

THE LEGAL AND MANAGERIAL ASPECTS OF COUNTERING MOBBING AS AN ORGANIZATIONAL PATHOLOGY

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Resume

Any organizational activity is constantly accompanied by side effects which contribute to the fact that organizational goals are not fully achieved. These phenomena and mechanisms are commonly defined as Using terms such as dysfunctions, pathologies, errors or malfunctions. Management pathology is a long-lasting significant malfunction in organizational management processes. For example, mobbing can be treated as a pathological condition, but also a dysfunctional mechanism leading to organizational malpractice. The aim of this article is to present the latest methods of counteracting organizational pathologies, including mobbing. The main research method was unstructured in-depth interviews. The solution describes specific cases of companies and the reasons for such and not other actions. The author of the legal part will be many years of practice and the creator of similar solutions.

Key words: mobbing, pathology, organization.

1. Introduction

The objective of this article is to systematization of knowledge about newest ways of countering the organizational pathology known as mobbing as well as ex-

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plaining the reasons behind the application of anti-mobbing programs. Sources of information allowing businesspeople to learn about this solution are also shown.

2. Literature Overview

All social actions are constantly accompanied by undesirable phenomena. The effect is that targeted goals are not fully achievable. This regularity also applies to various expressions of organizational activity. These harmful phenomena and mechanisms are commonly referred to through concepts such as dysfunction, pathology, errors, and inefficiency. All these terms have a negative ring, but it is important to note their very significant differences in meaning. Dysfunction as a phenomenon may lead to a pathological state (Pasieczny, 2015, p. 530). This means that dysfunction should be treated as a mechanism resulting in a worsening in the functioning of the organization as a whole or of some organizational process. Pathology in management is a long-term, significant incapacity in the process of managing an organization. Errors usually have a one-time character and are unintentional. Inefficiency is the opposite of praxeological efficiency, which encompasses actions characterized by attributes such as effectiveness, gainfulness, and economy.

In practice, the borderline separating these terms is often elusive. This is reflected in topical literature. According to R. Stocki, “pathology is any dysfunction in the organization that does not allow the achievement of realistic goals set for that organization over the assumed time period and applying defined resources” (Stocki, 2015, p. 49). Moreover, depending on the assumed perspective, specific organizational phenomena may be examined from the point of view of various terminological categories. For example, mobbing may be treated as a pathological state, but it can also be seen as a dysfunctional mechanism leading to inefficiency in the organization.

Pathology may be analyzed in various dimensions and contexts. Selected authors perceive this subject matter in the context of the organization lifecycle (Samuel, 2013, p. 5), the ecology of the population of organizations (Scott, 1992, p. 25), psychopathology (Kets de Vries and Miller, 1984, pp. 35–55), or by applying a systemic metaphor of an organism (Miller et al., 1991, pp. 239–252). There is a wealth of achievement by representatives of the diagnostic approach, which seeks and creates instruments for the identification and analysis of concrete situational conditions (e.g., Launsby, 2016; Gouliemos, 2005, pp. 362–377). This group of authors includes R. Stocki (Stocki, 2013), M. Gestmann (Gestmann, 2001), M. Guy (Guy, 1989), P. Hensel (Hensel, 2015, pp. 241–251) as well as S. Robinson and R. Benett (Robinson and Benett 1995, pp. 555–572), who developed an interesting typology of organizational behaviors that deviate from the norm.

A significant number of authors concentrate on studying pathology in defined, homogeneous organizations. This group includes researchers who concentrate their attention on dysfunctions and pathologies in administration. This is an enormous and

continuously growing research area. Also important are achievements in the field of analysis of the mechanisms of dysfunctional and functional pathologies in this area. To a large extent, administration is based on the M. Weber traditional, hierarchical, dehumanized model. Organizations built on the basis of this model are intended to be characterized by high efficiency, but primarily repeatability and impartiality. In practice, it is easy to observe functional pathologies in such organizations. Numerous authors have concerned themselves with the dysfunctional mechanisms of bureaucratic organizations. M. Crozier (1967) called attention to the mechanisms of creating parallel authority structures resulting in increased formalization of the bureaucratic organization. According to Crozier, members of an administrative organization usually do not accept its organizational standards and goals, but treat them instrumentally in connection with their own individual goals. According to P. Selznick, specialization and the mechanisms of control and delegation of authority to specialists in administration leads to growth in conflict among various organizational groups and units with differing interests. In trying to prevent processes leading to autonomy, organizations build their own ideologies that are instilled onto participants in the organization, which guarantees a minimum of conformity and loyalty (P. Selznick 1948, pp. 25–35). A. W. Gouldner (1954) analyzed the types of industrial bureaucracies and the practical consequences of their functioning. W. Kieżun identified an original dysfunctional mechanism leading to a decrease in the span of management. Talented workers in administration can only achieved material advancement by climbing the organizational hierarchy. This leads to major pressure aimed at advancement, which bears fruit in the creation of unnecessary and organizationally unjustified managerial positions as well as the decrease in the span of management (W. Kieżun 1971, pp. 219–220). Research conducted by the authors of this article demonstrates that such mechanisms can be noted not only in administration, but also in major corporations. R. K. Merton looked at the qualities of a dysfunctional personality as shaped by a bureaucratic organization, for example. Among these qualities he included (Merton, 1982, p. 259):

- Learned incompetence (actions based on models learned in the past can become dysfunctional under changed conditions),
- Professional psychosis (as a result of routine, people take on specific preferences and antipathies that impact on later work),
- Selectivity in perceiving organizational reality (seeing only certain aspects relating to organizational matters),
- Shifting feelings from organizational goals to defined details involving behavior as required by regulations,
- Shifting goals (instrumental goals become the ultimate value),
- Stereotypical behavior, an inability to solve individual problems, technicism, and formalism, and
- Demonstrating dominance with respect to the organization's customers.

Numerous authors are involved in selected pathological aspects of the bureaucratic organization. J. Lane and J. Wallis (2009) call attention to the matter of strategic leadership, which is hindered in public management by phenomena such as limited rationality and learned incompetence. Pathology also makes its appearance in the process of decision-making. Decision-making by groups is threatened by numerous pathologies such as the group-think syndrome, pushing through one's own vision, and sabotage (J.P. Burke, 2010; I.L. Janis, 1982). According P. Schulman, administrative organizations can also suffer from a process of decision "tunneling" – the upending of decisions by successive members of the organization as resulting from their defensive stance. Ultimately, even a limited rationality in decisions is pushed aside by behaviors and motives that, from the point of view of the organization, are pathological (P. Schulman, 1989, pp. 31–53). Other researchers are involved in questions of ethics and the problem of corruption in administration (I. Jamil and P. Panday, 2012, pp. 252–366).

Analysis of pathology in business is more difficult and very often restricted to selected areas (hierarchical, problem-oriented, and functional) of the company and its surroundings.

The broadest area of study of pathology in business is the social system of the organization, in its broadest sense. Researchers such as R. Stocki (2011), P. Lencioni (2005), and Y. Samuel (2010) devoted their work to such questions. This group also includes authors analyzing various dysfunctions and pathological behaviors in selected segments of the social subsystem. Numerous researchers undertake the problem of professional burnout. It is studied by W. Awa, M. Plaumann, and U. Walter (Awa, Plaumann, and Walter, 2010, pp. 184–190), D.W. Chan (Chan, 2011, pp. 809–823), J. Halbesleben, H. Osburn, and M. Mumford (Halbesleben, Osbourn, and Mumford, 2006, pp. 244–266), and others. Some researchers maintain that the progression of professional burnout in workers is more an effect of the actions of the organization than the personal qualities of the people encompassed by the phenomenon. The most probable cause of this pathology is dysfunctional organizational solutions (A. Montgomery, K. Georganta, and K. Dolougeri, 2015, pp. 37–43).

R.D. White considers striving towards excessive detail in the action of managers as a source of dysfunction (White, 2010, pp. 71–76). Managers are overly concerned with detail in the process of decision-making as well as in their oversight, which leads to the emergence of frustration among their subordinates. Such managers are the authors of many problems in the organization. It is the view of these author that this group of managers can lead to a loss in the involvement and the demoralizing of subordinates. Ultimately, this can even result in a threat to the continued functioning of the organization. Mobbing and the terrorizing of workers are a similar problem. Questions of terrorizing and intimidation are looked at by D. Archer in his scrutiny of the subject (Archer, 1999, pp. 94–105). This is also true of K. Björkvist, K. Österman, and M. Hjelt-Bäck, whose interests involve aggression among uni-

versity staff (Björkvist, Österman, and Hjelt-Bäck, 1994, pp. 173–184). According to M.J. Lecker, unethical leadership can have its source in the value system adhered to and the qualities of the worker as well as in organizational conditions, such as high levels of expectations on the part of the organization, high levels of stress, and the forcing of appropriate behaviors through hierarchical processes (Lecker, 2011, pp. 38–39).

Another, relatively well-identified area in organizational pathology is the decision-making process. The problem of the groupthink syndrome was looked at by Janis (1982), Simon studied limited rationality (2007), matters relating to decision-making in bureaucratic organizations was the subject of Merton's studies (1982), and L.A. Perlow, G.A. Okhuysen, and N.P. Repenning tie dysfunction with the rapid rate of decision-making (Perlow, Okhuysen, and Repenning, 2002, pp. 931–955). The dysfunctional mechanisms behind the mutual undermining of decisions by team members in administrative organizations are perceived by P. R. Schulman (Schulman, 1989, pp. 31–53). C. McMillan and J. Overall point to the sources of dysfunction as being in faulty strategic management systems that include filtering transmitted information so as to stress the positive and suppress the negative (McMillan and Overall, 2016, pp. 34–43).

Pathologies in organizational communication and the functioning of information systems in their broad sense are a problem that is studied relatively often. According to M. Gouliemos (2005), an organization must have at its disposal appropriate capacity for the development of information systems. Technical problems are a symptom of deeply-rooted pathology that leads to many failures. Similar conclusions are drawn by M. Biggs (2000), N.F. Doherty, M. King, and O. Al-Mushayt (2003).

A significant segment of researchers is concerned with the external sources of pathology. D. Miller looked at the problems of organizational pathologies during crisis (Miller, 1998, pp. 65–74). The role of financial institutions in the origins of crisis are stressed by J.C. Bogle (Bogle, 2009, pp. 122–123). Other researchers study problems stemming from expectations of very quick action by the organization (Perlow, Okhuysen, and Repenning, 2002, pp. 931–955).

Much rarer are efforts at developing theories that are more general as well as more universal. Among these is the already mentioned theory of R. Merton (1982) relating to personality dysfunction. This direction of thinking is being continued by W. Kieżun, who is involved in autonomization as an organizational pathology, which can be seen in the form of (Kieżun 2012, p. 16):

- Change of the main goal into a subsidiary one or another main goal,
- change in the manner of action, and
- a change in goals where the means of action (an ancillary goal) becomes the main goal.

Questions of autonomization through the concentration of organizational units exclusively on “ancillary aims” serving as means to achieve the main goals (bypassing other “ancillary aims” not encompassed by the range of their action) were also looked at by the only Nobel prize winner in the field of organization and management—H. Simon (Simon, 2007, pp. 96–100). In their bulk, the reflections of Simon were concentrated on administration, although his conclusions were universal in character. M. Dobrzyński takes the mechanisms of shifting goals (albeit the author himself does not apply this concept) as the basis of his thinking in analyzing pathologies in the functioning of contemporary corporations. Among the key pathological phenomena accompanying the functioning of today’s major corporations M. Dobrzyński considers (M. Dobrzyński, 2010, pp. 14–18):

- Absolute dominance of the corporation’s own interest,
- Impact on politics,
- Maximizing benefits by externalizing costs, and
- The global influence on culture and human attitudes.

J. Pasieczny and B. Glinka rank the following among the fixed and permanently made errors in management as a source of organizational pathology (J. Pasieczny and B. Glinka, 2008, pp.153–166):

- Creation by the organization itself of people who are irreplaceable,
- Replacement of day-to-day communication by occasional events/campaigns and the incompetent communicating of change,
- Excessive dependence on procedures,
- Failure to see the relationship between organizational outlay and outcomes,
- Lack of the will to learn as well as to procure new knowledge from workers,
- Shifting responsibility for mistakes onto others,
- Surrendering to a herd mentality,
- Ignoring minor signals,
- Concentration on the symptoms of problems, not on their causes,
- Shortening of time horizon for decisions,
- Absence of vision and reactivity, and
- Search for novelties while ignoring tested solutions.

S.L. Robinson and R.J. Benett conducted interesting research into organizational behavior deviating from the norm (1995). This research made possible the development of an original typology of deviant behavior.

Figure 1. A Typology of Deviant Workplace Behavior

		Organizational		
	Production Deviance – Leaving early – Taking excessive breaks – Intentionally working slow – Wasting resources		Property Deviance – Sabotaging equipment – Accepting kickbacks – Lying about hours worked – Stealing from the company	
Minor				Serious
	Political Deviance – Showing favoritism – Gossiping about coworkers – Blaming coworkers – Competing non-beneficially		Personal Aggression – Sexual harassment – Verbal abuse – Stealing from coworkers – Endangering coworkers	
		Interpersonal		

Source: Robinson S.L. and Bennett R.J. (1995). A Typology of Deviant Workplace Behaviors: A Multidimensional Scaling Study, *Academy of Management Journal*, Vol. 38, Issue 2, p. 565.

3. Mobbing as Seen by Various Areas of the Law

In line with one of the classical definitions, one may speak of mobbing when the victim is the object of systematic stigmatization by such means as the violation of his or her rights so as to make impossible the finding of employment in that person's profession after a few years. Both colleagues and the organization's management may be responsible for such tragic consequences (Leymann, 1990, p. 119).

Mobbing is a threat to work atmosphere and efficiency. It has an unfavorable impact on the team and is a cause of its disintegration. It is a phenomenon that is sufficiently dangerous so as to be a real threat to the functioning of the company, if only through a lowering of the value of its brand and image. Moreover, it spawns financial liabilities and may be a reason behind lawsuits demanding compensation, which strike at the financial security of the entities.

The concept of mobbing was introduced into the Polish legal order (in part as a consequence of Poland's entry into the European Union) by way of the Act of November 14, 2003 on Amendments to the Labor Code as well as Certain Other Acts (Journal of Laws No. 213, item 2081). The definition of mobbing is found in §2 of Article 94.3. of the Labor Code. In it, the legislator indicates that mobbing signifies actions or behavior related to a worker or aimed against a worker that involve the persistent and long-term harassment or intimidation of the worker, resulting in lowered assessment of professional competence by that worker, bringing about or intended to humiliate or embarrass that worker, isolate him or her, or eliminate the worker from the team of coworkers.

The legislator did not specify when the duration of the presence of pathological behaviors meets the criterion of long-term. However, on the basis of judicial rulings it is possible to assume that the minimum period is six months. At this point it is worth noting that there is a common erroneous view that mobbing can only refer to superior-subordinate relations. Official relations are not a key factor in assessing mobbing behaviors. Worth stressing is the fact that pursuant to binding regulations (Article 94.3, §1 of the Labor Code), the employer is obligated to counteract any mobbing. This provision obligates the employer to care for the personal welfare of the employee as well as to create a safe and friendly work environment and proper conditions and atmosphere in the workplace. However, the provisions of the Labor Code fail to indicate how this duty is to be performed. They provide no guidelines according to which it might be possible to detail exactly what actions performed by the employer make it possible to acknowledge that the employer is meeting legal obligations.

In principle, the employer must consider being responsible for any negative outcomes resulting from mobbing that may be the subject of a lawsuit demanding compensation. In line with the wording of Article 94.3, §3 of the Labor Code, any employee who suffers a health disorder as a result of mobbing may seek monies from the employer as compensation for harm incurred.

The Polish Criminal Code currently in force does not specify the crime of mobbing directly. Moreover, it contains no definition of mobbing. However, this does not mean that such pathological behavior is not a crime. The legislator penalizes acts (crimes) directed against the rights of people performing paid labor (e.g., Article 218, §1a and Article 220 of the Criminal Code) as well as against life, health, freedom, honor, and battery (e.g., Article 190a, §1 of the Criminal Code).

This being the case, in the event of the occurrence of pathological phenomena of a mobbing-like character, the employee has a wide gamut of legal tools that may be used in the defense of his or her rights. It is up to the employee to initiate actions in the area of labor or criminal law (or possibly both).

4. Court Sentences and Their Consequences for the Company

Of particular importance with respect to the phenomenon of mobbing is the ruling of the Chamber of Labor, Social Security, and Public Matters of the Supreme Court of August 3, 2011 (I PK 35/11). The main point of this ruling is the statement that the obligation to counteract mobbing is one of diligent effort, where the employer must work to prevent mobbing (especially through staff training, providing information on the dangers and consequences of mobbing as well as by implementing procedures making possible the discovery and combating of this phenomenon).

Of particular importance is the premise contained in item 3 of the decision. It leads to the conclusion that if during the hearing examining the liability of the employer by virtue of mobbing, the employer demonstrated the undertaking of real actions aimed at counteracting mobbing, where their objective assessment confirms their potential for absolute effectiveness, the employer may be relieved of liability.

To the extent discussed, this ruling is of extreme importance not only in legal practice, but it also influences strategic decisions taken by managers in the process of managing an organization. It is obvious that the managerial staff strives to make rational decisions in order to safeguard the interests of the entity, including decisions that play a role in increasing financial security. In undertaking real actions counteracting pathological behaviors characteristic of mobbing at an appropriate point in time, the employer not only meets obligations as applied by the Labor Code, but also safeguards the entity against the negative impact of mobbing in the area of management. It is through such efforts that the employer can be relieved of civil liability in the event of the filing of a lawsuit. If, over the course of the hearing, the employer is successful in demonstrating that appropriate remedial measures were in fact introduced and, in spite of this, pathological behavior occurred, then the employer may be deemed free of liability by showing that the victim of mobbing failed to make use of possibilities created within the workplace by the employer and did not initiate available anti-mobbing procedures or that the mobbers consciously violated the introduced regulations. It is the view of the Supreme Court that in such a case the employer cannot be held liable within the framework of Article 94.3, §1 of the Labor Code. It is for this reason that responsibility for the phenomenon can only rest with the perpetrator of the mobbing. As a side note, it should be stated that the employer may endeavor to free himself of liability for mobbing by simultaneously demonstrating that essentially no behaviors characteristic of mobbing took place within the workplace or that the existing behaviors do not qualify as mobbing.

5. Programs for Counteracting Mobbing

In connection with obligations encumbering the employer as applied by the Labor Code, concern for creating the best possible conditions in the workplace, including in the area of occupational health and safety as well as undertaking anti-

mobbing efforts, may be tied to tangible financial benefits and lead to the relieving of the employer of financial liability. Upon identifying the existence of pathological behaviors, the managerial staff takes the decision to introduce anti-mobbing activities in their entities with increasing frequency while at the same time developing appropriate mobbing prevention and counteraction programs. Implemented procedures should be both preventive and interventional in character. This is often coupled with the preparing of appropriate documents containing rules on how to proceed in the event of the occurrence of pathological behaviors.

The objective behind the development and implementation of a program for countering mobbing is raising the awareness of workers with respect to the phenomenon of mobbing as well as improving their familiarity with instruments intended as protection (including legal protection) that may be initiated in the event of the appearance of mobbing practices.

As a result of the effective introduction of such a program, the employer and employee should be capable of properly diagnosing whether or not defined phenomena are indeed mobbing practices or merely a personal conflict that makes its appearance in interpersonal relations relatively often, including in the workplace. The employee, when armed with the ability to properly diagnose mobbing activities, should be made aware of amicable procedures that exist in the workplace and should be familiarized with ways of activating them. At the same time, the employee should have knowledge regarding aspects of criminal and labor law in effect within the territory of the Republic of Poland making possible the launching of legal measures (filing notifications of possible criminal acts, lodging a complaint before the Labor Court, etc.).

In order to achieve such a state of affairs, the employer should consider introducing solutions, examples of which are indicated below (programs described on the basis of information from respondents), jointly or separately, and to guarantee:

- The organization of anti-mobbing training with the intention of raising awareness in the area of mobbing (the preferred method is training conducted by lawyers, occasionally with the participation of psychologists),
- The conducting of discussions on this subject,
- The development in the company of procedures initiating the amicable settling of disputes as well as procedures to be followed by the managerial staff, where these procedures define desirable behaviors in the event of the appearance of mobbing and other pathological phenomena and where these procedures should take on the form of a separate document or be included in the work bylaws or collective labor agreement by way of relevant provisions (where all employees should be made familiar with these regulations and confirm this fact in writing),
- The development of procedures providing information regarding the existence of dangerous phenomena (e.g., an anonymous questionnaire conducted periodically among employees and the placement in a discrete, easily accessible location

- of a mailbox facilitating the anonymous forwarding of information regarding mobbing practices),
- The establishing of an anti-mobbing commission tasked with specific activities, most often with the examination of the legitimacy of complaints as well as verification of information regarding worrying phenomena, and
 - The development or introduction of a code of ethics and the creation of an ethics ombudsman.

The application of defined solutions and their numbers is dependent on the characteristics of the company and the profile of its operations as well as the specifics of the people making up a defined professional group and work environment, especially with respect to frequency of conflicts and their duration.

In the application of such solutions it is absolutely necessary to attend to the shaping of desirable behaviors by employing the appropriate disciplinary means with respect to perpetrators as well as to care about the safety and comfort of people forwarding a problem and that of any victims.

6. Research Description

The primary research method used was the unstructured in-depth interview. It was conducted in twenty businesses operating in the Mazovian Voivodeship [Province]. The studied entities were required to employ no less than ten people. The entities were diverse not only in terms of employment levels, but also with respect to ownership structure, management structure, and the owners themselves. Only one state institution was examined, where the rest were capital companies and independent contractors. Local government was a shareholder in some of the entities. Operating profiles and industries varied greatly among the examined group (most provided services, trade was second, followed by manufacturing). The decided bulk of the companies was linked with urban areas (nineteen out of twenty). The selected entities had managements aware of the significant aspects of mobbing and knew of the benefits stemming from the introduction of anti-mobbing policies. The interviews were conducted with the managerial staff of the entities, which was made up of owners or managers.

Fourteen businesses had undertaken anti-mobbing efforts, although it was in only two of the examined institutions that any real threat of mobbing occurred. Only six entities declared that they did not undertake any organized anti-mobbing activities. The duration of the interviews was approximately one hour.

One of those six businesses declared that due to the characteristics of the people employed in that workplace and because of the significant fluctuations and seasonal nature of employment there was no justifiable need for undertaking any organized anti-mobbing activities. At the same time, that employer listed two consequences of introducing such activities that in his view were negative. First of all,

he stressed that they would generate needless costs. This was due to the significant fluctuation of staff at the company as well as short periods of employment, both of which do not foster the integration of workers or their identification with the company. It was concluded that the cost of training each and every worker in the face of such major fluctuations would be unreasonably higher than any threat stemming from possible mobbing that might take place in the workplace. The second reason was an expressed fear that raising the level of knowledge of workers in the area of legal recourse (including the possibility of filing a lawsuit against the employer with the Labor Court) in combination with the very significant worker fluctuations and their low level of integration with the workplace might lead to abuse and efforts to extort money by way of lawsuits seeking compensation. In light of the fact that, as the employer ensured, he abided by rules as defined in the Labor Code with respect to creating appropriate conditions for work, he was not afraid of negative court rulings, but primarily of the cost of lawsuits, including the additional expenses relating to legal services.

For their part, four of the owners of the examined companies thought that anti-mobbing procedures created unnecessary costs in light of the specifics of those entities. They noted that they are the owners of small businesses whose staff is fully crystalized and strongly integrated, if only because there are related. When taking these factors into account, the probability of pathological behavior is minimal. It was stressed that the job environment they create is small and easy to observe. This means that in the event of the occurrence of any behavior that could be characterized as mobbing, they are capable of immediately undertaking personnel decisions or of developing and introducing an anti-mobbing program.

The consequences for entities where a threat of mobbing occurs can be enormous. It is obvious that conflicts among employees do not have a positive effect on work atmosphere and interpersonal relations. Divisions occur and conflicts escalate. Such circumstances do not foster work efficiency and the achievement of defined targets. Just the mere threat of mobbing and especially of any actual mobbing in any form may cause damage to company image as a result of the actions of an employee (the victim of mobbing or alleged mobbing) amplified by the local media or the interest of judicial institutions, for example.

Practically all employees of one of the examined entities where the threat of mobbing occurred were of the view that the threat is unreal. They perceived the actions of the alleged mobbing victim to be exaggerated and were only an attempt to obtain undue financial compensation. They saw the occurrence of the situation as a normal work conflict stemming from difficulties in the adaptation of the individual to employer requirements as well as to rules in effect in the work environment. In spite of such an assessment, the managerial staff treated this matter very seriously and applied a broad gamut of actions of both a preventive (educational) nature and aimed at counteracting mobbing. Even when the established anti-mobbing com-

mission also did not find any real danger of mobbing, efforts of a preventive nature were continued. Well-targeted and balanced personnel decisions were not without import in the effective settling of the problem. This unequivocally proves the truth in the argument that effective mobbing counteractions must simultaneously encompass three spheres—legal, practical management, and organizational ethics and culture.

In a second case, it also turned out that there was no mobbing behavior, but only a regular conflict among employees that, immediately upon discovery, was successfully solved thanks to appropriate personnel decisions. It is the view of the company owner that the threat of mobbing could have been real had such behavior had greater duration and had it not been discovered and eliminated early on.

These cases, perhaps thanks to publicity, might be responsible for fostering the interest of company owners as well as of managerial staff in the region in questions of mobbing and the seeking of appropriate solutions—preventive as well as aimed at counteracting negative phenomena and safeguarding entities to the best possible degree against the negative consequences of mobbing (including financial consequences).

Company owners and the managerial staff learn about possibilities for implementing anti-mobbing programs as well as related benefits thanks to information provided by services in the field of occupational health and safety or those providing legal services. The proper operation of such services should not be limited to the diagnosing of running problems, but should also involve the indication of hypothetical threats and the presenting of potential solutions that might work to thwart such threats. The mass media can also be a source of information. Information of this type is also transferred in talks among company owners as a part of the sharing of experience.

No employee filed a lawsuit against his or her employer demanding compensation by virtue of the negative consequences of the phenomenon of mobbing before the Labor Court in any of the twenty examined cases.

An interesting fact is that mobbing is seen by those examined as a threat that might impede collaboration between the examined entities and corporations. It was considered rather obvious that the appearance of the phenomenon of mobbing does not foster the establishing of commercial contacts, especially contacts of a service nature, with any entity, but especially with one concerned about high corporate standards.

7. Countering Mobbing

Something that can be observed in practice is the significant growth in mobbing countering activities. This often takes on the form of legal offices and consulting companies being commissioned to develop anti-mobbing procedures. One of the respondents noted a threefold increase in such orders over the space of the past three

years. Interest in anti-mobbing activities was also confirmed by managerial staff taking part in the study. Respondents stressed that the reason behind the implementation of such procedures was information received from entities providing legal services. The main incentive for employers was prevention. Only in one case was action the result of an actual threat of mobbing. There, a decision was made to undertake action of a remedial nature.

Among those studied, the most popular solution was the providing of training aimed at raising the level of knowledge and awareness regarding mobbing on the part of both workers and management. Employers agree that such a solution has the greatest chances of meeting requirements as defined by the Supreme Court in the arguments of the cited ruling. Such a solution may be qualified as realistic and objectively effective in the area of raising awareness in the workplace. A factor fostering such a solution is convenience and minimal time-involvement on the part of the employer. However, it is not the least expensive of solutions (according to respondents the cost is approximately PLN 500–600 per person provided with training if the training is performed by an external company, but costs may be significantly minimized if the company has its own occupational health and safety services and legal services capable of training an employee in-house). The quality of the course is an important criterion for the employer, because this is the determinant relieving them of civil and legal liability. Among the twenty examined entities, six implemented a training system, one introduced the institution of ethics ombudsman and a code of ethics, two successive ones established anti-mobbing commissions, and four conducted anonymous questionnaires among employees. No anti-mobbing procedures were introduced in the remaining entities. None of the examined entities installed anonymous mailboxes. According to some of the respondents, questionnaires are not a sufficient solution as they can only be considered a tool for procuring information as to whether it is absolutely necessary to undertake efforts on a broad scale. However, questionnaires can answer questions regarding the effects of the introduction of previously defined anti-mobbing procedures or assess the effectiveness of remedial action taken. Only one entity decided to apply a broad gamut of means using all of the mentioned possibilities with the exception of the mailbox. The reason behind this is the good financial condition of that company and the care demonstrated by the management in safeguarding the company's good name.

8. Summary

Interest on the part of employers in effective mobbing counteraction by introducing anti-mobbing procedures increased as a result of the ruling by the Supreme Court. Although the Labor Code had already obligated company owners and their management to maintain good atmosphere in the company, it was only this ruling that increased interest in mobbing prevention on a broad scale. The desire to evade

liability for mobbing by the company and the related implementation of appropriate procedures gave owners sudden and unexpected profits in the form of lower amounts of compensation paid out by companies or even their complete absence. As an added benefit, respondents also pointed to growth in worker efficiency brought about by the better atmosphere at work. It was the ruling itself that forced employers to undertake realistic and tangible actions aimed at limiting behavior that violated the law and, ultimately, made possible the evading of liability on the part of the company. Legislation, as it stands today, is responsible for a situation in which those managing companies often choose high-quality and costly solutions – e.g., training or courses – thanks to which the company is better protected against decisions awarding compensation in the event of any lawsuit. Anti-mobbing programs are an interesting case of a solution that became important as a result of a ruling of the Supreme Court. This translated not only into the undertaking of actions aimed at securing the employer against liability, but also in the improvement of conditions in the work environment, primarily acting against that organizational pathology known as mobbing.

Respondents are undertaking anti-mobbing efforts without actually seeing any direct threat, but taking into account the customs and standards in effect in Poland, they are taking into consideration the fact that such cases may increase in number as a result of the taking on of specific behaviors and models from the United States and Western Europe (especially as a result of the return of economic emigrants).

Literature

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PRAWNE I ZARZĄDCZE ASPEKTY PRZECIWDZIAŁANIA MOBBINGOWI JAKO PATOLOGII ORGANIZACYJNEJ

Streszczenie

Wszelkiej działalności organizacyjnej nieustannie towarzyszą zjawiska niepożądane, które przyczyniają się do tego, że cele organizacyjne nie są w pełni osiągane. Te zjawiska i mechanizmy potocznie określa się m.in. przy użyciu takich pojęć, jak: dysfunkcje, patologie, błędy czy niesprawności. Patologią zarządzania jest długotrwała istotna niesprawność

w procesach zarządzania organizacją. Przykładowo mobbing może być traktowany jako stan patologiczny, ale również dysfunkcyjny mechanizm prowadzący do nieprawności organizacji.

Celem artykułu jest przedstawienie najnowszych sposobów przeciwdziałania patologiom organizacyjnym, w tym mobbingowi. Główną metodą badawczą były nieustrukturalizowane wywiady pogłębione. Przedstawione rozwiązanie opisują konkretne przypadki firm i powody podjęcia takich, a nie innych działań. Autorem części prawnej będzie wieloletni praktyk i twórca podobnych rozwiązań.

Słowa kluczowe: mobbing, patologia, organizacja.