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**Psychological, Legal and Organizational
Perspectives on Mobbing as a Specific Phenomenon of Discrimination**

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Abstract: The article aims at an analysis of the concept of mobbing from a legal, psychological, organizational perspective, as a phenomenon of discrimination at work, which has entered the social study relatively recently. Mobbing has been studied in some European countries such as the Nordic countries, England, France, Italy, Spain since the 1990s, and mainly refers to actions of intense psychological pressure, carried out on an employee to make him leave the job, in the conditions in which his dismissal would bring legislative problems on the employer. The employee who “must” be removed can thus endure in the long run a series of injustices and humiliations meant to bring him to the point where he will leave the job alone. In Romania, although the phenomenon exists, there has not been a public discussion on it so far, but there are legislative provisions related to European legislation, as well as concerns about the implementation of European projects in this regard.

Keywords: discrimination; harassment; mobbing; bullying; employment; social policies

1. Introduction

When we talk about interpersonal relationships in an environment, by definition competitive, such as the workplace, we can say that they are complex and sometimes very complicated, and situations that go beyond normal patterns are inevitable. These “abnormal” types of interpersonal relationships cause serious personal and organizational dysfunctions, affecting the performance and efficiency of the entire organization. For this reason, in the last period, they are studied, delimiting even a subdomain of organizational psychology, organizational psychopathology, which describes them, explains the determining causes, evolution and offers solutions for their prevention and solution.

The organizational culture of a unit must be oriented towards ensuring the respect of the dignity of all employees, so that they feel comfortable, from a mental point of view, at work. The correct and equitable organization of the activity, the bonuses and the honesty of the relations between employees and employers are essential and within the reach of the latter. Dialogues between employees and employers, whether they bring praise or criticism, must be private and kept confidential.

Therefore, anonymous regular surveys on moral harassment and very sincere dialogue with departing employees are welcome to identify the real causes that led them to make this decision.

Employers must constantly pursue the promotion of intercultural tolerance, open communication and mutual respect in labor relations.

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In the category of organizational psychopathology as a result of abnormal interpersonal relationships is included the phenomenon of mobbing, found in the literature and under the name of “psychotherapies at work.”

2. Conceptual Delimitations

The concept of mobbing is first used in 1990 by Leymann (Leymann, 1990) in his work “Mobbing”, where he states that it is a communicative situation that threatens to cause serious physical and mental harm to the individual. Mobbing is built on hostile actions that, through constant repetition, have dangerous effects” (Leymann, 1990). Other authors use the term “bullying” with the same meaning (Adams & Crawford, 1992).

However, the term bullying currently has other meanings. According to the education law, bullying (psychological violence) can be defined as: “the action or series of physical, verbal, relational and/or cyber actions, in a social context difficult to avoid, committed with intent, which involves an imbalance of having the consequence of achieving dignity or creating an atmosphere of intimidation, hostile, degrading, humiliating or offensive, directed against a person or group of persons and concern aspects of discrimination and social exclusion, which may be related to belonging to a certain race, nationality, ethnicity, religion, social category or to a disadvantaged category or beliefs, sex or sexual orientation, personal characteristics, action or series of actions, behaviors that take place in schools and all spaces for education and training¹.

For Leymann, the term mobbing has two meanings, one more attenuated, the other slightly harsher. The attenuated meaning of mobbing refers to persecution in the workplace (in fact, this is also the subtitle of the French translation of Leymann's work, *Mobbing. La persecution au travail*). The radical meaning defines bullying as a “psychotherapist at work”. “By mobbing, we mean a communicative situation that threatens to cause serious physical and mental damage to the individual. Mobbing is a destructive process; it consists of hostile actions which, taken in isolation, may seem innocuous, but by constant repetition have dangerous effects” (Leymann, 1996).

In more recent research, the destructive effects of mobbing on the victim are introduced into the very definition of the phenomenon.

Einarsen (Einarsen, 1999) defines mobbing as the systematic persecution of a colleague, subordinate or superior, which if continued can cause serious social problems, psychological and psychosomatic symptoms of the victim.

Leymann (Leymann, 1996, pp. 165-184) defines mobbing as a psychological terror in the workplace, involving hostile and unethical communication, generally directed at to a single individual, who, consequently, is pushed into a situation of helplessness and in which he cannot defend himself.

For Unison (1997), mobbing is “offensive, intimidating, malicious, insulting or humiliating, abuse of power or authority that attempts to undermine an individual or group of employees and can cause them stress disorders.”²

¹ Law no. 221/2019 for the amendment and completion of the National Education Law no. 1/2011.

² UNISON: 1997, Bullying Survey (UNISON, London).

The usual term, common in language, is mobbing. Mobbing can affect a person in a community or affect a group of employees and is often a manifestation of discrimination or incorrect and unprincipled interpersonal relationships.

The term MÓBBING s. N. Exercise of mental stress on someone at the place of activity. (<en mob. mobbing)¹ was also included in the Romanian language dictionary.

Mobbing is a widespread form of workplace abuse. Psychological terror or mobbing in professional life involves hostile and unethical communication, which is systematically directed by one or more people, especially towards an individual, who, as a result of mobbing, is pushed into a helpless and defenseless position and held there by mobbing. Mobbing is a term used to describe a variety of behaviors in the workplace that involve emotional abuse of one or more employees. The term is used when a group of employees, rather than a single employee, engages in this hostile behavior, making life difficult for someone at work as the victim of bullying. The actors involved in the act of mobbing can be colleagues, superiors, or subordinates, and this behavior can affect workers in companies of all sizes, including smaller companies.

In our turn, we define mobbing as a form of systematic psychological harassment at work, on an employee by the employer or a group of colleagues to cause the person to leave the job, provided that his dismissal is not possible, has no good reasons for the professionalism of the person concerned and/or would raise legislative issues for the employer. The employee who “must” be removed therefore endures, in the long run, a series of injustices and humiliations, which make it impossible for him to fulfill his duties and which aim to bring him to the point where, mentally giving up, to leave. alone from that job. These humiliations and pressures to which he is subjected bring him mental and social harm and may even affect his health.

3. Motives, Forms and Ways to Prevent “Mobbing”

The central element in any definition of “mobbing” in most Anglo-Saxon countries is the repeated and lasting nature of the negative behavior to which the target is exposed. There was the question of how long a certain behavior must have to be considered mobbing. Leymann considered it relevant in defining the phenomenon at least 6 months because it is frequently used in determining various psychiatric disorders.

Leymann identified 45 (cited by Zlate, 2007) behaviors associated with mobbing that he grouped into 5 categories, depending on the effects on victims:

1. Actions intended to restrict the possibility of expression of the victim: she does not have the opportunity to express her point of view in front of the hierarchical bosses; the victim is interrupted when speaking; colleagues prevent the victim from supporting their point of view; colleagues address themselves inappropriately, offend the victim; the victim's work and personal life are criticized;
2. Actions aimed at isolating the victim: never talk to the victim; the victim is not allowed to address another person; the victim is assigned a job that isolates her from colleagues; colleagues are forbidden to talk to the victim; the physical presence of the victim is ignored.
3. Actions of disregarding the victim in front of colleagues: the victim is spoken ill of and various rumors are launched about her and her actions; she is ridiculed and considered mentally ill; the political or

¹ <https://dexonline.ro/definitie/mobbing>.

religious beliefs of the victim are attacked; jokes about the origin, nationality and private life of the victim; service grading is unfair; the victim is sexually harassed.

4. Actions of professional discredit of the victim: the victim is not assigned tasks or are assigned some above the level of his qualification or below the level of qualification, some being unnecessary or absurd; the tasks assigned to the victim are frequently changed and he is forced to perform humiliating tasks.

5. Actions aimed at compromising the victim's health: entrusting dangerous and harmful tasks to health; the threat of physical violence; slight physical aggression of the victim, as a warning; serious physical aggression, without restraint; discomfort at work or home; sexual assault of the victim.

It is estimated that, of all the behaviors specific to mobbing, the most serious is the aggressive one. It should be noted that the association of several of the behaviors described may be more serious than the incidence of a single one. The frequency of mobbing behaviors more than once a week, for a period longer than six months, is considered a threshold value for the diagnosis of mobbing.

Moral harassment should not be confused with stress, because stress is impersonal. At the same time, bullying should not be confused with mobbing, because bullying occurs with a certain frequency and lasts longer, instead of mobbing usually has a unique occurrence, and the purpose pursued by mobbing is showing superiority over the victim by instilling fear of the aggressor.

The reasons for the emergence of mobbing can be, according to Leymann, led by poor conflict management which can be a source of "mobbing" in combination with the inadequate organization of work, and conflict management is an organizational problem, not an individual one.

Leymann highlighted the action of four main factors in provoking 'mobbing':

1. deficiencies in work - design;
2. unprincipled, deficient driving behavior;
3. the vulnerability of socially exposed situation of the victim;
4. decadent, uneven departmental ethics.

Moral harassment of employees at work has several forms:

a) Harassment aimed at restricting the employee's ability to express himself. This is manifested by the fact that the employee is not included in the discussions, he is forbidden to express his opinion, the victim being constantly interrupted when he speaks, etc. All these actions have

the purpose of inducing the employee the idea that his opinion has no value and no one is interested in his opinions.

b) Harassment aimed at the physical isolation of the victim by the work team. As part of this action, the employee is given an office usually located in the technical part of the room, thus excluding contact with co-workers.

c) Harassment aimed at discrediting the employee professionally. This action aims to discredit the employee's professional skills and can take several forms: the employee is given light work tasks, below the limits of skills, but this is not done for housekeeping; the employee is given work tasks superior to the skills to discredit him if he does not cope with them; imposing the execution of humiliating work tasks; the task of the victim to perform some unnecessary work tasks, etc.

d) Harassment which is manifested by making fun of the employee. In this case, even things are ridiculed that, in a human, ethical and legal way, cannot be ridiculed, even to the point of laughing at the way that person walks, the way he looks (eyes, nose, lips, etc.), its social origin, etc.

e) Harassment manifested by physical aggression, which may include those of a sexual nature, and which have the most serious, rapid, and direct effects on employees.

Preventing mobbing in the organization involves inventorying the company's problems, monitoring their dynamics, and formulating ethical and behavioral norms.

Prevention is one of the most desirable forms that should be practiced. When it is desired to protect the working capacity of employees, it is necessary to establish rules, norms, and procedures to prevent the escalation of the conflict in dangerous situations:

1. A measure that falls within the scope of actions to prevent bullying is the training of conflict resolution skills by managers. To be able to intervene promptly, the manager must be able to “read” the first signs of development of the mobbing process.

2. Reconciliation of the parties, through a specialist acting as a mediator in the mobbing process, is another way of prevention. It is necessary to protect and rehabilitate the victim psycho-socio-professionally. The aim is to prevent stigmatization of the employee, maintaining his reputation and previous skills.

3. Another form of intervention that is used, when the previous ones have failed, remains the legal rehabilitation of the victim. In this situation, it takes the form of a dispute, settled according to civil law. Of course, the costs of mobbing are high and will be borne by employers and even employees, although neither one nor the other is aware of this at an early stage.

4. An internal regulation that establishes the way to resolve conflicts, through amicable methods.

5. A well-completed job description, which regulates the duties of the parties entering into the employment relationship.

6. A code of conduct that establishes desirable and undesirable behaviors within the company/institution. In general, only large or medium-sized organizations have such codes.

Harassment at work must be viewed in several ways: legal, psychological, medical, work process organization, etc. Proof of a case of moral harassment at the workplace is quite difficult because the external reality is not the same as the internal reality that the victim of bullying feels. Recourse to the assistance of witnesses to acts of moral harassment in the workplace is often unsuccessful because witnesses usually refuse to come and testify about the acts of moral harassment they witnessed, and the detention of witnesses is justified by the fear of not being subsequently persecuted at work or even fired.

According to a study conducted by the European Foundation for the Improvement of Living and Working Conditions, in 2000 there were: 2% of workers in the European Union (3 million) exposed to physical violence, 9% (13 million) mobbing, and 2% (3 million) sexual harassment. This survey was conducted in all EU Member States by Pascal Paoli¹.

In 2011, a study on the phenomenon of mobbing was carried out in Romania within a project co-financed by the European Social Fund through the Sectoral Operational Program Human Resources Development 2007-2013, “Invest in people!” Priority axis 6 - “Promoting social inclusion” Major field of intervention

¹ <http://www.eurofound.eu.int/publications/files/EF02109FR.pdf>.

6.3 “Promoting equal opportunities on the labor market” Project title “Women matter!” Contract identification number POSDRU/71/6.3/S/23848.

The data collection was based on the application of 5000 questionnaires and 2000 standardized sheets, the focus of the sheets being exclusively on the issue of mobbing, through open-ended questions. The sociological survey was conducted on two samples representative of the population aged between 18 and 65 institutionalized and who work or have had work experience in the past. The first sample included four development regions of interest: Bucharest-Ilfov, South-Muntenia, Center, and North-West.

One of the results of the project was the elaboration of a Guide of good practices¹ - Mobbing or psychological harassment at work, as well as the organization and operation of the first Anti-Mobbing Center in Romania, within the above-mentioned project. The guide presents the concrete ways to identify cases of mobbing². If a person In the Center this task falls to the person who will have the first contact with the victim, ie the social worker. How he recognizes a case of mobbing is to apply the 'Harald Ege 2002' method, which proposes that seven indicators be followed in the analysis of mobbing. These are job, duration, frequency, types of actions, inequality, successive phases; the intention to persecute.

At the international level, measures have been taken to prevent and combat the phenomenon of mobbing, by forming: public institutions, interdisciplinary research centers, non-profit organizations, companies that offer paid services.

4. Legislative Landmarks regarding the Abusive Behavior Exercised through Mobbing

Romanian Legislation

Since 2000, there has been an increase in the general interest in Romania, including in the form of the development of legislation and the institutional framework of the issue of policies to prevent and combat unprincipled labor relations and some forms of discrimination.

In Romanian legislation, there are a series of laws whose provisions refer to this type of conduct. They describe, in general terms, the abusive behavior and can therefore be used for sanctions. The law assimilates them, most of the time, with discrimination and violation of the principle of equal opportunities, but it also refers concretely to harassment.

Thus, Emergency Ordinance 137 of 2000, republished in 2014, with additions and amendments, regarding the prevention and sanctioning of all forms of discrimination, introduces in the Romanian legislation the term “moral harassment” which can be active or passive and which is defined as being: “any active or passive behavior which, by the effects it generates, favors or disadvantages unjustifiably or subjects to an unfair or degrading treatment a person, a group of persons or a community towards other persons, groups of persons or communities”.

Also, any behavior determined by criteria of race, nationality, ethnicity, language, religion, social status, beliefs, gender, sexual orientation, membership in a disadvantaged group, age, disability, refugee or asylum status, or any other, is considered moral harassment. another factor that leads to the creation of an intimidating, hostile, degrading, or offensive framework.

¹ Andronache, Flori-Ana - psychologist, coordinator of the center et al. “Mobbing or psychological harassment at work. Organization and operation of the first Anti-mobbing Center in Romania”. Good practice guide - Colfasa Association, “Woman matters!” Project.

² Op. cit. Part IV - Specialized intervention in the Anti-mobbing Center in Bucharest. p. 67-72.

The text of the law does not establish clear sanctions but specifies that these abuses are sanctioned disciplinary, contraventional, or criminal, as the case may be. The framework in which this form of abuse may occur is defined as follows: 'the conduct of an employee by another employee, who is his superior, by a subordinate and/or by a comparable employee in terms of hierarchically, about employment relationships, having as purpose or effect a deterioration of working conditions by infringing the rights or dignity of the employee, by affecting his physical or mental health or by compromising his professional future, behavior manifested by hostile or unwanted conduct, verbal comments, actions or gestures “.

Another text that complements the legislative framework is Law 202 of 2002, republished, with some additions in 2013, which refers to equal opportunities and treatment between women and men. The law clearly defines the notions of direct and indirect discrimination, harassment and sexual harassment, as well as psychological harassment.

The Romanian legislation does not provide for special amendments that expressly sanction mobbing, but, as I mentioned, there are several laws whose provisions can be used to sanction mobbing as a form of discrimination or violation of equality. of opportunities (Government Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination, Law no. 202/2002 on equal opportunities and treatment between women and men).

Thus, Law no. 167/2020 for the amendment and completion of the Government Ordinance no. 137/2000¹ is completed as follows:

- Constitutes moral harassment in the workplace and punishes disciplinary, misdemeanor, or criminal, as the case may be, any behavior exercised with respect to an employee by another employee who is superior or hierarchical, by a subordinate and/or by an employee comparable from a hierarchical point of view, in relation to employment relationships, which has as its purpose or effect a deterioration of working conditions by infringing the rights or dignity of the employee, by affecting his physical or mental health or by compromising his professional future, behavior manifested in any of the following forms:

- a) hostile or unwanted conduct;
- b) verbal comments;
- c) actions or gestures.

- Moral harassment at work is any behavior that, by its systematic nature, may harm the dignity, physical or mental integrity of an employee or group of employees, endangering their work or degrading the work environment. For the purposes of this law, stress and physical exhaustion are subject to moral harassment at work.

- Employees who commit acts or acts of moral harassment at work are disciplinary liable, in accordance with the law and the internal regulations of the employer. Disciplinary liability does not remove the employee's misdemeanor or criminal liability for those acts.

- The employer has the obligation to take any necessary measures in order to prevent and combat acts of moral harassment at work, including the provision in the internal regulations of the disciplinary sanctions unit for employees who commit acts or acts of moral harassment at work.

¹ <http://legislatie.just.ro/Public/DetaliuDocument/228723>.

- It is forbidden for the employer to establish, in any form, internal rules or measures that oblige, determine, or urge employees to commit acts or acts of moral harassment at work.
- The employee, the victim of moral harassment at work, must prove the factual elements of moral harassment, the burden of proof falling on the employer, in accordance with the law. The intention to harm through acts or acts of moral harassment at work must not be proven.

As it appears from the normative acts of the Romanian legislation regarding some anti-discrimination practices, until now, Romania does not have explicit, direct legislation regarding the phenomenon of “mobbing”, but we find the sanctioning of abusive harassing behaviors instead as well as some indirect elements, expressed through public policies of this issue.

For some professional fields, such as the medical system, education, and training, public administration, there is already quite consistent legislation on combating and preventing discrimination against certain categories of citizens, for example, people with disabilities or Roma.

European Legislation

Starting from the recognition of the negative social and economic effects of the phenomena of “mobbing”, “bullying”, harassment, intimidation, and discrimination in the workplace, efforts have been made at the European level to promote some actions to prevent and combat such phenomena.

In 1989, by the Council of Europe Directive no. 89/391, which contains specific provisions on occupational safety and health, it has been established that the employer is responsible for the health and safety of employees at work, including the risk of “mobbing”. Member States have the task of implementing this Directive by developing legislation or non-legislative measures to eliminate or reduce the phenomenon.

As regards the phenomenon of 'mobbing', Community law condemns it by Article no. 31 of the chapter on the Fundamental Rights of Citizens of the European Union, stating that “every employee has the right to working conditions that respect his or her health, safety, and dignity”.

Two other Community directives with a social impact act as a precaution in the field of ensuring equal opportunities for those employed. These are Directive 2000/43 / EC on equal opportunities for persons regardless of their ethnic or racial origin and Directive 2000/78 / EC laying down guidelines on equal treatment in employment and occupation.

In 2002, the Commission of the European Communities stated “Adapting to change in work and society: A new strategy of the European Communities in the field of safety and health at work 2002-2006”. The communiqué uses the term “well-being at work”, in the sense of “physical, moral and social well-being, and not just as something that can be measured by the absence of accidents at work and occupational diseases”. The communiqué refers to a new policy for implementing the community strategy in the field of occupational safety and health by developing a preventive culture and involving all social factors in education and training on the main relations between employer and employee, to promote environmental quality. for work. The express objectives of the Commission of the European Community include “examining the appropriateness of a Community instrument on psychological harassment and violence at work”.

Public policy approaches to tackling bullying in the workplace in Europe are diverse and dynamic.

Thus, the text adopted by the European Parliament resolution of 11 September 2018 on measures to prevent and combat mobbing and sexual harassment at the workplace, in public spaces, and political life in the EU (2018/2055 (INI))¹, demonstrates the permanent concern in this regard.

5. Conclusions

Mobbing in the workplace has consequences for several actors involved in this process:

- Consequences of mobbing on employees - employees are the most affected by the phenomena of moral harassment at work, mobbing decreasing professional performance, but its effects also affect personal life.
- Harassment can cause post-traumatic stress disorder, loss of self-esteem, anxiety, apathy, irritability, memory problems, sleep disorders and digestive problems, and even suicide.

At the level of the work team - a case of moral harassment of the employee at work arouses discussions within the work team, the employees being thus distracted from fulfilling the work obligations. For the employer - employers are liable to the court for tolerating the act of moral harassment of employees at work, and in cases where the employee will win, the employer will be obliged to pay the moral and material damage caused to the employee. In some countries, moral harassment has been criminalized and punishable by imprisonment. In Romania, according to the Emergency Ordinance no. 137/2000, with subsequent amendments and completions, the contravention fine in case of harassment is from 10,000 lei to 15,000 lei.

In conclusion, we state that bullying at work is a negative phenomenon, which must not be tolerated, but, on the contrary, must be combated, because dignity at work is a value that must be respected. The organizational culture of a unit must be oriented towards ensuring respect for the dignity of all employees at work so that the employee must feel mentally comfortable at work.

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¹ <https://www.europarl.europa.eu/doceo/document/TA-8-2018>.