



Prevention of Discrimination and Mobbing in the Workplace

1. Types of Discrimination

On 18 January 2009 amendments to the Labour Code on the equal treatment of employees came into force that are intended to further harmonise Polish regulations to EU legislation. The amendments to the Labour Code set out the following types of discrimination:

- direct discrimination
- indirect discrimination
- supporting discrimination
- order for discrimination
- harassment
- sexual harassment

The definitions of direct and indirect discrimination and sexual harassment are set out in detail in the amendments. Please ask us for more information.

The amendments also provide for the greater protection of employees who support a colleague being subjected to some form of unequal treatment, such that employers are not allowed to treat them in any negative way.

An employer must not discriminate at any stage of employment including, hiring, termination, access to training etc, on the basis of sex, age, disability, race, religion, nationality, political convictions, union membership, ethnic origin, sexual orientation, and other criteria (please ask us for full details). This applies to employees on both definite and indefinite term contracts, and whether they are full or part time.

An employer found guilty of discrimination may be required to compensate the employee in an amount not less than the minimum salary (Pln 1,276 gross in 2009) and without any upper limit.

2. Mobbing

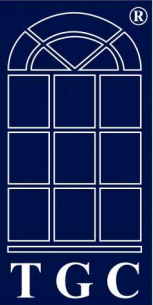
Mobbing is any persistent or long-term action or behaviour against an employee that results in reducing the employee's ability to perform their work. The behaviour can include any harassment or threats that humiliate, ridicule, or isolate the employee. This can be any type of bullying or psychological intimidation.

Although anti-mobbing provisions have been included in the Labour Code since 2004 and Poland's entry to the EU, the amendments enhance the legislation in a number of ways. There are three criteria for mobbing: duration, repetition, and negative intention. Typical examples of mobbing are: assigning tasks that are either far above or below an employee's skill level or competencies, or assigning useless tasks, not providing work, continuous criticism, questioning decisions, or discrediting the employee.

An employer must eliminate mobbing behaviour in the workplace. If the employer does not take effective preventative measures then it may be subject to a penalty as follows:

- Compensation in an amount not lower than the minimum salary (Pln 1,276 gross in 2009) if the employee terminates their employment as a result of the mobbing and without any upper limit;
- Unlimited damages for any injury suffered if the mobbing has been detrimental to the employee's health.





3. Prevention Policies

Although the Labour Code sets out in detail an employer's responsibility to prevent discrimination and mobbing in the workplace, there are no specific guidelines on the steps to be taken. As a consequence, it is up to the employer to put in place effective and comprehensive anti-mobbing and anti-discrimination policies. In order to put such policies in place, a review of the workplace may be required, information made available to employees, and documentation put in place that sets out the policies. Having well-drafted anti-discrimination and anti-mobbing regulations, acknowledged and signed by all employees, would minimise an employer's potential liability to penalties.

4. Our Recommendations

We suggest that in order for employers to adopt best practises that they take some simple actions including:

- Ask us for more information or meet with us to discuss these issues
- Provide an internal seminar for managers on discrimination and mobbing (and other relevant matters)
- Review current internal regulations with a view to updating with anti-discrimination and anti-mobbing policies
- Train HR managers on preventing discrimination and mobbing

Contact

Please contact one of us if you wish to discuss these matters in more detail:

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