Time Limit For Filing A Complaint Of Psychological Harassment Increased From 90 Days To Two Years

June 20, 2018

On June 12, 2018, the National Assembly unanimously adopted Bill 176 entitled *An Act to amend the Act respecting labour standards and other legislative provisions mainly to facilitate family-work balance*.

As several provisions came into force on the date of its assent, Québec employers must now comply with certain new standards. For more details on the changes to the *Act respecting labour standards* (the "Act") in force, we refer you to our previous article published on this subject. A new article on the definitive version will be published shortly.

Time Limit for Harassment Complaint Increased from 90 Days to Two Years

The bill underwent some changes in the home stretch. In the case of psychological harassment, the time limit for filing a complaint with the Québec Labour Standards, Pay Equity, Health and Safety Commission (the “CNESST”) was 90 days from the last manifestation of harassment, under penalty of inadmissibility.

During the debate in committee on June 5, 2018, an amendment was proposed to this provision by Minister Viens, which extended this time limit to six months. The minutes of the debate indicate that Marc Picard, MNA for Chutes-de-la-Chaudière, then moved for a sub-amendment, in order to set this time limit not to 90 days, but to two years.

According to the information accessible on the National Assembly website, the full transcript of the debate will only be available on July 10, 2018. We will have to wait to find out the arguments that won the legislator over in establishing such a long time limit (more than eight times longer than what was in force previously) to file a psychological harassment complaint with the CNESST.

It is easy to suppose that the social context of recent months and the mobilization behind #MeToo — a movement promoting the denunciation of sexual misconduct in the

workplace — has had an influence on several legislative changes, not the least of which this extended time limit.

It is also worth mentioning that since the bill was adopted, psychological harassment includes harassment of a sexual nature.

Impact for Employers

This significant extension of the time limit to file a harassment claim will have some noteworthy effects for Québec employers. It should be noted that the new delay is automatically integrated in all collective agreements.

The importance of properly documenting all incidents and reports of harassment will increase tenfold; one can imagine that proving events which occurred at least two years prior, and in fact, considering the delays inherent to the legal system (even up to several years earlier), will be a challenge.

We remind Québec employers that the Act imposes onto them the duty to take reasonable action to prevent psychological harassment and, whenever they become aware of such behaviour, to put a stop to it; it is up to employers to prove their effective compliance with this obligation in the event of a complaint. The Act now specifically provides for a requirement to adopt and make available to employees a policy on the prevention of psychological harassment and the handling of complaints.

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