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THE LEGAL OVERVIEW OF MEDIATION IN THE TREATMENT OF HARASSMENT IN THE WORKPLACE (MOBBING)

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Abstract

Harassment in the workplace (Mobbing) is consider a frequent phenomenon present in every sector (public or private) which, due to the consequences it leaves behind for the victims, is considered very harmful and sometimes very hard to treat. It represent a number of different activities taken towards the employee/worker that unfortunately affects negatively his/her well-being. To consider these activities as harassment activities, they must be characterized by repetition for a longer period of time (at least 6 months systematically) which are presented as hostile, unethical, verbal or nonverbal behavior that affects an individual and sometimes a group, with the final aim of termination of the employment contract done voluntary through resignation from the work. Because of the multidimensional negative effects, that mobbing can leave such as in the physical and psychological health of the worker, also on his/her family life and social relationships and performances at work, it must be treated very quickly and in the most efficient way. As a perfect method that can be identified with these two characteristics, is Mediation. It's considered suitable for solving these kind of "issues in the workplace" because of the high involvement of the emotions and psychological effects these emotions can cause to the worker, and because of the faster solution provided by this alternative method in comparison with other judicial or non-judicial methods. The main purpose of this paper will to achieve an extensive legal analysis of the laws that regulate this phenomenon in our society and of the law that provides its fast solution and treatment i.e. Law on mediation.

Keywords: *Mobbing, Harassment in workplace in RNM, Mediation, ADR methods*

Introduction

A work environment to consider suitable, for achieving the expected results of success based on the obligations stipulated in the employment contract and the objectives set by the employer, must be organize and systematized in such a way for the employees to feel free and without pressure in doing their jobs. It is one of the first obligation of the employer to provide to its employees the necessary space, tools and quiet surrounding in its organization as one of the most relevant factor, in order of achieving the expected goals. In the same time, it is one of the rights of the employees as well. However, not always the realized plan complies with the projected/expected plan by the lawmaker or even employer himself. Unfortunately, the number of the cases where discrimination occurs in the workplace is getting higher and higher every day. Discrimination in the workplace is known as a global phenomenon, which is present because of the diversity of the people engaged in the working process of the employer. Moreover, diversity is very important element in the organization of the employer because it enables him/her to use different skills, professional knowledge i.e. expertise from its employees. If the employer can manage this diversity of characters and abilities professionally and legally, it will result with achieving great success into in being unique and above others in a world where the principle of competition finds high applicability.

The critical issue appears in that moment when the employer is not able to prevent or stop the occurred form of discrimination. One of the most popular forms that is present in our society i.e. workplaces is psychological harassment or at is known worldwide with the famous term mobbing. It's a form that have in common the non-equal treatment in the workplace with the other forms of discrimination based on those known bases of discrimination such as harassment and gender harassment also known as specific forms of discrimination. When treating mobbing, cannot neglect the negative effects that can appear with the mobbing activities. Whenever this unwanted experience appears, the interest of the victim for working is reduced, which also affects the global productivity of the employers' organization as well. The negative effects for the employee (mobbing victim) are of the wider scope for sure, and not concentrated only in their non-productivity. The consequences are of the psychological i.e. mental health nature known for their long-term healing health issues. That's why one of the greatest challenge, not only to the victim of this phenomenon, but also to the employer is to manage the concept of mobbing not to be present in its organization, and in case of its presence, to show the great support by the adoption of the system of protection, presenting to the affected employees through some well-grounded mechanisms.

Legal dimensions of Mobbing in workplace

Because of the process of transition, which is very, much present in every sphere of our lives, including in the sphere of economy, resulted in making some structural changes in the economic systems of the state and in the market of labor as well. After the independence of the Republic of North Macedonia and as a result of the separation from one of the largest economic powers of the world, the Former Social Federation of Yugoslavia, resulted in the starting of the process of privatization and structural changes of the business entities, that brought a new reality in our society. The economic crises were present in each and every state that gained their independence from this federation, with the faith of finding the right path in overcoming it. What indeed happened? The legal entities which primary activity was that of business nature, started the process of modernization through reorganization of their economic activity affected negatively in the reduction of the business activity, lowering the investments and creation of new jobs i.e. opening new organizations that will give new opportunities for employment, which led to the unfavorable situation in the labor market. Also, the low quality of the employment relations affected the poor position in which the candidates for employment found themselves while getting employed.

Because the business entities wanted to overcome the financial crises in which they found themselves in that transitional period, their main aim was to do so by gaining high profits in very short term. Of course, that can be realize, but not while respecting the human aspect of the labor atmosphere in the organization of such employers. The insults, long working hours, non-usage of the annual leave and non-working days also were one of the violations of the employees in the working place especially the threats that they will be fired in case of not respecting their demands. These demands and orders given by the employer express actions of the form of psychological harassment, psychological pressure, humiliation and bad treatment of the employee, whose personality, integrity, professionalism are brought into question that can cause huge issues and disorders in the mental and physical health of the employee. This seriously harming phenomenon is present in the working environments in many countries. Of course, Republic of North Macedonia is not an exceptional case. I affirm with full responsibility the existence of mobbing in our country even that cases that prove the same are very low in numbers because of subjective reasons that are very reasonable unfortunately – the fear of losing the job in this period of crises.

It is inevitable while talking for mobbing as a form of harassment, not to clarify the etymology of this term. Mainly treated in negative connotation even that as a manifestation is not always present only in workplace. This notion is derived from English language "mob" in which as a noun is used to define a group of people or a mass, a crowd and similar, and also as a verb it defines attack, to disable, to suffocate, etc. In addition, its characteristics can relate also with the term used in the sociological term that refers to bullying in any context (Wikipedia, n.d.). The term mobbing originally used to describe animal aggression and herd

behavior. Although mobbing as a phenomenon has existed for decades and was an object of studying by a number of scientists. It was Konrad Lorenz who in his book *On aggression (1968)* used this term to describe the harassment behavior that existed in schools between children (Eds. Hoel, Zapf, Enarsen, Cooper, 2010). The Swedish psychologist of German origin, Prof. Dr. Heinz Leymann (Heinz Leymann, born July 17, 1932 in Wolfenbitl, Germany - died in 1999 in Stockholm, Sweden), borrowed this term later. During the 1960s, he investigated hostile behavior among children, calling it "mobbing," but later in the 1980s, he observed the same behavior among employees in the workplace. Considering that it is a major social problem, he has developed effective methods for the prevention of mobbing and the rehabilitation of victims of mobbing. He warns the world public about this problem, as well as about the neglected and tolerated type of threat to basic human rights, which can be harmful not only per victim, but also for the work environment as well.

Mobbing is consider an issue of a great dimension in the modern society of a typical violation of human rights, still not very much researched and without effective solution found. Mainly, it is treated by the experts as violation of the psychological aspect of every human being i.e. employee that have negative aspects in the quality of their work, quality of their life also and the most important it negatively affects the profit that the employee will gain as a result of these undesirable activities. That means that the economic loses in the community will be enormous if this phenomenon will not be treated effectively.

Even our society was not spared from the appearance of this phenomenon. For sure, it is considered relatively new problematic which is taking fast and wider proportions and as such until recently was not legally regulated. The first step taken in the direction of the legal regulation of mobbing in Republic of North Macedonia happened in 2009, with the Law on changes and addition of the Law on labor relations(Law on changes and addition of the Law on labor relations, 2009), was added a new article, article 9-a to the Law on labor relation(Law on labor relation, 2006) that regulate the psychological harassment in workplace – mobbing. This step, opened the possibilities for reforms in the labor legislation in our country, especially into fighting this negative situation. Article 9-a in its para. 1 of the Law on labor relations prohibits any type of psychological harassment in the workplace, and as such the lawmaker defines it as a special form of discrimination based on article 6[1] of the same law that sanction discrimination in the workplace.

The law, in article 9-a, para. 3, defines psychological harassment at the workplace (mobbing), which, in terms of this law, "is any negative behavior by an individual or group that is repeated frequently (at least over a period of six months), and represents a violation of the dignity, integrity, reputation and honor of employees and causes fear or creates hostile, humiliating or offensive behavior, the ultimate goal of which may be termination of the employment relationship or leaving the workplace". Also the law foresees who can be perpetrator of harmful actions that can cause psychological harassment to the employee. As a perpetrator of psychological harassment at the workplace (mobbing) can be one or more persons with negative behavior, regardless of their capacity (employer as a natural person, responsible person or employee)(Art. 9-a, par. 4, Law on labor relation).

The Law on labor relations performed its function to combat mobbing until 2013, when was presented the special law that would regulate this phenomenon. The main aim into creating a *lex specialis* was to upgrade the protection of rights from the employment relationship as part of overall human rights of the citizens in Republic of North Macedonia including the employees working within its territory, So, on May 29, 2013 the Assembly of the Republic of North Macedonia, on the initiative of the Union of Syndicates of the Republic of North Macedonia, enabled the issuance of Law on protection against harassment in workplace(Law on protection against harassment in workplace, 2013)[2]. This law also gives its own definition about which activities are considered as psychological harassment activities. Psychological

[1] The lawmaker presents in this article the possible grounds of discrimination such as: racial origin or ethnicity, skin color, gender, age, health condition respectively disability of the candidate for employment or employee, political belief, religious belief, syndicate membership, social origin, nationality, family status, material status, gender orientation or other personal circumstances.

[2] This law as published in the Official Gazette on 31st May 2013, and entered into force on 8th of June 2013, in which the law defines the phenomenon in detail and regulates the protection against mobbing.

harassment at work, according to this law, is any type of negative behavior by an individual or group, which is repeated continuously and systematically which represents an endangerment of dignity, integrity, prestige and honor of the employee and causes hostile feelings or creates dissatisfaction and annoyance, the final purpose of which may be the violation of physical and mental health, compromising the future profession of the employee, termination of the employment relationship or leaving the workplace (Art. 5, Law on protection against harassment in workplace). The same perpetrators of mobbing as in the Law on employment relations are foreseen in the Law on protection from harassment in workplace in its par. 1 of art. 6.[3]

The law also specifies the place in which the harassment activities should take place. As a place of psychological harassment in the workplace can be considered the place or places where the employee is positioned within the organization of the employer and also the place or places in which the employee is arriving or departing from the workplace, only in the case when the psychological harassment is carried out by an employee working at the same employer or another person who works for the same employer who travels or moves together or in close proximity to the employee (victim of mobbing), that is, the other person who works for the same employer with the person exposed to harassment (Para. 1 and 2 of Art.7 of Law on protection against harassment in workplace). As for the time frame within which the harmful activities sanctioned by the lawmaker as mobbing activities are taken place, is considered to be the time within the working hours and the time of travel to and from the workplace, when the type and manner of behavior that is considered harassment at the workplace was carried out (par.3, art.7).

The Law on Protection against harassment in the workplace also regulates activities that are not considered harassment in the workplace. As such are considered: the individual acts adopted by the employer which decide on rights, obligations and responsibilities from the employment relationship, against which the employee has the right to protection in a procedure established by law; Deprivation and impossibility of exercising and using rights established by law, collective agreement and the employment contract, the protection of which is achieved in a procedure with the employer and before a competent court; any unjustified discrimination in unequal treatment of the employee on any basis of discrimination, which is prohibited and in respect of which protection is provided, in accordance with law, and every temporarily differences of opinion regarding issues and problems related to the performance of work and work tasks, unless they are intended to hurt or intentionally insult the employee (Art. 8 of Law on protection against harassment in workplace).

The legal overview of Mediation as a method of protection against harassment in workplace

The prohibition of discrimination is a constitutional principle or category, which is provided in Constitution of the RNM in its article 9: Citizens of the Republic of Macedonia are equal in freedom and rights regardless of gender, race, skin color, national and social origin, political and religious belief, wealth and social position. Citizens are equal before the Constitution and laws. Moreover, this principle is also a legal principle provided in the Law on Labor Relations. The employer must not place the candidate for employment or the employee in an unequal position because of race, skin color, gender, age, health condition, i.e. of disability, religious, political or other beliefs, trade union membership, national or social origin, family status, financial status, sexual orientation or due to other personal circumstances (Art. 6 of Law on employment relation).

[3] Article 6 foresees that as perpetrators of Mobbing in the workplace can be one or more persons with negative behavior regardless their status - the employer as a natural person, person responsible to the employer - legal person, i.e. employee or group of employees at the employer or person with which the employee or employer falls into contact during the performance of work at the workplace.

Since mobbing is categorize as a special form of discrimination, the Law on employment relation guarantees to the employees the right of protection against mobbing. [4] This is one of the basic rights of every employee and on the other hand one of the most important duties of every employer as well, to provide to its employees security against any form of discrimination including mobbing in their workplace. Article 14, par. 1 of the Law on protection against harassment in the workplace foresees that the employees have the right to be protected from mobbing and are obliged to inform the employer if they notice the existence of harassment in the workplace. On the other perspective, that of the employer, the law foresees the duty to determine a mediator that will help the parties in the dispute to solve that dispute (Art. 12 of Law on protection against harassment in workplace).

Mediation is known as one of the most popular methods from the group of Alternative dispute resolution methods (ADR). It is consider, fast, economic and flexible procedure, which in the end crowned with a solution of the dispute materialized in a written agreement. One of the special characteristics of mediation, is that it is implemented with the participation of a neutral third party - the mediator, who takes an active part in the mediation procedure, helps the parties to reach a common agreement to overcome the dispute, but who is not authorized to adopt a decision regarding the dispute and cannot even impose its decision as binding on the parties who have chosen to resolve their dispute through mediation. This characteristic makes the mediation procedures extremely different from the judicial procedures in which the dispute is resolved by means of a judicial decision, and distinguishes it from the arbitration procedure in which the arbitrator, when the parties have reached an agreement, is authorized to bring meritorious decision, which is binding, for the parties. In RNM, the process of legally regulated mediation started from 2006 with the adoption of the first Law on mediation (Law on mediation, 2006). This law was in force until 2013 where e new Law on mediation (Law on mediation, 2013) was prepared, because of the great need of having a new concise and clean law due to the many changes and additions that were made to the previous law, in a very short period of time. In 2021 is the period the adoption of a new law (Law on mediation, 2021) with the aim of enabling to the citizens easier and faster access to mediation in comparison of what the old law provided. This law is the actual law in force.

In the first article of the law, the lawmaker has foresees the type of disputes which according to their nature are consider as mediable i.e. suitable to be solved through mediation. Except the property disputes, labor disputes, marital disputes, commercial disputes, consumer disputes, insurance dispute, disputes related the notarial procedures regarding the payment orders, disputes arising from the sphere of education, safety and health at work, disputes in the field of health care, and similar, as other disputes that can be solved through this peaceful method are also the discrimination disputes (Art. 1, par. 2 of Law on mediation, 2021). Because the lawmaker qualifies, the psychological harassment as a specific form of discrimination, also because of the urgent nature of this type of dispute, shows the ability of the procedure to handle successfully mobbing cases. In addition, this law provides the definition of mediation and of the mediation procedure. ""Mediation" is mediation and a way of resolving the disputes (abovementioned), arising between two or more parties to the dispute, allowing them to resolve it by way of conciliation, with the mediation of a third neutral party mediator/mediators, with the possibility of reaching a mutually acceptable written agreement"(Art. 3 of Law on mediation). As for the mediation procedure, in the same article it is defined as procedure for resolving disputes, through which it is possible for the parties to the dispute to resolve it in a voluntary, efficient and economical way, in separate or joint meetings of the mediator with the participating parties, different from the procedures that is conducted before the competent courts.

Just like in other laws that as an object of regulation have a procedure that provides to the parties the necessary legal protection not taking into account the type of the procedure (judicial on non-judicial),

[4] Article 10 of the Law on employment relation specifies the burden of proof in case of dispute related with discrimination in the workplace. In case the employee presents to the court facts that the employer was a perpetrator of discrimination or psychological harassment in the workplace, then the burden of proof falls over the employer, who has to present evidences of the contrary.

also, the Law on mediation in its text provides the principles of this procedure that make this procedure special and unique in its character and differs it from the other procedures. These principles are: the principle of voluntary that shows the voluntary character of the procedure even when sometimes the mediation procedure is initiated as a result of the instruction of the court or even as a result of mandatory attempt on mediation (Art. 7, Law on mediation). It is a principle for the parties, according to which mediation procedure can be initiated only when both parties in the dispute are willing to solve this procedure with the help of mediator. The principle of equality and informality enable equal treatment of the parties by the mediator and organization of the procedure in a way which is convenient for the parties ad their interest (Art. 8, Law on mediation). Principle of impartially which is a principle destines to the mediator that obligates him to remain impartial in relation to the parties and in relation to the subject of the dispute (Art. 9, Law on mediation). One of the most special character and principle in the same time of this procedure is the principle of confidentiality (Art. 10, Law on mediation). According to this principle, the public is excluded from the meetings of the parties with the mediator and the facts, documentations, proposals and everything related with the disputed matter in the procedure must be kept confidential. Similar to the principle of confidentially is the principle of availability of information about mediation in other proceedings (Art. 11, Law on mediation). The parties, their legal representatives and proxies, mediators, third parties participating in the mediation procedure, as well as persons performing administrative tasks for the purposes of the mediation, are not allowed to refer to facts, testify or propose in a court or other procedure as evidence the information whose source is the mediation procedure. A principle that is related to the position of the parties is the principle of equality of the parties (Art. 12, Law on mediation). The parties have equal opportunities to participate in the mediation procedure, about which they will be informed before starting the mediation procedure in a clear and comprehensible way by the mediator. Principle of legality is another principle that guarantees lawful acting as a result of the cooperation of the parties and to provide information for a fair resolution of the disputed relationship (Art. 13, Law on mediation). Efficiency and economization is also a principle that provides easy and fast access to the parties in the dispute into the process (Art. 14, Law on mediation). This principle enables the procedure to conclude in very short period[5] of time and with low costs for the parties. And, the last principle is the principle of usage of language in the mediation procedure according to which the parties that talks another language that is different from the Macedonian language and its writing can engage a translator that will help the party through the process (Art.15, Law on mediation). The same applies to parties that are deaf or mum, also they can engage translator or interpreter to help them understand and to be understood.

One of the main duties of the employer whenever there is a signal or the minimal complaint from its employee about the existence of harassment in the workplace, regardless of its forms and perpetrator, is the appointment of mediator (Art. 12 of Law on protection against harassment in workplace). The mediator as a neutral party that helps the party in solving the dispute related to the harassment in the workplace is a person engaged to the organization of the employer registered in the list of mediators appointed by the employer. The obligation to compose such a list, is reserved only for those employers' i.e. big employers that employ more than 50 employees in its organization (Art. 12, par. 3 of Law on protection against harassment in workplace). As for the other cases of small employers (those who employ less than 50 employers), the law foresees that the appointment of the mediator to be done with mutual agreement between the employee who is exposed to harassment at the workplace, the perpetrator of the harassment and the employee who will be determined by the employer. Even that in most of the cases in the position of the mediator appointed can be e person who is engaged in the same workplace and shares the same duties and responsibilities with both victim of mobbing and the perpetrator, he/she during all the procedure must act professionally, in that sense to be independent and impartially while treating the parties in the dispute and also while giving its proposals on the manner of solving the dispute.

[5] Art. 25, par. 1 of Law on mediation foresees a deadline of 90 days of finishing the mediation procedure regardless the final outcome.

Mediation procedure in solving Mobbing disputes

The mediation procedure always starts with the first initial act – **Claim for protection from harassment in the workplace** that shows the allegations of the employee, which makes him/her a victim in the case. The lawmaker defined also the legal deadline of 8 days from the day receiving the claim, a deadline respected by the employer or a person responsible employed at the employer, within which period he must propose to the parties in the dispute to appoint the mediator from the list of the registered mediators in its organization. Since the mediation procedure is built based on the principle of the autonomy of the will of the parties, they are the ones that must be the one that jointly will agree on the third neutral party that will help them overcome their dispute. But of course, not always they will agree in the appointment of the mediator, especially taking into consideration that he/she is a person that is known for both of them, which normally leaves doubts in one or the other regarding the impartiality of the same. And because the mediation procedure cannot start without the mutual decision on the selection of the mediator, it will be concluded that the dispute is far away from mediabile i.e. suitable for solving through mediation. From the day when the written notice that the mediator was not successfully appointed, will be submitted to the claimant in case the claimant is not the victim of mobbing and the employee who believes that he is exposed to harassment at the workplace, the 15-day period for filing a lawsuit to the competent court for protection against harassment at the workplace begins (Art. 22, para. 2 and 3 of Law on protection against harassment in workplace).

In analogical way same as in the Law on Mediation, the principles of mediation briefly are explained also in the Law on protection against harassment in the workplace. This law in its article 23 defines the mediation procedure as urgent procedure because of the urgent nature and urgent need for treatment of mobbing disputes. In addition, it determines the neutral and independent position of the mediator while facilitating the negotiations of the parties in the dispute. The law also foresees the mediation procedure as confidential procedure where the public is excluded. As an exception from this rule, the lawmaker allows the presence of the syndical representative of the victim of mobbing in which syndicate he/she is a member, in order of active representation and protection of the rights regarding the situation in which that employee has find him/herself. Confidentiality in this law, is not limited only with the exclusion of the public from the meetings of the parties with the mediator, but also with the prohibition issued by the lawmaker of making public the information's obtained in the mediation procedure. They can be announce only to the parties present in the procedure (Art. 23, par. 5 of Law on protection against harassment in workplace). The publication of the data related to the dispute in the mediation procedure, is qualified by the lawmaker as violation of the labor obligations, and as such can be an object of judicial protection.

Mediation is known as very flexible procedure. It is one of the characteristics that cannot be found in the other procedures known as procedures for providing the needed legal protection every time it is needed or requested. The flexibility is seen not only into the mutual selection of the mediator by the parties, but also by choosing the "game rules" which will be applied during the procedure. So, the parties have the right to choose a way on how different manners regarding the procedure can be solved, such as: how the meeting with the mediator will be organized, time and place of the meeting, the language used in the meeting and similar questions that in technical aspect are important for the procedure. In case they cannot reach a common solution for the technical questions of the procedure, and because they are of huge importance especially for the mediator in order to organize a successful mediation, the law allows the mediator appointed to select the best way to conduct a mediation procedure taking into account the circumstances of the disputed relationship and the interests of the parties, always having as a priority the urgency character of the procedure (Art. 24. Par. 1 of Law on protection against harassment in workplace). The mediator has free hands while organizing the meetings with the disputed parties. The mediator can decide to have individual meetings or mutual meetings where he/she can exchange the information's of the party to the other opposing party of course with the consent of the same. In the same way, the mediator can organize

meetings and sessions for hearing the witnesses as well, in case they obtain important information's related the accusations for mobbing by the employee who consider him/herself as a victim. During this process, the mediator is obliged to prepare a written report for each and every procedural activity taken during the mediation procedure (Art. 24, par. 4 of Law on protection against harassment in workplace).

As mentioned in the section of the legal regulation of mediation with the Law on mediation, the duration of the procedure was legally sanctioned by the lawmaker, limited it into 90 days regardless the final result. But, since the Law on protection against harassment in workplace defines the psychological harassment as urgent procedure, the lawmaker has foreseen an even shorter legal term than 90 days. According to the article 24 par. 5 the mediation procedure should end within the period of 15 days. The outcome of the procedure depends on the successful or unsuccessful development of negotiations between the parties with the help of the mediator. According to the success of the mediation procedure, it also depend the conclusion of the mediation agreement that will include a way of solving the disputing issue i.e. the cessation of the harassment actions towards the employee but on the other hand will be convenient for the opposite side as well. So, if the mediation procedure is successful, i.e. the parties have reached that final and desired agreement, the mediator, within three days of the day of completion of the mediation procedure, drafts an agreement. This draft contain recommendations for the perpetrator of the workplace harassment and for the employer, for the termination of the harassment and for the way how to remove the possibilities for continuing the harassment at the workplace that like for ex. through moving the employee to another work room, that is, to another location (Art. 25, par.1 of Law on protection against harassment in workplace). The agreement will be concluded if will be signed by the parties in the dispute and mediator as well. After the agreement will be signed, the employer must obey the recommendations that are concluded in the mediation agreement. But, it can also happened the unsuccessful scenario in the mediation procedure. If the parties in the mediation procedure do not reach an agreement to stop the harassment in the workplace, the mediator is obliged within three days from the end of the mediation procedure to prepare a written notice that an agreement was not reached, that means that the mediation was unsuccessful (Art. 26 on Law on protection against harassment in workplace). The written notification of unsuccessful mediation prepared by the mediator, must be delivered to both parties and the employer. The unsuccessful mediation can happen also in case of withdrawing from the continuation of the mediation procedure. Article 27 also foresees as way to put to an end to the mediation procedure, the situations when the parties give up from the further conduct of the procedure with a written statement. In those cases the mediator is obliged to prepare a conclusion on stopping the procedure within three days of receiving the statements, which conclusion must be submitted to both of the parties and employer.

Conclusion

The employers' duty is to provide a safe and protected work environment to their employees. They must let them know that whenever appears actions that are same or similar to the mobbing actions they are protected, and not to be their final option the resignation from their current position or to quit from their job in the organization of the employer. The only way on how these obligations of the employer to be successful is by applying the laws that are in force that fight this negative phenomenon i.e. Law on protection against harassment in workplace. Also, the best way on how to provide a good legal coverage to their employees and to make it as reliable as possible, is to adopt internal act in form of regulations that to the employees the right of protection of their labor rights will facilitated. In that way they will immediately act in order to protect their rights guaranteed by Constitution, law, collective agreement, employment contract and other acts by terminating the actions that indicate the presence of mobbing.

When talking about acts, laws that regulates this subject, knowing of the complexity and severity especially when it comes to the negative effects of mobbing, which can have enormous consequences for a person's physical and mental health, the quality and productivity of work, disrupts the normal course of the

employee's life, his family file and harmony, inevitable is the need of reforms - revising the actual law of protection against harassment in workplace. Even that in general the law is good, and gives to our citizens good overview of the legal mechanisms that are very efficient into the protection of their rights and interests whenever they found themselves in mobbing environment, still the lawmaker must revise and expand the notion of psychological harassment in workplace in article 5 of the law regarding the form in which it can appear. Today, as a result of using of communication technology devices in our workplaces, the new form - Online psychological harassment or Online mobbing that is not recognized legally even that in practice is. This notion must be included in the law where it is given the definition of psychological harassment in workplace. As an argument for this recommendation is the fact that Online mobbing is one of the most used forms from the perpetrator of mobbing in every employer organization regardless the sector i.e. public or private. Also, the article 7 that defines the place of mobbing must go through revising and also extension of the same while defining the place that will be considered as place where the psychological harassment can take place. The lawmaker in this article can add the phrase that place of mobbing can be consider every place where its employees carry out the employers' activity. These changes will enable undertaking of action and application of efficient methods, which permanently will contribute to the prevention and elimination of mobbing. Except this, it will provide greater protection for the employees, especially in providing greater motivation of employees for work, creation and productivity.

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