

**November 2010**

## **In focus: Law on the prevention of harassment at the workplace**

The Law on the prevention of harassment at the workplace (*“Official Gazette of the Republic of Serbia”, no. 36/10*) has started to implement on September 4<sup>th</sup> 2010, on the basis of which the Minister on employment and social policy issued the Rulebook on the rules of conduct of the employers and employees concerning the prevention and protection from harassment at the workplace (*“Official Gazette of the Republic of Serbia”, no. 62/10*).

### ***Circle of persons to whom the Law shall be applied***

The Law on the prevention of harassment at the workplace (hereinafter referred to as: the “Law”) shall be applied to all the employees and persons engaged outside the employment relationship.

### ***The Employer’s obligation on informing and implementing measures***

The Law prescribes the employer’s obligation to provide the employees and the persons who are entering into an employment relationship with a written notification about the prohibition of harassment and about rights, obligations and responsibilities of the employer and the employee regarding the prohibition of harassment at the workplace, as well as the obligation to implement measures of

informing and enabling employees and their representatives to identify the causes, forms and consequences of harassment.

### ***Deadlines for notification:***

1. for employees who are already in an employment relationship – within a period of 30 days from the beginning of implementation of the Law, **respectively until October 4<sup>th</sup>, 2010.**
2. for new employees – before entering into employment.

### ***Contents of the notification to the employees:***

The provision of Article 5 of the Rulebook on the rules of conduct of the employers and employees concerning the prevention and protection from harassment at the workplace (hereinafter referred to as: the “Rulebook”) determines the mandatory content of the notification to the employees, which is:

- that it is forbidden by law, with determined sanctions, to perform harassment, sexual harassment, as well as to abuse the right to be protected from such behaviour;
- what is considered as harassment, sexual harassment, and the abuse of the right to be protected from such behaviour (definitions of terms);

- that the protection from harassment and sexual harassment is realized at the employer’s premises and by the employer (in the mediation process and the process of determining employee responsibility), and before the competent Court;
- that an employee who believes or suspects that he/she is subjected to harassment or sexual harassment, before turning to Court, should turn to the person or persons in charge at the employer’s for protection from such behaviour, and an employee who believes that he/she is subjected to harassment or sexual harassment by the employer him/herself, may turn directly to the Courts for protection from such behaviour;
- that the employer will make available the information about the persons authorized to initiate the procedure for the protection from harassment, the person to whom the claim for protection from harassment is to be submitted, and about other persons who may be included in the procedure for protection from harassment, and in which way;
- that the following is not considered harassment, in which case the procedure for protection from harassment may not be initiated: the case of violation of rights prescribed by other laws which ensure the protection of those rights (against a special act enacted by the employer which decides on the rights, obligations and responsibilities of the employees; in case of deprivation or denial of rights such as the right to salary, to daily, weekly and yearly rest-holiday etc; in case of discriminatory behaviour by any

grounds of discrimination, which is forbidden and for which sanctions are determined by special law etc.); that the following is also not considered harassment: work discipline which serves the function and purpose of better organization of work; justified activities undertaken for the realization of security and health – well-being at the workplace, as well as occasional differences of opinion, problems and conflicts related to the performance of jobs and work tasks, unless if they are intended to hurt or deliberately insult the employee, as well as other behaviour which cannot be considered harassment in accordance with the Law on prevention of harassment at the workplace;

- that the rights, obligations and responsibilities of the employee and the employer concerning the prevention and protection from harassment prescribed by Law and this Rulebook, which are published in the “Official Gazette of the Republic of Serbia”.

(we note that the notification to the employees may contain other data and information which the employer considers to be relevant and connected to the subject of the notification)

***Other remarks***

- In accordance with Article 4, Paragraph 3 of the Rulebook, the written notification to the employees is to be made in **at least 2 (two) copies**, of which one copy is to be kept by the employer, and the other by the employee.
- **If the employee refuses to receive or sign the notification**, he/she will be

deemed to be aware of it (it will be deemed that the notification has been made known to him/her) if the notification has been delivered to him/her according to the rules prescribed for delivery in person.

***Prescribed fines***

Violation of the obligations prescribed in Article 7 paragraph 1 and Article 37 of the Law (non - informing the employees about the prohibition of harassment) shall be considered as an offence for which the following monetary fines are prescribed:

1. For legal entities – in the amount of 100.000 to 400.000 RSD;
2. For the responsible person in the legal entity – in the amount of 5.000 to 30.000 RSD;
3. For entrepreneurs – in the amount of 10.000 to 40.000 RSD.

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