Work place Harassment Laws Italy

The relevant law is set out in the Italian "Code of Equal Opportunities" (Legislative Decree No 198 of 11 April 2006, Article 26 paragraph 2). This defines sexual harassment as a form of discrimination and, in particular, as unwanted conduct of a sexual nature expressed in any way which violates, or is intended to violate, the dignity of an employee or which creates an intimidating, hostile, degrading, humiliating or offensive working environment.

In this perspective, the Code states that companies, trade unions, employers and workers are committed to ensuring the maintenance in the workplace of a working environment where the dignity of each person is respected and interpersonal relationships are encouraged, based on principles of equality and mutual fairness.

Are employers in this jurisdiction required to take pro-active action to prevent sexual harassment in the workplace?

Even if the employer is not itself the perpetrator of the harassment, it could still be liable on account of the general obligation to ensure the health and safety of all employees (Article 2087 of the Italian Civil Code). As a result, employers have a duty to prevent and take action against the perpetrator of workplace sexual harassment. They should adopt all necessary measures to guarantee a safe working environment, in which everyone's dignity is respected, and interpersonal relationships are promoted (based on principles of equality provided for by the Italian Constitution).

In this context, the way in which the employer approaches employees who report sexual harassment becomes crucial. To prevent potential liability for sexual harassment, employers should draft clear policies clarifying what amounts to sexual harassment and prohibiting any unlawful conduct (which may include retaliation against employees for bringing complaints of harassment).The policy can expressly provide for possible remedies to be taken against the harasser, including disciplinary action up to and including dismissal.

Article 50-bis (Prevention of discrimination) of the Code of Equal Opportunities allows collective agreements to provide for specific measures, including codes of conduct, guidelines and good practices, to prevent all forms of sexual discrimination and, in particular, harassment and sexual harassment in the workplace, in working conditions, as well as in training and professional growth.

Has the #MeToo movement had a noticeable impact on the number of harassment claims against your employer clients?

No noticeable impact.

What legal remedies are in place to resolve or compensate for workplace sexual harassment in this jurisdiction?

In cases of sexual harassment perpetrated by the employer, the employee has the right to terminate the relationship immediately without notice (resignation for just cause).

In addition the employee can bring a civil claim against the harasser and also against the employer to obtain compensation for damages suffered if the employee can prove that the employer was aware of the harassment and no action has been implemented to stop it.

An employer receiving a complaint of sexual harassment by an employee should carry out a prompt and accurate investigation. If the allegation is established, the employer should take appropriate disciplinary action against the harasser, including dismissal depending on the seriousness of the case.

Furthermore, the employee who takes legal action for sexual harassment discrimination cannot be penalized, demoted, dismissed, transferred or subjected to any other organizational measure having direct or indirect negative effects on working conditions. The retaliatory or discriminatory dismissal of the complainant is null and void.

With regard specifically to the judgment and the quantification of the damage suffered by the victim of sexual harassment, the judges have to assess both the consequences suffered in the "moral sphere", both the impact on the dynamic-relational level of the victims' life.

In this view, the Court will have to increase the extent of compensation in case of harmful consequences that can be considered abnormal, exceptional and/or totally peculiar. Then, the judge will have to make an independent evaluation about the internal suffering of the employee due to the violation of the right to health. Therefore, both biological damage and subjective moral damage will have to be compensated, as autonomous items (so called non-pecuniary damage).