

Mobbing as a reason for termination of employment relationship

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Abstract

The aim of this article is to examine mobbing as a reason for termination of the employment relationship. The concept of 'mobbing' in the workplace is not defined in the laws and regulations of the Republic of Latvia, and it is necessary to study the need to define the concept of mobbing in the laws and regulations of the Republic of Latvia. Notwithstanding the lack of the concept of 'mobbing' in the legal framework, the existing laws and regulations, such as Section 7 of the Labour Law (LL), which guarantees the principle of equal rights, and Section 29 of the LL, which prohibits differential treatment, may be applied to prevent its harmful effects. An employee who has been subjected to mobbing and for that reason cannot continue the employment relationship may exercise the right to terminate the employment relationship provided for in Section 100(5) of the LL. However, the employer may exercise the right provided for in Section 101(5) of the LL to terminate the employment relationship with the employee if he has an important reason, which shall be any circumstance which, on grounds of morality and mutual fairness, makes it impossible to continue the employment relationship.

Keywords

mobbing • bossing • psychological terror at workplaces

INTRODUCTION

The changing and regularly evolving work environment puts additional psycho-emotional strain on the company's employees, as job variety, regular training, increased workload and overtime have become commonplace. Every company or organisation is exposed to internal and external risk factors, those of which it is more or less successful in identifying and addressing. One of the resources of the company or the employer is the workforce as a whole or each individual employee. This resource is exposed to the effects of the working environment, the quality of which is the employer's responsibility.

Often, the working environment is such that employees feel tense, depressed and insecure because they expect radical change from the management. The persistence of such circumstances may be one of the reasons why an employee may decide to change jobs or deliberately disregard work rules or the employer's orders, which is a reason for termination of the employment relationship. If the working environment has changed, the pace of work has increased and the hours are longer or the work becomes monotonous, and also when the psycho-emotional atmosphere of the employees has changed and there is competition between employees, this

is the first sign that the company is in crisis. The second sign is regular conflict situations.

Crisis in the workplace creates a favourable environment for conflict situations. In the event of a conflict situation, everyone working in the company, including the management, can become a victim of that situation. One of the most common forms of conflict in companies today is mobbing.

Human resources and the workforce are no exception to this – balancing the economic interests of the employers and the needs of the employees is recognised as an important factor in ensuring the sustainability of society. These are also the conclusions of the Latvian National Development Plan 2021–2027 (On the Latvian National Development Plan 2021-2027 (NAP2027)), approved by the Saeima on 2 July 2020, which emphasises the need to take measures to achieve significant economic growth, including stimulating employment and increasing competitiveness in the labour market. Regulatory enactments are needed to effectively balance the economic interests of employers in a context of continuously rising labour costs and the social needs of employees, taking into account in particular the principle of equality between the parties enshrined in the legislation.

This study is mainly based on national laws and regulations, the most important of which are the Civil Law (CL), the Labour Law (LL) and the Labour Protection Law (LPL). In order to illustrate the practical aspects of mobbing and bossing in employment

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relationships resulting in termination by the decision of the employee or the employer, the author analysed the case law. This study used several general scientific research methods, such as the descriptive method for a detailed study of mobbing and bossing. The analytical method involves studying several sources, reviewing authors' opinions and analysing court judgements, regulatory enactments and other legal sources in relation to mobbing and bossing, in order to clarify the problems related to the application of mobbing and bossing in the termination of the employment relationship. The induction and deduction method involves drawing conclusions on certain aspects of the LL regulation. The study also uses methods of interpretation of legal norms: (1) grammatical – to explore the concepts of certain legal norms (mobbing, bossing); (2) systemic – to explore the termination of the employment relationship in relation to the specific role and place of mobbing and bossing within a unified legal system in interaction with other elements of the legal system; (3) theological (meaning and purpose), to clarify the meaning and substance of the laws and regulations governing the termination of employment relationship, from the point of view of the intention and motivation of the law-maker.

RESEARCH RESULTS AND DISCUSSION

Research results

Mobbing (in English originating from the verb *'to mob'* – to harass, attack) is a form of psychological or emotional violence within a company (Mickeviča, 2012). It can take the form of collective psychological terror, which is exercised by the company's employees towards one of their colleagues, subordinates, as well as towards the company's manager, in order to get the individual to leave the company.

The Riga City Court, in its Judgement of 27 April 2023 in Civil Case No. C68317122, in Paragraph 11.3(8), assessed the concepts of 'mobbing' and 'bossing' by analysing the case law and various doctrinal sources. The Court concluded that these concepts (mobbing and bossing) essentially refer to the same act: the use of psychological terror against an employee in the workplace, making a theoretical distinction by recognising that psychological terror by employees is called mobbing and that psychological terror by the employer's management is called bossing. Consequently, where the psychological terror was perpetrated by the managerial staff, it can be called both mobbing and bossing, and it is irrelevant to the resolution of the case which term the defendant uses to describe the employer's action against him, which he claims was psychological terror. (Paragraph 11.3(8) of Riga City Court Judgement of 27 April 2023 in Civil Case No. C68317122). This means that the concepts of 'mobbing' and 'bossing' are identical in terms of content, but only the

forms in which they are implemented differ, i.e. in the case of mobbing, psychological terror is carried out by employees, while in the case of bossing, psychological terror is carried out by the employer's management.

The duration of the psychological terror must be assessed in relation to the other characteristics of the psychological terror, in particular, the nature, purpose and systematic nature of the acts. The essence of duration as a characteristic of psychological terror is not a fixed period of time, but that psychological terror consists of a set of acts with a common purpose rather than one or more isolated episodes. In general, it can be difficult to carry out and identify a coherent pattern of hostile acts against an employee (mainly directed at the individual with the aim of alienating him, excluding him from the team or causing him to leave the job) in a matter of days or weeks and requires a longer period of time, for example several months, but this depends on the intensity of the episodes. The more frequent and systematic the harmful activities, the shorter the time it takes to detect mobbing, and vice versa. (Judgement of the Supreme Court of the Republic of Latvia, Department of Civil Cases, 28 April 2020, Case No. 30407917, SKC-276/2020). Mobbing is unethical behaviour in the working environment, which is systematically directed at one or more persons over a prolonged period of time (Boitmane, 2010).

The author has found that in the first phase of mobbing, a person can still be rehabilitated in his workplace, he initially does not 'take the terrorising too serious', is able to resolve the situation with humour or submits to the demands of the bullies without protest, gives in to opponents in conflict, asks for forgiveness or the bullies switch their attention to other victims. In the second phase, as the mobbing intensifies, the victim becomes depressed, stressed, tries to fight back, relaxes by consuming alcohol and loses the desire to go to work. In the third phase of mobbing, rehabilitation at work is no longer possible, the person is no longer coping, self-defence mechanisms are switched off and the victim needs professional help (Keiriša, 2004).

The victim of mobbing is informed that his employment could be terminated on the basis of changes in the company or on the basis of the victim's qualifications, failure to perform duties, insufficient work pace, by increased monitoring or finding other generalised reasons. In the hands of the company manager, mobbing can be a tool to ensure that no employee dares to criticise or make suggestions or speak out about possible violations of law in the company.

Mobbing can be both vertical – by the employer – and horizontal – by the company as a whole (Boitmane, 2010). Many managers see mobbing as a natural, unavoidable process that is not worth fighting (Ieviņa, 2005). Mobbing is characterised by a set of acts that have the following features: (1) hostile and unethical treatment by a specific person

or persons (colleagues and/or superiors); (2) the acts are individually directed against the victim and (3) the acts are regular over a long period of time (almost every day for at least 6 months) (Leymann, 1990). In order to establish that an employee has been unlawfully psychologically influenced, all of the above features must be established.

If the facts of the alleged acts of emotional violence are considered in isolation, it is not possible to draw objective conclusions about the employer's alleged use of psychological pressure and emotional violence against the person. The Court's task in examining the arguments on emotional abuse is to focus on assessing the situation in a holistic manner. Moreover, the Court's approach must not be formalistic in terms of procedural or substantive compliance, since the Court's aim in such a case is not only to verify the legality of the individual acts of the institution, but also to verify the totality of the identifying features of the psychological effect (Judgement of the Civil Cases Division of the Senate of the Supreme Court of the Republic of Latvia of 28 April 2020, Case No. C30407917, SKC-276/2020). This is the basis for the author's assertion that systematic emotional abuse of an employee in the working environment is a valid reason for the termination of the employment relationship within the meaning of Section 100(5) of the LL, as it clearly corresponds to the wording of the legislator: based on considerations of morals and fairness'. The current case-law is problematic, as pointed out in the Judgement of 28 April 2020 of the Civil Cases Division of the Supreme Court.

Mobbing is the undermining of an employee's honour, credibility and professional competence and is negative, abusive and dismissive. It refers to controlling communication, direct or indirect betrayal, failure to keep promises, failure to invite to take part in decision-making, failure to inform about decisions, deliberate ignoring and exercising excessive control (Mickeviča, 2012). The victim of mobbing is blamed for failures, mistakes, financial losses, missed deadlines, etc. The victim of mobbing is discredited and is bullied for so long and so much, until the victim starts to feel humiliated, guilty, is under increased stress and experiences constant signs of anxiety. Eventually, he is driven to the point where he changes his position in the company or quits altogether.

Mobbing is a form of workplace violence – psychological terror in the workplace, isolating an individual with the intention of making him leave the workplace. Violence can take the form of insulting someone, preventing them from getting information they need or enjoying normal social contact with staff and superiors. Some forms of violence and harassment are easier to identify than others. However, the working environment – the organisation and the conditions and content of work – can increase the risk of violence and harassment. Inequality, social apathy, unemployment and overwork, alcohol abuse, personality traits, relationship patterns and traditions, cultural

environment and social relations within the company can all contribute to such processes. Work in densely populated, highly criminogenic areas, small and isolated workplaces, team tensions, inadequate resources for work, failure to judge the management, management based on intimidation, poor communication and personal networking can also contribute to violence and harassment.

The Employers' Confederation of Latvia and the Free Trade Union Confederation of Latvia signed a commitment to implement the Framework Agreement in Latvia on 11 February 2008 (European Social Dialogue 'Framework Agreement on Harassment and Violence at Work'). The willingness of European social partners to focus on these issues is based on the fact that harassment and violence can potentially affect any workplace and any employee, regardless of the size of the company, field of activity, employment contract or type of relationship. The Framework Agreement covers all forms of harassment and violence that fall within the competence of the social partners. No specific type of violence is highlighted, but as soon as violence and harassment are workplace-related, it is within the competence of the social partners, even when the perpetrator is outside the company.

The Civil Cases Division of the Supreme Court of the Republic of Latvia in its Judgement of 17 October 2017, Case No. SKC-1267/2017 recognised that mobbing is psychological terror, which includes systematic, hostile and unethical treatment by one or more persons and is directed mainly against one individual. It takes the form of shouting, humiliation, belittling the professional abilities or personal qualities in joint activities of one or more persons, as well as other forms which may not be unlawful in themselves, but which, taken together, indicate the creation of adverse consequences for the employee. The identification of mobbing requires that the acts against the worker are not of a one-off nature but are repeated or continue over a period of time.

Case law has recognised that in practice mobbing is difficult to identify and equally difficult to prove, especially given that the perpetrator's treatment of the victim may not in itself be unlawful. What is unlawful is the purpose of the conduct, which is to make the victim's presence in the place in question intolerable and thus to make him leave his job. However, it should be borne in mind that individual conflicts, disagreements and the employer's exercise of statutory rights do not constitute mobbing. Consequently, not all actions by an employer or line manager in the workplace that are not in the employee's interests or in the employee's understanding of the preferred management style, work organisation and reorganisation, or the procedures for investigating alleged misconduct, may qualify as mobbing.

The Civil Cases Division of the Senate of the Supreme Court of the Republic of Latvia in its Judgement of 20 August 2019, Case No. SKC-605/2019 recognised that conduct manifested

as mobbing may be recognised as constituting a violation of the 'equal right to work', the right to 'fair working conditions'. Such a violation may also reach a level of prejudice that requires State intervention to restore a fair balance and may give rise to a right to compensation for moral damage.

Mobbing violates the principle of equal rights, because one employee is treated less favourably than the others (Calabro, 2021). In this situation, it is not necessary to point to a characteristic that distinguishes this employee from the other employees (as would be the case in a breach of the prohibition of differential treatment/discrimination). According to the case-law of the Senate, an employee in such a situation is entitled to similar protection as an employee against whom the principle of prohibition of differential treatment has been violated, and therefore the remedy provided for in Section 29(8) of the LL applies *mutatis mutandis*.

The author found out that a few years ago, only a few cases involving mobbing had been brought to court. The Judicial Information System search engine found 71 judgements for 2021, 28 judgements for 2022 and 10 judgements for 2023 (until May) with the key word 'mobbing' (Latvian Courts Portal service website). According to the author, it can be seen that the case law is growing, as employees' awareness of the issue is also growing, and employees are increasingly choosing to resolve conflicts outside work – in court. In the author's opinion, the Judgement of the Civil Cases Division of the Senate of the Republic of Latvia of 16 February 2023, Case No. SKC-28/2023, where the Senate held that: if a claimant alleges mobbing at the workplace without specifying the particular feature of the prohibition of discrimination, the court shall ascertain whether the employer's actions alleged by the claimant constitute a violation of the principle of equality.

The Riga City Latgale District Court in its Judgement No. 29431218 of 14 January 2020 dealt with a case, the essence of which the author wishes to present in order to point out the interpretation of mobbing in an employee's communication with the employer.

The employment contract of Silvis, the head and sole employee of the legal department of SIA X, was terminated as a result of the merger, which established a new company, SIA MIX (Section 101(1)(10) of LL). Silvis went to court. The court found the employer's dismissal unjustified and ordered SIA MIX to hire the employee as a lawyer, as reinstatement to the previous job was not possible. SIA MIX complied with the court's ruling, including provision of the previous salary. Silvis considers that he was subjected to mobbing, which consisted of being reinstated as a lawyer rather than as head of the legal department, being transferred from the office to a warehouse, being denied health insurance and paid petrol, being slandered, threatened and physically assaulted and being forced to explain non-existent misconduct to others,

creating an emotionally toxic environment by involving other employees. Silvis disobeyed the employer's orders, violated labour-protection standards, endangered his own safety and health and that of others, failed to sign amendments to his employment contract, refused the position of 'lawyer', failed to sign for having read the work and fire safety instructions, behaved formally and rudely and communicated with the employer only in writing.

Description of the conduct of SIA MIX. As Silvis disobeyed orders and internal working procedures, the employer drew up a total of five acts as evidence (including for reading fiction during working hours). On two occasions, the employee was suspended without retention of salary. Before giving notice, the employer set up an evaluation committee that assessed the issues in dispute, the employee's conduct, behaviour, obtained evidence from other employees, issued an opinion with conclusions and recommendations and obtained the trade union's acceptance of the notice.

After receiving the notice, Silvis brought an action against his former employer, seeking a declaration that the employer's orders and notice were null and void, reinstatement, a finding and an end to mobbing and differential treatment, recovery of salary, damages and moral damages (70,000 euro for mobbing; 10,000 euro for differential treatment).

The employer explained to the court that Silvis could not be employed because he disobeyed orders and endangered his own safety, health and life and that of others. Silvis disregards the employer's legal rights and interests but wants to receive a salary and other incentives without actually doing any work. The employer acknowledged that Silvis lacks communication skills, is formal and unresponsive, and with his arrogant and contemptuous attitude creates emotional tension with other employees, thus implementing mobbing. Moreover, any difference of opinion or unfavourable decision leads to litigation with colleagues or the employer, inflicting psychological terror on all those with whom there is a difference of opinion.

The employer pointed out that Silvis uses his working time for private purposes, reading fiction, turning his back on his line manager when communicating, rejecting internal company documentation, communicating with management only in writing and showing blatant disrespect. The employer described the working style of Silvis as disgraceful: he walks around in exposing clothes that are inappropriate for the job, gives an impression of a nervous, easily irritable person, becomes aggressive, does not give the impression of a confident, knowledgeable lawyer, gives the impression of a person who is dissatisfied with everything and has a negative impact on the atmosphere in the work team. The employer therefore acknowledged that Silvis had lost the employer's trust and respect and had given false and defamatory information to the court.

In the present case, the court held that the claim for a declaration of mobbing and for moral damages for mobbing

should be dismissed because it was the employee, not the employer, who acted unreasonably, unethically and reprehensibly, and the witnesses' testimonies proved that it was he who had a negative impact on the atmosphere in the work team and carried out the psychological terror. The court had no reason to doubt the evidence submitted by the employer, the employees' submissions, the report of the evaluation committee, the veracity of the letter from the Health Inspectorate and the conclusion of the National Labour Inspectorate (Birkenfelde, 2020).

The author concludes that the particular case demonstrates the complex nature of the termination of the employment relationship, which involves both the personal qualities of the parties involved and points to an objective legal obligation of the employer to prove the correctness of its conduct by applying the provisions of the LL and developing a strategy of conduct consistent with the legislative acts, supported by the work team and justified by evidence.

The case, the essence of which relates to an employee's whistleblowing about breaches of laws and regulations (prohibited agreement-cartel) discovered during the performance of her work duties, which causes a workplace backlash – mobbing, was examined by the Civil Matters Division of the Zemgale Regional Court in its Judgement No. 73499218 of 15 June 2020. The mobbing consists in changing the office, repeated offers to 'rotate' – to move to other positions, another department; threats related to work duties; filing a complaint with the municipality; suddenly denying access to municipal systems used on a daily basis; changing the keys to the office; ignoring requests for equal pay and pay for additional work; suspension from work for 3 months without pay (Section 58(3) of the LL) and setting up an employer's investigation committee.

The employment contract was terminated on the grounds of conduct contrary to good morals. Several facts were cited as grounds for suspension and dismissal. First, a complaint received from an individual stating that the employee had made threats and should therefore be suspended pending an investigation of the facts in order to prevent her from taking possible illegal action. Second, the employee has viewed contracts in the procurement system that are not relevant to the performance of her duties. Third, suspected breach of the General Data Protection Regulation and abuse of official position, as the complainant's data had been consulted in the *Lursoft* database.

The employee asked the court to annul the employer's suspension and dismissal orders and to reinstate her. She also asked for payment of her average salary for the period until the annulment of the order, as well as compensation from the employer for the moral and material damage suffered in the amount of EUR 10,000.00 and a public apology on the employer's website.

In this context, it is noteworthy that the Court of Justice of the EU has held that in employment disputes, an employer should not be able to base its proof solely on the evidence of its employees. Given the position of the employee as the weaker party in the employment relationship, the testimony of witnesses cannot be considered an effective means of proof to ensure that the rights in question are effectively respected, since employees may be reluctant to testify against their employer for fear of measures that the latter might take, which could affect the employment relationship to their detriment (Dupate, 2021).

In the author's view, in order to apply Section 101(1)(3) of the LL, the employer must also indicate the specific factual circumstances that correspond to and constitute the legal basis for the termination, including an objective assessment of the employee's conduct and the grounds for finding such conduct to be contrary to good morals, so that the court hearing the particular dispute has the opportunity to verify it.

In another case, the Judgement of the Civil Cases Division of the Riga Regional Court of 7 January 2021, Case No. C30407917 heard an appeal case based on an employer's claim against an employee in connection with the termination of employment relations under Section 100(5) of the LL. Having assessed all the claimant's actions towards the defendant during the period at issue in their totality, the court found that the arguments put forward by the claimant and the evidence adduced did not show that the claimant acted impartially in all the episodes in question. The claimant has not established that the principle of equal treatment has been respected or that discrimination has been committed, but the communications of the claimant's managers with the defendant contain implicit indications that she is not wanted in the work team, leading the defendant to believe that the best solution would be to terminate the employment relationship at the employee's request.

The court therefore concludes that the defendant was subjected by her employer, within a relatively short period of time (14 November 2016–30 December 2016), to systematic actions aimed at psychologically influencing the defendant in order to make her leave her job, i.e. mobbing or psychological terror, which entitles the defendant to compensation for moral damages. In the light of the circumstances established, the court accordingly has grounds to rule on the claims for damages for dismissal and for moral damages. A situation in which the victim's treatment by the perpetrator of mobbing has made his presence at the workplace intolerable may be qualified as an important reason within the meaning of Section 100(5) of the LL. In order to be appropriate within the meaning of Section 92 of the Constitution (*Satversme*), compensation must be an effective remedy which the court determines in its discretion according to the gravity and consequences of the prejudice. Under Section 5 of the CL, where the determination

of a matter is left to the discretion of the court, the court must give judgement in accordance with the principles of justice and general principles of law. According to the case law, when mobbing is carried out by an employer, the content of such acts is close to the constituent elements of the mandatory provisions prohibiting mobbing in Section 29(1) and (9) of the LL. Consequently, Section 29(8) of the LL applies *mutatis mutandis* to the issue of compensation for moral damage, without the employee being obliged to prove the existence of moral damage pursuant to Section 1635 of the CL. Taking into account the fact that there are no uniform rates on the basis of which the amount of compensation for moral damage is to be assessed, and that the LL does not provide criteria for determining the amount of compensation, the court, guided by a sense of justice and general principles of law, took into account the nature, duration and systematic nature of the damage, the circumstances and purpose of its infliction and the consequences caused when determining the amount of compensation for moral damage.

This points to the need to draw the attention of employers to the structure of the LL for the protection of employees' interests in cases of mobbing, as well as to the presence of the CL for defining the theoretical basis for these situations. The grounds for dismissal can only be the employee's conduct related to the performance of his duties, and the employer must justify that the employee's specific conduct prevents the continuation of the employment relationship. Case law and legal doctrine recognise that the concept of good morals is not only social but also legal in nature, i.e. not only generally accepted moral norms, which lay down the rules of conduct that society or a part of it considers it necessary to observe, but also legal-ethical principles and values enshrined in positive law (Judgement of the Civil Cases Division of the Senate of the Supreme Court of the Republic of Latvia of 31 March 2015, Case No. SKC-1997/2015). Where the employer applies the aforementioned concept in the notice of termination, it is obliged to fill the concept with legally meaningful content, i.e. to indicate in the notice what gave rise to the employee's conduct being considered contrary to good morals. The employer's suspicions cannot be regarded as evidence of a breach of good morals.

In a company or organisation, mobbing can also be carried out by a manager, often called bossing. In this case, psychological terror is used against one or more subordinates for a specific purpose (Kolodey, 2021). One of the reasons for this situation is incorrect personnel management caused by the manager's inability to establish and maintain business relations with employees. However, certain conflicts, disagreements and the employer's exercise of rights under the law, for example by dismissing an employee who has acted unlawfully or by reprimanding an employee in strict accordance with the law, do not constitute mobbing (Judgement of the Civil

Cases Division of the Senate of the Supreme Court of the Republic of Latvia of 6 April 2017, Case No. SKC-308/2017). The Supreme Court's opinion should be referred to because employees who do not understand the company's working procedures do not always perceive the employer's actions correctly and try to prove their case in court.

According to the author, the main causes of mobbing are personal psychological characteristics, the company's external and internal work culture, undeveloped or inadequate personnel management, as well as the lack of information exchange between management and employees, the lack of motivation programmes in the company, unresolved conflict situations and incompetence and unprofessionalism of the company's manager.

Heinz Leymann, a Swedish psychiatrist who pioneered research into mobbing, says that not everyone who works in a company becomes a victim of mobbing. He describes cases of mobbing that mostly end negatively, with employees moving to other departments, leaving the company or going to work for competing companies, while some employees try to adapt to new working conditions by experiencing internal stress or anxiety (Leymann, 2005). There are enough ways to prevent both mobbing and its negative consequences without having to take the situation to court. Disputes in employment and official relationships should be resolved as far as possible between the conflicting parties in the workplace, within the department, as soon as there are signs of disagreement, in an ethical, businesslike and respectful manner and without escalation to external law enforcement proceedings or litigation.

Emotional disputes between workers and employers or line management cannot be resolved through legal means or administrative-organisational processes. Grievance processes outside the workplace or department and litigation, unless the evidence, factual and legal circumstances are in favour of the employee or official, may not provide the expected satisfaction; on the contrary, they may perpetuate bitterness, resentment and feelings of injustice and waste financial and time resources in fruitless struggles, especially if the conflicting parties continue to work together.

It is important that organisations have professional human resources management and qualified and trained LL specialists. The possibility of electing one or more fiduciaries in the workplace is provided for in the LPL, and Section 21 of the Law stipulates that the fiduciary shall participate in the internal monitoring of the working environment, including the assessment of risks to the working environment and the planning of measures to protect the working environment. The practical application of this regulation would also allow workers to deal with mobbing issues, as mobbing is considered a psychological risk in the working environment and, according to Section 8 of the LPL, the employer is obliged to assess the risks in the working environment.

DISCUSSION

The first studies on mobbing in work organisations were carried out in the 1980s. In fact, mobbing has always existed, as long as workplaces and working relationships have existed, but often an emotionally tense workplace atmosphere is so commonplace that it has been accepted as normal and problems have gone unaddressed for years. Statistics show that one in five workplaces has a victim who is regularly bullied by management or colleagues. Managers often find it difficult to admit that mobbing exists in their organisation, which is why tackling the problem is not really working.

Eva Selga, vice-president of the Latvian Human Resource Management Association, believes that mobbing is not so pronounced in the business environment, but could be more pronounced in public institutions, as they have no competitors and employees are used to rotating in the known system all their lives, without worrying too much about the future. If one is underemployed, it is a breeding ground for intrigue and bullying (Rožukalne, 2003). Silva Omarova, docent at the Department of Sociology at Riga Stradins University, emphasises that psychological terror is often carried out to assert status and power, which is why it is more common among managers (Keiriša, 2004).

The author found that German researchers have analysed and classified cases of mobbing, and that in 40% of the cases, the perpetrator was the manager, in 13% of the cases, it was the manager together with a colleague. According to the US study data, on the other hand, in 89% of the cases, the perpetrators of psychological terror were managers, but the figure is lower in European studies with 50% (Nikodemusa, 2005).

Studies conducted in Germany and Sweden show that around 3% of the employees have experienced mobbing in their workplaces. In 1990, 154,000 out of 4.4 million people working in Sweden were victims of mobbing. In the United States, the number of victims of mobbing >4 million, while in the United Kingdom, researchers have estimated that around 50% of all the workers are victims of mobbing. A survey by *OMD Snapshots*, the largest media agency in Latvia, shows that 27% of the men and 34% of the women believe they have experienced psychological terror in their workplace. The survey shows that it is common for a man to be attacked directly in the professional sphere, while a woman is tyrannised over some aspect of her personal life (Ieviņa, 2005). According to psychiatrist Heinz Leymann, a PhD in Medical Sciences, two-thirds of bullied employees experience reduced work motivation, >50% develop thought blockages and about half miss work due to illness. A third of employees change jobs within their company, 20% quit, 5% are demoted and 15% are fired (Leymann, 2005).

According to the data of the National Labour Inspectorate, employees who are subjected to mobbing are not prepared to defend their rights, either in the company or in court, because they do not know their rights and cannot refute the evidence recorded by their employer.

The author believes that by recognising the presence of mobbing in a company, its causes and manifestations, every company manager must be aware of the real consequences, which can disorganise both the company's operations and culture as a whole, and the psycho-emotional environment within the team. For the victim of mobbing, prolonged psychological terror causes serious psycho-emotional trauma, which can manifest itself in depression, psychosomatic illnesses and destructive actions.

Dr. iur. Neimanis is convinced that psychological terrorists can be dismissed from their jobs, because according to Section 28(2) of the LL, one of the employer's obligations, which it assumes by concluding an employment contract, is to ensure fair, safe and healthy working conditions for the employee. Psychological terror in the workplace is a working condition harmful to health and safety. Psychological terror in the workplace is a health and safety hazard. Psychological terrorising of an employee is a violation of equal treatment of employees. Allowing mobbing is a breach of the employment contract, which has legal and financial consequences for the employer. The LL gives the employer the right to terminate the employment of an employee who commits psychological terror (Neimanis, 2004b). Such dismissal will be based on the person's conduct.

The legal basis for the dismissal is the second and third Article of Section 101(1) of the LL, as the perpetrator of the acts of psychological terror acts both unlawfully and contrary to good morals. However, if employees commit acts of psychological terror against a colleague and the employer does not stop and eliminate the acts, the employer is in breach of a fundamental contractual obligation. This creates a right for the employee to immediately terminate the employment relationship with the employer, no matter how important the position the employee occupies. Section 100(5) of the LL gives the employee this right, as psychological terror in the workplace is an important reason for terminating the employment relationship (Daugavpils Universitāte, 2016). This conclusion has also been established in case law. The employee is entitled to compensation in the amount of 1 month's salary, but the employee is also entitled to claim damages from the employer for harm to health and dignity.

In the case of mobbing, the employee can claim compensation and moral damages from the employer by bringing an action in court, and the victim is entitled to terminate the employment contract under Section 100(1) or (5) of the LL. An employer who has detected psychological terror in the workplace is entitled to reproof or reprimand the mobbing employee in accordance

with Section 90 of the LL or to terminate the employment relationship in accordance with Section 101(1), (2) and (3) and Article 101(5) of the LL (Daugavpils Universitāte, 2016).

All work environments involve certain types of instructions, orders and tasks, which have a psychological impact on subordinates. Psychological coercion which is inherently destructive and aimed at the constant humiliation of a person may be considered unlawful. International case law has established that the infliction of permanent hardship at work (taking revenge) constitutes psychological terror if these acts take place over a short period of time. In order for revenge to be considered as psychological terror, the acts must be systematic (Judgement of the Civil Cases Division of the Riga Regional Court of 7 January 2021, Case No. C30407917).

The Latvian LL does not yet have a section on mobbing, which makes it difficult to fight against psychological terror with legal means, nor do trade unions include such a clause in their collective agreement. Looking at the law only from the grammatical expression of the words used in it, one may come to the conclusion that the law is incomplete. However, such incompleteness is ostensible if the legal rules are viewed in their framework and the sources of law are not only the statutes but also case law and legal scholarship. It should be noted that not all legal provisions contain features that correspond directly to the description of a life situation. The features of legal norms may be abstract, general, but this does not mean that they are incomprehensible or inapplicable. The first sentence of Section 94 of the Constitution (*Satversme*) provides that every person has the right to personal inviolability. It is the personal inviolability that prohibits the existence of psychological terror in employment relations (Neimanis, 2004b).

The case law of the European Court of Human Rights has established that employment-related disputes are not excluded from the scope of 'private life' within the meaning of Article 8 of the European Convention on Human Rights (European Court of Human Rights (2018) case *Denisov v. Ukraine*, no. 76639/11), i.e. that the right to private life includes the right to form relationships with other people, including professional and economic relationships, given that in most cases it is in working life that the opportunity to form relationships with the outside world arises. The applicability of Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms to an employment dispute requires either that the employer has taken a decision adverse to the employee in relation to a circumstance relevant to the employee's private life (the cause-based approach) or that the decision taken against the employee has had a significant effect on the employee's private life (the consequence-based approach). In considering whether the decision was capable of affecting the employee, the court must take into account whether the negative consequences affected the inner circle

of the person, in particular whether they had a pecuniary effect, limited the possibilities of relations with others or affected reputation.

The European Court of Human Rights has also held that the employee must prove that the employer's remedy (dismissal) has had a substantial effect on some aspect of the employee's private life, i.e. the negative effects on the private life experienced by the employee. The suffering of the dismissed employee must be assessed by comparing his life before and after the dismissal. In determining the seriousness of the consequences in employment-related disputes, it is appropriate to weigh the subjective perception indicated by the employee against the objective circumstances of the case. This analysis should cover both the pecuniary and the non-pecuniary consequences of the contested measure (dismissal). However, the employee must indicate and justify the nature and extent of his suffering as a result of the dismissal.

A study of foreign experiences and legal frameworks aimed at eradicating mobbing shows that Sweden has been the most successful in addressing the issue, with legislation adopted as early as 1993 that allows for the punishment of psychological terror in the workplace, defines mobbing and sets out employers' obligations to prevent mobbing. In Belgium, specific legislation on protection from violence, mobbing and sexual harassment at work was also adopted in 2002. Denmark, the United Kingdom and Ireland have established codes of conduct and guidelines to define employers' obligations in the event of mobbing (Kulakova, 2019).

By examining case law and research by psychologists, the author sought to answer the question: is there a need for a statutory definition of mobbing? As a result, the author believes that it is not useful to provide such a definition in the LL, as there are no identical mobbing situations and experts do not have a common understanding of what constitutes mobbing. Moreover, the content and scope of mobbing are constantly evolving and the more specific the content and scope of mobbing becomes, the narrower the range of cases that could be considered to fall within the definition of mobbing in the law.

CONCLUSION

Problems in the working environment are one of the most common reasons for termination of employment, whether by employers, employees, courts or third parties. It is important that organisations have professional human resources management and qualified and trained employment lawyers. The possibility of electing one or more fiduciaries in the workplace to participate in the internal monitoring of the working environment, including risk assessment, planning of occupational protection measures, is provided for in the

LPL. The practical application of this regulation would also allow employees to address mobbing issues, as mobbing is considered a psychological risk in the working environment and, according to Section 8 of the LPL, the employer is obliged to assess the risks in the working environment. This means that mobbing issues should be addressed within the scope of the LPL.

The regulation of the termination of employment relationship contains a complex structure, which both involves the personal qualities of the parties involved and points to an objective legal obligation on the employer to prove the correctness of its conduct by applying the provisions of the LL and developing a strategy of conduct consistent with the law, supported by the work team and justified by evidence. Case law shows that an employee's lack of understanding of the justification for an important reason based on reasons of morality and fairness, specified in Section 100(5) of the LL, prevents the continuation of the employment relationship because employees consider that non-payment of salary is also an important reason but it is not related to morality and fairness.

In practice, mobbing is difficult to identify and equally difficult to prove, especially since the attitude of the person who is doing the mobbing towards the victim may not be unlawful in itself. What is unlawful is the purpose of the act, which is to make the victim's presence in the workplace intolerable and thus to get him to leave.

It is not possible to draw objective conclusions about the employer's alleged use of psychological pressure and emotional violence against a person by assessing the individual manifestations of alleged emotional violence in isolation from each other, and the duration of the psychological terror must be assessed in conjunction with other features of the psychological terror, in particular the nature, purpose and systematicity of the acts.

In the author's opinion, it would be necessary for each company to develop a definition of mobbing and bossing, criteria, characteristics in accordance with the company's sector, established working procedures and other internal regulations.

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