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Counteracting Workplace Mobbing in the Polish Prison Service

Przeciwdziałanie mobbingowi w Służbie Więziennej w Polsce

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ABSTRACT

The paper deals with the problem of workplace mobbing in the Polish Prison Service. The introduction points out to the multifaceted character of mobbing behaviours. It also mentions their harmful effect on the victim's personal, family and professional life. Further on, the issue is analysed from the perspective of the Polish labour law by reference to relevant provisions on these matters. Then, the basic issue of the paper is discussed, i.e. mobbing among prison personnel, pointing out that uniformed services are an emanation of the society and can be affected by the same phenomena, including negative ones. To this end, the procedures that are in force in the Prison Service with regard to reacting to mobbing behaviours are described; also, light is cast on appropriate preventing measures, including trainings for management staff, officers, and other personnel of correctional facilities. Finally, reference is made to the criticism formulated against the abovementioned procedures and relevant recommendations are presented, mentioning that counteracting mobbing should take place within the scope of internal regulations of the institution, the practice of management, and the accepted ethics and culture.

Key words: Prison Service in Poland; mobbing; counteracting mobbing; labour law

INTRODUCTION

Mobbing, primarily manifested in mental violence, is a sign of irregularities concerning the work environment. This phenomenon is not easy to identify as in contrast to many other forms of abuse, it occurs in a social environment

specified by definite regulations concerning the rights and obligations of parties to an employment relationship, including the reporting line. The word “mobbing” was first used by Konrad Lorenz (1963) when he described animal behaviours in a situation where a single individual is attacked by a group of other animals within the same species. And with regard to the phenomenon of mobbing in the workplace, the breakthrough came with the report on the research conducted by Bo-Göran Gustavsson and Heinz Leymann in 1983–1984 in Sweden, published by Arbetarskyddsstyrelsen, i.e. the National Board of Occupational Safety and Health (Gustavsson, Leymann, 1985). Today mobbing is encountered at a number of larger or smaller institutions as a result of unskilful management (Pawłowski, Kułakowska, Piątkowski, 2019, pp. 155–166). Also the Polish Prison Service (*Śłużba Więzienna*) is not free from this type of problems, which seems to be confirmed by various reports from within these circles themselves (Pilarska-Jakubczak, 2010, pp. 10–11; Mazurkiewicz, 2016, p. 10) as well as by alleged or actual cases of such harassment described by the media (Mazur, 2018, p. 9).

The literature of the subject contains a number of definitions of mobbing, which is due to the multidimensional nature of the phenomenon as well as the varied backgrounds of the researchers describing it. Heinz Leymann (1990, p. 120) writes that it is a “hostile and unethical communication which is directed in a systematic way by one or a number of persons mainly toward one individual” and that it “take[s] place often (almost every day) and over a long period (at least for six months) and, because of this frequency and duration, result[s] in considerable psychic, psychosomatic and social misery”. On the other hand, Vittorio Di Martino and Mohtar Musri (2001, p. 7) consider mobbing as “a form of psychological harassment consisting in persecutory behaviour through vindictive, cruel, or malicious attempts to humiliate or undermine an individual or groups of workers, including unjustified, constant negative remarks or criticism, isolating a person from social contacts and gossiping or spreading false information”. An essential factor that determines that a given situation may be considered as mobbing is the deliberate and intentional desire to hurt another person (Sołtys, 2001, p. 50; Szewczyk, 2006, p. 258). Nevertheless, some authors also indicate cases of unconscious bullying where the perpetrator is not fully aware of the negative consequences of their behaviour (Pilch, 2015, p. 176). According to Maureen Duffy & Len Sperry, negative consequences of mobbing can affect such areas of the victim’s life as health and well-being, family and relationships, career and work performance (2012, p. 129 et seq.).

Actions classified as mobbing should satisfy three boundary conditions, i.e. (a) duration – they must be long-lasting; (b) recurrence – they occur repeatedly; (c) negative intentions – there is ill will on the part of the perpetrator (Marciniak, 2011, p. 20). Let us add that mobbing is a phenomenon difficult to capture. While describing and judging this type of situation, it should be remembered that each

persecuted person perceives the aggressor's actions differently; they also interpret, experience and react to them in a different way. A particular action may be perceived as harassment by some but not by others. These boundaries are often blurred in complex situations involving ambiguous circumstances and depend on the subjective perception (Kurowska, 2016, pp. 52–53). Three mobbing directions can be distinguished, i.e. (1) diagonal mobbing – superiors against their subordinates; (2) horizontal mobbing – one employee against another; (3) vertical mobbing – subordinates against their superiors (Zych, 2006, pp. 192–193). The first model is most common, and the third one is the least common.

LABOUR LAW AND MOBBING

As of 1st January 2004, the notion of mobbing was introduced into the Polish Labour Code (Journal of Laws of 2019, item 1040, consolidated text) which in art. 94³ unambiguously obliges the employer to counteract this abuse (§ 1). The Code defines mobbing as “actions or behaviours regarding an employee or aimed against an employee consisting in persistent and prolonged harassment and intimidation of an employee leading to their decreased self-esteem with regard to their professional skills and causing or being intended to cause humiliation or derision of such employee, to isolate or eliminate them from a team of employees” (§ 2). An employee who suffered impairment of health due to mobbing is entitled to claim financial compensation from the employer for the harm sustained (§ 3). And if an employee was forced to terminate their employment contract as a result of mobbing, they are entitled to claim compensation from the employer in an amount not lower than the minimum wage as determined based on separate (§ 4). The employee's declaration of termination of employment should be made in writing and state the reason referred to in § 2, which justifies the termination of the contract (§ 5).

What do these regulations mean in practice? The definition of mobbing provided in the Code describes behaviours that concern an employee or are aimed against them but it fails to indicate the potential perpetrators. Thus, it is assumed that the perpetrator of mobbing may be both the employer and other persons managing the workplace on their behalf, the employee's superiors or their work colleagues (Ryś, Dyrła-Mularczyk, 2018, p. 228). Under labour law it is the employer that bears responsibility for cases of mobbing and is obliged to take preventive measures. Even though the exact scope of the obligation remains vague, the legal doctrine nonetheless indicates that it comprises a ban on harassment applicable to the employer, an obligation to eliminate harassment practices initiated by third parties against an employee and to prevent such practices in the workplace, i.e. anti-mobbing prevention (Cieślak, Stelina, 2004, pp. 64–75). It seems that the internal anti-mobbing policy at the workplace is of key importance for the latter ob-

ligation (Szewczyk, 2015, p. 13). Let us add that the fulfilment of the obligation under art. 94³ § 1 of the Labour Code should include not only measures preventing mobbing but also ones that are aimed at helping the victim and eliminating abuse (Ryś, Dyrła-Mularczyk, 2018, p. 232).

MOBBING BEHIND PRISON WALLS

Conflicts, misunderstandings or clashes that sometimes happen between people can have various reasons, e.g. conflicts of interests, views, attitudes or ambitions. They take covert and overt forms and are short- and long-lasting (Nowakowski, 2005, p. 44). Uniformed services are an emanation of the society and can be affected by the same phenomena, also negative ones; hence, it would be hard to expect the problem of mobbing discussed here to be absent in the Prison Service. This is evident in the light of the research carried out e.g. in Finland by Maarit Vartia and Jari Hyyti (2002, pp. 113–126) and in Quebec by Renée Bourbonnais and co-authors (2007, pp. 355–368) as well as in Poland. Based on their own studies, Dorota Merecz-Kot and Joanna Cębrzyńska (2008, p. 449) indicate that mobbing was experienced by 28.8% prison officers, which included 13.51% of cases of abuse by superiors, 10.81% – by fellow employees, and 4.5% – by both fellow employees and superiors. They point out that “in comparison with other professional groups, the percentages obtained seem particularly high because as a rule, the number of people subjected to workplace bullying does not exceed 10%”. The authors (2008, p. 444) also write that a correctional facility is a workplace where duties are regulated by specific laws and commands. It is a closed institution (with physical barriers that isolate it from the external environment), total (interferes with all areas of the lives of those who are staying there, restricts their freedom and contact with the environment), and paramilitary (it is characterised by a culture based on authority and a traditional, stiff and hierarchical structure, as well as arms, ranks, uniforms and the obligation of absolute submission to the superiors’ orders).

In these circumstances, the management personnel in correctional facilities are faced with the challenge to change the attitudes of those who start their careers in the Prison Service. The young generation manifests a slightly different sensitivity, which may lead to an increased number of lawsuits alleging harassment (Sewastianowicz, 2019). An example of this may be a letter to the Onet website (2019) from an officer with less than 6 years’ work experience. “You might list all those absurdities and injustices, and above all the lies and hypocrisy in the Prison Service. Nepotism, cronyism and mobbing are commonplace”, writes the author, and from the content of the letter itself it follows that he is complaining about phenomena being the ‘daily bread’ of this profession, otherwise uneasy. On the other hand, some of the legitimate comments might refer to any other professional

work. In the eyes of the older officers, such allegations are evidence of a demanding attitude among the younger colleagues. This latter opinion, however, is not shared by Adrianna Bartnik who finds it to be a relic of the 1990s and the difficult situation in the labour market in those days. “The young generation communicate differently. The fact that the generation of today’s forty-year-olds has institutionalised exploitation does not mean that it should stay like this”, she emphasises (Sewastianowicz, 2019). Regardless of who is more right in this discussion, it is an incontrovertible fact that mobbing does occur behind prison walls. Let us thus have a look at the manners of overcoming the problem that are being implemented, turning our attention first to the labour regulations concerning the service.

ANTI-MOBING REGULATIONS IN THE PRISON SERVICE

As mentioned above, the Labour Code obliges the employer to counteract mobbing; on the other hand, such regulations are basically non-existent in the acts that regulate the functioning of the particular uniformed services. An exception is the prison system which is evidenced by provisions of the Act of 9th April 2010 on Prison Service (Journal of Laws of 2019, item 1427, consolidated text) which in art. 157(4) imposes on superiors the obligation to counteract mobbing and makes reference to provisions of art. 94³ of the Labour Code. The Polish penal system can also boast appropriate standards in its labour regulations, which is manifested by the Regulation no. 32/2013 of the Director General of the Prison Service of 18th July 2013 on preventing and counteracting the phenomena of mobbing, discrimination and molestation in the Prison Service. This document “sets forth the general principles that should guide the mutual relations between officers and employees of organisational units within the Prison Service in the course of performing their work duties for the purpose of maintaining a harmonious service and work environment” (§ 1(1)) and “creates mechanisms for preventing the phenomena of direct and indirect discrimination, mobbing and molestation” (§ 1(2)).

Sections 4–10 of the Regulation discuss the obligations of the persons at managerial positions in the units who should make all efforts in order for the workplace to be free from any manifestations of mobbing and other abuse, inform the subordinates about the possible forms of abuse and counteract them (§ 4(1–2)), make all efforts in order to solve any conflicts occurring in such manner so as not to cause detriment to the correct fulfilment of work tasks or to the interest and good name of the Prison Service (§ 8). Heads of the units should base their relations with their subordinates on respect for their personal dignity (§ 5) and not take advantage of the relationship of subordination in personal matters unrelated to the workplace (§ 10). Furthermore, they are obliged to: (1) respect their subordinates’ knowledge and experience; (2) respect their right to express comments and opinions concerning the course of the service and work; (3) be guid-

ed by objectivity in evaluating the subordinate officers and employees; (4) take a critical attitude based on rational and objective determinants with regard to those subordinates and fellow employees breaching the principles of interpersonal relationships set forth in this Regulation (§ 9).

The staff in correctional facilities are also obliged under this document to actively oppose any reprehensible practices noticed at the workplace as defined in this Regulation or other provisions of the law, as well as to solve problems with fellow employees without any detriment to their personal dignity, correct performance of their official duties to the interest and good name of the Prison Service (§ 12–13).

In order to prevent mobbing and other forms of abuse, and in order to maintain a harmonious work environment, heads were also obliged to appoint Committees for Service and Workplace Relations (*Komisja ds. relacji w środowisku służby i pracy*) at their units (§ 14(1)). Each committee consists of three members including a person designated by the relevant regional management board of the Independent Self-governing Trade Union of Prison Officers and Employees (*Niezależny Samorządny Związek Zawodowy Funkcjonariuszy i Pracowników Więziennictwa*) (§ 14(2)). Following the constitution of the body, its members forthwith elect the head of the committee from among its members (§ 14(3)). The composition of the committee and the dates of its meetings are publicly announced by displaying relevant information at a freely accessible place within the facility, and its deliberations and resolutions are documented in writing (§ 15(3–4)). Pursuant to § 15(2) and § 17(1) of the Regulation, the committee meets regularly once in six months; it also examines all formally submitted notifications forthwith, however, not later than within 30 days of the date of receipt. In the light of § 17(2–3), notifications must be treated with due seriousness but also with caution and respect for the rights of those submitting the notification and those being accused so that nobody's reputation or the interest and good name of the Prison Service should be wrongfully compromised. Furthermore, both parties, i.e. the submitting person and the accused person, should be given an opportunity to make their own point. As stated in a report of the Polish Ombudsman (*Rzecznik Praw Obywatelskich*, abbr. *RPO*), the guidelines referred to above provide at the same time protection against slander (Oklejak, Wilkołaska-Żuromska, 2018, p. 30). Cases of mobbing or other abuse must be reported in writing to the head of the committee who should register the notification forthwith and issue an acknowledgement of receipt to the complainant (§ 16(1–2)). If the notification concerns the head of the unit, the head of the committee shall pass it on for assessment to a competent committee at the superior unit (§ 16(3)). Where a similar notification concerns a member of the committee, it should be passed on in writing to the head of the committee at the superior unit (§ 16(4)). After procedure is completed, the committee shall on each occasion inform the head of the unit about the find-

ings (§ 18(2)). Confirmation of the incident described in the notification will be the basis for taking disciplinary action against the perpetrator pursuant to specific provisions (§ 18(3)).

Let us complement the above by adding that within the Prison Service there is a function of a freelance authorised representative of the Director General of the Prison Service for Protection of Human Rights and Equal Treatment whose tasks include counteracting the phenomenon of mobbing (Oklejak, Wilkołaska-Żuromska, 2018, p. 39; Zespół Prasowy, 2017).

SPECIALIST TRAININGS

A lot of attention within the Prison Service is attached to specialist trainings during which the issue of counteracting mobbing is discussed, which is a practical implementation of § 4(2) of the Regulation referred to above. The trainings primarily concern the management staff and take place e.g. during regular briefings with regional directors of the Prison Service. Preventive measures are also implemented by the individual entities of the Central Board of the Prison Service (*Centralny Zarząd Służby Więziennej*) within the framework of meetings and trainings (Oklejak, Wilkołaska-Żuromska, 2018, p. 42). An illustration of such actions may be the training devoted to mobbing for the management staff of the units subordinated to the Regional Inspector of the Prison Service in Olsztyn, which took place on 28th–29th October 2016 at the Remand Centre in Olsztyn, as well as the specialist training for management staff on, among other things, proper management of a hierarchical institution, including counteracting of mobbing, held on 18th–23rd February 2018 (Witek, 2016; Mroczkowski, 2018). Trainings like those serve the purpose of improving professional competencies among the staff (also with regard to managing a community of employees), because these are the precondition for effective actions aimed at social reintegration of offenders (Machel, 2007, p. 229).

Concerning junior employees, they are sent to a preparatory course at the stage of preliminary professional adaptation; during the course they familiarise themselves with issues related to the Principles of professional ethics for officers and employees of the Prison Service (Oklejak, Wilkołaska-Żuromska, 2018, p. 40). Trainings are also provided for experienced officers. An example might be a series of workshop meetings led by the Subcarpathian Prison Service in collaboration with the Rzeszów Foundation for Counteracting Violence “Fenix”. Trainings were planned at all of the subordinate units. The first one took place on 26th October 2015 at the Correctional Facility in Rzeszów and the following ones at the Remand Centre in Nisko, the Correctional Facility in Dębica and at the other facilities (Ulidowska, 2015). Another example of such activities is the psychosocial skill training held on 10th–14th July 2017 at the Staff Training Centre for the Prison Service in Sucha – Satellite Branch in Zwartowo (Radczuk, 2017).

In the education market, there are also external offers for personnel of correctional facilities. An example is the training titled, *Mobbing – counteracting in the Prison Service (Mobbing – przeciwdziałanie w warunkach pracy Służby Więziennej*, 2019) offered by the Anti-mobbing Centre “Akkom” from Wrocław.

CONCLUSION

Although labour regulations regarding the functioning of the uniformed services generally do not contain provisions specifying procedures of counteracting the phenomenon of mobbing, the Prison Service managed nevertheless to introduce appropriate solutions; among other things, a commission was appointed to deal with the problems that occur in the service and workplace environment. The criticism formulated against these solutions includes the lack of independence of the bodies being appointed. It also happens that people who report inappropriate behaviours have problems with obtaining information on the course of the procedure. In the opinion of the Polish Ombudsman, the most transparent regulations are those adopted by the Central Anticorruption Bureau (*Centralne Biuro Antykorupcyjne*, abbr. *CBA*). He also indicates the necessity for the complaints to be processed by competent staff that must be first trained in a proper way. He places much emphasis in his recommendations on the issue concerning protection against retaliation. People slanderously accused of inappropriate behaviour should also be protected (Sewastianowicz, 2019). In the light of the report of the Ombudsman, the Regulation of the Director General of the Prison Service referred to above lacks relevant provisions concerning the exclusion, changing, ending the term or suspending a member of the Committee for Service and Workplace Relations. The document does not provide for an opportunity to resolve the dispute amicably either (Oklejak, Wilkołaska-Żuromska, 2018, pp. 22, 25).

An essential challenge for the leaders of the Ministry of Justice, which the Polish penal system is subordinated to, and for the management of the particular entities should be to explore thoroughly the phenomenon of mobbing and its determinants as well as to prepare a strategy to counteract this abuse. Undoubtedly, as shown by research into contemporary penitentiary issues, effective restriction of violence-related behaviours in correctional facilities is promoted by well-designed organisational (social) climate in them (Gajewski, 2011, p. 339). In the light of the interviews conducted by Dorota Merez-Kot and Joanna Cębrzyńska, an improvement of the organisational climate within the Prison Service and greater care for correct interpersonal relationships would contribute to decreasing the rate of early retirement among prison officers (Merez-Kot, Cębrzyńska, 2008, pp. 450–451).

In conclusion, let us point out that counteracting mobbing should take place in three basic areas, i.e. the internal regulations of the institution, the practice of management, and the ethics and culture of the institution.

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LEGAL ACTS

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- Act of 9th April 2010 on Prison Service (Journal of Laws of 2019, item 1427, consolidated text).
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STRESZCZENIE

W artykule podjęto problem mobbingu w Służbie Więziennej w Polsce. We wstępie wskazano na wieloaspektowy charakter zachowań mobbingowych. Zasygnalizowano ich szkodliwy wpływ na życie osobiste, rodzinne i zawodowe ofiary oraz przeanalizowano zagadnienie z perspektywy polskiego prawa pracy, odwołując się do stosownych zapisów. Następnie przystąpiono do omówienia mobbingu wśród personelu zakładów penitencjarnych, wskazując, że służby mundurowe stanowią emanację społeczeństwa i mogą w nich występować identyczne zjawiska, włącznie z negatywnymi. W związku z tym opisano obowiązujące w Służbie Więziennej procedury dotyczące reagowania na

zachowania mobbingowe oraz naświetlono adekwatne działania profilaktyczne, m.in. szkolenia dla kadry kierowniczej, funkcjonariuszy i pozostałych członków personelu zakładów penitencjarnych. Na koniec przywołano zarzuty formułowane w stosunku do wyżej wspomnianych procedur oraz przedstawiono stosowne rekomendacje, podkreślając, że przeciwdziałanie mobbingowi powinno się odbywać w wymiarze prawa wewnętrznego danej instytucji, praktyki zarządzania, ale też w obszarze przyjętej etyki i kultury.

Słowa kluczowe: Służba Więzienna w Polsce; mobbing; przeciwdziałanie mobbingowi; prawo pracy