

EMPLOYMENT - The two sides of work environment | Harassment vs. normal work climate



More than a year after the publication of GD no. 970/2023, the methodology on preventing and combating harassment based on sex, as well as moral harassment in the workplace is still in the early stages of implementation ("Methodology").

In this context, we tackle herein certain obligations that employers have to take into account, including in the light of the changes introduced by GD no. 27/2025 for amending the Methodology.

What's new?

In the initial version, the Methodology expressly provided that the victim may submit a written complaint on harassment at work, mandatory to be assumed by signature, or may submit a verbal complaint for which a minute has to be drawn up by the employer.

From February 2025, it is expressly regulated that anonymous complaints on harassment at work must also be received and investigated by employers.

Employers are obliged for more than one year, to implement a guide on preventing and combating harassment on grounds of sex as well as on moral harassment at the workplace. According to GD 970/2023, the victim may lodge a complaint to the person in charge/committee for receiving and resolving cases of harassment on the basis of sex and moral harassment at work, in written form, in holograph or electronically, but mandatory assumed by signature by the victim(...), or may lodge a verbal complaint to the person in charge/committee for receiving and resolving cases, following which a minute will be drawn up.

As of February 2025, the initial anti-harassment guide which should have been implemented by employers, must also provide that the victim may file a written complaint without a wet ink signature. Lack of specific elements like victim's name, surname, contact details, triggers the assessment and solving of the complaint only if it contains data/information on deeds of harassment on the basis of sex or moral harassment.

The guide must comply with the requirements of the law, including but not limited to the procedure to be followed for the solving of complaints, the documentation to be drawn up, examples of harassment or deadlines.

For employers who have already put into practice the provisions of the Methodology, there is an obligation to revise the already approved rules to include the possibility of lodging and assessing anonymous harassment complaints.

Far from being a flawless tool, the recent regulation comes to offer support to employers, providing them with concrete benchmarks to be able to identify and avoid practical cases considered as harassment at work in the context where employees complain about all kinds of deeds as cases of harassment at work.

Methodology, for the first time, expressly regulates legitimate actions by employees that do not fall within the scope of workplace harassment.

Employer's Prerogative vs. Moral Harassment

The existence of abusive behavior exercised against the employee is essential in analyzing the existence of moral harassment at work.

The employer's prerogatives used by the employer as a means of pressure or intimidation, contrary to the reason for which they were regulated, may be seen as specific elements of harassment.

In the light of the Methodology and entire anti-harassment rules, the employer should avoid abusive approaches or threats likely to intimidate, to put pressure on employees considered to be in a vulnerable position.

Employers have an obligation to ensure a climate of respect and professional dignity for their employees, having at their disposal all the legal prerogatives to sanction any possible lapses.

In no case can it be accepted that the employer's response to a difficult or dissatisfied employee can be to develop a combined attitude of humiliation, insult and exclusion of the employee, which are typical elements of moral harassment, able to create the image of systematic, abusive and intentional behavior.

Although, the existence of several normative acts regulating the field of combating and preventing harassment in the workplace is well known and may create difficulties, a real implementation of the anti-harassment guidelines by the employers may lead to the diminishing of the confusion in practice regarding the use of the prerogatives conferred by law to the employers in a direction that may have the connotations of harassment at the workplace, avoiding the maintenance of a hostile climate and taking measures to normalize the working environment.

De lege ferenda, a normative act uniting the disparate rules in this area would be an extremely useful tool for employers, employees and professionals alike.