



# ANTI- HARASSMENT PROTOCOL

Ethical Trade Forums  
Working Group - Huelva



Foros Comercio Ético  
Ethical Trade Forums



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# 1. Prologue

Diversity is today a maximum rule in our companies. People of different genders, different races, countries, religions, political ideas, ... make up our templates. Under these conditions, companies must commit to prevent and act in cases of harassment of any kind that may occur.



Aware of the need to protect fundamental rights and especially equality and dignity in the workplace and due to the lack of clear guidelines on how to manage "workplace harassment" of any kind, the need to create this Protocol was born, with the purpose of serving as a guide for companies in the fruit and vegetable sector to guarantee a safe work environment.

The Anti-Harassment Protocol is understood as the Procedures to be carried out for Prevention, as well as the Procedures to be carried out in the event that such harassment has occurred or is thus created.

These are the guidelines that have been collected as a result of the constructive dialogue between professionals and workers, which have also been consulted with different experts and social organizations for their validation. The ultimate purpose of this guide is to provide useful guidance to companies on how to prevent and manage harassment situations that may occur in their facilities.

From the Working Group we understand that in this Guide there is a path for improvement and therefore, in future editions we intend to improve it with the contributions of its readers. Therefore, you can send us your suggestions that will be well received in the following email: [montse@conexionsocial.com](mailto:montse@conexionsocial.com)

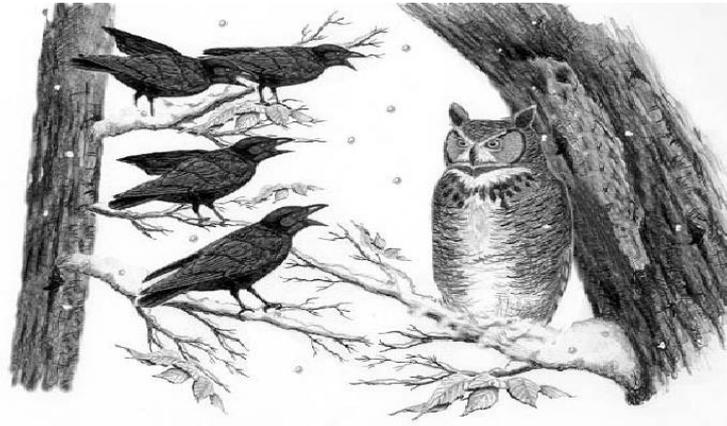
Huelva, October 28, 2020

## 2. Definition and Forms of Harassment

Workplace harassment (also called “mobbing”) is a persistent and demonstrable conduct of a person or group of people tending to produce fear, contempt or discouragement in the affected person.

These people receive unjustified psychological violence through negative and hostile acts inside and outside of work. This violence occurs in a systematic and recurrent way over a long period of time, weeks, months or even years.

The ultimate purpose of these actions is generally to cause labour damage to the victim, trying to generate demotivation at work, or induce the resignation of the same.



El término *mobbing* proviene de la etología, ciencia que estudia el comportamiento de los animales, sobre todo del campo de la ornitología, donde la conducta defensiva de un grupo de pequeños pájaros consiste en el atosigamiento continuado a un enemigo más grande, con frecuencia un ave rapaz. Estos comportamientos en la naturaleza terminan frecuentemente, o bien con la huida, o con la muerte del animal acosado por varios otros

This violent event can create psychological and work consequences for the victim, in many cases difficult to overcome, such as:

- Loss of confidence in herself and in her ability to work.
- Physical illness (anxiety, insomnia, depression, ...).
- Increase in conflicts with the partner or family.
- Clumsiness, indecision, conflicts with other people.

Workplace harassment does not have a single channel of action, since it can occur in any sense:

- Downward harassment. It is the most common and known, it is the one carried out by a person with a position of responsibility in the company over his subordinates.
- Horizontal harassment. It occurs when one or more employees harass people of the same job level, as a result of personal enmity, physical defects, social differences, envies...
- Vertical harassment. Produced when the victim of the harassment is a superior and the harassers are subordinate to him, in most cases these harassments are produced by envy or by denial of the validity of the person.

Harassment towards a person can have very diverse behaviours, behaviours that constitute workplace harassment can be:

- Any act of physical aggression, regardless of its consequences.
- Injurious expressions about the victim, with the use of profanity.
- Hostile and humiliating remarks of professional disqualification.
- Unjustified threats of dismissal.
- Public allusion to facts pertaining to the privacy of the person.
- Refusal to supply materials or information essential for the performance of the work.
- Selectively overloading the victim with too much work.
- Ignore the victim, speaking only with a third person present, simulating her non-existence.
- Attacking her personal beliefs, ideology or religion.

These are some examples of the many behaviors that the company must monitor that do not occur among its workers, basically training all people to avoid the behaviors, and identify them and act on them as quickly as possible.

### 3. Legislative framework

There is a wide legislative framework in our country, protecting any person against harassment, starting with the Spanish Constitution, which in its article 14 indicates that “all Spaniards are equal before the law, without any discrimination based on birth , race, sex, religion, opinion or any other personal or social condition or circumstance ”.

Organic Law 4/2000, on the rights and freedoms of foreigners in Spain and their social integration, in its article 3, indicates “foreigners will enjoy in Spain the rights and freedoms recognized in Title I of the Constitution in the established terms in international Treaties, in this Law and in those that regulate the exercise of each one of them. As a general interpretive criterion, it will be understood that foreigners exercise the rights recognized by this Law in conditions of equality with Spaniards.

Therefore, there should not exist in the Spanish State any person who suffers any type of harassment due to their condition, and for this, the State has developed an important legal body to protect these rights. A relation of this regulation is:

- Organic Law 3/2007, for the effective equality of women and men.
- RD 6/2019, on urgent measures to guarantee equal treatment and opportunities between women and men in employment and occupation.
- ILO Convention 111 (International Labor Organization).
- Community “Code of Conduct” adopted by the EU in 1991.
- Directive 2.006 / 54 / EC of the European Parliament, on the application of the principle of equal opportunities and equal treatment between men and women in matters of employment and occupation.
- Status of workers.
- Collective agreements.
- Organic Law 5/2010, Article 173 of the Penal Code.
- Law 31/95 of PRL (prevention of occupational hazards).

## 4. Responsibilities and Functions

### 4.1 Responsibilities

- It is the direct responsibility of the Company to ensure compliance with the Law and to ensure that all employees receive dignified treatment and that situations of Workplace Harassment do not occur. The Company must provide the necessary means for the realization, implementation and execution of this Protocol.
- It is the direct responsibility of middle managers to ensure compliance with the law on workplace harassment, granting courteous and respectful treatment to all employees and ensuring that all employees do so in the same way.
- It is the direct responsibility of the workers to relate to all workers in an educated, courteous and dignified manner. All workers will have the responsibility of observing and communicating to the Crisis Committee any indication or incident of possible Workplace Harassment.
- It is the Direct Responsibility of the Crisis Committee: Receive, investigate and manage any possible Workplace Harassment, confidentially, objectively and impartially.

### 4.2 Crisis committee

The “Crisis Committee” is the body in charge of handling any incident, complaint or complaint related to Workplace Harassment and regardless of the assigned mission, and during the development of the Action Procedure, it must be governed by the principles of confidentiality, objectivity and impartiality.

The Crisis Committee must be composed of representatives of the workers (preferably members of the Company Committee or of the Unions with representation in the company), on the part of the company, members of the Department of Human Resources, of the Legal Department of the Company, if any, and members of the Department of Prevention, Safety and Occupational Health.

The company must appoint a Head of the Crisis Committee from among the people who make up the Committee. This election will be made by secret ballot, in order to avoid conflicts of interest. It will be the person in charge of directing all the actions to resolve the Investigation File.

Also, a Secretary of the Crisis Committee will be appointed, this person will be responsible for the preparation of the minutes that proceed, and will attest to the content or agreements, guarding the file with its documentation.

The "complainant" and the "reported" person may express their disagreement with any of the appointed members of the Crisis Committee, provided it is for a reasoned and reasonable cause. If these allegations are considered well founded, the holder will be automatically replaced by another person who will hold the same position and functions in the Committee.



### 4.3 Communication channels

The speed in acting in a case of harassment, the guarantee of harassment in some cases and the efficiency in the management are three basic aspects in the correct operation of a Protocol against Harassment.

And for this, establishing sufficient and safe communication channels, both for the complainants and for the persons reported, will be essential for a correct handling of the situations.

A situation of Workplace Harassment may be communicated, among others, through the following channels:

- Suggestion Box: This must be located in a visible place and be correctly identified. The content of said mailbox will always be checked in the presence of two members of the Crisis Committee. The frequency in

which the contents of the mailbox will be checked will be at least twice a month.

This system has as positive elements, its simplicity and the low economic cost for its implementation. On the contrary, it is not a very fast method and anonymity may not be guaranteed, as the suggestions have to be physically deposited in one place.

- E-mail address or e-mail box: The company should create a specific email account for complaints or claims, the mails of which will be received and managed by two people from the Crisis Committee.

The positive elements of this system are its agility, since complaints can be received and read immediately, and the low economic cost for its implementation. On the contrary, anonymity is not respected since the receiver of the complaint obtains the e-mail address of the sender.

Technology also allows us to create Electronic Mailboxes, through programs that receive emails and always send the original email from the same address, which would have the benefits of email and would obtain complete anonymity.

- Telephone: The victim or the complainant may call the Company's telephone number and request to speak with the person in charge of the Human Resources Department or call any person who is a member of the Crisis committee (manager, worker representative, ...), all they must have training on the treatment that should be done with this information, to channel it to the Committee.

This system has as positive elements, its agility, since complaints can be received immediately, and it has no economic cost for its implementation. On the contrary, anonymity is not respected since the recipient of the complaint gets to know the complainant and obtains her phone number, and also depends on the correct management of the person receiving the call.

- In person: The victim or complainant may personally contact the Company and request to speak to the person in charge of the Human Resources Department or to do so with any person who is a member of the Crisis committee (manager, employee representative, etc.), all of whom must have training on the treatment that should be done with this information, to channel it to the Committee.

Surely there is no single perfect communication channel, since we will find cases in which the complainant prefers to maintain their anonymity, and others in which the complainant prefers to feel the closeness and trust that the person receiving the complaint or complaint can give.

For this reason, the company should establish various communication channels, the more the merrier, to achieve a good functioning of the system.

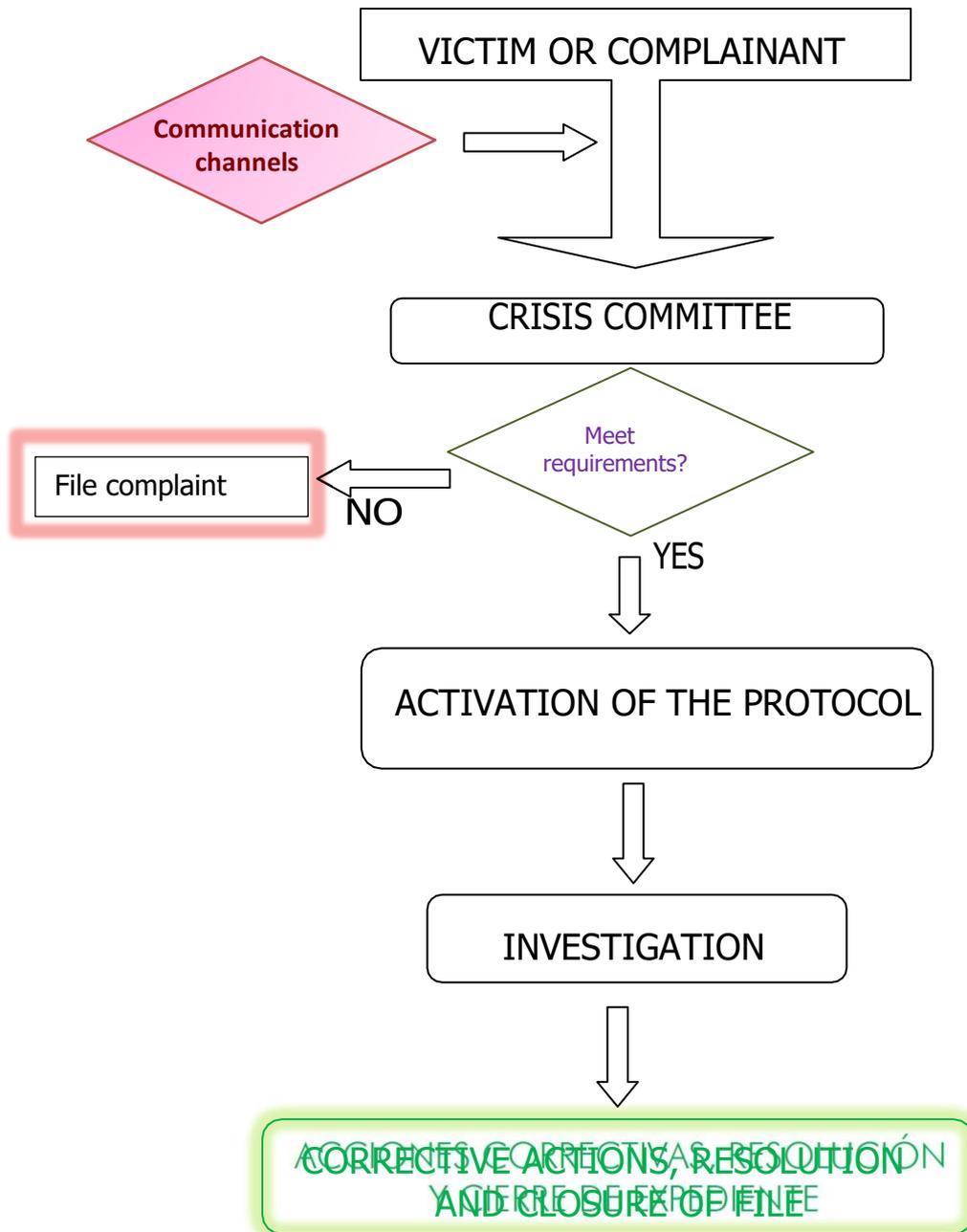
Finally, indicate that all communication channels, whatever they may be, will be ineffective, if the staff does not know it sufficiently, or the people who must manage them do not have the necessary training to correctly handle all complaints. For this reason, the company should carry out information campaigns for workers on a regular basis (eg at the beginning of the campaign every year). In addition, the company must continuously train all the personnel who may be the recipient of these complaints.

## 4.4 Confidentiality Commitment

All parties involved must agree that all information provided during the process will remain confidential.

See Annex "Model of confidentiality commitment of the people involved in the process of processing and resolution of complaints of workplace harassment"

## 4.5 Communication flow diagram



## 5. Development and Execution

### 4.1 Anti-Harassment Business Commitment

The management team of the company must demonstrate that it has acquired the full commitment to implement the requirements of the Anti-Bullying Protocol, as well as the processes that facilitate the continuous improvement of its management.

The company must have a documented policy in which the intention and obligation to comply with the Law is declared, as well as to assume its responsibility. This policy shall:

- Be signed by the person with the greatest responsibility for the site.
- Be communicated to all staff.
- It must undergo monitoring and report the results to Management, at least annually.

The management team must ensure that clear objectives are set in order to maintain and improve safety at work, in accordance with the Anti-Harassment Policy and Applicable Law. These goals:

- They should be documented and include clear goals or measures to achieve them.
- They should be communicated to all relevant personnel.

### 5.2 Awareness campaigns

It should be planned when, where and who will carry out the Training and information on the Prevention and Action Protocol in the event of Workplace Harassment. This planning and implementation of the training / information must be duly recorded and documented.

### 5.3 Psychosocial diagnosis



The company must know what the work environment is among its employees and provide, before it occurs, any indication of harassment by an employee. For this, the company has different tools, such as:

- Interviews
- Complaint and suggestion boxes
- Anonymous Surveys
- Annex IV and V of the Reference Manual for the development of procedures for action and prevention of sexual harassment and harassment on the grounds of sex at work  
([http://www.igualdadenlaempresa.es/recursos/herramientas/docs/Manual\\_preencion\\_acoso\\_sexual\\_y\\_por\\_razon\\_de\\_sexo.pdf](http://www.igualdadenlaempresa.es/recursos/herramientas/docs/Manual_preencion_acoso_sexual_y_por_razon_de_sexo.pdf))

With this information collected, the Crisis Committee will be able to evaluate whether it is necessary to take actions to prevent or stop any type of Harassment.

## 5.4 Risk analysis

The company must evaluate the risks of Harassment that could occur in all phases of its processes and implement each and every one of those preventive measures that could eliminate the dangers or reduce them to acceptable levels. In case of not being able to eliminate said dangers with the implementation of preventive measures, the necessary corrective actions will be implemented (See Annex Analysis of Risks of Workplace Harassment to workers).

## 5.5 Action on complaints procedure

- Presentation of the Complaint. The procedure will begin through a written or oral complaint, which must be sent to the Crisis Committee. If the complaint is filed with the company's management, intermediate leadership, workers' representative, the human resources department or similar, it must be sent immediately to the Crisis Committee (no more than 2 or 4 calendar days).
- Internal processing of the Complaint received. An investigative phase is activated, opening a file and asking the interested parties (victim or complainant and denounced) if there is agreement by the members of the Crisis Committee. In this phase, as many procedures, evidence and actions are considered convenient for the clarification of the denounced facts will be practiced, giving a hearing to all the parties, witnesses and other persons who are considered to provide information, including, where appropriate, the legal representatives. Of the template.

- Resolution. The investigative phase ends with the preparation of a report of conclusions that will serve for the adoption of the final decision, which should be made known to the complainant and the accused.
- Corrective actions (if necessary). The company will take corrective actions in accordance with the resolution issued if necessary.

The procedure must be fast, both to put an end to the harassing behavior as soon as possible and mitigate the possible effects on the victim, as well as not to harm the interests of the person denounced, and to establish a maximum period for the processing and resolution of the complaints, which should not exceed 20 calendar days.

The audience will be guaranteed to the parties involved, allowing them to formulate allegations and informing them of the elements, objectives and results of the procedure; and that both the complainants and the denounced may be accompanied in all the procedures of a Legal Representation if they deem it appropriate.

Throughout the process, respect for strict confidentiality and the right to privacy must be maintained, not only of the alleged victim but also of the person who is the object of the accusation. All people participating in the procedure must be informed of their duty to keep confidentiality and secrecy about their intervention and about how much information they learn from their appearance in it.

## 5.6 Type of fouls and penalties

3 types of offenses are established (minor, serious and very serious offenses).

Depending on the severity of the conduct, these are some of the disciplinary sanctions that could be applied:

- Disciplinary dismissal.
- Cessation of job and salary.
- Forced transfer without the right to compensation.
- Modification of the functions to be developed.
- Change of work shift.
- Transfer to another work centre in a different location for a period of time.
- Disqualification for career advancement for a period of time.

In assessing the seriousness of the behaviour, the possible existence of aggravating circumstances such as:

- Recidivism in harassment behaviour.
- The subordination of the victim with respect to the aggressor.
- The special vulnerability of the victim as a consequence of their precarious employment and / or contractual status, age, disability, etc.

## 6. Surveillance and verification procedure

The Crisis Committee will meet annually to review all complaints of Workplace Harassment that have been filed throughout the year, also reviewing the results of the anonymous surveys of the well-being of the workers. With all this information, a report will be issued, and measures will be taken if necessary.



## 7. Annexes

Documento elaborado por:







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