

DEFINITION: WHAT IS...



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... BULLYING?

- > Conflict-laden communication in the workplace (often due to unequal power structures)
- > Targeted, regular action(s) over a longer period of time (persistent, harassing actions such as gestures, words, behavior or failure to talk)
- > with the aim of systematically weakening, excluding and/or isolating the other party
- > characterized by, among other things, an increasing dysbalance of power to the disadvantage of the inferior/assaulted person, violation of human dignity

NOT TO BE REGARDED AS BULLYING:

- > individual hostilities and competitive behavior between groups
- > unfair, even antisocial treatment that is harsh but only has a short-term effect (e.g. promotion of others, work-related criticism, etc.)

... HARASSMENT/DISCRIMINATION?

- > Undesirable behavior that violates dignity, is unwanted, inappropriate or offensive and/or creates an intimidating, hostile, degrading, offensive or humiliating environment
- > Characteristic / motive / reason: due to gender, ethnicity, religion/belief, age, sexual orientation and / or disability
- > **Sexual harassment** is a form of harassment that corresponds to behavior in the employment relationship that belongs to the sexual sphere and is perceived as unwanted or offensive and affects dignity

WHAT ARE THE CONSEQUENCES OF BULLYING / (SEXUAL) HARASSMENT FOR THE ORGANIZATION?

REDUCED WORK PERFORMANCE

NEGATIVE IMPACT ON THE WORKING ATMOSPHERE

ECONOMIC LOSS

- > Less productive work (decrease in concentration and motivation)
- > Damage due to lack of information transfer or deliberate misplacement of staff
- > Bad working atmosphere characterized by fear and intimidation
- > Even uninvolved people are afraid of becoming victims one day
- > ... due to sick leave, visits to the doctor, hospital or health resort stays
- > Costs due to long-term unemployment, retraining measures, leaving the company or early retirement

PREVENTIVE MEASURES FOR MANAGERS

RECOMMENDATIONS

→ **Observe duty of care** (for more details, see "Legal matters and duty of care")

→ **Creating awareness of one's own management style**

(promoting clarity and transparency) for the purpose of inspiring motivation, intellectual stimulation and individual and appreciative consideration: Further information on this in the Code of Conduct



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→ **Create an inclusive team environment** where shared success and well-being are a priority.

→ **Taking time for staff** through regular perspective talks.

→ **Definition of areas of responsibility and roles for staff**, avoiding stereotypical gender roles and observing non-discriminatory attributions

→ **Active promotion of career development**

→ **Empower your team** by integrating the expertise of your staff – promote strengths and address weaknesses (instead of micromanaging > build trust: perhaps start by delegating important topics)

→ **Defining conflict rules:** the WGEI or works council can provide support here

→ **Creating a working climate that complies with the duty of care:** e.g. being proactively available as a contact person in conflict situations among staff and communicating a clear stance against bullying, (sexualized) violence and harassment (§ 25 (2) GSP/FFP).

→ **Escalations can be remedied** through the support of mediations, supervisions or coaching. Take advantage of the UWK offer for 1 (max. 5) free coaching units. More information can be found in the [Infowiki](#) (only available in German).

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LEGAL MATTERS AND DUTY OF CARE



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WHAT DOES DUTY OF CARE MEAN?

Working conditions ...

- > must be designed by the employer in such a way that life and health are protected as far as possible and other material and immaterial interests of the employees are also safeguarded (§§3, 6 ASchG)
- > must be designed in such a way that the health, religious, moral, personal and property interests of employees can be reasonably taken into account

Personal rights ...

- > state that the employer shall take immediate, comprehensive and appropriate remedial action in the event of a risk to the protection of personality rights and shall take reasonable account of the legal interests of employees

Perception of interest ...

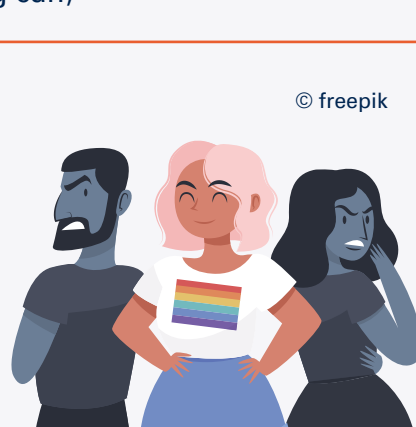
- > means the imperative not to disturb peace within the company, to avert damage to the company, not to carry out any harmful actions as an employee and to take the company's interests into account as well as to behave appropriately towards others

RELEVANT LEGAL STANDARDS (REMEDIES)

BULLYING

(cannot be prosecuted under criminal law, but individual acts of bullying can)

- > Duty of care (§§3, 6 ASchG)
- > 2nd Public Services Law Amendment 2009, Federal Law Gazette I No.153/2009
- > Protection of personality (§16 ABGB, §1157 para. 1 ABGB, §18 AngG)
- > Right to honor (§1330 para. 1 ABGB)
- > The following offenses typically come into question: mistreatment (§115 para. 1 case 3 StGB), (serious) bodily injury (§§83ff StGB), coercion (§105 StGB), data damage (§126a StGB), defamation (§111 StGB), insult (§115 para. 1 StGB), dangerous threat (§107 StGB)



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HARASSMENT/ DISCRIMINATION

- > Duty of care (§§3, 6 ASchG)
- > Equal Treatment Act (GIBG)
- > Federal Equal Treatment Act (B-GIBG)
- > Disabled Persons Employment Act (BEinstG)

SEXUAL HARASSMENT

- > Duty of care (§§3, 6 ASchG)
- > Definition of sexual harassment: §6 and §8 GIBG
- > Sexual harassment is a criminal offence requiring a complaint to be made by the victim for prosecution to be initiated according to §218 para. 1 StGB

WHERE CAN I GET HELP?



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→ **Report to the WGEI (AKG) – University for Continuing Education Krems**

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ARBEITSKREIS FÜR
GLEICHBEHANDLUNGSFRAGEN
an der Universität für Weiterbildung Krems