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Convention No.190 on Combating Violence and Harassment at Work

Alina Paula LARION [1]

[1] PhD Lecturer, „Ştefan cel Mare" University, Suceava; alina.larion@usm.ro

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Abstract: *In 2015, the governing bodies of the ILO decided that they needed to adopt a legal instrument providing everyone's right to a world of work free from violence and harassment, including gender-based harassment. Therefore, at the International Labor Conference, Convention No. 190 was adopted, accompanied by Recommendation No. 206. The aim of these normative acts is to prevent and eliminate violence and harassment at work.*
We believe that it is useful and necessary to carry out an analysis highlighting, in a broader context, the issue of prevention and elimination of violence and harassment at work.

Keywords: *workplace violence and harassment, non-discrimination, decent work, psychosocial risks.*

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Introduction

Since its inception, the International Labour Organization (ILO, 1944) has made considerable efforts to promote social justice through decent work, with a human-centred approach. As stated in the Declaration of Philadelphia, human beings have the right "to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, economic security and equal opportunity"(Declaration of Philadelphia). Workplace violence and harassment have always existed and have taken different forms over time. Violence and harassment at work are therefore contrary to decent work, which is considered a threat to the dignity of the human being.

In order to meet Goal 8 of the 2030 Agenda, the International Labor Organization is developing appropriate programs to promote decent work, and international labor standards play a key role in developing these strategies.

The aim of this organization is to promote decent work in conditions of freedom, security and human dignity for both women and men. Decent work brings together access to productive and adequately paid work, job security and social protection for families, better prospects for personal development and social integration, the freedom of individuals to voice their demands, organize and participate in decision-making, and equal opportunities and treatment for all men and women (ILO, 1944).

The standards adopted within the ILO have sought to develop the legal essence of non-discrimination in the field of employment, thus creating the preconditions for guaranteeing the right to non-discrimination. In the absence of a precise regulation, moral harassment in the workplace has been recognized as a violation of the principle of non-discrimination. In this context, the ILO Governing Body decided that it was necessary to draw up a legal instrument covering all forms of workplace violence and harassment.

International Labor Organization Convention No. 190

Workplace violence and harassment is a violation of human rights with negative consequences for both employers and employees.

Convention No. 190 addresses workplace violence and harassment and seeks to eliminate this form of harassment by providing a common framework for action based on prevention. Together with Recommendation No. 206, the ILO fills existing gaps in both international and national labor legislation, setting out the basic principles to be implemented by ratifying states.

According to Article 1 of the Convention, the term "violence and harassment in the world of work" means a range of unacceptable conduct and practices or threats thereof, whether occurring in isolation or repeatedly, which are intended to cause or are likely to cause physical, psychological, sexual or economic harm, and includes gender-based violence and harassment (Art. 1, C190 - Violence and Harassment Convention, 2019).

Violence and harassment are considered a violation of human rights and, for the first time, we can see that the ILO provides for a single concept of violence and harassment. In line with the provisions of the Convention, Member States may, through their national legislation, provide for a single concept or distinct concepts related to these definitions.

Also, the provisions of the Convention refer to all persons in the world of work, thus it protects people in both the informal and formal economy, employees regardless of their contractual status (Țiclea, 2020), in the public or private sector.

From an analysis of Article 3, we can note the following: the Convention applies to violence and harassment in the world of work, as follows:

- at the workplace, including in public and private premises where they constitute a workplace;
- in places where the worker is paid, rests or eats or uses toilets and changing rooms;
- during business travel, travel, training, training, events or social activities;
- by means of work-related communications, including those using information and communication technology;
- in accommodation provided by the employer;
- while traveling to and from work (Art. 3, C190 - Violence and Harassment Convention, 2019)

In order to ensure effective protection against violence and harassment at work and to raise awareness, Convention No. 190 and Recommendation No. 206 place a strong emphasis on ensuring accessibility. In this respect, the needs of people in vulnerable situations must be taken into account. Information on the risks of violence and preventive measures must be easily accessible to those concerned, and dispute resolution mechanisms must be user-friendly.

The International Labour Organization calls on member states to ratify this Convention in order to promote and exercise fundamental principles and rights at work. In the same vein, the Council of the European Union has adopted a decision inviting EU Member States to ratify "those

parts of the Convention which specifically concern the improvement of the working environment to protect the safety and health of workers and which guarantee equality between men and women in the field of employment" (Press.Ro. Comunicat de presă 257/24/25.03.2024).

At the same time, States, together with workers' and employers' organizations, adopt, in accordance with national legislation, certain measures concerning:

-the prohibition by law of violence and harassment;

-guarantee of policies on violence and harassment;

-adopting measures to implement policies to prevent and combat violence and harassment;

-establishing control mechanisms on the enforcement and monitoring of violence;

-ensuring access to remedies and support for victims;

-establishing sanctions;

-provision of means of inspection to investigate cases of violence and harassment (Article 4, C190 - Violence and Harassment Convention, 2019).

At the same time, states must establish measures guaranteeing respect for and promotion of fundamental principles at the workplace, namely freedom of association, prohibition of forced labor, abolition of child labor and elimination of discrimination in employment and occupation (Larion, 2020).

It is also important to note that this Convention, in Article 9, requires employers to take certain measures to prevent violence and harassment in the workplace, namely:

- to adopt and put into action a workplace policy on violence and harassment;

- to consider violence and harassment and their psychosocial risks;

- identify the dangers and assess the risks of violence and harassment;

- to provide information to other stakeholders on the dangers and risks of violence and harassment and preventive measures.

According to paragraph 7 of Recommendation No 206 these policies may include: the employer's commitment and responsibility to maintain a safe environment; prohibited behaviors and practices. Such policies should establish programs to prevent violence and harassment, inform employees of their rights and responsibilities. In some countries, gender-based violence and harassment are subject to specific preventive measures. Moreover, the obligation to prevent and protect against different forms of violence and harassment is recognized as an obligation in its own right (C190 - Violence and Harassment Convention, 2019).

Research shows that harassment exists in stressful workplaces where workers are exposed to interpersonal conflicts and inappropriate driving styles (Johan Hauge et al., 2007). Certain psychosocial risks could lead to violence and harassment, such as: pace of work, workload, workload, leadership style, physical environment, interpersonal relationships at work.

Providing information on the risks of violence and harassment to other stakeholders can also help to reduce the risk of violence and harassment by ensuring that workers know how to report it.

In the same context, member states should take appropriate measures to:

- monitor and enforce national regulations on violence and harassment in the world of work;
- ensuring easy access to legal remedies and dispute resolution mechanisms in relation to violence and harassment at work;
- protecting the privacy of those involved;
- establishing sanctions in cases of violence and harassment;
- recognizing domestic violence;
- guaranteeing a worker's right to withdraw from a work situation for reasons of imminent danger to his or her life;
- monitoring of labor inspection to deal with violence and harassment in the world of work (Article 10, C190 - Violence and Harassment Convention, 2019).

This international standard will be implemented through the national laws of ratifying states setting out measures for the prevention and elimination of workplace violence and harassment for both employers and workers. An important component of a strategy to prevent and eliminate violence and harassment is to raise awareness through awareness-raising campaigns.

To date, Convention No. 190 has been ratified by 47 member states, including Romania through Law 69/2024(Parlamentul României, 2024). Despite the fact that this phenomenon has been common on the Romanian labor market, it was only in 2020 that a normative framework defining such facts was created.

Conclusions

The International Labor Organization is an important legal force in international labor law, aiming to protect and promote fundamental rights at work, and has developed a number of non-discrimination instruments, but they do not directly address workplace violence and harassment. These international labour standards show how this organization addresses workplace harassment issues, but in a piecemeal manner.

Convention No. 190 critically complements other international instruments and proposes a common plan for a world of work free from violence and harassment. By the year 2029, the International Labor Organization will specify measures to reduce these forms of harassment.

The new legal framework expands the notion of "workplace" to include harassment outside the workplace, i.e. in public or private spaces, in delegations, including online communications.

They can have negative consequences for all participants in the world of work:

- for workers we can talk about physical ailments, loss of jobs,
- employers may experience reduced work capacity, work accidents,
- and the state may have higher costs in terms of unemployment benefits, medical care.

From the above, we can state that violence and harassment at work is a violation of human rights.

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