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LEGAL FRAMEWORK FOR REGULATING THE PREVENTION OF MOBBING IN THE SYSTEM OF THE STATE CRIMINAL EXECUTIVE SERVICE OF UKRAINE

The article highlights the legislative framework and problems of combating mobbing (harassment) in the environment of the State Criminal Executive Service of Ukraine. In 2017, attempts were made in Ukraine to implement a new draft law on combating mobbing into legislation. However, only in 2022, thanks to the adoption of Law No. 2759-IX, an official definition of mobbing was provided for the first time in Ukraine and amendments were introduced to the current Labor Code, as well as the Law of Ukraine "On Collective Agreements and Contracts".

Key words: *mobbing, State Criminal Executive Service of Ukraine, legal regulation, prevention, legislation, employee.*

Introduction. Mobbing, or workplace bullying, manifesting as systematic psychological pressure, discrimination, or even cruel treatment of employees, not only tramples upon their rights but also inflicts deep wounds on their psychological well-being, leading to a decline in productivity and fostering a toxic atmosphere within the collective. Unfortunately, even after the adoption of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding the Prevention and Counteraction of Mobbing (Bullying)" of November 16, 2022, No. 2759-IX, the problem of mobbing has not lost its relevance. The current legislation, while containing certain mechanisms to counter this problem, still has a number of shortcomings. In particular, the concepts of mobbing and its forms are not clearly defined, there are no effective levers to protect victims, and the sanctions for committing mobbing are often too

lenient. Moreover, in state bodies, particularly in the State Criminal Executive Service of Ukraine, there are no clear internal regulations regarding the prevention of mobbing, which makes it difficult to combat this phenomenon in practice.

The relevance of this study lies in the imperative need for a comprehensive analysis of the legal foundation for preventing mobbing within the State Criminal Executive Service of Ukraine, identifying gaps in current legislation, and formulating proposals for its improvement. Particular attention should be paid to the analysis of bills (draft laws) that were or continue to be under consideration by the Verkhovna Rada of Ukraine, especially those that provide for increased liability for mobbing and the introduction of additional preventive measures.

Review relevant existing scholarship. Specific issues of mobbing in labor relations have been highlighted in the works of such scholars as T. Krasiuk, A. Fedorchenko [1], and T. Koliada [2]. The legal regulation of mobbing has been studied by V. Puzyrnyi [3], T. Kolesnik [4], K. Lytvyniuk [5], I. Lomakina [6], and K. Kukhar [7]. Issues related to mobbing in law enforcement agencies, particularly within the State Criminal Executive Service, have been considered in the works of I. Lopushynskyi, O. Kovnir [8], and E. Miden [9; 10].

The purpose of the article is to study and analyze the current legislation and bills (draft laws) for preventing mobbing within the State Criminal Executive Service of Ukraine, and to develop proposals for improving the legal regulation of this area.

Results. As of the beginning of 2025, the fight against the spread of mobbing within the State Criminal Executive Service of Ukraine in the legislative field is based on national legislation.

The adoption of the Bill No. 5748 "On Amendments to Certain Legislative Acts of Ukraine Regarding Counteraction to Violations of Rights in the Field of Labor" as a Law of Ukraine No. 2759-IX was an important step towards combating mobbing in Ukraine. This Law for the first time at the legislative level established the concept of mobbing, defining it as "systematic (repeated) prolonged intentional actions or inaction by an employer, individual employees, or a group of employees of a labor collective, which are

aimed at humiliating the honor and dignity of an employee, their business reputation, including for the purpose of acquiring, changing, or terminating their labor rights and obligations, which are manifested in the form of psychological and/or economic pressure, in particular using electronic communication means, creating a tense, hostile, offensive atmosphere in relation to the employee, including one that forces them to underestimate their professional suitability" [11].

Law of Ukraine No. 2759-IX introduced amendments to the Labor Code of Ukraine, adding Article 2-2, which prohibits mobbing and defines the rights of employees who have suffered from it. In particular, an employee has the right to apply to the court with a statement on the protection of their labor rights from mobbing [12]. In addition, Law No. 2759-IX provides for amendments to the Law of Ukraine "On Collective Agreements and Contracts", providing for the possibility of including provisions on the prevention of mobbing and liability for its commission in collective agreements [13].

Despite the positive changes introduced by Law No. 2759-IX, a number of issues remain that require further regulation, including the difficulty employees face in gathering sufficient evidence of mobbing to prove it in court, the need to clearly define the types of liability applicable to those guilty of mobbing and establish effective mechanisms for holding them accountable, and the development of separate departmental regulations within the State Criminal Executive Service of Ukraine that address the unique ways mobbing manifests in this system and provide effective prevention mechanisms.

It should be noted that other bills (draft laws) have also been considered in the legislative field of Ukraine to counter the spread of mobbing. Early efforts, like Bill No. 7005 (2017), faced expert criticism regarding compensation and terminology. It was ultimately withdrawn [14]. Similarly, Bill No. 10118 (2019), proposing amendments to several codes and laws, was also withdrawn due to concerns about the definition of mobbing [15]. The conclusion of the Main Scientific and Expert Directorate dated May 13, 2019 noted that in this Bill, the definition of "mobbing" required clarification. In particular, the inclusion of physical violence against

an employee (since this is a separate offense) and economic violence (due to the unclear content of this concept) seemed somewhat dubious to experts. Alternative Bills (10118-1 and 10118-2) met the same fate [16; 17]. Bill No. 4306 (2020), focusing on administrative responsibility, also received criticism for its definition of mobbing and the burden of proof it placed on victims [18]. Despite these challenges, Ukraine adopted Bill No. 5749 as Law of Ukraine No. 2557-IX (2022), adding Article 173-5 to the Code of Administrative Offenses, introducing fines and community service for mobbing [19]. Currently, Bill No. 11044 (2024) is under review, aiming to address the issue of enforcing anti-mobbing legislation during martial law, which currently prohibits labor relation checks [20]. However, it requires further development.

For employees of the State Criminal Executive Service of Ukraine, the specific conditions of their work create a significant risk of mobbing in the work environment. The hierarchical structure, which is certainly important for the functioning of the Service, creates a system in which the top has the opportunity to abuse their power. And this, in turn, can lead to psychological pressure and persecution of subordinates.

Mobbing in this case can manifest itself in various forms, for example, in unjustified criticism, significant workloads or unfair treatment. The victim may face social isolation, verbal abuse or sabotage of their work. In addition, the militarized nature of the Service can create a culture of submission and fear, which makes it difficult for victims to report cases of mobbing or seek help. They may fear retaliation or believe that their concerns will be rejected. Therefore, it is extremely important that trade union organizations of enterprises of the State Criminal Executive Service of Ukraine supplement their collective agreements with the possibility of measures aimed at preventing, counteracting, and ending mobbing, in particular measures to restore the rights of employees harmed as a result of mobbing.

It is necessary to improve the legislation on mobbing, in particular, to develop clear mechanisms for proving mobbing and bringing the perpetrators to justice. It would also be worthwhile to develop departmental regulations that would take into account the

specifics of the manifestation of mobbing in the State Criminal Executive Service system and provide for effective mechanisms for its prevention. Institutions within the State Criminal Executive Service system must ensure the effective functioning of mechanisms for handling complaints of mobbing and providing assistance to affected employees. It would not be superfluous to conduct information campaigns and training to raise awareness of the State Criminal Executive Service of Ukraine personnel about the problem of mobbing and employee rights.

Conclusions. The analysis of the legal framework for regulating the fight against mobbing in the system of the State Criminal Executive Service reveals not only the achievements of Ukrainian legislation, but also certain shortcomings. Among the problems in combating mobbing, one can single out ineffective implementation and enforcement of this legislation, especially in the unique working environment of the Service.

The current legal framework for combating mobbing has been in place for many years, as evidenced by numerous bills that have been proposed and subsequently withdrawn (No. 7005, 10118, 10118-1, 10118-2, 4306, 11044). The adoption of Law No. 2557-IX, which introduced administrative penalties for mobbing, was also a positive achievement, but its effectiveness is questionable due to the current restrictions on labor inspections during martial law.

Furthermore, the hierarchical and militarized structure of the Service presents specific challenges. The potential for abuse of power by superiors, coupled with the close working environment, can create fertile ground for mobbing, including psychological pressure, discrimination, and bullying among colleagues. A culture of obedience and fear can further discourage reporting and help-seeking behaviors.

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ПРАВОВА ОСНОВА РЕГУЛЮВАННЯ ЗАПОБІГАННЯ МОБІНГУ В СИСТЕМІ ДЕРЖАВНОЇ КРИМІНАЛЬНО- ВИКОНАВЧОЇ СЛУЖБИ УКРАЇНИ

У статті висвітлюється законодавча основа та проблеми боротьби з мобінгом (цькуванням) у середовищі Державної кримінально-виконавчої служби України. Протягом останніх років українське законодавство в цьому напрямі пройшло через помітні трансформації. Починаючи з 2017 року, в Україні відбувалися спроби імплементації в законодавство нового законопроекту щодо протидії мобінгу. Однак тільки 2022 року, завдяки ухваленню Закону № 2759-IX, уперше в Україні було надано офіційне визначення мобінгу та введено зміни до чинних Кодексу законів про працю, а також Закону України «Про колективні договори і угоди». Закон визначив мобінг як систематичні, тривалі та умисні дії чи бездіяльність, спрямовані на приниження гідності, репутації чи професійної придатності працівника, часто шляхом психологічного чи економічного тиску. Він також надав працівникам право звертатися до суду та дозволяє вносити положення про боротьбу з мобінгом у колективні договори. У 2022 році було ухвалено і Закон України № 2557-IX, який закріпив у Кодексі про адміністративні правопорушення санкції проти тих, хто вчиняє мобінг. Незважаючи на ці досягнення, у статті висвітлено кілька нерозв'язаних питань. Основні проблеми стосуються труднощів, з якими стикаються жертви під час збору достатніх доказів для підтвердження факту мобінгу в суді, відсутність чітких механізмів відповідальності для винних та відсутність спеціалізованих відомчих нормативних актів, адаптованих до робочого середовища Державної кримінально-виконавчої служби. У статті пропонується, щоб профспілкові організації підприємств Державної кримінально-виконавчої служби України доповнили свої колективні договори інформацією про можливі заходи, спрямовані на запобігання, протидію, а також припинення мобінгу, зокрема заходи щодо відновлення порушених унаслідок мобінгу прав працівника.

Ключові слова: мобінг, Державна кримінально-виконавча служба України, правове регулювання, запобігання, законодавство, працівник.