

Bullying in workplace: statute and case law

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Last week we wrote about emotional or psychological bullying against a worker. This article explores the legislation and recent case law dealing with emotional bullying.

Statute law

There is no piece of legislation to refer specifically to psychological or emotional bullying and its possible consequences. The right to personal integrity under section 94 of the Constitution prohibits the existence of emotional bullying in an employment relationship. If the employer or other workers conspire to perpetrate psychological bullying against a worker, this infringes personal integrity as a basic right laid down by the Constitution.

The Labour Code also protects workers against emotional bullying at work. Under section 28(2) of the Labour Code one of the employer's duties is to provide workers with fair, safe and healthy working conditions, and section 29 lays down a prohibition of discrimination.

Allowing psychological or emotional bullying at work is a breach of the employment contract, and the Labour Code authorises the employer to terminate the contract with a worker who perpetrates psychological bullying. Such termination is based on section 101(1)(2-3) of the Labour Code because the bully's actions are unlawful and contrary to morals, which is not compatible with continuation of the employment relationship.

However, if workers permit psychological terror against a co-worker and the employer fails to stop this, the employer is in breach of a basic contractual duty. This breach entitles the worker to immediate termination of their employment contract under section 100(5) of the Labour Code.

Recent case law

On 20 August 2019 the Civil Division of the Supreme Court reversed a Riga district court ruling and returned the employment dispute over breaches of the principle of equality for new adjudication.

In its ruling, the Supreme Court invokes an established finding of Latvian case law that the prohibition of discrimination under section 29 of the Labour Code works towards a goal set by section 7(1) of the Labour Code, that is to provide everyone with equal rights to employment, fair, safe and healthy working conditions, and fair pay. According to this case law, any action that involves bullying at work (i.e. mobbing or bossing) may be treated as infringing equal rights to employment and the right to fair working conditions. This breach may reach a degree of infringement that creates a right to compensation for moral injury.

To determine compensation for the moral injury caused by mobbing or bossing, the court must verify that evidence in the case proves such actions by the employer. In the case of bossing, the employer breaches the principle of equal rights because the employer's attitude towards one worker is worse than it is towards others.

The European Court of Human Rights recognises the worker's duty to prove that the remedy used by the employer (such as dismissal, demotion or wage cutting) has substantially affected the worker's private life, i.e. the worker is required to describe the adverse effects on their private life. The worker should specify and prove the type and amount of their suffering caused by the remedy in dispute.

The court of appeal has not conducted such an assessment and therefore applied section 29(8) of the Labour Code without a valid reason, which may have led to incorrect adjudication of the case.¹

¹ Latvian Supreme Court, Civil Division, ruling SKC-605/2019 of 20 August 2019, case No. C33586617