

Italy ratifies International Labour Organisation Violence and Harassment Convention

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Pursuant to a new law (4/2021, published in the *Official Gazette* on 26 January 2021), Italy ratified the International Labour Organisation (ILO) Violence and Harassment Convention (Number 190, adopted in Geneva on 21 June 2019).

In 2015 the preliminary consultations on the convention began and resulted in the first international instrument on the subject.

While the ratification process is underway in several member states, currently only Uruguay, Fiji and Namibia are recorded as having registered their ratification.

The convention will enter into force on 25 June 2021 (12 months after the date on which the ratifications of two members have been registered) and in Italy it will enter into force 12 months after the date on which its ratification is registered.

Impact of ILO convention on Italian law

Italian legislation already provides for significant protection against violence and harassment in the world of work – particularly in the Equal Opportunities Code (Legislative Decree 198/2006, amended in 2018), which sets out specific protection against sexual harassment – and nullity is foreseen for any measure taken by employers (eg, demotion, transfer or dismissal) in retaliation against victims who reacted to harassment.

However, the convention's ratification leads to important new aspects which are worth highlighting and bearing in mind.

The convention highlights that multiple levels of protection are required because violence and harassment in the world of work:

- can constitute a human rights violation or abuse;
- are a threat to equal opportunities; and
- are unacceptable and incompatible with decent working conditions.

Violence and harassment are broadly defined by the convention as:

a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm and includes gender-based violence and harassment.

This definition includes both physical and verbal abuse, and stalking and mobbing in the world of work.

In particular, while the Italian courts require that the conduct must have been repeated over a period to be classified as mobbing in the world of work, and therefore for the victim to be entitled to compensatory damages, the convention's ratification allows the law to protect claimants even after a single occurrence.

The convention's scope of application is broader than that currently provided under Italian employment law, both subjectively and objectively.

The convention establishes the protection of each individual in the world of work, irrespective of their

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contractual status. This includes:

- volunteers;
- persons in training;
- interns and apprentices;
- job seekers and job applicants; and
- workers whose employment has been terminated.

The convention also protects individuals exercising the authority, duties or responsibilities of an employer, and it applies to all sectors, in both the informal and formal economy.

A further novel aspect with respect to Italian employment law is the acknowledgement that violence and harassment may occur in places other than the physical workplace, including:

- work-related communication, including that enabled by information and communication technologies;
- work-related trips, travel, training, events or social activities;
- employer-provided accommodation;
- places where the worker is paid; and
- when commuting to and from work.

Italy must now legislate to define and prevent violence and harassment in the world of work in accordance with the convention. In doing so, attention must be focused on regulations addressing associated psychological and social risks in the management of occupational health and safety issues.

Important new aspects for the Italian legislature also concern the need to provide for investigation procedures to be carried out at the workplace level.

Adequate compensation systems must be introduced. Compensation for sexual harm caused in the world of work will be innovative under Italian law and labour judges will have to take these provisions into account in the future.

Training will be essential – as expressly indicated by the convention – for all those involved (ie, employers, but also workers and their trade union organisations and judges).

Comment

Italy's ratification of the ILO convention will have a significant impact on employment law. Employers will have concrete new obligations with respect to a broader range of behaviours, involving a larger number of people and situations. This will affect the regulations that employers must implement internally and their responsibility for health and safety in the workplace (and work-related situations). Effective remedies will have to be established, including appropriate compensation for new types of damage with respect to Italian employment law.

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