

Bulletin de veille RPS n° 44

25/03/2024

Veille juridique RPS	2
Méthodes et outils de prévention	5
<i>Thèmes autour des RPS</i>	5
Généralités	6
Bien-être au travail	7
Conflit travail / Vie familiale	9
Conflit de valeurs / Sens au travail	10
Dépression / Anxiété / Choc post-traumatique	10
Epuisement professionnel / Engagement au travail	10
Harcèlement moral et violences au travail	12
Harcèlement sexuel	13
Isolement/solitude au travail	15
Justice organisationnelle	15
Managers/encadrement et RPS	16
Nouvelles technologies de l'information et de la communication	16
Présentéisme	16
RPS et atteintes physiques (TMS / Cardiovasculaire...)	18
Stress	18
Suicide	20
Télétravail et RPS	21
Workaholisme /surengagement	21

La validation des informations fournies (exactitude, fiabilité, pertinence par rapport aux principes de prévention, etc.) est du ressort des auteurs des articles signalés dans la veille. Les informations ne sont pas le reflet de la position de l'INRS.

Les liens mentionnés dans le bulletin donnent accès aux documents sous réserve d'un abonnement à la ressource.

Veille juridique RPS

PSE négocié : l'accord n'est pas tenu d'intégrer les mesures de prévention des risques psychosociaux

Dans deux décisions du 19 décembre 2023 ([n°464864](#) et [n°458434](#)), le Conseil d'Etat revient sur la prise en compte des risques psychosociaux dans l'élaboration du plan de sauvegarde de l'emploi. Il rappelle que les risques psychosociaux résultant de la réorganisation assortie d'un PSE, doivent être pris en compte lors de l'élaboration de celui-ci. Pour cela, l'employeur doit prévoir des mesures de prévention et de protection de la santé physique et mentale des salariés, y compris lors de la signature d'un accord majoritaire. Ces mesures faisant l'objet d'un contrôle du Drees. Toutefois, en raison du principe de liberté contractuelle, les parties n'ont aucune obligation d'intégrer ces mesures à l'accord majoritaire.

La prise en compte d'un ensemble d'éléments permettant de qualifier un harcèlement moral

[Cour de cassation, chambre sociale, 17 janvier 2024, n°22-18.158, Inédit](#)

Un salarié, engagé en qualité de salarié agricole, a pris acte de la rupture de son contrat de travail.

Il décide de saisir la juridiction prud'homale afin de faire constater que la prise d'acte devait produire les effets d'un licenciement nul, ainsi que pour obtenir le paiement de diverses sommes à caractères salarial et indemnitaire.

La cour d'appel le déboute de sa demande en paiement de dommages-intérêts pour harcèlement moral et de ses demandes relatives à la rupture du contrat de travail.

Contestant cette décision, le salarié décide de former un pourvoi en cassation.

La Cour de cassation casse et annule l'arrêt de la cour d'appel. En effet, il avait été démontré que ce n'est qu'après avoir saisi la juridiction prud'homale, que le salarié avait perçu les salaires manquant et correspondant à deux mois d'activités. De plus, des attestations faisaient état de la mauvaise ambiance de travail dont le salarié s'était plaint. Sans oublier que l'employeur avait tenu à son égard des propos rabaissant. Enfin, la cour d'appel ne pouvait statuer comme elle l'a fait sans constater que l'employeur avait produit des éléments de preuve lui permettant de démontrer que ses agissements étaient étrangers à tout harcèlement moral, la Cour de cassation décide de renvoyer l'affaire et les parties, dans l'état où elles se trouvaient avant cet arrêt, devant une autre cour d'appel.

L'admission d'une preuve déloyale dans le cadre d'un contentieux relatif à un harcèlement moral

[Cour de cassation, chambre sociale, 17 janvier 2024, n°22-17.474](#)

Un salarié, exerçant les fonctions de responsable commercial, décide de saisir la juridiction prud'homale à titre principal aux fins de résiliation de son contrat de travail, en invoquant un harcèlement moral de son employeur. Il a par la suite été déclaré inapte à son poste de travail, puis licencié pour inaptitude et impossibilité de reclassement.

Devant la cour d'appel, il a demandé à ce que la retranscription de l'entretien du salarié avec les membres du comité d'hygiène, de sécurité et des conditions de travail de la société (CHSCT), désignés pour réaliser une enquête sur l'existence d'un harcèlement moral de l'employeur, soit retenue comme élément de preuve. Toutefois, la cour d'appel décide d'écarter cette pièce.

Contestant cette décision, le salarié a décidé de former un pourvoi en cassation.

La Cour de cassation rejette le pourvoi. Elle décide de suivre le revirement de jurisprudence opéré le 22 décembre 2023 par l'assemblée plénière, en matière d'admission de preuve déloyale. Auparavant, une telle preuve n'était pas recevable devant les juridictions civiles. Désormais, si cette dernière peut être admissible, le juge doit apprécier si une telle preuve porte une atteinte au caractère équitable de la procédure dans son ensemble. Ainsi, elle rappelle que « *le droit à la preuve pouvant justifier la production d'éléments portant atteinte à d'autres droits à condition que cette production soit indispensable à son exercice et que l'atteinte soit strictement proportionnée au but poursuivi* ». En l'espèce, la Cour de cassation explique que les autres éléments de preuve produits par le salarié laissaient supposer l'existence d'un harcèlement moral. Ainsi, la production de l'enregistrement clandestin n'était pas nécessaire au soutien des demandes du salarié.

Un salarié pratiquant un mode de gestion de nature à nuire à la santé de ses subordonnées commet une faute grave

[Cour de cassation, chambre sociale, 14 février 2024, 22-14.385, Inédit](#)

Une salariée, exerçant la fonction de gestionnaire d'un établissement d'hébergement pour personnes âgées dépendantes, a été convoquée à un entretien préalable à son éventuel licenciement, puis a été mise à pied à titre conservatoire, et enfin licencié.

Elle a saisi la juridiction prud'homale d'une contestation de la rupture de son contrat de travail.

La cour d'appel a accueilli la demande de la salariée et condamné l'employeur pour licenciement sans cause réelle et sérieuse. En effet, la cour d'appel considérait que la dénonciation d'un climat de travail tendu, de conditions et de relations de travail effectivement difficiles ou heurtées, ne permettait pas de qualifier un harcèlement moral. De plus, même s'il avait été fait état de décisions de la directrice concernant l'affectation de salariés à certaines tâches ou d'une surcharge de travail, la situation de tension, de stress ou de contrariété, même intense, liée à un contexte professionnel difficile, à la nature des activités du salarié, de ses responsabilités ou de sa surcharge de travail, ces éléments ne permettaient pas de qualifier un harcèlement moral.

Contestant cette décision, l'employeur a décidé de former un pourvoi en cassation.

La Cour de cassation casse et annule l'arrêt de la cour d'appel. En effet, il résultait des constatations de la cour d'appel que la salariée utilisait un mode de gestion inapproprié de nature à impressionner et nuire à la santé de ses subordonnés, ce qui permettait de caractériser un comportement rendant impossible son maintien dans l'entreprise. La Cour de cassation décide donc de renvoyer l'affaire et les parties, dans l'état où elles se trouvaient avant cet arrêt, devant une autre cour d'appel.

La caractérisation d'un comportement inadapté et harcelant en faute grave

[Cour de cassation, chambre sociale, 14 février 2024, 22-23.620, Inédit](#)

Une salariée, occupant le poste d'assistante-marketing, a été convoquée à un entretien préalable à la suite de sa mise à pied à titre conservatoire, puis a été licenciée pour faute grave.

Contestant la légitimité de son licenciement et réclamant diverses indemnités, ainsi que des rappels de salaires afférents à la mise à pied, elle a saisi la juridiction prud'homale.

La cour d'appel l'a déboutée de sa demande en paiement de dommages-intérêts pour licenciement sans cause réelle et sérieuse et expliqué que son licenciement est fondé sur une faute grave. En effet, la cour d'appel a constaté que le comportement de la salariée résultait en des critiques, moqueries, violence verbale et physique, une déstabilisation dans les relations professionnelles et une forme de manipulation allant au-delà de simples plaisanteries entre collègues. De plus, l'ambivalence de l'attitude de la salariée était source de souffrance au travail.

Contestant cette décision, la salariée a formé un pourvoi en cassation.

La Cour de cassation rejette le pourvoi en expliquant que la cour d'appel a correctement déduit de ses constatations que le comportement de la salariée était inadapté et harcelant, et par conséquent, caractérisait une faute grave, même en l'absence d'antécédents disciplinaires ou de son ancienneté.

La prise en compte de l'ensemble des éléments matériellement établis pour caractériser un harcèlement moral

[Cour de cassation, chambre sociale, 14 février 2024, 21-24.265, Inédit](#)

Une salariée, engagée en qualité de manager junior, a été placée en arrêt de travail, puis licenciée pour faute grave.

Elle a saisi la juridiction prud'homale de demandes en paiement de différentes sommes au titre de l'exécution et de la rupture du contrat de travail.

La cour d'appel l'a déboutée de sa demande tendant à obtenir la condamnation de son employeur à lui payer une certaine somme à titre d'indemnité pour harcèlement moral. Pour soutenir son allégation de harcèlement moral, la salariée explique, avec preuve à l'appui, que lors de son retour d'arrêt maladie, elle avait été victime de nouveaux reproches infondés, ce qui l'avait conduite à faire l'objet d'un nouvel arrêt maladie. Qui plus est, elle avait été privée du paiement, tant du maintien de salaire que de la prime sur objectifs atteints, à laquelle elle avait droit.

Ainsi, contestant cette décision, elle a formé un pourvoi en cassation.

La Cour de cassation casse et annule l'arrêt de la cour d'appel. Elle explique que celle-ci aurait dû prendre en compte, les éléments matériellement établis dans leur ensemble, tels que les documents médicaux qui laissaient supposer un harcèlement moral. La cour d'appel aurait également dû apprécier les éléments de preuve fournis par l'employeur permettant de démontrer que les mesures en cause étaient étrangères à tout

harcèlement moral. La Cour de cassation décide donc de renvoyer l'affaire et les parties, dans l'état où elles se trouvaient avant cet arrêt, devant un autre cour d'appel.

Méthodes et outils de prévention

[PDF] Predicting physical and mental health status through interview-based evaluation of work stress: initial attempts to standardize the interviewing method

The development and evaluation of a scale to assess job satisfaction in public universities with item response theory: a Brazilian study

J Ledic Neto, DF Andrade, HYH Lu, ACMA Petrassi... - International Journal of ..., 2024

Psychosocial Risk Assessment Dalam Lingkungan Kerja Menggunakan Metode Copenhagen Psychosocial Questionnaire

VA Tungkagi – 2024

[HTML] Validation of the Italian version of the Dark Tetrad at Work scale

F Marcatto, L Di Blas, D Ferrante, I Hipel, K Kelloway - PloS one, 2024

Construct Validity and Test–Retest Reliability of Questionnaires to Assess Workplace Violence Risk Factors (QAWRF): A Tripartite Perspective of Worksite-Specific ...

FHM Hatta, EZ Samsudin, N Aimran, Z Ismail... - Risk Management and ..., 2024

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[PDF] Utrecht Work Engagement Scale (UWES): Psychometric parameters in Brazil

GL de Holanda Coelho, RP Monteiro... - Suma Psicológica, 2023

[HTML] Construct Validity and Test–Retest Reliability of Questionnaires to Assess Workplace Violence Risk Factors (QAWRF): A Tripartite Perspective of Worksite-Specific ...

FH Akbar, HH Idrus - Risk Management and Healthcare Policy, 2024

Thèmes autour des RPS

Généralités

Baromètre de la santé mentale des salariés. Bilan 2023 et leviers d'actions 2024
Teale, 2024

La médiation à l'hôpital: un outil de régulation des conflits professionnels
G Pierron-Robinet - Santé mentale et Droit, 2024

Mental health at work after the COVID pandemic
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[PDF] Mapping the Psychosocial: Introducing a Standardised System to Improve Psychosocial Understanding within Mental Health
MB Oakes - 2024

[PDF] Acceptability and Usability of a Digital Platform Promoting Mental Health at Work: A Qualitative Evaluation
M De Angelis, L Volpi, D Giusino, L Pietrantoni... - International Journal of ..., 2024

[HTML] Protocol: Development, piloting and evaluation of an app-supported psychosocial prevention intervention to strengthen participation in working life: a study protocol of ...
J Stephan, J Gehrmann, A Stullich, L Hoffmann... - BMJ Open, 2024

Occupational Health Services in policing: identifying the psychological burden to OHS team members
N Tehrani - Occupational Medicine, 2024

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E Simon - 2023

[PDF] Barriers and facilitators to implementing workplace interventions to promote mental health: qualitative evidence synthesis
C Paterson, C Leduc, M Maxwell, B Aust, H Strachan... - 2024

[HTML] Psychosocial working conditions and mental health among medical assistants in Germany: a scoping review
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N Thompson, A Robertson, R Loudoun, A Biggs... - International Journal of ..., 2024

[PDF] The use of mHealth apps to improve hospital nurses' mental health and well-being: A systematic review
C Moore, S Kelly, B Melnyk - Worldviews on Evidence-Based Nursing

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[PDF] Les potentiels de la bienveillance au travail
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A Montgomery, O Lainidi - ... on Contemporary Human Resource Management for ..., 2024

[PDF] Do I Belong Here? Impostor Phenomenon, Well-Being and Purpose at Work: A Mediation Analysis
E Diskin, J Karl - 2024

Psychological work climates and health care worker well-being

C Rathert, T Vogus, LR Hearld - Health Care Management Review, 2024

... promoting psychological well-being at work? The mediating role of perceived organizational support in a comparison study of affective and psychological well-being ...

EL Kau - 2023

The Push and Pull of gig work: A Behavioral Bias And JD-R perspective on occupational wellbeing

F Masood, M Bibi, I Zaighum, NR Khan, S Pitafi - 2023

[HTML] Beyond occupational exhaustion: exploring the influence of positive meaningful work on teachers' psychoemotional well-being in the digital age

A Trillo, FD Bretones, R Giuliano, A Manuti - Humanities and Social Sciences ..., 2024

Range of Workplace Wellbeing Programs, Policies, and Practices by Industry: A Scoping Review

MW Voss, CG Wade, S Peters - 2024

[PDF] The PERMA+ 4 Framework: A New Approach to Well-Being at Work

LE van Zyl

An Empirical Exploration of Human Factors, Sense of Security, and Well-Being in Contemporary Social Work Environments

VV Muthuswamy - Journal of Human Security, 2023

The science behind happiness at work

Y Caraballo-Arias, D Feola, S Milani - Current Opinion in Epidemiology and Public ..., 2024

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LL Carneiro, AVB Bastos - CES Psicología, 2024

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J Gregory

Conflit travail / Vie familiale

Work-life balance in health care

S Mansour, MF Azeem, D Chênevert - Research Handbook on Contemporary Human ..., 2024

WORK-LIFE BALANCE: A BRIEF HISTORY

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[PDF] WORK-LIFE BALANCE: A STUDY OF PHYSICAL & MENTAL WELL-BEING OF EMPLOYEES IN THE BANKING SECTOR

MR Patil, MA Kumawat

[PDF] The Role of Mediation in Job Satisfaction in Relation to Work-Family Conflict and Organizational Commitment: A Study at PT. Ganesh International Filterindo

M Sofyan, MA Iqbal - Indonesian Journal of Business Analytics, 2024

[HTML] Illegitimate Tasks and Work-Family Conflict as Sequential Mediators in the Relationship between Work Intensification and Work Engagement

C Andrade, PC Neves - Administrative Sciences, 2024

[PDF] WORK-LIFE CONFLICT AND EMPLOYEE EFFECTIVENESS

UC NELSON, EA ONYEIWU - Journal of African Advancement and Sustainability ..., 2024

[PDF] Green Work Life Balance Practices on Work Place Conflict Resolution among IT Employees

A Vanitha - 3rd International Conference on Reinventing Business ..., 2024

[PDF] Work Life Balance Practices: A Key Driver of Corporate Sustainability

RKDS Chandel, R Chopra - Editorial Advisory Board

[PDF] Work-life balance in SME sector and large enterprises

A Czerwińska-Lubszczyk, N Byrtek - Management Systems in Production ..., 2023

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A Rumijati, RS Arifiani - Jurnal Economia, 2024

[PDF] Unraveling the Burnout-Work-Life Balance Nexus: A Secondary Data Analysis

A Tomar, AP Singh - 2024

[PDF] The Evolution of Work-Life Balance: Redefining Priorities in Human Resource Management

F Leuhery, SZ Hasan, VH Mustari, RRA Widaningsih... - Dinasti International Journal ..., 2024

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[HTML] Redonner du sens au travail. Une aspiration révolutionnaire, Thomas Coutrot et Coralie Perez, Paris, Seuil, 2023

F Tarrit - Sociologies pratiques, 2023

Le sens du travail en mouvement: apports des démarches narratives en temps de crises

A Monnier - VST-Vie sociale et traitements, 2024

[PDF] Le travail pressé: pour une écologie des temps du travail: Corinne Gaudart & Serge Volkoff, Les Petits matins, 2022, 208 p.

S Aouici, C Cordier - Retraite et société, 2024

Le temps de faire du beau travail

BOUILLLOUD, Jean-Philippe – Cadres CFDT, 01/2024

[PDF] Entre réalisation de soi et utilité sociale: comment trouver du sens au travail aujourd'hui?

L NOURY

Dépression / Anxiété / Choc post-traumatique

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J Kitanaka

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S Younes, S Hallit, I Mohammed, S El Khatib... - BioPsychoSocial Medicine, 2024

Epuisement professionnel /Engagement au travail

Santé mentale au travail: le burn-out est-il reconnu comme maladie professionnelle en Belgique? Quelles sont les conséquences au niveau de l'indemnisation du ...

M Thomas - 2024

[PDF] Demande de CITIS pour burnout et évaluation de la responsabilité personnelle de l'épuisement professionnel

P Raymond, LM Bidini, M Brasselet-Vincent - 2024

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Global Knowledge Memory And Communication – 2024

Burnout and Disengagement at Work Among Health Professionals-Interrelations and Associations With Stress Indicators and Job Resources

Journal Of Occupational And Environmental Medicine – 2024

[HTML] Individual and organizational factors influencing well-being or burnout among healthcare assistants: A systematic review

AA Norful, KC Brewer, KM Cahir, A Dierkes - International Journal of Nursing Studies ..., 2024

Burnout and attachment in oncology and palliative care healthcare professionals

F Gonçalves, M Gaudencio, MC Branco, J Viana - BMJ Supportive & Palliative Care, 2024

Burnout Mediates the Association Between Workaholism and Substance Use: Findings from a French National Company

G Airagnes, D Fisk, RE Haddad, AL le Faou, F Limosin - Journal of Prevention, 2024

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L Ojeda – 2024

Occupational Burnout in Sonography Research and Workplaces: What Is It, How Do We Measure It, and How Do We Address It?

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[PDF] Occupational challenges: burnout syndrome and brazilian legislation

MA Ribeiro, RF de Oliveira, JPM Neto, JPR Afonso... - ... Therapy, Posturology & ..., 2024

[PDF] Awareness-raising strategies to promote a healthy lifestyle in the workplace: Impact on well-being at work and the prevention of burnout

ELA Houda, ELF Lekbira - African Scientific Journal, 2024

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Online Harassment, Psychological Stressors, and Occupational Dysfunction among Journalists Working in a Conflict Zone

SFA Shah, I Cvetkovic, T Ginossar, R Ullah, D Baber... - Digital Journalism, 2024

Dark Tetrad at Work: Perceived Severity of Bullying, Harassment and Workplace Deviance.

N LONGPRE, S Turner - International Journal of Offender Therapy and ..., 2024

[PDF] 'Workplace Bullying:' A Socio-Organizational Perspective

B Aissa, O Boubaker - Journal of Human and Society Sciences, 2023

[HTML] Workplace Violence Advocacy

R Johnson - Health

The Life Cycle of a Code White: A Framework for Managing Workplace Violence

C Schulz-Quach, J Gorla, C Reynolds, R Sethi, B Lyver - NEJM Catalyst Innovations ..., 2024

Classifying Studies on Workplace Violence for Visiting Nurses Using the Social-Ecological Model: A Scoping Review

E Kim, J Lee - Journal of Community Health Nursing, 2024

The unsettling reality of violence against healthcare workers: Past, present and future

H Jain, SA Sulaiman, S Saurabh - Tropical Doctor, 2024

Workplace Violence Experienced by Personal Care Workers in a District in Seoul, Republic of Korea: A Comparison Study with Office and Service Workers

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