

## MOBBING AND CYBERBULLYING AT WORK IN THE LIGHT OF HUNGARIAN AND EU LAW (Teaching material)

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### 1. Introduction

It is not necessarily an exaggeration to say that the workplace is our second home. If we examine the truth of this statement, we are not far wrong since we spend on average one third of our time at work. Accordingly, we are connected to other people at work, which creates a wide variety of group dynamics, but our individual attachments and other forms of relationships are also affected by our time spent there. New theories and management solutions all see efficiency in teamwork. That is why some businesses are striving to create a "we are one big family" type of community. Other companies are trying to create a good working environment by building an employer brand. More than one company has launched an employee experience programme, and some training companies also run training and team-building courses specifically for this purpose. Of course, the question is whether this is the only factor that determines the atmosphere in the workplace. The kind of working environment that is created is very much linked to the values that the company represents. However, regardless of values, harassment, sexual harassment, and other harassment-like behaviour can occur in the workplace. A central question arising from the different relationships is when something can be considered harassment at work and when it can be considered mobbing. This is also the question we seek to answer in the present study, but first we must take a step back and look at the general role of the employer. One study highlights the key role of HR departments in curbing mobbing. The primary role of these departments is to support the organisation's ability to always improve work efficiency. In view of their job responsibilities, HR managers should focus on the legal, ethical and

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social responsibility aspects of the company when implementing policies that build team relations along the principles of mutual respect and dignity in an inclusive working environment under the given conditions.<sup>1</sup> It is always the responsibility of the employer or the person exercising the employer's authority to deal with defects in the working environment, to remove toxic and/or aggressive elements and to deal with them appropriately. One is that the employer is the person outside the situation who has the legal means to resolve the situation. In this case, the employer always needs to resolve the conflicts between the employees. The other is where the employer and/or the person exercising the employer's authority engage in active or passive misconduct. The distinctive difference between the two cases is the form of the conflict and the way in which it is resolved. Conflicts are not limited to the physical workplace. They can equally be harassment behaviours in the virtual space. All this will be discussed below in the light of Hungarian and EU legislation.

However, we must recognise the difference between cases where the employer itself is involved in some way. A classic case from Hungarian case law serves to illustrate this.<sup>2</sup> In the case, a worker was infected with Hepatitis C because of a medical error. He reported his illness to his employer in compliance with the rules on the duty of cooperation and information of the Hungarian Labour Code Act I of 2012 (hereinafter: Labour Code Act). However, the employee's illness has been publicised in the workplace. His colleagues concluded that he had the disease because he was homosexual. On this occasion, he started to be harassed by his colleagues. In the face of this harassment, the employee has several options. The simplest is to report it to the employer. Independently of this, or even in parallel, a civil action for infringement of the right to privacy. At this stage of the case, it is only mobbing.<sup>3</sup> The employee reported the harassment to the employer, who did not protect the employee from colleagues. From that moment on, the case was transformed (or supplemented) into passive harassment at work by the employer. The employer's involvement in the case established the scope of the Hungarian Act CXXV of 2003 on the Requirement of Equal Treatment (hereinafter: Requirement of Equal Treatment). The case was resolved by an agreement between the employer and the employee at the official hearing. Of course, the settlement before the authority did not affect the employee's right to act against the co-workers. It is necessary to add that the employer's conduct tends to be active in most cases. This does not affect the conclusions to be drawn from the present case. Another way of acting against employees is recognised by law. The reason is that the law presupposes that there is a co-employee, and therefore the victim of harassment can choose the civil action route for violation of his or her personal rights.

The case illustrates that, despite its rudimentary labour law background, the issue raises very serious questions. These questions are addressed in our study in general and in relation to virtual space.

### *1.2 The concept of harassment at work in the Hungarian legal system*

Here we should briefly discuss the concept of harassment in Hungarian law. Harassment and violence can be the result of unacceptable behaviour by one or more individuals, can affect many people, can

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<sup>1</sup> Bahaudin G. MUJTABA - Tipakorn SENATHIP: Workplace Mobbing and the Role of Human Resources Management. *Business Ethics and Leadership*, 2020/1., 17-34. DOI: 10.21272/bel.4(1).17-34.2020

<sup>2</sup> The case number is not available because the website of the Equal Treatment Authority is no longer operational. Its role has been taken over by the Office of the Fundamental Rights Commissioner. The Ombudsman's Office has made cases available since 2012. However, this is a case from 2011, for which a basic description can be found at the link below: *Buzizni kezdtek a munkahelyén Hepatitis C-fertőzöttsége miatt*, <https://hatter.hu/hirszolgalat/buzizni-kezdtek-a-munkahelyen-hepatitis-c-fertozottsége-miatt>, 2022.04.16.

<sup>3</sup> We will see below that mobbing is nothing more than psychological harassment resulting from the hierarchical structure of the workplace. The concept of harassment in the Hungarian legal system appears within the framework of equal treatment with regard to protected characteristics. In our opinion, mobbing is more colourful than harassment in the doctrine of equal treatment in terms of its behavioural forms, and it is also more diverse, since it does not only occur with those who have protected characteristics.

take different forms, some are easier to identify than others.<sup>4</sup> Since we are talking about an employment relationship, this could be a conflict between co-workers or between an employee and a manager, but it may not be the employer who is the person exercising employer authority. A conflict cannot be called harassment if the incident is isolated or if two parties of approximately equal strength are confronted.<sup>5</sup> The concept of harassment relevant to our topic is regulated by Section 10 (1) of the Equal Treatment Act. According to this rule, harassment is conduct of a sexual or other nature that is offensive to human dignity and is related to a protected characteristic of the person concerned, and which has the purpose or effect of creating an intimidating, hostile, humiliating, degrading or offensive environment towards a person. As our topic focuses on workplace relations, we will also look at harassment from this perspective. However, this legal concept is one approach to the subject. As Sára Hungler underlines, even though harassment is a significant problem in Europe and worldwide, there is no single concept.<sup>6</sup> In addition to physical violence, we must also address psychological violence. The phenomenon of psychological violence can be divided into bullying, psychological terror, mobbing, humiliation, and discrimination, while within sexual violence, physical violence and harassment can be distinguished.<sup>7</sup> Harassment at work needs to be examined from the point of view of upholding the requirement of equal treatment. The most common form is an offensive and toxic environment created by the employer or the person exercising the employer's authority, with the express purpose of diminishing the human dignity of the employee. To illustrate this, we would like to highlight the case of the Hungarian Equal Treatment Authority No. 88/2016.<sup>8</sup> The case is based on a civil employment relationship under which the aggrieved party has been employed several times before. However, the local mayor, who organised the public employment, repeatedly denigrated the aggrieved party on the grounds of his sexual orientation. The aggrieved public employee was a transgender gay man. The aggrieved public employee was repeatedly attacked by the mayor based on this protected characteristic, as quoted in the case file: „*You can't be gay here, you can't paint yourself up! Enough with the women's clothes, now get in line, because if I'm mayor, I won't even hire you for public works!*”. The aggrieved party claimed during the case that he was afraid to go out in the street in women's clothes. She also only vaguely dares to wear clothes. Since the mayor was elected, she has not actually been employed as a public employee. The authorities investigated the facts of harassment. The mayor has not made any substantive statements during the investigation. In the opinion of the authority, these statements were clearly capable of creating an intimidating, humiliating or offensive environment around the applicant, because it was also established from the testimonies that the statements in question were made in a public place in the municipality (in front of the local post office, kindergarten) and could be heard by several people. The testimony of one witness also confirmed that the de facto effect of these statements was to create an intimidating and humiliating environment around the applicant, who since making them has become less daring in assuming his identity and refraining from visiting local nightclubs.

### *1.3. Harassment at work in the light of equal treatment procedures*

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<sup>4</sup> Framework agreement on harassment and violence at work <https://www.etuc.org/en/framework-agreement-harassment-and-violence-work> 2021.09.15.

<sup>5</sup> EurWork definition of 09 October 2007 <https://www.eurofound.europa.eu/hu/node/52297> 2021.09.15.

<sup>6</sup> HUNGLER Sára: A munkahelyi erőszak és zaklatás elleni küzdelem szabályozásának nehézségei. *Fundamentum* 2018/3-4., 39-43.

<sup>7</sup> HUNGLER: i.m. 40-41.

<sup>8</sup> [https://www.ajbh.hu/documents/10180/4041356/EBH\\_88\\_2016\\_nemi+identitás\\_foglalkoztatás.pdf/a0a15e5c-79f5-4394-77fa-68c8602f859e?version=1.0&t=1637168107589](https://www.ajbh.hu/documents/10180/4041356/EBH_88_2016_nemi+identitás_foglalkoztatás.pdf/a0a15e5c-79f5-4394-77fa-68c8602f859e?version=1.0&t=1637168107589) 2022.04.17.

In harassment proceedings for breach of the equal treatment requirement, the general questions must also be asked, which consists of three steps. 1. Does the person have a protected characteristic? 2. if yes, has the disadvantage occurred because of this protected characteristic? 3. if 1 and 2 are true, can the wrongdoer excuse himself? In the present case, the protected characteristic was sexual orientation, in connection with which the legal disadvantage occurred. And the offending party did not make any substantial excuses. In the above context, one more important point needs to be highlighted. Employment and other employment relationships fall within the scope of the Equal Treatment Act also because there is a subordination between the parties. The employee or person employed in any form is in a vulnerable position in relation to the employer. Another important assumption is that there is a high degree of latency in harassment cases. Many people dare not talk about it because, once a case is opened, it means reopening wounds. In short, therefore, harassment is a matter falling within the scope of equal treatment, which, in the context of this article, is conduct by an employer, whether active or passive, which can create a hostile environment capable of diminishing the human dignity of the employee.

Harassment in the workplace can always be examined in the context of the Equal Treatment Act in the employer-employee relationship. If it occurs in other contexts, we must invoke other legal instruments, such as mobbing. However, in drawing a distinction, we also must deal with another subject, namely the term bullying.

## **2. The process of mobbing**

Mobbing is nothing more than a passionate, collective, or individual campaign by a co-worker or a manager (or a group of managers and co-workers) to exclude, punish or humiliate a targeted employee. Most often initiated by a person in a position of power or influence, it is a coercive behaviour to crush and destroy the targeted victim. This urge goes viral in the workplace<sup>9</sup>, and because this behaviour is seen as acceptable by co-workers, the victim is seen as an outsider. They are endowed with unreal, bad qualities that they do not actually possess, and are therefore placed outside the realm of acceptance and respectability, and therefore deserving of contempt. But even without the blood, the bloodlust is essentially the same: the creation and establishment of hostile, unfriendly communication, and actions towards the victim, with the aim of relentlessly undermining the self-confidence of the targeted, and a good tool for building group solidarity against the "enemy" by creating a euphoria of collective attack. As the mobbing campaign progresses, more and more hostile tricks and communications become legitimate against the victim.<sup>10</sup>

Many workplaces are silent about the phenomenon, and so there is a high degree of latency. Leymann and others estimate that between 2 and 5 % of adults experience some form of harassment, i.e. mobbing, in the course of their work. Also, given the characteristics of group psychology, the remaining 95-98 per cent, who are only involved as observers or perpetrators, mostly deny, cover up or forget the bullying incidents in which they have been involved.<sup>11</sup>

## **3. Mobbing in action, with a special focus on digital mobbing**

The first step in mobbing is often to restrict communication, to attack the victim's self-expression. The victim is interrupted, constantly criticised, censured, subjected to nit-picking and trivial misstatements in their tasks. This may be followed by the inability to have social relations, attacks on social relationships. His opinion is overruled, ignored, his approach is not accepted, he is treated as

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<sup>9</sup> Even between absent parties this process happens. More on this below.

<sup>10</sup> Noa DAVENPORT - Ruth SCHWARTZ - Gail ELLIOTT: *Mobbing: Emotional Abuse in the American Workplace*. Ames, Iowa, Civil Society Publishing, 1999.

<sup>11</sup> Heinz LEYMANN – Gustafsson ANNELI: *i.m.* 251-276.

air, his colleagues are expected to do the same, he is marginalised, ostracised, isolated, excluded from information. It can also happen that the mobbed colleague is talked about behind his or her back, spread untruths, given bad character traits, ridiculed in the workplace. It may even go as far as publicly humiliating or shouting at the victim. The victim may receive intimidating emails with the intention of making him feel guilty, making him believe that he is to blame. This process can make the victim ill or even physically put him or her in jobs that are harmful to his or her health. This may not be dealt with publicly by the driver, who may even make a joke of it, making the victim look irresponsible.<sup>12</sup>

An interesting observation made by US experts is that mobbing is often most prevalent in workplaces where workers' rights are formally protected through policies and instructions. Also, in specialised service sectors such as universities, educational institutions, hospitals, police, public offices, as mobbing can develop in an unequal distribution of power in the organisational hierarchy. In addition, where work is complex, objectives are unclear - or private interests may be present within the organisation - best practice can be contested and market conformity is not a consideration.<sup>13</sup> The research analysed above focused on typical, traditional office work. However, working practices are changing. It is important to highlight how the relatively new approaches to corporate policies that rely heavily on CSR and compliance can address or even prevent these cases. The relevance of the question is that the company in whose organisational system the harassment or mobbing occurs often has no interest in a full investigation.

### 3.1. Cyberbullying

Office-level IT solutions are now available to the average person. Even the most modern office IT tools are affordable, and anyone can run a full-fledged office at home with the purchase of some IT hardware and software. These advances make it easier for employers to get their employees to work outside the office, thus avoiding the cost and risk factor of having to have every employee present at the employer's premises when working.

This is why employers chose the home office option when they opted for employees to work from home to prevent the spread of the coronavirus. However, the need for flexibility has also contributed to the spread of home working. But this flexibility needs to be accompanied by security. Security must be guaranteed both in terms of labour law and other aspects,<sup>14</sup> such as ICT. Security,

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<sup>12</sup> Lásd: Heinz LEYMANN: *Mobbing-Psychoterror am Arbeitsplatz und Wie Man Sich Dagegen Wehren Kann*. (Bullying-Psycho-terror at Work and How One May Protect Oneself). Rowolt, Deutschland, Reinbeck, 1993. továbbá Soo Beng KHOO: Academic mobbing: Hidden health hazard at workplace. *Malaysian family physician: the official journal of the Academy of Family Physicians of Malaysia* 2010, 5.2: 61.

<sup>13</sup> Noa DAVENPORT - Ruth SCHWARTZ - Gail ELLIOTT: *Mobbing: Emotional Abuse in the American Workplace* Ames, Iowa, Civil Society Publishing, 1999.

<sup>14</sup> Security, as we will discuss below, is also a mental guarantee for the worker. The threat to this is mobbing, or psychological terror in the workplace, where the employer, colleagues or even another employee assigned to the employee picks on or harasses the employee. There are traditional ways to combat this in the office environment, but with the rise of online working, cyberbullying, a new form of mobbing, is a challenge for employees. Cyberbullying can take many forms in the workplace and is linked to the issue of equal treatment. Working remotely in a hybrid workplace can be advantageous for the employee, who may perceive it as a reward, but it can also be disadvantageous, as personal contact with the employer may help the employee's career. On this, see: <https://www.hrportal.hu/hr/fele-fele-iroda-es-home-office-20210514.html> 2022.02.09. Going back to the previous line of thought, cyberbullying can be linked not only to individual labour law but also to collective labour law, on which case law has already been built. Katalin PARTI: The regulation of bullying in Hungary and abroad. *In Medias Res*, 2016/1, 114-116. For statistics and examples from abroad, see European Agency for Safety and Health at Work, Workplace Violence and Harassment: a European Picture, Report, 2011. <https://osha.europa.eu/en/publications/workplace-violence-and-harassment->



as we will discuss later, is also a mental guarantee for the worker. This is threatened by online mobbing, or cyberbullying,<sup>15</sup> in which an employer, co-workers or even another employee assigned to the employee bullies or harasses the employee online. There are traditional ways to protect against this in the office environment, but with the rise of online working, cyberbullying, a new form of mobbing, is a challenge for employees.

Cyberbullying can take many forms in the workplace and is linked to the issue of equal treatment. In hybrid operations, working remotely can be advantageous for the employee, so it can be perceived as a reward, but it can also be disadvantageous, as personal contact with the employer can be seen as a career-enhancing factor. In such cases, the requirement to work in the office may be a career-building opportunity for the employee.<sup>16</sup>

Mobbing in the online space can take many forms. Unauthorised restriction of access to the work system may occur or disabling access to online documents for the colleague concerned, in connection with which, in the event of possible employer liability, if the employer were to become aware of the incident, the employee could even claim limited technical knowledge, especially if the work organisation has not previously used hybrid working. Thus, the work of the employee may be prevented or made more difficult between absent parties. Flooding online workplace chats with abusive messages, sending viruses can all be cases of cyberbullying. In this respect, bullying can be carried out in the same way between employees working in the online space, despite the distance, albeit using different methods.<sup>17</sup>

This is evidenced by the fact that already in 2009, 34% of employees of employers surveyed in Australia were personally bullied and 10% were victims of cyberbullying.<sup>18</sup> A particularly significant circumstance is that, unlike personal harassment in the workplace, digital bullying is not confined to a physical location such as the employer's premises. It can also be experienced in the employee's own home,<sup>19</sup> making its continuing oppressive effect even more inescapable.

However, it should be noted that cyberbullying can be linked not only to individual labour law, but also to collective labour law, on which case law has already been built.<sup>20</sup> Piotrowski says that online harassment has become one of the most common types of harassment in the workplace. Considering it is only right that managers in companies should strive to develop a modern workplace to counter this risk. This is made more difficult by the fact that cyberbullying can guarantee anonymity to the

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[european-picture/view](#) 2022.02.02. On the serious health risks of cyberbullying, see Melinda HAL: *Bullying, mobbing és társai*. [http://medicalonline.hu/gyogyitas/cikk/bullying\\_mobbing\\_es\\_tarsaik](http://medicalonline.hu/gyogyitas/cikk/bullying_mobbing_es_tarsaik) 2022.02.02.

<sup>15</sup> „Cyberbullying is largely viewed as inappropriate, unwanted social exchange behaviors initiated by a perpetrator via online or wireless communication technology and devices.” Chris PIOTROWSKI: From Workplace Bullying to Cyberbullying: The Enigma of E-Harassment in Modern Organizations. *Organization Development Journal*, 4/30, 45.

<sup>16</sup> „Can managers make the same fair decisions in hybrid operations? Won't those who are not present be disadvantaged, either in terms of career moves or in terms of the allocation of tasks and training? These systems, policies need to be worked out, a lot of things need to be rethought.” BARNA Eszter: *Fele-fele iroda és home office*. <https://www.hrportal.hu/hr/fele-fele-iroda-es-home-office-20210514.html> 2022.02.02.

<sup>17</sup> According to Ildikó SZŐKE, the transition to online work organisation is easier when there is a well-functioning personal relationship between the parties (see Eszter BARNA: *im.*) This also suggests that new entrants are more exposed to mobbing when working online.

<sup>18</sup> Carmel PRIVITERA - Marilyn Anne CAMPBELL: Cyberbullying: The New Face of Workplace Bullying? *CyberPsychology & Behavior* VOL. 12, NO. 4.

<sup>19</sup> Leslie Ramos SALAZAR: *Workplace Bullying in Digital Environments: Antecedents, Consequences, Prevention, and Future Directions*, In: Bryan CHRISTIANSEN, Harish C. CHANDAN: *Handbook of Research on Organizational Culture and Diversity in the Modern Workforce*. Hershey, Business Science Reference, 2017, 135.

<sup>20</sup> PARTI Katalin: A megfélemlítés (bullying) szabályozása Magyarországon és külföldön. *In Medias Res*, 2016/1, 114-116.

perpetrator using the internet, so that the employee may even commit bullying against a company employee by pretending to be an external person. Given this, the risk of exposure in those who commit it is very low, according to Forsell.<sup>21</sup>

#### 4. The impact of mobbing and the corresponding need to confront it

Mobbing has many consequences for the employee. Psychiatric injury is only one of the possible harmful consequences of mobbing on the employee's side. Research shows that there can be fatal consequences of mobbing due to cardiovascular disease<sup>22</sup>

On the employer's side, there are more likely to be economic consequences. Conflicts within the work organisation have a negative impact on the profitability and economic performance of companies, reflected in reduced efficiency, reduced productivity due to employee confusion and loss of concentration, lack of trust in the employer, and a general sense of insecurity. There are increased problems of cooperation, which can increase turnover, which is also costly for the employer. Finally, victims of mobbing are more likely to receive medical care and psychotherapeutic treatment, which usually results in sick leave.<sup>23</sup> In addition to the obvious appropriateness of professional, competent treatment of the many victims of mobbing who suffer mental breakdown, priority should be given to the adoption of laws, policies and measures that prohibit workplace mobbing with the penalty of retribution. Diverse organisations such as Volkswagen in Germany already have anti-bullying policies<sup>24</sup> so we can see that employers are involved in the fight against mobbing.

##### 4.1. Comparison of the regulation of mobbing in EU and Hungarian law

There are already efforts underway to regulate this issue in EU law, starting with the Charter of Fundamental Rights of the European Union, which is the most important, Article 1 of which states that "*Human dignity is inviolable. It must be respected and protected*", Article 31 states that "*Every worker has the right to working conditions which respect his or her health, safety and dignity.*"<sup>25</sup>

Under Article 153 of the Treaty on the Functioning of the European Union (TFEU), several EU directives dealing with health and safety at work have been drafted and adopted, setting minimum requirements that Member States are required to interpret into national law, but Member States may also draft and adopt more stringent protective measures.

The Employment and Social Committee report urges Member States to pay attention to the problems of harassment at work and to take this issue into account in their national legislation or through other measures.

Directive 2000/43/EC establishing a general framework for equal treatment in employment and occupation (the Racial Equality Directive) provides a clear and detailed definition of discrimination. Both harassment and instructions to discriminate constitute discrimination. The concept of harassment is defined in Article 2(3) of Council Directive 2000/43/EC, paragraph 1<sup>26</sup>, which defines harassment as discrimination where unwanted conduct related to racial or ethnic origin takes place

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<sup>21</sup> Leslie Ramos SALAZAR: Workplace Bullying in Digital Environments: *Antecedents, Consequences, Prevention, and Future Directions*, In: Bryan Christiansen, Harish C. Chandan: Handbook of Research on Organizational Culture and Diversity in the Modern Workforce.. *Hershey, Business Science Reference*, 2017, 135.

<sup>22</sup> Heinz LEYMANN - Gustafsson ANNELI: i.m. 251-276.

<sup>23</sup> Employment and Social Affairs Committee report on harassment at work (2001/2339(INI)).

<sup>24</sup> Heinz LEYMANN - Gustafsson ANNELI: i.m. 251-276.

<sup>25</sup> <https://eur-lex.europa.eu/legal-content/HU/TXT/HTML/?uri=CELEX:C2012/326/02&from=HU> 2021.11.10.

<sup>26</sup> There must be no direct or indirect discrimination based on racial or ethnic origin.

with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.<sup>27</sup>

Council Directive 2000/78/EC (Employment Equality Directive) establishing a general framework for equal treatment in employment and occupation,<sup>28</sup> which aims to ensure that everyone is treated equally and without discrimination in the workplace on the grounds of religion or belief, disability, age, or sexual orientation. The directive covers both direct discrimination and indirect discrimination.<sup>29</sup> More recent EU legislation takes the equal treatment rules a little further in Directive 2022/2381/EU, which requires the proportion of women on the board of directors of public limited companies to be increased to at least 40%. This latter provision raises many additional questions that are beyond the scope of the present study. What is certain, however, is that the target date of 2026 is no guarantee of full implementation, and we are not sure that it will not be somewhat reversed, and that the regulation will be the basis for further harassment or even mobbing.

The EU-level social partners have also concluded a framework agreement on harassment and violence at work.<sup>30</sup> These aim to raise awareness and understanding of harassment and violence at work among employers, employees, and their representatives, and to provide an action-oriented framework for employers, employees, and their representatives to identify, prevent and manage problems of harassment and violence at work. Section 3 of the agreement defines harassment: „*harassment occurs when one or more employees or managers are repeatedly and intentionally insulted, threatened and/or humiliated in a work-related situation.*” The agreement also stipulates that „*harassment and violence may be caused by one or more managers or workers with the purpose or intention of undermining the dignity of the manager or worker, affecting his or her health and/or creating a hostile working environment.*”<sup>31</sup>

Hungarian legislation regulates the concept of harassment within the framework of Act CXXV of 2003 on equal treatment and the promotion of equal opportunities. Article 8 of the Equal Treatment Act defines the protected characteristics for which the concept of harassment can only be factual, which are characteristics that are typically innate, permanent, and unchangeable by the individual, essential features of the personality, which are suitable for group formation and can serve as a basis for prejudice. The law contains a definition of other situations, qualities, and characteristics<sup>32</sup> which must be interpreted narrowly, since only the similar qualities, situations and characteristics listed in the law provide a legal basis for the enforcement of the legal norm.

As we can see, the concept of workplace harassment in Hungarian law is in line with the EU Racial Equality and Employment Equality Directives in terms of EU regulation but does not go further. In view of the above, however, we must see that EU legislation provides a much broader framework for the concept of harassment at work and its legal-dogmatic location, not being limited to the scope of the legal institution of equal treatment.

## Summary

In the above, we have presented the problem of mobbing and cyberbullying, including its origins, characteristics, processes, and possible ways of combating it. Mobbing is a complex issue, as the

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<sup>27</sup> In this context, the concept of harassment can be defined in accordance with the national laws and practices of the Member States

<sup>28</sup> Council Directive 2000/78/EC (27 November 2000) HL L 303., 2000.12.2. 16.

<sup>29</sup> Any provision, criterion or practice that is ostensibly neutral but puts persons in one of the above categories at a disadvantage compared to others.

<sup>30</sup> COM (2020) 24 final

<sup>31</sup> Framework agreement on harassment and violence at work <https://www.etuc.org/en/framework-agreement-harassment-and-violence-work> 2021.09.15.

<sup>32</sup> Equal Treatment Act § 8 t)



decision is in the hands of the excluded employee. If he remains silent, he loses his motivation, becomes vulnerable and then tolerates humiliation, but for how long is open to question. The other option is for the employee to speak out, which could lead the employer to do something about the situation within the organisation, but this can become a cumbersome legal procedure.

In both cases, the worker is experiencing work-related stress, which may require long-term medical and psychological treatment. In addition to health problems, most suffer loss of income and reputation, marital breakdown and isolation from friends and family are also common, as harassment affects not only the victim but also their family.

On the employer side, if we look at the negative effects, we must highlight high absenteeism and early retirement, ultimately mobbing leads to staff turnover, which results in training, education, work environment costs for the new employee, and then, if the mobbing/cyberbullying is not eliminated, the problem persists, the scapegoating starts again. The cost of bullying is very high and urgently requires greater attention and increased countermeasures, including consideration of new ways to tackle the problem.

What we must realise is that if we don't put a stop to this behaviour, everyone stands to lose. The cooperation of social partners, possibly through the creation of policies, can be a first step towards a mobbing-free work culture, but particular attention must be paid to the issue of cyberbullying. In the digital workplace, mobbing may not even occur in person, as the office is in the online space, so specific safety mechanisms for cyberbullying need to be in place. In doing so, the employer should also assess the technical possibilities. It is our view that the employer is the primary stakeholder in the fight against mobbing and cyberbullying, which is particularly important to protect the mental and physical safety and health of the more vulnerable party, the employee.

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