

What is the extent of the employer's duty to protect employees from sexual harassment?

Recently, the Eastern High Court ruled that a company's duty to ensure a harassment-free working environment also includes harassment by citizens, such as customers who are not employees of the company.

Case

A disability worker employed by a user and assistant agency was required to perform work for a citizen in the citizen's place of residence.

The citizen exposed the employee to sexual harassment in the form of inappropriate touches, coarse language, and requests for sexual services.

The employee continuously spoke to the manager about the incidents and repeatedly tried to get the harassment to stop – unsuccessfully. After some time, the employer terminated the employment, referring to the lack of chemistry between the employee and the citizen.

The employer must ensure a harassment-free working environment

The high court considered that the employee had been subjected to sexual harassment. Subsequently, the court concluded that the employer was required to ensure a harassment-free working environment – even when the harassment was carried out by someone who was not employed by the company. In this context, the harassment needed to occur as the employee was performing work.

However, because the employee and the company had entered into a dialogue about the incidents, the high court found that the company had not neglected its obligation to ensure a harassment-free working environment.

The company had, however, terminated the employee without offering the employee to work with another citizen. Under these circumstances, facts had been submitted which gave rise to the presumption that the termination of the employment of the disability worker violated the Act on Equal Treatment of Men and Women as the disability worker had complained about the harassment to which the citizen had subjected the worker.

The disability worker was then awarded a compensation corresponding to six months' salary.

The judgment shows

The judgment shows that the employer's duty to ensure employees a harassment-free working environment can be extended to include harassment by persons other than colleagues, including customers and partners. Harassment which obliges the employer to act may also take place outside the physical location of the workplace, and it has a noticeable economic impact on the employer if the employer fails to respect these obligations.