

Chugaievska A. V.,
Ph.D. in Law, Associate Professor,
Associate Professor of the Department of Public and International Law
Educational and Scientific Institute — Law Institute
Kyiv National Economic University
named after Vadym Hetman

MOBBING AS A DISCRIMINATION PRACTICE IN THE PROFESSIONAL ENVIRONMENT

In the current conditions of democratic society development, the issue of ensuring equality and protecting human rights in the sphere of labour has acquired particular relevance. Mobbing is one of the negative phenomena that violates the principles of equality and a safe professional environment.

International legislation prohibits any manifestations of discrimination against employees in the sphere of labour relations. Thus, the Directive of the European Union of 27 October 2000 No. 2000/78/EC establishes the principle of equal treatment in the sphere of employment and occupation. In particular, the document specifies that behaviour aimed at creating a hostile, humiliating or offensive atmosphere for a person is regarded as harassment of an employee and is equated with discrimination in the sphere of labour rights [1].

In accordance with national legislation, mobbing (bullying) is a prolonged and systematic form of intentional psychological or economic pressure on the part of an employer, individual employees or the workforce, aimed at humiliating the honour, dignity and professional reputation of an employee. Such actions may be intended to influence the exercise by the employee of his or her labour rights and obligations, and may be carried out, in particular, through the use of electronic means of communication. As a result of mobbing, a hostile, tense and offensive atmosphere is created for the person, which has a negative impact on his or her professional activities, psychological state and self-esteem [2].

Following the official legislative recognition of the concept of mobbing in Ukraine in 2022, the problem of psychological harassment in workplaces attracted considerable public attention. An analysis of judicial practice indicates that the most widespread forms of

mobbing are systematic humiliation of the employee's honour and dignity, dissemination of false information, psychological pressure, deliberate isolation from the collective, and the creation of an unfavourable and tense atmosphere in the professional environment [3].

The practice of the European Court of Human Rights (hereinafter – the ECHR) plays an important role in shaping approaches to countering mobbing. In particular, in the case of *Ortega Ortega v. Spain (application no. 36325/22)*, the ECHR found a violation of the right to protection from discrimination in labour relations. The Court noted that the dismissal of the employee following the filing of a complaint regarding gender-based pay inequality effectively constituted a form of harassment and undermined the effectiveness of the mechanism for protection against discrimination in the sphere of labour [4].

In the case of *Copland v. the United Kingdom (application no. 62617/00)*, the ECHR examined a situation in which an employer monitored an employee's telephone calls, e-mail and internet use without her knowledge or consent. The Court found a violation of Article 8 of the Convention, which guarantees the right to respect for private life and correspondence, stating that such monitoring without prior notification or adequate legal grounds constitutes an interference with the private sphere of the employee. At the same time, the Court emphasised that, although employers may in certain cases exercise control over the use of official means of communication, such measures must meet the criteria of lawfulness, necessity and proportionality [5].

These and similar cases demonstrate the balanced approach of the European Court of Human Rights, which simultaneously guarantees the protection of employees' right to private life and acknowledges certain powers of employers. At the same time, such powers are permissible only on condition that they are proportionate, transparent and legally justified. Judicial practice also emphasises the necessity of observing established procedures, the mandatory notification of employees and clear boundaries with regard to the exercise of control in the workplace. This is of particular relevance in the context of the formation of Ukrainian judicial practice on mobbing and the resolution of existing problems in this area.

Moreover, international judicial practice indicates that the creation of a hostile atmosphere in the professional environment, systematic humiliation and psychological pressure are regarded as violations of the principles of equality and respect for human dignity.

The main problems in holding persons liable for mobbing in Ukraine are the difficulty of proving the fact of psychological harassment, the high level of latency of such offences, and the insufficiently developed state of judicial practice. Since mobbing manifests itself mostly in the form of psychological pressure, humiliation, isolation of the employee or the creation of a hostile atmosphere, it is difficult for victims to collect adequate and admissible evidence of the systematic nature of such actions [3].

As researchers note, an analysis of judicial practice demonstrates that establishing the fact of mobbing is complicated by its latent and systemic character, which accordingly also complicates the identification and proof of the grounds for imposing disciplinary liability [6, p. 56].

Despite the existence of a legislative definition of mobbing, judicial practice demonstrates considerable difficulties in its legal qualification and proof. Among the main reasons for such difficulties the following should be highlighted: the subjective nature of the assessment of mobbing, the absence of unified criteria for its determination, the difficulty of proving the fact of psychological pressure, as well as the insufficient level of specialised training of judges in this area [7, p. 23].

Thus, the problem of mobbing in the conditions of the modern professional environment requires a comprehensive interdisciplinary approach combining legal, psychological and social mechanisms of counteraction. The formation of a gender-sensitive policy in the sphere of labour, aimed at ensuring safe conditions for professional activity, the prevention of discrimination and the effective protection of the dignity of the employee, acquires particular importance.

A necessary condition for the affirmation of the principles of equality and social justice is the consideration of the practice of the European Court of Human Rights,

international standards in the sphere of protection of labour rights, as well as the introduction of effective mechanisms for responding to manifestations of mobbing in the workplace. At the same time, the formation of a stable judicial practice in Ukraine, which will ensure the consistent application of legislation, the development of clear criteria for the qualification of mobbing and the enhancement of the effectiveness of judicial protection of employees' rights, is acquiring important significance.

References

1. Directive No. 2000/78/EC of the Council of the European Union establishing a general framework for equal treatment in employment and occupation, 27.11.2000. URL: https://zakon.rada.gov.ua/laws/show/994_a65 (accessed: 11.05.2026).
2. On Amendments to Certain Legislative Acts of Ukraine on the Prevention and Counteraction of Mobbing (Bullying): Law of Ukraine of 16.11.2022 No. 2759-IX. URL: <https://zakon.rada.gov.ua/laws/show/2759-IX> (accessed: 11.05.2026).
3. Mobbing at work: judicial practice. Judiciary of Ukraine. URL: <https://court.gov.ua/press/news/1599308/> (accessed: 11.05.2026).
4. *Ortega Ortega v. Spain* (Application No. 27474/22): Judgment of the European Court of Human Rights, 2025. URL: <https://hudoc.echr.coe.int/eng?i=001-247361> (accessed: 11.05.2026).
5. *Copland v. the United Kingdom*: Judgment of the European Court of Human Rights (Application No. 62617/00), 3 April 2007. URL: <https://hudoc.echr.coe.int/eng?i=001-79996> (accessed: 11.05.2026).
6. Valetska O.V. Analysis of judicial practice in cases regarding the establishment of the fact of mobbing as a ground for imposing liability. *Current Problems of Law: Theory and Practice*. 2023. No. 2 (46). Pp. 48–57. URL: <https://surl.lu/jbtyqm> (accessed: 11.05.2026).
7. Fakas I.B. Procedural aspects of the examination and resolution of disputes on the establishment of the facts of mobbing (bullying) at work in civil proceedings. *Scientific Bulletin of Kherson State University. Series "Legal Sciences"*. 2024. Pp. 20–23. URL: <https://lj.journal.kspu.edu/index.php/lj/article/view/453> (accessed: 11.05.2026).