

New Obligations Regarding the Prevention of Mobbing and Discrimination

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The Journal of Laws has published provisions introducing a new definition of mobbing, a catalogue of exemplary mobbing behaviours, and increased compensation for non-pecuniary damage. The amendments will enter into force on 5 November 2026, and employers with at least 10 employees will be required to establish rules, procedures and the frequency of anti-mobbing measures no later than six months from that date.

Legal Basis and Timeline for Entry into Force

The Act of 19 June 2026 amending the Labour Code and the Code of Civil Procedure was published in the Journal of Laws on 4 August 2026 (item 1046). It will enter into force three months after the date of its publication, i.e. on 5 November 2026. The amendments revise the provisions of the Labour Code governing equal treatment in employment (Articles 18³a-18³g), employers' obligations (Article 94), mobbing (Article 94³ and new Article 94³a), and the contents of workplace regulations (Article 104¹). They also introduce amendments to the Code of Civil Procedure concerning the composition of the court, subject-matter jurisdiction and the legal basis of claims. Employers have been granted an additional six months from the date the Act enters into force to amend their workplace regulations or adopt separate anti-mobbing regulations.

Simplified Definition of Mobbing

The amendments replace the definition of mobbing that has been in force for more than 20 years with a simpler legal concept. Under Article 94³ § 2 of the Labour Code, mobbing means conduct consisting of persistent harassment of an employee, while persistence is understood as harassment that is repeated, recurring or continuous (§ 3). The new definition abandons the previous requirements of prolonged duration and the consequences consisting of diminished professional self-assessment or a health disorder. Isolated incidents do not constitute mobbing, even if they infringe the employee's personal rights. Mobbing may consist of physical, verbal or non-verbal conduct (§ 5), and conduct included in the statutory catalogue may also be recognised as mobbing even if its purpose was not the persistent harassment of the employee (§ 7). Such conduct may originate, in particular, from the employer, a supervisor, a person holding an equivalent position, a subordinate, another

employee, or persons performing work on a basis other than an employment relationship, whether committed by a single individual or a group of individuals. The Act also stipulates that the assessment of whether mobbing has occurred must be individualised and take into account the circumstances of the particular case, both with regard to the nature of the conduct towards the employee and the employee's individual situation.

Catalogue of Exemplary Mobbing Behaviours

The Labour Code introduces a non-exhaustive catalogue of manifestations of mobbing, whether occurring individually or in combination. These include humiliating, degrading or intimidating an employee, undermining the employee's assessment of their professional suitability, unjustified criticism, belittling or ridiculing the employee, hindering the employee's functioning in the workplace with regard to achieving work results, performing professional duties, making use of their competences, communicating with colleagues or accessing necessary information, as well as isolating the employee or excluding them from the team. At the same time, the legislator specifies that such conduct constitutes mobbing only where it takes the form of



Compensation for Non-Pecuniary Damage for Mobbing and Discrimination

persistent harassment. Mobbing also includes instructing others to engage in such conduct towards an employee or encouraging such conduct. The Act expressly provides, however, that justified conduct towards an employee, expressed in an appropriate manner, cannot be regarded as mobbing, in particular holding the employee accountable for the work entrusted to them or criticising that work.

New Categories of Discrimination

The amendments supplement Article 18³a of the Labour Code by introducing § 4¹, which establishes two new categories of discrimination. Discrimination by assumption consists in treating an employee less favourably on the basis of a characteristic wrongly attributed to them, whereas discrimination by association consists in treating an employee less favourably because of their association with a person who possesses a particular protected characteristic. The amended § 5 recognises as discrimination any act consisting in encouraging another person to breach the principle of equal treatment in employment or instructing them to do so, as well as harassment understood as any unwanted conduct whose purpose or effect is to violate the employee's dignity and create an intimidating, hostile, degrading, humiliating or offensive environment. At the same time, the revised § 2 clarifies that differential treatment is permissible and does not constitute discrimination where it is objectively justified.

An employee who has been subjected to mobbing is entitled to claim compensation for non-pecuniary damage from the employer in an amount of no less than six times the statutory minimum wage, or to seek damages from the employer. Based on the statutory minimum wage applicable in 2026 (PLN 4,806), the minimum amount of compensation for non-pecuniary damage is PLN 28,836. The Act does not, however, provide for an upper limit, and linking the minimum amount to the statutory minimum wage means that the threshold will automatically increase whenever the minimum wage is raised. In cases involving a breach of the principle of equal treatment, the Labour Code provides for compensation for non-pecuniary damage of no less than the statutory minimum wage or damages. Where the breach is repeated, however, the court is required to assess the extent of the non-pecuniary harm suffered and award an appropriately higher amount, which may not be less than three times the statutory minimum wage. A repeated breach means repeated infringements based on the same ground, infringements based on multiple grounds, or a single infringement based simultaneously on multiple grounds. These claims remain subject to the general three-year limitation period applicable to claims arising out of an employment relationship. The amendments introduce no separate rules in this respect.

Protection Against Retaliation

The amended Labour Code extends the protection afforded to employees exercising their rights arising from breaches of labour law, including breaches of the principle of equal treatment in employment. The exercise of such rights may not constitute grounds for any adverse treatment of an employee or give rise to any negative consequences and, in particular, may not constitute a valid reason for terminating the employment relationship, whether by notice or without notice. An employee who has been subjected to retaliation is entitled to claim compensation for non-pecuniary damage of no less than the statutory minimum wage or damages. This protection also extends, as appropriate, to an employee who has provided support, in any form, to a person



exercising such rights. These provisions do not apply, however, to an employee who knew that no breach of labour law had occurred.

Employers' Preventive Obligations

Under the new provisions, employers are required to prevent mobbing on a systematic basis, in particular through preventive measures, the detection of mobbing, appropriate responses to mobbing, as well as remedial measures and support for persons affected by mobbing. A corresponding obligation in relation to breaches of the principle of equal treatment in employment is introduced by new Article 18³g. The catalogue of employers' obligations has been expanded to include the prevention of all forms of unequal treatment, discrimination and mobbing in employment (point 2b), as well as the prevention of violations of employees' dignity and other personal rights, particularly in relation to health, private life and reputation, appropriate workplace communication, an employee's position within the team, work performance and its assessment, as well as the employee's professional status and qualifications. This obligation is of a continuous nature and must be fulfilled through genuine measures appropriate to the circumstances. Documenting such measures will be important in demonstrating that the employer has properly discharged these obligations.

Obligation to Have Internal Regulations in Place

New Article 94³a § 1 of the Labour Code requires employers employing at least 10 employees to establish rules, procedures and the frequency of measures relating to the prevention of violations of employees' dignity and other personal rights, the prevention of breaches of the principle of equal treatment in employment, the prevention of discrimination, and the prevention of mobbing. This obligation is to be fulfilled through separate internal regulations unless these matters are already governed by a collective labour agreement or workplace regulations. At the same time, Article 104¹ § 1 point 10 extends the mandatory contents of workplace regulations to cover the same matters where the employer has not adopted separate internal regulations. The employer is required to agree the contents of the regulations with the establishment trade union organisation or, where more than one such organisation operates, with all of them. If agreement with all trade union organisations cannot be reached, the employer must consult the representative trade union organisations representing at least 5% of the workforce. If no agreement is reached within 30 days of submitting the draft regulations, the employer may determine their contents unilaterally, taking into account the arrangements made during the consultation process. Where no establishment trade union organisations operate within the undertaking, the regulations must be agreed with employee representatives elected in accordance with the procedure adopted by the employer. The deadline for implementing the regulations is six months from the date on which the Act enters into force, i.e. by 5 May 2027.

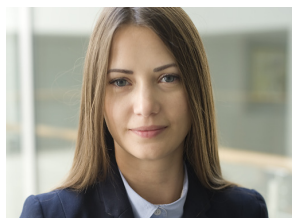
Employer's Right of Recourse Against the Perpetrator of Mobbing

New Article 94³ § 12 of the Labour Code grants an employer who has paid an employee compensation for non-pecuniary damage or damages on account of mobbing the right to seek reimbursement from the person whose conduct constituted mobbing. The amount recoverable corresponds to the degree of fault attributable to that person and to the employer in causing the damage. The provision does not establish joint and several liability of the employer and the direct perpetrator towards the employee, nor does it introduce a specific mechanism relieving the employer of liability where it has duly fulfilled its preventive obligations. Claims arising from mobbing are pursued by the employee against the employer under the Labour Code, whereas the financial settlement between the employer and the perpetrator takes place by way of recourse. In practice, thorough documentation of preventive measures, reports, internal investigations and remedial actions reduces the employer's evidential risk, both in proceedings brought by the employee and in pursuing a recourse claim.



Procedural Amendments, Transitional Provisions and Recommendations

The Code of Civil Procedure has been amended by introducing a provision under which labour law cases concerning infringements of personal rights and related claims are to be heard at first instance by a panel composed of one professional judge and two lay judges. The amended provisions confer jurisdiction over cases concerning the protection of personal rights, mobbing and breaches of the principle of equal treatment in employment on district courts, regardless of the value of the claim or whether the case concerns pecuniary or non-pecuniary rights. In proceedings concerning compensation for non-pecuniary damage or damages on these grounds, the court may not dismiss the claim where the established facts demonstrate that it is justified on a legal basis other than that relied upon by the employee. A separate mechanism, applicable exclusively to cases concerning breaches of the principle of equal treatment, is provided for in Article 18³f of the Labour Code. A person alleging such a breach is required to establish a prima facie case, while the employer bears the burden of proving that no breach occurred. The amended provisions of the Labour Code also apply to repeated breaches of the principle of equal treatment and persistent harassment of an employee that commenced before the Act entered into force and continued thereafter. Court proceedings instituted but not finally concluded before 5 November 2026 remain subject to the previous provisions of the Code of Civil Procedure. Employers should audit their internal regulations and procedures, plan the consultation process with employee representatives in view of the 30-day consultation period, and provide training for management staff on the new definition of mobbing, the concepts of discrimination by association and discrimination by assumption, and the scope of protection against retaliation.



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