

PERFORMING MOBING IN THE PUBLIC SECTOR

Leon Vedenik¹

¹ Police Directorate Murska Sobota, Ulica arhitekta Novaka 5, Murska Sobota, Slovenia,
leon.vedenik@policija.si

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Abstract: *The most common cause of maltreatment and victimisation of an employee is inadequate management, and most of all not clearly divided accountability and responsibilities. Individuals, who have been exposed to constant mobbing at work for a longer period of time, are less effective than they would otherwise be. Studying and preventing mobbing is of extreme importance since it adversely affects the performance of employees, organisational effectiveness and efficiency. Employees in the public sector employees face it more and more frequently, and are often left by themselves, which causes a lot of stress and often unexplained sickness absenteeism from work. The article will describe the normative regulation of the area for employees in the public sector in Slovenia and suggests specific solutions.*

Key words: *mobbing, public sector, safety and health at work, Slovenia*

1. INTRODUCTION

Mobbing most often occurs in poorly organised and poorly managed work environments.

Its victims are not only individuals having lower education, weaker character or being underprivileged, but more and more frequently also individuals of above average ability, who are educated, creative and outstanding in all respects. Mobbing is actually systematic bad and unethical conduct in the workplace that includes ridicule, hate speech and psychological terror as such.

In most cases, or almost always, the victim of mobbing is one person, who can be a subordinate worker, or even a superior, but most often it is one co-worker whom work environment isolates, and continuously attacks over a longer period of time. Because of his isolation in the workplace, this individual feels powerless to defend himself or to report to his superior, thus he is being exposed to aggressive and negative behaviour in the workplace for a long time.

The public administration system is an ideal environment for the flourishing of mobbing at all levels due to the closedness of the system, which hinders or even prevents communication, the way of management, which is distinctly hierarchical and can also be authoritative, and because the degree of decision-making by civil servants in the system is very low.

2. NORMATIVE REGULATION OF THE AREA

Article 14 of the Constitution of the Republic of Slovenia stipulates that everyone in Slovenia is guaranteed the same human rights and fundamental freedoms, regardless of nationality, race,

gender, language, religion, political or other belief, financial status, birth, education, social position or any other personal circumstance. All are equal before the law. Article 34 stipulates that everyone has the right to personal dignity and security. Guaranteeing the inviolability of a person's physical and mental integrity, his privacy and personal rights is determined by Article 35.

The umbrella legislation in the field of safety and health at work, i.e. The Act on Safety and Health at Work determines already in the fundamental principles in paragraph 1 of Article 5 that the employer must ensure the safety and health of workers at work. For this purpose, it must implement the measures necessary to ensure the safety and health of workers and other persons present in the work process, including the prevention, elimination and control of hazards at work, informing and training workers, with appropriate organisation and the necessary material resources.

Paragraph 3 of the same article also stipulates that the employer must consider the changing circumstances and implement such preventive measures and choose such work and production methods that will ensure the improvement of the situation and a higher level of safety and health at work, and will be included in all the employer's activities and at all organizational level.

Health promotion at the workplace is defined by Article 6 of the Act, which determines that the employer must plan and implement health promotion at the workplace.

Planning and occupational health and safety are determined by Article 7 of the Act, which stipulates that when planning the work environment, work spaces, work and technological procedures, the use of work and personal protective equipment and the use of hazardous chemical substances, the employer must ensure that all impacts on the safe and healthy work of workers and that the environment, procedures, premises, equipment and substances are suitable and in accordance with the purpose of use.

When planning work, the employer must consider the mental and physical capabilities of the workers and reduce the risks due to workloads that may affect the safety and health of workers at work.

The employer implements the measures referred to in Article 5 of this Act observing the following fundamental principles: avoiding dangers; risk assessment; control of hazards at the source; adapting the work to the individual through the appropriate design of the workplace and work environment, work spaces, work and technological procedures, the choice of work and personal protective equipment and work and production methods, especially by eliminating monotonous work and conditions with an imposed rhythm of work and other health harmful circumstances (humanization of work); adapting to technical progress; replacing dangerous with non-dangerous or less dangerous; developing a comprehensive safety policy that includes technology, work organization, working conditions, interpersonal relations and factors of the work environment; prioritizing collective safety measures over individual ones and giving appropriate instructions and notifications to workers.

Article 24 of the Act determines that the employer must take measures to prevent, eliminate and manage cases of violence, mistreatment, harassment and other forms of psychosocial risk at workplaces that may endanger the health of workers.

Likewise, Article 7 of the Labour Relations Act stipulates that sexual and other harassment at the workplace is prohibited. Sexual harassment is any form of unwanted verbal, non-verbal or physical conduct or behaviour of a sexual nature with the effect or intent of harming a person's dignity, especially when it involves creating an intimidating, hostile, humiliating, humiliating

or offensive environment. Harassment is any unwanted behaviour related to any personal circumstance with the effect or intent of harming a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.

Sexual and other harassment from the previous paragraph is considered discrimination according to the provisions of this Act.

Refusal of the actions referred to in the first paragraph of this article by the affected candidate or worker may not be a reason for discrimination in employment and work.

Mistreatment in the workplace is prohibited. Mistreatment in the workplace is any repeated or systematic, reprehensible or blatantly negative and offensive conduct or behaviour directed against individual workers in the workplace or in relation to work. A worker who is a victim of ill-treatment may not be exposed to adverse consequences as a result of actions aimed at enforcing the ban on ill-treatment at the workplace.

Article 47 of the Act stipulates that the employer is obliged to provide such a working environment in which no employee will be exposed to sexual and other harassment or ill-treatment by the employer, superiors or colleagues. For this purpose, the employer must take appropriate measures to protect workers from sexual and other harassment or from ill-treatment at the workplace.

Article 5 of the Act on the Implementation of the Principle of Equal Treatment stipulates that harassment is unwanted behaviour based on any personal circumstance that creates an intimidating, hostile, humiliating, humiliating or insulting environment for a person and insults their dignity.

Article 15 of the Civil Servants Act stipulates that the employer must protect civil servants from bullying, threats and similar actions that endanger the performance of their work.

Article 15.a of the above-mentioned act determines that any physical, verbal or non-verbal conduct or behaviour of a public servant based on any personal circumstance that creates an intimidating, hostile, humiliating, humiliating or offensive work environment for a person and insults his dignity is prohibited.

The regulation on measures to protect the dignity of employees in state administration bodies, which applies to all employees in the bodies regardless of their position or position and the specifics of their employment contracts, defines in its provisions the concepts of sexual harassment, harassment and ill-treatment.

The regulation sets out measures to prevent sexual and other harassment or ill-treatment. For assistance and information on the measures available in relation to protection against sexual and other harassment or ill-treatment, the head or supervisor designates one or more employees who enjoy the trust of the employees and undergo training in the field of protection against sexual and other harassment, or torture. The tasks of the counsellor from the previous paragraph are to inform the person who has experienced sexual and other harassment or mistreatment about the available procedures, and to help them solve the problem if they ask for it. Information obtained from the abused person may not be used without the consent of the person who has experienced sexual and other harassment or abuse.

If the superior believes that there is a reasonable suspicion that sexual and other harassment or ill-treatment has occurred, or that such conduct or behaviour continues even after informing the suspected person of the inappropriateness of such conduct or behaviour, the superior shall act in the following ways: or take action in accordance with the provisions on disciplinary

responsibility; or impose a measure of regular termination of the employment contract for reasons of fault; or impose a measure of extraordinary termination of the employment contract.

In cases where there is a suspicion that there has been a violation of the prohibition of sexual and other harassment or ill-treatment, which are defined as criminal acts in the Criminal Code, regardless of the provisions of this regulation, the police or the competent state prosecutor's office must be immediately notified of the act.

Harassment in the workplace can also be a criminal act, which is defined in Article 197 of the Criminal Code, namely "Whoever causes humiliation or fear to another employee in the workplace or in connection with work by means of sexual harassment, psychological violence, ill-treatment or unequal treatment shall be punished with imprisonment of up to two years. If the act referred to in the previous paragraph results in a mental, psychosomatic or physical illness or a reduction in the work productivity of the employee, the offender shall be punished with imprisonment of up to three years."

Violation of human dignity through abuse of official position or official rights is dealt with in Article 266 of the Criminal Code, which stipulates that an official who, while performing his duties by abusing his official position or official rights, insults or physically injures anyone or even treats him in a way that affects his human dignity, shall be punished by imprisonment for up to three years.

3. WHAT IS REALLY MOBBING?

The term "mobbing" was coined by the Austrian zoologist, ethologist and ornithologist, "Nobel laureate" Konrad Lorenz, who, while observing animals, came to interesting findings in which ways a group of animals repels or eliminates an intruder or a competitor, and how individual animals participate in this.

A Swedish work psychologist of German origin, Prof. Dr. Heinz Leymann, PhD, who was a lecturer at one of the Swedish faculties, was the first to define the word mobbing as a kind of disturbed communication in the workplace burdened with conflicts, which can be e.g. any kind of ridicule, be it appearance or work ability, also private life, manner of speech or any other hostile act.

He came to the conclusion after he'd been observing at his work the same behaviour of employees in different work environments for several years, and finally gave a professional definition of mobbing. He concluded that mobbing is disturbed communication in the workplace, which is significantly burdened by conflicts among colleagues or among subordinates and superiors, while an attacked person is in a subordinate position, exposed to systematic and long-lasting attacks by one or more persons with the aim of to push him out of the work environment. He defined mobbing in 45 points very precisely, as it must last at least 6 months and must happen at least twice a week.

From the above stated, mobbing can be defined as actual systematic bad and unethical conduct in the workplace, which includes ridicule, hate speech and psychological terror as such.

The most common cause of ill-treatment of an employee is inadequate management, and above all unclearly divided powers and responsibilities. Individuals who are exposed to continuous ill-treatment at work for a long period of time are less effective than they would otherwise be. The study and prevention of ill-treatment is therefore important for it has a negative impact on the employees' capabilities, organisational efficiency and effectiveness.

4. FORMS OF MOBBING

Considering various criteria, especially the position of the perpetrators and victims, and the method of implementation, mobbing can be carried out as horizontal or vertical mobbing.

We speak of horizontal workplace mobbing among peers when one or a group of employees mobs another employee.

Vertical workplace mobbing takes place when a superior mobs a subordinate (an employee), and vice versa, when an employee (a subordinate) mobs a superior.

We can also distinguish four forms of mobbing; these are bullying, bossing, mobbing and staffing.

Bullying is almost vulgar mobbing from the top downward (by the owner or the highest boss), it can be brutal, sometimes connected also with physical violence. In some English-speaking countries, however, they use the word bullying as a general term for mobbing; this definition is especially typical of America.

Bossing is mobbing by a superior, but not in such a brutal form, which of course does not mean that it is less intense. On the contrary, when the boss mobs the victim, there is no chance for the victim to escape from this circle, which means that he is already intended "to be shot"; fighting the boss is extremely difficult.

Mobbing is also called psychological terror between fellow workers who are equal in rank, when a certain group of people gathers to mob an individual, either because of his peculiarities or differences, or because of his above-average ability or extraordinary sense of justice and fairness.

Staffing is a form of mobbing by subordinates against superiors, which most often occurs in public institutions, as well as in companies, when workers want to get rid of a strict boss. When new superiors arrive at the workplace, they are often mobbed by their subordinates, as they do not provide them with the information they need for successful work, ignore their instructions, make fun of them and slander them.

A form of mobbing is also when a worker is assigned work that is harmful to his state of health, or the signing of contracts for women, who by the signing the contract commit not to become pregnant during a certain period and, among other things, sexual harassment at the workplace.

A newer form of mobbing is e-mobbing, which involves illegal hacking into a computer, checking e-mails, copying documents, checking and controlling the websites that the mobbed person visits.

5. VICTIM OF MOBBING

In most cases, or almost always, the victim of mobbing is one person, who can either be a subordinate worker or a superior, but most often it is one colleague whom the work environment isolates and continuously attacks over a long period of time.

Because of his isolation in the workplace, this individual feels powerless to defend himself or to report to his superior, thus he is exposed to aggressive and negative behaviour in the workplace for a long time.

6. HOW TO RECOGNISE MOBBING OR BULLYING

When anyone in the company notices that anything that could be mobbing is happening in their work environment, they must take immediate action. Every employee is responsible for

relations in the company. It is for this reason that every employee has the right and the duty to inform their superiors of observed irregularities or to file a report of mobbing.

The Guidelines for the Protection of Employees from Sexual and Other Harassment and Ill-treatment in the Workplace define maltreatment in the workplace as any repeated or systematic, reprehensible or blatantly negative and offensive treatment or behaviour directed against individual workers in the workplace or in connection with work.

In order to make it easier to recognize ill-treatment in practice, below are examples of some forms of conduct or behaviour that could be defined as ill-treatment:

6.1. Behaviour or conduct that affect the self-expression and the way of communication of the abused person

- a) The superior person, fellow workers limit the possibility of the victim to express himself;
- b) Constantly interrupting his speech;
- c) Yelling at and insulting the abused person;
- d) Constantly criticizing his private life;
- e) Telephone intimidation, oral and written threats;
- f) Preventing contact with looks or gestures and with teasing;
- g) etc.

6.2. Behaviour and conduct that limit and prevent social contacts of the abused person

- a) No one talks to the abused person anymore, as if he is not there, does not exist;
- b) The abused person cannot talk to anyone – it is denied access to others;
- c) Transfer to a workplace that is separate from the others;
- d) It's forbidden for its fellow workers to talk to him;
- e) etc.

6.3. Behaviour and conduct sully the reputation of the victim

- a) Defamation behind her back
- b) Spreading baseless rumours
- c) Ridicule
- d) Treating a person as mentally ill
- e) Ridicule related to mandatory psychiatric evaluation or investigation
- f) Ridicule due to a possible disability or handicap
- g) Imitation of the victim's gestures, way of walking, voice with the intention of mocking
- h) Mocking her political beliefs or religious affiliation, private life and the victim's nationality or ethnicity
- i) She has to do work that affects her self-respect
- j) Her efforts are misjudged and demeaning and her decisions are always questioned
- k) Calling with derogatory names

l) etc.

6.4. Attacks on the quality of the victim's professional and life situation of the victim

- a) Superiors deprive the abused person of important duties
- b) She is assigned tasks that are below her level of professional competence
- c) The victim is constantly given new tasks
- d) The victim's home or workplace is damaged
- e) etc.

6.5. Direct attacks on the victim's health

- a) The victim is forced to perform physically demanding work
- b) Threats of physical violence
- c) Physical abuse
- d) Open sexual harassment
- e) etc.

7. THE COURSE OF MOBBING OR BULLYING

The course of mobbing in different forms takes place in five phases at the workplace. These phases extend from initial unresolved conflicts at the workplace, through the search for excuses for certain actions and demonstrations of power, until the moment when the individual is excluded from the working environment and social contact at the workplace. As we said earlier, there can be several forms of mobbing, which differ depending on who the victim of these psychological attacks is.

8. MOBBING CONSEQUENCES

The consequences of harassment and ill-treatment in the workplace are very terrible for an individual, for work colleagues, for the organisation itself and also for society as a whole.

The most common problems of the "targets" of harassment and ill-treatment at the workplace are manifested in the form of psychosomatic illnesses, which cause absenteeism, turnover, disability procedures, exits from the labour market, which leads to a decrease in the social security of these individuals and their families.

During the time of harassment and ill-treatment at the workplace, due to the psychological consequences, the worker also suffers great damage in the area of the personal social network (loss of colleagues, friends, intimate contacts with loved ones), the wider social network, as well as social reputation; the social exclusion of the individual may also occur. Weak social security and social exclusion are the exact opposite of the goals of the national social welfare programme of the Republic of Slovenia.

For a person who is a victim of mobbing, the consequences are mainly of a psychological nature, falling into depression and even suicide. On the other hand, for this reason, they can be pushed to the edge of society, as they can no longer withstand the pressure at work and they resign without having a guaranteed new job.

Harassment in the workplace often affects socially vulnerable individuals and groups of people who are younger, aged between 15 and 28, women over 40 and men over 50, members of

ethnic and racial groups, single mothers, the disabled and the chronically ill, homosexuals, single persons etc.

9. CONCLUSION

Every organisation strives for success, competitiveness and the achievement of set goals with the lowest possible operating costs. The responsibility for success and good work results lies in the hands of the management. Unfortunately, in today's conditions, employees are overloaded with work and constantly under pressure from their superiors, who even threaten to terminate their employment if they do not achieve the desired results.

The most common cause of employee mobbing is inadequate management, and above all unclearly divided powers and responsibilities. Individuals who are exposed to constant mobbing at work for a long time are less effective than they would otherwise be. Studying and preventing mobbing is therefore important because it has a negative impact on employee performance, organizational performance and efficiency.

Despite the fact that Article 34 of the Constitution of the Republic of Slovenia states that every person has the right to personal dignity and security, the right violated by harassment, in practice the opposite happens.

The legal consequences of harassment are still a relatively unexplored area in Slovenia and Slovenian law. In-depth court practices on these issues are still not enough, since harassment as a criminal act is difficult to prove. The statistics of court proceedings are not in favour of workers, as less than half of court proceedings end in favour of the worker (with a judgment in favour of the worker or a court settlement).

The legislation applicable in the field of civil servants in the public sector in several legal acts already provides for the "protection" of employees against bullying, but in practice it still happens that the field of bullying as a criminal act is very difficult to prove.

Employees are clearly aware that this exists, but they are afraid to report mobbing, mainly because of their overall poor financial as well as economic situation and loss of their jobs.

In public administration, the consequences for the resulting damage are not borne directly by the employer, in this case the state, but by the users themselves, since the material damage caused as a result of mobbing is covered from the state treasury. Therefore, the public sector at the implementation level is not very interested in preventing this phenomenon.

Mobbing in public administration is also facilitated by vaguely defined tasks in internal organizational acts, inconsistency of internal acts with legal and by-law regulations, inconsistency of systematization acts with their actual situation in internal organizational units, and the inappropriateness of assigned tasks in relation to the systematized workplace.

Also, the functions of employees in leading positions in all management functions (lower, middle and top) are too interconnected and are "subject" to existing politics, the influences of which also extend to the judicial branch. Despite the fact that mobbing is happening and it is visible to everyone, if they decide to report it, employees are already doomed to failure in large cases from the very beginning; for this reason, they usually do not even decide to report it, so it is essential that they connect with each other and turn to neutral civil institutional organizations for help and through them try to reach a positive solution for them.

It is precisely because of the fear of failure and the state's step-motherly behaviour towards them that employees do not take advantage of all the legal options they still have, as the procedures are long-term and are also related to the financial situation and excessive

psychological burdens when proving harassment, which is felt in the end as an additional defect on their own health.

REFERENCES

Act on Safety and Health at Work (Official Gazette of the Republic of Slovenia, No. 43/11)
Act on equal opportunities for women and men (Official Gazette of the Republic of Slovenia, no. 59/02 , 61/07 – ZUNEO-A, 33/16 – ZVarD and 59/19)

Bohl T. (2019). Kaj je mobing: opredelitev in pojavne oblike Available from <https://www.e-kadrovik.si/vsebine/varstvo-pri-delu-in-promocija-zdravja/mobing/kaj-je-mobing-opredelitev-in-pojavne-oblike/> Accessed: 2023-07-18.

Constitution of the Republic of Slovenia (Official Gazette of the Republic of Slovenia, no. 33/91-I , 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99, 75/16 – UZ70a and 92/21 – UZ62a)

Criminal Code (Official Gazette of the Republic of Slovenia, No. 50/12 – official consolidated text, 6/16 – corr. , 54/15 , 38/16 , 27/17 , 23/20 , 91/20 , 95/21 , 186/ 21 , 105/22 – ZZNSPP and 16/23)

Individualni delovni spori v zvezi s trpinčenjem na delovnem mestu Available from https://www.sodnapraksa.si/?q=26/2009&_submit=i%C5%A1%C4%8Di&id=49948&rowsPerPage=20 Accessed: 2023-07-11.

Labor Relations Act (Official Gazette of the Republic of Slovenia , no . 21/13 , 78/13 - app . 19 – ZPosS, 81/19 , 203/20 – ZIUPOPĐVE, 119/21 – ZCmIS-A, 202/21 – odl. US, 15/22 and 54/22 – ZUPS-1)

Law on Civil Servants (Official Gazette of the Republic of Slovenia, No. 63/07 - official consolidated text, 65/08 , 69/08 - ZTFI-A, 69/08 - ZZavar-E, 40/12 - ZUJF, 158/20 - ZIntPK -C, 203/20 – ZIUPOPĐVE, 202/21 – odl. US and 3/22 – ZDeb)

Mobing na delovnem mestu Available from <https://www.arag.si/arag-svetuje/mobing-na-delovnem-mestu/> Accessed: 2023-07-15.

Regulation on measures to protect the dignity of employees in state administration bodies (Official Gazette of the Republic of Slovenia, no. 36/09 and 21/13 – ZDR-1)

Turk B. J. (2019). Kaj je mobing? Postopek ukrepanja, ce so podani znaki mobinga, kako ga dokazati, predvidene sankcije Available from <https://www.iusinfo.si/medijsko-sredisce/v-srediscu/247018> Accessed: 2023-07-25

Vedenik, L. (2015). Mobing v javnem sektorju. Management and safety M&S 2015: conference theme: Stress management and safety : program cycle: Modern management concepts and safety : 10th international conference, pp.. 230-231, ISBN 978-953-58000-3-3. Opatija, Croatia, June 12th and 13th, 2015, European Society of Safety Engineers, Zagreb

Weber N. (2021). Vampirji v delovnem okolju - pregled sodne prakse na področju mobinga, Revija Odvetnik, st. 102, 2021. Available from <https://www.iusinfo.si/medijsko-sredisce/v-srediscu/288837> Accessed: 2023-07-11.