

Extensive new obligations for employers to combat harassment at the workplace

by Raluca Bădila, Avocat (Attorney at law RO)

On 17.10.2023, Government Decision no. 970/2023 (in short: "**GD**") on the **Methodology for Preventing and Combating Gender-based and Moral Harassment at the Workplace** (in short: "**Methodology**") was published in the Official Gazette of Romania.

All employers in Romania must implement it by **16.04.2024**.

Main content

The Methodology contains comprehensive explanations of cases of harassment of employees and the measures to be taken against it. It also contains sample guidelines on preventing and combating harassment at the workplace (in short: "**Guidelines**"), which employers can use as a model for their own guides.

All employers must comply with the **obligations set out in the Methodology and the Guidelines within 6 months as of the entry into force of the GD** (i.e. by April 16, 2024), thus ensuring its applicability.

Main obligations of employers

The most important obligations and measures that employers must fulfil or take in accordance with the Methodology and the Guidelines can be summarized as follows:

- Creation of an **internal procedure for the promotion of employees**, including the filling of decision-making positions;
- Implementation of the Methodology, adapted to the specific situation of the employer, whereby each employer, as mentioned above, must draw up its own **guidelines** to preventing and combating harassment at the workplace;
- Inclusion of the provisions of Ordinance No. 137/2000 on the prevention and sanctioning of all forms of discrimination and Law No. 202/2002 on equal opportunities and equal treatment of women and men in the company's internal regulations;

- The prohibition and sanctioning of any actions that may lead to moral or gender-based harassment at the workplace;
- Annual training of employees on the provisions of the Methodology;
- Publication of the methodology via all existing internal communication/information media.

How to proceed

In order to receive and resolve complaints about possible cases of harassment, the employer must appoint a **responsible person/ committee** who concludes a **confidentiality agreement**. In addition, the employer creates a **case register** in which, among other things, the complaints are entered with a registration number, the harassment and identified solutions.

The complaint about a case of harassment can be formulated by the affected person in writing (handwritten or electronically, however signed) or verbally (in a conversation with the responsible person, of which a protocol is drafted).

The responsible person/ committee drafts a **report** containing all relevant information from/ about the complaint, about the counseling of the affected person, as well as about the hearing of the person accused of harassment. The report must be prepared **within 7 working days** as of the moment the complaint has been lodged, and submitted to the HR department/ management, depending on the action ordered.

The settlement of the complaint is the final phase of the procedure. For this purpose, the responsible person/ commission prepares a **final report** detailing the investigations, the results and, if applicable, the proposed measures, which is also submitted to the management. The responsible person/ commission must ensure that the **procedure for resolving the complaint is completed within a maximum of 45 working days** of its submission.

Sanctions

The type of sanctions imposed on employees depends on the severity and extent of the acts of harassment. Proportionate sanctions are imposed to ensure that incidents of harassment are not treated as normal/ tolerable behavior. The principles of the disciplinary liability from labour law apply here.

Failure by the employer to prevent and combat harassment at the workplace is sanctioned with substantial fines of up to RON 200,000 (i.e. approx. EUR 40,000) under Ordinance 137/2000.

Conclusion

The methodology and guidelines are a valuable tool for both employers and employees to increase equal opportunities and equal treatment of women and men and to prevent and combat behavior that can lead to the exclusion of people on the basis of gender.

However, employers in Romania may need to take **considerable action**. They must implement the **newly regulated measures and obligations in an internal procedure by spring 2024**.

Contact and further information:



STALFORT Legal. Tax. Audit.
Bucharest – Bistrița – Sibiu

Office Bucharest:

T.: +40 – 21 – 301 03 53

F: +40 – 21 – 315 78 36

M: bukarest@stalfort.ro

www.stalfort.ro