

New law on protection against moral harassment

Luxembourg Parliament voted on 9 March 2023 a new law which entered into force on 9 April 2023 ("Law") and amends the legal framework in the context of moral harassment. While an agreement on harassment and violence in the workplace negotiated between social partners entered into force in 2009 and was declared of general interest, such existing rules have never been introduced into the Luxembourg Employment Code.

What is changing?

The Law inserts a new chapter in the Employment Code, which provides essentially for the following changes:

Increase of the competence of the staff delegation:

- The staff delegation is assigned the prerogative to assist and advise the employee victim of moral harassment.
- The staff delegation is to be implicated in establishing and re-evaluating the internal policies regarding prevention and management of moral harassment.

Introduction of a procedure involving the Labour and Mines Inspectorate (ITM):

- The Law provides for the possibility for the employee victim of moral harassment or the staff delegation to refer the case to the ITM.
- On any such referral, the ITM is obliged to carry out an investigation and draw up a report containing recommendations.
- The employer has the obligation to take appropriate measures to put an end to acts of moral harassment and prevent occurrence of any further such acts. Non-compliance can result in administrative fines.

Increased protection of the employee:

- The employee has the possibility to terminate their employment contract without notice and to claim damages from the employer.
- The employee victim of moral harassment cannot suffer any retaliation or termination because of their complaint against moral harassment. A termination issued in violation of this protection can be declared null and void, resulting in the reintegration of the employee.

- However, the burden of proof remains on the employee who claims to have been a victim of moral harassment.

Criminal sanctions:

- Fine ranging from EUR 251 to EUR 2,500 euros (doubled for undertakings).
- Doubled in case of recidivism in under two years.

For any further information please contact us or visit our website at **www.elvingerhoss.lu**.

The information contained herein is not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific legal advice concerning particular situations.

We undertake no responsibility to notify any change in law or practice after the date of this newsletter.