

HR IN THE KNOW 10/2026

WORKPLACE BULLYING, DISCRIMINATION AND OTHER UNWANTED BEHAVIOUR IN THE WORKPLACE

NEW STANDARDS FOR PROTECTION OF EMPLOYEES: STRICTER OBLIGATIONS OF THE EMPLOYERS AND EASIER ENFORCEMENT OF CLAIMS BY THE EMPLOYEES: WORKPLACE BULLYING (MOBBING), DISCRIMINATION AND OTHER UNWANTED BEHAVIOURS



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The amendments to the Labour Code and the Code of Civil Procedure, which will come into force in a few months' time, are designed to strengthen the protection of employees against inappropriate behaviour in the workplace (various forms of violence) – in particular, violations of dignity and personal rights, workplace bullying and discrimination. To this end, new statutory definitions have been introduced, provisions have been harmonised, employers' obligations regarding preventive measures have been expanded, and employees have been granted additional rights and support in pursuing claims in court.

For all employers, this means they must assess how their situation has changed, review internal policies, develop systematic preventive procedures (a standalone policy or regulations will not be sufficient), amend their work regulations or issue separate regulations, and provide training for senior management, HR and line managers.

It can be expected that there will be an increase in reports of unwanted behaviour and in claims which, in light of the new definition of workplace bullying, may be easier to pursue and more likely to result in employers losing in court. Allegations of workplace bullying and discrimination are already common and, in the context of the new proposed pay transparency requirements, may become even more potent.

A prevention system introduced by the employer which is fully compliant with the new legal framework will be crucial for avoiding liability for bullying by non-employees (such as colleagues or third parties) and for reducing the risks associated with other unwanted behaviour in the workplace. Certain operational challenges around managing expectations may also trigger a requirement to consult the procedures with trade unions or employee representatives. Overall, the new regulations are likely to open a completely new chapter in related litigation.



WORKPLACE BULLYING MOBBING

The new regulations have simplified the definition of workplace bullying: workplace bullying will mean behaviour consisting of persistent harassment of an employee. Persistence in harassment refers to behaviour that is repetitive, recurring or of a constant nature. Issuing instructions to engage in such behaviour or encouraging it will also be considered workplace bullying.

By contrast, under the current wording of Article 94(3) of the Labour Code, the definition of mobbing comprises five elements which must all be met, and it follows from this that mobbing consists of behaviour: 1) relating to an employee or directed against an employee, 2) consisting of persistent and long-term harassment or intimidation of an employee, 3) causing the employee to underestimate their professional suitability, 4) causing or intended to humiliate or ridicule the employee, 5) causing the employee to be isolated or excluded from the team of colleagues. As a result, this creates practical difficulties in proving the case, and employees win only a small percentage of the court cases they bring.

In addition, the amendment provides examples of what constitutes workplace bullying and what does not. It has also been clarified that manifestations of workplace bullying – occurring individually or in combination, taking the form of physical, verbal or non-verbal behaviour, and not necessarily intentional – will include, in particular: humiliation, disparagement, intimidation, undervaluing an employee's professional competence, unjustified criticism, humiliating or ridiculing an employee, hindering their functioning in the workplace, in particular with regard to: achieving work results, performing work duties, utilising their skills, communicating with colleagues, accessing necessary information, isolating an employee or excluding them from the team – provided that such behaviour takes the form of persistent harassment.

However, behaviour towards an employee that is justified and expressed in an appropriate manner – in particular, the proper assessment of work performed or constructive criticism – cannot be regarded as workplace bullying. Nor will incidental behaviour constitute workplace bullying, even if it infringes upon the employee's personal rights.

The new regulations explicitly identify the group of persons who may be perpetrators of workplace bullying, namely: the employer; a person holding a position of equal rank to the employee; a subordinate; another employee; or a person performing work on a basis other than an employment relationship, acting either independently or as part of a group.

The assessment of whether workplace bullying has occurred will be made on a case-by-case basis by the court, taking into account the circumstances of the specific case, in particular the nature of the behaviour towards the employee and their situation.

If the employee's claim is upheld, the employee may be awarded compensation amounting to no less than six times the minimum remuneration (currently PLN 28 836, i.e., approx. EUR 6 680), or damages. The new provisions explicitly state that the employer will be able to claim reimbursement of the damage incurred from the perpetrator of the workplace bullying, with the amount of such reimbursement depending on the degree of fault of both the perpetrator and the employer in causing the damage.

DISCRIMINATION

The existing provisions on discrimination have not changed significantly but have been harmonised and expanded. In particular, the definition of harassment has been amended to consistently state that any form of harassment (i.e. both general harassment and sexual harassment) may take the form of physical, verbal or non-verbal acts (as is currently the case with sexual harassment).

The definition of discrimination has also been expanded through the introduction of the concept of discrimination by association (where behaviour is motivated by a characteristic of a person with whom the employee is associated, e.g. a characteristic of a family member, such as the employee raising a child with a disability) and discrimination by assumption (on the basis of a characteristic mistakenly attributed to them, e.g. assuming a particular sexual orientation or political views).

The catalogue of claims available to an individual in respect of whom the employer has infringed the principle of equal treatment has also been extended to include a claim for compensation in an amount not less than the statutory minimum wage (currently PLN 4 806, i.e., approx. EUR 1 114) (under current legislation, an employee may only claim damages). In the event of repeated breaches of the principle of equal treatment in employment in relation to the same person - understood as repeated infringements arising from the same cause, repeated infringements arising from multiple causes, or a single infringement resulting from multiple causes concurrently - the compensation should be correspondingly higher, and in any case not lower than three times the statutory minimum wage (currently PLN 14 418 i.e., approx. EUR 3 340).

VIOLATION OF DIGNITY AND PERSONAL RIGHTS

The newly added point 2c in Article 94 of the Labour Code supplements the Code's list of an employer's obligations to prevent violations of an employee's dignity and other personal rights.

PREVENTION REVISITED: EMPLOYERS' OBLIGATIONS

The provisions currently in force do not set out an exhaustive list of specific, formalised measures that an employer should take to prevent unwanted behaviours at the workplace. However, this is set to change. Detailed obligations have been introduced to ensure that such behaviour is prevented, detected and dealt with appropriately.

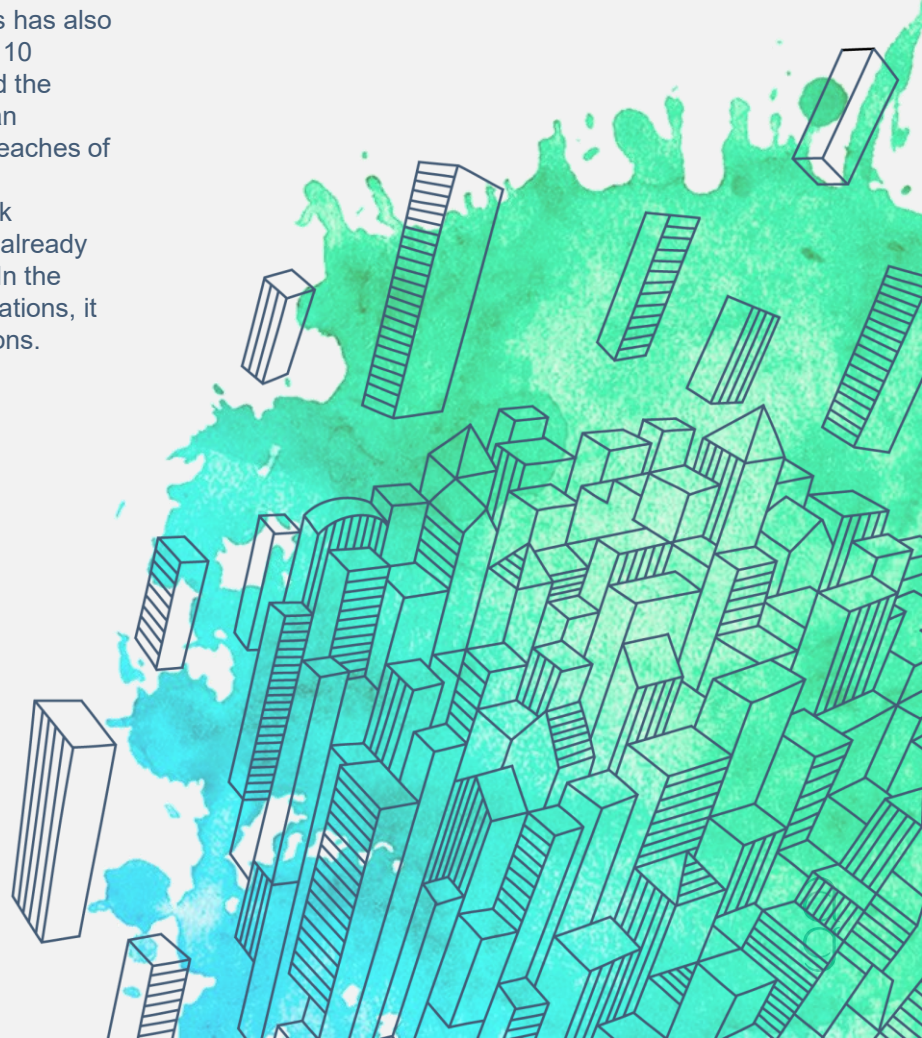
The new regulations explicitly require employers to take effective, ongoing and practical measures to prevent violations of an employee's dignity and other personal rights, breaches of the principle of equal treatment in employment, discrimination and workplace bullying – in a manner appropriate to the specific nature of the workplace in question. The employer's obligations regarding the prevention of workplace bullying have been regulated in detail: the employer is obliged to systematically combat workplace bullying, in particular through preventative measures, the detection of workplace bullying and an appropriate response to its occurrence, as well as through remedial measures and the provision of support to those affected by workplace bullying.

The procedure for implementing these principles has also been expressly set: each employer with at least 10 employees must establish rules, procedures and the frequency of measures to prevent violations of an employee's dignity and other personal rights, breaches of the principle of equal treatment in employment, discrimination and workplace bullying in the work regulations, provided that these matters are not already regulated in a collective bargaining agreement. In the absence of relevant provisions in the work regulations, it will be necessary to introduce separate regulations.

It will also be necessary to carry out these actions in consultation with the trade union or, if there is no active union, with employee representatives.

An employee who exercises their discussed rights may not, for that reason, suffer any negative consequences. These provisions also cover an employee who, in any form, provides support to the affected person.

Additionally, for future reference, it should be noted that a reversed burden of proof will be introduced in cases concerning pay discrimination arising from a breach of the principle of equal treatment in employment in relation to the right to equal pay for men and women for equal work or work of equal value, where the employer has breached its pay transparency obligations.

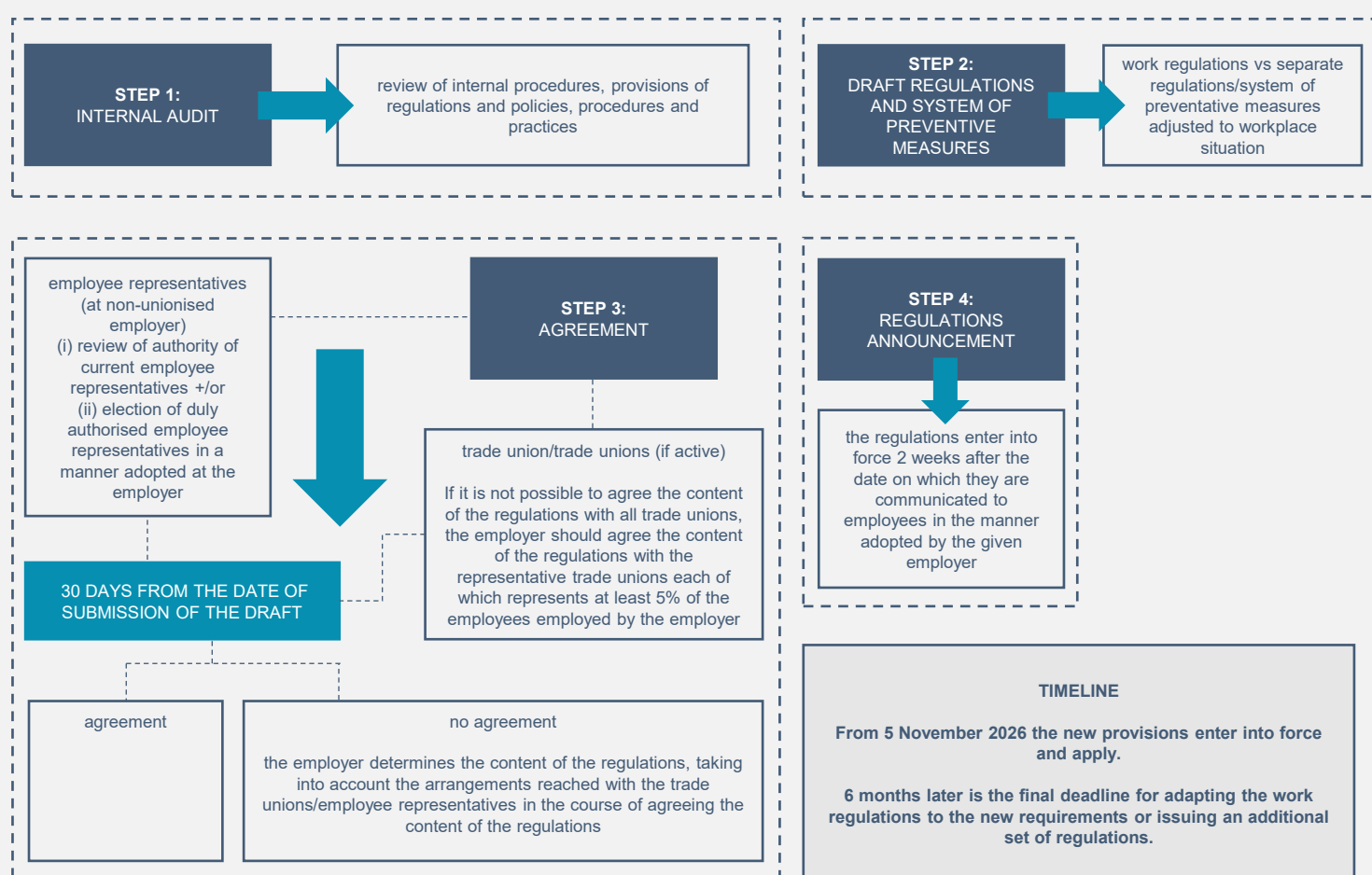


ARE THE NEW OBLIGATIONS OF UNIVERSAL APPLICATION?

Every employer is obliged to take systematic preventive measures against workplace bullying, discrimination and other unwanted behaviour as described above. However, only employers with at least 10 employees are required to introduce a formal workplace bullying prevention system and implement the corresponding internal regulations.

PROCEDURE FOR COUNTERACTING UNWANTED BEHAVIOUR: A DIAGRAM OF THE NECESSARY STEPS

New regulations: announcement 4 August 2026 / 3 month vacatio legis / entry into force 5 November 2026



The deadline for adapting the work regulations to the new requirements or for issuing such regulations is 6 months from the date the new provisions enter into force. Given the new possibilities for employees to submit claims, it is advisable to take action without delay.

IMPACT OF THE REGULATIONS ON EMPLOYERS IN VARIOUS SECTORS

FINANCIAL SERVICES



- an increased number of reports concerning unwanted behaviour (including bullying/harassment and discrimination in the workplace), in particular in the context of termination of employment contracts and workforce restructuring processes
- risk of discrimination claims after the entry into force of the pay transparency provisions (given the complexity of remuneration structures in the financial sector)
- increased risk of employee claims relating to insufficient preventive measures and improper conduct of internal investigations
- high value of potential claims brought by employees

RETAIL & CONSUMER / INDUSTRIALS & MANUFACTURING



- an increased need to adapt procedures to a working environment characterised by high staff turnover, multi-shift work and frequent pressure to deliver results, where the risk of conflicts is heightened
- the need to extend preventive measures to a broad group of employees (including front-line staff and temporary agency workers) as well as lower-level management
- higher standards for training and internal communication, so that policies on preventing workplace bullying and discrimination are understood at all levels of the organisation

ENERGY & UTILITIES / REAL ESTATE



- the need to adapt procedures to dispersed work environments (work in the field, on construction sites, in facilities) and to relationships between multiple entities (subcontractors, tenants, service providers)
- an increased need to document preventive and reactive measures
- the requirement to extend training and compliance programmes not only to office staff, but also to technical and operational personnel, who often do not have regular contact with the HR department

HEALTHCARE & LIFE SCIENCES



- hierarchical nature of the environment and high organisational pressure: risk of an increased number of reports
- increased reputational and legal risk in the event of improper handling of reports
- need to adapt procedures to dispersed work environments



WHAT SHOULD EMPLOYERS DO?

- verify which internal regulations, policies and procedures concerning the prevention of unwanted behaviour (in particular violations of dignity, discrimination and mobbing/harassment) are currently in force in the organisation and assess their effectiveness in practice
- analyse the extent to which the current wording of the work regulations (and, where applicable, collective labour agreements, internal regulations and codes of ethics) complies with the new statutory requirements, including the requirement for systematic, genuine and effective prevention of unwanted behaviour
- design and implement a comprehensive system of measures (organisational, training, communication and monitoring) tailored to the specifics of the given workplace, aimed at preventing, detecting and properly responding to various types of unwanted behaviour – on the assumption that formal procedures alone, including those implemented at group/corporate level, will not be sufficient
- apply AI solutions cautiously and subject them to ongoing review and oversight (prior legal analysis may be necessary), e.g. in relation to employee training on the new regulations and on prevention of unwanted behaviour
- designate individuals responsible for preparing and implementing the new regulations (e.g. representatives of HR, compliance and management) and define roles and responsibilities in relation to day-to-day prevention, monitoring of reports and conducting investigations
- define the scope and programme of employee training, covering in particular:
 - behaviours that constitute mobbing/harassment and discrimination in the workplace
 - unwanted behaviour which does not meet the criteria for mobbing but still requires a response from the employer
 - the rationale for reporting breaches and the available communication channels
- develop an implementation schedule for the new regulations and related activities, identify potential communication and organisational challenges, and prepare an internal communication strategy to ensure that employees understand and accept the new rules
- review decision-making processes and procedures at all levels, particularly in the area of promotions and remuneration, to ensure their objectivity and lack of arbitrariness, thereby guaranteeing equal treatment
- ensure regular reviews and evaluations of the effectiveness of the adopted regulations and procedures, enabling necessary adjustments in response to practical experience and reported issues.

The new provisions will enter into force on 5 November 2026. As noted above, employers will have a maximum of six months from the effective date of the amendment to align their internal policies and procedures with its requirements. However, it is not advisable to postpone these measures until the last moment, given the new definition of mobbing, the scope of the obligations imposed and the increased risk of employees bringing claims.

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