

MOBBING – A PSYCHOSOCAL HAZARD

MOBBING



The presentation aims to provide the definition of mobbing, the legal grounds, the features that distinguish mobbing, and counteracting mobbing at the Institute of Physics of the Polish Academy of Sciences.

The basis for counteracting mobbing is knowledge about it. The source of mobbing prevention is obtaining information on the symptoms of mobbing, the reasons for its occurrence, as well as the people at risk of becoming a victim or perpetrator. This will allow you to react appropriately in the early stages of mobbing in the workplace.

Mobbing at work should not be confused with employee discrimination (unequal treatment towards the rest of employees) or sexual harassment. Also, acts of physical violence go beyond the limits of mobbing.

MOBBING AND LABOR LAW

The Labor Code defines mobbing as an action or behavior referring to an employee or directed against an employee, which consists in **persistent and long-term harassment or intimidation of an employee**, resulting in their **understated assessment of professional suitability**, causing or aiming to **humiliate the employee, isolating them or eliminating them from the team of colleagues** (Art. 94 (3) § 1 of the Labor Code).

The above definition, even though it is binding in Polish legislation and is referred to by employees who bring claims to the labor court, is very ambiguous.

According to Art. 94 (3) of the Labor Code:

§ 1 The employer is obliged to counteract mobbing.

§ 2. Mobbing means the action or behavior concerning an employee or directed against an employee involving persistent and long-term harassment or intimidation of an employee, resulting in their understated assessment of professional suitability, causing or aiming to humiliate or ridicule the employee, isolate or eliminate them from the team of colleagues.

§ 3. An employee for whom mobbing has caused a health disorder may claim an appropriate sum from the employer as pecuniary compensation for the damages suffered .

§ 4. An employee who has terminated the employment contract as a result of mobbing has the right to claim compensation from the employer in the amount not lower than the minimum remuneration for work, determined on the basis of separate provisions.

The legal definition contained in Art. 94 (3) § 2 of the Labor Code shows that mobbing is behavior:

1. relating to an employee or directed against an employee,
2. consisting in persistent and long-term harassment or intimidation of an employee,
3. Resulting in their understated assessment of professional suitability, causing or aiming to humiliate, or ridicule an employee,
4. causing their isolation or elimination from a team of colleagues.

The content of this definition indicates that certain statutory features
of
mobbing must be fulfilled jointly.

(cf. judgment of the Supreme Court dated December 8, 2005, I PK 103/05, OSNP [The Supreme Court Judgments. Administrative and Labor Chamber.]2006 No. 21-22, item 321).

Judgment of December 5, 2006, II PK 112/06

Statutory grounds for mobbing specified in Art. 94 (3) § 2 of the Labor Code must be met jointly and should be demonstrated by the employee (Art. 6 of the Civil Code). It also rests with the employee to prove that the harassment resulted in health disorder.

Judgment of October 5, 2007, II PK 31/07

In proceedings concerning the practise of mobbing by the employer and the granting of benefits in this respect, it is not sufficient to state that the actions taken against the employee are unlawful, but it is necessary to demonstrate the purpose of these actions and their effects (Art. 94 (3) § 2 of the Labor Code).

Judgment of May 7, 2009, II PK 2/09

A mobbing victim's claim through pecuniary compensation for the damage suffered (Art. 94 (3) § 3 of the Labor Code) requires that the victim prove the effect of mobbing in the form of a health disorder.

Judgment of November 14, 2008, II PK 88/08

The assessment of whether the employee was harassed and intimidated, and whether these activities were aimed and could have or did lead to an understated assessment of their professional suitability, to their humiliation, ridicule, isolation or elimination from the team of colleagues, must be based on objective criteria.

The isolation of an employee in a group of colleagues is not an autonomous feature of mobbing.

Only isolation in the working group resulting from actions consisting in negative behavior covered by this standard (harassment, intimidation, humiliation, ridicule) justifies the existence of mobbing.

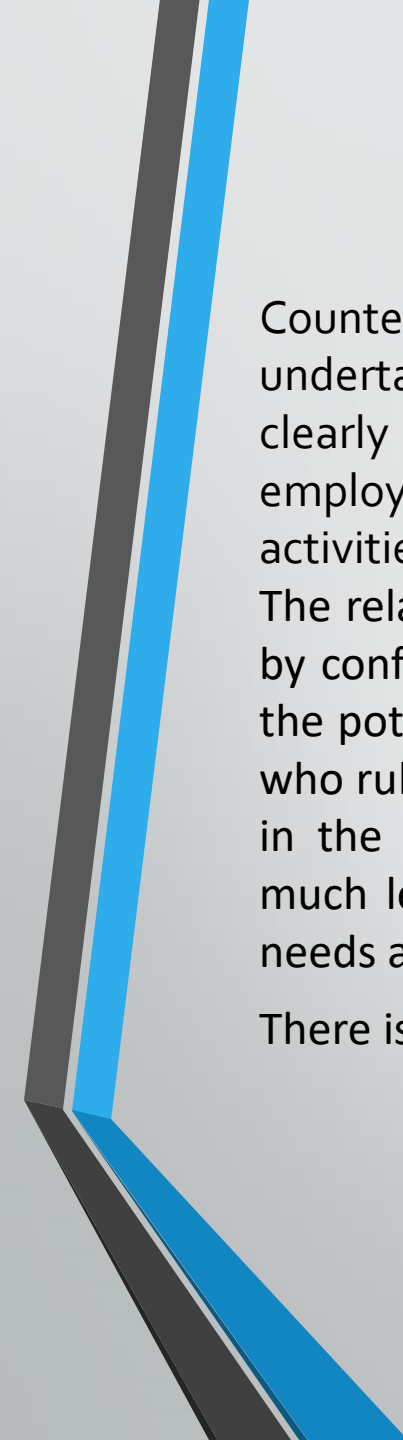
If, however, it is a reaction to the reprehensible behavior of the employee in relation to his colleagues, there is no reason for activities consisting in avoiding contact with this employee to be assigned the signs of mobbing.

COUNTERACTING MOBBING AS A CONTRACTUAL DUTY OF THE EMPLOYER

(...) counteracting mobbing is a contractual obligation of the employer. This is one of the special features of the employment relationship, different in relation to the obligations of civil law, namely, targeting not just the protection of property, the interests of the other party, but also the protection of personal rights.

After all, the regulation of Section X of the Labor Code, i.e. the responsibilities of ensuring a safe and healthy working environment, serves no other purpose than protecting the life and health of the employee. Counteracting mobbing also fits into this string of duties.

Therefore, if an employee demands that the employer be held responsible for not counteracting mobbing, then they accuse the employer of negligence in performing the obligation.



Counteracting mobbing is a systemic action. First of all, it should be undertaken by the employer, introducing anti-mobbing procedures, and clearly reacting to unacceptable behavior in the workplace. Nonetheless, employees also have the opportunity to protect themselves from mobbing activities, react to them when they occur and when they are witnesses of it. The relationship between the management and subordinates is characterized by confidence in their skills and ideas. Superiors are interested in developing the potential of their employees. A democratically managed employee knows who rules in the workplace but, at the same time, has a sense of participation in the decisions being made and the company's growth. They experience much less stress and they're not accompanied by frustration, because their needs are met. This management style minimizes the possibility of mobbing. There is open communication and cooperation, not competition.

The Directive of the Director of IF PAN No. 5/2017 on the Internal Anti-mobbing Policy was introduced at the Institute of Physics of the Polish Academy of Sciences on February 21, 2017.

§1. General provisions

1. The purpose of establishing the Internal Anti-mobbing Policy at the Institute of Physics of the Polish Academy of Sciences is to counteract the phenomenon of mobbing.

2. Whenever the Internal Anti-mobbing Policy mentions:

a) **mobbing**: it means actions or behavior concerning an employee or directed against an employee, consisting in the persistent and long-term harassment or intimidation of the employee, resulting in their understated assessment of professional suitability, causing or aiming to humiliate the employee, isolating them or eliminating them from the team of colleagues;

b) **the Anti-mobbing Commission, hereinafter referred to as the "Commission"**: it means a collective body appointed by the Director of the Institute to consider complaints of mobbing;

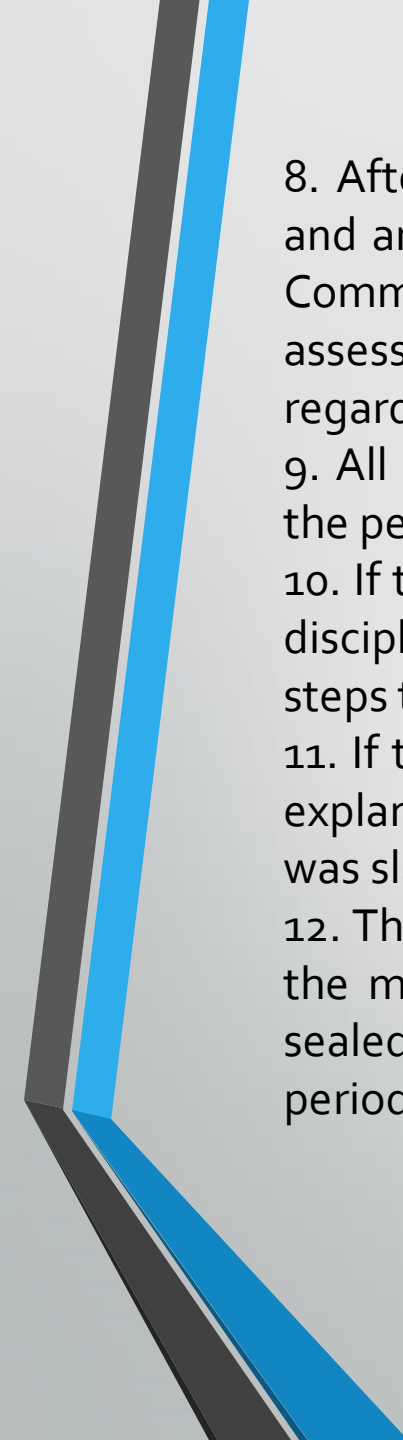
c) **an employee**: it means a person who is in an employment relationship with the Institute of Physics of the Polish Academy of Sciences or a PhD student who is a student of International Doctoral Studies at IF PAN.

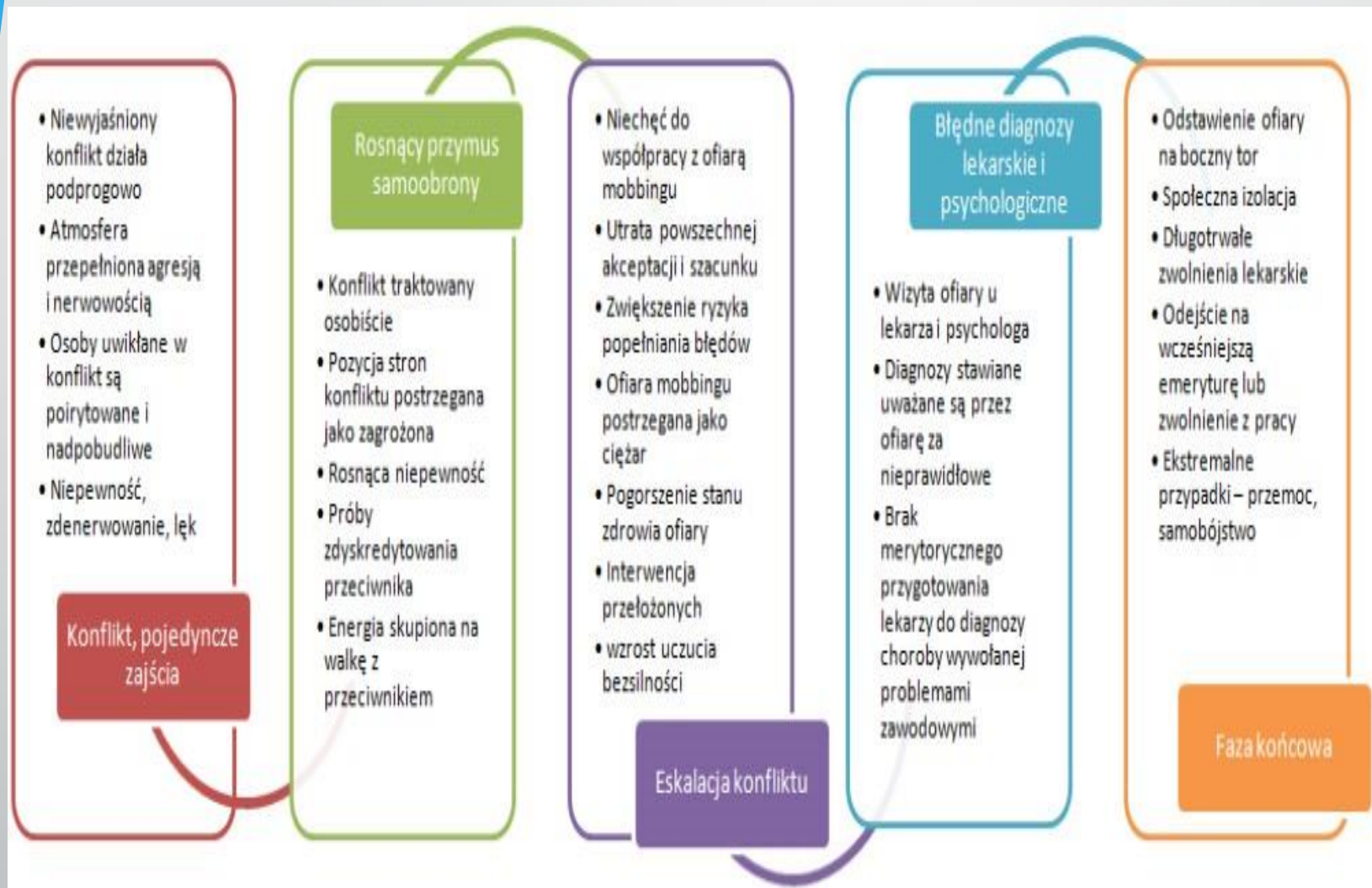
§2. The Purpose of the Internal Anti-mobbing Policy

1. The main goal of introducing the Internal Anti-mobbing Policy is to support activities that help build positive relations between employees at the Institute of Physics of the Polish Academy of Sciences.
2. The Institute of Physics of the Polish Academy of Sciences makes efforts to ensure that the work environment is free from mobbing and other forms of abuse, both for superiors and other employees.
3. The Institute of Physics of the Polish Academy of Sciences does not accept mobbing or any other forms of psychological abuse.
4. Employees are obliged not to undertake any actions bearing the features of mobbing and to counteract its practice by other people.
5. Creating situations that encourage mobbing or the practice of mobbing may be considered a violation of basic employee obligations.

§3. Anti-mobbing procedures

1. An employee who considers that they have been subjected to mobbing may report this fact in writing in the form of a complaint directly, bypassing the official route, to the Director of the Institute of Physics of the Polish Academy of Sciences or to one of his Deputies.
2. The complaint should present the actual circumstances, evidence in support of the circumstances mentioned, and an indication of the perpetrator or perpetrators of mobbing. The injured party should sign the complaint and date it.
3. Proceedings concerning a complaint of mobbing are conducted by a five-person Anti-mobbing Commission, each time appointed by the Director of the Institute of Physics of the Polish Academy of Sciences.
4. If the complaint concerns the Director of the Institute, the composition of the Commission is determined by the Presidium of the Scientific Council of the Institute of Physics of the Polish Academy of Sciences.
5. A member of the Commission may not be a person who is the subject of the complaint of mobbing or the head of the organizational unit in which the complainant employee is employed.
6. The Commission begins the procedure within 7 business days from the date of its appointment.
7. The proceedings before the Commission are confidential.

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8. After hearing the complainant and the employee accused of mobbing and any witnesses, and considering the evidence submitted by them, the Commission assesses the merits of the complaint and submits this assessment, along with the conclusions and possible recommendations regarding the necessary actions, to the Director of the Institute.
 9. All documents from the meetings of the Commission are presented to the persons who are parties to the proceedings.
 10. If the complaint is found justified, the Director of the Institute initiates disciplinary proceedings against the person accused of mobbing and takes steps to eliminate the identified irregularities and prevent their repetition.
 11. If the complaint is found to be unjustified, the Commission carries out explanatory proceedings to determine whether the accusation of mobbing was slanderous.
 12. The minutes of the meetings of the Commission and the assessment of the merits of the complaint prepared by the Commission are kept in a sealed envelope in the Human Resources and Payroll Department for a period of 3 years.



Mobbing phases according to A. Heeren and Schild

MOBBING PHASES

Early phase with the expansion phase of mobbing

In the first, early phase of mobbing, conflicts arise that are either solved incorrectly or not at all. They can be caused, for example, by a poor working atmosphere.

A person who begins to be subjected to mobbing makes rational but ineffective attempts to contribute to the mitigation or resolution of the conflict. As a result of these actions, a chronic malaise appears in the victim and the daily fear of going to work and constant states of nervous tension lead to a stress response. The body sends alarm signals in the form of headaches and abdominal pain. Over time, the symptoms are accompanied by nausea, vomiting, an increase in blood pressure, insomnia, concentration disorders, as well as anxiety and depression. Often the victim begins to abuse alcohol, sedatives or sleeping pills, or goes for other drugs.

The phase of "stable mobbing"

In the second phase, here called the "stable mobbing" phase, the harassed person is permanently assigned the role of a "scapegoat" in the disturbed atmosphere of the workplace. They are also categorized as, for example, a weasel, oversensitive, or foaming. Now (if they did not appear in this role from the very beginning), the superior comes to the fore. Unjust reprimands, threatening, degradation of the position in the group by assigning less important tasks, often below the victim's competences and skills. Psychosomatic symptoms and symptoms worsen and absolutely require medical intervention. Leaving an employee in such a state without assistance leads to various diseases, for example, gastric ulcers, myocardial infarction, stroke, or bronchial asthma. The subject of mobbing is more and more often on sick leave.

The advanced phase

The situation is dramatically aggravated; the injured party is unable to meet the professional and social requirements. Being aware of this fact and the risk of losing their job, and thus their social position and livelihood, causes depression or, on the contrary, uncontrolled outbursts of rage and aggression directed against colleagues.

The victim is unable to perform work, resigns from it or is dismissed due to neglect of professional duties. It may manifest difficulties in taking up employment in a different place of work, entering a work group situation.



CAUSES OF MOBBING

ACTIVITIES INTERFERING WITH THE POSSIBILITY OF COMMUNICATION:

Superiors and co-workers limiting the possibility of expressing oneself. Permanently interrupting speech. Responding to comments by shouting or loudly inveighing and hating. Constant criticism of work and private life. Harassment over the phone. Verbal and written threats. Limiting contact by degrading, humiliating gestures and looks. Allusions of all kinds, without being clear.

ACTIVITIES INTERFERING WITH SOCIAL RELATIONS:

The supervisor avoiding talking to the victim. Not giving the opportunity to speak. Isolating the workplace. Forbidding colleagues from talking to the victim. Looking through them completely, as if they weren't there.

ACTIVITIES AIMED AT DESTROYING THE PERSON'S SOCIAL PERCEPTION – reputation attacks

Speaking badly behind the person's back. Spreading rumors. Attempting to ridicule. Suggesting mental illness. Referral for a psychiatric examination. Mocking a disability or defect. Parodying the manner of walking, speaking or gestures to ridicule the person. Attacking political or religious beliefs. Jokes and mocking private life. Mocking nationality. Forcing them to perform work that violates personal dignity. False assessment of work involvement. Questioning their decisions. Calling out the victim using dirty nicknames or other expressions intended to humiliate them. Courtship or verbal sexual advances.



ACTIVITIES AFFECTING THE QUALITY OF THE LIVING AND PROFESSIONAL SITUATION

Not giving the victim any work to do. Taking away jobs that were previously assigned. Outsourcing meaningless jobs. Giving assignments below their skills. Constantly flooding the person with new work to be done. Orders to perform tasks that are offensive to the victim. Assigning tasks beyond the victim's capabilities and competences in order to discredit them.

ACTIVITIES HAVING A HARMFUL EFFECT ON THE HEALTH OF THE VICTIM

Forcing them to perform work that is harmful to health. Threats of physical violence. Use of slight physical violence. Physical bullying. Contributing to the incurrance of expenses in order to harm the injured party. Causing psychological damage at the victim's place of residence or work. Activities of a sexual nature.

Types of mobbing

When we think about mobbing, we mean the behavior of the employer or superior towards subordinates, however, experience and practice show that this is not the only relationship in which mobbing behavior may occur.

Mobbing can occur on several levels:

- **Vertical upward mobbing** - the victim is the superior, and the mobber is the subordinate or a group of subordinates,
- **Vertical descending mobbing** - the victim is the subordinate and the mobber is the manager, employer or other representative of the management staff,
- **Horizontal mobbing** - the mobber is a group of co-workers to which the victim belongs or on which they depend (e.g. carrying out joint tasks).

It is worth adding that mobbing more and more often concerns co-workers who do not share subordination.

Behaviors and situations that are not mobbing but are often mistakenly classified as such:

- one-off act of humiliating, ridiculing, disregarding an employee, regardless of how inappropriate it is to treat employees/co-workers in this way, it cannot be classified as mobbing,
- justified criticism – drawing attention to the employee, pointing to mistakes, suggesting improvement in situations of failure to fulfill obligations, or in an unreliable and low-quality manner, do by all means constitute appropriate behavior that is within the competences of the managerial staff,
- conflict – a situation in which people do not like each other and are in conflict with each other differs from mobbing by the fact that both sides of the conflict block each other and hinder the achievement of their goals. Mobbing, on the other hand, assumes the superiority of the persecutor over the victim,

- working conditions that do not meet OSH requirements - poor working conditions can be considered mobbing only when they are directed at one person who also experiences harassment in another form,
- the feeling of discomfort at work, dissatisfaction with the assigned duties, reluctance to carry out the assigned tasks, work boredom, feeling unfulfilled at work, lack of satisfaction,
- stress related to the assigned duties, demanding, difficult work,
- holding an employee liable for violating employee rights, failing to fulfill their obligations,
- placing high demands on the quality of work.




CONFLICT


Conflicts often arise between colleagues at work, sometimes between staff and supervisors. In general, this is a most natural situation, it can even turn out to be beneficial. Conflicts and misunderstandings that are constructively managed and resolved lead to the growth of the people involved and the entire organization. However, it happens that conflicts are the foundation, the beginning of mobbing, a pretext to introduce harassment, slander and bullying of a person.

That is why it is worth reacting when a conflict emerges, especially when employees report to us, or we are superiors who observe the misunderstanding and the behavior it causes. Sometimes it can be noticed that people suddenly treat each other differently – if they are our close associates, it is worth asking each of them separately, saying that we have the impression that they are behaving differently, provide specific examples – sometimes such an intervention, a conversation will allow us to look at a difficult situation from another perspective and, as a result, resolve the dispute.

The characteristics of a mobber


- a person with an exaggerated self-esteem, overestimating their skills and competences, hating the criticism of others for which they threaten with harassment and bullying,
- a person with a significantly low self-esteem – they increase their own self-esteem through mobbing behavior, harassment, bullying, finding faults in others – usually weaker people. Such a person needs to constantly find value in themselves, and they do so at the expense of other people,
- a person with a high level of passive aggression, suppressing negative emotions, demonstrating them in an unclear, camouflaged, indirect way, forgetting about things that are important to others, ambiguous comments,

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- a person who cares about their own benefits, who perceive their colleagues as an obstacle, a threat to the achievement of their goals, very competitive, not cooperative, ready to do a lot to achieve their own benefit, even if it would involve costs incurred by others; jealous of other people's successes, ready to destroy someone even for the slightest success,
 - a person with a strong need for control and power,
 - a person characterized by insecurity and a strong level of anxiety, which is lowered by making other people anxious and threatened; cowardice and insecurity about their own reputation,
 - unqualified person, aware of their little competences – lives with a feeling that it will be revealed and may result in job loss, etc.; therefore, chooses to expose the incompetence of others and to point out their ignorance,

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- a person with a high level of aggression, impulsive and explosive, first acts, then thinks, does not reflect on their own behavior,
 - a person who easily discriminates, does not accept people with different characteristics and beliefs, believes that the group is effective only when it is coherent and unified,
 - a sadistic person who finds clear pleasure in inflicting pain on other people, manipulating others, using and harming them unscrupulously; has no remorse, does not care about other people's emotions and experiences – features of a psychopathic personality,
 - a perfect person, infallible, treating other people as objects, self-centered and demanding the same from others.

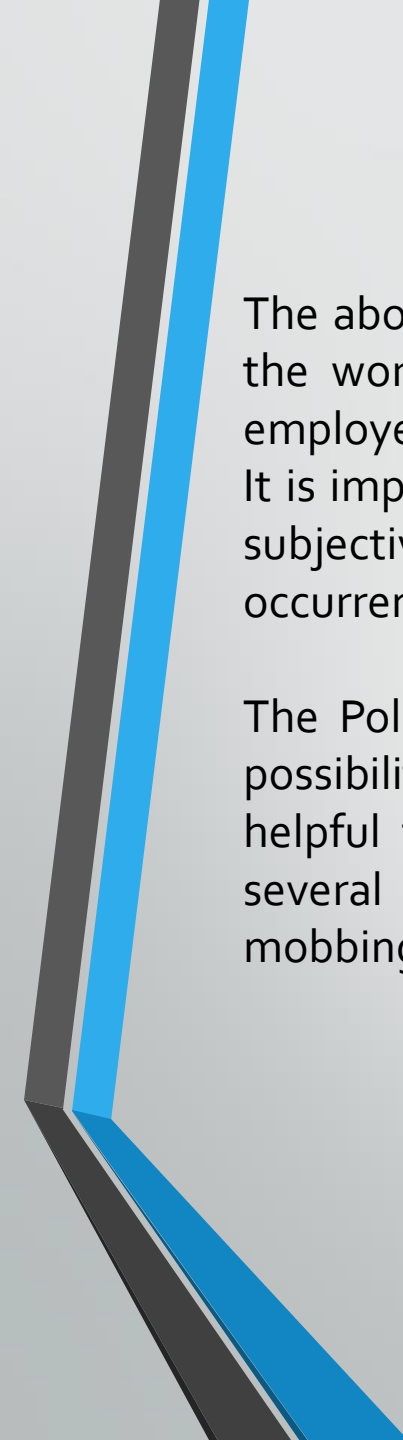
The characteristics of a mobbing victim

- a person who is an informal authority, stands out from the group, helpful and kind, enjoying the respect of others,
- a truthful person, appreciating sincerity, honest and seeking the truth, a conscientious, hard-working person, doing their job well, setting an example for others,
- a young person with high qualifications, knowing foreign languages, the first to ask for advice on a given matter, posing a threat especially to older workers who easily try to undermine their professional experience as an argument for insufficient skills,
- a creative person, with initiative, expansive, go-getting – with all the features that predispose them to succeed,
- a person of pre-retirement age, diligently performing their duties, but not matching by age to a young employee team; may become a victim of bullying or harassed to quit their job,

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- a person expressing their opinion and beliefs clearly, even if they are unpopular and may be negated and disliked by other people,
 - a person defending their colleagues, ready to do a lot, even at his own expense, to fight for others,
 - a person reacting to violations of labor law and non-compliance with health and safety regulations,
 - a person who detected irregularities in the functioning of the company,
 - a promoted person,
 - a person who differs from the rest by age, beliefs, way of dressing, hair color, intensity of involvement in work – these may be objective differences, as well as details that make them to be perceived as a misfit,
 - a private person, silent, helpless, unable to defend themselves, enduring harassment and bullying alone,
 - a person who cannot cope with the requirements imposed on them and is not able to reliably perform their duties.

Application to the Polish Labor Inspectorate (Państwowa Inspekcja Pracy)

Mobbing can be reported to the Polish Labor Inspectorate, as its use is a violation of labor law. However, it is worth being aware that considering these matters is demanding and often does not bring the expected results. Reporting mobbing may involve a visit of a labor inspector in the workplace, if the employee agrees to raise their case openly with the employer; then the inspector may start a conversation on this subject, but it is not their responsibility to decide whether mobbing has occurred or not and to impose any sanctions for this reason. Only the court can do that. If the employee does not consent to the disclosure of their data during inspection activities, the labor inspector may suggest the introduction of an anti-mobbing policy and propose an anonymous survey among employees which examines their exposure to mobbing. Such a survey contains questions about experiencing mobbing behavior, its frequency and nature. The analysis of the results in collective form is provided as information for the employer to learn about the exposure to mobbing in their workplace.



The above results may be a reason for a discussion about disturbing situations in the workplace but also do not give the inspector the power to penalize the employer or force it to stop the mobbing behavior by order.

It is impossible, because the information contained in the survey ensue from the subjective feelings of employees and it is not sufficient to adjudicate on the occurrence of mobbing or its absence.

The Polish Labor Inspectorate also provides legal advice on mobbing and the possibilities of dealing with it, which may often turn out to be more effective and helpful for an employee than an inspector's visit to a workplace. In addition, several labor inspectorates employ psychologists who deal with the subject of mobbing, provide help and advice in terms of counteracting this phenomenon.

Materials provided by the Polish Labor Inspectorate were used to prepare the presentation

INFORMATION FOR THE EMPLOYEE
INFORMATION FOR THE EMPLOYER
Legal sources, court judgments.

Thank you for your attention
Beata Bartyska