

# **DRAFT ACT ON HEALTHY LEADERSHIP AND PREVENTION OF WORKPLACE HARASSMENT**

## **Preamble**

Team commitment depends on the people who exercise supervisory functions. In addition, the European Agency for Safety and Health at Work identifies stress, work overload and psychological harassment (mobbing) as emerging factors of occupational disease. This Act seeks to professionalise leadership, guarantee mental health and eradicate harassment, providing companies with a homogeneous framework of rights and obligations.

## **Title I. Object, Scope of Application and Definitions**

### **Article 1. Object.**

To regulate training, certification, psychological evaluation and accountability of personnel who exercise managerial or supervisory functions, as well as the mechanisms to prevent and address stress, work overload and psychological harassment.

### **Article 2. Scope of application.**

Applicable to all companies and entities, public or private, operating in Spanish territory and employing at least one person.

### **Article 3. Definitions.**

- **Person exercising supervisory functions:** anyone who directs, coordinates or supervises the work of others.
- **Positive leadership:** a management style based on empathy, emotional intelligence, people development and the creation of psychologically safe environments.
- **Harmful work-related stress:** a detrimental physical and emotional response when job demands exceed the worker's resources.
- **Psychological harassment (mobbing):** a sustained pattern of hostility that undermines the victim's dignity or psychological integrity.
- **Workplace well-being:** a positive balance between job demands and personal resources, with a sense of purpose, safety and health.

## **Title II. Obligations of Companies**

### **Chapter I. Healthy Leadership Training Plan (PFLS)**

#### **Article 4. Minimum content of the PFLS**

- Effective communication and constructive feedback.
- Managing diverse and inclusive teams.

- Tools of positive leadership (coaching, emotional intelligence, servant leadership and team empowerment).
- Identification and prevention of psychosocial risks, stress, burnout and work overload.
- Prevention and response to psychological and sexual harassment.
- Conflict resolution and ethical decision-making.

### **Article 5. Procedure and minimum hours**

Initial training shall be provided before assuming supervisory functions. Each person with supervisory duties shall certify at least 16 hours per year of refresher training.

### **Article 6. Mandatory external certification**

A biennial competency assessment by an entity accredited by the labour authority or registered in the National Register of Vocational Training Centres, or approved by the National Institute for Safety and Health at Work. Evidence shall include theoretical (exam), practical (case) and behavioural (360-degree feedback) components. The cost shall be borne entirely by the company.

## **Chapter II. Psychological fitness evaluation for leadership**

### **Article 7. Pre-leadership psychological examination**

Before performing a leadership role, the candidate shall pass an external psychological evaluation measuring positive leadership competencies, stress tolerance, empathy and the absence of abusive behavioural traits. The evaluation shall be repeated every four years while supervisory functions are held. The report shall state only “fit / not fit / fit with development plan” to preserve clinical confidentiality. The company shall provide a development or reassignment plan for those deemed “not fit” until they pass a new evaluation. The evaluation shall follow the principles of necessity, proportionality and data minimisation (GDPR and Organic Law 3/2018). Processing shall be carried out exclusively by licensed healthcare professionals; the company shall only know the final fitness result. It shall be mandatory for designation, with no automatic effects unless an adverse clinical report indicates a serious psychosocial risk.

### **Article 8. Safeguards and data protection**

The test shall be voluntary for the candidate, yet an indispensable requirement for designation. Clinical data shall remain with the healthcare professional and shall not be accessible to the company.

## **Chapter III. Assessment of organisational well-being**

### **Article 9. Mandatory indicators**

Companies shall measure, at least semi-annually:

(a) Perceived stress index; (b) Engagement level; (c) Voluntary turnover and absenteeism rate; (d) Incidence of complaints or reports of harassment; (e) Workforce and leadership distribution by sex and parental status, and the representation ratio.

#### **Article 10. Psychosocial audit**

Companies with  $\geq 50$  people: external audit every two years. Companies with  $< 50$  people: annual self-assessment using an approved tool.

### **Chapter IV. Climate surveys and exit surveys**

#### **Article 11. Annual Climate Survey (EAC)**

1. First quarter, covering at least: (a) assessment of the direct supervisor; (b) general work environment; (c) work overload and overtime; (d) situation of recent mothers/fathers.
2. Anonymous, voluntary and accessible outside the corporate network via an encrypted platform; the entire workforce shall be invited to participate.
3. Administered or sent by an external entity accredited in information security; platforms with ISO/IEC 27001 or equivalent; guarantees of anonymity, voluntariness and non-retaliation.
4. The external entity shall send the closing report with aggregated results to the company and directly to the inspectorate body.
5. Upon request of the inspectorate body, it shall provide pseudonymised microdata, technical logs of transmissions/receipts and the list of tokens, with no identifying data.
6. The company shall not access microdata or information enabling re-identification.

#### **Article 12. Specific Follow-up Survey (EES)**

Second quarter; focused on critical variables detected in the EAC; short ( $\leq 10$  questions) with the same safeguards.

#### **Article 13. Exit survey**

Any person who voluntarily leaves shall be offered an anonymous survey on: (a) main reason for resignation; (b) recommendation of the company to others (eNPS); (c) observations on workload and work-life balance.

#### **Article 14. Anonymity and protection safeguards**

Collection of respondent-identifying metadata is prohibited. Use of personal devices shall be allowed. Any coercion, manipulation or retaliation shall constitute a very serious offence.

## **Chapter V. Prevention and action against psychological harassment**

### **Article 15. Mandatory internal protocol**

Confidential channels; time limits (15 days for admission; 60 days for resolution); protective measures. Investigation by external staff or a certified joint committee.

### **Article 16. Support measures**

Psychological counselling, mediation and, where appropriate, reassignment or temporary telework for the victim.

## **Title III. Rights of Workers**

**Article 17.** Right to a psychologically safe environment.

**Article 18.** Right to preventive training.

**Article 19.** Right to report and to participate anonymously in surveys without retaliation.

## **Title IV. Compliance assurance: certification, inspection and reporting**

### **Chapter I. Certification, audit and reporting systems**

#### **Article 20. Certifying entities, public registers and limits to their remit**

1. Technical and independence requirements set by regulation and entry in the relevant public register.
2. Regulatory periodicity, scope and minimum methodology; coverage of psychosocial risks and preventive measures.
3. Private certifying entities shall not replace inspection functions or the sanctioning power of the independent State body.

#### **Article 21. Annual leadership and well-being report**

1. The company shall draw up an annual report with aggregated and anonymous results of the surveys in Article 11 and the indicators in Article 9, to be published by 31 March each year or, where the annual survey cycle closes after December, within 90 days from such closure (whichever is later). The report shall be made available to worker representatives and to the inspectorate body and must match the closing report issued by the external entity. Any postponement of the conduct or delivery of the surveys in Article 11, or of the annual cycle closure affecting the reporting

deadlines, shall require the inspectorate's express, reasoned authorisation upon the company's request and with hearing of worker representatives.

2. **Case follow-up.** Aggregated annual indicators: complaints received; protocols initiated; resolutions with/without harassment; sanctions and measures; complainants on medical leave after resolution (and at 6 months); status at 6 months (remains, reassignment, medical leave, termination/cessation); complainants who leave the organisation or remain on leave at 6 months; recidivism (successive complaints regarding the same alleged harasser/unit); average times (opening-closure; interim measures; execution).
3. **Quality and traceability.** Indicators computed from closing records and logs of the external entities; mandatory consistency and historical series  $\geq 5$  years.
4. **Data protection.** Anonymous, non-reidentifiable information; publication thresholds and cell suppression when  $n < 10$  per category.

## **Chapter II. Independent inspection and sanctioning power**

### **Article 22. Competent body**

1. An independent State body on psychosocial safety and health at work, attached to the Ministry of Labour and Social Economy, with functions of inspection, case instruction and sanction proposals, without prejudice to the Labour and Social Security Inspectorate.
2. Full functional autonomy; ban on specific instructions or interference outside legally established channels.

### **Article 23. Independence and prohibitions**

No hiring or direct financing by the inspected entity; funding through the public budget or regulated fees paid to the public treasury. Strengthened conflict-of-interest regime and mandatory recusal.

### **Article 24. Public sector**

Competence to instruct and propose sanctions against responsible office-holders in public administrations, without prejudice to applicable disciplinary and patrimonial-liability regimes.

### **Article 25. Actions**

1. Inspections ex officio, upon complaint or by random sampling; re-inspections to verify remediation.

2. Request for the closing report, pseudonymised microdata and technical logs; statistical checks and random counter-samples.
3. Verification re-survey by the external entity, limited to persons who consented to anonymous re-contact.

### **Article 26. Protection of whistle-blowers**

Confidential channels and an absolute ban on retaliation; urgent protective measures where a serious psychosocial risk exists.

### **Article 27. Publicity and transparency**

1. Annual publication (corporate website/transparency portal) of aggregated reports on compliance, offences and sanctions, preserving confidentiality.
2.  $\geq 50$  workers: publication by 31 March in open format.  $< 50$ : submission to the inspectorate, which will publish aggregated by sector/territory.
3. Annual consolidated report by the inspectorate, with historical series and methodology.

## **Title V. Incentives and sanctioning regime**

### **Article 28. Incentives**

Tax incentives and bonuses for companies with  $\geq 90\%$  of supervisors certified and with no sanctions.

### **Article 29. Offences and sanctions**

1. **General classification.** Minor, serious and very serious according to risk, recurrence and impact on psychosocial health and on inspection, in both private and public sectors.
2. **Serious (core, non-exhaustive).** Unjustified delay in information; failure to comply with corrective plans where no serious and imminent risk exists; breach of survey anonymity (e.g., requesting identifiers or using forms without safeguards); undue influence on survey responses; failure to publish/submit indicators without wilful concealment.
3. **Very serious (core, non-exhaustive).** Qualified obstruction; wilful breach of anonymity or re-identification; manipulating results or suppressing evidence; concealment/manipulation of Article 21.2 indicators; issuing orders to alter/impede inspection or retaliation; report not matching the external closing report.

4. **Sanctions.** Against entities and, where applicable, responsible individuals; in the public sector, disqualification from supervisory functions, without prejudice to sanctions on the entity.
5. **Proceedings and decision.** By the body in Article 22, with hearing, adversarial process and a reasoned decision.
6. **Regulatory development.** Typified behaviours, gradation, proportionality, mitigating/aggravating circumstances; minimum technical requirements for anonymisation and prevention of re-identification; formats and deadlines.
7. **Fines.** Serious: €6,000–€70,000; Very serious: €70,000–€500,000 and disqualification up to five years; graded by persons affected, recurrence, severity and company size.

## **Title VI. Governance and evaluation of the Act**

### **Article 30. Competent authority: Ministry of Labour and Social Economy**

The independent State body attached to the Ministry shall exercise inspection, case instruction and sanction-proposal functions, coordinated with the Labour and Social Security Inspectorate and the competent authorities of the Autonomous Communities. Its independence statute, public financing or fees not linked to the inspected party, and incompatibility regime shall be set by regulation.

### **Article 31. Advisory Committee on Mental Health at Work (tripartite and academic representation).**

### **Article 32. Five-year review: impact report and proposal for improvements.**

#### **Transitional provisions**

- 12 months: PFLS, anti-harassment protocol, survey platform and psychological examination system.
- 24 months: first certification, first EAC and first annual report.
- 36 months: first annual report.
- Companies with < 20 people: additional 12 months.

#### **Final provisions**

- Regulatory development within 9 months.
- Entry into force 6 months after publication in the Official State Gazette.