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PSYCHOLOGICAL VIOLENCE AT WORK: PROBLEMS IN APPLYING THE LAW IN LITHUANIA

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ABSTRACT

The recent Lithuanian Law of Labor Code of 28 July 2022¹ introduced into Lithuanian Labor Code the concept of “psychological violence.” The definitions of psychological violence under this law adopt quite a broad conception of the notion of psychological violence. The legislator has defined the scope where psychological violence is prohibited, as well as new ground for terminations of employment contract, and use of psychological violence. The recent amendments to the Labor Code also impose numerous obligations on employers to prevent psychological violence at work, which, together with the recommendations of the State Labor Inspectorate, have caused confusion not only in companies, institutions, and organizations, but also in the lives of their managers. The limited case law after the change in the legal framework shows that the legal framework is not working as it should and is not adequately interpreted to prevent psychological violence, and therefore deserves criticism.

KEYWORDS

Psychological violence, mobbing, prevention, Lithuanian law.

¹ Law amending Articles 14, 25, 27, 30, 52, 58, 139, 144, 221, 222, 223, 225, 226, 227 and 240 of the Labor Code.

INTRODUCTION

The increasing focus on the well-being of workers in the modern working environment has drawn attention to a number of occupational risks, including psychological violence. Psychological violence, characterized by subtle but highly damaging acts such as bullying, intimidation, and frequent belittling, poses a serious risk to workers' emotional well-being and therefore affects their productivity and the overall working environment.

First definitions of workplace bullying described it as "the deliberate, hurtful and repeated mistreatment of a target by a bully, driven by the bully's desire to control another person" at their place of employment.² Lippel explains that: "workers are subjected to a myriad of forms of violence including physical violence, psychological violence (including harassment and bullying as well as verbal abuse), sexual violence (including sexual harassment and assault), other forms of discriminatory harassment, criminal violence, intimate partner violence related to the workplace, and technology-based violence including cyber-bullying."³ General harassment, or bullying, is not based on a protected status - such as the victims' race, sex, nationality, religion or color - and occurs regularly and repeatedly over a period of time.⁴ Bullying has no legal definition. It is generally seen as unacceptable behavior towards an individual or group regardless of their 'characteristics' and most view the cause as abuse of power.⁵

According to data from the State Labor Inspectorate, the number of workplace disputes based on psychological violence and the number of inspections is increasing.⁶ Main organizational risk factors and working conditions associated with violence and harassment are related to job demands, such as work intensity, time pressure, high workload, physically and mentally demanding, fear and mental strain, high quantitative demands, work pressure, emotionally demanding tasks, job mentally demanding, working with tight deadlines, volume of tasks; unsocial hours, job insecurity and uncertainty. Hostile environment, internal conflicts, poor social relationships, poor personal relationships, internal competition, poor/lack of communication, lack of social support, rivalry among colleagues and personal resentment, poor level of cooperation, informal groups and cliques, strong identity groups, managerial authoritarian styles, limited managerial support, nonparticipative leadership, autocratic style, abusive management, inadequate staff policy were also identified as key factors in harassment environment.⁷

Pascu describes the following situation:

In mobbing management, European countries have addressed two major categories of approaches. The first approach is illustrated by those countries which have established specific legislation on combating the phenomenon of mobbing. For example, Sweden has introduced two specific government ordinances since 1993: Violence and Menaces at the Workplace (FS 1993) and Victimization at Work (ASF 1993). Through these legislative instruments, they established

² E. Christine Reyes Lola, "Low-Wage Workers and Bullying in the Workplace: How Current Workplace Harassment Law Makes the Most Vulnerable Invisible," *Hastings International and Comparative Law Review* 40, No. 2 (Summer 2017): 231-254.

³ Katherine Lippel, "Conceptualising Violence at Work through a Gender Lens: Regulation and Strategies for Prevention and Redress," *University of Oxford Human Rights Hub Journal* 2018 (2018): 143-166.

⁴ Gary Namie, Ruth Namie, "Workplace Bullying: How to Address America's Silent Epidemic," *Employee Rights and Employment Policy Journal* 8, No. 2 (2004): 315-334. Reyes Lola, *op. cit.* note 2.

⁵ Patricia Leighton, "Harassment at Work: Isn't It Really a Matter for Health, Safety and Well-Being Law," *Business Law Review* 35, No. 1 (January/February 2014): 15-23.

⁶ <https://vdi.lrv.lt/lt/atviri-duomenys/?lang=lt>

⁷ Dana Volosevici, "Psychological Harassment in the Workplace. An Overview at EU Level," *Journal of Law and Administrative Sciences* 11 (2019): 64-70.

a coherent framework for preventing and combating violence in the workplace, focusing on aspects of organizational management.⁸

Another example of a country where they legislation to prevent the mobbing were adopted is Belgium. In 2002, they enacted a law aimed at "the protection against violence, moral harassment and sexual harassment in the workplace". Similarly to the legislation in Sweden or France, this law requires employers to establish preventative measures to reduce the risk of some forms of violence, within organizations.⁹ In Romania, there is no specific legislation on combating violence and mobbing in the workplace, nor draft laws in the field. There are only several articles which, by interpretation, may also include the management of phenomena such as mobbing in the Labor Code.¹⁰ The Labor Code of the Republic of Bulgaria does not contain an explicit legal regulation of the concepts of "harassment" and "sexual harassment", nor an explicit prohibition of these activities in the workplace.¹¹ Lithuania, like many other countries, has recognized the need to address this sensitive issue.

This article seeks to provide a comprehensive overview of the changes in the legal regulation of psychological violence in the context of efforts to prevent psychological violence in Lithuanian workplaces, and the actual impact of the changes in the legal regulation from November, 2022. Considering that the topic of psychological violence is relatively new in Lithuanian labor law, there is very little research from scientific evaluations. The changes in the legal regulation arose from the International Labor Organization Convention (Convention), despite the fact that Convention is still unratified in Lithuania and European Council adopted decision inviting Member States to ratify the Convention¹², concerning the elimination of violence and harassment in the world of work (No. 190) states that:

the term 'violence and harassment' in the world of work refers to a range of unacceptable behaviors and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment; the term 'gender-based violence and harassment' means violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment.¹³

Until the adoption of Convention No. 190 there were numerous gaps in international labor standards about workplace violence and harassment. Several standards referred to various forms of violence and harassment, but none specifically defined any of the conduct that might be classified as such, as violence and harassment were not the focus of any of the instruments.¹⁴

The aim of this article is to present the functioning of the changed legal framework in relation to the prevention of psychological violence in the context of investigations

⁸ Roxana Diana Pascu, "The Phenomenon of Mobbing," *Research and Science Today* 9 (2015): 146–154.

⁹ *Ibid.*, 152.

¹⁰ *Ibid.*

¹¹ Nikoleta Lazarova, Georgi Mihaylov, "Challenges to preserving the dignity of the worker or employee in the Republic of Bulgaria," *Balkan Social Science Review* Vol. 21 (June 2023): 7–29.

¹² *European Council decision inviting Member States to ratify the Violence and Harassment Convention, 2019 (No. 190) of the International Labour Organization* (6 October 2023).

¹³ *International Labor Organisation Convention* (2019, no. 190), Art. 1.

¹⁴ Makbule Sahan, "The First International Standard on Violence and Harassment in the World of Work," *Business and Human Rights Journal* 5, No. 2 (July 2020): 289–295.

by the State Labor Inspectorate. The study uses and combines logical and systematic analysis, comparative analysis, document analysis, as well as teleological, descriptive, historical, linguistic, empirical and other methods.

LEGAL REGULATION OF PSYCHOLOGICAL VIOLENCE IN THE REPUBLIC OF LITHUANIA

Article 30 of the Labor Code of the Republic of Lithuania, which has been in force until 1 November 2022, obliged employers to take active measures to prevent psychological violence, to adopt internal legislation, and to prevent possible manifestations of psychological violence from occurring. As of 1 November 2022 Labor Code Article 30 states:

that the employer must provide a working environment in which the employee or group of employees is not subjected to hostile, unethical, degrading, humiliating, aggressive, abusive or insulting acts which violate the honor and dignity, physical or psychological integrity, or are intended to intimidate, embarrass, or reduce the employee or group of employees to a defenseless and helpless position.¹⁵

This clause in the Labor Code effectively emphasizes the essential entitlement of every employee to a respectable and secure work environment. The phrase effectively communicates the message that different forms of mistreatment, including both hostile acts and actions that undermine an employee's psychological well-being, are not acceptable. This demonstrates a forward-thinking approach to the dynamics of the workplace, highlighting the importance of prioritizing the mental and emotional well-being of employees alongside their physical safety. By emphasizing not just the individual but also groups of employees, the provision ensures collective protection against systemic issues. This comprehensive approach is essential in today's complex work cultures and serves as a foundational benchmark for promoting a culture of respect, dignity, and well-being in professional settings.

The Labor Code introduces the concept of "psychological violence", which is defined as violence and harassment, including psychological violence, gender-based violence and harassment (violence and harassment directed against persons on the basis of their sex or disproportionately affecting persons of a particular sex, including sexual harassment). This intends any unacceptable behavior or threat of such behavior, whether it is intended to be physical, whether once or repeated, psychological, sexual or economic effects, whether the unacceptable conduct has or may have such effects, whether it violates the dignity of a person or creates an intimidating, hostile, degrading or offensive environment, and/or whether it has caused or is likely to cause physical, material and/or non-material damage. The concept is controversial because of its content, as even a single instance of threatening behavior (without the actual behavior manifesting) that could potentially have adverse effects without necessarily causing harm can be classified as psychological violence. The definition of psychological violence in the Labor Code of the Republic of Lithuania does not provide any types of psychological violence (eg. Bullying, mobbing etc.). In the legal doctrine single acts are not considered as psychological violence. Bullying at work is about "repeated actions and practices that are directed against one or more workers; that are unwanted by the victim; that may be carried out deliberately or unconsciously, but clearly cause

¹⁵ *Labor Code of the Republic of Lithuania*, Register of Legal Acts, 2016, no. 23709.

humiliation, offence, and distress; and that may interfere with work performance and/or cause an unpleasant working environment.”¹⁶ An article entitled “Legislative recognition in France of psychological harassment at work,” explains that “it is possible to find laws that include one single serious event under the definition of psychological harassment in jurisdictions in which other forms of violence, like intimidation, are not explicitly regulated. For example, s. 81.18 of the *Quebec Labour Standard Act*, R.S.Q. c. N-1.1, defines psychological harassment to include some one-off events”¹⁷. In the literature there are also discussions regarding single acts of psychological harassment that can be treated as a critical to the victim.¹⁸

The recent concept of psychological violence provided in the Labor Code of Lithuania does not seem to align with what both parties in an employment relationship would typically expect. This could mean that theoretical scenarios might be labeled as psychological workplace violence: any situation with potential for a certain action and possible resultant harm could fall under this definition. Legally, this can be perceived as a mandate for preemptive measures - anticipating potential incidents before they occur or predicting possible harm before it materializes. However, this presents considerable challenges in real-world application. Without an actual, tangible event that can be evaluated against the legal benchmarks for instances of psychological violence, employers are paradoxically bound to anticipate potential problems and act to deter them, even in the absence of any concrete signs of psychological workplace violence.

The Labor Code of Lithuania prohibits violence and harassment:

(1) in workplaces, including public and private places, where the employee is at the disposal of the employer or performing duties under an employment contract; (2) during rest and meal breaks or when using domestic, sanitary and hygiene facilities; (3) during work-related trips, travel, training, events or social activities; (4) during work-related communication, including communication by means of information and electronic communication technologies; (5) in accommodation provided by the employer; (6) on the way to or from work.

The given provision in the Labor Code demonstrates an encompassing and detailed perspective on the definition and prevention of violence and harassment, including its psychological and gender-based manifestations, in the workplace. Its emphasis on the multifaceted nature of such behaviors – physical, psychological, sexual, and economic – speaks to a deep understanding of the complexities involved in workplace misconduct.

In addition, by setting out the specific circumstances in which violence and harassment are prohibited, the Article ensures that workers are fully protected. This includes not only traditional work environments but extends to digital communications, work-related social events, and even the commute to and from work, acknowledging the evolving nature of work interactions in the modern age. As far as the modern world is concerned, a number of studies have been carried out in the field of psychological violence, which have shown that, for example in New Zealand, “a survey of 826 workers resulted in around 15 per cent of participants reporting to have been bullied and approximately 2.8 per cent of participants reporting to have been cyberbullied,

¹⁶ M. M. Graser, C. C. Manouil, A. A. Verrier, C. C. Doutrelot-Phillipon, O. O. Jarde, “Legislative recognition in France of psychological harassment at work,” *Medicine and Law* 22(2) (2003): 239–250.

¹⁷ *Ibid.*

¹⁸ Katherine Lippel, “Conceptualising Violence at Work through Gender Lens: Regulation and Strategies for Prevention and Redress,” *University of Oxford Human Rights Hub Journal* (2018): 143–166.

by experiencing ‘two or more negative acts at least weekly for at least six months’¹⁹. Another study ‘involving more than 600 public sector participants from across Australia found 72 per cent of public servants reported experiencing or observing task- and person-related cyberbullying over the [previous] six months with 74 per cent ranking their workplace as highly stressful’²⁰. The inclusion of both physical places (like workplaces and employer-provided accommodations) and electronic communications demonstrates a forward-thinking and comprehensive stance on employee safety. This provision underscores the need to address workplace violence and harassment holistically, ensuring that employees are safeguarded in every conceivable work-related scenario.

The growing emphasis on employee welfare in contemporary work environments has brought attention to several types of occupational hazards, including psychological violence. Psychological violence, characterized by subtle yet very detrimental actions such as bullying, intimidation, and continual belittlement, poses a significant risk to the emotional well-being of employees, consequently impacting productivity and the entire work atmosphere.

According to the Lithuanian Labor Code, the employer is required to take all required actions to guarantee the avoidance of violence and harassment as well as to actively help those who have been the victim of such behavior: considering the risks of violence and harassment, (1) take steps to eliminate and/or control possible risks of violence and harassment; (2) establish and communicate to staff the procedures for reporting and handling reports of violence and harassment; (3) train staff on the risks of violence and harassment, on prevention measures, and on the rights and obligations of staff with regard to violence and harassment.

This clause shows how to deal with the serious problem of harassment and violence at work in a proactive and all-encompassing manner. Employers are required to take ‘all necessary measures’ to guarantee the health and safety of their staff. It is admirable that help and prevention are both stressed. Preventing mishaps is still the best course of action, but acknowledging that some may still happen and providing help afterwards guarantees a comprehensive solution to the problem. The requirement to control and eliminate possible hazards shows a dedication to a proactive rather than a reactive strategy. Fostering a work environment where staff members feel safe right away depends on this distinction. This means that Psychological violence concept agrees that there are two forms of mobbing as a form of psychological violence. There is *Active*: i.e. lies and slander about the victim; badmouthing the victim behind her back; hoaxes about the victim’s private life; public disqualification, humiliation, and ridicule; exposing the victim to group criticism; referring to the victim using nicknames; veiled and malicious allusions; use of sarcasm, innuendo, insinuations, but not directly expressed. (p. 9). Then there is *Passive*: i.e. looks of contempt; intentional silences; ignoring the victim; not greeting her; not sitting next to her; not looking her in the face when talking to her; hiding information from the victim; not inviting her to meetings; not assigning work to the victim; not respecting her level of training or seniority in the job; not inviting her to work parties or celebrations; not giving her the floor in meetings (Vidal, 2017, p. 9). The passive methods are taken very abruptly by the harasser, who transmits fear to the victim and above all locks him/her in an imperfect world and

¹⁹ Valerio De Stefano, Ilda Durri, Charalampos Stylogiannis, Mathias Wouters, *System needs update: Upgrading protection against cyberbullying and ICT-enabled violence and harassment in the world of work: ILO Working Paper 1* (Geneva, ILO, 2020).

²⁰ *Ibid.*

belittles any type of activity he/she carries out within the company. This is done consecutively to make the victim feel inferior, and to induce low self-esteem.²¹ And here not taking "all necessary measures" might be a passive form of psychological violence.

The requirement to establish and effectively communicate reporting procedures highlights the importance of transparency and clarity. A clearly communicated protocol can make it easier for victims to come forward, ensuring incidents are addressed promptly. This is a big step forward, considering that in 2005, the Lithuanian Free Market Institute conducted a study titled "Worker attitudes to various issues related to employment relationship regulations" (Okunevičiūtė, Neverauskienė, 2007) and in 2006, J. Eičinas and G. Vilkevičius carried out a study of workplace violence and harassment prevention in Lithuanian organizations, both of which found that, despite Lithuanian laws obliging employers to take measures to prevent hostile actions of employees, these provisions are not sufficiently implemented in Lithuania.²²

The commitment of the code to developing an informed and empowered workforce is reinforced by requiring staff training on the hazards and preventive actions. Such training programs can accomplish two goals: they can give all staff members the skills necessary to identify, report, and lessen harassment events, therefore discouraging possible harassers.

This article represents a multidimensional approach that guarantees not just reactive actions in reaction to occurrences but also the creation of an atmosphere where such incidents are less likely to happen in the first place. Setting a high bar for workplace safety and respect, it highlights the organization's shared duty to protect its members.

An employer with an average number of employees of more than fifty who has completed the information and consultation procedures established in accordance with this provision must adopt a policy on the prevention of violence and harassment, publish it in the usual manner in the workplace and implement it. The violence and harassment prevention policy shall set out: ways of recognizing violence and harassment, possible forms of violence and harassment, procedures for introducing violence and harassment prevention measures, procedures for the reporting and handling of reports of violence and harassment, measures for the protection of, and assistance to, persons who report and are harassed, rules of conduct/work ethics for workers and other information relating to the prevention of violence and harassment. From a legal point of view, the operation of the provision is aspirational, as there may be cases where, although a company may have procedures in place to prevent psychological harm and harassment, and may even have appointed persons to oversee them, its employees may not be properly informed about these measures or even be aware of the persons appointed. It is therefore important that the authorities, in exercising their monitoring function, should first of all take note of whether the internal regulations adopted are known to the employees and only if the employees are informed should the employer be considered to have duly complied with its obligation under the law.

By setting a threshold for the number of employees, the provision pragmatically recognizes that larger organizations often have the resources and infrastructure to

²¹ D. Garay, K. Parra, "Work harassment between workers and its lack of regulation in article 172 of the labor code," *Revista de la Facultad de Jurisprudencia (RFJ)* 11(1) (2022): 65–97, at 73.

²² Pranas Žukauskas, Jolita Vveinhardt, "Lyginamoji mobingo diagnostavimo instrumentų analizė (Comparative analysis of tools for diagnosing mobbing)," *Organizacijų vadyba: sisteminiai tyrimai* (2011): 133–146.

implement formalized policies. However, it is essential to note that smaller organizations should still be encouraged, if not mandated, to adopt similar practices adjusted to their scale, whereas the prevention of psychological violence is a mandatory requirement for all employers, regardless of their size.

In conclusion, the legal framework is changing in a proactive way, stressing the necessity for bigger companies to formally declare, publicize, and carry out their pledge to a workplace free of harassment. Giving both preventive and intervention top priority, it provides a comprehensive solution to what is unquestionably a vital component of contemporary workplaces. Making the workplace courteous, safe, and open where every employee is informed and safe is obviously the main goal.

On 1 March 2023, the State Labor Inspectorate issued methodological recommendations on the application of Article 30 of the Labor Code of the Republic of Lithuania²³, noting that when discussing employer measures to control violence and harassment, it is important to it should be emphasized that neither the Labor Code nor other legal acts regulate the list of such measures. In 2022, the State Labor Inspectorate of the Republic of Lithuania published "methodological recommendations for the prevention of psychological violence at work"²⁴, which set out a model: "The Methodological Guidelines on Prevention of Psychological Violence at Work," which provides an exemplary list of minimum measures to prevent psychological violence at work, and noted that all employer's measures may be good. But are they effective, sufficient, and efficient? This can only be determined by assessing the actual situation in the workplace (for example, whether complaints from employees, conflicts between employees, etc.) and the employees themselves the views of employees (for example, through an anonymous questionnaire). From this viewpoint of the State Labor Inspectorate, the recent case law²⁵ is worth discussing.

EXPLORING JURISPRUDENTIAL DEVELOPMENTS

Although the case law analyzed in this article is based on facts that pre-date the changes to Article 30 of the Labor Code, the issues analyzed in the article are also relevant in the context of the current legal regulation. The change in regulation has not eliminated the problems that existed in the application of the law due to the vagueness of the notion of psychological violence, which has already been analyzed in this article.

Though legislative bodies everywhere seek to draft legislation that encourage workplace safety, these rules are frequently defined, interpreted, and improved via the lens of case law. The topic of this section is the important court rulings that have influenced the conversation on psychological violence prevention. The goal (of this section) is, by breaking down important decisions, examining their ramifications, and following their effects on later cases, to give a thorough picture of how jurisprudence has shaped and still shapes the struggle against psychological violence in the workplace. This section provides understanding of how courts, laws, and workers' actual lives interact dynamically.

In one of the most important recent cases, a person was found guilty by the State Labor Inspectorate for failing to ensure that, as Director General of a public institution,

²³ *Guidelines for the application of the Article 30 of The Labor Code of the Republic of Lithuania* (2023) // https://www.vdi.lt/AtmUploads/DK%20_30%20_str.%20_taikymas.pdf

²⁴ *Guidelines for the application of the Article 30 of The Labor Code of the Republic of Lithuania* (2022) // <https://www.vdi.lt/AtmUploads/PREVENCIJA.pdf>

²⁵ *Vilnius Regional Court ruling of 31 January 2023 in administrative offence case No AN2-43-988/2023.*

the institution under his management complied with the requirements of labor law and occupational safety and health legislation. The person brought an action for annulment of the fine before the court of first instance, which dismissed the manager's appeal in a judgment which was upheld in its entirety by the court of appeal.

The State Labor Inspectorate fined the head of the establishment because a survey of 25 employees, which is slightly more than one tenth of the 193 employees, found that some employees were stressed. But the source of the stress was not identified and was speculatively linked to the head of the establishment. In addition, some of the respondents indicated that they had been subjected to psychological violence in the work environment during the course of a calendar year. Some indicated that they felt psychologically unsafe and emotionally insecure at their workplace and that they felt psychologically insecure and emotionally unsafe.

The relevant facts in the dispute are that the person had been in charge of the establishment for only half a year, which is insufficient time to make radical changes. In that time he had taken the steps required by the legislation to update the occupational risk assessment in the undertaking and had begun to take care of the undertaking, planned an employee engagement survey, initiated an update of the performance appraisal system, increased staff pay, carried out an internal communication survey, conducted two staff surveys, organized meetings with the works council, and organized a general staff meeting to answer any questions. In addition, since most of the employees of the company worked remotely, implemented video calls, and held video meetings, they provided all employees with electronic communication tools and instruments in order to ensure a smoother collaboration. They also kept the management and the employees informed of the decisions taken. They adopted the Rules of Procedure and the Code of Conduct, the content of which is fully in line with the requirements of the Labor Code. There are also ongoing restructuring activities in the company which may also have had an impact on the general mood of the employees. Therefore, the stress experienced by the employees in general cannot be regarded as a form of the Applicant's guilt. In view of the conduct of the head of the establishment, intent cannot be established, since the accusation against the head of the establishment does not imply that the applicant was aware of the need to act in a manner dangerous to another person and intended to do so. On the contrary, this negates any of the above-mentioned indications of psychological violence in the actions of the head of the establishment. In this case the author (of this article) agrees that the behavior of the perpetrator, also known as the harasser, must always be seen, because from the moment that a worker within the organization causes harm and is repetitive, the aim is to be able to progress with attrition until they achieve their objective, which is to isolate the victim in such a way that they feel harassed and make them feel insecure. The purpose of this is to be able to progress with wear and tear until he achieves his objective, which is to isolate the victim in such a way that he feels harassed and makes him feel insecure about himself.²⁶ In this case, this result could not be identified.

It should be noted that the results of the survey do not reflect the views of all the company's employees on their well-being at work, and it is even less clear which period the employees expressed their views, i.e. whether under the previous manager or under the accused person. The appropriateness of the wording of the questions in the questionnaire for assessing whether the company has a psychologically safe

²⁶ *Op. cit.* note 19.

environment is also questionable, since, for example, the question 'do you experience stress at work' does not necessarily lead to an unsafe environment if the answer to the question is positive, as each employee's way of working and personal characteristics are different and each employee experiences organizational changes, pandemics, etc. in a different way, which should not be seen in all cases as a negative circumstance, e.g. organizational changes do not necessarily have a negative impact, etc. The reasoning of the State Labor Inspectorate's report is also questionable, stating that, for example, "there was no light, so they asked if the employer forbade it, and the workers remained silent. The employer might not allow the light to be switched on." The State Labor Inspectorate made a decision, after an interview, without the workers actively answering the question, that it was allegedly forbidden for the workers to turn on the light.

From the above it can be concluded that the State Labor Inspectorate, by imposing a fine on the head of the establishment, on the grounds that some of the establishment's employees felt stressed at work after being interviewed, unreasonably concluded that the head of the establishment had failed to ensure the prevention of psychological violence. As mentioned above, the State Labor Inspectorate has indicated that one of the measures for the prevention of psychological violence is the interviewing of employees in order to investigate the emotional climate in the workplace. However, it is significant that the interviewing as a preventive measure is only effective when it is carried out in a timely manner, when there is not yet an incident of psychological violence or simply tension, and when it is carried out on the employer's initiative, but not when it is carried out by the body which carries out the inspection function. In cases where a complaint has been lodged with the State Labor Inspectorate or a possible incident of psychological violence has occurred, the conduct of an interview by the State Labor Inspectorate is a disproportionate and redundant action, the results of which are no longer indicative of the objective situation, as the workers' collective, even if it has not been subjected to the effects of psychological violence, may be more sensitive to the questions asked. The role of the monitoring body should be limited to assessing the employer's actions to determine whether the employer has taken steps to prevent psychological violence, but not to assessing the emotional climate of the workers.

In another case²⁷, the Court of Appeal, in its judgment, upheld the opinion of the author of this article on the investigation carried out by the State Labor Inspectorate in relation to the prevention of psychological violence. The person was sanctioned for failing to organize an occupational risk assessment in all the workers' workplaces and to assess all the potential risk factors (physical, physical, ergonomic) affecting the workers, for failing to organize the election of the workers' health and safety representatives at a meeting of the institution's workers' collective, and for failing to have his knowledge of health and safety issues checked from the beginning of his management of the institution to a specific date, failed to fulfil the employer's statutory duty to provide a working environment in which employees are not subjected to hostile, degrading, aggressive, abusive, insulting or insulting acts which violate the honor and dignity of an individual employee or a group of employees, or the physical or mental integrity of a person, and to ensure the prevention of psychological violence in the work environment and to provide assistance to persons experiencing psychological violence in the work environment. The Court of First Instance quashed a large part of the charges (failure

²⁷ *Decision of the Vilnius Regional Court of 14 March 2023 in administrative offence case No. AN2-68-935/2023.*

to carry out an occupational risk assessment and to create a safe and healthy working environment). The State Labor Inspectorate appealed to the Court of Appeal to uphold the fine imposed on the head of the establishment.

The representative of the State Labor Inspectorate took the position in the dispute that the results of the survey had led to the conclusion that the prevailing psychological climate in the establishment did not ensure psychologically safe working conditions for employees, and therefore employees did not feel sufficiently safe in their working environment. It noted that as many as six out of ten of the staff members interviewed confirmed that they experience tension and stress in their working environment as a result of their own manager's behavior. Six out of ten respondents stated that they had been subjected to psychological violence in their working environment during the calendar year. As many as five staff members stated that they had been subjected to psychological violence by the head of the establishment. Although the head of the establishment had taken some preventive measures to improve the situation at the establishment, these measures were not timely and were insufficient to control the negative psychological environment at the establishment and to improve the staff members' psychological well-being.

During the dispute, the State Labor Inspectorate contacted the establishment (the manager accused of psychological violence had been replaced by another manager) and asked to organize a survey of the same employees (those who had been working under the management of the sanctioned manager and those who were still working under the management of the sanctioned manager) in order to find out what psychological problems the employees had faced at work during the period of the sanctioned manager's management of the establishment and how they felt now that the manager had been replaced, etc. It should compare the atmosphere at work then and now, and identify possible changes in the situation. The Court of First Instance did not include the results of the questionnaire in the case file. The Court of Appeal noted that the essence of the dispute was to establish whether the head of the establishment had carried out all the obligatory actions to prevent psychological violence, not how he had treated the establishment's employees. The mere fact that some of the persons working at the establishment did not feel safe at work for certain reasons (possibly also due to the improper behavior of the head), and that they had been subjected to, in their own subjective opinion, acts which were hostile, humiliating, aggressive, abusive, offensive, etc, does not in itself constitute a breach of Article 30 of the Labor Code.

The State Labor Inspectorate interviewed 10 out of the 55 employees working at the time of the survey on the basis of which it sanctioned the manager. According to the survey, only six workers reported experiencing stress at work, which was sufficient for the State Labor Inspectorate to penalize the manager, but the manager's actions to prevent psychological violence were not considered: six local regulations relating to the welfare of workers had been adopted before the manager was fined.

In both the administrative offense report and the decision to impose a fine, the commission of the offense was attributed to the fact that the general microclimate of the establishment he was in charge of was not good, that the staff did not feel sufficiently safe in their work functions, etc. The administrative offence report and the decision linked the commission of the offence to certain consequences (such as: the microclimate is not good, the employees do not feel safe at work, and it is therefore concluded that the statutory obligation was not properly fulfilled). However, the Court of Appeal is of the view that such an assessment of the circumstances is flawed, since

the facts of the violation of the workers' honor and dignity do not in themselves imply that the obligations laid down by the law were not properly fulfilled.

This case also confirms that the authorities performing the control function, by carrying out an inquiry, are essentially fulfilling the employer's duty, i.e. taking an interest in the psychological climate in the establishment. But such an action is excessive and it is the employer's duty to ensure the prevention of psychological violence, while the function of the State Labor Inspectorate is to assess whether the employer has taken all the necessary steps to ensure that the employer has taken all the measures to ensure that the employer is prevented from using violence.

CONCLUSIONS

The concept of "psychological violence" in the Labor Code of the Republic of Lithuania is controversial because of its content, as even a single instance of threatening behavior (without the actual behavior manifesting) that could potentially have adverse effects without necessarily causing harm can be classified as psychological violence. The concept might cause debates on where to draw the line between genuine harm and perceived potential harm, which under current regulation may have negative consequences for the head of the management. It is necessary for the legislation to specify which explicit acts constitute psychological violence.

In assessing the psychological climate in a company, the State Labor Inspectorate performs essentially an employer's function, which is superfluous for a body with a control function. The State Labor Inspectorate's inspections are excessive, resulting in unlawful decisions that are overturned by the courts only after a long period of litigation, according to case-law. Thus, due to unclear criteria for psychological violence, the authorities interpret the concept of psychological violence too broadly when assessing possible infringements.

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