

Review of International Laws Related to Workplace Bullying

Compiled by The Workplace Bullying Institute

France's Law for "Social Modernisation" January, 2002

Law derived from April, 2001 report of Economic and Social Council, a consultative public body, that conducted public hearings on bullying (mobbing).

Definition: Mobbing (bullying) is “the perverse implementation of power ...a means of subjugation and persecution of the other, questioning his fundamental rights as the respect which is due him or her”

“Consequences ... can be detrimental to the good functioning of the company: disorganisation of production, both quantitative and qualitative, and financial effects.”

France has a duality of jurisdictions: one for civil servants (1 of 4 working French) with peer civil servant Administrative ‘Judges’ (not trained as judges) and one system of Judiciary Judges for all others (who trained by the National School of Magistracy). The new Law treats public sector employees differently. France was found to have breached the European Convention of Human Rights primarily because of the inequities across the systems.

Protections for Private workers in France

- May request external mediation with one month time limit for both parties to appear.
- Retaliation is prohibited against testifying, recording or relating bullying behavior, direct or indirect, whether it concerns remuneration, training, redeployment, or appointment. [France has no other whistleblower protection laws.]
- Evidence of harassment is first provided by victim.
- Onus of proof is on the accused harasser to show: (a) that there was no bullying, or (b) that the "decision" was objectively justified.
- Perpetrator has the opportunity to show her or his good faith because "false accusations of harassment can themselves constitute an effective form of harassment."
- Unions may go to court on behalf of employee providing support, financial and other.
- Employers are responsible for bullying and they are to "take all necessary steps in view to prevent mobbing behaviour."
- Executives ... can possibly be perpetrators, or their accomplices, or be victims themselves. It is thus essential that they should be fully informed (by) training of this staff in the field of harassment and general human resource management.

Civil Servants in France

- Remuneratory retaliation permitted when annual bonuses (up to 50% of income) can be arbitrarily reduced when the accuser's superior claims "la maniere de servir" "the way one is" and used by Administrative Judges in cases heard despite not being defined in the law
- No mediation option
- Unions are prohibited from court involvement on behalf of the worker
- No time limit for procedures
- No manager or minister is held responsible
- Case matters are not to be discussed or risk breach of "devoir de reserve" -- thus bullied workers effectively risk termination for participating in the process, if superior chooses to invoke this principle whose interpretation is left up to the AJ's on a case-by-case basis.