

Workplace bullying and discrimination – changes to the Labour Code.



Introduction

The Act amending the Labour Code and the Code of Civil Procedure introduces far-reaching changes regarding the protection of employees against workplace bullying, discrimination and other forms of abuse in the workplace. The new provisions will come into force shortly, within three months of the date on which the Act is published in the Journal of Laws, i.e. **on 5 November 2026**.

Employers will have **six months** from the date the Act comes into force to amend their work regulations or issue separate regulations on counteracting workplace bullying and other undesirable behaviour in the workplace.

Below, we present a summary of the most significant changes and some practical recommendations for employers.

Key changes at a glance

- **New, simplified definition of workplace bullying** – workplace bullying is defined as “persistent harassment of an employee”; there is no longer a requirement for the behaviour to be of long duration or to cause harm to an employee’s health.
- **Discrimination by association and by presumption** – two new categories of discrimination, broadening the grounds for employee claims.
- **Minimum compensation for workplace bullying** – six times the statutory minimum monthly wage (in 2026, this amounts to EUR6,662).
- **Obligation to implement new regulations or to update existing work regulations and/or policies on workplace bullying** – employers with at least ten employees will be required to introduce new regulations or update their existing work regulations to include procedures on counteracting workplace bullying and discrimination – within six months of the Act coming into force, i.e. by 5 May 2027.
- **Prohibition on dismissing a lawsuit when a breach is established on another legal basis** – in proceedings where an individual is seeking compensation or damages for workplace bullying, the court will not be permitted to dismiss the lawsuit if the established facts indicate the validity of a claim on another legal basis.
- **Employer’s right of recourse** – the new provisions expressly state that an employer that has paid compensation or damages for workplace bullying may seek reimbursement from the perpetrator for the loss incurred, of an amount corresponding to the degree of fault of that person and the employer in causing the loss.
- **Jurisdiction of district courts** – all cases concerning workplace bullying, discrimination and the protection of personal rights will be heard by district courts, regardless of the value of the claim.

(1) New definition of workplace bullying – what is changing?

Simplified definition

The previous definition of workplace bullying under the Labour Code required the simultaneous demonstration of several elements, including the prolonged and persistent nature of the harassment, the specific consequences thereof (lowered sense of professional worth, humiliation, and isolation) and a link between the perpetrator's behaviour and the occurrence of these consequences. In practice, this made it very difficult to prove the claim¹.

The new provisions **define workplace bullying as behaviour consisting of persistent harassment of an employee**. The concept of 'persistence' is explicitly defined in the Act – the persistence of harassment lies in the fact that it is repetitive, recurring or continuous.

Furthermore, the Act specifies that **incidental behaviour does not constitute workplace bullying**, even if it constitutes a violation of an employee's personal rights. The new provisions also exclude from the definition of workplace bullying any behaviour towards an employee that is justified and expressed in an appropriate manner, in particular holding an employee to account for work entrusted to them or criticising that work.

Examples of workplace bullying

The Act introduces a non-exhaustive list of examples of workplace bullying, which include:

- ☑ humiliation,
- ☑ insults,
- ☑ intimidation,
- ☑ lowering an employee's sense of professional worth,
- ☑ unjustified criticism, demeaning an employee, or ridiculing an employee,
- ☑ hindering an employee's ability to function in the workplace in terms of achieving work outcomes, carrying out work duties, utilising their competencies, communicating with colleagues or accessing necessary information,
- ☑ isolating an employee or excluding them from the team – where such behaviour takes the form of persistent harassment.

Such behaviour may be **physical, verbal** or **non-verbal**.

¹ In the explanatory memorandum to the Act, it is indicated that, according to data from the Ministry of Justice, in 2022, in cases concerning workplace bullying, the courts upheld the claim in full or in part in only 17 out of 192 cases heard in district courts.



Individualised assessment

The principle **of individualised assessment** has also been introduced – that is, the assessment of whether workplace bullying has occurred is to be individualised and take into account the circumstances of the specific case, both in terms of the type of behaviour towards the employee and the employee's situation.

Although the intention of the authors of the Act was to strengthen the protection of those affected by workplace bullying by taking their subjective perspective into account, this change may, in practice, lead to results contrary to those intended. This is because the requirement for an individual assessment means that an employee will be obliged not only to demonstrate that specific behaviours have occurred, but also to demonstrate how those behaviours affected them personally, taking into account their individual predispositions.

Furthermore, the introduction of the individualised criterion is highly likely to result in labour courts making more frequent use of expert opinions – in particular from psychologists and psychiatrists – in order to determine how specific behaviours affected a particular employee. The need to introduce this type of evidence may significantly prolong the duration of court proceedings in cases of workplace bullying, which are already among the most time-consuming types of employment disputes.

Regardless of the perpetrator's intentions

It has been clarified that behaviour constituting persistent harassment is deemed to be workplace bullying, even if the aim was not to harass persistently. This means that workplace bullying does not have to be intentional – it is sufficient that, objectively, the behaviour constitutes persistent harassment, regardless of the perpetrator's intentions.

Who may be the source of workplace bullying?

The Act explicitly states that behaviour constituting workplace bullying may originate from an employer, a superior, a person in an equivalent position, a subordinate, another employee, or individuals performing work on a basis other than an employment relationship – whether this be one person or a group of people.

Ordering and encouraging workplace bullying

Ordering or encouraging others to engage in workplace bullying towards an employee is also considered as workplace bullying. This means that liability may be incurred not only by the direct perpetrator, but also by the person who ordered or instigated such behaviour.



(2) New obligations for employers – updating internal regulations

One of the key changes introduced by the Act is the obligation to set out rules, procedures and the frequency of measures to counteract workplace bullying, discrimination, and violations of an employee's dignity and other personal rights – either in separate regulations or in the work regulations.

Who is subject to this obligation?

Employers with at least ten employees will be required to issue separate regulations if these matters have not been regulated in a collective agreement or in the work regulations.

Deadline for implementation

Employers will have **six months from the date the Act comes into force** to amend their work regulations or issue separate regulations. As with work regulations, these separate regulations are also to come into force two weeks after they have been brought to the attention of employees in the manner customarily used by the employer to communicate with its staff.

Consultations with trade unions

The regulations should be established in consultation with the workplace trade union organisation, and where there is more than one such organisation active in the employing establishment, with the representative organisation.

If there are no trade unions in the employing establishment, the content of the regulations must be agreed with employee representatives elected in accordance with the procedure adopted by the employer. If no agreement is reached within 30 days of the draft regulations being presented, the employer can determine the content of the regulations independently, taking into account the arrangements made during the consultation process.

What should the regulations contain?

Taking into account the explanatory memorandum to the Act, it is recommended that the regulations specify:

- **Rules and principles** concerning the counteracting of violations of dignity and personal rights, the principles of equal treatment, and discrimination and workplace bullying;
- **Procedures for reporting** irregularities and conducting investigations;
- **The frequency of preventive measures** (training, surveys, audits, etc.);
- **Preventive measures, detection, response, corrective action** and support for those affected by unequal treatment.



(3) Discrimination by association and on the basis of presumption

Another key change introduced by the Act is the establishment of two new categories of discrimination under the Labour Code.

A. Discrimination by association

Discrimination by association occurs when behaviour is motivated by a characteristic of a person with whom the employee is associated, e.g. a characteristic of a family member.

Example: An employee is passed over for promotion because they are raising a child with a disability – their line manager assumes that they will not be able to devote enough time to their new responsibilities.

B. Discrimination by assumption

Discrimination by assumption involves treating an employee unequally on the basis of a characteristic that is mistakenly attributed to them.

Example: Creating a hostile atmosphere around an employee whose colleagues 'assume' they have a particular sexual orientation – regardless of whether the assumption is correct.

(4) Increased risk of employees initiating legal disputes

The new regulations significantly broaden the grounds on which employees can pursue claims. In particular:

- A) **The significant simplification of the definition of workplace bullying** will certainly eliminate the previous difficulties in proving such claims, which is highly likely to result in an increase in the number of cases.
- B) **The broadening of the definition of discrimination** (i.e. discrimination by association and by presumption) opens up new categories of claims, which may also lead to a greater number of court cases.
- C) In proceedings for compensation or damages arising from an infringement of personal rights, a breach of the principle of equal treatment or workplace bullying, **it will not be permissible to dismiss a claim if the established facts of the case indicate that the claim is valid on grounds other than those indicated by the employee.** This means that even if the court does not find that workplace bullying has taken place, but the facts of the case indicate a violation of personal rights or the principle of equal treatment, the claim cannot be dismissed.



(5) Practical list of recommendations – what should employers do in the coming months?

1. Review and update of regulations.

Employers should review their work regulations, as well as other regulations and policies concerning workplace bullying, with a view to incorporating or modifying rules, procedures and the frequency of measures to counteract workplace bullying, discrimination and infringements of personal rights.

2. Training for employees, particularly for managers and HR staff.

Meetings should be organised for employees, particularly managers and HR staff, to prepare them for the key changes and to inform them of the new company rules regarding the prevention and combating of workplace bullying.

3. Review of the rules governing the documenting of reports and the conduct of investigations.

Employers should analyse their existing reporting procedures and regulations governing the conduct of investigations, or, if there are none, create new ones. It is worth taking the opportunity to update the relevant templates for complaints, applications and reports.

4. Review of practices regarding HR decisions. Gathering of documentation.

Employers should review their practices regarding promotions, pay rises, access to training, and the termination of contracts, with a view to ensuring the use of neutral, verifiable assessment criteria.

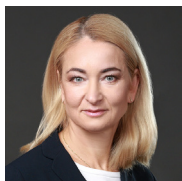
In addition, it is advisable to ensure that relevant documentation is properly stored in order to protect the employer in the event of any future claims by employees.

5. Dialogue with trade unions.

If there are trade unions active in the employing establishment, it is advisable to initiate a dialogue with them now in order to jointly draw up the regulations and procedures. The Act places emphasis on the participation of employees and their representatives in determining the rules of protection.



Our Employment team will be happy to support you at every stage of implementing the new regulations on workplace bullying – both in adapting internal documentation (regulations, policies, procedures, etc.) and in clarifying any doubts regarding the changes to the legislation. Please do not hesitate to contact us.



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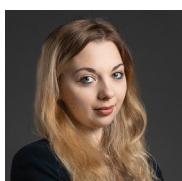
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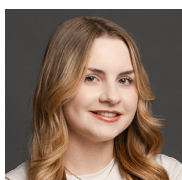
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