

DEFINITION OF PSYCHOLOGICAL VIOLENCE AT WORK: THEORETICAL AND PRACTICAL INSIGHTS

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Abstract. Psychological violence in the context of employment legal relations is associated with discrimination and psychological unauthorized effects to create an intimidating and humiliating environment. The experience of psychological violence at work undoubtedly has a huge negative impact on a person's health, self-worth and socio-economic situation. The concept of psychological violence is not formulated by the norms of Lithuanian labour law today, therefore disclosure of the concept of this category at the theoretical level and case law related to the definition of psychological violence allow understanding possible manifestations of psychological violence at work and provide a certain legal evaluation. The article analyses the scope of legal regulation of psychological violence at work in the international and national sphere, estimates possible changes in the legislation and provides an overview of the case law of the Lithuanian courts evaluating psychological violence as a phenomenon.

The key words: Harassment; psychological violence; mobbing; discrimination.

INTRODUCTION

The diversity and versatility of the terminology used is rather important when dealing with psychological violence at work. As it is noted in the analytical review of the Research Division of the Information and Communication Department of the Office of the Seimas of the Republic of Lithuania, the *concept of Mobbing (bullying, harassment) and the legal regulation of combating it in some Member States of the European Union (2020)*, "The term *mobbing* is used in many European countries, and the term *bullying* is used in English speaking states. In addition, the terms "moral harassment", "victimization" and "psychological terror" are also used to describe hostile behaviour." In Lithuania, the term "harassment" or "violence" is used quite often as a tradition, but recently, especially often in the public sphere, the use of the term mobbing and a fixed legislative initiative related to the purpose of legalizing the term mobbing, as well as the corresponding content, have been observed in the public sphere. It should be noted that J. Vveinhardt, P. Žukauskas (Vveinhardt, Žukauskas, 2012) have provided summarizing valuable insights related to the disclosure of the concept of mobbing, examining the dysfunction of employee relations. It should be also noted that the need for psychological violence at work and the definition of mobbing is related to the requirements of legal regulation: clarity, reasonableness, effectiveness. Practical relevance is determined by the practice of the Constitutional Court of the Republic of Lithuania, the Supreme Court of the Republic of Lithuania,

The aim of the study is to clarify the definition of psychological violence at work in legislation and in the context of case law.

The objectives of the study:

1. Review the scope of the legal regulation on psychological violence at work in the international and national arena;
2. To reveal aspects of the evaluation of psychological violence at work in Lithuanian case law.

Study methods – analysis of scientific literature, analysis of legislation, analysis of case law.

SCOPE OF LEGAL REGULATION ON PSYCHOLOGICAL VIOLENCE AT WORK IN THE INTERNATIONAL AND NATIONAL ARENA

An overview of international, European Union, national legislation and legislative initiatives in this area is appropriate when evaluating psychological violence at work as a phenomenon.

Already in 1948, the 1st. article of *the Universal Declaration of Human Rights* states that "all people are born free and equal in their dignity and rights, no one shall humiliate his dignity (Art. 5), that "everyone has the right to equal protection against all forms of discrimination and against all incitement to such discrimination"(Art. 7). Article 14 of the *1950 Convention for the Protection of Human Rights and Fundamental Freedoms* provides for the prohibition of any discrimination based on gender, race, colour, language, religion, political or any other opinion, national or social origin, property, birth or other grounds. According to the *1966 International Covenant on Civil and Political Rights*, "all people are equal to the law

and have the right to equal, non-discriminatory protection of the law” (Article 26), and *the International Economic, Social and Cultural Rights Pact of 1966* (Art. 2(2)) refers to the prohibition of discrimination. *The 1996 European Social Charter (revised)* refers to the obligations of the parties with a view to employees' right to dignity at work " ... to promote sensitivity and awareness to prevent and take all necessary measures to protect employees from such behaviour by persistently reprehensible or explicitly negative and offensive actions directed against individuals at work or otherwise related to work" (Art. 26).

International Labour Organisation (ILO) conventions are particularly important for the unifying of labour relations. *ILO Convention No 111 of 1958 on Discrimination in Employment and Occupation* states that discrimination means any equal opportunities for work and occupation, and equal treatment which undermines or eliminates exclusion, restriction or favour by gender and clarifies that 'work' and 'professional activity' include employment relationships and working conditions, as well as access to the profession, vocational training or employment (Art. 1). On 21 June 2019, *the International Labour Conference adopted ILO Convention No 190 on Violence and Harassment* (hereinafter 'the Convention'), and *Recommendation No 206 of 2019 on Violence and Harassment* (No 206), (hereinafter 'the Recommendation'). As noted in *the Proposal for a Council Decision authorising Member States to ratify the 2019 International Labour Organisation Convention on Violence and Harassment (No 190)* in the interest of the European Union, the Convention is the first international law to establish specific, universally applicable standards to combat harassment and violence at work and specify the measures to be taken by the States and other actors working in the field. The objective of the Convention and the Recommendation is to establish an inclusive, integrated and gender-sensitive concept for the prevention and elimination of violence and harassment in the working environment. The Convention recognizes everyone's right to the world of work free from violence and harassment, including gender-based violence and harassment, and that violence and harassment in the world of work can amount to a violation or abuse of human rights, and that violence and harassment threaten equal opportunities, are unacceptable and incompatible with decent work, that violence and harassment in the world of work affect a person's psychological, physical and sexual health, dignity, family and social environment.

Violence and harassment are said to be incompatible with supporting sustainable businesses and have a negative impact on work organisation, workplace relationships, employee engagement, company reputation and productivity (note that the Convention stresses that violence and harassment can't take place in either the public or private sectors) and so on. The Convention defines violence and harassment as “violence and harassment” in the world of work refers to all kinds of unacceptable behaviour and practices or threats, whether it is a single occurrence or a repetitive occurrence aimed at causing physical, psychological, sexual or economic harm, including gender-based violence and harassment' (Art. 1(a)). By the way, it is indicated that national laws, regulations and administrative provisions may define violence and harassment as one or more separate concepts (Article 1(part 2)). The Convention applies to violence and harassment in the working environment, which goes beyond the workplace, including work-related infrastructure and communications, travel and social activities, as well as accommodation and travel to and from work provided by the employer (Art. 3). The states ratifying the Convention assume certain obligations accordingly (see Table 1).

Table 1

Obligations of States ratifying the Convention

No	Obligations of States	Rule of the Convention
1.	Establish an integrated and gender-based approach to preventing and eliminating violence and harassment in the working environment by adopting legislation prohibiting violence and harassment	Art. 4, p. 2.
2.	Ensure that appropriate policies to combat violence and harassment are in place	Art. 4, p. 2
3.	Adopt a comprehensive strategy to combat violence and harassment and ensure that victims have access to remedies and support	Art. 4, p. 2 d. c
4.	Adopt laws, regulations and policies to ensure the right to equality and non-discrimination in the field of employment, including for vulnerable groups and groups in vulnerable situations	Art. 6

The mentioned obligations also apply to Lithuania ratifying the Convention. In its proposal for *the Council decision authorising Member States to ratify the Convention in the interest of the European Union*, the European Commission acknowledged that "as regards substantive law, the content of the provisions of the Convention content does not pose a problem in terms of the existing EU acquis. The Convention on the Interests of the EU should therefore be ratified by the EU Member States." The Constitutional Court of Lithuania (*conclusion of the Constitutional Court of the Republic of Lithuania on the compliance of the*

actions of Kęstutis Pūkas, a member of the Seimas of the Republic of Lithuania, against whom impeachment proceedings were opened with the Constitution of the Republic of Lithuania in 2017), has also noted that "the protection of the dignity of the individual, the right to privacy and the prohibition of discrimination on grounds of gender are also enshrined in European Union primary law, just as the secondary legislation of the European Union contains a ban on conduct which has the characteristics of harassment and sexual harassment".

European Union legislation focuses on the activities of member states to improve working conditions, ensure health and safety at work, equality between women and men on labour market opportunities and attitudes at work, some measures have also been taken to ensure that the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation should be applied. This is also confirmed by the abundance of legislation: **Directive 89/391/EEC on the introduction of measures to improve occupational safety and health at work**, covering all types of risks to the health and safety of employees at work, including psychosocial risks, harassment and violence; The European Social Partner Framework Agreement on Harassment and Violence at Work concluded in 2007 under Article 138 of the EC Treaty (now Article 155 TFEU (Treaty on the functioning of the European Union), the agreement providing employers, employees and their representatives with a framework of action to identify, prevent and address problems of harassment and violence at work; **Directive 2006/54/EC on equal treatment for men and women and the application of the principle on equal opportunities in employment and occupation**, which contains provisions on the prohibition of harassment and sexual harassment. **Directive 2000/78/EC of 27 November 2000, establishing the general framework for equal treatment in employment and occupation; Directive 2000/43/EC implementing the principle of equal treatment between persons regardless of racial or ethnic origin, etc.; the European Parliament in its resolution of 11 September 2018 on intimidation and sexual harassment at work, EU prevention and combating measures in public areas and political life (2018/2055(INI))**, setting out a series of arguments as to why certain recommendations are needed: whereas both sexual and psychological harassment at work is prohibited at EU level, including as regards access to employment, vocational training and promotion, and is subject to health and safety requirements; whereas the emergence of new forms of work organization and social life and the blurring of the boundaries between private, professional and social life may lead to an increase in negative behavior directed against individuals or social groups; whereas bullying at work can very often involve many forms, both vertically (when the perpetrator is a manager or a subordinate) and horizontally (when the perpetrator is a co-worker of the same rank); whereas violence in the working environment is often dealt with inconsistently, with a focus on more visible forms, such as physical violence; whereas, however, sexual and psychological harassment may have a significantly more harmful effect on a person", not only makes general recommendations on the adoption of national legislation on the updated comprehensive definition of harassment (sexual and not only) and bullying at work, but also calls on the member states to adopt measures preventing and combatting violence and harassment at work through policies, that include prevention measures, effective, transparent and confidential complaint-handling procedures, strong and dissuasive sanctions against perpetrators.

Thus, it is clear that international legislation is dominated by the legal categories of psychological violence or harassment to be used, it is clear that the legal categories of psychological violence or harassment to be used dominate international legislation, emphasising the potentially more harmful effects of psychological harassment and the need for preventive measures.

What is the situation in Lithuania with regard to the legal regulation of psychological violence and harassment? The Constitutional Court of Lithuania (*conclusion of the Constitutional Court of the Republic of Lithuania on the compliance of the actions of Kęstutis Pūkas, a member of the Seimas of the Republic of Lithuania, against whom impeachment proceedings were opened with the Constitution of the Republic of Lithuania in 2017*), has emphasized, 'that one of the forms of discrimination (including the humiliation of human dignity) prohibited under Article 29 of the Constitution is harassment, which is understood as abusive, unacceptable or unwanted conduct, where gender, race, nationality, language, origin, social status, beliefs or views, as well as other characteristics such as disability, age, sexual orientation, if the purpose is to humiliate or degrade the dignity of a person and creates an environment that is hostile, intimidating, humiliating or offensive to him. It needs to be noted that harassment inevitably encroaches on the physical or mental integrity of a person as well, *inter alia* disrupts a person's physical, mental and spiritual state, restricts the expression of physical activity, intellectual and creative freedom, thus the free personality, and may complicate relations with other persons. Harassment can have long-term or even permanent consequences that negatively affect a person's private and social life.' In 2021, the State Labour Inspectorate of the Republic of Lithuania (SLI) prepared *Methodological recommendations for the prevention of psychological*

violence in the working environment and improvement of psychosocial working conditions (hereinafter referred to as Methodological recommendations), where psychological violence is defined as unacceptable behaviour by one or more persons, which may occur in different forms and the two main forms of manifestation of psychological violence are distinguished: **harassment** (repeated and deliberate exploitation, threats and/or humiliation in work-related circumstances) and **violence** (when one or more employees or managers are assaulted in work-related circumstances). It should be noted that the understanding of application of this concept is of an expanding nature, since actions of psychological violence may be performed not only by one person or a group of employees, customers, but also by users of services or other third parties with a view to violating the dignity of the manager (s) or employee (s), and/or creating a hostile working environment. Methodological recommendations indicate that harassment and violence may lead to: physical, psychological and/or sexual abuse; unethical behaviour (once or systematically); disrespectful treatment towards others. Not only expressions of psychological violence at work are distinguished – persistent unjustified criticism, sarcasm, repeated negative remarks, screams, ignorance of the employee, defamation, manipulation, public humiliation, willingness to ridicule, underestimation of achievements, threat of dismissal, etc., but the consequences of psychological violence have also been identified as the main and most common consequence of psychological violence at work to the employee/manager: stress is the employee's reaction to unfavourable working conditions, psychosocial factors of work requirements, organisation and content of work, relations between employees and/or relationships with the employer and/or third parties. According to K. Levickaitė (*Mental Health at Work, 2020*), which examines mental health at work, "Psychological violence is a recurring non-physically damaging behaviour based on the power ratio that a person uses in that relationship towards a weaker person, which often leads to psychological trauma. The aim is to control another person by humiliating, diminishing, isolating, silencing and applying other similar strategies". As one of the phenomena of psychological violence is *mobbing*, which is described as "long-term, systematic psychological terror at work, which is usually applied by a group to one person in order to humiliate or expel from the organization. Mobbing is not an one time conflict: hostile behaviour is continuous, usually directed at one person, sometimes at a group of individuals. The purpose of this behaviour is to undermine, defeat and force the exclusion from the organisation". Attention should be paid to the possible definition of mobbing provided by the consultation of the State Labour Inspectorate (*On Mobbing at work in order to help the public to clearly and accurately understand the potential concepts of psychological violence and mobbing, to recognize their signs and to be aware of the ways of the legal defence, 2021*): "Mobbing could be understood as a relationship based on an imbalance of forces in the workplace, manifested in consistent long-term ill-treatment directed against an employee that violates the physical, social or psychological well-being of the employee, reduces his productivity and job satisfaction; psychological violence usually involves insulting, bullying, abusing, harassing, threatening, unconstructive, humiliating criticism, verbal aggression, stalking and other inappropriate behaviour of the employee." The concept of *mobbing* has not been defined yet in the legislation. It needs to be noted that on 14 January 2021, the draft law amending Articles 30 and 58 of the Labour Code of the Republic of Lithuania (hereinafter - Labour Code) was registered (*Draft law amending Articles 30 and 58 of the Labour Code, 2021*), which proposes to supplement Article 58 (3) (7) of the Labour Code and set it out as follows: "(7) - *mobbing* " means any and any form of offensive, abusive or other repetitive behaviour of an abusive nature directed against an individual employee(s) that violates the professional, material, social or psychological well-being of the employee, has an impact on the employee's mental and physical health and reputation, and reduces the employee's productivity. The labour dispute institution, depending on the circumstances, may classify as mobbing non-repeated acts of a serious nature where they have infringed the rights of the person." It needs to be noted that Article 58 (3) of the LC indicates the grounds for termination of the employment contract at the employer's initiative due to the fault of the employee, where the reason for terminating the employment contract may constitute a serious violation of his employment duties and it is one such violation that may be regarded as mobbing. It also needs to be noted that the legalisation of mobbing as a possible violation of employment responsibilities would be a problem for the application of that rule, since "gender-based harassment or sexual harassment, discriminatory conduct or violation of honour and dignity towards other employees or third parties during employment or in the workplace" is already considered as a possible serious violation of employment duties (Article 58(3) of the LC, paragraph 4). Therefore, it is to be considered that such excessive legal regulation and unmatched legal rules would not only complicate the application of law, but would also cause legal disputes. It is also proposed to name: *Article 30: Protection of the honour and dignity of employees and prevention of mobbing*, in addition to paragraph 2, with particular emphasis and responsibility for mobbing actions on the employer: "The employer is responsible in the

workplace for the prevention of mobbing, any and any form of offensive, abusive or other abusive repetitive behaviour directed against the individual employee(s) that violates the employee's professional, material, social or psychological well-being, has an impact on the mental and physical health of the employee, and reduces the employee's productivity. The employer has to ensure a secure reporting channel for mobbing. Having reported about the mobbing, the employee is subject to the protection measures set out in Article 10 of the Law on the Protection of Rapporteurs of the Republic of Lithuania from the date of notification until the end of the investigation carried out by the competent authority. Once the mobbing notification has been confirmed, the safeguard measures are applied for one year from the end of the investigation of the notification". It must be noted that the employer is thus obliged (Article 30 (1) of the LC) to create the working environment in which the employee or a group of employees do not suffer hostile, unethical, degrading, aggressive, abusive, offensive actions, whether the aim is to intimidate, diminish or put an employee or a group of employees in an unarmed and helpless situation; Article 26 (1) of the Labour Code imposes an obligation on the employer to implement the principles of gender equality and non-discrimination on other grounds. It has already been mentioned that mobbing is in many cases associated with psychological violence or is often even so understood. Isn't that going to be an excess rate? So far, it's just a project. However, there is also a certain positive: this legislative initiative on the definition of mobbing has drawn the attention not only of employees but also of employers to possible forms of psychological violence at work and their evaluation.

Therefore recently, both international and national legislation has seen an abundance of legislation, legislative initiatives related to the prevention of harassment and violence, including psychological violence as well. At the same time, one is to hold the need for definitions of mobbing and psychological violence in Lithuanian labour law to achieve one of the principles of law-making, clarity, which means that the legal regulation established in the legislation must, among other things, be precise and clear.

EVALUATION OF PSYCHOLOGICAL VIOLENCE AT WORK IN THE CASE LAW OF LITHUANIAN COURTS

The relevance and importance of the problem of psychological evaluation of violence is also reflected in the statistics. According to the data of the State Labour Inspectorate (*LDC activity reports 2020/2021*), in 2020, 36 requirements were submitted to the Labour Dispute Commission regarding the recognition of the psychological fact of violence at work, in the first half of 2021 - 18 such requirements were received, not including requirements for discrimination at work. The Constitutional Court of the Republic of Lithuania in its Conclusion on the compliance of the actions of *Kęstutis Pūkas, a member of the Seimas of the Republic of Lithuania, against whom impeachment proceedings were opened with the Constitution of the Republic of Lithuania No KT-20-i 1/2017, of 19 December, 2017*, noted that "psychological harassment must be perceived as a lengthy process, non-accidental, which means that actions are repeated or continuous, as well as "intentional", secondly, such physical behaviour, spoken or written language or gestures harm personal health or physical dignity." Of course, in the case law of Lithuanian courts, psychological harassment, violence or mobbing are most often analysed in cases related to the evaluation of the grounds for termination of employment or civil service relations; relating to the assessment of the grounds for termination of employment or civil service relations; the actions permitting to state psychological violence are also detailed, as well as the links between psychological violence and the employer's right to issue orders to the employee and control the performance of working functions.

On actions that constitute the content of psychological violence In case No. 2 A-1929-590/2013, which was investigated by the Panel of Judges of the Civil Case Division of the Vilnius Regional Court, it was stated, that after the employee applied to the Labour Dispute Commission on the annulment of a disciplinary sanction, the employee was offered the opportunity to terminate the employment contract at his own request. As a result of that proposal, the working conditions were significantly worsened and the defendant deliberately tried to diminish the plaintiff in front of his colleagues by publicly issuing instructions on the performance of the tasks, demonstrating a clear hostility towards other employees, forming a commission of the plaintiff's colleagues to evaluate the work he had carried out. The Court stated, that in the present case, the employer's conduct towards the employee was characterised by prolonged and systematic psychological violence against the employee and a high degree of cynicism, the deterioration in the health of the employee's family member for his own purposes, in order to create unbearable conditions for the person to leave his job himself. The employer did not take into account the employee's request for three days of annual leave for the care of his pregnant wife, and ignored the employee's benevolent intentions to work

overtime. The court thus singled out certain forms of psychological violence and regarded the proven psychological violence that lasted for some time towards the employee as mobbing and seeking to dismiss the employee. *In the civil case No E2A-2352-803/2016, which was investigated by the Panel of Judges of the Vilnius Regional Court*, it is stated that the mobbing understands the systematic negative impact due to the assessment of the duties performed, for which there was no objective justification, because the employer, having learned that the employee had started the search for a new job, began assigning the functions of other employees to the plaintiff, imposed six disciplinary penalties on the employee over a period of one month, etc. It has been stated that Article 2 (1) (p. 5) of the LC obliges the employer to provide safe working conditions which the employer has not fulfilled before. *In civil case No E 2-3624-615/2019, which was investigated by Kaunas District Court*, it was stated, that the plaintiff terminated the employment contract with the defendant on the basis of Article 58 (2) (1) of the Labour Code on the grounds that the defendant had grossly violated the discipline of the work without discussing the condition of patients with the head of the department in which he worked, improperly completing the medical documentation, not complying with the provisions of the code of ethics for the plaintiff's employees and the principles of collegiality, professionalism and constructive cooperation. It should be noted, that due to non-compliance with the provisions of the Code of Ethics and the principles of collegiality, professionalism and constructive cooperation of employees, the defendant was not instructed to explain and only learned about this from the order of the plaintiff's manager informing him of the termination of the employment relations. It was determined that there was a conflict between the defendant and the head of the department in which he worked. In the present case, it has been established that the defendant was unlawfully dismissed on a discrediting basis. The Court found that the circumstances confirming the employee's right to compensation for non-pecuniary damage generally recognise the seriousness of the violation of the rights of the employee committed by the employer, the unlawful dismissal on a highly compromising basis, the psychological pressure used against the employee to determine his decision to leave the job, the damage to his business reputation, the reduction of opportunities to compete in the labour market, the worsening of family relations, the health impairment caused by the employer's unlawful actions and serious property consequences of the loss of his livelihood.

On the links between psychological violence and the employer's right to control the performance of the functions at work *In civil case No 2-63-443/2016 of the Šakiai District Court which dealt with the dispute where, due to the constant pressure and impact, and the psychological use of violence, that had been investigated for almost a year, the applicant claimed to have been very unwell; psychological violence manifested in the employer's offensive remarks, appeals, devaluing comments, humiliation against colleagues, information concealed from her, restriction of the expression of her opinion, and, if the opinion is made public, the formation of a negative opinion on the applicant's competence and character. However, any specific cases and actions in which the applicant would have been humiliated, that offensive remarks had been used against her, appeals, comments devaluing her, neither the applicant herself nor the witnesses interviewed at the hearing gave any indications. The Court pointed out that the mere proposal of the employer's administration to change the employment contract, as well as individual comments on her improper performance of the work, misconduct at the meeting or leaving the work without coordination with the manager, cannot in itself be regarded as psychological violence. The Panel of Judges of the Civil Case Division of the Vilnius Regional Court in civil case No E 2 A-1150-912/2019 stated that the applicant's employment contract had been terminated in accordance with Article 55(1) of the Labour Code (employee's declaration), stating the reasons for the decision: national discrimination, moral and psychological violence, bullying, humiliation of human dignity and professionalism, employer fraud, violations of laws regulating labour relations. However, the plaintiff did not specify any specific circumstance about her scorn, moral or psychological violence, humiliation of human dignity, bullying, and the pressure she experienced. It was stated that the applicant used the aforementioned declaratory statements in her application as conditions for non-pecuniary damage, which the court of the first instance did not establish after a thorough investigation of the written evidence, the testimony of the witnesses and the explanations of the parties. It was also established that there had been no evidence to prove the claims against the defendant or that the competent authorities had been contacted for the above circumstances. Therefore, the court established that there were no facts permitting the finding of psychological violence. In case No EA-208-556/2019, which has been investigated by the Panel of Judges of the Supreme Administrative Court of Lithuania, it has been stated that the fact that the outcomes of the work of the applicant are verified and questions of his official responsibility are raised may not in itself mean that the dignity of the petitioner is humiliated, discriminated against or his other rights are violated. The claims related to the "mobbing" applied but, according to the Court of Appeal,*

this is a general assertion which is in no way substantiated, that is to say, it was not sufficiently clear when and how the infringements occurred, what specific legal rules were not complied with by the institution concerned and that was the reason for the violation of the specific legal regulation which caused the damage. *In case No. 2 A-724-967/2020, the Panel of Judges of the Civil Case Division of the Vilnius Regional Court* noted that the plaintiff in the appeal referred not only to the fact of unlawful dismissal, but also to the psychological pressure, humiliation, exploitation and emotional discomfort experienced by him working with the defendant over the last three years. It was stated that the court of first instance had not investigated the phenomenon of mobbing and the psychological pressures used against the applicant and refused to accept the revised action. The panel of judges noted that it was apparent from the revised action that the facts relating to the psychological pressure suffered were not set out therein, with the applicant declaring that he had been subjected to psychological abuse without further specifying the grounds for his statement of reasons. It should be stated that, in the absence of evidence in the case, that the plaintiff would have indicated before the hearing of the case, the facts concerning the mobbing suffered, which led to some deterioration in the state of his health, the court of first instance had not reasonably investigated the possible mobbing against the plaintiff.

Therefore, in the case-law, evaluating the lawfulness of the termination of legal or civil service relations of work, the following actions have been detailed, which allow stating psychological violence: significant worsening of working conditions, trivialization, demonstration of clear hostility, high cynicism, impose of functions of other employees, unreasonably and intensely imposed disciplinary penalties, straining at work, conflicting relations between them and avoidance of communication. It must be stated that the employer's comments concerning improper performance or non-performance of work functions cannot in themselves be regarded as psychological violence. On the other hand, it is emphasised that when declaring psychological violence, proof must be given of the facts which enable it to be established. It needs to be noted that in the case-law the terms psychological violence or mobbing are used in the context of labour legal relations without distinguishing differences in the content.

Recently, both international and national legislation has seen an abundance of legislation, legislative initiatives related to the prevention of harassment and violence, including psychological violence as well. Both international and European Legislation refers to the prohibition of discrimination and focuses on national activities that improve working conditions to ensure health and safety at work, equality between women and men in terms of labour market opportunities and attitudes at work. Measures have been taken to ensure the principle of equal opportunities and equal treatment of men and women in the matters of employment and occupation. *ILO Convention No 190 on Violence and Harassment*, adopted in 2019, is the first act of international law establishing specific universally applicable standards for combating harassment and violence at work and to identify the measures to be taken by the States and other actors working in the field. The member States are hereby authorised to ratify this Convention in the interest of the European Union. The Convention defines violence and harassment as various unacceptable behaviours and practices or threats thereof, whether they are unique or repeated events aimed at causing physical, psychological, sexual or economic harm, including gender-based violence and harassment. Although the term psychological violence is characterized by diversity of conception and versatility, Lithuanian legislation does not provide the definition of psychological violence at work, which is often understood as mobbing. Therefore, it should be stated that the need for the definitions of mobbing and psychological violence in the legal categories in order to achieve one of the principles of legislation – clarity: meaning that legislation must be precise, among other things. The legislative initiative recently presented by the legislator proposes to legalise mobbing as any and any form of offensive, abusive or other negative repetitive behaviour, directed against the individual employee (s) who violates the employee's professional, material, social or psychological well-being, has an impact on the mental and physical health and reputation of the employee, and reduces the employee's productivity. Such a notion would enable mobbing to be seen as a possible violation that seriously violates labour duties. However, it would be a problem to apply this rule, since harassment on the grounds of gender or sexual harassment, discriminatory actions or violation of honour and dignity with regard to other employees or third parties at work or in the workplace is already a possible serious violation of employment obligations (Article 58(3) of the LC, paragraph 4). It is thought that such excessive legal provisions, unmatched legal rules would not only complicate the application of law, but would also give rise to legal disputes. In the case-law, evaluating the lawfulness of the termination of legal or civil service relations of work, the manifestations of psychological violence detail the actions that allow stating psychological violence and establish the relations between psychological violence and the employer's right to provide orders to the employee and control the performance of his working functions. The following actions are

indicated, which allow establishing psychological violence: degradation, worsening of working conditions, trivialization, demonstration of clear hostility, high cynicism, imposition of functions of other employees, unreasonable and intense disciplinary penalties, tension at work, conflicting relations between them and avoidance of communication. At the same time, it is stated that the employer's comments on improper performance of work functions cannot be regarded as psychological violence and it is emphasized that when declaring psychological violence, the facts must be proved.

DEFINITION OF PSYCHOLOGICAL VIOLENCE AT WORK: THEORETICAL AND PRACTICAL INSIGHTS

Recently, there has been an abundance of legislation and legislative initiatives within international and national legislation related to the prevention of harassment and violence, including psychological violence. Both international and European Union legislation prohibits discrimination, focuses on national measures to improve working conditions to ensure the health and safety of employees, and equality between women and men in terms of labour market opportunities and attitudes at work. It also takes measures to make sure that the application of the principle of equal opportunities and equal treatment of men and women in employment is in place. In 2019, the ILO adopted the Violence and Harassment Convention No. 190 which is the first international instrument to set specific, universally applicable standards for preventing harassment and violence at work, and specify the measures to be taken by the States and other parties in the field. The EU Member States are hereby authorized to ratify this Convention in the interests of the European Union. The Convention defines violence and harassment as a variety of unacceptable behaviours and practices, whether they are solitary or recurrent, with intent to cause physical, psychological, sexual or economic harm. It also points out that everyone in the world of work has the right to be free from violence and harassment, regardless of the gender. Although the terms psychological violence and mobbing can be construed in different ways, Lithuanian legislation does not provide the definition of psychological violence at work, which is often understood as mobbing as well. It is necessary to state the definitions of legal categories of mobbing and psychological violence in order to achieve one of the principles of legislative implementation which is clarity. The legal regulation established in legal acts must, among other things, be precise and clear. A recent legislative initiative by the legislature proposes to define mobbing as any form of abusive and repetitive conduct directed against individual employee (s) that violates an employee's professional, material, social or psychological well-being. It causes the impact on the mental and physical health, affects reputation of the employee and the productivity levels at work. Such definition would enable mobbing to be regarded as a possible violation of employment duties. However, there would be a problem with the application of this rule, because harassment based on gender or sexual harassment, discriminatory actions or violation of honour and dignity towards other employees or third parties at work, or in the workplace are already considered as possible serious violations of work duties (Article 58 (3) of the Labour Code) 4 p.). It is believed that such excessive legal regulation and inconsistent legal norms would not only complicate the application of the law, but would also cause legal disputes. In the practice of courts, the detailed actions and displays of psychological violence which allow establishing the meaning of the term are necessary to assess the legality of the termination of employment in a legal or civil service relations. The following actions are identified as the ones that allow psychological violence: a significant worsening of working conditions, demonstration of clear hostility, unequal distribution of work, unreasonable and intensive disciplinary sanctions and tension at work, lack of communication or clear instructions. At the same time, it is stated that the employer's remarks regarding the improper performance of work functions cannot be considered as psychological violence and it is emphasized that when declaring psychological violence, the provable factual circumstances must be indicated.

REFERENCES

- Draft Law Amending Articles 30 and 58 of the Labour Code, Reg. No XIVP-179 Internet Access:
<https://eseimas.lrs.lt/portal/legalAct/lt/TAP/2cc906f0567011eba1f8b445a2cb2bc7?positionInSearchResults=3&searchModelUUID=b4ca420c-ecde-41a6-aeb1-48a1068dd7b7>
- European Social Charter (revised). State news: 08-06-2001, No. 49 -1704.
- European Convention for the protection of human rights and fundamental freedoms. 16-05-1995, No. 40-987. State news: 16-05-1995, No. 40-987.

Order of 20 June 2019 in civil case: E 2-3624-615/2019 of the Kaunas District Court.

Commission communication to the Council and the European Parliament reporting on the European Framework Agreement on harassment and violence at work/* COM/2007/0686 final *. Internet Access: <https://eur-lex.europa.eu/legal-content/LT/TXT/HTML/?uri=CELEX:52007DC0686&from=LV>

Labour Code of the Republic of Lithuania No 23709. (2016). (2016). Internet Access:

<https://www.e-tar.lt/portal/lt/legalAct/f6d686707e7011e6b969d7ae07280e89/NPnlhupEvg>

Conclusion of the Constitutional Court of the Republic of Lithuania on the compliance of the actions of Kęstutis Pūkas, a member of the Seimas of the Republic of Lithuania, against whom impeachment proceedings were opened with the Constitution of the Republic of Lithuania No KT-20-i 1/2017, of 19 December, 2017.

Resolution of the Panel of Judges of the Supreme Administrative Court of Lithuania of 28 August 2019: administrative case No EA-208-556/2019.

Methodological recommendations for the prevention of psychological violence in the working environment, and improvement of psychosocial working conditions: Internet Access:

<https://www.vdi.lt/AtmUploads/Smurtas.pdf>

The concept of mobbing (bullying, harassment) and the legal regulation against it in some Member States of the European Union; Analytical overview; Research Division of the Information and Communication Department of the Office of the Seimas of the Republic of Lithuania. Internet Access:

https://www.lrs.lt/sip/getFile3?p_fid=16794

Proposal for the Council Decision authorising the Member States to ratify the 2019 International Labour Organisation Convention on Violence and Harassment (No 190), European Commission Brussels, 22-01-2020 COM(2020) 24 final 2020/0011 (NLE). Internet Access: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2020:0024:FIN:LT:PDF>

Mental health at work, Internet Access:

https://www.lygybesplanai.lt/file/repository/Psichikos_sveikata_darbe.pdf 2020.

Resolution of the Šakiai District Court of 4 April 2016 in civil case: No 2-63-443/2016.

International Covenant on Civil and Political Rights, State news: 02-08-2002, No. 77-3288.

International Covenant on Economic, Social and Cultural Rights: State news, 2002-08-02, No. 77-3290.

ILO Convention 190 on the Elimination of Violence and Harassment in the World of Work, adopted on 21 June 2019. Internet Access:

<https://socmin.lrv.lt/uploads/socmin/documents/files/C190%20Autenti%C5%A1kas%20vertimas.pdf>

ILO Recommendation 206 on the Elimination of Violence and Harassment in the World of Work, adopted on 21 June 2019. Internet Access:

https://socmin.lrv.lt/uploads/socmin/documents/files/d_cekatauskiene%202020_02_18_%201046_001.pdf

State Labour Inspectorate: LDC activity reports. Internet Access:

https://www.vdi.lt/Forms/Tema.aspx?Tema_ID=63

Consultation of the State Labour Inspectorate on mobbing at work to help the public to clearly and accurately understand the possible concepts of psychological violence and mobbing, recognize their signs and be aware of the ways of legal defence. Internet Access:

https://www.vdi.lt/Forms/Naujienos1.aspx?Tekstai_ID=3352

Vveinhardt J., Žukauskas P.(2012). *Mobbing in employee relations: individual, organization, sociability*: Vytautas Magnus University Publishing House.

Universal Declaration of Human Rights: State news, 17-06-2006 No. 68-2497.

Resolution of the Panel of Judges of the Civil Case Division of the Vilnius Regional Court of 27 May 2013 in civil case: No. 2 A-1929-590/2013.

Resolution of the Panel of Judges of the Civil Case Division of the Vilnius Regional Court of 12 September 2016 in civil case: No E2A-2352-803/2016.

Resolution of the Panel of Judges of the Civil Case Division of the Vilnius Regional Court of 28 February 2019 in civil case: No E 2 A-1150-912/2019.

Resolution of the Vilnius Regional Administrative Court of 5 March 2020 in administrative case: No EI3-914-809/2020.

European Parliament resolution of 11 September 2018: on measures to prevent and combat intimidation/bullying and sexual harassment at work, in public spaces and in political life in the EU (2018/2055(INI)). Internet Access:

<https://eur-lex.europa.eu/legal-content/LT/TXT/PDF/?uri=CELEX:52018IP0331&from=EN>

Council Directives 89/391/EEC of 12 June 1989 on measures to improve employees' occupational safety and health at work (1), as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003(2).

Internet Access:

<https://eur-lex.europa.eu/legal-content/LT/TXT/?uri=CELEX%3A31989L0391>

Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment for men and women who are self-employed, including in agriculture, and on the protection of self-employed women in pregnancy and maternity. Internet Access: <https://eur-lex.europa.eu/legal-content/lt/ALL/?uri=CELEX%3A31986L0613>

Council Directive 2000/78/EC of 27 November 2000: on establishing a general framework for equal treatment in employment and occupation. Internet Access: <https://eur-lex.europa.eu/legal-content/LT/TXT/?uri=CELEX%3A32000L0078>

Council Directive 2000/43/EC of 29 June 2000: on implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. Internet Access:

<https://eur-lex.europa.eu/legal-content/LT/TXT/PDF/?uri=CELEX:32000L0043&from=LT>

Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast). Internet Access: <https://eur-lex.europa.eu/legal-content/lt/TXT/?uri=CELEX%3A32006L0054>