

Violence and substance abuse in the workplace

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Argentina has one of the world's highest rates of violence at work while substance abuse during work hours is on the rise. Beretta Godoy's Joaquín Carrillo and Madelaine Geuzi Karaian and sociologist Veronica Mundt from Mundt & Asociados ask how companies can protect themselves from the associated legal implications

The impact of information and communication technology on our work and personal lives has erased the boundaries between office and home. The lines between personal and professional life are blurred and personal issues have permeated into the work environment and vice-versa.

Due to an upward trend in judicial decisions regarding violence and substance abuse in the workplace, coupled with the fact that these matters are not regulated by specific legislation in Argentina, companies have started to look for advice on preventive measures to cope with this. Their concerns include the legal implications of bullying, sexual harassment and substance abuse in the workplace. Here, we consider the issues companies face with respect to violence and substance abuse in the workplace and the available remedies.

Violence in the workplace: is it my concern?

International research and statistics place Argentina among the countries with the highest rates of violence at work in the world. Considering that in Argentina there is no specific legislation that regulates companies' responsibilities related to violence in the workplace, companies must rely on general guidelines regarding corporate responsibility and legal consequences.

Local labour courts have condemned companies for their non-action or inadequate action in relation to claims made by employees harassed in the workplace, on the grounds that the employer must ensure the psychological and physical health of their workers and provide a work environment free from hostility.

However, a bill establishing a programme for the prevention and sanctioning of violence and sexual harassment at work has been introduced by the governing party, co-sponsored by the majority of the opposition, and is being debated by the Argentine Congress. Considering local case law and the introduction of the bill, there are potential contingencies and strategic action plans available for companies that will reduce their exposure to unnecessary expenses. For instance, the bill penalises the failure of employers to take action against complaints brought by employees concerning violence and sexual harassment in the workplace by making them liable for all damages suffered by the affected employees and creating a series of presumptions in favour of employees. For example, it entitles employees to consider themselves dismissed with the right to claim full severance. To avoid these consequences and reduce the company's exposure, action plans such as implementing corporate policies with internal procedures to determine and investigate the claims of employees are highly recommended.

Why should companies take action in substance abuse cases?

Substance abuse is no longer restricted to the private sphere of the employee's life. Boundaries have been lowered and consumption of substances is frequent in public places. Statistics show that substance abuse issues have increased considerably over recent years in Argentina.

Considering that corporate responsibility on these matters is also not regulated by specific regulation, an analysis of case law is required. As in the case of violence in the workplace, companies' responsibilities derive from the duty to ensure a healthy and safe work environment for their employees.

By treating addictions as diseases, local labour courts have placed companies in a tough position: they prevent the application of sanctions for misconduct concerning episodes related to substance abuse and force employers to treat them as diseases, calling the dismissal of employees with substance abuse problems discriminatory. Taking into account that serious accidents can occur as a consequence of intoxication, the power to control and perform toxicological exams has become a key necessity for companies (especially in cases of employees who handle heavy equipment, for example drivers). Implementing such programmes without affecting the dignity and privacy of employees is a challenge.

Ignoring and not taking action in cases related to violence or substance abuse has become a “lose-lose” situation for employers and employees. In the case of employers, violence and substance abuse can lead to a poor work environment and a poor image of the organisation, making it difficult to recruit and retain staff, and an increase in conflict and litigation brought by employees. It can also mean extra costs due to absenteeism, higher insurance premiums and compensation payments. To employees, violence and substance abuse can cause pain, distress and even disability or death.

There are various guidelines available for employers. Training managers and supervisors on how to recognise and deal with violence and substance abuse issues, and providing educational programmes for employees have had positive results in preventing losses and damages to companies. To comply with employer obligations regarding their employees’ health, in order to reduce exposure and mitigate potential contingencies, company awareness of the potential risk provoked by these situations is key, as is the creation of adequate corporate policies and procedures to efficiently implement prevention.

Comments

There are currently no comments.
