



Iván Blume

The New Rules Governing Sexual Harassment in the Workplace

The Peruvian Government passes new Regulations on sexual harassment in workplace. This amendment is part of a broader reform to reinforce the current legal protections, especially for women who tend to experience higher levels of harassment.

The Government has recently passed the Supreme Decree No 014-2019-MIMP, which approves the Regulations of the Law No. 27942, Law on Prevention and Punishment of Sexual Harassment and the Criminal Code. The new regulation is part of a comprehensive reform of the current anti-harassment framework.

In the same vein, earlier this year, the Government passed the Legislative Decree No. 1410, which modifies both the Law No. 27942, Law on Prevention and Punishment of Sexual Harassment and the Criminal Code to include new safeguards for the victims and criminalize sexual harassment.

The Regulation ratifies the new approach towards sexual harassment by redefining it as a form of violence that entails a behavior (repeated or otherwise) of a sexual or sexist nature or connotation that is unwanted by the person against whom it is directed, which creates an intimidating, hostile or humiliating environment, or affect your labor, teaching, training or any other kind or activity or situation. It is no longer necessary for the victim to prove the rejection or repetition of the unwanted behavior.

The real conceptual novelty of the Regulations is the introduction of “Gendered Behavior” as sexual harassment, which is defined as conduct that promote or reinforce stereotypes in which women and men have attributes, roles, or spaces of their own that imply the subordination of one sex or gender to the other.

The main new obligations for the employers are the following:

1. **Sexual Harassment Committee**: Employers with twenty or more employees have to install a sexual Harassment Intervention Committee. In case of companies with less than twenty employees, a delegate shall be appointed.
2. **Internal Policy**: Employers with twenty or more employees have to implement an Internal Policy to Prevent and Punish Sexual Harassment.
3. **Trainings**: Mandatory annual training for the Human Resources Area, the Sexual Harassment Intervention Committee, and others involved in the investigation and

sanction of sexual harassment. Likewise, the employer must perform a training at the beginning of the employment or formative relationship (trainees).

4. Medical and psychological assistance: the employer must offer to the victim information on medical, physical and mental or psychological channels of assistance.
5. Audits: Annual assessments shall be conducted to identify possible sexual harassment situations, causes and risks.
6. Dissemination of information: Employers shall periodically disseminate information that allows the identification of behaviors that constitute sexual harassment and the applicable sanctions. Likewise, employers shall inform and disseminate, in a public and visible way, the channels for dealing with claims and complaints.
7. Complaints: There is proactive approach towards the prosecution of sexual harassment, as it now possible to initiate the internal sexual harassment procedure in three different ways: (i) victim's complain, (ii) with a third party's complain or, (iii) if the employer takes notice of the acts of sexual harassment. The employer will have to continue with the procedure regardless of the whether the presumed victim continues to render services or not.

The templates for filing the complaint and basic information on the procedure to prosecute sexual harassment shall be make available to the employees.

8. Closer interaction with the Ministry of Labor: Employers shall communicate the Ministry of Labor about the reception of a complaint or claim, the granting of protection measures in favor of the presumed victim, the sanction to be applied, if any, as well as other measures to avoid new cases of sexual harassment.

Generally, these developments in the area of sexual harassment at work have been regarded as a positive change towards the construction of a violence-free and healthy work environment for employees. However, the real impact of the new framework on sexual harassment in the workplace is yet to be seen. It is clear that employer in Peru will have to take action to ensure compliance with the Regulations and implement best practices to prevent sexual harassment.

Iván Blume is an Associate at Rodrigo, Elias & Medrano Abogados. For questions about this article, he can be reached at iblume@estudiorodrigo.com.