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Legal Bulletin



Employment Law

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Obligations and measures for employers to prevent and combat gender-based harassment and moral harassment at the workplace

On 17 October 2023, *Government Decision No. 970/2023 approving the Methodology for preventing and combating gender-based harassment and moral harassment at the workplace* (hereinafter “**GD No. 970/2023**”) was published in Official Journal No. 939, and it regulates a number of obligations and measures for preventing and combating gender-based harassment and moral harassment at the workplace.

GD No. 970/2023 came into force on 17 October 2023.

1. Overview

The regulatory act approves the Methodology for Preventing and Combating Gender-Based Harassment and Moral Harassment at the Workplace (hereinafter the “**Methodology**”), which is implemented in compliance with the deadlines and principles set out in the Model Guidelines on Preventing and Combating Gender-Based Harassment and Moral Harassment at the Workplace (hereinafter the “**Guidelines**”), as annexed to the Methodology.

The Methodology sets out guidelines for action intended to increase gender equality, to improve social policy, to prevent discrimination and to promote a non-discriminatory society, and defines situations that give rise to gender-based harassment and moral harassment at the workplace, providing procedures for identifying, monitoring and sanctioning such cases, including the possibility for victims to lodge complaints and reports.

2. Specific principles binding for employers

When intervening in situations of harassment, employers must respect principles such as human rights, promoting gender equality, working with specialists and collecting gender equality data.

Employers must also actively participate in projects or programmes aimed at ensuring equal opportunities between women and men.

3. **Binding measures for employers**

In order to ensure that equal opportunities and equal treatment between women and men are respected and promoted, and to eliminate direct and indirect gender discrimination in the field of employment, employers should promote the following measures:

- Drawing up internal procedures for promotion, including the filling of decision-making positions, in the boards of administration and supervision of private companies;
- Continuous training and career development for employees;
- Improving working conditions and the working environment;
- Ensuring equality in occupational health and safety.

Employers must also create and implement a coherent framework for gender mainstreaming and the prevention of gender-based harassment and moral harassment at the workplace, including ways of handling harassment complaints and preventing harassment, as well as clearly defining roles and responsibilities in this area for both employers and employees.

4. **Main obligations of employers**

The main obligations that employers must comply with under the Methodology can be summarised as follows:

- The obligation to **implement the Methodology** adjusted to the employer's specific situation;
- The obligation to **include in the internal regulations the provisions of GO No. 137/2000** on the prevention and sanctioning of all forms of discrimination, and the provisions of **Law No. 202/2002** on equal opportunities and equal treatment between women and men;
- The obligation to **prohibit and sanction any actions that may lead to moral harassment** at the workplace or gender-based harassment;
- The obligation to **work towards the creation of a framework of prevention and protection measures** in cases of gender-based harassment and moral harassment at the workplace by training employees so as to raise awareness and prevent harassment;
- The obligation to **inform and train all employees** by organising annual training courses on the provisions of the Methodology;
- Obligation to **disseminate the Methodology** through all internal means of communication/ information to employees.

Employer-appointed **harassment case handlers** are **required to provide reports** on the implementation of internal procedures, reported incidents, complaint handling and recommendations issued, by the end of the first quarter of each year for the previous year.

5. Victims' right to lodge complaints or reports

Victims are given the opportunity to submit written complaints or reports, in holographic or electronic form but necessarily signed by the victim, in compliance with the protection of identity data, or to submit a verbal report to the person responsible, following which minutes will be drawn up concerning various aspects of the harassment, such as:

- The emergence of mild differences of opinion or interpersonal conflicts that may initially be resolved on a personal level but may escalate, if unresolved;
- Gradual escalation of tension due to systematic or repeated aggressive actions by one person or group of people against another;
- A heightened state of tension that requires the intervention of the employer's or manager's representatives to mediate the conflict and prevent it from escalating;
- Stigmatisation and/or social isolation at work, victim's dismissal or coercion to resign from the job, which reduces the victim's chances of re-employment in other jobs.

The steps that victims of harassment can take include approaching the alleged harassers directly, informing the person responsible, attempting to reach an amicable settlement and taking the case to court.

6. Guidelines on preventing and combating gender-based harassment and moral harassment at the workplace

The Guidelines set out the guiding principles, the legal, conceptual and methodological framework, the roles and responsibilities, the resolution modalities and the sanctions, in order to support both employees and employers in dealing with gender-based harassment and moral harassment at the workplace and are provided as an annex to the Methodology.

Each employer may draw up its own guidelines on preventing and combating gender-based and moral harassment at the workplace, adapted to the specific working conditions, **provided that it complies with the deadlines and principles laid down in the model adopted under the regulatory act.**

Employers are bound to ensure that the Guidelines are applied **within 6 months** of entry into force thereof.

Editors

Employment is one of the practice areas in which our lawyers have acquired extensive experience, ranging from management schemes tailored for both entities undergoing privatisation and private entities set up by international corporations in Romania, to the preparation and negotiation of collective bargaining agreements, employment contracts and related specific clauses (employee benefits, restrictive covenants, option plans offered to employees). Our attorneys also deal with employment matters in relation to mergers, acquisitions and privatisations, involving redundancy programs, negotiations with trade unions, pension issues raised in transactions, investment management agreements etc. Our specialists are frequent lecturers on employment law issues and are regular contributors to local and foreign publications, whilst being actively involved in the activities of reputed domestic and international associations and organisations such as the European Employment Lawyers' Association (EELA), Multilaw, AmCham etc.



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