

LIABILITIES RELATED TO WORK ACCIDENTS: THE EXAMPLE OF HARASSMENT AND VIOLENCE AT WORK

1. Seminar's goal and content

- Definition and concept
- Liabilities

.... and the relation between this two topics

2. Why a juridical approach?

DEFINITION OF HARASSMENT AND VIOLENCE AT WORK

GENERAL CONCEPT ↔ CONCRETED CONCEPT

The importance of concreted concepts in a legal context:

- Legal certainty
- Minimally sufficient intervention

LEGAL SYSTEM OF LIABILITIES

Legally protected good

Legally protected interest:

- individual interest
- collective interest
- general interest

Legal duty or obligation guaranteed by means of liabilities:

- Public duty-liability
- Privat duty-liability

TYPE OF RESPONSABILITIES

PUBLIC LIABILITIES

- *Criminal liability*
- *Administrative liability (administrative penalties)*

PRIVAT LIABILITIES

- *Employer's tort liability for his acts*
- *Employer's tort liability for his employee's acts*
- *Employer's payments for the ending of the work contract decided by the employee for reasons related with the employer's breach of basic duties or obligations*

DIFFERENCES BETWEEN PUBLIC AND PRIVATE LIABILITIES

PUBLIC LIABILITIES

- o Have a preventive goal*
- o Can not be insurance*
- o Imposed ex officio*

PRIVATE LIABILITIES:

- o Worker's compensation goal*
- o Imposed only at worker's request*

LIABILITIES'S SOURCE

- PUBLIC LIABILITIES: state regulation (public source)
- PRIVAT LIABILITIES:
 - State law
 - Private autonomy/party autonomy:
 - Collective autonomy: collective bargaining
 - Individual autonomy:
 - individual contracts
 - self-binding behaviours:
 - company's compromise of compensating
 - social responsibility instruments not negotiated The public ones, can only have a public source: state regulation

LIABILITIES'S COMPATIBILITY

- Private employer's liabilities compatible with each other (limit: unjust enrichment of the victim)
- Privat liabilities of the employer are compatible with his public liabilities
- Public liabilities are not compatible with each other (non bis in idem)
- Privat and public liabilities can be shared by different persons

.... different problem: harassment or violence among mates or among workers and third parties

Legally protected goods affected by harassment and violence at work

- Human dignity
- Equality
- Health
- Intimity
- Indemnity (effective legal protection)

Thanks a lot

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