

PREVENTION OF HARASSMENT AT WORK*

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Abstract. *In this paper, the author discusses the phenomenon of mobbing, or harassment at the workplace, by focusing on the concept, phenomenological characteristics and types of mobbing, the etiological factors leading to its emergence, and the consequences sustained by victims. Considering the need to have mobbing recognized and legally sanctioned as a form of harassment, the author underscores that the social response to mobbing must be conceived as a comprehensive system of preventive measures. This paper aims to provide an insight into this negative social phenomenon as a prerequisite for building an effective system of primary, secondary and tertiary prevention. In particular, the author provides an overview of the Serbian legislation on this matter and points to the role of the non-governmental sector in the prevention of mobbing.*

Key words: *mobbing, harassment, victim, prevention.*

INTRODUCTION

Mobbing, or harassment at the workplace, is not a new phenomenon, considering the fact that it has existed as long as the differences in power related to work and the working environment. However, the new issue is that the social community demands to have mobbing recognized and legally sanctioned as a form of harassment. On this path, the proponents of the struggle against mobbing stress the significance of applying preventive measures. The transition society, where the grey economy reigns and where there is a high unemployment rate, is an ideal platform for the development of this form of harassment, which calls for instituting comprehensive and systemic preventive measures. In order to provide for a more efficient prevention concept, there is a need to precisely determine what mobbing is, what its manifestations are, what causes its occurrence and consequences. An

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overall insight into and understanding of this negative social phenomenon is the prerequisite for building an effective system of primary, secondary and tertiary prevention.

THE NOTION OF MOBBING

A bird approaches a flock which is located near a body of water, hoping to join them. Instead of accepting the bird, the flock rejects it, tortures it, takes all its food for them and moves it aside. Such a group attack is called “mobbing” (Browne, Smith, 2008: 131-132). This expression was first used by zoologists, who studied the behavior of animals in a group; then, it started being used to describe the behavior of a peer group towards an individual at school; in the end, this expression became related to the working environment, where it has found its widest field of application (Friedman, Whitman, 2003: 241).

Contrary to the widespread opinion that “mobbing” is an Anglo-Saxon coin word, it is a term and concept fully developed by continental law (Nolte, 2005: 104). The *Anti-Mobbing Movement* was formed during the 1980s in Sweden. Heinz Leymann, a psychologist of German descent, who had devoted his entire professional life to the study of traumatic disorders in workers, was the first to give the definition of mobbing in 1984.¹ According to Leymann, *mobbing* is a hostile and unethical communication of one or more persons, systematically directed mostly towards one individual, who is thus put into a hopeless and defensive position, which is propagated with the use of *mobbing activities*. In order for mobbing to exist, these activities must be regular in appearance (statistically speaking, at least once per week) and take place over a longer time period (statistically, at least 6 months). Therefore, owing to the frequency and length of such hostile behavior, there are significant mental, psychosomatic and social deprivations suffered by the mobbing victims.² By relying on the concept of mobbing proposed by professor Leymann, Sweden was the first country to adopt a legislative act in 1994, which dealt with the *victimization at the workplace*.

Unlike Leymann’s definition, which addresses the frequency and length of the activities of the perpetrators of mobbing as the fundamental and necessary elements of mobbing, a significant impact, not solely in professional circles but in public opinion as a whole, was achieved by the definition of *moral harassment* at the workplace (*harcèlement moral*) by French Psychologist Mare-France Hirigoyen. It is a standpoint that a sole activity is sufficient to constitute what is considered to be harassment at the workplace provided that this activity disrupts the psychological integrity and dignity of an individual or the work atmosphere, and that it jeopardizes the employment of this individual (Hirigoyen, 1998: 252).

Giving equal significance to the key elements of the previous two definitions, reflected in continuity and weight of the consequences, Devenport describes mobbing as a continuous emotional assault manifested through insults, unfounded insinuations, demeaning actions, public discrediting, aimed more at the personality than at an individual, so that the victim would practically be forced to leave work (Devenport, Distler Schwartz, Elliot, 1999: 33). Simultaneously, this group of authors distinguishes between *mobbing* as a group activity on the one hand, and individual acts mostly referring to physical violence, signified through

¹ WBI – the Workplace Bullying Institute. *Origins of the International Workplace Bullying Movement*. <http://www.workplacebullying.org/the-movement/> Retrieved 27.07.2015.

² The Mobbing Encyclopaedia (Homepage of Dr. Heinz Leymann). *The Definition of Mobbing at Workplaces*. <http://www.leymann.se/English/12100E.HTM> Retrieved 25.07.2015.

the term of “*bullying*”, on the other hand (Devenport et al. 1999: 27). Unlike *bullying*, the practice of mobbing may start from one or two people and then, as a virus, extend through the whole organization (Kerr, 2004). However, it seems that the widespread position is that there is no qualitative difference between the two terms, which are synonymous with the term “moral harassment” adopted in France, and “mobbing” in most European countries (Germany, Italy, Sweden), while the term “bullying” is characteristic of the English speaking region (Guerrero, 2004: 477, Browne et al. 2008: 132).

PHENOMENOLOGICAL CHARACTERISTICS OF MOBING

Mobbing activities, which are an integral part of defining this phenomenon, are numerous. They include a wide range of demeaning actions, such as: restricting the possibilities of appropriate communication of the victim with the rest of the staff, refusal to enter into conversation with the victim, interrupting their speech and isolating them in the workplace; gossiping and mocking their personality, appearance, possible disabilities; spreading rumors about the victim, often concerning an alleged “mental disorder”; constant criticism, complaints about the victim’s work quality and excessive control; assigning degrading tasks or tasks which do not correspond to the victim’s professional qualification (the “empty table” syndrome), or overloading the victim with work tasks and assigning tight deadlines for their execution (the “very full table” syndrome), or deskilling; harassment aimed at the victims’ health and physical integrity, by forcing them to perform tasks that impair their health, refusing to give them holidays and days off, threatening them with physical assaults as well as physical or sexual abuse.³

In theory, there is a popular belief that these activities occur in three to five stages. The first stage appears as the incident stage, which is a potential base for mobbing, where there is an unresolved conflict among the employees, further resulting in the disruption of interpersonal relationships. The second stage is characterized by the fact that the original conflict is forgotten, while the repressed aggression turns into a real psychological terror aimed at the victim who is getting more and more burdened with a heavy workload, inadequate, or even humiliating working tasks. In the circle of intrigue, ridicule, humiliation and threats, the victims lose their professional and human dignity, and feel inferior to others. In the working environment, their reputation is ruined, and their opinion and their right to say anything are not taken into account.

In the third stage, an already permanently harassed person becomes a “scapegoat” or an “easy mark” for blaming all the negligence and failures of the staff on them. This is the stage in which the management is usually involved and takes the side of the perpetrators of mobbing. The fourth stage is characterized by a desperate fight for survival of the victim, who starts displaying the symptoms of the *burn-out* syndrome at work, as a delayed response to chronic stress and distressful events in the workplace, as well as psychosomatic and depressive disorders. At this stage, the victim shall be labeled as “difficult” or “mentally ill”. Finally, the fifth stage leads to the exclusion of the victim of mobbing from the working environment due to the layoff, early retirement, attack on the harasser, development of obsessive behavior, suicide or some other reason. In any case, it ends by “removing” the victim from the working environment (Devenport et al. 1999: 38).

³ The Mobbing Encyclopaedia (Homepage of Dr. Heinz Leymann). *Mobbing activities*. <http://www.leymann.se/English/12210E.HTM> Retrieved: 25. 7. 2015.

The described cycle which represents the stages of mobbing can last for months and sometimes even years (Einarsen, Hoel, Zapf, & Cooper, 2003: 7). Each individual case does not have to go through all these stages; however, most studies have shown that victims face a fairly constant pattern.

Theoreticians and researchers agree that a mobbing victim can be anyone from the staff although, at first glance, this could not be concluded from the already shown stages of mobbing. Mobbing can be aimed at a co-worker who is at the same position in the company as the perpetrators of mobbing, but it can also be directed at subordinates, and even the managers and supervisors (Shallcross, Sheehan, Ramsay, 2008: 57).

Therefore, dependent on the position within the company occupied by the perpetrators of the mobbing or the victim, there is vertical and horizontal mobbing (Vuković, 2006: 6). *Horizontal mobbing* occurs between co-workers at the same hierarchical level, when the co-workers use psychological terror against their colleagues. Contrary to this, *vertical mobbing* occurs in two different ways: as harassment which is the way the superior treats the subordinate, as one of the most common forms of mobbing in practice; and when a group of workers conducts the mobbing towards their superior (Kostelić – Martić, 2005: 16).

Another important division is the one based on the motive for the harassment and, therefore, there is strategic and emotional mobbing (Kostelić – Martić, 2005: 17). The *strategic or institutional mobbing* is a subtype of vertical mobbing, which is associated with the management's policy connected with reducing the number of employees. In the core of this type of mobbing, there is an agreement among the management representatives on the implementation of the activities which have the aim to eliminate the employees who are made redundant or who, in turn, have not adapted to the newly introduced system of doing business. This agreement includes making the list of undesirable workers who will then suffer from all the already planned mobbing activities, the aim of which is for the workers to quit their jobs without asking for a severance pay, purchasing service credit or any other benefit for leaving the present working position. These strategic agreements may even go so far as to have the victim degraded by the mobbing activities in such a way as to ensure that they become completely uninteresting even to the competition (Konstantinović – Vilić, Nikolić – Ristanović, Kostić, 2009: 160). On the other hand, the *emotional or individual mobbing*, as its name suggests, has in its core some negative feelings which can be found in the harassers (such as: hatred, jealousy, envy, dislike, anger); they all cause mobbing which is reflected in the form of insults, ridicule, criticism, intrigue, isolation of the victim, etc.

ON THE ETIOLOGY OF MOBBING

In order to consider the phenomenon of mobbing, in addition to an accurate and comprehensive definition, determining the scope of mobbing activities and stages, as well as the general forms in which mobbing is manifested, it is equally important to consider the factors which lead to its emergence and the consequences the mobbing victim suffers. Determining the cause and effect is necessary in order to define preventive measures regarding this phenomenon.

Although mobbing can occur in any workplace, there are certain conditions which create an environment suitable for the emergence and development of this phenomenon. According to Leymann, it is a strict hierarchical organization, insufficient managerial

competency and poor communication among staff.⁴ It is obvious that these factors represent fertile ground for the emergence of conflicts in the working environment. As already noted in the previous part on mobbing stages, the conflict is in the root of mobbing, and as such, it is followed by the thought of the perpetrator directed at the victim: "You are the problem. When you disappear, the problem is solved." In regard to this, it is interesting to note that many researchers have a firm belief that personal traits of the victim and the perpetrator of mobbing represent a risk factor for the emergence of mobbing, for this reason, certain personalities are described as "weak", "lenient", potential targets of mobbing perpetrators who are, on the other hand, described as psychopaths (Devenport et al. 1999: 59, McCarthy, 2000: 242). However, there is an increasing number of those who consider this attitude obsolete, directing their arguments at the position the victim has within the structure of the organization, and claiming that it is the actual position, i.e. the workplace, that is being attacked, regardless of the personality types which occupy the position (Shallcross, Sheehan, Ramsay, 2008: 59). In any case, there is a consensus that belonging to a minority group or any group that is generally different in relation to the dominant group in the working environment in terms of different religious, political or union affiliation or even possessing zeal, enthusiasm, higher competencies, represents a potential risk factor as a rule (Shallcross, 2003).

In connection with the terms related to the structure of the organization, we can say that mobbing exists not only in public but in the private sector as well. However, there is empirical evidence that the rate of mobbing is higher in small and medium-sized enterprises with up to 250 employees, as compared to big companies (Wolmerath, 2013: 80). In addition, some researchers believe that mobbing is more often linked to the non-profit sector, such as the educational system and health care system, than to the big lucrative corporations (Reichert, 2002: 6). The economic power of the company has a significant impact on the emergence of mobbing. It is far more likely that the employee will have an interest to exert terror over their co-workers, subordinates or superiors in periods of economic crisis (Wolmerath, 2013: 85). The way to increase profitability in such situations can simply be to reduce the number of workers who leave their jobs due to harassment.

Finally, the factors which trigger mobbing are various, including: envy, rejection of diversity, polarization of those who work a lot and those who work little, the inability of the management to adequately manage the employees, the fear of losing the job due to high competitiveness or the strategic plans of "downsizing the staff" with the aim of reducing spending in times of crisis. The phenomenon of mobbing is, therefore, largely determined by the organizational and socio-economic context (Milivojević, 2011: 240).

THE CONSEQUENCES OF MOBBING

Mobbing is the source of numerous negative consequences on various levels. Perceived from the point of view of the victim, the most visible repercussions of mobbing are on the person's health and performance at work. Jeopardizing one's health, which leads to frequent absence from work owing to sick leaves and reduced enthusiasm and performance, ultimately leads to lower productivity and costs to the company, as well as the country. There is no accurate information on the total economic losses that occur as the consequence of

⁴ The Mobbing Encyclopedia (Homepage of Dr. Heinz Leymann). *Why does mobbing take place?* <http://www.leymann.se/English/frame.html> Retrieved: 8. 8. 2015.

mobbing, although the approximate calculations of these losses amount to millions at the level of the economy of a country (Vuković, 2006: 10).

Health problems faced by the victim are the following: frequent headaches, insomnia, diseases of the digestive tract, high blood pressure, heartbeat disorders and similar disorders (Vuković, 2006:10). Impaired mental health is frequently a long-term response to the prolonged stress that the victim was exposed to at their workplace; thus, the confirmed consequences of mobbing appear in the form of post-traumatic stress symptoms, anxiety, depression, aggression, cognitive disorders, even psychopathy, or personality disorder (Milivojević, 2011: 238-239). The dangers of such states are especially visible in the elevated suicidal risk and the statistics which shows that as much as 20% of suicides had previously suffered harassment at the workplace (Wolmerath, 2013: 85, Divinakova, Sivakova, 2014:27).

In addition to the mentioned psychosomatic and mental suffering, the victims are exposed to social suffering. Owing to this type of harassment, the victim most frequently becomes dejected, constantly tired, disinterested or obsessive; eventually, they analyze their actions and search for mistakes that have led them to such a situation, which ultimately leads to the process of self-condemnation (Strandmark, 2013: 28). This gradually results in the loss of self-respect, which may result in the self-isolation of the victim, as well as a defensive reaction or, contrary to this, aggressive behavior (Duffy, Sperry, 2013: 121). Fear of losing one's job or being cast out of the present professional environment puts the ostracized person in the so-called *panic mode*, which is characterized by an aggressive reaction towards the harassers (Duffy et al. 2013: 122). An inferiority complex and the feeling of personal dissatisfaction, followed by the loss of professional status and, ultimately, employment, are transferred into other domains of one's life, disrupting the interpersonal relationships of the person as a whole. Family is the first to suffer from such transferred effects, i.e. relations between the parents and children, partner relations, etc. Thus, this could signify the so-called extended effects of mobbing (Duffy et al. 2013: 113).

It can be concluded that mobbing acts as a pathological factor that influences the destruction of healthy/positive competition at work, positive working atmosphere and productive relationships among colleagues; but, above all, is detrimental to the personality of the harassed victims and their primary interpersonal relationships, as well as the family as a social nucleus. In theory, the classification of these consequences is known as the *victimization of the first, second and third degree*, in analogy with burns and scars (Devenport et al. 1999: 39). In any event, the consequences of this type of harassment are very serious, costly and far-reaching. Therefore, as a society, we have no right to ignore them, regardless of the fact that mobbing is frequently viewed as an overstated issue in Serbia, where many basic existential issues of the population remain unsolved.

PREVENTION

Bearing in mind the aforementioned, it is clear that mobbing is not an isolated incident, a single episode determined by specific personalities occupying the role of the mobbing perpetrator and the victim, but a structural, strategic problem conditioned by the organizational, cultural and wider social context. Therefore, the social response to mobbing must not be narrowly limited to "extinguishing the fire", but conceived as a comprehensive system of preventive measures.

This system entails three groups of preventive measures, which may be classified as primary, secondary and tertiary prevention, based on the time of application concerning the mobbing activities. In order to achieve the desired results, the measures from all three cited groups may be taken at various levels. First, they need to be taken at the level of the state as the legislator and the major factor which provides for the application of the law; then, they need to be taken by the employer or the labor organizer, as the creator of the positive working environment and the bearer of individual strategies for combating mobbing; finally, they have to be applied by the the civil sector, as the provider of support to the victims.

The aim of *primary prevention* is to elevate and preserve the general conditions concerning the quality of the working environment, as well as to monitor the factors that influence the occurrence of the disrupted dynamics of the working environment and interpersonal relations. Therefore, the primary preventive programs are essentially proactive, and as such, they have the following aims: to provide optimal working environment and work time; to specify clear working conditions; to encourage participation in the creation and classification of work tasks and goals; to activate the process of a continuous exchange of information at all levels of organizational structure; to promote the work culture which is based on respect for human dignity; to educate all employees (from the director to the low-skilled worker) about mobbing, anxiety and their consequences; to provide management training for the purpose of acquiring skills for managing human resources; to create internal documents by which the company will inform the employees that discrimination and unethical behavior will not be tolerated; to enter clauses in labor contracts which regulate mobbing and stipulate penalties for breaking the rules (Kostelić – Matrić, 2006: 12). We notice that this type of prevention actually needs to start at the level of education of pre-school and school children, through different forms of instruction aimed at raising their awareness about the non-acceptance and detrimental effects of violence, as well as providing systematic input on the importance of accepting differences, promoting tolerance and alternative methods of resolving conflicts.

Secondary prevention of mobbing entails early detection, which is aimed at identification and control of symptoms, precluding further escalation of the conflict, and providing assistance during the resolution of some other occurring problem (Laklija, Janković, 2010: 71). This type of prevention is characterized by the prominent role of the *advisor*, as a neutral individual inside the organization, who may be addressed by all employees for assistance, in case a person believes to be a victim of harassment or has an unresolved conflict with another person inside the organization. In addition, this secondary prevention level entails the use of mediation by a third unbiased party, as an alternative dispute resolution method for resolving the pathological situation which is caused by mobbing. In the legal frameworks of numerous countries, mediation has been introduced as a means of resolving disputes involving mobbing and harassment at workplace.

Tertiary prevention takes the stage when the consequences of mobbing have already occurred. It entails measures that are aimed not only at removing the consequences of mobbing but also at mitigating the effects of their additional negative impact; as such, these measures are also considered to be prevention. This indicates the necessity for early diagnosis of the impact of mobbing on health, establishing self-assistance support groups and rehabilitation in specialized medical institutions (Kostelić – Martić, 2006: 13). The legislative activity of the state is also regarded as a preventive measure, which is in literature (as a rule) related to the tertiary level of prevention. We are of the opinion that the

legal framework needs to embody all three prevention levels, which is a prerequisite for an effective application of the envisaged preventive measures.

MOBBING IN THE SERBIAN NORMATIVE FRAMEWORK

The Republic of Serbia falls into a group of European countries (alongside with Sweden, Finland, France and Belgium) which have adopted special anti-mobbing laws. Namely, in 2010, Serbia adopted the *Act on the Prevention of Harassment at Workplace*⁵, which was followed by the *Regulation on the Rules on the Employer and Employees' Conduct concerning Prevention and Protection from Harassment at the Workplace*.⁶ In principle, the legislative act and the regulatory act (bylaw) provide a comprehensive and well-defined *preventive concept*. By applying the theoretical assumptions and the international legal recommendations concerning the three aforementioned prevention levels, the Serbian legislator has envisaged two fundamental pillars of prevention: 1) the employer's duty to provide a healthy psycho-social working environment (by informing the employees about the institutional anti-mobbing policy, and providing relevant education aimed at preventing harassment at work); and 2) the employee's right to initiate protection proceedings (by filing a request either with the employer/responsible person or with the court), as well as the employer's duty to provide internal protection procedures, including the assistance of unbiased and professional mediators, in an attempt to preclude court proceedings and permanently resolve the dispute concerning harassment by mutual agreement of the parties involved.⁷ Therefore, the employer is obliged to ensure protection from harassment through the prevention of mobbing (by creating a healthy and safe environment and working conditions) and by ensuring a transparent and efficient internal protection proceedings, including a mediation process which is aimed at precluding judicial proceedings between the employees in disputes involving harassment at work (Kićanović, 2011: 8). In case the mediation process does not succeed, or in case the employee is dissatisfied with the outcome of the internal protection proceedings, the victim is entitled to seek judicial protection against harassment at work in a court of law (Art 29).⁸

On the other hand, the Act on the Prevention of Harassment at work also envisages obligations at the individual level, such as the duty of *employees* to refrain from conduct that may be qualified as harassment and to refrain from abusing the right to protection against harassment.⁹ In both cases, the legislator prescribes the same sanctions for the violation of these provisions, including disciplinary responsibility and liability for material damage caused to another (Art. 11), as well as a termination of the employment agreement (Art. 23). At this point, we wish to draw attention to the legal solution concerning the sanction for the violation of the expressly stipulated right to protection against harassment. Namely, given that the abuse of a right is sanctioned according to the general regime of damage compensation, the introduction of such a provision is not only unnecessary but also potentially counterproductive, because the victim that is in a subordinate and practically weaker position

⁵ Act on the Prevention of Harassment at the Workplace, *Official Gazette of the RS*, 36/2010

⁶ Regulation on the Rules of the Employer and Employees' Conduct concerning Prevention and Protection from Harassment at the Workplace, *Official Gazette of the RS*, 62/2010

⁷ Articles 7-8 and Articles 13-21 of the Act on the Prevention of Harassment at the Workplace, *Official Gazette of the RS*, 36/2010

⁸ Article 29 of the Act on the Prevention of Harassment at Workplace, *Official Gazette of the RS*, 36/2010

⁹ Article 11 of the Act on the Prevention of Harassment at the Workplace, *Official Gazette of the RS*, 36/2010

as compared to the harasser may become frightened of the mobbing trial, which would further discourage the victim from taking action. Therefore, one of the proposals in this paper is to repeal the said provision concerning the abuse of the right to harassment protection in this Act.

The foundation of primary prevention in the Serbian anti-mobbing legislation consists of the legal provisions on the employer's duty to inform and educate the employees about different forms and consequences of mobbing, for the purpose of recognizing, preventing, counteracting and processing the cases of mobbing. These provisions are further supplemented by regulatory act (bylaw) provisions. In this domain, we may recommend the use of the so-called *checklist*. It would be a type of an anonymous survey conducted by the management, with the questions formulated in such a manner that they represent mobbing indicators.¹⁰ In addition, another indicator might be the process of monitoring the frequency of the employee's sick leaves, sudden truancy and absenteeism from work for other reasons, in order to possibly determine the pattern of atypical changes. It may be also useful to interview employees when they leave the organization about their experience concerning the working conditions, environment and relationships among the staff, and followed it up by an analysis of the obtained results. The results can be used for creating an internal strategy for the promotion of the human relations and positive working environment. It is extremely important that the employer, employee representatives and/or union representatives, human resource professionals as well as the occupational safety personnel shall participate in making such internal development strategies. Several research papers on the effects of the primary prevention measures have shown that the application of such strategies, as part of the wider concept of "zero tolerance of harassment", with compulsory training for the entire staff, may result in the reduction of mobbing (Vartia-Väänänen, 2013: 13).

Although it is a modern legislative act modeled upon the European legal standards, the Serbian Act on the Prevention from Harassment at Work (2010) seems to have a very limited range of application. Namely, in the domain of prevention, the measures that it states can be described as adequate and well-thought of in cases of horizontal mobbing. We cannot talk about the prevention of vertical mobbing without providing for a mandatory training for employers and obligatory evaluation of the quality of the working environment, and without instituting relevant procedures for determining the responsibility of the bullies (including the situations when the employer appears in the role of the perpetrator of mobbing). The fact that the bullied employee is entitled to judicial protection in such cases cannot be considered prevention but intervention at the time when the bullying has already progressed. It may be even more important that the Act does not recognize strategic mobbing; therefore, it does not offer the measures for its prevention, even though it is by far the most common form of bullying of employees in our country. For all these reasons, the issue of mobbing at work requires a systematic approach with broader governmental intervention.

From the aspect of general prevention, the question of criminal liability of the perpetrator arises. In addition to retributive justice, issuing penalties for illegal actions has a special and general preventive effect, as it discourages the individual as well as the society from such behavior. In addition to civil liability, France introduced criminal liability for bullying at work in 2002 (Guerrero, 2004: 491). In the last few years, the trend of criminalization of such behavior has spread over the Balkan countries; thus, in 2013,

¹⁰ Employee/Employer Relations Committee. *Bullying and Mobbing in the Workplace. Research Paper*. http://opsu.org/sites/default/files/migration/eerc_20support_20_20mobbing_20and_20bullying.pdf downloaded on 8th August 2015

Croatia, for example, envisaged bullying at work as a criminal offense which is prosecuted at the proposal of the victim and is punishable by up to two years' term of imprisonment.

The question of criminalization of mobbing remains open in Serbia, although our legislator provides indirect protection to the victims of mobbing through some provisions of criminal legislation (Konstantinović–Vilić et al. 2009: 161). Introducing the offence of bullying at work in the national legal framework could be a powerful instrument for the prevention of mobbing, but only in case of effective functioning of the criminal justice; otherwise, the victims would be completely helpless, without hope and devastated.

Finally, it is important to mention the role of the non-governmental sector in the prevention of mobbing. This sector is often one of the pillars of rehabilitative tertiary prevention measures. The activities of these non-governmental organizations most commonly involve different support groups for the victims of mobbing. The most significant among them are the ones which gather people who have survived mobbing, who are willing to share their experience with the highest level of empathy for others and, thus, without diminishing another person's suffering, they are willing to help others to identify the opportunities for their recovery (Duffy et al. 2013: 134). In addition to organizing groups for support and assistance to the victims of mobbing, it is useful to encourage the opening of SOS telephone lines which are usually the simplest, fastest and most accessible service which the victims can use to receive basic instructions about their rights and possible action. The actual need for establishing such services is clearly indicated by the fact that, in Germany, around eight thousand specially trained volunteers are available on the phone or online at any given moment (Wolmerath, 2013: 90).

CONCLUSION

Mobbing, or harassment at work, is a phenomenon whose consequences can be devastating not only for the victim but indirectly for the entire family and the society in general, through a decrease in productivity and increased costs both for companies and for the society at large. Apart from recognizing and legally sanctioning mobbing as a form of harassment, it is essential to institute a comprehensive system of preventive and educational measures. An adequate social response to mobbing at work involves creating and maintaining an effective system of prevention and protection from any kind of bullying in the workplace. This system should include measures at different levels which will include all interested stakeholders: state authorities, interested social partners such as unions and employees' representatives, employers and their management, as well as the non-governmental sector. In order to solve a complex problem such as mobbing, which has a general socio-economic and social context in its roots, it is above all necessary to have an adequate social atmosphere. Such a social climate is characterized by a developed awareness of the right to decent and dignified work, which has been paradoxically forgotten in recent times.

REFERENCES

- Browne, N., Smith, M. A. (2008). Mobbing in the Workplace and Individualism: Antibullying Legislation in the United States, Europe and Canada. *Employee Rights and Employment Policy Journal*, pp. 131-159.
- Devenport, N., Distler Schwartz, R., Elliot, G. (1999). *Mobbing: Emotional Abuse in the American Workplace*. Iowa, USA: Civil Society Publishing.
- Divinakova, A. Sivakova, B. (2014). Mobbing at workplace and its impact on employee performance. *Human Resources Management & Ergonomics*. VIII (2/2014), pp. 20-34.
- Duffy, M., Sperry, L. (2013). *Overcoming Mobbing: A Recovery Guide for Workplace Aggression and Bullying*. USA: Oxford University Press .
- Employee/Employer Relations Committee. *Bullying and Mobbing in the Workplace. Research Paper*. Retrieved 08.08.2015.
http://opseu.org/sites/default/files/migration/eerc_20support_20_20mobbing_20and_20bullying.pdf
- Einarsen, S., Hoel, H., Zapf, D., Cooper, C. (2003). The concept of bullying at work: The European tradition. In: Einarsen, Hoel, Zapf, Cooper (ed.) *Bullying and emotional abuse in the workplace: International perspectives in research and practice*. London: Taylor & Francis, pp. 3-30.
- Friedman, G., Whitman, J. (2003). The European Transformation of Harassment Law: Discrimination Versus Dignity. *Columbia Journal of European Law*, 9.
- Guerrero, M.I. (2004). The development of moral harassment (or mobbing) law in Sweden and France as a step towards EU legislation. *Boston College International & Comparative Law Review*, 2 (27), pp. 477-500.
- Hirigoyen, M.F. (1998). *Le harcèlement moral, la violence perverse au quotidien*. Éditions La Découverte et Syros, Coll. Pocket.
- Казнени закон Републике Хрватке. *Народне новине*. Бр. 125/11.
- Kerr, A. (2004). *Mobbing: Bullying's Ugly Cousin*. Globe and Mail. Retrieved: 02.08.2015. <http://members.shaw.ca/mobbing/mobbingCA/uglycousin.htm>
- Кићановић, О. (2011). *Коментар Закона о спречавању злостављања на раду*. Београд: Социјално-економски савет Републике Србије.
- Константиновић-Вилић, С. Николић-Ристановић, В. Костић, М. (2009). *Криминологија*. Ниш: Пеликан принт.
- Костелић-Мартић (2006). Превенција мобинга и врсте помоћи жртвама. *Темида*, 4(2006), стр. 11-16.
- Костелић-Мартић (2005). *Мобинг: психичко малтретирање на радном мјесту*. Загреб: Школска књига.
- Laklija, M. Janković, J. (2010). Mobbing - osobni, obiteljski i radni problem i njegova prevencija. *Kriminologija i socijalna integracija*, 18 (2010), str. 65-77.
- McCarthy, P. (2000). The bully-victim at work. У M. Sheehan, S. Ramsay and J. Patrick (ed.) *Transcending Boundaries: Integrating People, Processes and Systems. Proceedings of the 2000 Conference*. Brisbane, Queensland, pp. 241-256.
- Миливојевић, Т. (2011). Системски узроци и услови развоја мобинга као организационе праксе. *Теме*. 1, стр. 227-245.
- Nolte, G. (2005). *European and US Constitutionalism*. Council of Europe.
- Правилник о правилима понашања послодаваца и запослених у вези са превенцијом и заштитом од злостављања на раду. *Сл. гласник РС*. Бр. 62/2010.
- Reichert, E. (2002). Workplace Mobbing: A new Frontier for the Social Work Profession. *Professional Development: The International Journal of Continuing Social Work Education*. V (3), pp. 4-12.
- Shallcross, L., Sheehan, M., Ramsay, S. (2008). Workplace Mobbing : Experiences in the Public Sector. *International Journal of Organisational Behaviour*. 13 (2), pp. 56-70.
- Shallcross, L. (2003). The Workplace Mobbing Syndrome: Response and Prevention in the Public Sector. <http://members.shaw.ca/mobbing/mobbingCA/mobsyndrome-1.htm> Retrieved: 02.08.2015.
- Strandmark, M. (2013). Workplace Bullying and Harassment in Sweden: Mobilizing against Bullying. In: Sugeno, K. (Прир.) *Workplace Bullying and Harassment*. Tokyo, Japan: The Japan Institute for Labour Police and Training, pp. 23-38.
- The Mobbing Encyclopaedia. <http://www.leymann.se/English/12100E.HTM> Retrieved 25.07.2015
- Vartia-Väänänen, M. (2013). Workplace Bullying and Harassment in the EU and Finland. У Sugeno, K. (Прир.) *Workplace Bullying and Harassment*. Tokyo, Japan: The Japan Institute for Labour Police and Training, стр. 1-22.
- Вуковић, Д. (2006). Мобинг на радном месту. *Темида*. 4(2006), стр. 3-10.
- Wolmerath, M. (2013). Workplace Bullying and Harassment in Germany. У Sugeno, K. (Прир.) *Workplace Bullying and Harassment*. Tokyo, Japan: The Japan Institute for Labour Police and Training, стр. 77-90.
- WBI – the Workplace Bullying Institute. *Origins of the International Workplace Bullying Movement*. <http://www.workplacebullying.org/the-movement/> Retrieved 27.07.2015.
- Закон о спречавању злостављања на раду. *Сл. гласник РС*. Бр. 36/2010.

PREVENCIJA ZLOSTAVLJANJA NA RADU

Mobing ili zlostavljanje na radu ne spada u red novijih pojava, s obzirom na to da postoji od kada i razlike u pozicijama moći vezane za rad i radno okruženje. Ono što je novo, jeste zahtev društvene zajednice da mobing, kao oblik zlostavljanja, bude prepoznat i pravno normiran. Na tom putu, glasnogovornici borbe protiv mobinga ističu značaj primene preventivnih mera. Tranziciono društvo, u kome vlada siva ekonomija i visoka stopa nezaposlenosti, idealno je tlo za razvoj ovog oblika zlostavljanja, te ono vapi za obuhvatnim i sistemskim preventivnim rešenjima. U cilju efikasnog koncipiranja preventive neophodno je precizno odrediti šta je mobing, koji su njegovi pojavni oblici, uzroci javljanja i posledice. Celovito sagledavanje i razumevanje ovog negativnog društvenog fenomena je uslov izgradnje delotvornog sistema primarne, sekundarne i tercijarne prevencije.

Ključne reči: *mobing, zlostavljanje, žrtva, prevencija.*