legislation should define the different levels of responsibility of each actor.

Sweden, United Kingdom: Support new Article. Clarify actors' responsibilities ensuring they are not beyond their control. Subparagraph (b) is not supported.

Switzerland: Support new Article, but does not resolve differences in definitions and scope.

Employers

Consolidated reply, CONFIEP, NHO, SEV, UCCAEP: New Article is welcomed. However, it does not clarify the circumstances in which responsibilities under the instrument will be enlivened. Insert “which

vary according to each situation, as well as different resources and constraints” at the end of (a), and move “in preventing and addressing violence and harassment in the world of work” after “recognize”. Delete “and complementary”. Insert “taking into account their complementary roles” at the end of (b).

BusinessNZ: Replace “world of work” with “workplace”.

CBI: New Article is welcomed, but limit employers’ responsibility to what is under their direct or indirect control.

CEOE, CEPYME: Support consolidated reply. Remove “in preventing and addressing violence and harassment in the world of work”.

CIP, SAE, VBO-FEB: Support new Article. In (a), replace “and complementary” with “capacities and limitations, as well as different”, and add “which may vary according to each situation” at the end. In (b), add “taking into account their complementary roles”.

COPARMEX, CPG, SGV-USAM: Support Office proposal.

DA: Text does not sufficiently clarify actors’ responsibilities.

Workers

Consolidated reply, ACTU, ASI, CLC, COSATU, CTC, IFJ, LO (Norway), LO (Sweden), TCO, Saco, Unio, YS: Do not support the new Article. It would interact with Articles 1(c), 2 and 3. This provision could overly and inequitably expand individual workers’ obligations to prevent and address violence and harassment beyond their competencies. Not all actors have equal responsibility for preventing violence and harassment. Workers have a responsibility to cooperate and comply with norms; employers have the primary responsibility for creating a work environment where violence and harassment is prevented. Employers’ duty to protect workers from harassment from third parties is not clear in this Article when read with other provisions. If introduced, reformulate in line with Convention No. 161: “The employer, the workers and their representatives shall cooperate and participate in the implementation of the organisational and other measures relating to violence and harassment on an equitable basis”.

BAK: No objections.

CCOO: Article is not supported. It places responsibility on workers in the same standing as employers and governments.

CGSLB: Supports cooperation and coordination between actors, but it is the employer’s responsibility to create an environment free of violence and harassment.

CGT, FGTEB, FO, UGT (Spain): Article could overly increase workers’ responsibilities and dilute employers’ responsibilities.

CITUB: Limit employers’ responsibilities to situations under their direct or indirect control.

CMTU, NZCTU: Support text proposed in consolidated reply.

CSC, UGT (Brazil): Support Article.

CTRP, GTUC, ITUC: Governments are responsible for establishing legal and policy frameworks and related measures.

FEDUSA, ZCTU: Within the text proposed in the consolidated reply, insert “including those related to occupational health services” before “on an equitable basis.”

FNV, CNV, FTF, LO (Denmark), TUC: This provision would expand the obligations of individual workers.

IUF: Governments should place a duty on employers to protect workers from harassment and victimization in the workplace.

LBAS: Not all actors have equal roles and responsibilities. Governments have the responsibility to establish legal and policy frameworks; employers, the primary responsibility for creating a work environment where violence and harassment is prevented.

MTUC: Article is not supported.

NTUC (Philippines): The provision dilutes employers’ primary responsibility to ensure a work environment free from violence and harassment.

UMT: Convention may broadly identify workers’ and employers’ responsibility to protect the workplace from impact of domestic violence.

OFFICE COMMENTARY

The majority of governments and employers’ organizations generally welcomed the proposed provision, as it recognizes that there are differing, yet complementary, roles and responsibilities for

preventing and addressing violence and harassment. Some governments indicated that the responsibilities of those involved should be further qualified or clarified, either through national laws, or by introducing the notion of control. The employers' organizations' consolidated reply focused on the need to specify that responsibilities would vary according to each situation and to different resources and constraints.

However, workers' organizations, and a few governments, did not support the provision, expressing concern that it could be seen as unduly expanding workers' responsibilities, and potentially diluting the responsibility of the employer to prevent violence and harassment. A number of governments, while generally supporting subparagraph (a), did not support subparagraph (b) on coordination and cooperation. With respect to cooperation, workers' organizations suggested that a new Article could introduce the concept of equity, modelled on Article 8 of Convention No. 161.

To address the various concerns raised, the Office has reformulated this provision. Subparagraph (b), which did not receive strong support, has been removed. The language from subparagraph (a) has been placed as Article 5(3) and has been modified with a view to clarifying that while the roles and functions of the various actors are complementary, the nature and extent of their responsibilities are different.

Regarding the concerns expressed about unduly extending workers' and employers' responsibilities, the Office notes that this provision is framed within Members' obligation to adopt and implement an inclusive, integrated and gender-responsive approach. It does not create new obligations on employers or workers, nor does it undermine the employers' obligation to take steps to prevent violence and harassment, set out in Article 9 (now Article 10), or the Members' obligations set out in other provisions.

Article 5

(Article 6)

Governments

New Zealand, Peru, South Africa: Support text.

Niger: Insert "in good faith" after "each Member shall respect, promote and realize".

United States: Change "as well as promote safe and decent work" to "and the promotion of decent work".

Employers

CIU, CNI and CPC (Chile): Replace "Member" with "State" and "world of work" with "workplace".

MAI: Remove references to fundamental principles.

UCCAEP: Replace "world of work" with "workplace".

WKÖ: "Discrimination" is too vague.

Workers

COSYLAC: Add "Recognize the street as workplace for the street vendors" before "respect".

CTA-A: Extend this obligation to employers and workers.

CTUM: The notion of fundamental principles and rights is in line with Article 5.

UMT: Industrial action is a legitimate right.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Article 6

(Article 7)

Governments

Argentina: Replacing “for all workers” with “in employment and occupation” is agreed by the tripartite commission. Supports removing “vulnerable groups” and maintaining a list of specific groups.

Austria, Bulgaria, Canada, Cyprus, Finland, France, Malta, New Zealand, Spain, Uganda, United Kingdom: Retain reference to “vulnerable groups”.

Belgium: Office proposal is not supported. It does not reflect that some groups are subject to structural discrimination, which requires structural policy responses. Alternative wording is proposed: “groups with vulnerabilities or groups in situations of vulnerability”.

Chile: Replace “ensuring” with “that promote and protect”.

Ecuador: Emphasize the terms “employment” and “occupation” in different paragraphs. Clarify the reference to groups requiring priority attention. Make reference to groups in situations of social vulnerability.

Finland: “In employment and occupation” is not consistent with the texts and are not defined in the Convention.

Germany: Insert “promoting equality of opportunity and treatment in respect of employment and occupation” after “policies”. Keep “vulnerable groups”, as it is much used in the human rights context.

Indonesia: Insert “and migrant workers” after “women workers”. Insert “Article” before “6”, reading: “The category of vulnerable groups or groups in situations of vulnerability in Article 6 above shall be determined by each Member in the light of national conditions, in consultation with the employers’ and workers’ organizations.”

Italy: Retain “vulnerable groups or groups in situations of vulnerability”.

Mexico: The use of “groups in situations of vulnerability” is supported. Use the language: “... including workers belonging to groups in situations of vulnerability that are exposed ...”.

Morocco, Switzerland: Office proposals are supported.

Nigeria: Define “vulnerable groups” and “groups in situations of vulnerability”.

Norway: Prefer original text.

Panama: Replacing “all workers” with “in employment and occupation”, as well as deleting the term “vulnerable groups” is supported.

Paraguay: Refer to “groups in situations of vulnerability”. Reintroduce the list of groups of workers disproportionately affected by violence and harassment.

Peru: In Spanish, refer to “trabajadores y trabajadoras”. Use “groups in situations of vulnerability”.

Philippines, Qatar: Removing reference to “vulnerable groups” is supported.

Poland: A universal provision covering everyone is preferable.

South Africa: Office proposals are accepted. Insert “to discrimination and inequality” after “vulnerability”.

Spain: “Disproportionately” can imply certain situations are “proportionate”. In Spanish, replace “la ocupación” with “el trabajo”, and “expuestos” with “afectados”.

Sweden: “In employment and occupation” can be interpreted as a narrower term than “workers”, causing confusion. Removing “vulnerable groups” is supported. Insert “to discrimination and inequality” after “vulnerability”.

United States: Replace “ensuring” with “providing”. Replace “are” with “may be”. Office proposal to remove “vulnerable groups” and maintain “workers in groups in situations of vulnerability” is supported.

Uruguay: Retain a specific list of groups. Insert the following subparagraph: “any other group or person in situation of vulnerability of violence and harassment”. “Groups in situations of vulnerability” is preferred.

Employers

Consolidated reply, CEOE, CEPYME, VBO-FEB: Listing LGBTI persons in the Recommendation is supported. Both changes suggested by the Office could be accepted, bearing in mind our proposed changes to the Preamble and the definition of gender-based violence and harassment. Delete “women workers as well as for workers belonging to one or more vulnerable groups or”.

CBI: Deleting “vulnerable groups” is not supported. A reference to sexuality-based violence and harassment is needed.

CIU, CNI, CONFIEP, CPC (Chile), UCCAEP: Modify the Article as follows: “... including for groups in situations of vulnerability that are disproportionately affected by violence and harassment in the workplace”.

DA: Replace “adopt” with “have”.

NEF: Replacing “for all workers” with “in employment and occupation” is supported.

NHO: LGBTI persons are disproportionately affected by violence and harassment and should be included in Articles 1(b) and 6.

SAE: Remove “women workers as well as for workers belonging to one or more vulnerable groups or”.

SGV-USAM: Removing “vulnerable groups” is supported.

WKÖ: Article 6 is too vague. Grounds for discrimination and protected persons are already defined in national law.

Workers

Consolidated reply, ACTU, ASI, CGT, CLC, COSATU, FTF, LO (Denmark), LO (Norway), NTUC (Philippines), Unio, YS: Replace “for all workers” with “in employment and occupation”. Remove “vulnerable groups”. Insert “to discrimination and inequality” after “groups in situations of vulnerability”.

ACFTU: Ensuring the right to equality and non-discrimination in employment and occupation for these groups in situations of vulnerability is essential.

AEFIP, APOC, ASDECCOL, COSYLAC, CTUM, FO, UEJN, UITOC: “Groups in situations of vulnerability” is supported.

BAK: Replace “including” with “in particular”. Removing “vulnerable groups” is not supported. “Groups in situations of vulnerability” requires clarification.

KPBI, KSBSI, KSPN, KSPI, KSPSI, SARBUMUSI: Add “and respecting the diverse nature of each individual” after “occupation”.

CCOO: “Including for women workers” may imply other Articles of the Convention do not apply to women workers. Replace with “of all workers”.

CGSLB, CITUB, FGTB, MTUC, UGT (Brazil): Using “in employment and occupation” is supported.

CGSLB, CIDA, TUC, UGT (Brazil): Keep “vulnerable groups”.

CGT-RA: Refer to all groups in situations of vulnerability that are disproportionately affected or exposed to violence and harassment.

CITUB: Add “to discrimination and inequality” after “vulnerable groups”.

CMTU: Return to original language with “all workers”, delete “vulnerable groups” and add “to discrimination and inequality” after “vulnerability”.

CSC, NZCTU, ZCTU (Zambia): Support Office proposal.

CTRP, GTUC, ITUC, LBAS: Refer to “groups in situations of vulnerability to discrimination and inequality” or “one or more groups vulnerable to discrimination and inequality”.

FGTB: Replacing “vulnerable groups” with “groups in situations of vulnerability” is not supported. “Groups with vulnerabilities or groups in a situation of vulnerability” is proposed.

NTUC (Mauritius): “Groups who are subject to or apprehend a disproportionate degree of violence or harassment in the world of work” is suggested.

OFFICE COMMENTARY

The Office recalls that Article 6 is the result of lengthy discussions by the Committee. Through the amendment process, the list of specific groups of workers disproportionately affected by violence and harassment was substituted by a general reference to workers belonging to “vulnerable groups or groups in situations of vulnerability”. The Office proposal consisted of deleting the term “vulnerable groups”, in order to avoid language that would inadvertently stigmatize those groups. The Office had also replaced the term “for all workers” with “in employment and occupation”.

Replies from the majority of workers’ organizations supported the Office’s change to delete the term “vulnerable groups” while maintaining the reference to “groups in situations of vulnerability”. Replies from employers’ organizations generally agreed to this change. Governments were divided on the issue, with a number suggesting both terms be retained, to cover a variety of situations and allow for the fullest interpretation possible. Taking into account current usage of the term “vulnerable groups” at national and international levels, and considering the conceptual issues raised in some replies, the text remains unchanged.

While a few governments expressed their preference for the term “all workers” instead of “in employment and occupation”, most either supported the change or did not comment. Many workers’ organizations also supported this change, and many employers’ organizations expressed it could be accepted.

In the light of the replies, the text remains largely unchanged, except for the addition of the term “and other persons” after “workers” with the view to aligning this provision with the modified language in new Article 2.

PROTECTION AND PREVENTION

Article 7

(Article 8)

Governments

Algeria: Replace “including” with “particularly”.

Belgium, Mexico, Morocco, New Zealand, Niger, Panama, Paraguay, Peru, Qatar, South Africa: Support Office proposal.

Chile: Insert “national” before “laws and regulations”.

Hungary: Insert “and address” after “prohibit”.

Israel: Insert “where appropriate” before “including”.

Italy: Supports a reference to gender-based violence.

Kuwait: Remove this provision, as it is covered by Articles 4 and 12.

Oman: Provision repeats Article 4(2)(a). If including “gender” is important, add between brackets.

Russian Federation: The provision does not specify scope or how to implement it.

Switzerland: Remove provision.

United Kingdom: Insert “or strengthen, as necessary”.

Employers

CEOE, CEPYME, CGECI: Add “and during collective actions” at the end.

CIU, CNI, CPC (Chile): Replace “Member” with “State” and “world of work” with “workplace”.

COPARMEX: Clarify provision.

DA: Replace “adopt” with “have”.

Keidanren: Insert “in accordance with national law and circumstances” after “regulations”.

UCCAEP: Replace “world of work” with “workplace”.

VBO-FEB: Insert “and during industrial actions” at the end.

Workers

ACFTU, CCOO: Retain “national”.

FGTB, UGT (Brazil): Removing “national” is supported.

FNV, CNV: Insert language inspired from the Minimum Age Convention, 1973 (No. 138): “Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour ...”.

OFFICE COMMENTARY

In the light of the replies, from which no common position emerged, the text remains unchanged.

Article 8 (chapeau)

(Article 9 (chapeau))

Governments

Austria: Insert “according to national law and practice”. Ensure list is non-exhaustive.

Finland, New Zealand, Niger, Paraguay, Peru, Qatar: Support Office proposal.

Mexico: Insert new measures: “1. Disseminate and promote the provisions of the Convention or of legislation that prohibit violence and harassment in the world of work.” and “2. Promote the culture of complaint, by accompanying the institutions or authorities empowered to do so”.

United States: Replace “workers” with “persons”.

Employers

CIU, CNI, CPC (Chile): Replace “Member” with “State” and “world of work” with “workplace”.

Keidanren: Add “in accordance with national law and circumstances” after “world of work”.

Workers

CCOO: Office proposal is accepted.

CGTM: Prevention is essential.

Article 8(a)*(Article 9(a))***Governments***Algeria:* Insert “professions” after “occupations” (“métiers” in French).*France:* Refer to “working situations” that create overexposure to the risk of violence and harassment.*South Africa:* Include consultations with public authorities and enforcement agents.*Switzerland:* Reformulate as follows: “Take into account harassment and violence in the identification of risks”.**Employers**

Consolidated reply, CIP, CIU, CNI, CPC (Chile), SN, UCCAEP: Include “employers”.

CIU, CNI, CPC (Chile): Refer to “representative” employers’ and workers’ organizations.

MEDEF: Remove “sectors” and reference “working situations”.

SGV-USAM: Remove provision.

Workers

KPBI, KSBSI, KSPI, KSPN, KSPSI, SARBUMUSI: Add “worker by themselves, and mass-based organization” after “employers’ and workers’ organizations”.

CNTB: Remove “concerned”.

Article 8(b)*(Article 9(b))***Governments***Switzerland:* Reformulate as follows: “Take into account harassment and violence in law enforcement and monitoring activities.”**Employers**

Consolidated reply, CIP, CIU, CNI, CPC (Chile), SN, UCCAEP: Include “employers”.

Workers

CGT: Clarify paragraph to avoid silencing victims.

OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged. Noting some of the replies calling for wider coverage of this Article, as well as the changes made in Article 1(c) (now Article 2), the Office has inserted “and other persons concerned” after “workers” in subparagraph 8(a) (now 9(a)) and has replaced “workers” with “persons” in subparagraph 8(b) (now 9(b)). Minor drafting changes have also been made to improve readability, and the term “applicable” in (a) has been removed to avoid redundancy.

Article 9 (chapeau)

(Article 10 (chapeau))

Governments

Austria: “As far as it is reasonably practicable” is welcomed but unclear regarding specific cases. Limit employers’ responsibility to where they have direct or indirect influence.

Belgium: Support Office proposal. Replace “so far as is reasonably practicable” with “so far as these are reasonably practicable”.

Canada: Clarify workers’ and workers’ representatives’ obligations, including duty to follow procedures and instructions, taking reasonable precautions to ensure safety, cooperating in policy design and investigations, and reporting risk factors. Reference work organization factors.

Chile: Insert “national” before “laws and regulations”, and “in the world of work” after “violence and harassment” in each of the subparagraphs.

Estonia, Finland, Hungary, Malta: Introduce “under the direct or indirect control of employers”.

Indonesia: Insert new subparagraph between (a) and (b) reading: “Migrant workers, particularly women migrant workers, regardless of their migration status, shall be covered in laws and regulations concerning violence and harassment in the world of work”.

Morocco, New Zealand, Panama, Paraguay, South Africa: Support provision.

South Africa: Insert “and respond to” after “prevent”.

Spain: “So far as is reasonably practicable” is welcomed, but it should be clear that Members shall adopt legislation requiring employers to take steps to prevent violence and harassment in the world of work without seeking exceptions or limitations to this end. Merge (b) and (c).

United Kingdom: Supports Office proposals.

United States: Insert “as appropriate” after “regulations”.

Employers

Consolidated reply, CEOE, CEPYME, CIP, CONFIEP, UCCAEP: “So far as is reasonably practicable” does not clarify how the “world of work” would be read in conjunction with employers’ responsibilities. Insert “and taking account their capacities and resources” after “practicable”. Replace “world of work” with “workplace” and add new subparagraph, “consult with workers and their representatives as appropriate”.

BusinessNZ, SN: Replace “world of work” with “workplace”.

CBI, NHO: Replace “world of work” with “workplace”. Take into account the employer’s capacity.

CEC (Canada): Implementation will be difficult for SMEs. “So far as reasonably practicable” is supported.

CGECI, VBO-FEB: Include “taking into account the capacity of SMEs”.

CIU, CNI, CPC (Chile): Replace “Member” with “State” and “world of work” with “workplace”.

MAI: Consulting obligations refer to employees’ organizations only in organized workplaces.

MEDEF: Insert “under their direct control”.

UIA: Specify different obligation of companies with less resources.

Workers

BAK, OGB: Remove “so far as is reasonably practicable”.

CGT: In French, replace “pour autant que cela soit raisonnable et pratiquement réalisable” with “pour autant que celles-ci soient pratiquement réalisables”. “Reasonable” is vague.

FGTB, CSC, CGSLB: Replace “as far as it is reasonably practicable” with “as far as they are reasonable and practicable”.

CCOO: Removing “national” is accepted, if the same is maintained in Article 7.

COSYLAC: Insert a new subparagraph: “create awareness among elements of the law enforcement on the fact that the street is a workplace for the street vendors”.

FEDUSA: Members must ensure people living with HIV are free from stigmatization, discrimination and violence in the workplace. Insert new provision: “Ensuring effective monitoring and enforcement of national laws and regulations regarding violence and harassment, including access to dispute resolution mechanisms for violence and harassment, both within the world of work and outside the establishment”.

NTUC (Mauritius): Set a reference standard of “reasonableness”.

OFFICE COMMENTARY

Most replies welcomed or did not express opposition to the language in the chapeau. Employers’ organizations and some governments, however, indicated further clarification was needed. In particular, the employers’ organizations’ consolidated reply called for a limitation based on capacities and resources and asked that “world of work” be changed to “workplace”. Some governments proposed a limitation based on employers’ “direct and indirect control”. The Office recalls the Committee’s discussion on the extent of the obligations in this provision and notes that the term “so far as is reasonably practicable” was adopted with a view to provide further clarity and flexibility, depending on what is reasonable in a given context.

A few replies from governments and workers’ organizations raised concerns that the term “so far as is reasonably practicable” could be read as qualifying the duty to take steps to prevent violence and harassment, rather than the nature of the steps. The Office understands, based on the Committee’s first discussion, that such qualification is on the nature of the steps to be taken, and with a view to making this clear, the Office has moved this term to the end of the chapeau.

Article 9(a)

(Article 10(a))

Governments

Argentina, Bulgaria: Support proposal regarding “workplace policy”.

Belgium, Finland, Niger, Panama, South Africa, Spain: Support Office proposal.

France: “Workplace policy on violence and harassment” answers some concerns regarding definition of “world of work” and whether it would require employers to intervene in situations beyond their control.

Employers

Consolidated reply, CIP, CONFIEP, UCCAEP, VBO-FEB: Remove “in consultation with workers and their representatives”.

CIU, CNI, CPC (Chile): Add “employers” before “workers”.

DA: There should not be a policy unless assessment shows there is a risk.

Keidanren: Insert “as appropriate” after “representatives”.

Workers

Consolidated reply, ACTU, CCOO, CEC (Canada), CIP, CITUB, CLC, COSATU, CTC, IFJ, FGTB, FO, MTUC, NTUC (Philippines), NZCTU: Support Office proposal to replace “a policy on all forms of violence and harassment” with “a workplace policy on violence and harassment”.

BAK: Including “workplace” is unclear in light of Article 2(b), as it excludes employers’ responsibility for areas in which they have influence.

OFFICE COMMENTARY

Given the extent of support for subparagraph (a), the text remains unchanged. The employers' organizations' consolidated reply proposed removing the reference to consultations with workers and their representatives and placing it in a new subparagraph, adding "as appropriate". As this would make it unclear to what the consultations apply and might not take into account the consultations needed to develop an effective workplace policy, no change has been made in this regard.

Article 9(b)

(Article 10(b))

Governments

Belgium, Peru: Support Office proposal.

Indonesia: This provision should read: "take into account the psychosocial effects of violence and harassment in the workplace in the management of occupational safety and health".

Italy: Systems to manage occupational safety and health and assess risks should take into account individuals who can be more easily subjected to unfavourable working conditions.

South Africa: Replacing "organization" with "management" is supported.

Employers

Consolidated reply, CIP, CONFIEP, UCCAEP, VBO-FEB: Modify and merge subparagraphs (b) and (c) as follows: "identify and assess the occupational and health risks of violence and harassment".

BUSA, NEF: Reference to psychosocial risks needs more detailed definition and range of behaviours to be addressed.

CEC (Canada), CIU, CNI, CPC (Chile): Remove provision.

Workers

KPBI, KSBSI, KSPI, KSPN, KSPSI, SARBUMUSI: Add "integrate" before "management".

COSATU: Insert "and provide support and counselling services".

UGT (Brazil): Supports Office change.

OFFICE COMMENTARY

The Office notes that among the governments and workers' organizations that replied, there appeared to be general support for this subparagraph. The employers' organizations' consolidated reply proposed to merge subparagraphs (b) and (c) in an alternative wording, deleting the references to psychosocial risks and the obligation to take measures to prevent and control risks and hazards. The Office notes that subparagraphs (b) and (c) are both relevant to occupational safety and health, but clarify specific components and actions to be taken. A broad reference to identifying occupational health and safety risks could make employers' responsibilities overly vague and would not necessarily infer an obligation to take any measures. The text, therefore, remains unchanged.

Article 9(c)*(Article 10(c))***Governments***Italy:* Reference to occupational safety and health protection schemes is useful.**Employers**

CIU, CNI, CPC (Chile): Remove this provision.

Keidanren: Insert “as appropriate” after “representatives”.

SGV-USAM: Remove or modify “with the participation of workers and their representatives”.

OFFICE COMMENTARY

The text remains unchanged for the reasons set out in the Office commentary for Article 9(b).

Article 9(d)*(Article 10(d))***Governments***Algeria:* Replace “workers concerned” with “all workers”.*Belgium, Bulgaria, Estonia, Hungary, Malta, South Africa:* Support reference to “workers concerned”.*Italy:* Replace “workers concerned” with “all workers under the direct or indirect control of the employer, irrespective of their contractual status, including interns, apprentices and volunteers”.*Paraguay:* Provide training to all workers.*Spain:* In Spanish, replace “información y capacitación” with “información y formación”.*United States:* Replace “workers” with “persons”.**Employers**

Consolidated reply, CIP, CONFIEP, UCCAEP, VBO-FEB: Replace “workers concerned” with “persons concerned in the workplace”, and insert “relevant” before “information”.

CIU, CNI, CPC (Chile): Replace “workers concerned” with “persons concerned”.

DA: Replace “worker” with “employee”.

UIA: Workers’ representatives should also inform and train workers.

Workers

BAK: All workers, managers, supervisors and other persons in positions of responsibility should be provided training.

CCOO: Inserting “concerned” is supported.

NTUC (Mauritius): Provision restricts obligation to certain categories of workers and defeats basic workers’ right to information.

NZCTU: Inserting “concerned” is not supported.

OFFICE COMMENTARY

Noting comments from a number of governments, as well as the employers’ organizations’ consolidated reply, and with a view to expanding the coverage of this subparagraph beyond

“workers”, the Office has inserted the term “and other persons” after “workers”. This is consistent with the changes made in Article 1(c) (now Article 2).

ENFORCEMENT AND REMEDIES

Article 10 (chapeau)

(Article 11 (chapeau))

Governments

Austria: Insert “according to national law and practice”, and make list non-exhaustive.

Bulgaria: Replace “dispute resolution mechanisms” with “remedy”.

Chile, Finland: No further remedial action needs to be specified.

New Zealand, Panama: Support text.

Peru: Keep all procedural guarantees. Include reference to compensation for material and non-material damages, regardless of the sanction imposed on the perpetrator.

Spain: Insert provision on false complaints, establishing obligation of inspection bodies to analyse relevance of complaints and to maintain a registry. Complaints by informal economy actors deserve a specialized organ.

Sweden: Dispute resolution mechanisms should cover access to a broad system, not just courts and specialized courts.

Employers

Consolidated reply, CEOE, CEPYME, CIP, CPG, SGV-USAM, VBO-FEB: No further remedial actions need to be included.

BUSA, NEF: Additional remedial actions are not necessary, except where these are not covered by relevant policy, procedure and mechanism for resolution.

CIU, CNI, CPC (Chile): Replace “Member” with “State”. Insert new paragraph: “Ensure that the member States annually publish the number of complaints received, the sectors from which they arise, whether public or private, and the results obtained with regard to confirmed and punished or pending cases and false complaints”.

Keidanren: Add “in accordance with national law and circumstances” after “measures”.

WKÖ: Combining domestic violence, whistle-blowers and world of work is inappropriate for the standard.

Workers

CITUB: Clarify reference to “dispute resolution mechanisms”.

CMTU: Add “This measure may limit the right of the complainant to the complaint or the right to appeal”.

GFBTU: Specify further remedial action.

ZCTU: Insert new subparagraph: “Such measures to protect privacy and confidentiality shall not in any way prejudice the right of a victim of violence and harassment, to report and be protected from violence and abuse”.

OFFICE COMMENTARY

As there was no strong support for further remedial actions to be specified in this provision, none have been added. The chapeau remains unchanged.

Article 10(a)*(Article 11(a))***Governments***Mexico:* In Spanish, replace “controlar” with “vigilar”.**Employers**

CIU, CNI, CPC (Chile): In Spanish, replace “controlar” with “fiscalizar”. Replace “world of work” with “workplace”.

Workers

CNTB: It should read “adopt laws on harassment where they do not exist”.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Article 10(b) (chapeau)*(Article 11(b) (chapeau))***Governments***Austria:* In German, “including” was translated into “darunter”, which indicates the list is exhaustive. The current text uses the word “einschließlich”. Original version is preferred.*Belgium:* English text should say “remedies and reparation”.*Canada:* Insert “timely” after “fair”.*Chile:* Clarify what “effective remedies” entails.*Denmark, Norway:* Replace “including” with “such as”.*Finland:* Clarify “dispute resolution mechanisms”.*Germany:* This provision is opposed. “All persons concerned” is far-reaching. Place “where appropriate” in chapeau of paragraph (b) and replace “dispute resolution mechanisms” with “complaints mechanisms”. Replace “including” with “for example”.*Morocco:* Supports Office proposal.*Paraguay:* Changes in (i)–(v) are supported. Insert new clause on psychological support for victims. Coordination between labour administrative bodies and judicial courts is important.*South Africa:* Chapeau should reference “safe, fair and relevant remedies and effective reporting and dispute resolution mechanisms in cases involving violence and harassment”.*Spain:* The Spanish should read “garantizar que todas las personas interesadas tengan un fácil acceso a recursos adecuados y efectivos, así como a mecanismos de denuncia y resolución de conflictos que sean seguros y efectivos en casos de violencia y acoso, incluyendo”.*Switzerland:* In French, replacing “veiller” with “garantir” is rejected.*United States:* Replace “ensure” with “provide”.

Employers

Consolidated reply: Remove “easy”, “safe, fair and effective”.

UCCAEP: Modify the wording as follows: “Ensure that persons affected have access to appropriate and effective remedies and reporting and dispute resolution mechanisms in cases of violence and harassment, including”.

Workers

CGT-RA: Include new paragraph on parties’ right of appeal.

FGTB: Integrate formal and informal mediation, independent of any legal process or effect.

FO: Include legal protection provided by employers in case of known situation of violence and harassment, and working-time arrangements and functional/geographical mobility.

LO (Denmark), FTF: Replace “including” with “such as”.

LO (Norway), Unio, YS: Office proposal to add “where appropriate” ensures sufficient flexibility.

UGTT: Measures taken at professional level are to be autonomous from criminal proceedings. Introduce witnesses’ reporting obligation.

OFFICE COMMENTARY

While a variety of minor changes were proposed, no common position emerged and, overall, there appeared to be general support for this subparagraph. The term “all persons” has been replaced with “workers and other persons”, to further align with language in new Article 2. The words “in the world of work” have been inserted after “violence and harassment” for further clarity.

Article 10(b)(i)

(Article 11(b)(i))

Governments

Belgium: Reference reporting and dispute resolution mechanisms. Limit access to mechanisms in subparagraph (i) to persons over which employers have control.

Brazil: Move subparagraph (b)(i) to Article 9 reading: “(e) adopt and implement complaint and investigation procedures, as well as, where appropriate, dispute resolution mechanisms”.

Finland: Clarify how processes in subparagraph (i) differ from each other.

Mexico: Specify that dispute resolution mechanisms and mediation will not be used in cases of sexual harassment.

Qatar, South Africa: Replacing “mechanisms” with “procedures” is agreed.

Employers

Consolidated reply: Replace “at the workplace level” with “internal to the workplace level”.

BUSA: Replacing “mechanisms” with “procedures” is not supported.

CIU, CNI, CPC (Chile), UCCAEP: Add “internal” before “dispute”.

DA: Introducing new resolution mechanisms at workplace level is burdensome for enterprises, particularly SMEs.

NEF: “Mechanisms” should not be replaced by “procedures”.

NHO: Adapt employer requirements to what is appropriate, practical and feasible.

SGV-USAM: Social partners ensure dispute resolution mechanisms at workplace level.

Workers

ASI: There is no conflict between various structures and bodies on workplace cooperation and the proposed wording. Adding “where appropriate” ensures flexibility.

CCOO, FGTB: Support Office proposals.

CSC: Clarify difference between complaint procedures and dispute resolution mechanisms.

CGSLB: Integrate different forms of conflict resolution into definition.

UGT (Brazil): “Procedures” is supported.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Article 10(b)(ii)

(Article 11(b)(ii))

Governments

Cyprus: Add “and/or procedures” after “dispute resolution mechanism” in this provision and throughout Recommendation.

Hungary: Use “remedy” instead of “dispute resolution mechanism”.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Article 10(b)(iii)

(Article 11(b)(iii))

Workers

CCOO, UGT (Brazil): Support Office proposal.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Article 10(b)(iv)

(Article 11(b)(iv))

Governments

Belgium: Who is considered “victim” is unclear; delete reference.

Finland: Specify nature of protection measures and party responsible.

Germany: Replace “and” with “or”.

Indonesia: Replace with: “protection of complainants, victims, witnesses and whistle-blowers from the acts of victimization or retaliation”.

Italy: Protecting witnesses and informants is important.

Qatar, South Africa: Including “victims” is agreed.

Spain: In Spanish, use “denunciantes” for both “complainants” and “whistle-blowers”.

Workers

BAK, UGT (Brazil): “Victims” is welcomed.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Article 10(b)(v)

(Article 11(b)(v))

Governments

Belgium: “Victim” can be retained on the understanding that it covers all persons who consider themselves victims.

Finland: Specify nature of support measures and party responsible.

Germany: Clarify what falls under “administrative support measures”.

Niger: Insert “judicial” after “legal”.

Qatar, South Africa: Including “victims” is agreed.

Tunisia: Add “and their family members, in particular children” after “victims”.

Workers

BAK, UGT (Brazil): “Victims” is welcomed.

KPBI, KSBSI, KSPI, KSPN, KSPSI, SARBUMUSI: Add “aid” after “legal”.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Article 10(c)

(Article 11(c))

Governments

Argentina, Belgium, Finland, Mexico, Morocco, South Africa, Panama, Qatar: Support moving the provision on confidentiality to this Article.

Spain: Terms used are vague.

United States: Replace “individuals” with “persons”.

Workers

Consolidated reply, ACTU, CLC, CTC, COSATU, IFJ, FO: Support Office proposal. Insert new subparagraph ensuring privacy and confidentiality do not amount to misuse of “gag” clauses and non-disclosure agreements, as they can have a chilling effect on reporting and addressing violence and harassment.

BAK: Clarify “those individuals involved” means persons affected by violence or harassment, not perpetrators.

KPBI, KSBSI, KSPI, KSPN, KSPSI, SARBUMUSI: Add “maximum” before “as appropriate”.

CCOO: Supports Office proposal. Remove “to the extent possible”.

CITUB, FGTB, MTUC, UGT (Brazil): Support Office proposal.

CLC: Balancing confidentiality and safety might be needed in domestic violence cases.

CNTB: Remove “to the extent possible and as appropriate”.

NZCTU: Supports Office proposal. Consider following wording: “protect, as appropriate and to the extent possible the privacy of those individuals involved without silencing victims or unjustifiably protecting perpetrators according to principles of natural justice”.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Article 10(d)

(Article 11(d))

Governments

Austria: In German, use “Sanktionen” instead of “Strafen”.

Employers

CIU, CNI, CPC (Chile): Replace “world of work” with “workplace”.

Workers

BAK, CCOO, OGB: Remove “where appropriate”.

KPBI, KSBSI, KSPI, KSPN, KSPSI, SARBUMUSI: Replace “provide for” with “give”.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Article 10(e)

(Article 11(e))

Governments

Argentina: The Tripartite Commission proposes adding “mediation and/or conciliation between the victim and the harasser are prohibited”.

Chile: Delete “gender-responsive” and “remedies”.

Ecuador: Use “alternative dispute resolution mechanisms”.

Spain: In Spanish, reformulate as: “Proporcionar a las víctimas de la violencia y acoso de género en el mundo del trabajo, un acceso efectivo a mecanismos, apoyos, servicios y recursos seguros y eficaces para la resolución de conflictos, que tengan en cuenta las cuestiones de género”.

Employers

Consolidated reply, UCCAEP: Remove “safe”.
DA: Clarify “gender responsive dispute resolution mechanisms”.
Keidanren: Remove “gender-based” and “gender-responsive”.
SGV-USAM: Remove “access to gender-responsive dispute resolution mechanisms”.

Workers

CGT: Clarify provision.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Article 10(f)

(Article 11(f))

Governments

Austria: Delete, as domestic violence falls under the domain of private or criminal law and has a weak link to the workplace.

Canada: This provision is important, as Members can take a number of measures to address effects of domestic violence.

Chile: Delete, as violence not occurring at the workplace or not related to work, exceeds the Convention’s scope.

Denmark, Norway: Move to preamble.

Finland: Move to Recommendation. Effects of domestic violence may extend into the world of work.

Germany: The following is proposed: “recognize the effects of domestic violence on the world of work and address them”.

Hungary: Limit coverage of domestic violence in the Convention to its effects at work.

Mexico: The concept of addressing the effects of domestic violence deserves further development.

New Zealand: The provision is important, given the impact of domestic violence on the world of work.

Poland: Link to domestic violence in this provision is not supported.

Spain: Address what domestic violence is, to which measures it refers and employers’ respective responsibilities. In Spanish, replace “sobre” with “en”.

Switzerland: Delete “and take measures to address them”.

Employers

Consolidated reply: Modify to read “recognize and address the negative effects of domestic violence on the world of work, to the extent possible and as appropriate”.

CIU, CNI, CPC (Chile), Keidanren, UCCAEP: Delete subparagraph.

SAE: Insert “negative” before “effects”. Delete “and take measures to address them”.

Workers

OPZZ: Exclude domestic violence; focus exclusively on the world of work.

TÜRK-İŞ: Include domestic violence in the Convention, as it impacts on women's productivity and occupational safety.

OFFICE COMMENTARY

Some governments stressed the importance of this provision considering the impact of domestic violence on the world of work. Others suggested deleting this provision or moving it to other parts of the texts. The employers' organizations' consolidated reply supported maintaining the subparagraph with certain qualifications. In the light of the general support for this provision, the text remains unchanged.

Article 10(g)

(Article 11(g))

Governments

Austria: Replace "undue" with "adverse".

Canada: Refer to "imminent or serious danger".

Spain: Harassment may be difficult to fit in the definition of "serious and imminent danger".

Switzerland: In French, replacing "veiller" with "garantir" is rejected.

United States: Replace "ensure" with "provide". Insert "or safety" after "health", and "retaliation or other" after "suffering".

Employers

Consolidated reply, CEOE, CEPYME, CIP, CIU, CNI, CPC (Chile), UCCAEP, VBO-FEB: In light of Conventions Nos 167, 170 and 184, insert "and the duty so to inform his/her supervisor immediately".

UCCAEP: Clarify "reasonable".

Workers

BAK: Termination of employment relationships in connection with violence or harassment incidents must not lead to victims losing access to social security system benefits.

CNTB: Replace "without suffering undue consequences" with "is considered as an unfair dismissal".

OFFICE COMMENTARY

Employers' organizations propose that the right of workers to remove themselves from a work situation should be accompanied by workers' duty to inform the supervisor, as set out in ILO Conventions Nos 167, 170 and 184. The Office notes these are the only Conventions setting out this obligation, and are confined to specific situations, such as exposure to chemicals. Convention No. 155, which provides a broader perspective on occupational safety and health, contains a similar right of workers to remove themselves from a work situation, but does not require the duty to inform the supervisor. Therefore, the text remains unchanged.

Article 10(h)

(Article 11(h))

Governments

Canada: Insert “or serious” after “imminent”.

Indonesia: Insert “/or” after “labour inspectorates and”.

Israel: Move “including by issuing ... or health” to the Recommendation.

Poland: Clarify to whom such orders are addressed.

Spain: Delete or change provision. Harassment may be difficult to fit with “serious and imminent danger”. In Spanish, replace “entre otras cosas para dictar órdenes” with “incluyendo el dictado de órdenes”.

United States: Replace “ensure” with “provide”, and include “or safety” at the end.

Employers

Consolidated reply, CEOE, CEPYME, CONFIEP, UCCAEP: In line with Convention No. 81, text should refer to “competent” instead of “relevant” authorities. Insert “subject to any right of appeal to a judicial or administrative authority which may be provided by law”. Insert “in the workplace” after “violence and harassment”.

CIU, CIP, CNI, CPC (Chile), VBO-FEB: Insert the right to appeal.

MAI: External power of control of supervisors should be limited; prefer internal enforcement mechanisms at workplace.

SGV-USAM: Labour inspectorates’ power “to take measures with immediate executory force” is too broad.

UIA: Incorporate provisions to ensure workers’ and employers’ protection within collective disputes.

Workers

OPZZ: Consider diverse scope of inspection activities in individual member States.

OFFICE COMMENTARY

Considering the employers’ organizations’ consolidated reply, and to further align with Convention No. 81, the term “subject to any right of appeal to a judicial or administrative authority which may be provided by law” has been inserted at the end of this subparagraph. The Office also notes the employers’ organizations’ suggestion to change “other relevant authorities” to “competent authorities”. As “competent authorities” is used in a different context in Convention No. 81, this change has not been made.

GUIDANCE, TRAINING AND AWARENESS-RAISING

Article 11 (chapeau)

(Article 12 (chapeau))

Governments

New Zealand, Niger, Paraguay: Support text.

Employers

CIU, CNI, CPC (Chile): Replace “Member” with “State”.

Workers

KPBI, KSBSI, KSPI, KSPN, KSPSI, SARBUMUSI: Add “mass-based organization” after “employers’ and workers’ organizations”.

Article 11(a)

(Article 12(a))

Governments

Chile: Delete “and migration”.

United States: Remove “such as those concerning occupational safety and health, equality and non-discrimination and migration”.

Employers

CIU, CNI, CPC (Chile): Replace “world of work” with “workplace” and delete “such as those concerning occupational safety and health, equality and non-discrimination and migration”.

Workers

KPBI, KSBSI, KSPI, KSPN, KSPSI, SARBUMUSI: Add “manpower regulation” before “such as”.

Article 11(b)

(Article 12(b))

Governments

Argentina, Belgium, Morocco, Panama, South Africa: Support Office changes.

Argentina: Insert a new subparagraph to include guidance, resources, training or other tools “specifically on gender-based violence and harassment”.

Chile: Remove “resources”. Add “directed towards prevention and awareness of violence and harassment in the world of work”.

Italy: Training for all competent authorities, including labour inspectors, is important.

Mexico, Sweden: Insert specific reference to gender-based violence and harassment.

Workers

Consolidated reply, ACTU, ASI, CCOO, CLC, NZCTU: Support Office change. Insert language in subparagraph (b) or in new subparagraph including guidance, resources and training specifically on gender-based violence and harassment.

CMTU, COSATU, FO, LO (Norway), NTUC (Philippines), Unio, YS: Insert language including guidance, resources and training specifically on gender-based violence and harassment.

FGTB, FTF, LO (Denmark), MTUC: Support Office change.

TUC: “Seeking to ensure” undermines tools’ importance and availability. “Appropriate” is vague. Refer to areas where guidance may be less available, for example gender-based violence.

UGT (Brazil): Add “education” and “law-enforcement authorities”.

Article 11(c)

(Article 12(c))

Governments

Tunisia: Insert “especially in the workplace and means of transport” at the end.

Workers

CMTU: Include guidance, resources and training specifically on gender-based violence and harassment.

COSATU: Insert “discussed” before “undertaken”.

OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged. Noting that numerous workers’ organizations and some governments suggested specifically mentioning gender-based violence and harassment, the corresponding reference has been inserted at the end of subparagraph (b).

METHODS OF APPLICATION

Article 12

(Article 13)

Governments

Austria: Clarify that the application through collective agreements is optional.

Belgium, Morocco, New Zealand, Niger, Panama, Paraguay, Qatar: Support Office proposal.

Ecuador: Determine separately violence and harassment.

Indonesia: Replace “cover” with “overcome the effects of”.

Israel: Each State should decide best methods of application. Move “including by extending ... where necessary” to the Recommendation, or place “where necessary” after “including”.

South Africa: Insert “and policies” after “regulations”, and replace “safety and health” with “health and safety”.

Spain: In Spanish, replace “entre otras cosas, ampliando o adaptando” with “incluyendo la ampliación o adaptación de”.

Switzerland: Inserting “national” is rejected.

Employers

CIU, CNI, CPC (Chile): Delete “including by extending or adapting existing occupational safety and health measures to cover violence and harassment and developing specific measures where necessary”.

Workers

CCOO, CUT (Brazil), FGTB, NZCTU, UGT (Brazil): Support Office proposal.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

III. OBSERVATIONS ON THE PROPOSED RECOMMENDATION CONCERNING
THE ELIMINATION OF VIOLENCE AND HARASSMENT
IN THE WORLD OF WORK

Paragraph 1

Governments

Morocco, Panama, Paraguay: Support text.

United Kingdom: Clarify that the Recommendation provides guidance regarding the Convention.

OFFICE COMMENTARY

The text remains largely unchanged, except for slight drafting changes.

CORE PRINCIPLES

Paragraph 2

Governments

Algeria: Insert “in social security and in the social welfare” after occupational safety and health.

Belgium, Morocco, New Zealand, Panama, Paraguay, Qatar: Support Office proposal.

Chile: Remove “as well as in criminal law where appropriate”.

Peru: This approach is coherent with programmes to eliminate violence against women.

Employers

CPC (Chile): Replace “world of work” with “workplace”.

Keidanren: Add “in accordance with national law and circumstances” at the end of the provision.

SGV-USAM: Clarify how this approach should be understood.

Workers

CCOO, UGT (Brazil): Support Office proposal.

OFFICE COMMENTARY

The Office notes that the reference to labour and employment, occupational and health, equality and non-discrimination and criminal law in this provision is in line with the adoption of an inclusive, integrated and gender-responsive approach. References to such bodies of law can be found in other ILO instruments. In the light of the replies, the text remains unchanged.

Paragraph 3

Governments

Chile: Remove “fully”. In Spanish, replace “velar” with “considerar”.

New Zealand: Supports text.

Peru: The reference to the right of association and collective bargaining is essential.

Spain: In Spanish, replace “incluidos aquellos en los” with “incluidos en aquellos”; and “libertad sindical” with “libertad de asociación”.

Tunisia: Add reference to Convention No. 154.

United States: Include “seek to” after “Members should”. Replace “in accordance with” with “consistent with”.

Employers

Consolidated reply, UCCAEP: Insert “and employers” after “all workers”, and “effective recognition of the” before “right to collective bargaining”; replace “in accordance with” with “taking into account”.

CIP: Insert “and employers” after “all workers”.

CONFIEP: Insert “effective recognition of the” before “right to collective bargaining”. Replace, “in accordance with” with “taking into account”.

CPC (Chile): Add “public and private” after “work arrangements”.

SAE: Insert “as well as employers” after “violence and harassment”.

SN: Add “employers” after “workers”.

Workers

CTUM: Welcomes reference to ILO Conventions Nos 87 and 98.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Paragraph 4 (chapeau)

Governments

Austria: Give preference to legislation over collective agreements. Enterprise-level agreements should also be possible.

Germany: Collective agreement cannot be promoted by the State. Redraft as: “Members should, in accordance with national law and circumstances, examine appropriate measures to ...”.

United Kingdom: In line with Convention No. 98, redraft chapeau as follows: “Members should take measures appropriate to national conditions, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers’ organizations and workers’ organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements. Such agreements should be used, as necessary, as a means of”.

Employers

CPC (Chile): Replace “members” with “States”.

Workers

NZCTU: Office proposals are supported.

Paragraph 4(a)

Governments

Argentina, Belgium, Morocco, Panama, Qatar: Support Office proposal.

Chile: Remove “at all levels”, taking into account different levels of collective bargaining in member States. Remove “and dealing with ... world of work”.

Colombia: Delete (a).

Indonesia: Replace “dealing with” with “overcoming”.

New Zealand: “Encourage” is supported over “promote”. Replace “preventing” with “discouraging”.

United Kingdom: Delete “Promote ... means of”.

United States: Replace “promote” with “encourage”.

Employers

Consolidated reply, BusinessNZ, UCCAEP: Insert “the effective recognition of” before “collective bargaining”. Replace “at all levels” with “where appropriate, at appropriate levels and in line with national law and practice”, clarifying that the intention is not to promote collective bargaining at each and every level. Replace “as a means” with “among other means”. Replace “dealing with ... world of work” with “support victims of domestic violence”.

BUSINESSHUNGARY, SEV: “Bargaining at all levels” introduces uncertainty.

CONFIEP, VBO-FEB: Refer to “collective bargaining, where appropriate, at appropriate levels and in line with national law and practice”. Measures taken by Members should support victims of domestic violence, rather than “deal with the effects”.

CEOE, CEPYME: Reformulate as follows: “promote the development of collective bargaining, at appropriate levels, among other means of preventing and addressing violence and harassment in the world of work, and support victims of domestic violence”.

CIP, CPC (Chile): Domestic violence is beyond employers’ competence.

CIP: Replace “at all levels” with “at appropriate levels” and recognize other means may exist.

CPC (Chile): Reformulate as follows: “Promote collective bargaining as a means of preventing and addressing violence and harassment in the workplace; and”.

SN: Insert “where appropriate” after “collective bargaining”.

SAE: Replace “at all levels” with “at appropriate levels, at all levels in accordance with national legislation,” and “dealing with” should be replaced with “work on”.

Workers

Consolidated reply, CCOO, CITUB, COSATU, FTF, IFJ, LO (Denmark): Office proposal to replace “encourage” with “promote” and the clarification on the expression “collective bargaining at all levels” are supported.

ACTU, CMTU, MTUC, UGT (Brazil): Replacing “encourage” with “promote” is supported.

CGT-RA: Modify wording to not affect countries without domestic violence legislation.

FO: Replace “promote” with “establish and enforce collective bargaining”.

JTUC-RENGO: Use “promote”.

NTUC (Philippines): The Office change is agreed.

Paragraph 4(b)

Governments

Chile: Delete subparagraph; content of collective agreements is private.

Employers

Consolidated reply, CEOE, CEPYME: Insert “when necessary” after “collective bargaining”.

OFFICE COMMENTARY

Workers’ organizations broadly supported subparagraph 4(a), as did most governments, with some governments proposing drafting changes. Most employers’ organizations suggested adding “where appropriate, at appropriate levels and in line with national law and practice” to modify “at all levels”. In the light of the replies, the text remains unchanged.

Paragraph 5

(Paragraph 10)

Governments

Argentina, Belgium, Bulgaria, Chile, Finland, Mexico, Morocco, Panama, Paraguay, Qatar, South Africa, Spain: Support moving this provision to “Protection and prevention”.

Austria: Employment rights come into effect only within the framework of an employment relationship recognized in legal jurisdiction.

Belgium: Clarify which measures can be taken in country of origin.

Chile: Clarify “regardless of migrant status”.

Mexico: Include definition of “migrant workers” from the Migration for Employment Convention (Revised), 1949 (No. 97).

New Zealand: Supports the text.

Niger: Replace “Migrant workers, and particularly women migrant workers” with “migrant workers and women migrant workers, as well as their family members”.

Paraguay: Add “provided that the migratory condition of the worker is not a consequence of a violation of national regulations”.

Switzerland: Modify the Paragraph as follows: “Members should take measures to protect migrant workers, particularly women migrant workers, regardless of migrant status from violence and harassment as appropriate”.

United States: Migrant workers are one of multiple groups that may be particularly vulnerable to violence and harassment at work. Delete provision.

Employers

Consolidated reply, CEOE, CEPYME, CIP, CPC (Chile), SAE, UCCAEP, VBO-FEB: Delete provision, in light of the instrument’s scope and inclusive approach.

Workers

Consolidated reply, ACTU, CITUB, CMTU, COSATU, CTC, FGTB, FTF, LO (Denmark), MTUC, NTUC (Philippines), NZCTU: Shifting this Paragraph to “Protection and prevention” could be supported.

CCOO: Moving this provision to another chapter is not supported, as protecting migrant workers guarantees their fundamental rights.

OFFICE COMMENTARY

The Office notes that most replies favoured placing this provision under Part II “Protection and prevention” and did not propose further modifications. Other replies suggested various changes to the text or the removal of the provision. In the light of the replies, this provision as currently worded has been moved and appears as Paragraph 10 in Part II of the Recommendation, and paragraphs have been renumbered accordingly. As this text has been discussed by the Conference, it does not appear in square brackets.

Paragraph 6*(Paragraph 5)***Governments***New Zealand:* Supports text.*Spain:* In Spanish, replace “como” with “incluyendo”.*United States:* Insert “seek to” after “Members should”.**Employers**

CPC (Chile): Replace “Members” with “States”.

Workers

CCOO: Add a reference Convention No. 155 and Recommendation No. 200.

CNV, FNV: Add reference to the 2030 Agenda, and Recommendations Nos 188 and 200, as they include the prohibition and prevention of discrimination on the basis of sexual orientation and gender identity.

NZCTU: Supports Office proposal.

UNT: Add: “as well as other relevant ILO instruments and related with human rights”.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

PROTECTION AND PREVENTION**Paragraph 7***(Paragraph 6)***Governments***Indonesia:* Remove “occupational safety and health”.*New Zealand:* Supports the text.*Peru:* The instruments could create the framework to consider sexual harassment as a psychosocial risk addressed through OSH measures.**Employers**

Consolidated reply, UCCAEP: Include “including the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)” at the end.

Workers

NZCTU: Office changes are supported.

UNT: Add “and other human rights provisions on Occupational Safety and Health” at the end.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Paragraph 8 (chapeau)

(Paragraph 7 (chapeau))

Governments

Algeria: Insert a subparagraph reading: “Provide that employers have to ensure to workers the implementation of any measure necessary for the prevention, the treatment and for the punishment of acts of violence in the workplace.”

Canada: Insert a subparagraph reading: “State that there will be protection against any disciplinary action for reporting an incident that is made in good faith” and another subparagraph elaborating further the role of workers and their representatives in preventing violence and harassment.

Finland: Replace “should” with “could”.

Indonesia: Add “and employers” after “workers”. Replace “and their representatives” with “or their representatives”.

Morocco, New Zealand, Panama, Paraguay: Support Office proposal.

Peru: It is essential to create a workplace culture respectful of human rights.

Thailand: Insert a subparagraph reading: “Protect the privacy and confidentiality of those individuals involved.”

Tunisia: Insert a subparagraph reading “promote policies and strategies with a view to eliminate inequalities and distinctions based on sex and gender”.

Employers

BusinessNZ: Imposes obligations that are difficult for small employers.

CPC (Chile): Replace “members” with “States”.

Workers

CCOO, NZCTU, UGT (Brazil): Support Office proposal.

Paragraph 8(a)

(Paragraph 7(a))

Governments

Spain: In Spanish, replace “afirmar” with “declarar”.

Paragraph 8(b)

(Paragraph 7(b))

Governments

Algeria: Insert “and implement” after “establish”.

Employers

SGV-USAM: This Paragraph is too open.

Workers

CCOO, UNT: Remove “if appropriate”.

Paragraph 8(c)

(Paragraph 7(c))

Governments

Canada: Include worker representatives, such as health and safety or workplace policy committees.

Spain: Replace “definir” with “especificar”, and “obligaciones” with “responsabilidades”.

Paragraph 8(d)

(Paragraph 7(d))

Governments

Belgium: Insert “and, where appropriate, on reporting and dispute resolution procedures”.

Workers

CGT-RA: Delete.

Paragraph 8(e)

(Paragraph 7(e))

Governments

Algeria: Insert “according with national law and practice”.

Canada: Insert “in a timely manner”.

Chile: Clarify implications relating to right to privacy of communications.

OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged, except for minor drafting changes in the chapeau to avoid redundancy, and in subparagraph (e) to improve readability.

Paragraph 9 (chapeau)

(Paragraph 8 (chapeau))

Governments

Argentina, Morocco, New Zealand, Panama, Paraguay, South Africa: Support Office proposals.

Belgium: Include organizational factors that increase the likelihood of violence and harassment.

Canada: Insert two subparagraphs: “specify the time interval at which the workplace policy will be periodically reviewed”; and “specify the rights of all parties to confidentiality, including those of the

complainant, respondent(s) and any witnesses, while balancing the rights of the other employees to be made aware of every known or foreseeable health or safety hazard in the workplace.”

Mexico: Insert a subparagraph reading: “unsafe environments, installations and areas lacking illumination, without alternate access to enter or exit, isolated or narrow, among others.”

Spain: Delete. Do not require employers to take into account possible risks and factors unrelated to the workplace and involving adopting non-labour measures.

United States: Reformulate end as follows: “including psychosocial hazards and risks, such as those arising from”.

Employers

Consolidated reply, CEOE, CEPYME, CONFIEP, VBO-FEB: “in particular psychosocial hazards and risks” may create a hierarchy of harm. All risks should be managed. Replace “in particular” with “including”. Replace “those arising from” with “where these arise from”.

BusinessNZ, CPC (Chile), UCCAEP: Referring to psychosocial hazards and risks is not supported.

Workers

Consolidated reply, ACTU, CITUB, CMTU, COSATU, FTF, IFJ, LO (Denmark), MTUC, NTUC (Philippines), NZCTU: Support Office proposal.

CCOO: Spanish text should read “en particular los peligros y los riesgos psicosociales”.

Paragraph 9(a)

(Paragraph 8(a))

Governments

Chile: Delete.

Spain: In Spanish, replace “personas” with “partes” to align with the English.

Employers

UCCAEP: It is unclear how risks are assessed, employer’s responsibilities defined and harassment proved.

Workers

COSYLAC: Add “elements of the law enforcement” after “patients”.

Paragraph 9(b)

(Paragraph 8(b))

Governments

Kuwait: Replace “gender” with “sex”.

Mexico: Add “gender stereotypes”.

Employers

Consolidated reply: Replace “presence” with “abuse”. Invert order of “cultural” and “gender”. Replace “support violence and harassment” with “fuel violence and harassment”.

CPC (Chile): Add “abuse of” before “relations”. Move “gender” after “social norms”.

OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged. In subparagraph (a), the term “members of” has been added before “the public” to ensure consistency with changes made to Article 3 (now Article 4) of the Convention.

Paragraph 10

(Paragraph 9)

Governments

Algeria: Replace “work arrangements” with “professions (métiers in French) and work conditions”.

Chile: In Spanish, replace “el ocio” with “las actividades de espectáculo y entretenimiento”.

Finland: Replace “specific measures” with “appropriate measures”, in line with Article 8.

New Zealand: Insert “where appropriate” after “adopt”.

Peru: Mentioning such sectors is important, including informal economy.

United Kingdom: Insert “policies that promote” after “adopt”.

United States: Replace “are more exposed” with “may be more exposed”. Insert reference to agricultural sector.

Employers

Consolidated reply, CIP, CPC (Chile), UCCAEP: Delete enumeration starting from “such as night work ...”.

Keidanren: Add “as appropriate”.

SGV-USAM: It is opposed. It can lead to additional, sector-specific state regulations.

Workers

AEFIP, APOC, ASDECCOL, UEJN, UITOC: Add “Workers of the public sector with access to confidential information that operate as informants and/or complainant”.

CGT-RA: Add communication and advertising sector.

NZCTU: Office changes are supported.

PSI: Add “public sectors workers with access to sensitive information” and “whistle-blowers”.

UNT: Add “agriculture, street” before “and entertainment”.

OFFICE COMMENTARY

The Office notes that no common position emerged regarding changes to this Paragraph. Most workers’ organizations proposed including additional sectors, occupations or work arrangements, while most employers’ organizations suggested removing such enumeration in its entirety. In the light of the replies, the text remains largely unchanged, except for the addition of the term “and other persons concerned” after “workers”, to align with changes made to Article 8(a) (now Article 9(a)).

Paragraph 11

Governments

Belgium, Morocco, New Zealand, Panama, South Africa: Support Office proposal.

Chile: Including resources and assistance to informal economy workers is not supported.

Mexico: Specify resources and assistance concerned.

Philippines, Qatar: Include specific reference to resources and assistance for other informal economy actors.

Spain: Support Paragraph.

Uganda: Delete.

United States: Redraft the provision: “Members should consider developing and implementing mechanisms to prevent and address violence and harassment in the formal and informal economies.”

Employers

Consolidated reply, CONFIEP, UCCAEP: Include a reference to employers and their associations. Refer to “consumers” in the informal economy. Insert “in so far as is practicable” before “provide resources”.

CGECI, CIP, CPC (Chile), VBO-FEB: Add a reference to informal economy employers.

Workers

Consolidated reply, ACTU, CCOO, CITUB, COSATU, FEDUSA, FO, FTF, IFJ, LO (Denmark), MTUC, NTUC (Philippines), NZCTU: Support moving this Paragraph under “Protection and prevention”.

ACFTU: Replace “organizations” with “trade unions”.

CGT-RA: Add: “In order to improve the sustainable development of the Members, the growth of their economies and companies, and a better quality of life of their societies”.

CMTU: Supports this Paragraph.

UNT: Remove “in the informal economy”.

OFFICE COMMENTARY

Moving this provision under “Protection and prevention” received clear support, including by the majority of workers’ organizations. Some governments suggested referring to other actors or to the resources or assistance concerned. The majority of employers’ organizations proposed including a reference to employers and their associations. In the light of the replies, the provision has remained under Chapter II of the Recommendation, and a reference to employers has been included.

Paragraph 12 (chapeau)

(Paragraph 12)

Governments

Algeria: Delete the list, to avoid categorizing groups. Recognition of LGBTI is against religious, spiritual and moral values of a number of Member countries.

Argentina: Delete “vulnerable groups” and maintain a list of groups.

Bangladesh: Delete the list of groups to maintain uniformity with Article 6.

Belgium: Not opposed to including a list in a different provision complementing Article 6.

Bulgaria: Supports including a new provision with the list of vulnerable groups.

Cameroon: Delete the list.

Canada: Supports removing the list from Paragraph 12. Include a non-exhaustive list of groups in a specific new provision.

Chile: Supports replacing “vulnerable groups” with “groups in situation of vulnerability”.

Denmark: Supports a new provision in the Recommendation supplementing Article 6.

Finland: Supports separating the two original provisions. Supports a list in a provision in the Recommendation.

France: All people and groups envisioned in the text must be adequately protected against violence and harassment.

Germany, Malta, Panama: Restoring the original meaning of this provision of the conclusions and including a list of groups in a new provision is supported.

Hungary, Norway: Moving the list of vulnerable persons into a new paragraph and replacing the reference to “LGBTIQ” with “sexual orientation” could be acceptable.

Indonesia: Delete the list to avoid any protracted negotiation, to promote a broad acceptance by Members, and to not limit the list.

Islamic Republic of Iran: Delete the whole list in this provision.

Kuwait: Remove the list in Paragraph 12, as it could lead to omitting other categories.

Mexico: Replace “vulnerable groups” with “groups in situation of vulnerability”. Include a list of groups based on international standards and taking into account legal, historic and social dimensions.

New Zealand: An explicit reference to groups specified in the list within the Recommendation is important. Including a list in Paragraph 12 does not change the provision’s focus. However, in light of the list’s deletion, add a new provision in the Recommendation supplementing Article 6 of the Convention, beginning with: “For the purposes of applying the provisions of Article 6 of the Convention, workers belonging to one or more vulnerable groups or groups in situations of vulnerability that are disproportionately affected by violence and harassment in the world of work includes ...”.

Peru: Mention action to prevent discrimination and violation of rights of groups in situation of vulnerability.

Qatar: Supports deleting the list and not including it in a new provision, since this could exclude or omit other groups.

South Africa: Supports including a list of groups in situation of vulnerability.

Spain: Supports deleting the list from this provision and including it in a new paragraph. The list should not be exhaustive. Use generic language, such as “groups in situation of vulnerability and/or social exclusion for personal, economic and social circumstances”.

Sweden: Visibility of vulnerable groups and inclusion of the LGBTQ perspective are important. A list of groups in a separate provision in the Recommendation is favoured.

Uganda: There should be no list.

United Kingdom: Moving the list of groups to a specific new provision in the Recommendation supplementing Article 6 is supported.

United States: Insert “seek to” after “Members should”. Any list risks excluding a relevant group or groups. Use “such as” in the introduction to the list.

Employers

Consolidated reply, CEOE, CEPYME, CONFIEP, UCCAEP, VBO-FEB: The Office should clarify how removing the reference to vulnerable groups would avoid stigmatization. A reference to “groups in situations of vulnerability” instead of “vulnerable groups” could be agreed to; however, it may not be appropriate, as women and migrant workers are specifically referred to elsewhere in the instruments, but LGBTI persons would not be. Keeping the list of groups and especially the reference to LGBTI persons is supported. Redraft chapeau as follows: “Members should ensure that measures to prevent violence and harassment provide equal protection to all persons including:”. In (a)–(i), replace “workers” with “persons”, except for the reference to “pregnant and breastfeeding women” in (b) and to “migrants” in (e).

APINDO: International standards should recognize values rooted in different religious and cultural contexts. Delete the list. Add “as defined by national laws and regulations”.

BusinessNZ: Referring to “all persons” is sufficient.

CGECI, FEI: Support employers’ organizations’ consolidated reply, except for the reference to LGBTI persons.

CPC (Chile): Reformulate the provision as follows: “Members should ensure that measures to prevent violence and harassment provide the same protection to all workers.” A list is not necessary.

NHO: Keep list of vulnerable groups to promote diversity and inclusion.

SAE: Reformulate this provision as follows: “Members should ensure that measures to prevent violence and harassment do not result in limiting participation of women and vulnerable groups in special jobs, sectors or occupations, or consequently, their exclusion.”

SEV: The exclusion of LGBTI persons from the list of persons protected is questionable.

Workers

Consolidated reply, ASI, CLC, CTC, FTF, LO (Denmark): The Office’s suggestion to restore the original meaning of this provision by deleting the list of groups is supported, as having the list at the end makes the text incoherent. The issue addressed originally by the provision is sufficiently critical to be included in the Convention, for example after Article 6. LGBTI workers are among the most discriminated and exposed to violence and harassment. Workers’ organizations would not accept a list, even if it were non-exhaustive, that does not include LGBTI+ workers. It is crucial to ensure the instruments cover all workers and recognize that particular efforts may be needed regarding certain groups disproportionately affected by violence and harassment due to prevailing inequality and discriminatory attitudes. However, reopening the discussion on the inclusion of a list of groups under a new provision could polarize the debate again.

ACTU: The issue addressed in point 26 is sufficiently critical to justify its inclusion within the Convention. Removing the list is not opposed.

AEFIP, ASDECCOL, APOC, UEJN, UITOC: Include “Workers of the public sector with access to confidential information that operate as informants and/or complainant” in the list.

BAK: Include a list in the Recommendation, including workers in precarious employment relationships and persons performing civilian service.

CCOO: Maintain the list.

CGSLB, CGT, CSAC: A list of groups is not supported. Each State should define such a list at national level.

CMTU: Supports Paragraph.

COSATU, CTC, LBAS: Restoring the original meaning of point 26 is supported. Reopening a discussion on a list could complicate the process.

CSC: A list is opposed. The instruments could eventually oblige States to define such a list at national level with all relevant actors.

FEDUSA, ZCTU (Zimbabwe): Redraft Paragraph as follows: “Vulnerable groups in terms of this Convention shall mean, all those groups of people as defined by international instruments and national laws, who have suffered historical imbalances, are discriminated, marginalized and may be disproportionately impacted by violence and harassment.”

FGTB, LO (Sweden), TCO, Saco, UMT: A list is not supported.

CNV, FNV: Removing the list of vulnerable groups is supported, as reopening the discussion would not be helpful. An inclusive term, without specifying the vulnerable groups, would ensure that no one is left behind.

FO: The list should be included in a specific new provision of the Convention after Article 6 due to its importance.

FO, FTF, IFJ, LO (Denmark), LO (Norway), NTUC (Philippines), Unio, YS: Support restoring the original meaning of Paragraph 26.

IFJ: Supports a list with factors or characteristics leading to greater risk of violence and harassment.

MTUC: Support Office suggestion.

NZCTU: A list not including LGBTI+ workers cannot be supported. Insert the current list in a new paragraph in the Recommendation.

OPZZ: The provision should be general, as it can be referred to by any person affected by violence and harassment.

TUC: Removing the list from Paragraph 12 and not including it in Article 6 is supported, as long as the instruments recognize that dedicated approaches to protect groups more affected by violence and harassment are necessary.

UNT: Replace “and vulnerable groups” with “or groups in situations of vulnerability” and add domestic workers, homeworkers, catalogue sales workers, workers on the road and agricultural workers.

Paragraph 12(a)

(Paragraph 13(a))

Governments

Chile: In Spanish, replace “de edad” with “adultos mayores”.

Mexico: In Spanish, replace “trabajadores de edad” with “personas adultas mayores”.

Workers

UNT: Indicate if it refers to the minimum age to work or at what age.

Paragraph 12(b)

(Paragraph 13(b))

Governments

Spain: Replace “lactantes” with “en periodo de lactancia”.

Workers

CCOO: Divide subparagraph in two: “(b) pregnant and breastfeeding workers” and “(c) workers with family responsibilities”.

Paragraph 12(d)

(Paragraph 13(d))

Governments

Austria: A universal or supplementary formulation is preferable, such as “workers with communicable or stigmatizing diseases”.

Paragraph 12(f)

(Paragraph 13(f))

Workers

CGT-RA: Reformulate as follows: “the workers of native and indigenous peoples”.

Paragraph 12(g)

(Paragraph 13(g))

Governments

United States: Insert “racial” before “ethnic”.

Paragraph 12(i)

(Paragraph 13(i))

Governments

Austria: Replace reference to LGBTIQ with “sexual orientation”.

Cameroon, Egypt, Senegal: Delete.

Finland: A possible compromise is referring to groups discriminated because of sexual orientation or gender identity in subparagraph (i).

Italy, Malta: Reformulate to refer to “sexual orientation”.

Hungary: Clarify definition of “gender-nonconforming workers”.

Mali: References to LGBTI are not supported.

Nigeria: This subparagraph is not supported, as it is not in consonance with national law, customs and traditions.

Paraguay: Mention only LGBTI workers.

Tunisia: Take into consideration States’ religion, customs and capacity.

Employers

CBI: Include LGBTI in the list.

SYNDUSTRICAM: Delete.

UIA: Excluding LGTBI would be unacceptable.

Workers

UGTC (Cameroon): Replace with “other categories of workers”.

OFFICE COMMENTARY

The Office recalls the extensive discussion at the Conference on Article 6 of the Convention and the related Paragraph 12 in the Recommendation on the inclusion of a list containing specific groups of workers disproportionately affected by violence and harassment. A variety of opinions were expressed, both for and against a list. Opinions were also expressed regarding whether or not,

should such a list be included, LGBTI persons should be referenced in it. The Office recalls that, via the amendment process, the Committee moved the list contained in Article 6 of the Convention to Paragraph 12 of the Recommendation. Because of time constraints, the Committee did not discuss Paragraph 12; the text was bracketed, and, therefore, has neither been accepted nor rejected.

The majority of replies from governments and workers' organizations expressed strong support to restore the original focus of Paragraph 12, to avoid that measures aimed at preventing violence and harassment result in the restriction or exclusion of women or groups disproportionately affected by violence and harassment from specific sectors, jobs and occupations. Paragraph 12 has been revised in this light and in accordance with Article 6 (now Article 7) of the Convention.

There was also support for a separate paragraph supplementing Article 6 (now Article 7) of the Convention, enumerating groups disproportionately affected by violence and harassment. Replies on Article 6 and Paragraph 12 of Report V(1) reiterated a number of positions expressed during the Conference, providing detailed reasons both for and against including a list. Most governments that commented on this provision supported including a list. A number of other governments suggested deleting the list altogether, and some, while not expressing opposition to a list per se, proposed the specific deletion of a reference to LGBTI workers. Most replies from workers' organizations underlined the importance of covering all workers and recognizing that particular efforts may be needed regarding certain groups. They maintained that, if a list were to be included, it should include LGBTI+ workers. However, they considered that attempts to reinsert a list would not be helpful. Most responses from employers' organizations expressed their preference for a list, and, moreover, that LGBTI persons should be included in it. At the same time, a number of employers' organizations made it clear that either they did not support the inclusion of a list, or the inclusion of LGBTI persons in such a list.

Given the support expressed for retaining a list of groups disproportionately affected by violence and harassment, the list has been maintained in a new paragraph (Paragraph 13), with a chapeau aligned with Article 6 (now Article 7). To improve such alignment, and in the light of many replies from employers' organizations, the Office has made drafting changes so that the list refers, more generally, to persons. Subsequent paragraphs have been renumbered accordingly.

However, the Office notes that the objective of the instruments is to provide protection against violence and harassment to all. The Office observes that including a list enumerating specific groups could, in some countries, amount to excluding other groups that are particularly relevant in specific national contexts, or might not capture the fact that new groups could emerge over time. Moreover, the Office recalls the lengthy discussions that took place in the Committee concerning the inclusion of certain groups in the list, which constituted an obstacle to continued debates. Taking into account the broad scope of the phrases "vulnerable groups" and "groups in situations of vulnerability", these could give wide coverage and could facilitate the adoption and implementation of the instruments.

ENFORCEMENT, REMEDIES AND ASSISTANCE

Paragraph 13 (chapeau)

(Paragraph 14 (chapeau))

Governments

Algeria: Insert "an accompaniment for a professional reinstatement"; "a psychological and social support"; and "a medical, psychiatric and psychological care of the victims".

Austria: Implementation should be in accordance with national law.

Belgium: Including the right to resign with compensation is not supported.

Chile: Delete “effective”.

Denmark, Finland, Norway: Replace “should include” with “could include”.

New Zealand: Supports the text.

Peru: Mentioning remedies such as compensation is important.

United States: Replace “violence and harassment ... should include” with “violence or harassment depend on the specific circumstances and could include”. Add “punitive damages” and “resignation with compensation” to the list.

Employers

Consolidated reply, BUSA, NEF: Insert “as appropriate to the circumstances” after “include”.

CPC (Chile): Replace “should” with “could”.

Keidanren: Add “as appropriate”.

Paragraph 13(a)

(Paragraph 14(a))

Governments

Austria: A right to reinstatement falls under the employer’s contractual autonomy.

Belgium: Reintegrating workers whose working relationship has been terminated can only be supported where termination was a reprisal.

Switzerland: Delete.

Employers

Consolidated reply, BUSA, UCCAEP: Insert the term “or transfer”.

SAE: Insert “if the victim of violence and harassment requests” after “reinstatement”.

SGV-USAM: Including reinstatement is opposed.

Workers

UNT: Add “under the same conditions”.

Paragraph 13(b)

(Paragraph 14(b))

Governments

Austria: This provision has a very broad reach.

Chile: Delete.

United States: Replace “material and non-material damages” with “out-of-pocket losses, lost wages and physical and emotional harm”.

Workers

UNT: Add “the compensation for physical, psychological, economic, patrimonial or moral damages”.

Paragraph 13(c)*(Paragraph 14(c))***Governments***Belgium, Morocco, Panama, Paraguay:* Support Office proposal.*Spain:* Further clarify measures with immediate executory force.*United States:* Replace “ensure that ... be changed” with “stop certain conduct or change policies or practices”.**Workers**

CCOO: Supports Office proposal.

Paragraph 13(d)*(Paragraph 14(d))***Governments***Spain:* In Spanish, reformulate as follows: “honorarios legales y costes”.*Thailand:* Indicate who is responsible for legal fees and costs.**Workers**

CGIL, CISL, UIL: Legal costs should not be supported by victims.

CNTB: Add “including reparation for the injury, supported by the perpetrator of the violence or harassment”.

UNT: Redraft as follows: “Psychological, medical and legal fees and costs”.

OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged, except for minor editing changes in the chapeau to avoid redundancy and in subparagraph (c) for language purposes.

Paragraph 14*(Paragraph 15)***Governments***Austria:* This provision is very broad; implementation should be in accordance with national law.*Chile:* Delete.*New Zealand:* Supports the text.*Spain:* This provision should refer to compensation supported by the perpetrator. In Spanish, replace “indemnización” with “compensación”.*United States:* Refer to “violence or harassment” and replace “disability leading to incapacity to work” with “injuries and illness”.

Employers

Consolidated reply, CEOE, CEPYME, SN, VBO-FEB: Remove “psychosocial or physical” as descriptors of disability may vary.

CIP, CONFIEP, CPC (Chile), UCCAEP: Delete “psychosocial or physical”.

SGV-USAM: Victims’ universal entitlement to compensation in such cases is opposed.

Workers

BAK: Victims must be entitled to compensation, not only when they are unfit to work, but also when they suffer effects requiring long-term, costly therapies.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Paragraph 15 (chapeau)

(Paragraph 16 (chapeau))

Governments

Austria, Denmark, Finland, Norway, United Kingdom: Further flexibility is needed; refer to appropriateness or to accordance with national law and practice.

Austria: Member States should be able to provide specialized support to particularly affected groups.

Belgium: Give access to dispute resolution and judicial procedures to associations, organizations and legal persons. Replace “dispute resolution mechanisms” with “remedies and reparation mechanisms”.

Canada: Add a subparagraph referring to mechanisms, such as early resolution with the employer mediated/facilitated by a third party, or investigation by a competent, independent and impartial person.

Peru: Having specialized and expedited dispute resolution mechanisms, and shifting burden of proof is supported.

United States: Replace “should” with “could”.

Employers

Consolidated reply, CEOE, CEPYME, CIP, CONFIEP, VBO-FEB, UCCAEP: Insert “as appropriate” at the end.

CPC (Chile): Add “in the workplace” after “harassment”.

Keidanren: Delete.

SN: Replace “should” with “may” and add “as/where appropriate”. Otherwise, delete (a), (b) and (e).

Workers

CGSLB, FGTB: Associations, organizations or legal persons should participate in dispute settlement to represent or assist complainants.

Paragraph 15(a)

(Paragraph 16(a))

Governments

Chile: Delete.

Sweden: All general courts should be able to deal with all kinds of cases.

Employers

NHO, SN: Delete.

Workers

UNT: Insert “on gender and human rights” before “in cases”.

Paragraph 15(b)

(Paragraph 16(b))

Governments

Canada: Replace “expedited procedures” with “timely or efficient processing”.

Sweden: Provision is too detailed regarding Members’ respective systems. Requiring swift processing of such cases may affect Members’ support of the Recommendation.

Employers

SN: Delete.

Paragraph 15(c)

(Paragraph 16(c))

Governments

Belgium: A single reference to victims is preferred.

Workers

UNT: Add “medical and psychological” before assistance.

Paragraph 15(d)

(Paragraph 16(d))

Workers

CNTB: Add “available to workers and translated into the widely spoken languages of the country.”

Paragraph 15(e)

(Paragraph 16(e))

Governments

Austria: Replace “shifting of the” with “reduced”. Provision is broad and does not state what the shifting of the burden of proof refers to and in which cases it should be applied.

Belgium: Supports shifting of the burden of proof in civil proceedings for all cases of abuse. Include in Article 10.

Canada: Add “where appropriate”.

Chile: Replace with “the use of all means of proof admissible in law with a limit on unlawful evidence.”

Denmark, Norway: “Shifting the burden of proof” is concerning in the absence of a distinction between criminal and civil law, and should be subject to national provisions.

Finland: Shifting burden of proof cannot apply to criminal cases.

Hungary, New Zealand, Switzerland, United Kingdom: Delete this provision.

Islamic Republic of Iran: Clarify procedure for accessing source of proof and/or quality of evidence to be provided.

Italy: Provide alternative wording to prevent implementation difficulties.

Spain: Clarify that this provision refers to labour jurisdiction and never to criminal jurisdiction.

Sweden: Reversing burden of proof in criminal law is not supported.

United States: Insert “in civil cases, as appropriate”.

Employers

CPC (Chile), NHO, SGV-USAM: Delete.

DA: Burden of proof cannot be shifted in criminal cases.

SN: Delete. Burden of proof cannot be shifted in criminal cases and some civil cases.

Workers

CGSLB, FGTB: Supports shifting the civil burden of proof for all types of abusive behaviour.

CIDA: Shifting burden of proof is a sensitive issue.

FO: It is regretted that shifting the burden of proof is only included in the Recommendation.

UNT: Add “towards the perpetrator” after “proof”.

OFFICE COMMENTARY

In the chapeau, a few governments suggested including the reference “according to national law and practice” and many employers’ organizations proposed inserting “as appropriate”. In the light of the replies, the chapeau remains unchanged.

Slight drafting changes were made in subparagraph (d) to improve readability. Noting the concerns raised by a number of replies to subparagraph (e) regarding the shifting of the burden of proof in criminal cases, the Office notes that this provision was not intended to be applied in criminal proceedings. For further clarity, “in proceedings other than criminal proceedings” has been added at the end of the subparagraph.

Paragraph 16 (chapeau)*(Paragraph 17 (chapeau))***Governments***Belgium:* Remove “remedies”, as this provision does not refer to judicial procedures.*Colombia:* Refer (e), (f) and (g) to national legislation.*Denmark, Finland:* Insert “appropriate measures such as” at the end of the chapeau, or replace “should include” with “could include”.*New Zealand, United States:* Replace “should include” with “could include”.*Norway:* Add “appropriate measures such as” after “include”.*United Kingdom:* Insert “as appropriate” at the end.**Employers**

Consolidated reply, CIP, CPC (Chile), UCCAEP: Insert “as appropriate” at the end.

DA: Content of this provision seems unrealistic to comply with.

Keidanren, SGV-USAM: Delete.

SN: Measures must be voluntary.

Paragraph 16(a)*(Paragraph 17(a))***Governments***Algeria:* Reformulate as follows: “A material or moral and/or a social support to the reinstatement of the victims in the labour market”.**Paragraph 16(b)***(Paragraph 17(b))***Governments***Indonesia:* Add “or other services provided outside the workplace according to the arrangements in the member country”.*Tunisia:* Add “accompaniment and” before “counselling services”.*United States:* Insert “and civil legal” before “services”.**Paragraph 16(e)***(Paragraph 17(e))***Workers**

UNT: Modify as follows: “Legal assistance, and medical and psychological care”.

Paragraph 16(f)

(Paragraph 17(f))

Governments

Algeria: Replace with: “Welcome and listening centres, including accommodation centres”.

Paragraph 16(g)

(Paragraph 17(g))

Governments

Sweden: Avoid detailed wording, as Members should decide the organization of police activities.

United States: Insert “government authorities, including” at the beginning, and “trained” before “to support”.

Workers

CGT-RA: Add “specific organisms or specific centres for the care of victims”.

UNT: Modify as follows: “specialized in gender and human rights perspective justice police units to support victims”.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Paragraph 17 (chapeau)

(Paragraph 18 (chapeau))

Governments

Austria: Broad obligations on States and employers concerning domestic violence do not seem appropriate for the instrument. If included, it should be limited to raising employers’ awareness.

Belgium, United States: Replace “should” with “could”.

Chile: Delete Paragraph as domestic violence exceeds the scope of the Convention.

Denmark, Finland, Norway: Insert “appropriate measures such as”. Replace “should” with “could”.

Germany: Redraft chapeau as follows: “The measures to address the effects of domestic violence on the world of work referred to in Article 10(f) of the Convention should, where appropriate, include, for example”.

New Zealand: Replace “should” with “could”.

Peru: Acknowledge the need to take measures to address the effects of domestic violence in the world of work.

Poland: Clarify who would be considered a victim of domestic violence and by whom such measures would need to be taken.

Spain, Switzerland: Delete.

United Kingdom: Insert “as appropriate”.

Employers

Consolidated reply, CONFIEP, UCCAEP, VBO-FEB: Domestic violence should not fall in the scope of the instruments. It is unclear how the world of work and its institutions can address violence that occurs in private homes and for reasons they cannot control. Concerns are expressed about the imposition of legal responsibilities and related costs on employers. Measures should only be on a voluntary basis. Redraft provision as follows: “The measures to support victims of domestic violence may include, where appropriate”.

BUSA, NEF: Including domestic violence is not supported.

CIP: Domestic violence should be addressed in the criminal arena.

DA: Provision seems unrealistic to comply with. Subparagraphs (b), (c) and (d) are problematic, particularly for SMEs.

NHO: Replace “should” with “could”.

Keidanren, CPC (Chile): Delete.

SAE: Delete or rephrase provision: “The measures to support victims of domestic violence may include, where practicable”.

SGV-USAM: Measures encroach employers’ freedom and are non-viable for SMEs.

SN: Measures must be voluntary depending on national law.

Workers

OPZZ: Exclude domestic violence from the Recommendation.

UNT: Add “legal assistance and psychological and medical care for victims of domestic violence”.

Paragraph 17(a)

(Paragraph 18(a))

Governments

Germany: Reword as follows: “paid leave in the event of physical and/or psychological illness of workers who are victims of domestic violence if the illness leads to incapacity to work.”

Spain: Delete this provision, if it refers to social security benefits.

Employers

Consolidated reply, CONFIEP, UCCAEP: Remove “paid”.

BUSA, NEF, VBO-FEB: A provision for additional leave is not supported; this should be covered by standard policies.

Paragraph 17(b)

(Paragraph 18(b))

Governments

Germany: Add “so far as is reasonably practicable”.

Employers

NHO, VBO-FEB: Delete.

Workers

CGT-RA: Add “and the promotion of technical tools with the ILO’s assistance for the development of future legislation in those Members who do not have one”.

Paragraph 17(c)

(Paragraph 18(c))

Governments

Germany: Add “so far as is reasonably practicable”.

Sweden: Main focus should be measures directed at perpetrators, so victims do not have to leave their workplace.

United States: Insert “including to telework arrangements” at the end.

Employers

NHO: Delete.

Workers

CGT-RA: Add stalking, and perimeter and domestic violence protection.

Paragraph 17(d)

(Paragraph 18(d))

Governments

Spain: If not deleted, further specify the conditions under which protection would take place.

Thailand: Include protection from any disciplinary action.

Employers

NHO, VBO-FEB: Delete.

Paragraph 17(e)

(Paragraph 18(e))

Governments

Germany: Workplace risk assessment specifically on domestic violence is opposed due to the practical difficulties.

Spain: Delete.

United States: Insert “and safety” after “risk” and “for the worker directly affected and for co-workers” at the end.

Employers

Consolidated reply, SAE, UCCAEP, VBO-FEB: Delete.

Workers

CGT-RA: Caution is needed regarding Members without national legislation on domestic violence.

Paragraph 17(f)*(Paragraph 18(f))***Workers**

CGT-RA: Replace with: “promote awareness-raising measures in order to mitigate any kind of violence and harassment”.

Paragraph 17(g)*(Paragraph 18(g))***Governments**

United States: Insert “on the world of work” at the end.

Employers

VBO-FEB: Add “prevention and possible measures in case” after “effects”.

OFFICE COMMENTARY

Several governments and most employers’ organizations provided comments seeking further clarity and flexibility, including by inserting language such as “appropriate measures” or “as appropriate”, or changing “should” to “could” in the chapeau. Some replies from governments and employers’ organizations proposed deleting this Paragraph. With a view to clarifying that this is not a closed list and that there is flexibility regarding the measures to be taken, the Office has inserted “as appropriate” at the end of the chapeau.

Paragraph 18*(Paragraph 19)***Governments**

Canada: Insert “where feasible” after “harassment”, so counselling and reintegration do not happen at the expense of a victim’s ability to return to work.

New Zealand: Supports the text.

Spain: Remove Paragraph, to prevent counselling and other measures going beyond the employer’s capacity to act. In Spanish, replace “evitar” with “prevenir”, and add “en violencia y acoso” after “reincidencia”.

United States: Refer to “violence or harassment” and replace “assisted through” with “provided”. Insert “where feasible” before “facilitating” and “If appropriate, to the offence committed, perpetrators should be subject to other consequences, including possible prosecution” at the end.

Employers

CPC (Chile): Replace “world of work” with “workplace”.

UCCAEP: Clarify the Paragraph’s application.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Paragraph 19

(Paragraph 20)

Governments

Austria: Labour inspectors should undergo training not only on gender-specific issues, but more generally on diversity.

Belgium, Morocco, New Zealand, Panama, South Africa: Support Office proposal.

Spain: In Spanish, replace “inspectores del trabajo” with “inspectores de trabajo”. Add “de trabajadores” after “grupos”.

United States: Insert “and risks of violence and harassment in the world of work, which may include” before “psychosocial” and remove “against particular groups of workers”.

Employers

SN: Insert “/or” after “and”, and replace “authorities” with “bodies”.

Workers

CCOO: Office proposal supported.

CGT-RA: Replace “particular groups” with “minorities and groups in situations of vulnerability”.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Paragraph 20

(Paragraph 21)

Governments

Algeria: Insert “sectors, institutions and” before “national bodies”.

Indonesia: Add “the efforts to prevent and mitigate the effects of” after “cover”.

New Zealand: Supports the text.

Thailand: Use “or equality” rather than “and equality”.

United Kingdom: Delete provision, as each Member decides the mandates of its national bodies. Alternatively, remove “the mandate of”. Include “or other national bodies, as appropriate” after “gender equality”.

Employers

CPC (Chile): Replace “world of work” with “workplace”.

SN: Instrument may impact the mandates of several national authorities.

Workers

TUC: Enforcement agencies' role in tackling violence against women and girls has been under scrutiny recently.

OFFICE COMMENTARY

In the light of the replies, the text remains unchanged.

Paragraph 21

(Paragraph 22)

Governments

New Zealand: Supports the text. Clarification on thresholds, means of data collection and reporting burdens is needed.

Switzerland: Rephrase as follows: "Members should take the incidents of violence and harassment in the world of the work into account in their collection of data related to the labour market and to publish statistics on it".

Thailand: Include data disaggregation by age.

United Kingdom: Considering the Convention's wide scope, complying with this provision would be difficult.

United States: Start the provision with "Members should consider collecting ..." and insert "race, ethnicity" after "sex". Remove "in particular ...".

Employers

Consolidated reply, UCCAEP: Replace "workers" with "persons".

CPC (Chile): Replace "world of work" with "workplace".

Keidanren: Add "as appropriate".

Workers

CGT-RA: Replace "form of" with "forms of".

TUC: Member States cannot effectively tackle harassment and violence in the workplace, without collecting basic data about the scale of the problem.

OFFICE COMMENTARY

Noting many replies from employers' organizations suggested replacing "workers" with "persons", and in line with other changes made in new Paragraph 13, the Office has removed the term "of workers".

GUIDANCE, TRAINING AND AWARENESS-RAISING

Paragraph 22 (chapeau)

(Paragraph 23 (chapeau))

Governments

New Zealand: Supports the text.

Peru: Measures in (a) and (e) are important.

United Kingdom: Insert “as appropriate” at the end.

Employers

Consolidated reply: Insert “fund,” before “develop”, and insert “as appropriate” after “disseminate”.

CPC (Chile), Keidanren: Add “as appropriate”.

UCCAEP: Add “fund” before “develop”.

Workers

CGIL, CISL, UIL: Good practices on protection, through information tools and regulation, bargaining interventions at the company, sector and/or local level are effective.

Paragraph 22(a)

(Paragraph 23(a))

Governments

Canada: Mention “work organization factors” here and in Article 9.

Employers

Consolidated reply: Include “abuse of” before “unequal power relations”. Replace “support” with “fuel”.

CPC (Chile), UCCAEP: Add “abuse of” before “relations”.

Paragraph 22(b)

(Paragraph 23(b))

Governments

Belgium: Qualify “gender responsive” with “especially”.

Sweden: The detailed wording may be problematic, particularly for judges.

United States: Insert “in the world of work” after both references to “violence and harassment”.

Employers

Consolidated reply, CPC (Chile), UCCAEP: Make express reference to public and private employers and their organizations.

Workers

CGT-RA: Add “in the private or public sector” after “workers”.

UNT: Include “gender and human rights perspective”. Replace “to assist” with “provide tools”.

Paragraph 22(c)*(Paragraph 23(c))***Governments***Ecuador:* Reference vulnerable groups, as appropriate.*Niger:* The Office's change does not cover workers individually affected.*Spain:* In Spanish, replace "expuestos" with "afectados", and "a la violencia y acoso" with "por la violencia y acoso".*United States:* Insert "in the world of work" after "violence and harassment", delete "all forms of" and replace "workers" with "persons".**Employers**

Consolidated reply: Remove "of workers belonging to".

CPC (Chile): Delete "belonging to groups". Replace "world of work" with "workplace".

UCCAEP: Delete "of workers belonging to".

Workers

CCOO: Replace "that are disproportionately affected" with "vulnerable to".

Paragraph 22(d)*(Paragraph 23(d))***Governments***Belgium:* Subparagraph should concern most common languages of migrant workers.*Chile:* Delete "in particular gender-based violence and harassment".**Employers**

Consolidated reply, UCCAEP: Insert "public" before "awareness-raising".

SAE: Insert "public" at the beginning of the provision. Delete "including those of the migrant workers residing in the country".

Workers

BAK: Awareness-raising campaigns should provide information on sectors where incidents are more common, what people affected can do, and the employer's role.

CGT-RA: Delete "unacceptable" and replace "and" with "in order to".

UNT: Replace "attitudes" with "practices".

Paragraph 22(e)*(Paragraph 23(e))***Governments***Algeria:* Include violence and harassment prevention.*Belgium:* Refer to curricula addressing violence and harassment in general.*Chile:* Delete.

United States: Reformulate “curricula and instructional materials at all levels of education and vocational training, as appropriate, in line with national laws and circumstances, to address factors that may increase the likelihood of violence and harassment in the world of work”.

Employers

SGV-USAM: Requiring “gender-responsive curricula” is not supported.

Workers

CNTB: Add “on violence and harassment at the workplace”.

UNT: Replace “gender responsive” with “gender and human rights perspective”.

Paragraph 22(f)

(Paragraph 23(f))

Governments

Chile: Delete “journalists and other” and “gender-based”, to refer to media personnel and training programmes more broadly.

Employers

BUSA, NEF: This could impact on the principle of free media.

Workers

CGT-RA: Add “and advertising” after “other media personnel”.

Paragraph 22(g)

(Paragraph 23(g))

Employers

Consolidated reply: Insert “public” before “campaigns”.

UCCAEP: Add “public” before “campaigns”.

OFFICE COMMENTARY

In the light of the replies, the text remains largely unchanged. The term “in the world of work” has been inserted after “likelihood of violence and harassment” in subparagraph (a), for further clarity.

In subparagraph (c), the Office has inserted the term “and other persons” after “workers”, to ensure coherence within the proposed texts and to align with Articles 1(c) and 6 (now Articles 2 and 7) of the Convention. Also in subparagraph (c), in line with previous changes made (see Office commentary on Article 4(2)(a) of the Convention), the Office has removed the term “for all forms of violence and harassment”. For further clarity, “on violence and harassment” has been inserted after “tools”.