



**AUTORIDADE PARA AS  
CONDIÇÕES DO TRABALHO**

**PORTUGUESE LABOUR INSPECTORATE  
INSTITUTIONAL PRESENTATION  
EEA GRANTS - PROJET**

LISBON, January 28  
2015

## Working Conditions Authority

- ✓ Nature
- ✓ Mission
- ✓ Attributions
- ✓ Planification /action plan
- ✓ Specific projet for vulnerable groups
- ✓ Results



## **Working Conditions Authority**

- ✓ Legal framework – harassment
- ✓ Strategies and methodologies



## **Working Conditions Authority**

**Pedro Pimenta Braz**  
Chief Labour Inspector

**Manuel Maduro Roxo**  
Deputy Chief Labour Inspector

**António Robalo Santos**  
Deputy Chief Labour Inspector

**Carlos Afonso Pereira**  
Health and Safety Department

## **The Authority for Working Conditions is a state authority**

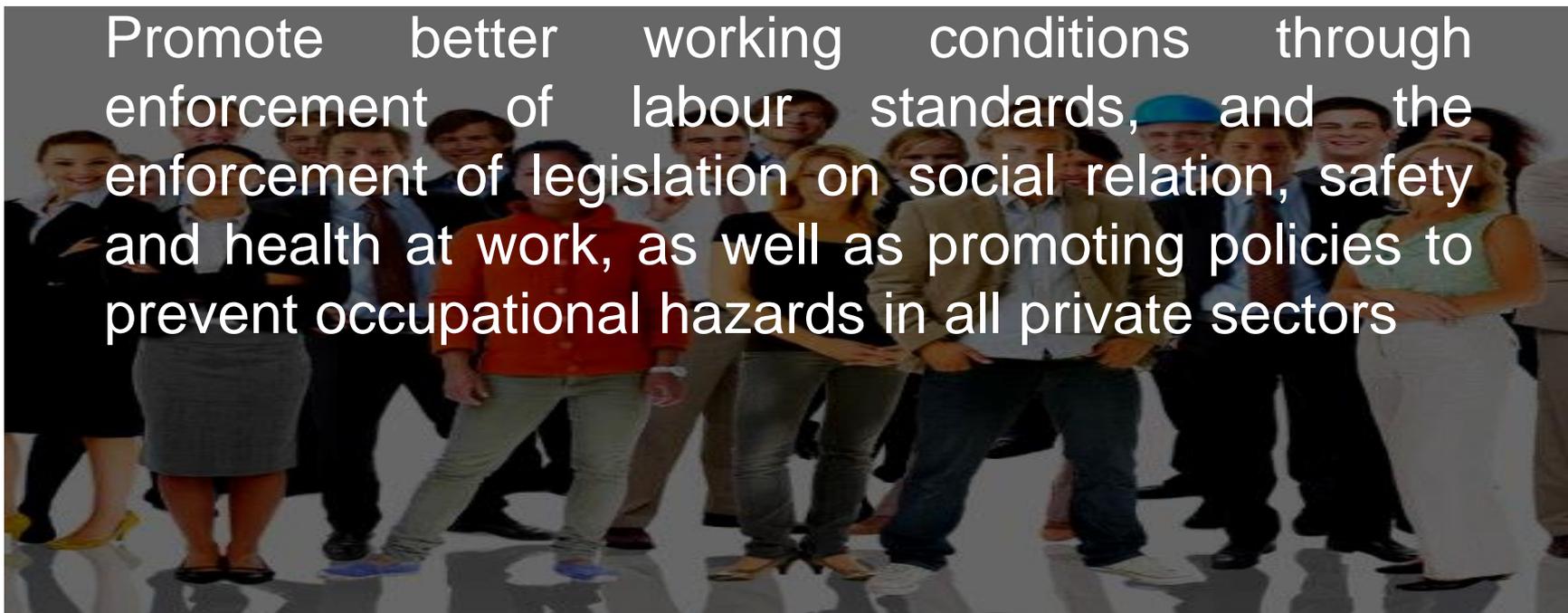
- Integrates the state direct administration of the Ministry of Solidarity, Employment and Social Security
- It is generalist (all private sectors)

Decree n.º 167-C/2013 december 31



## MISSION

Promote better working conditions through enforcement of labour standards, and the enforcement of legislation on social relation, safety and health at work, as well as promoting policies to prevent occupational hazards in all private sectors



## Working Conditions Authority

- **State authority which aims:**
  - to promote the improvement of working conditions by checking compliance with labour standards in the context of private labour relations (labour law and occupational health and safety in all sectors of private activity)
  - to promote occupational risk prevention policies
- **Develops its inspection action in the context of public authority powers**
- **Jurisdiction over the whole of the mainland territory**
- **Head Office in Lisbon**

- International Relations Unit
- Information and Documentation Unit
- Audit and Legal Affairs Division

**General Inspector of Labour**

**2 Deputy Directors**

**Focal point OSHA**

**Consultative Council  
 (social partners)**

**Department  
 for Inspection  
 Support**

- Unit for Inspection Coordination
- Unit for Studies and Technical Support

**Department  
 For Health and  
 Safety  
 Promotion**

- Unit for External Regulation
- Unit for Projects Management

**Department for  
 Internal  
 Management**

- HR Unit
- Information Systems Unit

**Local branches**

- 32 local units

## INSTITUTIONAL EVOLUTION

Steering committee for the promotion of safety and health at work - collegial consultation body, which supports the ACT in the exercise of its competencies in matters of safety and health at work

The committee is comprised of:

- a) The inspector-general of Labour, who presides;
- b) The two sub - inspector-generals;
- c) Two representatives of each union confederation and one representative of each employers' confederation a seat on the Permanent Social Concertation Committee - SOCIAL PARTNERS.

**The ACT decentralised services network covers the whole of the mainland territory of Portugal**

**It comprises (32 branches)**

- 19 local centres
- 9 local units
- 4 support units at the local centres



## AUTHORITY FOR WORKING CONDITIONS (Labour Inspectorate/Inspective Area)



- ✓ 312 - Labour inspectors (88 man/224 women)
- ✓ Civil servants
- ✓ Graduate in several areas (engineering, law, social and economic sciences) and specific training



## ACT's main attributions are:

- to promote, control, monitor compliance and enforce the law
- to promote awareness, information and counseling about working conditions, aiming to ensure full compliance with legal standards
- to promote the development, dissemination and putting into practice of scientific and technological knowledge in OSH



- to promote the development of health and safety action programmes
- to ensure the management of the occupational hazards prevention system
- to give support (financial and technical to OSH projects)



- coordinate the certification of occupational safety technicians
- develop procedures for authorization of OSH service providers
- ensure sanctions on labour and OSH infractions
- receive and organize notifications regarding working conditions
- exercise competences in terms of industrial authorization
- cooperate at national and international level with other organizations on the field of OSH and labour inspection



- cooperate with labour inspectorates from other EU countries in terms of posting of workers
- suggest the enrichment of the legal system in case of absence or inadequacy of legal standards



## **Authority for Working Conditions' Mission (Labour Inspectorate/ Inspective Area)**

### **TO PROMOTE BETTER WORKING CONDITIONS**

Health and safety workplaces

- Inform and advise workers, employers and their collective representatives to raise awareness on rights and duties of the workers and employers

- ✓ Information materials in our website: faqs, legislation, check-lists, mandatory forms
- ✓ Telephone line to give information's, written information's personally in the local branches, during inspective visits, in workshops, in seminars, in mass media



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veja a **resposta** às suas dúvidas nas  
**perguntas mais frequentes**

**INFORMATIVO TELEFÓNICO DA ACT**

**707 228 448**

**2ª A 6ª DAS 9H30 ÀS 12H30 E DAS 14H00 ÀS 17H30**



**+ ACT. + PERTO DE SI.**  
veja onde nos pode contactar

**SIMULADOR DE COMPENSAÇÃO POR  
CESSAÇÃO DO CONTRATO DE TRABALHO**

[veja aqui](#)



## **Authority for Working Conditions' Mission (Labour Inspectorate/ Inspective Area)**

### **TO PROMOTE BETTER WORKING CONDITIONS**

Health and safety workplaces

- Enrichment of the legal framework - by its own initiative or by ministry request
- Legal improvement - noticing defects not specifically covered by existing legal provisions

## MAIN GOALS

- Promote a culture of prevention and compliance the legislation
- Promote effective improvement of health and safety at work
- Strengthen interinstitutional relations at national and international level
- Develop means of interacting with the public by consolidating the reference image at ACT

## **CENTRAL DEPARTMENT FOR INSPECTION SUPORT**

- ✓Elaborates and controls the accomplishment of the Annual Plan in terms of schedules and objectives to be verified
- ✓Elaborate the Annual Report (analyzes statistical/monitoring of the evolution of the rate of accidents at work)
- ✓Technical advice and support to inspection activities, employers associations and unions regarding the interpretation and enforcement of the law
- ✓Harmonize inspective procedures
- ✓Elaborates technical guidance (guidelines)
- ✓Analysis of the draft transposition of EU directives into national law
- ✓Cooperates with other labour inspectorates
- ✓Liaison office for posted workers

## -Annual Plan/Strategy

- Labour inspection should rest on effectiveness and efficiency criteria;
- Priorities have to be chosen, separating what is a principal and core activity and an accessory one;
- Action should be driven by its possible multiplier effect.



## AUTHORITY FOR WORKING CONDITIONS

(Annual plan methodology)

- ✓ Rigorous identification of priorities regarding international and national priorities
- ✓ Dialogue with social partners about objectives and priorities
- ✓ Dialogue with institutional partners (social security)
- ✓ Proactive action by Authority for Working Conditions

## Strategic references

### Internacional Plan

- ✓ ILO Conventions
- ✓ Decent Work (ILO)
- ✓ Quality at work
- ✓ Competitiveness and employment



## ANNUAL PLAN – 2015

### Specific programs



- a) Monitoring crisis situation
- b) Promoting the rights of vulnerable groups - access to employment and work
- c) Control of minimum labour guarantees in the context of labour relations, promoting equal rights and dignifying work conditions (non discrimination vulnerable groups)
- d) Protection of collective representation rights
- e) Intervention - Non declared work

## **Specific projet for vulnerable groups**

Gender equality and dignity of working conditions: identify and eliminate or reduce discrimination in employment access, wages, vocational training and performance evaluation

### **Target:**

- Enhance the gender dimension in inspective actions;
- Train and raise awareness of labour inspectors to identify situations of discrimination in the workplace, including situations of indirect discrimination;

## **Specific projet for vulnerable groups (continue)**

Gender equality and dignity of working conditions: identify and eliminate or reduce discrimination in employment acess, wages, vocational training and performance evaluation

### **Target:**

- Implementing tools to support inspective activity discrimination;
- Control non-compliance with labor legislation on equality.

## **Specific projet for vulnerable groups**

- In all sectors of activity
- To workers, employers and their representatives, social and institutional partners

## GENERAL DATA

Year	Inspectors	Workplaces	Workers		
			Men	Women	Minor of 18
2006	250	35.662	443.917	125.009	84
2007	283	38.348	443.915	130.800	58
2008	264	62.477	366.275	253.971	187
2009	253	71.044	389.154	265.831	100
2010	384	74.616	399.117	306.819	185
2011	404	80.159	360.709	248.634	93
2012	391	37.398	285.510	213.690	13
2013	374	37.572	200.138	139.954	15

Contents	Warning/Recommendation				Infractions (administratives fines)			
	2010	2011	2012	2013	2010	2011	2012	2013
Equal access to employment	0	7	1	0	13	7	8	7
Disclose rights of non-discrimination	0	258	126	62	27	18	13	3
Prohibition of discrimination	0	0	0	1	9	8	13	7
<b>Harassment</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>18</b>	<b>21</b>	<b>22</b>	<b>23</b>
Others	0	0	0	4	6	4	0	41
<b>Total</b>	<b>0</b>	<b>265</b>	<b>127</b>	<b>67</b>	<b>73</b>	<b>58</b>	<b>56</b>	<b>81</b>

**PROJET**

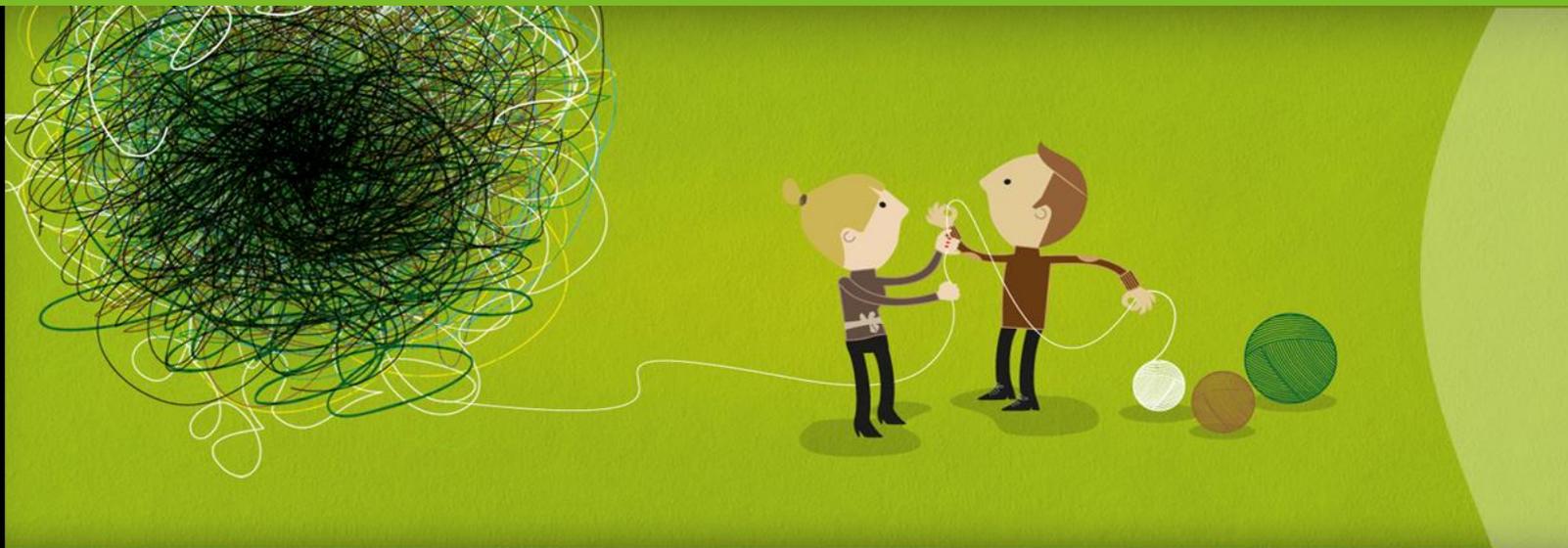
**PSYCHOSOCIAL  
RISK - 2012**

**OBJECTIVES**

**SLIC – Senior Labour Inspectorate  
Comity launched a Campaign  
about psychosocial risks**

**In Portugal**

- Sector : healthcare with interment**
- 52 labour inspectors**
- Partners: Hospitals, nursing homes, public administration**



## European Campaign 2014 / 2015

**Healthy workplaces contribute to the management of stress**

**Management of stress and psychosocial risks at work**



## Activities/2014 – Focal Point OSH

	Participants
12 - Seminars	1315
1 - Photographic Exhibition - Opening Session of the OSH Week Photo Session	15

## Legal framework

- Constitution of the Portuguese Republic
- Directive 89/391/ EEC on the safety and health at work
- Portuguese Labour Code - Article 29.º “Prohibiting the harassment”
- Law N.º 102/2009, of September 10 - legal regime for the protection of safety and health at work



## Legal framework

Portuguese Labour Code - Article 29.º n.º 1 “Prohibiting the harassment”

It is harassment an unwanted behavior/ conduct based namely\* on discrimination factor in the access to employment, in work or vocational training, with the purpose/affect the dignity of a person or to create an intimidating, hostile, degrading, humiliating or unstable environment .

\*Note:

The harassment can be based on a discriminatory factor or not



## Legal framework



Portuguese Labour Code - Article 29.º “Prohibiting the harassment”

- It is sexual harassment an unwanted conduct of a sexual character/nature - verbal, non-verbal or physical, with the purpose or effect the dignity of a person or to create an intimidating, hostile, degrading, humiliating or unstable environment.
- It is a very serious violation the infringement of harassment.
- Labour inspectorate can impose administrative fines according to the Labour Code.

## Legal framework



### General rule - evidences

- The employee has the burden to proof, to present evidences - prove that he/she is harassment victim (Civil Code).
- When the harassment is based on a discriminatory factor, the Art.º 25 of the Labour Code determinate that the worker only need to invoke that situation. In this case, is the employer must prove that situation is not based on a discriminatory factor (it is a specific rule for discrimination).

## Legal framework



Portuguese **Labour Code** - Art. N.º 127.º n.º 1 c) – the employer must provide good working conditions, physically and morally.

The Portuguese labour system ensures safety, health and working conditions, and can cover a broad range of topics and issues, from working time (hours of work, rest periods, and work schedules) to remuneration, as well as the physical conditions and mental demands that exist in the workplace.

For instance, not only to reduce injury and illness, but also to develop or implement work-life balance.

## Legal framework



Portuguese **Labour Code** - Art. N.º 129.º n.º 1 b) - It is prohibited the violation of the effective occupation right

The Portuguese labour system has an effective duty of occupation of the employee. The employer is obliged to give the opportunity to exercise effectively contracted activity, except for special situations in particular those relating to the temporary closure of the factory, the preventive suspension on disciplinary procedure.



## Legal framework

Law N.º 102/2009, of September 10 (revision by Law N.º3/2014, of January 28) -  
legal regime for the protection of safety and health at work:

It is an employer's duty to protect the health, safety and welfare of their employees and other people who might be affected by their business.

Worker includes those who earn a salary but also trainee, apprentice and who depends economically, by working means or the result of the activity

- The employer have the duty to assess all the risks related to the work including psychological risks (art.º 15 n.º 2 f), g))
- The employer have to adopt measures to prevent harassment in the workplace

## Strategies and methodologies - Labour inspectorate



k0184723 www.fotosearch.com

## Strategies and methodologies - Labour inspectorate

- Disseminate information - for social and institutional partners for this phenomena - Information Guides "Prevention and fight against harassment at the workplace – a selfregulation support instrument"

The screenshot shows a web browser window with the URL [www.act.gov.pt/pt-PT/CentroInformacao/Igualdade%20laboral%20entre%20homens%20e%20mulheres/Pagi](http://www.act.gov.pt/pt-PT/CentroInformacao/Igualdade%20laboral%20entre%20homens%20e%20mulheres/Pagi). The page content includes two main sections:

- Manual sobre a legislação europeia antidiscriminação**  
Atendendo ao importante corpus de jurisprudência desenvolvido pelo Tribunal Europeu dos Direitos do Homem e o Tribunal de Justiça da União Europeia no domínio da luta contra a discriminação, afirmou-se daí aquelas duas instituições apresentar um Manual facilmente acessível aos profissionais da justiça, juizes, representantes do Ministério Público, advogados e responsáveis pela aplicação da lei.
- Guia informativo para a prevenção e combate de situações de assédio no local de trabalho: um instrumento de apoio à autorregulação**  
Este guia é um instrumento de apoio que visa, de uma forma simples, ajudar a identificar situações de assédio e servir de inspiração à construção de procedimentos de prevenção e combate deste tipo de fenómenos nos locais de trabalho, o que só poderá ser conseguido, na prática, com o empenho e a concertação entre os representantes da entidade empregadora, pública ou privada, e os representantes dos trabalhadores e trabalhadoras que, em conjunto, devem, sempre que possível, envolver nesta causa os serviços de segurança e saúde no trabalho.

At the bottom of the page, there are logos for the Government of Portugal, the Ministry of Labour, Social Security and Family, the European Agency for Safety and Health at Work, and the WSC MAI-AA WCAG 1.0. The footer text reads: "Copyright 2014 ACT - Autoridade para as Condições do Trabalho | Desenvolvido por PT Sistemas de Informação".

## Strategies and methodologies - Labour inspectorate

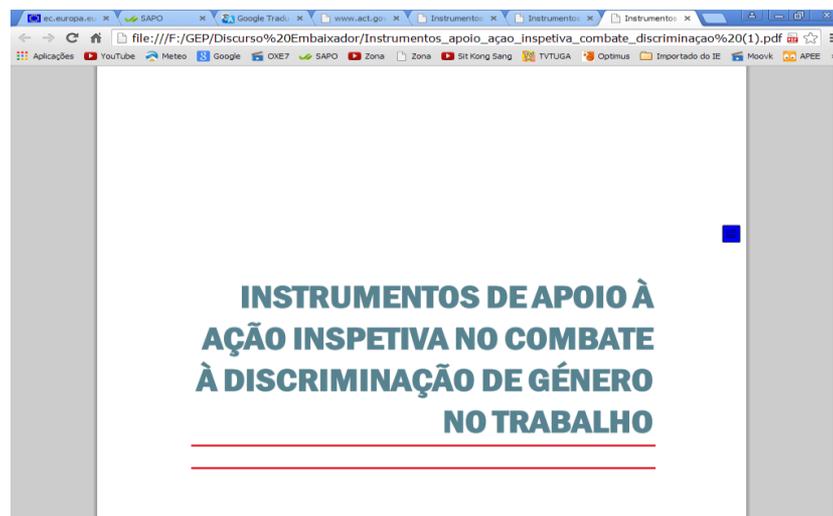
- Inform workers, employers and their representatives social and institutional partners for this phenomena – **for instance frequent ask questions**

The screenshot shows the ACT website's 'Perguntas Mais Frequentes' (Most Frequent Questions) page. The browser address bar shows the URL: [www.act.gov.pt/\(pt-PT\)/Itens/Faqs/Paginas/default.aspx](http://www.act.gov.pt/(pt-PT)/Itens/Faqs/Paginas/default.aspx). The page features a search bar with the text 'Pesquisar' and a dropdown menu set to 'Em Todos os Assuntos'. Below the search bar is a navigation menu with links: 'Sobre a ACT', 'Centro de Informação', 'Publicações', 'Legislação', 'Segurança e Saúde no Trabalho', and 'Publicações Obrigatórias'. The main content area is titled 'Perguntas Mais Frequentes' and includes a search filter for 'Temas' and a dropdown menu for 'Assédio'. A list of questions is displayed, including 'O que é o assédio?', 'O que é assédio moral?', 'O que é assédio sexual?', 'Condutas que não constituem assédio moral:', 'Condutas que não constituem assédio sexual:', 'Quem pode praticar assédio no local de trabalho?', and 'É proibido fazer assédio?'. On the right side, there is a sidebar with social media icons for Facebook, YouTube, Twitter, and LinkedIn, and several service links: 'compre aqui os nossos livros', 'Queixas e Denúncias', 'Simulador de Compensação', 'Contacte-nos', and 'Contratos de estrangeiros'.

## Strategies and methodologies - Labour inspectorate

- Develop "Tools – technical guides to support labour inspectors
  - specific chapter about harassment

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## Methodology

- ✓ Obtain cooperation of several public and non-governmental entities
- ✓ Visit and inspect workplaces
- ✓ Question the employer, workers, or any other person at the workplace and ask for their identification  
(about workers without functions)



## Methodology

- ✓ Request documents, other records, such as:
  - ✓ Risk assessment
  - ✓ Registration of absenteeism;
  - ✓ Records of disciplinary proceeding (two last years)
  - ✓ Registration of dismissal for just cause (two last years)
  - ✓ Request of resignation
  - ✓ Promote an administrative injunction
  - ✓ Internal codes of ethical conduct regulations





## **Constraints difficulties of labours inspectors**

- Very few complaints (most of the time anonymous)
- Get sufficient evidences to make sure that situation is harassment
- The workers (witness) has afraid to colaborate with public authorities, because they fear to loose the job

## What can do the victim of harassment



In Portugal a employee who has become a victim may take a claim directly to the :

- **employer** (when the perpetrator is a fellow worker, a client)
- complaints procedure to the **Labour Inspectorate** (possibly with the help of the union or the works council);
- start an advisory procedure before the **Agency for Equality in Employment** which can later be redirected to the Labour Inspectorate Services, or;
- start a **judicial procedure** for the purposes of compensation of damages.

In behalf of the Authority for working conditions  
thank you very much for your attention

[teresa.pargana@act.gov.pt](mailto:teresa.pargana@act.gov.pt)



- *EU action on occupational safety and health (OSH) has been pursued over the years within a strategic policy framework that includes two key components:*
- *1. A comprehensive body of EU legislation covering the most significant occupational risks and providing common definitions, structures and rules that are adapted by Member States to their different national circumstances; and*

- *2. A series of multiannual action programmes between 1978 and 2002, followed by European strategies (covering 2002-06 and 2007-12), to identify priorities and common objectives, that provide a framework for coordinating national policies and promote a holistic culture of prevention.*
- *As a result of the 2007-12 strategy, 27 Member States have put in place national strategies.*

- *Risk prevention and the promotion of safer and healthier conditions in the workplace are key not just to improving job quality and working conditions, but also to promoting competitiveness.*
- *Keeping workers healthy has a direct and measurable positive impact on productivity, and contributes to improving the sustainability of social security systems.*

- *Preventing workers from suffering serious accidents or occupational diseases and promoting workers' health throughout their working life, from their first job onwards, is key to allowing them to work for longer. This therefore contributes to addressing the long-term effects of demographic ageing, in line with the Europe 2020 strategy's objectives for smart, sustainable and inclusive growth.*

- *Investment in OSH contributes to the well-being of workers and is cost-effective. According to recent estimates, investments in this area can produce high ratios of return, averaging 2.24, and in a range between 1.29 and 2.895.*

## The need for policy action to improve the OSH situation in the EU

- *85% of workers satisfied with the health and safety situation in their workplace (EB 2014).*
- *This outcome can be attributed to the comprehensive legislation and policy actions implemented by the Union, Member States and social partners. However,*
- *> 4 000 workers die of accidents at work and > 3 million workers are victims of a serious accident at work.*
- *160 000 deaths annually are attributed to work-related diseases, 95 000 of which to occupational cancer.*
- *Costs due to work-related sick leave, work-related diseases and accidents are unacceptably high and put a heavy burden on competitiveness and social security budgets.*



[https://osha.europa.eu/en/site\\_search?q=harassment%20and%20violence%20at%20work](https://osha.europa.eu/en/site_search?q=harassment%20and%20violence%20at%20work)

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thank you very much for your attention

Takk U

[berenice.ribeiro@act.gov.pt](mailto:berenice.ribeiro@act.gov.pt)

