4th Study Commission - Protection against violence, bullying and sexual harassment at the workplace

Answers to the Questionnaire of 2014 from Denmark

General remarks

Questions about violence, bullying and sexual harassment that happen in workplace in Denmark are regulated in a law/act that generally handles conditions about working environment. The purpose of the act is to secure the employees physical and psychological health. The law text does not specific mention violence, bullying and sexual harassment, but it will be regarded as belonging under the act.

The companies are supposed to solve these kinds of questions themselves with guidance from the organizations on the labour market and with guidance and control from The Danish Working Environment Service. The Danish Working Environment Service is a public authority under the Minister of Employment.

1. What is the definition of violence, bullying and sexual harassment in the legislation in your country applicable to the workplace, if any?

In the above mentioned act about work environment there is no specific definition of violence, bullying or sexual harassment.

In a note from The Working Environment Service bullying is defined as if one or several persons regularly and for a longer period - or several times - in a crude way expose another person of insulting actions, and the person understand it as hurting or degrading, and the person is not capable of defending himself efficiently. Teasing for fun or occasional conflicts is not bullying.

In the same note sexual harassment is defined as a special kind of bullying. It is when the not-wanted actions have a sexual character.

The Danish criminal law says, that the person who exert violence or in another way attack someone’s body, can be punished with a fine or with prison. I suppose The Working Environment Service will use the terms as in the criminal code. In a note The Working Environment Service mention, that violence for example can be: knock, kick, bite, spit, hard grip on some part of the body.
2. **Does your country have specific regulations to guarantee the protection of workers against violence, bullying and sexual harassment in the workplace?**

The act about working environment must secure a safe and healthy working environment for the workers. It is the duty of The Working Environment Service to control, that the intentions in the act is being kept. There are no specific regulations about violence, bullying or sexual harassment, but it will be regarded as included in the mentioned act.

3. **Who has a legal obligation to refrain from all acts of violence and moral or sexual harassment at Work? (private and/or public sector – employers, employees, third party?)**

According to the criminal law anyone who is 15 years old or more has a legal obligation to refrain from violence.

Sexual assaults against someone’s body, publishing of pornographic photos and indecent exposure is also acts of a criminal offence.

Moral and sexual harassments at work are not specific regulated. According to the act about working environment the employers are obligated to secure that the working environment is safe and healthy. The employer is also obligated to make inspections to control, that the working environment is secure.

The work leader is obligated to take part in securing that the conditions in the workplace are good.

The employees must also take part in the co operation about the safe and healthy conditions on the workplace and point out if something is wrong.

There is no difference between the public and the private sector in these questions.

4. **Is the employer required to put in place a policy to prevent violence, bullying and sexual harassment in the workplace?**

No. But it is common in the public sector and in many private companies.

5. **Does the employer have to conduct a risk analysis taking into account the nature of his activities and the size of his business? What are the minimum preventive measures that he has to provide?**

The employer is obligated at least every third year to make a written down analysis about the safety and health conditions on the workplace. This workplace evaluation must decide on the problems and describe a plan to solve the problems.
6. **How are employees informed of the risks, the preventive measures and the procedures applicable to the victims of violence and moral or sexual harassment at work?**

According to the act about working environment the employer must inform the employees about those risks of accidents or illness that are connected with the work. The employer must also educate, train and instruct the employees about how to work without danger. The employer must inform the representative of the employees about decisions and instructions given to the company from The Working Environment Service.

In companies with more than 10 employees the co-operation about the working environment goes between the employer and a chosen representative from the employees. In smaller companies the co-operation goes directly between the employer and the employees.

7. **Is the employer required to appoint persons with specific skills to deal with cases of violence and moral or sexual harassment at work?**

No not really, but see the answer to question 6 about representative for the employees. The employer must give the representative possibility to educate in working environmental matters. It is prescribed that these special representatives should have a minimum education of 3 days in 3 month from getting selected.

8. **What are the sanctions against the employer who doesn’t adopt policies against violence and moral or sexual harassment at work?**

As mentioned above there is no legal obligation to adopt such policies.

However according to the act about working environment, an employer that doesn’t provide an appropriate working environment, can be judges or agree to pay a fine. And The Working Environment Service can give the employer instructions about how to act or stop acting before a certain time limit.

9. **What are the ways of actions available to the victims? Internal procedures in the enterprise? External Procedures? Legal remedies before the court? Civil Criminal?**

The victim has the possibility of getting help to solve the problems from the representative and from the employer or the work leader. If there is a discrepancy between the employer and the victim, the victim will often seek help from his union. The victim can also go to The Working Environment Service to try to get them involved in the case.

It is possible to try to solve the case before getting to court during mediation either with or without lawyers. When the court receives the case the court can offer mediation by a mediator appointed by the court. In civil court the victim can raise a claim for compensation because of loss, damages or injury.
If the victim has been exposed to violence or a sexual assault it should be reported to the police, and the prosecutor will decide if the case is going to criminal court.

10. Who can take an action (the worker and/or the employer, colleague workers of the victim, other persons in contact with the victim, the union representative or the agent of an organization of employers etc)?

Everybody can take action in trying to solve the case without lawsuit. Everybody who works in public services has the duty to report to The Working Environmental Service, if they get knowledge about conditions that is against the law. Doctors have special obligations in these matters.

Only the employee can take civil legal action. But the employee will often be supported, including financially support, by his union during the lawsuit.

Only the prosecutor can decide to take criminal legal action.

11. Who bears the burden of proof of the violent acts and moral or sexual harassment at work?

In criminal cases the prosecutor always bears the burden of proof.

In civil cases it is usually the one who claims the right for compensation, for example an employee, who bears the burden of proof.

12. In order to avoid reprisals at work, is there special protection provided for the victim and the witness? Specify the nature and duration of the special protection.

The act about working environment has no rules about special protection with some kind of duration.

But if there is a serious and immediate danger at the workplace, the employee has the rights to leave the place, and if he chose to do so, he must not have reduced conditions afterwards (for example dismissal, transferal, no payment). If the employer neglects these rights, he can be judged to pay compensation.

13. What would be the consequences for a worker who has abused the procedure put in place to combat violence and moral or sexual harassment at work?

An employee who makes false claims about being exposed to violence, bullying and sexual harassment will risk a rebuke or a warning from the employer. If he continues or it is very serious false claims he will risk dismissal.

If the employee gives false information to a public authority with the purpose of getting an innocent convicted, he risks to be charged in a criminal case himself. A witness who gives a
false statement in court can be charges himself. These kinds of criminal behavior will usually result in a sentence of imprisonment.

14. Who is responsible for monitoring the measures put in place to combat violence and moral or sexual harassment at work?

The employer is always responsible to secure and monitor the conditions at the work place. More serious accidents must be reported to The Working Environmental Service. It is The Working Environmental Service duty to control that the act about working environmental is being kept.

The Working Environmental Service has a central department and local departments. The Service can do inspections at the companies’ work places, and demand all necessary information’s and documentation.

15. What are the sanctions applicable to perpetrators of violence and moral or sexual harassment at work?

If the violence or sexual harassment is of criminal character, the perpetrator can be judged to pay a fine or to imprisonment. He/she can also be judged to pay compensation to the victim for his/hers loss and in serious cases a compensation for the psychological consequences for the victim.

If the perpetrator is an employee he/she can be subject to measures concerning his employment, for example warning or dismissal.