



INSTITUTIONAL RESPONSE AND ORGANIZATIONAL POLICIES FOR VIOLENCE AT THE WORKPLACE

PSYCHOLOGICAL AND SEXUAL HARASSMENT



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ASSOCIATION FOR EMANCIPATION
SOLIDARITY AND EQUALITY OF WOMEN

CONTENT:

Introduction	4
Summary report	5
Survey methodology	20
Part one: Action of the institutions and other actors with regard to the violence at the workplace	24
<i>I. Institutional response of the competent institutions regarding the action taken in cases of violence at the workplace –psychological harassment (mobbing) and sexual harassment Introduction</i>	24
I.1 Ministry of labor and social policy	25
I.2 State labor inspectorate	26
I.3 Commission on prevention and protection from discrimination	28
I.4 Ombudsman	30
I.5 Office of the International Labor Organization	32
<i>II The role of the trade union in the realization of worker’s rights in cases of violence at the workplace</i>	33
II.1 Federation of trade unions of Macedonia (SSM)	33
II.2 Union of independent trade unions of Macedonia (UNASM)	35
II.3 Confederation of free trade unions of Macedonia (KSS)	37
<i>III The place and role of citizen associations regarding the prevention and suppression of phenomena of psychological and sexual harassment at the workplace</i>	38
III.1 Citizen association, Mobbing program	38
III.2 Macedonian association for protection at the workplace	41
<i>IV The place and role of employer’s associations for prevention and suppression of phenomena of psychological and sexual harassment at the workplace</i>	42
IV.1 Business confederation of Macedonia	42
IV.2 Organization of employers of Macedonia	44
Part two: Organizational policies for violence at the workplace (psychological and sexual harassment at the workplace)	45
I. Organizational policies of the state administration organs and public institutions	45
II. Organizational policies of private companies	52

INTRODUCTION

The survey: „Institutional response and organizational policies for violence at the workplace“ represents a further elaboration of the initial findings from the survey about the psychological and sexual harassment at the workplace, which are established in the survey entitled: „Violence against women at the workplace“¹. Given the data from the above stated field survey about the prevalence² of psychological and sexual harassment, we considered it especially important to undertake survey activities in order to establish the institutional set up, the formal mandate and the competencies of all relevant institutions regarding the prevention and protection of workers in cases of psychological and sexual harassment at the workplace, and more importantly, their actual actions and coordination to ensure efficient protection of the victims of harassment.

The findings and results of the conducted survey shall enable to fill the existing vacuum and lack of clear policy and practice for analysis of these phenomena, as well as lack of analysis about the actions taken by certain institutions which are mandated by law to act in cases of psychological and sexual harassment. Namely, although there is generally established mandate for action to be taken by these institutions, yet there is no clarity and preciseness about the procedure, mechanisms for protection as well as competencies of each formal actor in the system for protection. This implies the impossibility that the worker-victim of violence at the workplace is provided with adequate and efficient protection.

The expended focus of the survey also refers to establishing how the informal and other actors act regarding the prevention and elimination of phenomena of psychological and sexual harassment at the workplace, such as citizen associations, employer's associations, Ombudsman, Commission on protection from discrimination and trade unions. Furthermore, the survey was also focused on establishing if there are organizational policies and practice regarding the reporting and processing of cases of harassment at the workplace, which are the key factors for raising the awareness for respecting the principles of equality, non-discrimination and maintaining a working environment without risk of violence at the workplace, both in the public and the private sector.

The obtained findings and recommendations from the conducted survey shall contribute to the definition of any future measures and activities for building the institutional capacities, introducing mechanisms for protection, as well as developing a positive organizational culture regarding the matters of harassment at the workplace.

¹ The field survey was conducted on a sample of 809 respondents aged 15 to 64. The survey was aimed to obtain adequate and sufficient survey data about the phenomena of psychological harassment (mobbing) and sexual harassment, which are encountered by employed women both in public and private sector, Association ESE, 2010

² 57% of the respondents stated that they have suffered some of the types of psychological harassment, whereas 17% stated that they have suffered from some of the types of sexual harassment.

SUMMARY REPORT

The summary report includes the conclusions regarding certain views, findings and actions of each of the competent institutions and other actors (trade unions, citizen associations, employer's associations) with regard to the following aspects: prevention, institutional cooperation and action, policy and legislative regulation and prevalence of the phenomenon of harassment at the workplace. In addition, the summary report includes attitudes, findings and actions taken by the state administration organs, public institutions and private companies with regard to the organizational policy and culture for prevention and treatment of phenomena of psychological and sexual harassment at the workplace.

In line with the stated conclusions, this part also contains the general recommendations regarding the measures and activities to be taken in order to improve the situation in the area of harassment at the workplace.



ACTION OF THE INSTITUTIONS AND OTHER ACTORS WITH REGARD TO THE VIOLENCE AT THE WORKPLACE

I. Institutional response of the competent institutions regarding the action taken in cases of violence at the workplace –psychological harassment (mobbing) and sexual harassment (Ministry of labor and social policy, State labor inspectorate, Commission on prevention and protection from discrimination, Ombudsman and Office of the International Labor Organization)

PREVENTION

The activities, which have been taken so far regarding the introduction of the employees and the employers with the legislation on discrimination, psychological and sexual harassment at the workplace, are insignificant, i.e. such activities have not been realized by the Sector for labor at the MLSP so far. Namely, regardless of the broad authorizations to take action in this context, the sector only indicated to the need of undertaking such activities with the involvement of the trade unions, employees and employers.

Furthermore, besides the established mandate of the sector, there is no system for monitoring and analyzing the situation in this area, and therefore the sector does not dispose of data about formally initiated procedures for cases of psychological and sexual harassment.

Despite the concluded shortcomings regarding the prevention, one should welcome the future steps of the MLSP for realization of trainings on discrimination and violence at the workplace, as well as the trainings to raise the awareness for equality and non-discrimination, organized by the Commission for prevention and protection from discrimination, which shall include 600 civil servants.

In the same context, the determination of the office of the International Labor Organization in cooperation with the employers, trade unions and the Government to work in this particular field is also positive (discrimination, psychological harassment and stress at the workplace).

INSTITUTIONAL COOPERATION AND ACTION

The institutional cooperation of the MLSP with the trade unions, employers and the State labor inspectorate, as well as with other organs and institutions with regard to the monitoring and analysis of the situation and addressing the problem of violence at the workplace in a coordinated manner seems to be missing. The State labor inspectorate as an organ that functions within the MLSP does not recognize and affirm completely its primary role, and that is the protection of the rights from labor relations and safety and protection at the workplace. The State labor inspectorate only makes referral for obtaining protection in a court procedure instead of exhausting the already existing institutional mechanisms for protection, which also include the inspective surveillance within its mandate.

The established mechanism for reporting violations of the workers' rights (so-called: Call centre) within the State labor inspectorate is not functional. So far, there has been no registered incidents for perpetrated psychological and sexual harassment. All that indicates to the inexistence of a system for reporting and monitoring these phenomena at the State labor inspectorate.

The mechanism for submitting complaints to the Commission for protection from discrimination is insufficiently utilized by the citizens with regard to the exercising of protection from discrimination during the recruitment process and at the workplace, i.e. so far there have been only four complaints submitted about psychological harassment. The situation regarding the utilization of the mechanism for submitting complaints by the citizens to the Ombudsman office is identical. Thus, in 2010, from the total number of submitted complaints in the category: Non-discrimination and adequate and fair representation, only 4 of the complaints refer to discrimination during the recruitment process or at the workplace, whereas in 2011 there were only 2 complaints. The Ombudsman does not dispose of specific data about the number of submitted complaints on the grounds of psychological and sexual harassment at the workplace.

POLICY AND LEGISLATION

At the level of the MLSP there is no developed policy regarding the issues related to the violence at the workplace (psychological and sexual harassment). The future direction and policies of the International Labor Organization, as part of the global policies in this field, depend only on the needs and priorities of the Government, i.e. the Ministry of labor and social policy, which so far has not developed such strategic direction.

Both the attitudes of the Sector for labor at the MLSP and the State labor inspectorate are identical regarding the inexistence of the need to further regulate the phenomena of psychological and sexual harassment, but rather they believe there should be only adoption of secondary legislation. Contrary to these attitudes, the Commission on prevention and protection from discrimination and the Ombudsman are of the opinion that there is need for further regulation of the phenomena of psychological and sexual harassment by law, and in particular a comprehensive prescription of the procedure for reporting and protection, shortening the deadlines of the procedure, as well as changes in the provisions related to the evidence in the court procedure.



II. *The role of the trade union in the realization of worker's rights in cases of violence at the workplace (Federation of trade unions of Macedonia –SSM, Union of independent trade unions of Macedonia – UNASM, Confederation of free trade unions of Macedonia –KSS)*

PREVENTION

According to the trade unions, the employees are insufficiently informed about the legislation, the recognition of the phenomena of violence at the workplace and about the mechanisms for protection. The situation is identical with regard to the extent to which the employers are informed. In particular, employers are not informed about the phenomenon of sexual harassment at the workplace. Therefore, there is a need to expand the already existing educational activities both for the employees and the employer's associations concerning the topics of discrimination, and psychological and sexual harassment.

The findings from the conducted interviews illustrate a very unenviable situation concerning the general position of the trade unions in the country. Employees do not recognize the real role of the trade union for realization of the protection of the workers' rights. The reasons why the employees do not consider the trade union as their representative can be identified only with the employees, but not with the trade union representatives. This conclusion refers to all three trade unions. In particular, the situation regarding the violation of workers' rights is of great concern, as well as the existence of violence at the workplace among the workers in the private sector where trade unions do not exist. In this context, the activities taken by some of the trade unions are considered as positive. Those activities refer to the organization of seminars on continuous basis to inform the employees about the real role of the trade union.

PREVALENCE OF VIOLENCE AT THE WORKPLACE

The utilization of the lines for help and support to the victims of violence at the workplace shows that the number of reported cases of psychological and sexual harassment is very big. On the mobbing line at the Office for assistance and education of victims, there have been 40 percent, i.e. 45 reported cases of psychological harassment for a period of two years, whereas the remaining 60 percent called because of violation of the workers' rights or it happens that they do not have sufficient evidence that harassment has happened. Data show that the victims of violence at the workplace suffer for long time and keep silent about their problem which leads to mental and physical health problems.

INSTITUTIONAL COOPERATION

So far, the trade unions have not requested from the State labor inspectorate to conduct inspective supervision based on established indications for existence of violence at the workplace, but they refer the employees to report mobbing to this competent institution individually. This indicates to the inexistence of joint strategy for coordination, detection and addressing the cases of harassment at the workplace between the trade union and the State labor inspectorate.

LEGISLATION AND RECOMMENDATIONS FOR IMPROVEMENT

The three trade unions have identical views concerning the need for further regulation of the sexual and psychological harassment by law. Namely, the Confederation of free unions (KSS) and the Union of independent trade unions of Macedonia (UNASM) think that the legislation is imprecise and insufficient, while at the Federation of trade unions of Macedonia (SSM) there is a special team that works on drafting a separate law on psychological harassment (mobbing). According to the views of the SSM representative, the separate law on psychological harassment (mobbing) shall not only precisely regulate the phenomena, but shall also cover the measures that the employers should introduce in order to prevent mobbing, protect the victims of mobbing, procedure of court protection, identification of the perpetrator of mobbing, education and capacity building of the employees to recognize mobbing, the role of the trade union and the representative for safety and health, as well as sanctions for disrespecting the legal provisions, and punishment of the perpetrator of psychological harassment.

The trade union representatives, also underlined the need of taking measures and activities to improve the situation in this area, such as: provision of information and education for all relevant factors (State labor inspectorate, employers, employees), strengthening their capacities for taking adequate action, cooperation between the trade unions and the institutions especially about the implementation of the law, as well as opening counseling offices for the victims of mobbing and sexual harassment at the workplace. With regard to the question about the measures that need to be taken at each organization towards prevention and protection of the workers from violence at the workplace, the trade union representatives mentioned that every company should have human resources sector to serve as a link between the employee and the employer, as well as internal rulebooks on taking action in cases of harassment, code of conduct at the workplace and establishment of continuous system for training the employees, especially the newly employed staff.



III. *The place and role of citizen associations regarding the prevention and suppression of phenomena of psychological and sexual harassment at the workplace (Citizen association, Mobbing program and Macedonian association for protection at the workplace)*

PREVENTION

The findings of the citizen association – Mobbing program show that there is lack of interest for conducting trainings about violence at the workplace by the competent state institutions. An exception is the interest for trainings shown by the Ministry of defense. The respective trainings included the communication aspects in dealing with the perpetrator, coping with fear, as well as institutional mechanisms for protection of employees.

Furthermore, the findings indicate to the insufficient knowledge of the employees both regarding the legislation and the mechanisms for protection from violence at the workplace. Namely, they get informed about their rights and procedures for protection once the psychological violence escalates and when they are faced with penalties, salary cuts or change in their position. The conclusion of the association that the employees insufficiently understand and recognize the phenomena of psychological and sexual harassment at the workplace are also of concern, whereby they identify the responsibility with the trade unions.

With regard to the knowledge on the part of the employers, the representative of the citizen association – Mobbing program stated that only state institutions that have human resources and legal matters sectors are informed about these matters and have the capacity to follow and implement the legislation. This is not the case with those institutions/organizations which do not have such organizational units and also in the small private companies.

Violence at the workplace is not considered as direct consequence from non-existence of healthy and safe working environment. Namely, according to the views shared by the Macedonian association for protection at the workplace (MZZPR), the trainings on safety and health at the workplace have neither included nor there is need to include the topics of psychological and sexual harassment at the workplace. It is unclear why the MZZPR has such attitude about the incompatibility of the matters related to violence at the workplace with the matters of safety and health at the workplace, in particular if one takes into consideration the fact that the association initiated a process for opening postgraduate studies in the field of safety and protection at the workplace.

PREVALENCE OF VIOLENCE AT THE WORKPLACE

As result from the provision of direct assistance and support to the victims of psychological harassment for four years now, the citizen association – Mobbing program disposes of findings about the problems that victims face, such as: inexistence of basic level of communication within the organization, inadequate knowledge about the problem of harassment, inexistence of mechanisms within the institutions about reporting harassment, existence of discrimination on the grounds of gender and nationality, requesting

that assignments are performed after office hours and outside of business premises, sending messages of sexual nature, etc. The data from the work carried out so far by the citizen association- Mobbing program show that there is a high percentage of reported cases of psychological harassment. Namely, during the period from February 2008 until September 2012, the association registered total of 476 individuals who approached for assistance regarding psychological harassment at the workplace. The majority of victims that approached for assistance were women.

INSTITUTIONAL ACTION

The views shared by the citizen association – Mobbing program show that trade unions have very poor and insignificant role regarding the provision of protection of workers' rights, in particular with regard to the psychological harassment at the workplace. The citizen association – Mobbing program considers that this situation is due to trade unions. Furthermore, the association indicated that whenever psychological harassment at the workplace exists, employees most often try to find peaceful way to resolve the problem so as to avoid further trouble in the organization. One way they used for peaceful resolution of psychological harassment was the request that third person from outside gets involved, who is a professional and can solve the problem in the role of unbiased and objective mediator.

According to the views shared by the Macedonian association for protection at the workplace (MZZPR), the State labor inspectorate does not have special competencies regarding the detection and further referral of cases of violence at the workplace, nor there is need to precisely state which the respective competencies are. The conclusions shared by MZZPR show that the role of the State labor inspectorate is not recognized within the overall formal system for prevention and protection from violence at the workplace.

LEGISLATION AND RECOMMENDATIONS FOR IMPROVEMENT

The state neither shows interest nor makes efforts to tackle the issues related to the violence at the workplace. Following the submission of the draft document (strategy and action plan) to tackle psychological harassment- mobbing (2005-2015) by the citizen association – Mobbing program to the competent Ministry of labor and social policy in 2011, the respective ministry has not taken any follow-up action.

According to the representative of the citizen association – Mobbing program, the legislation on psychological and sexual harassment at the workplace is inadequate, with many incomplete provisions, which requires that it is further regulated. The inadequacy and impreciseness of the legal provisions lead to having a legislation which is not applied at all. According to the views of the association, the adoption of a sound legislation to regulate the phenomena of psychological harassment would require bigger participation of the trade unions, as well as the organizations with expertise in this field. One of the essential proposals of the association is to provide education and information to the institutions, as well as preparation of analyses in order to establish the prevalence of these phenomena and the negative effects both on the employee and the effectiveness and the productivity of the organization. The association shared a positive view regarding the introduction of internal organizational rulebooks or codes of conduct, which would contribute to prevention of these problems, and in general would ensure adequate protection of workers.

IV. The place and role of employer's associations for prevention and suppression of phenomena of psychological and sexual harassment at the workplace (Business confederation of Macedonia - BCM and Organization of employers of Macedonia -ORM)

PREVENTION

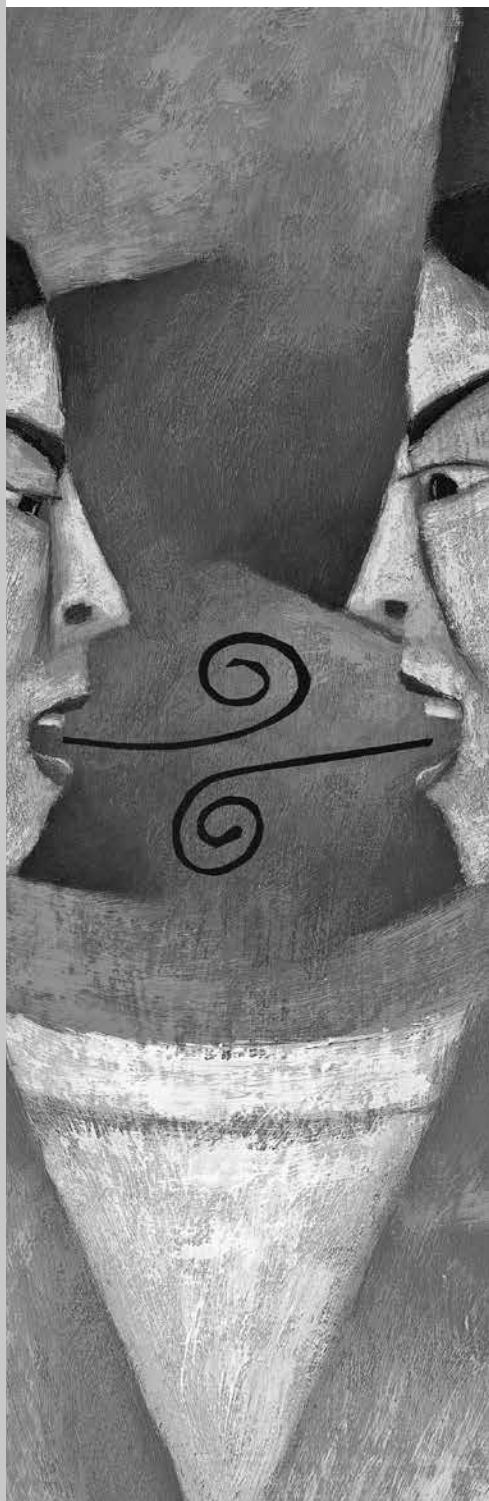
So far, the employers' associations (BCM and ORM) have not organized trainings or workshops for employers that exclusively refer to the topic of sexual and psychological harassment at the workplace. Employer's associations expressed different views regarding the extent to which the employers are informed. Namely, as opposed to the positive view shared by the Organization of employers of Macedonia, the Business Confederation of Macedonia stated that employers are insufficiently informed about the matters related to harassment, and the reasons that contribute to this situation are the inexistence, i.e. non-functioning of the legal departments within the companies, but also because the employers do not consider these topics as current and do not have interest about harassment at the workplace.

The Organization of Employers of Macedonia also stated that the topics of psychological and sexual harassment are not considered as current topics by the employers.

Both associations shared positive views regarding the need to improve the knowledge of the employers, thus the Business Confederation of Macedonia proposed introduction of legal obligation for attendance of trainings on harassment at the workplace both by the employees and employers, whereas the Organization of employers of Macedonia proposed that the topics of discrimination and violence at the workplace (psychological and sexual harassment) are integrated into the trainings on protection at the workplace.

LEGISLATION AND PROPOSALS FOR IMPROVEMENT

According to the employer's associations, there is need to further regulate the harassment at the workplace by law, given that the Law on Labor Relations is unclear and non-functional in the part that regulates these phenomena. The representatives of the associations gave several proposals to improve the situation regarding the harassment at the workplace, among others, the need to adopt a new Law on psychological harassment, especially in terms of the recognition of the incidents of such harassment, proving the perpetrated harassment, establishment of clear mechanisms for protection as well as stipulating measures for support and reintegration of the victims of harassment at the workplace.



ACTION OF THE INSTITUTIONS AND OTHER ACTORS WITH REGARD TO THE VIOLENCE AT THE WORKPLACE

I. Organizational policies of the state administration organs and public institutions

A) STATE ADMINISTRATION ORGANS

PROTECTION OF WORKERS' RIGHTS BY THE EMPLOYER (STATE ADMINISTRATION ORGAN)

It is worrisome that there is absence of positive practice at the Ministry of labor and social policy regarding the utilization of the mechanism for protection of worker's rights in case of non-provision or violation of the rights, i.e. the mechanism for submission of written requests or complaints by the employee to the employer. Moreover, it is a fact that this mechanism is regulated by the Law on Labor Relations. Despite the absence of positive practice for utilization of this mechanism, the MLSP indicated that the first step an employee should make in such case is to submit a complaint, petition, notification or primarily to inform the superior about the situation. At the Ministry of interior it was stated that such mechanism is utilized only for certain worker's rights, such as for instance the request for extra working hours, whereas at the Ministry of defense it was stated that such written requests or complaints are rarely submitted by the employees.

In all three ministries there is no system for monitoring the perpetration of psychological and sexual harassment through the mechanism of disciplinary procedures. So far, in none of the respective ministries there have been no disciplinary procedures initiated for offensive and violent conduct. All this indicates the existence of inadequate organizational culture and high threshold of tolerance for actions of offensive and violent conduct at the workplace.

There are not any organizational policies for prevention and adequate addressing of the phenomena of violence at the workplace at the level of state administration organs. None of the ministries has developed internal/organizational procedures for reporting and processing the psychological and sexual harassment at the workplace. As result of such shortcomings at the ministries, so far there have been no reports about perpetrated psychological and sexual harassment at the workplace. Positive step forward regarding the introduction of an internal mechanism for protection of worker's rights has been established through the employed individual, Ombudsman at the Ministry of defense. Unfortunately, this mechanism is not recognized by the employees as a mechanism for reporting the psychological and sexual harassment.

Besides the sound trade union organization of the employees at the ministries, the employees do not utilize the trade union regarding the provision of protection of worker's rights in case of discrimination or violence at the workplace. None of the ministries, including the Ministry of labor and social policy, have information about the existence of such positive practice. This situation shows the insufficient trust of the workers in the trade union and trade union representatives.

PREVENTION

Systemic efforts to provide adequate education and to capacitate the employees and the managers from the state administration organs to be able to recognize mobbing and sexual harassment at the workplace are inexistent. In particular, this refers to the Ministry of labor and social policy, which is primarily mandated to act in this field. Certain improvement in this context is the preparation of the first training on psychological harassment (mobbing), however, it is not mandatory neither for the employees nor the employers. In addition, the Ministry of interior has not realized any training on this topic so far. On the other hand, a positive example is the Ministry of defense, with two realized trainings on psychological harassment (mobbing) for the employees and the managerial staff so far.

PROPOSALS FOR IMPROVEMENT

The ministry representatives provided several concrete proposals regarding the improvement of the situation, that is, the MOI indicated to the need for precise regulation of the procedure for protection of workers, establishment of a special body or organ with specified mandate to accept and resolve the requests for violence at the workplace. The Ministry of labor and social policy also stated the need for stipulating special measures for psychological assistance and support for the victims, as well as special education for the people who work in the human resources departments. The Ministry of defense underlines the importance of existence of institutional cooperation with all actors who have direct or indirect mandate to act, cooperation with citizen associations in the sphere of violence at the workplace, as well as punishment for the perpetrators of this type of violence.

B) PUBLIC INSTITUTIONS

PREVENTION

The findings from the conducted interview with all public institutions show that there is sensitivity and understanding about the subject of the survey, that is, phenomena of psychological and sexual harassment at the workplace, as well as the fact that those are regulated by law. Unlike the information they have about the regulations for these phenomena, the public institutions do not have knowledge about the institutional mechanisms for protection available to the workers in cases of violation of worker's rights, including the psychological and sexual harassment at the workplace, such as: State labor inspectorate, Ombudsman, Committee on protection from discrimination, trade unions or judicial protection. Namely, the institutions stated only the existing possibilities that employees usually use for protection of workers' rights, in general.

Unlike the employees at the Agricultural Institute and the Polyclinic Zelezara, the employees at the Institute of mental health and the Institute of social activity are sufficiently informed about the legislation on psychological and sexual harassment at the workplace. The Institute of social activity undertook activities to build the capacities of the employees, whereby the realized trainings in certain part covered the issues of discrimination and harassment at the workplace. Besides the statement made by the representative of the Institute of mental health that there have been no trainings on harassment at the workplace for the employees, yet it was stated that the employees of the institute are informed as result from the promoted internal Code of conduct, which partially covers the issues of harassment at the workplace.

PROTECTION OF WORKER'S RIGHTS BY THE EMPLOYERS (PUBLIC INSTITUTIONS)

The findings from all public institutions illustrate the insufficient application of the mechanism for protection stipulated by the Law on Labor Relations, that is, possibility for submission of written request to the employer in case of violation of worker's rights, including the harassment at the workplace.

The data from the conducted interviews with the representatives of the public institutions indicated identical situation with regard to the initiation of disciplinary measures due to offensive or violent behaviour by a public servant. The initiation, i.e. non-initiation of such disciplinary procedures on this ground available in the Law on Public Servants shows that there is lack of clear organizational policy for non-tolerance of actions that endanger the safety and health at work, i.e. actions of offensive or violent behaviour at the workplace.

There are not any developed internal organizational procedures within the public institutions for reporting and processing the cases of psychological and sexual harassment at the workplace, thus accordingly not a single incident of perpetrated psychological and sexual harassment at the work place has been registered at the public institutions.

It is believed that the non-utilization of any of the above stated mechanisms for protection of the workers indicates to the inexistence of positive organizational policy and culture regarding the matters of psychological and sexual harassment at the workplace within the public institutions.

Employees from the public institutions which have their own trade union organizations, have not approached the trade union, i.e. the trade union representative for violation of worker's rights on grounds of discrimination, unequal treatment and violence at the workplace (psychological and sexual harassment), which shows that employees do not trust their trade union. The passive role of the trade union is further supported by the fact that trade union representatives have not approached the manager or director of the institution due to violation of worker's rights, including the harassment at the workplace.

PROPOSALS FOR IMPROVEMENT

Public institutions, with the exception of the Institute of mental health, stated that there is need to further regulate these matters by law, considering the fact that the legal provisions are very general, i.e. unclear and imprecise. Some of the institutions gave concrete directions for further regulation of the phenomena of harassment at the workplace, such as procedure for protection of the worker, clear specification of the mechanisms for protection as well as evidentiary procedure to prove the harassment at the workplace. The public institutions, also made other proposals to improve the situation, such as: establishment of independent bodies that would work exclusively on processing of cases of psychological and sexual harassment at the workplace, strengthening the capacities of the legal departments to act in cases of harassment at the workplace, as well as organization of trainings, educational activities and activities to raise the awareness of the employees, employers and trade unions. In addition, the representatives of all public institutions shared a positive view regarding the need for introduction of internal procedures for prevention and processing of cases of harassment at the workplace.

II. *Organizational policies of private companies*

PREVENTION

Most of the private companies are informed and possess knowledge about the constitutive elements of harassment at the workplace, and that phenomena of mobbing and psychological harassment are regulated in the Law on Labor Relations. The situation is almost identical with regard to the knowledge about mechanisms for protection in case of violation of worker's rights, including the psychological and sexual harassment at the workplace. Namely, half of the companies stated the usual mechanisms for protection of worker's rights, in general, such as submission of report or petition to the employer, director of the company or the management team, submission of complaint to the legal department or the human resources department. Besides these mechanisms, four of the companies also stated the possibilities for protection in a court procedure, and the same number of companies stated that the trade union is one of the mechanisms for protection of workers. None of the companies stated any other mechanisms for protection of workers, such as for example the possibility for submission of complaint to the Committee on prevention and protection from discrimination or to the Ombudsman. None of the companies mentioned the State labor inspectorate, although it is a very important mechanism in provision of protection of worker's rights.

None of the interviewed companies have taken activities to inform the employees exclusively about the phenomena of psychological and sexual harassment at the workplace. The situation is identical with regard to the activities to inform the management team about these phenomena. Phenomena of harassment have not been elaborated neither as part of the trainings on safety and health at the workplace, nor as part of the trainings about the Law on Labor Relations.

The above stated situation indicates to the fact that companies are not interested in conducting special trainings on psychological and sexual harassment at the workplace, that is, trainings are only conducted if there is legal obligation for the employer or if that is imposed by the State labor inspectorate.

PROTECTION OF WORKER'S RIGHTS AT THE LEVEL OF EMPLOYER (PRIVATE COMPANY)

Half of the interviewed companies practically have not used the foreseen legal mechanism, that is, submission of written request to the employer in case of violation of worker's rights. More precisely, small companies with up to 30 employees consider this mechanism as unnecessary and they practice informal problem solution, that is, through conversations.

Submitted requests in the other companies did not refer to the phenomena of harassment at the workplace. Companies do not have information and views about the manner in which employees get information about the possibilities given by law.

If one conditionally specifies "the last mechanism for protection of the worker within the company, that is, resignation by the employee due to violent behavior on the part of the employer, non-provision of equal treatment or no-action in case of sexual harassment", it can be concluded that practically this mechanism is not utilized.

None of the companies have developed an internal organizational procedure for reporting, processing and protection in cases of harassment at the workplace. Although three of the companies have in average 800 employees, still the companies have not developed an organizational policy that ensures adequate action to be taken in cases of harassment at the workplace, and prevention of these phenomena in future. As result from the lack of organizational policy for the subject matters, reports on perpetrated psychological and sexual harassment at the workplace have not been filed in any of the companies.

The trade union organization of employees in the private companies is on very unsatisfactory level, that is, only two of the companies stated that their employees are members of the trade union, whereby the first one is a middle size company with up to 60 employees, and the second one is a big company with more than 500 employees. This implies that there is no practice of having a proactive role of the employees and trade unions for protection of worker's rights. The findings that only two companies whose employees are members of the trade union mentioned the essential role of the trade union for protection of worker's rights, which is not the case with the other companies where the employees are not members of the trade union, is a reason for concern.

LEGISLATION AND PROPOSALS FOR IMPROVEMENT

Despite the views shared by half of the companies that there is need for further regulation of the phenomena of harassment at the workplace by law, the same companies do not dispose of sufficient information and cannot assess the areas where such further regulation is needed.

None of the companies gave answer to the question if the Law on labor Relations clearly defines the mechanisms for protection of the worker in case of psychological and sexual harassment at the workplace, which implies that there is general lack of information and utilization of the mechanisms for protection within the companies as specified by the Law on Labor Relations.

Unlike the lack of clear attitudes and proposals regarding the legislation and the mechanisms for protection, yet the companies made more proposals regarding the prevention of phenomena of harassment at the workplace, such as: raising the awareness through media campaigns; internal activities that ensure discussions about these matters, informing both employees and employers at top level at workshops, meetings and trainings, increasing and imposing sanctions to perpetrators and proactive role of the citizen associations regarding the prevention. Part of the proposals of the companies refer to taking measures that imply improvement of the institutional actions and system for protection, such as: affirmation of the institutions and their mandate to act for provision of protection to the victims of psychological and sexual harassment, institutional strengthening and promotion, proactive action by the institutions to tackle these phenomena; special education for the labor inspectors, organized system for professional services and psychologists, as well as introduction of internal procedures for prevention and protection of employees from these phenomena.

RECOMMENDATIONS FROM THE CONDUCTED ANALYSIS

The Ministry of labor and social policy (MLSP) and other competent institutions which are mandated to act in cases of harassment at the workplace

- There is a necessity for adoption of clear national policy regarding the prevention and suppression of the phenomena of psychological and sexual harassment at the workplace.
- It would be necessary to adopt a new law, i.e. to further regulate the existing Law on Labor Relations regarding the harassment at the workplace. That would require more participation by all relevant actors: trade unions, employer's associations, citizen associations, professional associations, as well as international organizations.
- It would be necessary to expand the definition of the term "protection of worker's health and safety" in the respective laws, or more precisely in the Law on Safety and Health at the Workplace, including the harassment at the workplace as risk to the health and safety of the worker.
- There is necessity for introduction of misdemeanor and penal provisions for disrespect, i.e. taking action contrary to the legal provisions that regulate this subject matter.
- There is necessity that the Ministry of labor and social policy, i.e. the Sector for labor and the State labor inspectorate undertake activities in order to establish a system for continuous monitoring of the situation concerning the harassment at the workplace.
- The state should take measures for comprehensive survey about the prevalence of the phenomena of harassment, the forms in which they are manifested, risk factors, as well as the consequences on the health and professional engagement of the worker as well as the consequences on the effectiveness and productivity of the organization.
- The state should establish a system for monitoring and analyzing the actions taken by the competent institutions regarding the psychological and sexual harassment at the workplace.
- The state should take measures and activities for promotion of a formal system for protection, that is, the competent institutions which are mandated to act, as well as promotion of the mandates of the other actors that work on prevention and protection of victims of harassment at the workplace.
- There is a necessity to prescribe clear competencies of the State labor inspectorate regarding the establishing of violations of worker's rights as result of perpetrated harassment, when the role of inspective surveillance is performed in the areas of labor relations and protection at the workplace.
- Inclusion of harassment at the workplace as part of the trainings for protection of rights from labor relations and trainings on safety and health at the workplace, which are organized by the State labor inspectorate.
- There is necessity for taking preventive measures in order to comprehensively inform the employees, employers and trade unions regarding the legislation on discrimination and harassment at the workplace, identification of actions of harassment at the workplace, as well as mechanisms for protection of workers.
- The state should undertake media campaigns for raising the citizens' awareness in order to report the actions of psychological and sexual harassment to the competent institutions.
- There is necessity to stipulate measures for psychological assistance and support to victims of harassment at the workplace in the law.
- The state should establish an organized system of professional services to help the victims who suffered from psychological and/or sexual harassment at the workplace.

Trade unions and Employers (state administration organs, public institutions and private companies)

- Proactive approach by the social partners (Government, trade union, employer's associations) in taking joint coordinated activities for affirmation of the actions taken by competent institutions.
- There is necessity for conducting continuous education for the trade unions, employer's associations, State labor inspectorate with regard to discrimination, psychological and sexual harassment at the workplace.
- Measures should be taken and resources should be provided for strengthening the role and capacities of trade unions.
- Trade union should take measures and activities for promotion of its role, that is, provision of protection to the workers, as well as stimulating the membership in the trade unions, especially in the private sector.
- It is necessary that the competencies of the trade union are stipulated in the Law on Labor Relations and in the collective employment contracts for mandatory mediation of the trade union representative in the procedures for harassment at the workplace.
- There is necessity for introduction of internal regulations and procedures by the employers (state administration organs, public institutions and private companies) for prevention, reporting and protection of employees from violence at the workplace.
- Monitoring system for actions of harassment at the workplace should be established through the mechanism for disciplinary procedures in the state administration organs and public institutions.
- State administration organs, public institutions and private companies should inform their employees about the phenomena of harassment at the workplace, as well about the available mechanisms for protection in the institution/organization in case of violation of worker's rights in general, including the psychological harassment at the workplace.
- There is necessity for providing comprehensive knowledge to the managerial staff and directors in companies regarding the phenomena of harassment at the workplace, but even more about the severity of the consequences on the health and professional engagement of the employee and the consequences on the effectiveness and productivity of the organization.
- Concrete measures and activities should be taken in order to stimulate the organization of employees in trade unions within the private companies.
- There is need for strengthening the capacities of human resources departments, i.e. legal departments in order to ensure adequate processing of cases of harassment at the workplace or establishment of a special body or authority to work exclusively on these matters.
- Measures and activities need to be undertaken to stimulate and intensify the cooperation between the employer's associations and the trade unions with regard to the matters of harassment at the workplace.

METHODOLOGICAL BACKGROUND OF THE SURVEY

Subject and objectives of the survey



The subject matter of this analysis, i.e. to establish the extent of institutional response of the competent institutions towards the violence at the work place, as well as to establish the extent of development of organizational capacities and procedures to prevent and protect the victims from violence at the workplace, implied taking into consideration several sources of knowledge and several methodological procedures. For the needs of the survey, the violence at the work place was limited to two phenomena which were the focus of this survey, i.e. psychological harassment (mobbing) and sexual harassment at the workplace.

The starting point for the survey is the existence of legal grounds in the labor legislation that regulates the respective phenomena, i.e. psychological and sexual harassment at the workplace. The survey: „Institutional response and organizational policies with regard to the violence at the workplace“ is essentially a supplement to the first survey entitled: “Violence against women at the workplace“³. The goal of the survey: „Institutional response and organizational policies with regard to the violence at the workplace” is to establish the existence of institutional mechanisms for prevention, processing and proper addressing of cases of psychological and sexual harassment at the workplace. Besides the competent institutions, the aim of the survey is to establish the organizational policies of the organizations/institutions in the public and private sector regarding the action taken upon cases of discrimination and violence at the workplace. In order to obtain more comprehensive information about those aspects, the survey shall include the attitudes, knowledge and experience of the trade union organizations, employer’s organizations, citizen associations which are active in this field, as well as bodies that promote the equality of citizens.

The structural set-up of the report originates from the subject and the objectives of the survey, and in this sense the report is divided in two subject units, as follows:

Part one: Action of the institutions and other actors regarding the violence at the workplace (psychological harassment and sexual harassment)

Part two: Organizational policies with regard to the violence at the workplace (psychological harassment and sexual harassment)

³ The field survey was realized on a sample of 809 female respondents aged 15 to 64. The aim of the survey was to obtain adequate and sufficient scope of survey data about the phenomena of psychological harassment (mobbing) and sexual harassment that employed women encounter in the public and private sector, Association ESE, 2010

Methodological procedures

The following methodological procedures were included in the survey:

- Collecting and analyzing available reports, statistical records, work programs and other written materials
- Conducting interviews with representatives of relevant institutions/organizations

The first methodological procedure in the realization of the survey: “Institutional response and organizational policies regarding the violence at the workplace“, i.e. collecting and analyzing the available reports and written materials, was realized during the period of the preparatory phase as well as on continuous basis during the phase of implementation of the survey. The findings, i.e. the secondary sources of information obtained from this methodological survey have been used in support of the attitudes and findings obtained from the conducted interviews with the relevant representatives from the competent institutions and organizations from the public and private sector.

The second methodological procedure was realized by conducting interviews with total of 33 interviewees. The interviews were conducted by two interviewers who went through special training about the nature of the phenomena which are subject of the survey, as well about the established subject and objectives of the survey. The conducted interviews were recorded as digital audio recordings, so that the interviewers afterwards turned the transcripts into written material.

The previously designed questionnaires were used as instruments for the needs of the second methodological procedure. Namely, due to the specific competencies and roles of each of the involved institutions and organizations, 10 questionnaires were prepared and designed for the following institutions/ organizations:

- Trade union organizations (1)
- Citizen associations (1)
- Employer's organizations (1)
- Ministry of labor and social policy, Sector for labor (1)
- State labor inspectorate (1)
- Ombudsman (1)
- Commission for prevention and protection from discrimination (1)
- Ministry of interior regarding reported cases by citizens (1)
- State administration bodies and public institutions (1)
- Private companies (1)

The subject matter of this analysis, i.e. to establish the extent of institutional response of the competent institutions towards the violence at the work place, as well as to establish the extent of development of organizational capacities and procedures to prevent and protect the victims of violence at the work place” also implied different preparations and technical organization for the second methodological procedure.

Namely, in order to ensure the presence of the needed individuals from the competent institutions/ organizations, official requests were submitted regarding the appointment of individuals who have contacts and work in the field that is subject of our survey. With the exception of the Ministry of education, all included institutions/organizations appointed individuals/representatives with whom the planned interviews were conducted. The institution Ombudsman referred us to obtain the required information through their annual reports instead of conducting interviews. The Ministry of interior provided a representative who will share the attitudes of the ministry regarding their internal organization actions taken in case of psychological and sexual harassment, but did not provide a representative who will speak about the procedure of reporting and processing of such cases. This is for the reason that from the ministry it was stated that there were no reports from the citizen to the police regarding cases of psychological and sexual harassment at the workplace.

Namely, the interviews were conducted with the representatives of the following institutions/organizations which are mandated i.e. take action towards prevention and suppression of the phenomena of violence at the workplace:

Institutions/organizations

1. Ministry of labor and social policy, Sector for labor
2. State labor inspectorate
3. Commission on prevention and protection from discrimination
4. Ombudsman (findings were taken from the annual reports of the institution)
5. Office of the International Labor Organization (ILO)
6. Federation of trade unions of Macedonia (SSM)
7. Union of independent trade unions of Macedonia (UNASM)
8. Confederation of free trade unions of Macedonia (KSS)
9. Business confederation of Macedonia
10. Organization of employers of Macedonia
11. Citizen association, Mobbing program
12. Macedonian association for protection at the workplace

State administration organs and public institutions regarding the internal procedures for prevention, reporting and processing the cases of violence at the workplace

13. Ministry of defense
14. Ministry of interior
15. Ministry of labor and social policy
16. Institute for mental health, Skopje
17. Polyclinic "Zelezara", Skopje
18. Institute for social activity, Skopje
19. Agricultural institute, Skopje

The realization of interviews with the organizations from the private sector, i.e. with private companies meant to cover and include small (up to 30 employees) medium (up to 60 employees) and big (over 150 employees) companies in several towns throughout the country. Namely, 14 companies were included in the survey from the following towns: Prilep, Bitola, Kavadarci, Veles, Shtip, Strumica, Ohrid and Skopje. The interviews were conducted in different industries and branches: baking and confectionery industry, food industry, electric materials production, household appliances and lights, textile industry, apparel trade, tourism and catering, meat processing and meat products, travel agencies, production of safe boxes and protective equipment, fruits and vegetables processing, chemical-metallurgy industry. One structured questionnaire was used, and the questions were asked in order to establish how informed are the managers/directors regarding the laws and regulations about the respective phenomena, which are the internal mechanisms to report and process cases as well as to obtain proposals for improving the situation. The interviews were conducted with the responsible individuals from the following companies:

Companies/enterprises from the private sector

1. DONIA, Prilep
2. VITAMINKA, Prilep
3. LEOV KOMPANI, Prilep
4. MAMITA, Bitola
5. ELEKTROTEHNIKON, Bitola
6. DE NIRO, Bitola
7. HATRA TILA Fashion, Prilep
8. FENI INDUSTRI, Kavadarci
9. ZITO VARDAR, Veles
10. NANA FASHION, Shtip
11. ATLANTIS, Strumica
12. BIROSEF, Strumica
13. DENTINA DOEL, Strumica
14. IZIDA DOEL, Ohrid



PART ONE

ACTION TAKEN BY THE INSTITUTIONS AND OTHER ACTORS REGARDING THE VIOLENCE AT THE WORKPLACE

I. Institutional response of the competent institutions regarding the action taken upon cases of violence at the workplace – psychological harassment (mobbing) and sexual harassment

INTRODUCTION

One of the basic objectives of this survey is to establish the existence of institutional mechanisms for prevention, processing and proper addressing of the cases of psychological harassment and sexual harassment at the workplace. The purpose of this part of the analysis is to fill the existing vacuum and the lack of clear policy and practice for collecting data and analyzing these phenomena, as well as the absence of an analysis about the actions taken by some institutions which are mandated according to the legislation to act in cases of psychological and sexual harassment. Namely, the initial findings obtained from the conducted field survey: Violence against women at the workplace, realized by the Association ESE, which preceded this second in a row survey, indicate to an imprecise and clear mandate and procedures of the competent institutions when they take action in cases of psychological and sexual harassment. The survey data and recommendations that will originate from the survey shall contribute towards the definition of the future measures and activities for capacity building and establishing mechanisms and procedures for improvement of the situation in this field.

This part of the report refers to the findings which were obtained as result from the conducted interviews with the representatives from the state institutions which are mandated to act in cases of psychological and sexual harassment, that is: Ministry of labor and social policy, Sector for labor, State labor inspectorate and the Commission for prevention and protection from discrimination. The interview with the representative from the Ombudsman office was not conducted because we were referred to obtain the data about their actions from their annual reports, which are published on the website of the Ombudsman office. In this part, we also analyzed the interview with the representative from the office of the International Labor Organization, being an entity which can actively contribute towards the improvement of the situation in this area.

Considering that each of the competent institutions have specific mandate and independence in the actions they take, the attitudes and findings shall be presented separately for each of the above stated competent institutions.

1. Ministry of labor and social policy (MLSP) – Sector for labor

Ministry of labor and social policy, according to its competences specified by law ⁴, is the crucial ministry in charge of development and implementation of policies that refer to labor relations, employment and employability, as well as the protection of workers at the workplace. The Sector for labor ⁵, as organizational unit of the MLSP is in charge of implementing its tasks on operational level regarding labor relations, employment and employability by taking actions, which among others, include the following: monitoring and analyzing the situation in these areas; drafting and monitoring the laws in the sphere of labor, rights from labor relations, collective agreements, social dialogue; their harmonization with the European standards and the standards of the International Labor Organization; development and implementation of policies and measures in the sphere of labor and employment as well as development of institutional cooperation about matters under its competence.

Findings from the conducted interview

Based on the information obtained from the representative from the sector for labor at the MLSP, the Law on labor Relations adequately regulates the phenomena of psychological and sexual harassment at the workplace. Namely, according to the statement of the representative from the sector, although the law does not include all the specifics regarding these phenomena, yet the law is aimed to provide explanation about these phenomena and stipulates a legal protection on the grounds of discrimination, mobbing and sexual harassment at the workplace.

The Sector for labor at the MLSP pointed out the importance of the labor inspectorate as a supervisory organ about the implementation of the Law on labor Relations. According to this statement, the labor inspectorate is considered as a mechanism that is clearly specified in the law, whereby each and every employee can report and interventions can be made if there is a case of psychological and sexual harassment at the workplace. In addition, with regard to the identification of the institutions which are competent to act in cases of violence at the workplace, i.e. which are the foreseen mechanisms for protection, the Sector for labor only mentioned the State labor inspectorate.

The activities which have been undertaken so far to inform the employees and employers about the legislation on discrimination, psychological and sexual harassment at the workplace are very insignificant, i.e. such activities have not been realized so far. The Sector for labor, besides the wide competencies which are stipulated to take action in this direction, has only indicated to the need of undertaking such activities with involvement of the trade unions, employees and employers. The representative from the Sector for labor underlined the importance of the trade unions regarding the information provided to the employees about the legislation and the mechanisms for protection in case of violence at the workplace.

⁴Article. 13 and Article 24 – Competencies of the Ministry of labor and social policy (MLSP), Law on organization and Work of the Organs of the State Administration, Official Gazette of R.M. No. 58/2000; 44/2002; 82/2008; 167/2010 и 51/2011).

⁵ Guide for citizens, Foundation Open Society Institute, 2009

The attitudes and knowledge of the representative from the Sector for labor were also examined regarding the extent to which the employers are informed. Contrary to the attitude that the employers and the trade unions, in general are informed about the legislation and the mechanisms for protection, it is considered that the employers are less informed. This is supported by the statement of the interviewed representative from the sector: „ We need to work more with the employers, they need to be informed and educated regarding these two phenomena so that they can combat and prevent them in a timely manner“.

The Sector for labor does not dispose of precise information whether and how many formal procedures have been initiated in front of the competent institutions for protection in cases of psychological and sexual harassment, that is, the provided answers show that there have been no registered cases so far. This is supported by the lack of a system for monitoring and analyzing the situation in this area, according to the statement of the interviewed representative from the Sector for labor: „The findings and the information that we obtain for drafting reports, as well as on the basis of the information that we have collected from the State labor inspectorate and the Trade Union show that such cases do not exist, that is, there are no policies and no such phenomena“.

The opinion and the attitudes regarding the need for further regulation of these phenomena were also examined, whereby it was indicated that there is no need to overburden the wording of the law, but rather through adoption of secondary legislation one can further regulate the manner of reporting the perpetrated psychological and sexual harassment at the workplace. According to the statement and the recommendations of the representative from the Sector for labor, there is need to take measures for education of the employees and the employers: “Concerning the employers, that should be done from the aspect of protection and respect for the legislation, whereas for the employees from the aspect of recognition and realistic presentation of the situation, because there is violation on both sides and most often these phenomena are talked about once the employee is fired. There is need for education about recognizing the phenomena, that is, how to establish the factual situation whether the employee is a victim of mobbing or sexual harassment“. Furthermore, with regard to the question whether the introduction of internal regulations in the organizations of the public and private sector shall contribute towards the prevention and protection from violence at the workplace, the attitude of the representative of the Sector for labor indicates to the need for drafting and adopting those regulations respectively.

2. State labor inspectorate

The State labor inspectorate⁶ is an organ within the Ministry of labor and social policy. Within the State labor inspectorate there are four functional sectors: sector for inspective surveillance in the sphere of labor relations, sector for inspective surveillance in the sphere of safety and health at the workplace, sector for normative activity for safety and health at the workplace and sector for coordination. The sector for inspective surveillance in the sphere of labor relations performs inspective surveillance and inspections related to the labor legislation. Furthermore, the sector is in charge of performing inspective surveillance over the employers regarding the manner of applying the laws and other regulations in the sphere of labor legislation, collective agreements and employment contracts.

⁶ Website of dit.gov.mk, downloaded on 19.12.2012

The other competencies of the sector for labor relations within the State labor inspectorate include: monitoring the application of the provisions from the Law on Strike, drafting and adoption of administrative acts in the procedure for performing the surveillance, preparation of offences and criminal charges. The sector for inspective surveillance in the sphere of safety and protection at the workplace within the State labor inspectorate is in charge of performing the work related to the protection at the workplace, in particular the conduction of surveillance over the employers regarding the fulfillment of requirements for hygienic and technical preconditions, drafting and submission of requests for initiation of misdemeanor or criminal procedure.

Findings from the conducted interview

The State labor inspectorate considers that the legislative framework and the regulation of the stated phenomena in general are sufficient. According to the obtained data, the interviewee said that there is a general explanation of the phenomena and that only in the evidentiary procedure one can establish whether such negative action had taken place. The labor inspection is of the opinion that one positive thing about this law is that the burden of proof for existence of mobbing and sexual harassment at the workplace is shifted to the employer, given that the employee is the weaker side in this case.

The only activities that the State labor inspectorate has undertaken so far in order to familiarize the employees and the employers with the legislation about the protection from psychological and sexual harassment at the workplace are the preparation of informative brochures in 2010, which were distributed to all employers. In addition to the prepared brochures, within the State labor inspectorate there is a so-called „call centre“ where the employees can call and report any type of discrimination and violation of workers' rights. Considering the undertaken activities, the labor inspectorate is of the opinion that the employees are sufficiently informed about the legislation as well as about the mechanisms for protection.

According to information available to the labor inspectorate, in this particular field the only institutions that have mandate to take action and which can provide protection are the courts and the strong trade union organizations. The labor inspectorate did not indicate to the possibility for its initiation of inspective surveillance as one of the available mechanisms for protection in cases of psychological and sexual harassment.

It was stated from the State labor inspectorate that they are always at disposal whenever additional information is needed with regard to these matters, and that they refer the employees to request protection in a court procedure. In this way, the labor inspectorate does not affirm its role and importance in the performance of the inspective surveillance and detection of problems encountered by the employees, but only promotes and recommends the court protection which should actually be the last resort in requesting protection in cases when all other institutional mechanisms and procedures are exhausted, i.e. the protection was not provided by the competent institutions at this level.

With regard to the familiarity with the legislation and the mechanisms for protection in cases of violence at the workplace, the labor inspectorate assessment is that the employers are less informed than the employees, and therefore the inspectorate gave proposal for undertaking activities regarding the information, education and trainings for the employers.

Another important aspect which was analyzed through the conducted interview is the institutional cooperation between the state labor inspectorate and the trade unions in the field of detecting problems of violence at the workplace and provision of adequate protection.

Namely, the trade union has so far submitted request to the labor inspector to perform inspective surveillance regarding the existence of violence at the workplace. According to the statement of the labor inspector, the general definition of violence at the workplace, i.e. psychological harassment enables that the inspector can act and perform inspective surveillance in such cases. Namely, if the psychological harassment is related to other violations of the employees' rights such as salary cuts, unpaid fringe benefits and similar, based on the law the labor inspector can undertake an inspective surveillance. Besides the detected impreciseness in the regulation of these phenomena, i.e. the very generalized regulation, still the labor inspector believes that there is no need for changes and amendments to the Law on Labor Relations in that specific part. The introduction of internal procedures within the companies/organizations is a positive step for the inspectorate which shall contribute towards the prevention and protection of the employees from violence at the workplace.

The State labor inspectorate, similarly to the Sector for labor at the MLSP does not dispose of information whether and how many formal procedures had been initiated in front of the competent institutions for protection in cases of psychological and sexual harassment at the workplace.

3. Commission for prevention and protection from discrimination

The adoption of the Law on Prevention and Protection from Discrimination⁷ meant introduction of legal grounds that regulate the institutional set-up, composition and competencies of the Commission for prevention and protection from discrimination. One of the basic preconditions for its adequate functioning as an independent and autonomous organ within the system of mechanisms for protection and equality in the exercising of the rights and freedoms is guaranteed by the Constitution and the laws of Republic of Macedonia. Law on Prevention and Protection from Discrimination as *Lex generalis* defines broadly the grounds for discrimination, forms of discrimination (direct/indirect), harassment, sexual harassment and discrimination against individuals with mental and physical disability. Special part of the law regulates the general competence⁸ of the Commission including the competence to act upon individual cases of discrimination when a citizen believes that he/she had been discriminated against, i.e. he/she had been prevented, limited or excluded from exercising his/her rights. The procedure for prevention and protection from discrimination starts formally with the submission of a complaint by a citizen to the Commission for protection from discrimination. Accordingly, the subject of the survey was the procedures initiated by the Commission on the basis of the submitted complaints for discrimination at the workplace, i.e. perpetrated psychological and sexual harassment.

Findings from the conducted interview

The obtained data from the interview with the representative from the Commission for prevention and protection from discrimination show that there were a very small number of submitted complaints for psychological and sexual harassment at the workplace. Namely, from the total number of submitted complaints to the Commission (130 complaints), only 4 of them refer to psychological harassment at the workplace.

⁷Official gazette of RM, No.50/2010

⁸ Article 24, Law on Prevention and Protection from Discrimination, Official Gazette of R.M., No.50/2010

There were no submitted complaints to the Commission regarding sexual harassment. Among the four submitted complaints, the Commission did not establish discriminatory grounds regarding two of the complaints, whereas for one of the cases the Commission established that there is a need to refer the client to a court procedure in order to request protection from psychological harassment (mobbing). The four complaints for psychological harassment were submitted by female complainants.

The survey also examined the follow-up activities of the Commission once it had established the existence of discrimination, i.e. whether the Commission issued recommendations to certain competent entities/ state authorities for elimination of the violations pertaining to the perpetrated discrimination. The organ, i.e. the individual to whom the recommendation was referred is obligated to act upon the recommendation and to eliminate the violation within 30 days from the day of receiving the recommendation and to notify the Commission accordingly⁹. In the first case of established discrimination, the Commission issued a recommendation to the state institution – Fund for pension and disability insurance to stop the psychological harassment and return the employee to the same position and the competent organ acted according to the recommendation. In the second case of established discrimination, the Commission issued recommendation, but still no action has been taken upon the recommendation. In addition, the Commission also established cooperation with a citizen association and being given recommendation by the Commission, it shall file a complaint on the grounds of harassment.

On the basis of the information about the work done so far by the Commission, it was underlined that the victims of psychological and sexual harassment encounter a range of problems among which are the insignificant information that they possess and well as inability to distinguish the type of harassment. This is the reason why the victims approach both the Commission and the Ombudsman office. According to the statements of the representative from the Commission, they serve as a kind of filter in order to properly refer the clients, in particular about the preparations if they decide to initiate a court procedure, that is, to establish whether it is a matter of harassment, the type of harassment and which evidence should be provided.

The attitudes of the Commission, contrary to the attitudes of the Sector for labor and the State labor inspectorate, illustrate the need for further regulation of the phenomena of psychological and sexual harassment at the workplace regardless if that regulation should be within the existing Law on Labor Relations or within a special law. The recommendations made by the Commission refer to a comprehensive prescribing of the procedure for reporting and protection, shortening the deadlines for the procedure, as well as changes in the provisions for evidence considering the fact that there are difficulties in the evidentiary procedure.

The Commission also made recommendations regarding the improvement of the institutional action in cases of violence at the workplace – „The institutions should have mechanisms, as this already exists in the developed European countries, such as a whole team, sector and managers that work on these matters and whom the victims should approach, to hear the both sides and to resolve the matter in an institutional manner.

⁹Article 28, Law on Prevention and Protection from Discrimination, Official Gazette of R.M., No.50/20100

I think that such mechanisms neither exist, nor there are internal bodies that would work inside the institutions. I think the systematic job descriptions need to be changed, and there should be some Commission inside the institution to work on such phenomena and to establish if there is harassment, discrimination, etc. Such institutional settlement would make the employees feel safer.

With regard to the attitude about the role of the State labor inspectorate, the Commission is of the opinion that if the competences of the labor inspectors are specified in the secondary legislation regarding the phenomena which are subject of the survey, that would not contribute towards the improvement of the situation. Namely, considering that the psychological and sexual harassment imply a whole process and they need to be established, labor inspectors will not be able to during the surveillance on the spot to establish the factual situation, i.e. if psychological and sexual harassment exist.

During a period of year and a half, as long as the Commission on prevention and protection from discrimination exists, a series of trainings have been realized in cooperation with several citizen associations, state institutions, the Committee on equal opportunities, the Ombudsman and trade unions. Furthermore, within the project activity, the Commission is under a process of realization of trainings for raising the awareness about equality and non-discrimination, which shall include 600 civil servants. In addition, besides the above stated proposals, the Commission is of the opinion that there is need for undertaking serious and continuous activities for raising the awareness of all citizens. This is even more valid considering that the process of education is not a one-way process, but rather a dynamic process that requires a lot of work and sufficient time to reach the desired results.

4. Ombudsman

The institution of the Ombudsman is one of the institutional mechanisms with special authorizations regarding the provision of freedoms and rights to the citizens, including the rights arising from labor relations. Given the objectives of the survey, the subject of analysis were also the annual reports¹⁰ of the Ombudsman for 2010 and 2011, in particular the parts that refer to submitted complaints for discrimination and complaints that refer to violation of rights in labor relations. The 2009 annual report was not considered due to the fact that the Law on Prevention and Protection from Discrimination did not exist at that time, which was actually adopted in 2010.

Through monitoring of the situation regarding the realization and protection of rights from labour relations, the Ombudsman made general evaluation that the violation of constitutional and legal rights of the citizens in the sphere of labour relations most often are due to irresponsible, bureaucratic and unprofessional conduct on the part of the employers, which is manifested as not taking action upon requests, non-adoption of acts, unequal treatment of the employees or adoption of acts based on unobjectively established factual situation and incorrectly applied substantial law, as well as other behavior and actions which as consequence violate the rights and freedoms of employees.

We considered that it would be most expedient to analyze the utilization of this mechanism of protection, i.e. the submission of complaint to the Ombudsman through the submission of complaints for perpetrated discrimination and complaints for violations in the sphere of labor relations.

¹⁰Ombudsman, Annual report for 2010 and 2011

The complaints for discrimination, according to the categorization kept by the institution of the Ombudsman, belong to the category: Non-discrimination and adequate fair representation. The complaints for discrimination that refer to employment and labor relations are also part of this category. Thus, according to the data for 2010, the submitted requests for discrimination in the general category comprise only 0,40 % (16 complaints) from the total number of submitted complaints. While 25% of them refer to the discrimination during the recruitment process or at the workplace, 56,25% of them refer to discrimination on the grounds of ethnicity and the remaining 18,75% belong to the category of other complaints.

On the other hand, the complaints for perpetrated violations in the labor relations sphere are far more than the previously mentioned complaints (discrimination during the recruitment process). Thus, from the total of submitted complaints to the Ombudsman in 2010, 9,03 % (365 complaints) are complaints of citizens for violations of the rights arising from labor relations. Most numerous were the complaints that refer to the recruitment procedures and the appointment, procedures for termination of the employment contract, procedures for salary cuts, whereas there was far less number of submitted complaints that referred to disrespect for the principle of equal access by the employers, i.e. placing the employee in less favorable or unequal position to the others by the employer. From the total number of submitted requests related to the labor relations, only 4,11 % refer to the discrimination on the grounds of labor relations. Based on these complaints, a correspondence was sent to underline the respect for the provisions of the Law on Labor Relations, i.e. to indicate to the prohibition for direct and indirect discrimination, harassment and psychological harassment. It is a worrisome fact that the employers to whom the correspondence was addressed denied the indications for discrimination.

According to the data from the 2011 annual report of the Ombudsman, the number of complaints for discrimination was increased from 16 (0,40 %) to 42 (0,99%) complaints. From the total of 42 complaints, 4,76% refer to the discrimination during the recruitment process or discrimination at the workplace, i.e. only 2 complaints. Besides the noticeable increase in the number of complaints from citizens that request protection from discrimination (from 16 in 2010 to 42 complaints in 2011), the number of complaints that refer to discrimination during the recruitment process or at the workplace is declining. Namely, there were 4 complaints submitted in 2010, whereas in 2011 only 2 complaints have been submitted. This is partially because of the non-understanding and non-recognition of the forms in which discrimination is manifested, as well as the manners of protection. On the other hand, according to the information available to the Ombudsman, the reasons for the small number of submitted complaints for discrimination are partially due to the inclination of the citizens that even in cases when discrimination exists that is not categorized in this group, but according to the area in which discrimination happened. The data from the respective report also show increase in the number of complaints regarding the labor relations, that is, the number of 365 complaints in 2010 increased to 412 complaints in 2011. As opposed to the 2010 report which includes data about the number of complaints for violation of labor relations rights which are classified as discrimination on the grounds of labor relations, in the the 2011 report such data are excluded.

If one takes into consideration the information provided by the Ombudsman and the inclination of the citizens to categorize the cases of discrimination during the recruitment process and at the workplace in this part, i.e. within the group of complaints that refer to the violation of the rights from labor relations, it is unclear why the institution decided to exclude or not categorize the complaints within the category: Non-discrimination and adequate and fair representation. Although the narrative part of the report contains certain data about the several complaints from citizens who requested protection of the rights from labor relations on the grounds of psychological harassment, yet there is neither numerical statistics for the

following category: Non-discrimination and adequate and fair representation, nor for the category: Violation of the rights from labor relations. Regardless of the inexistence of specific data about the phenomena of violence at the workplace, the attitudes of the Ombudsman in the 2011 annual report indicate to the need for further regulation of these matters by law.

5. Office of the International Labor Organization

The International labor organization is a specialized UN agency dedicated to the promotion of social justice and internationally recognized human and workers' rights. Its three-part structure ensures a unique platform for promotion of decent work for all women and men. The basic goals of the ILO are the promotion of rights from labor relations, stimulation of decent employment opportunities, improvement of the social protection and strengthening the social dialogue about matters related to the labor relations and workers' rights. The ILO office is seated at the Ministry of labor and social policy.

Findings from the conducted interview

The ILO office in 2011, in accordance with the foreseen objectives of the MOT program for decent work, organized several workshops on the following topics: discrimination during the recruitment process and discrimination arising from labor relations, discrimination on the grounds of earnings, that is, equal pay for equal work for men and women. The workshops related to discrimination were aimed for governmental representatives, whereas the other workshops were aimed for the employers and employees. So far, the ILO office has not organized trainings that referred specifically to the topics of psychological and sexual harassment at the workplace. The topics of psychological and sexual harassment had not been indirectly covered in the trainings about safety and protection at work which were organized along with the employers, trade unions and governmental organizations, i.e. representatives from the State labor inspectorate. According to the statement of the ILO office representative, during the past period the trainings on safety and protection at work were being organized with particular focus on the construction sector, i.e. the sector where the biggest number of death cases and accidents happened. Furthermore, they also organized trainings for trainers for the labor inspectors regarding the inspective surveillance and the unregistered work.

The representative of the ILO office stated that within the consultative process to design the four-year program for decent work, there was a possibility to give proposals with regard to the above stated aspects (discrimination during the recruitment process and discrimination at the workplace and equal pay for equal work). Issues related to psychological and sexual harassment and gender issues, in general are also covered by this program.

Although ILO has so far participated in the consultative process on changing the legislation on labor relations and protection at work, yet the representative from the ILO office stated that concrete suggestions and proposals for changing and amending the legislation can be given only by the ILO Committee on experts for application of standards and recommendations, who draft special reports on several matters and issues and also evaluate the situation.

With regard to the future plans for work in the sphere of violence at the workplace, the representative of the ILO office stated that certain activities shall be undertaken regarding the discrimination, stress at the workplace and the psychological harassment as part of the overall activities on global level. In addition, it was underlined that the realization of such activities in our country will largely depend on the needs and priorities of the Government, trade unions and employers.

II. *The role of trade union in the realization and protection of worker's rights in cases of violence at the workplace*

In order to learn about the experiences in the work of the trade unions, especially in the area of prevention and protection of workers from violence at the workplace, interviews were conducted with the representatives of the Federation of trade unions of Macedonia (SSM), Union of independent trade unions of Macedonia (UNASM) and the Confederation of free trade unions (KSS). The interview with the representative of the Trade union for financial activities within SSM is incorporated in the part that refers to the Federation of trade unions of Macedonia. The interviews were primarily aimed to establish the relations among the trade unions and their membership (workers) in the sense of raising the awareness and education about psychological and sexual harassment at the workplace, as well as developing a climate of trust of the workers in their trade union representatives when they would approach them for assistance and support in case of violence at the workplace. The second aspect which was considered referred to the role of trade unions in the realization of protection of workers' rights, in concrete cases of violence at the workplace, as well as undertaking concrete measures to improve the situation regarding the phenomena of psychological and sexual harassment in our country.

1. Federation of trade unions of Macedonia (SSM)

Program determinations for protection from discrimination and violence at the workplace

The Federation of Trade Unions of Macedonia in its adopted work program for the period 2010-2015¹¹ established the fundamental intentions to suppress psychological harassment (mobbing) at the workplace, as well as to draft a special law on mobbing. The principles of equality and non-discrimination¹² are the guiding premise regarding the action taken by the Section for women at the Federation of trade unions of Macedonia (SSM). Accordingly, one of the primary goals of the Section for women at the SSM is to participate and take action regarding mobbing and the adoption of Code of conduct in the enterprises. The branch trade union for financial activities is most active with regard to the realization of the program determinations of the Federation of trade unions of Macedonia. Since its establishment in 2005, it has been taking activities for elimination of psychological harassment (mobbing).

Findings from the conducted interview

The Federation of trade unions of Macedonia realized several activities to improve the situation in the field of violence at the workplace, which include the following: participation at the international conference on mobbing in 2007, establishment of first contacts with the Association for assistance to victims of mobbing in Croatia, inclusion in the Regional Balkan project for prevention of mobbing (2009-2011) and establishment of Office for assistance and education of victims of mobbing in 2010 as part of the national project of the Trade union for financial activities - SSM „Anti-mobbing network-MK“. In 2012, the trade union realized two trainings on the topic of psychological harassment (mobbing) in cooperation with the trade union of health workers.

¹¹Chapter VII. Safety and health at the workplace – „In the framework of these activities, the Federation of trade unions of Macedonia shall be especially engaged in the suppression of psychological harassment at the workplace– mobbing, as well as the risk of accidents at the workplace and illnesses, and meanwhile shall propose a separate wording of the law on mobbing to the Government of Republic of Macedonia. Available at www.ssm.org.mk on 20.12.201

¹²The guidelines for taking action at the Section for women are as follows: affirmation of women in the society, fight against gender discrimination, equal participation of women in the societal, political, economic processes and the impact of all other phenomena that refer to the status of women. Available at www.ssm.org.mk on 20.12.2012

There were also trainings organized for the counselors on mobbing, which are stipulated in the draft law on mobbing.

The experiences of the trade union in the actions taken so far with regard to reported cases of psychological and sexual harassment were analyzed through the operations of the Office for assistance and education of victims of mobbing, which operates within the Federation of trade unions of Macedonia. Namely, every employee can call the Office for assistance and education of victims of mobbing, regardless of his/her membership in the trade union. The primary goal of this office is to provide the necessary information to the individuals that approached them and well as to refer them further to realize their rights in the respective procedures. The experiences of the work of the office so far show that employees are insufficiently informed about the legislation, and in general about the understanding of the phenomena of psychological and sexual harassment. Besides the conclusions about lack of information, there is significant number of employees that call the respective line. Thus, from the total number of calls to the mobbing line in the Office for assistance and education of victims of mobbing, 40 percent or 45 cases of psychological harassment (mobbing) have been recorded for a period of two years. The remaining 60 percent called for violation of workers' rights, or it happens that they do not have sufficient evidence that harassment really happened. The data show that victims of violence at the workplace suffer for longer period of time and remain silent about their problem, which is why they experience mental and physical health problems. The severity of the phenomenon of psychological harassment (mobbing) from the aspect of its scope and consequences is supported by the statement of the trade union representative: „Mobbing has always existed since workers' rights exist, however, a few workers can recognize it. Victims of mobbing feel hopeless, they are left on their own, in a state of shock and feeling of impasse“. The situation is of even greater concern given the fact that the people who call the Office, do not know if they are members of the trade union and that free legal assistance is provided to the members of the trade union. This leads to the conclusion that there is a serious need to review the essential role and mandate of the trade union regarding the provision of workers' rights. The need to return the trust in the trade unions is supported by the data about the low level of formal reactions¹³, that is, reporting the cases of psychological and sexual harassment to the trade unions.

According to the attitudes of the trade union, the situation is identical with regard to the extent to which employers are informed, i.e. they lack information about the legislation and the mechanisms for protection of workers in cases of psychological harassment. In particular, employers are insufficiently informed about the phenomenon of psychological harassment at the workplace. Therefore, the trade union proposed that each institution should have prescribed rulebook with precisely stated rules and obligations for education of the employees and employers about mobbing and sexual harassment.

The cooperation with the State labor inspectorate was reviewed from the aspect whether the trade union having grounded findings about existence of mobbing requested the inspectorate to perform concrete inspective supervision. Moreover, given the fact that the institutional cooperation and coordination between the two institutions is of primary importance in detecting and addressing the phenomena of harassment at the workplace. Instead of having a coordinated approach in the action, from the received answers one can conclude that the trade union has not done that so far, i.e. it refers the workers to individually report mobbing to the labor inspectorate.

In order to identify the necessary steps for improvement of the situation regarding the violence at the workplace, the trade union representative was asked about this essential segment.

¹³The extent to which victims had formal reactions was examined within the survey: „Violence against women at the workplace, Association ESE, 2010

One of the proposals that was initially mentioned was the adoption of separate law on psychological harassment.

For that purpose, a special team has been established within SSM, which shall work on drafting the proposal for law on labor relations, in particular with regard to the parts that refer to discrimination, mobbing and sexual harassment at the workplace.

The draft changes are based on the survey conducted in several trade unions of R.M. and included more than 1000 respondents, in particular from the textile industry and construction sector. According to the obtained data, 40 percent of the respondents stated that they have been victims of psychological harassment (mobbing). In addition, the proposals refer to the following: establishment of a separate body that monitors the procedures on mobbing, sanctions for disrespect of the legal provisions, activities to raise the awareness of the citizens, education and trainings on recognizing the forms of psychological harassment, as well as mechanisms for protection. In order to improve the institutional actions, the trade union indicated to the need for inter-institutional cooperation among the Government, the trade union and employer's organizations. They also shared positive attitudes regarding the need for introducing internal organizational acts and procedures for reporting and processing the cases and worker's protection.

2. Union of independent trade unions of Macedonia (UNASM)

Program determinations for protection from discrimination and violence at the workplace

In the framework of the Union of independent trade unions of Macedonia (UNASM), the Women organization¹⁴ is functioning since 2000, which addresses the topics of problems encountered by women at the workplace and during the recruitment process. The SOS line for violence at the workplace is functioning within the same organization for four years in a row. The Women organization at the UNASM had many initiatives and activities in the past 3 years, in particular in the sphere of education of youth and women regarding the promotion of the trade union values, recognition of the role of trade union, unregistered work, psychological and sexual harassment. The target group for this type of activities is unemployed people, citizen associations, women, youth, as well as competent institutions. Certain part of the Women's organization program is related to the conduction of surveys in order to establish the situation in the respective area, participation at international conferences as well as development of international cooperation with other associations working in the same field.

Findings from the conducted interviews

Considering the fieldwork done so far, the representatives of the Women organization stated that employees are insufficiently informed, in particular the employees in the private sector where trade union does not exist, and they do not recognize the harassment at the workplace - "From the discussions with employees, we got information that every employee has been victim of mobbing at least once, whereas sexual harassment is still little discussed. Employees also call for certain violations of the workers' rights and disrespect of the collective agreement because they believe it is a matter of mobbing". Based on the findings about the functioning of the SOS line for violence at the workplace at the UNASM, the reporting is always anonymous and there is still fear and unpreparedness to bring it to a closure. The interviewed representative stated that only one complaint for mobbing was submitted several years ago and still there is no legal settlement.

¹⁴Statute of the Women's organization within the Union of independent autonomous trade unions of Macedonia, 2000; Work program of the Women organization at UNASM, 2012

According to the statements of the UNASM Women's organization representative, the victims of sexual harassment most often face the problems of overtime work, receiving indecent proposals, scheduling meetings outside of the workplace and after office hours, whereas the victims of psychological harassment are faced with different pressures at the workplace, the employee is transferred to another position which is not in accordance with the specialty, tendentious ignoring, avoiding any conversation with the employees, etc.

The calls on the SOS line show that the perpetrator of mobbing never does the mobbing alone, but has a whole team of associates.

The Women organization at the UNASM does not dispose of findings or information about the extent to which the employers are informed about the legislation and the mechanisms for protection from violence at the workplace, however, the following statement shows that the trade union is taking activities in this area: „We have joint activities with the business sector, and we try to influence the consistent respect for the provisions of the Law on labor Relations. The experiences have shown that increased number of institutions are interested to attend the seminars that we organize“.

The experiences from the work of the Union of independent trade unions show that the situation is very unenviable regarding the general status of the trade unions in the country, as well as the insignificant role of the trade union especially with regard to the employees in the private sector: „I think that there are no conditions to establish a trade union in the private sector where the employees are faced with disrespect for the employees' rights, disrespect for the dignity and integrity of the worker“. Therefore, the efforts of the UNASM are aimed towards the organization of seminars on continuous basis in order to familiarize the employees about the real role of the trade union.

The mutual cooperation and coordination in the actions taken by the trade union and the State labor inspectorate were analyzed from the aspect whether the trade union has so far requested from the State labor inspectorate to perform inspective supervision based on established indications that there is violence at the workplace. In this context, the trade union representative stated that such practice does not exist, thus underlying that the principles of confidentiality and anonymity of the UNASM SOS line for violence at the workplace prevent the reporting of individual cases of violence at the workplace to the State labor inspectorate. In such cases, the individuals that called the SOS line are recommended to report the violence themselves to the State labor inspectorate. With regard to the attitudes towards the cooperation between the trade union and the State labor inspectorate, one can learn from the following statement: „I think the system of cooperation between the trade union and the State labor inspectorate is not developed, and needs to be further developed in future. I think that the inspectors themselves do not recognize the need for development of such need of cooperation“.

In the context of identifying the recommendations to improve the situation in this field, besides the adoption of a new law on psychological harassment (mobbing) they also mentioned the following proposals: work should be done on raising the awareness about recognizing the two phenomena; development of institutional cooperation among all competent institutions; as well as opening of counseling offices for the victims of mobbing and sexual harassment at the workplace. Furthermore, the statements indicated to the need for inevitable cooperation between the trade unions and the institutions especially with regard to the implementation of the law, education of the institutions about the action they should take, as well as special education for the State labor inspectorate.

3. Confederation of free trade unions (KKS)

Program determinations for protection from discrimination and violence at the workplace

The program declaration of the Confederation of free trade unions contains the determination of the trade union to ensure protection of the worker from discrimination, harassment and maltreatment at the workplace¹⁵.

The program determination of the Confederation of free trade unions with regard to the protection of the worker from discrimination and harassment at the workplace is realized through organization of trainings, education for the membership, education of the members of other trade unions, as well as other employees concerning the topics of discrimination, with special accent on mobbing and sexual harassment. The target group that most often attends those trainings is the young and female population.

Findings from the conducted interview

The findings of the conducted interview with the Confederation of free trade unions (KKS) show the lack of information among the employees, non-recognition of the phenomena of harassment, and they consider the violations of workers' rights as similar to mobbing. From the available mechanisms, they only recognize the role of the court although the majority are aware that the court procedure to prove mobbing is extremely difficult and without outcome. The Confederation of free trade unions (KKS) is also of the opinion that employers are not sufficiently informed about the phenomena which are subject of the analysis.

With regard to the question about the role of the trade union, i.e. whether the employees recognize the primary role of the trade union, the views of the interviewed trade union representative show that the situation is not favorable in this area: „The workers do not sufficiently recognize the role of the trade union, i.e. they do not see the trade union as their representative. Workers do not sufficiently approach the trade union even in cases of violation of workers' rights, and the few of them who would make a call are anonymous“. The reasons why the workers do not see the trade union as their representative for the protection of their rights can be only identified with the workers, and not among the trade union representatives.

Insignificant number of employees approach the KKS for assistance and protection from harassment at the workplace to request only advice or legal information, but do not have the courage to initiate a court procedure: „The number of individuals that approach us is very insignificant in comparison with the extent to which mobbing exists at the workplace“.

The attitudes about the cooperation of the trade unions with the State labor inspectorate show insufficient cooperation among these two institutions: „There is poor cooperation among the two institutions, and the workers, especially the victims of mobbing do not trust the State labor inspectorate. On the other hand, the inspectors are few and cannot complete all work concerning the violation of other workers' rights, and what about mobbing. Also, inspectors are neither sufficiently informed nor educated. The labor inspection does not adhere to the principle of anonymity“.

¹⁵Program declaration, item 8: “ KKS shall request that regulations in this area are strictly applied for protection at the workplace, whereby it shall cooperate with the respective inspection services. One should prevent the continuous trend of growth of professional ailments, injuries at the workplace, sick leave, etc. which are reflection of the lack of care by the state and the employers about the health protection. Within the labor dignity, we shall strive to protect the worker from discrimination, harassment and maltreatment at the workplace, and not only legal protection, but also psychological-social protection shall be organized

According to KKS, the legislation on the phenomena, which are subject of this analysis (psychological and sexual harassment), is imprecise and insufficient, which is a view shared by the other trade union organizations. Besides the adoption of the new law on mobbing, the trade union representative also stated other proposals for improvement of the situation in this field, such as: providing information to all other relevant factors (courts, inspection, employers, employees), strengthening their capacities for taking adequate action, more campaigns to introduce the citizens with the legal provisions, etc. The representative also stated some concrete proposals that need to be undertaken at the level of each organization towards prevention and protection of workers from violence at the workplace. Namely, in every company there should be a human resources sector which shall serve as a link between the employee and the employer, internal rulebooks for taking action in cases of harassment, code of conduct at the workplace, as well as establishment of a continuous training system for the employees, and especially for the new employees.

III. The place and role of citizen organizations for prevention and suppression of the phenomena of psychological and sexual harassment at the workplace

Part of the analysis refers to the findings from the conducted interviews with two citizen associations, i.e. the citizen association – Mobbing program and the Macedonian association for protection at work, whereby the first association is established and works only on matters related to psychological harassment (mobbing) and the second association deals primarily with activities in the field of safety and protection at the workplace. In the process of selecting the citizen associations, it was taken care that on one hand we need to identify an association with many years of work experience in the field of harassment at the workplace, but also an association that covers the aspects of safety and protection at the workplace. This was done in order to examine the possible perspectives for inclusion of matters of violence at the workplace as part of the matters for safety and protection at the workplace. The findings and the attitudes of both citizen associations shall be used to make summarized conclusions.

1. Citizen association, Mobbing program

The citizen association – Mobbing program is an association, which so far has taken comprehensive activities to sensitize the public regarding the problem of psychological harassment (mobbing), organization of public discussions in cooperation with the Institute for occupational medicine in Republic of Macedonia, as well as realization and promotion of the initial findings and survey results regarding the phenomenon of psychological harassment. This type of activities also includes the representatives of the Ministry of labor and social policy, Ministry of health and the State labor inspectorate. Special part of the work of this association is directed towards the provision of direct assistance and support to the victims of psychological harassment by operating the SOS info line for reporting cases of mobbing, Psychological counseling office, as well as provision of legal assistance and advocacy.

Findings from the conducted interview

The representative of the association stated that there is lack of special interest for conducting trainings about violence at the workplace by the competent state institutions. One exception is the interest that the Ministry of defense has shown for realization of such trainings. The trainings which so far have been realized by the association include the following topics: recognizing the actions of mobbing, communication skills in

dealing with mobbing, legislation, consequences from psychological harassment (mobbing), assistance and support for the victims, as well as institutional mechanisms in provision of protection for the victims. Sexual harassment has only partially been incorporated in those trainings through definition and recognition of the elements, i.e. types of sexual harassment.

The activities of the association are aimed for several target groups, such as: victims of psychological harassment, employees in the public and private sector, organizations/companies, local administration and human resources sectors at the municipalities. The association mentioned the difficulties they face to ensure the attendance of representatives from institutions, that is, some of them were not allowed by the superiors to attend the trainings on psychological harassment (mobbing).

The attitudes of the association are identical towards the non-existence of knowledge among the employers and the employees both with regard to the legislation and the mechanisms for protection from violence at the workplace.

The representative of the association stated that employees get informed only after the problem has emerged, especially when they get punished, first by reducing their salary or transferring them to another position: „Once the problem of mobbing already exists, then they start to search for information about their rights and what is necessary to be undertaken, whether to file a petition or complaint, which are the legal deadlines for submission, etc. The victims of psychological harassment in this procedure most often look for people who can help them and who will take their side“. This is also supported by the view of the representative of the association that the workers insufficiently understand and recognize the phenomena of mobbing and sexual harassment, thus it requires more education and information.

With regard to the knowledge of the employers, the representative of the association stated that only state institutions which have human resources departments and sectors for legal matters are informed about these matters and have the capacity to follow and implement the legislation. With regard to the knowledge about the legislation and the mechanisms for protection from violence at the workplace in the private companies, the representative of the association has different views depending if it is a matter of bigger or smaller company. Namely, smaller private companies cannot and are not able to continuously follow and be informed about the legislation and the mechanisms of protection. Unlike them, according to the findings of the representative of the association, bigger private companies do have interest to be informed not due to prevention and protection from violence at the workplace, but primarily due to protection of their economic interests and their own reputation.

The findings obtained from the association also include certain violations, that is, presentation of false and provoked actions of psychological harassment (mobbing) by certain individuals who show that they are victims of mobbing just to get better position or promotion at the workplace.

The views of the association were also examined if the workers recognize the primary role of the trade union, that is, realization and protection of worker's rights. That the role of the trade union gradually weakens is also supported by the statement of the representative of the association: „Workers do not recognize the role of the trade union at all and I think that one should not blame the workers, on the contrary, the trade union is to be blamed and in general the changes and relations within the trade union itself. The changing of trade union leaders largely makes the workers doubtful and this is how the credibility of the trade unions declines“.

Special part of the conducted interview was aimed to establish the difficulties and problems that victims of violence encounter at the workplace. The association disposes of such findings as result from the provision of direct assistance and support to this category of people for four years now. In their experience, the victims encounter a range of problems, such as: lack of basic level of communication in the organization, inadequate knowledge about the problem itself, lack of mechanisms within the institutions where the problem can be reported, existence of discrimination on the grounds of gender and nationality, requesting that assignments are performed after working hours and outside of the business premises, sending messages of sexual nature, etc. Furthermore, the association stated that even when harassment existed at the workplace, the workers requested peaceful way to resolve the problem so as to avoid making more trouble in their organization. One way which was used for peaceful resolution of the psychological harassment was the request to involve a third person from outside who is a professional and takes the role of unbiased and objective mediator in order to solve the problem.

The data from the work of the citizen association – Mobbing program, so far illustrate the high percentage of reported cases of psychological harassment. Namely, during the period from February 2008 until September 2012, the association registered total of 476 individuals who approached for assistance regarding psychological harassment at the workplace. The majority of the victims who approached were women.

The representative of the association is of the opinion that the legislation on harassment at the workplace is inadequate, with numerous incomplete provisions and there is need to be further regulated. Such inadequacy and impreciseness of the legal provisions leads to having a legislation which is not being applied at all.

Part of the efforts of the association to make a strategic approach towards the prevention and elimination of the phenomenon of psychological harassment refer to the preparation of a draft strategy and action plan to fight psychological harassment (mobbing) for the period 2005-2015. According to the statement of the representative of the association, the prepared draft strategy is based on the established situation in the area of psychological harassment and the results from the three conducted surveys regarding the prevalence of this phenomenon. According to the established situation, the draft strategy contains the strategic guidelines, draft short-termed and long-termed measures for prevention and suppression of the problem of psychological harassment, as well as the relevant actors, their resources and capacities towards the realization of the established priority activities. The competent institutions which are mandated to act according to the draft strategy are as follows: Ministry of labor and social policy, Ministry of health, State labor inspectorate, trade unions, citizen associations, committees on gender equality, Academy for training judges and prosecutors, etc. Despite the institutional mandate, the draft strategy is focused on taking systemic preventive activities, as well as establishment of a centre for research and monitoring the situation regarding the phenomenon of psychological harassment.

Given the above stated, there is a concern that the state, i.e. the Ministry of labor and social policy, do not show any interest regarding their involvement and support of the initiative for preparation of draft strategy and action plan on psychological harassment. Moreover, considering the fact that the MLSP neither responded on the request for participation and supporting the process in 2008 when it was initiated, nor it took any action following the submission of this document in 2011. In addition, the statement of the representative of the association is of concern, thus there is neither interest shown by the Federation of trade unions of Macedonia regarding their involvement in the process. As result of this situation, one of the

essential determinations of the association is to actualize the draft strategy and action plan on psychological harassment again, as well as to present the content of these documents at public discussions and forums in front of the competent institutions, other relevant actors and citizen associations. The goal of these activities is to ensure full involvement of all relevant stakeholders and transparency in the preparation of the stated strategic documents.

Additionally, the association gave proposals such as increased information sharing with the institutions, and conducting own analysis in order to learn about the prevalence of the phenomena and the negative effects both on the workers and the effectiveness and productivity of the organization. Also, the association has positive attitude towards the introduction of internal organizational rulebooks or codes of conduct, which would contribute to the prevention of these problems and would provide adequate protection of the workers, in general. According to the statements of the representative of the association, it would also be indispensable to ensure consistent application in practice.

2. Macedonian association for protection at the workplace (MZZPR)

The Macedonian association for protection at the workplace, as part of its primary mandate, takes activities for raising the awareness and educating the employees and the employers in the field of safety and protection at the workplace. Furthermore, on initiative by the association, postgraduate and graduate studies for protection at the workplace were established. In parallel to the stated activities, the association also takes activities at the level of companies, in order to realize programs for improving the safety and health conditions at the workplace. MZZPR has also established regional and international cooperation with other organizations that work in the same field, in order to follow and apply the regional and international experiences and standards regarding the safety and protection at the workplace. The target groups for the trainings are primarily the members of the association, professionals and companies which are licensed to perform activities for safety at the workplace, as well as companies which are licensed to perform activities for health at the workplace.

Findings from the conducted interview

According to the statement of the MZZPR representative, the trainings on safety and health at work have neither included nor is it necessary to include the topics of psychological and sexual harassment at the workplace. The representative explained the statement with the inability to merge the two topics, i.e. the topics cannot be connected to their primary mandate, i.e. safety at the workplace. Apart from the shared views that the safety and health at the workplace matters are incompatible with the psychological and sexual harassment at the workplace, yet MZZPR shared the view that the phenomena of psychological and sexual harassment have direct impact on the health and the safety of the worker, which leads to possible injuries and accidents at the workplace, but also affect the effectiveness, productivity and profitability of every organization.

All this shows that broader perspective does not exist and that the questions related to psychological and sexual harassment at the workplace are not taken into account as part of the matters related to the safety and health at the workplace. Contrary to these views, this perspective is part of the European and international policies in the field of prevention and suppression of phenomena at the workplace which can negatively affect the health of workers, along with the psychological harassment (mobbing). These policies consider the violence at the workplace as direct consequence of the non-existence of healthy and safe working environment.

The Macedonian association for protection at the workplace (MZZPR) is of the opinion that the cooperation with the State labor inspectorate is on satisfactory level. The cooperation is realized on continuous basis with full involvement of the State labor inspectorate in the trainings organized by the association, in particular about different aspects related to the safety and protection at the workplace (obligations of the employer in accordance with the Law on Safety and Health at the Workplace¹⁶, such as making a risk assessment and statement for safety, rulebook on vibrations, rulebook on noise, etc.). The subject of common interest and cooperation with the State labor inspectorate have so far not been the matters related to the violation of workers' rights regarding discrimination and violence at the workplace (psychological and sexual harassment). These views are supported by the statement of the representative of the association that there is no need to regulate the precise competencies of the labor inspectors regarding detection and follow-up of cases of violence at the workplace: „It would be too much to expect from the inspector to be able to resolve the matter, he/she can only refer it to the court“.

IV. The place and role of the employer's associations for prevention and fight against the phenomena of psychological and sexual harassment at the workplace

The establishment of employers' associations is regulated in the Law on labor Relations¹⁷ in order to represent, promote and protect their economic and social interests. Employers' associations are obligated to register in the special register of employers' associations, which is kept by the Ministry of labor and social policy. Given the fact they represent a relevant factor in the realization of the social dialogue with the government and the trade unions, it was considered essentially important to establish the attitudes and views of the employers who are organized through the associations about the phenomena of sexual and psychological harassment at the workplace. Moreover, they have essential impact as equal partner to the other social partners, i.e. the Government and the trade unions regarding the creation of economic and social policies in our country.

1. Business Confederation of Macedonia (BCM)

The Business Confederation of Macedonia (BCM) was registered as employer's association in the register of employers' organizations at the Ministry of labor and social policy in 2005. This confederation comprises of 14 associations and 295 companies.

¹⁶Chapter II. General obligations of the employer, Law on Safety and Health at the Workplace, Official Gazette of RM, No.92/07, 136/2011)

¹⁷Law on Labour Relations, Article 184, paragraph 3 and 4, Official Gazette of RM No. 62/2005; 106/2008; 161/2008; 114/2009; 130/2009; 149/2009; 50/2010, 52/2010; 124/2010; 47/2011; 11/2012 и 39/2012.

Paragraph (3) Employers have the right, on their own choice, to establish an association and also to become members, under the conditions prescribed with the status or the rules of the association.

Paragraph(4) The employers' association is an autonomous, democratic and independent organization, which the employers voluntarily join in order to represent, promote and protect their economic, social and other interests.

Findings from the conducted interview

The Business Confederation of Macedonia has not realized any training on the topic of discrimination, psychological and sexual harassment at the workplace. However, these topics have been included in the trainings that the association organized for its members, as well as in the more comprehensive trainings on safety and health at the workplace. The confederation organizes the trainings on safety and health at the workplace in cooperation with the Ministry of labor and social policy and the Organization of employers in Macedonia. So far, the association participated as partner together with organizations that deal with women's rights in trainings that included the topics of psychological harassment (mobbing), discrimination and sexual harassment.

The target groups for the trainings organized by the association are the employees in the human resources sectors, legal departments in the companies, trade unions and the State labor inspectorate. In addition, the Business Confederation of Macedonia is involved in trainings that refer to the inclusion of victims of violence at the labor market, which were also attended by managers from the private sector.

In the everyday communication with the members, the confederation underlines the importance of respecting and applying the principle of equality and non-discrimination for all employees in the companies. Besides the stated practice of information sharing and communication and the attendance at such trainings, the private companies do not show any interest to organize a workshop or training on the topic of discrimination or violence at the workplace (psychological and sexual violence). Therefore, the association is of the opinion that once the new Law on psychological harassment (mobbing) is adopted, there should be mandatory obligation both for employees and employers regarding the participation at trainings. With regard to the knowledge of the employers about the matters which are subject of this survey, the data obtained from the conducted interview with the representative of the Business Confederation of Macedonia show that the knowledge of employers is at very low level. Partially that is due to the inexistence or non-functioning of the legal departments within the companies. The views regarding the extent of being informed, i.e. uninformed is identical also about the employees, that is, they also have little knowledge about these matters.

The findings and views of the association were also considered regarding the adequacy of the regulations of the phenomena of psychological and sexual harassment in the Law on Labor Relations. Namely, according to the provided answers, there is an attitude that the Law on Labor Relations is unclear and non-functional in the part that regulates the respective phenomena – „Laws need to be clear, therefore there is need for some amendments. The same refers to the mechanisms for protection, which are foreseen by the law. I think that employees do not know who they should approach and how to act if they are victims of violence at the workplace. In addition, they are afraid to speak about the problem and ask for its resolution. I think that if there were better explanations, the response would be better and workers would feel safer“.

In line with the above stated findings and views, the Business Confederation of Macedonia also stated several recommendations to improve the situation in this field, such as education, awareness raising, respecting and implementation of the legislation, introduction of internal acts, rulebooks and codes of conduct within the company. In this context, the association has prepared the Code of ethics in the business community, and also organizes events for corporate social responsibility and ethical management of the companies. In addition, the essential recommendation given by the association is also the drafting and adoption of the new law on psychological harassment (mobbing).

2. Organization of employers of Macedonia (ORM)

The Organization of employers of Macedonia¹⁸ is entered into the register of employers' associations of the Ministry of labor and social policy in 2005. ORM represents more than 15 sectors that employ almost 70 000 employees in 1012 enterprises in the private sector of Republic of Macedonia. The involvement of ORM is with regard to topics which are of interest of the employers, such as: education, infrastructure, safety and health at the workplace, social responsibility, labor and social legislation, taxation, investments, penal policy and crediting.

Findings from the conducted interview

The Organization of Employers of Macedonia has not organized trainings for the private companies on the topics of discrimination and violence at the workplace (psychological and sexual harassment). In cooperation with the office of the International Labor Organization (ILO) and the Macedonian association for safety and health at the workplace, the association realized trainings of trainers – employers, whereby only small part of these trainings on safety and health at the workplace were dedicated to the matters of discrimination and violence at the workplace. Partially, these matters were subject of elaboration during the trainings on peaceful settlement of disputes. The employers, which are members of the Organization of employers of Macedonia, so far have not shown interest for trainings or workshops on any of the topics related to discrimination and violence at the workplace, because they consider them as not being current topics.

The Organization of employers, in cooperation with the office of the ILO participated in the drafting of the changes and amendments to the legislation on labor relations and protection at the workplace. In compliance with the primary mandate of this association, the changes and amendments mostly referred to the parts about the salaries and fringe benefits, and not the regulation on discrimination, psychological and sexual harassment at the workplace.

According to the views shared by ORM, employers are informed and have knowledge about the legislation on psychological and sexual harassment at the workplace. The representative of ORM, also stated the need of their involvement in the adoption of the new law on psychological harassment on request by the trade unions.

The representative of the Organization of employers of Macedonia emphasized the importance of adopting a new law on psychological harassment, and its further implementation: „Psychological harassment (mobbing) is a complex topic in terms of the evidentiary procedure, and that requires a lot of work to prescribe the right provisions“. The adequate regulation of these matters is certainly also important for the employers. Every employer would like healthy working conditions, less sick leave and absence from work“. The aspects which require special attention for improvement of the legislation refer to the ways in which harassment is recognized at the workplace, and ways in which it can be proved.

ORM shared positive views through the recommendations made about integrating the topics of discrimination and violence at the workplace (psychological and sexual harassment) within the trainings on protection at the workplace.

¹⁸Website of the Organization of employers of R.M., www.orm.org.mk. Available on 10.12.2013

PART TWO

ORGANIZATIONAL POLICIES REGARDING THE VIOLENCE AT THE WORKPLACE (PSYCHOLOGICAL HARASSMENT AND SEXUAL HARASSMENT)

Special part of the survey „Institutional response and organizational policies with regard to the violence at the workplace“ refers to the establishment of internally established procedures for acting upon cases of psychological and sexual harassment at the workplace, both in the private companies and in the state administration organs. This is even more valid if one considers that the initial findings about the inexistence of organizational policies for equal opportunities, non-discrimination and violence at the workplace represent a risk factor that contributes towards the increase in the psychological and sexual harassment. Namely, the data from the survey: „Violence against women at the workplace“ indicated to the fact that the most prevalent form of psychological harassment, i.e. discrediting the personal reputation is most prevalent in organizations without developed regulations and procedure and which do not take action regarding the treatment of the phenomenon of psychological harassment, as well as regarding the increased presence of sexual harassment in such organizations.

I. Organizational policies in the state administration organs and public institutions

Having considered the above-stated initial findings, we surveyed the attitudes and policies of several state administration organs (ministries) as well as institutions (state organs and bodies that perform work of public interest). Namely, for the needs of the survey we conducted several interviews with officials from the departments for legal matters and human resources within the following ministries: Ministry of labor and social policy, Ministry of defense and Ministry of interior, and the following public institutions: Republic institute of social protection, Institute for mental health, Polyclinic Zelezara and the Institute of agriculture.

A) Findings from the conducted interviews with the representatives from the state administration organs

The interviews conducted with the representatives from the three ministries: Ministry of labor and social policy (MLSP), Ministry of interior (MOI) and the Ministry of Defense (MD) showed that the interviewed representatives have satisfactory knowledge about the phenomena of psychological and sexual harassment at the workplace in the sense of definitions, forms in which they are manifested and the regulation in the laws. With regard to the question - which are the mechanisms of protection available to the employees in case of psychological and sexual harassment at the workplace, the interviewees mentioned different aspects of the possibilities for protection which are available to the employees. Namely, the Ministry of labor and social policy, which is primarily mandated to develop and implement the policies regarding the labor legislation and protection of workers at the workplace, indicated that the first step that an employee should take in such case refers to submission of a complaint, petition, report or primarily to inform the superior about the situation, and then the Sector for human resources at the ministry and further all other possible highest levels that should be notified. The Ministry of interior indicated to the inexistence of mechanisms for protection regulated by the Law on Labor Relations, whereas the Ministry of defense has an internally established system for reporting cases of violation of workers' rights, i.e. reporting to the so-called Ombudsman in the Sector for inspection at the ministry.

More precisely, it is a matter of an individual who is employed as an Ombudsman and all employees are entitled to approach this individual in written or in person and state the problem. This mechanism for certain should also cover the cases of psychological and sexual harassment at the workplace.

The special part in the mentioned survey was aimed to establish the existence of a policy or practice within the respective ministries for systemic efforts and activities towards adequate ensuring education and capacity of the employees to recognize mobbing and sexual harassment at the workplace. There is a difference in the attitudes of all three ministries in terms of whether the employees in their ministries are familiar or not familiar with the legal provisions on discrimination, psychological harassment (mobbing) and sexual harassment. Except for the Ministry of labor and social policy where it is believed that the employees are not sufficiently familiar, at the Ministry of defense there is opinion that the employees do have knowledge which is practically due to the ongoing presence of these issues in public and partially due to the attention that the ministry pays to inform its staff about all changes and ongoing issues regarding the positive legislation. On the other hand, at the Ministry of interior it is believed that one cannot say to which extent are the employees informed. Yet, they are assured that there is sufficient familiarity given that the ministry has undertaken several activities in that context, as they have available and developed portal where all laws and secondary legislation can be reviewed; access to the collective agreements, as well as to the Law on Internal Affairs, the Law on Police, the Law on Civil Servants; existence of a department for joint matters where the employees can be introduced with the procedures for legal assistance and to get advice in order to exercise a particular right and the existence of active trade union that works on education and protection of the employees' rights. In all the ministries a positive opinion was shared regarding the familiarity of the officials on managerial positions regarding the matters which are subject of this survey.

The Ministry of labor and social policy, which should have the front role regarding the realization of trainings on topics such as discrimination and violence at the workplace, so far has not realized a single training for its staff and managers. Certain improvement in this context implies the preparation of the first training on psychological harassment (mobbing), however, it is not mandatory neither for the employees nor for the employers. The situation at the Ministry of interior is almost identical, where no trainings on psychological and sexual harassment have been organized so far both for the employees and the superiors. The Ministry of defense is an exception, because there have been two trainings organized about psychological harassment (mobbing) in 2012 for their employees and managers. They also mentioned that there is interest about these trainings and accordingly they have foreseen additional trainings in the plan of the ministry for 2013.

The ministries, through the statements made by their representatives, confirmed their efforts and determination to respect the principle of equal treatment and non-discrimination of the staff on any grounds, whereby from the Ministry of interior it was indicated that the principle of equal treatment and discrimination is implemented by respecting the legal provisions on these matters, in particular during the recruitment or applying for certain position, existence of objective criteria for promotion or objective criteria for evaluation of the performance etc.

Special part of this survey was aimed to establish whether there is a practice of submission of complaints for violation of employee's rights within the ministries. This is further valid considering the fact that it is a matter of state administration organs which should consistently respect the provisions of the Law on Labor Relations, among which is the existing mechanism for protection, i.e. the possibility of the employee to submit a written request to the manager in case of violation of the worker's rights.

At the Ministry of interior, it was stated that the respective mechanism is often used in their institution, mostly regarding requests for getting extra hours for additional work. The employees get informed about this possibility at the department for legal matters that provides information about the respective laws and regulations, as well about the manner of exercising the rights. For the same aspects they are also informed by the manager, who refers them to the entity that should be approached and the manner in which the procedure should be conducted. The employees can also be referred to the trade union about the same matters. Unlike the Ministry of interior, at the Ministry of labor it was stated that the employees do not submit complaints, i.e. written requests to the managers in case of violation of their worker's rights, whereas at the Ministry of defense it was stated that such complaints or written requests are rarely submitted by the employees. On the other hand, at the Ministry of defense it was stated that the employees are informed about the legal possibilities when they sign the employment contracts, which also involves a „mentor“ who is in charge of informing the new employee about all necessary laws and regulations, as well as organizational policies and procedures at the respective ministry.

The obtained findings about this mechanism were supported by the information on the utilization of the mechanism which is available in the Law on Civil and Public Servants, i.e. initiation of disciplinary procedure. The information about the initiation of disciplinary procedure for conducted disciplinary offence as result of offensive or violent conduct represent an additional indicator which was used to analyze the organizational characteristics and culture regarding the tolerance for discrimination and harassment at the workplace. The obtained data show very unsatisfactory level of utilization of the disciplinary procedures for conducted disciplinary offence on this ground.

Namely, at the Ministry of defense it was stated that so far there have been no violations of the disciplinary procedure that refers to a disciplinary offence in relation to Article 68, paragraph 17¹⁹, i.e. as result of offensive or violent conduct. At the Ministry of interior it was stated that the disciplinary procedures on the ground of offensive or violent conduct are very rarely initiated, i.e. that most often there are disciplinary procedures for violation of some of the worker's rights, while at the Ministry of labor and social policy it was stated that so far there has been only one initiative in 2010 for initiation of disciplinary procedure against a civil servant regarding a violent conduct. With regard to the respective initiative, no responsibility was established for conducted disciplinary offence. The ministries have identical experiences regarding the identification if there are cases when an employee handed in a resignation on the basis of Article 100 of the Law on Labor Relations, paragraph.6, 7, and 8²⁰. Precisely, we examined if there has been a case when an employee due to perpetrated harassment at the workplace, and not being able to run a formal procedure for any reason, decided to resign on one of the above-stated grounds. At all of the three ministries a negative answer was given, that is, it was stated there such cases did not exist.



¹⁹Law on Civil Servants, Official Gazette of RM, No. 114/2009

²⁰(6) the employer has offensive or violent conduct towards the employee or contrary to his/her warnings does not prevent such conduct by the other employees;

(7) the employer does not ensure equal treatment on the grounds of gender and

(8) the employer has not taken action that the employee does not become victim of sexual harassment, Law on Labor Relations, Official Gazette of RM, No.16/2010

The organizational actions were also analyzed by establishing if the ministries have developed internal procedures which are regulated in rulebooks, guidelines or other internal acts for reporting and further processing of the violence at the workplace. From the obtained data, one can notice that none of the ministries have developed internal procedures for reporting and processing the psychological and sexual harassment at the workplace, although some of them stated that it is indispensable that those are urgently adopted. This is all supported by the fact that in none of the three ministries there have been no reports about perpetrated psychological and sexual harassment at the workplace. The inexistence of an organizational policy at the level of the ministry for preventing, reporting and processing the cases of violence at the workplace is especially worrisome at the Ministry of labor and social policy, which should serve as a promoter of the policies for safety and health of the workers at the workplace.

The trade union organization and the realization of the protection of worker's rights through the trade union as a legitimate representative body of the workers, were also constituent part of this survey. Thus, on the question whether the employees, who are members of the trade union, have so far approached their trade union representative for violation of their rights regarding discrimination or violence at the workplace, we were given identical information from the three ministries, i.e. they do not have knowledge about that. The Ministry of defense specified one case when the employees approached the trade union, but not with regard to the matters which are subject of the analysis, but with regard to the realization of the right to pension. At the same ministry it was stated that there is every day cooperation and continuous exchange of opinions and views with the trade union about general matters related to the mutual work, planning of activities, etc.

The interviews were also aimed to obtain concrete proposals from the interviewees, so in this context at each of the three ministries certain measures were being proposed, which should be undertaken in order to improve the situation in this area. Concerning the improvement of the legal framework and the institutional actions, at the ministries it was stated that there is need for further regulation of the procedure for protection of workers, adoption of additional acts for clear and precise definition of the mechanisms for protection, establishment of a special body or organ with specified mandate that would accept complaints for violence at the workplace and would guarantee the outcome of the procedure. The representative from the Ministry of interior stated that such procedure should be urgent and with short deadlines so that the respective body can promptly settle the procedure.

The representative of the Ministry of labor and social policy indicated to the need of putting special accent on the psychological situation of the victims of violence at the workplace, which also requires that special measures for psychological assistance and support are provided, as well as adequate education for the people who work in the human resources departments.

Besides the above stated proposals, the importance of existence of institutional cooperation with all actors that have direct or indirect mandate to act, cooperation with citizen associations in the field of violence at the workplace, as well as punishment of the perpetrators of this type of violence were additionally stated at the Ministry of defense. More information, raising the awareness and education for the managerial staff and the employees about the psychological and sexual harassment, introduction of internal procedures for prevention and protection of the employees, were the proposals that were stated by the representatives of all three ministries.

B) Findings from conducted interviews with representatives of public institutions

The existence of internal organizational policies for prevention and tackling the psychological and sexual harassment at the workplace was examined by conducting interviews with representatives of four public institutions that perform work of public interest in the areas of social protection, education and health. Namely, 3 interviews were conducted with managers of the following institutions: Institute of social activities, Institute of mental health and the Public health institution- Polyclinic Zelezara and one interview with the manager of the legal department from the Agricultural Institute at the University Ss Cyril and Methodious.

The findings from the conducted interviews with all public institutions indicate that there is understanding about the subject of the survey, i.e. phenomena of psychological and sexual harassment at the workplace, as well as the fact that they are regulated by law. The public institutions do not dispose of knowledge about the institutional mechanisms for protection available to the workers in cases of violation of worker's rights, including the psychological and sexual harassment at the workplace, such as: State labor inspectorate, Ombudsman, Committee on protection from discrimination, trade unions or judicial protection. Namely, the institutions stated only the possibilities used in their institutions for protection of worker's rights, in general, such as: submission of written statement to the management board, submission of complaint or other submission to the institute's administration or scientific council, submission of petition to the manager, mechanisms for monitoring, supervision and evaluation of employees, as well as regular meetings and continuous cooperation with the managers, directors and employees.

The existence of policy or practice in the public institutions to educate and inform the employees to be able to recognize the psychological and sexual harassment at the workplace was another special aspect of the analysis. Unlike the Agricultural Institute at the University Ss Cyril and Methodious and the public health institution Polyclinic Zelezara, the representatives of the Institute of mental health and the Institute of social activities stated that the employees in these institutions are sufficiently informed about the legislation on psychological and sexual harassment at the workplace. Thus, according to the statement of the representative of the Institute of social activity, activities have been taken to build the capacities of the employees, whereby the realized trainings also included the matters of discrimination and harassment at the workplace. Besides the statement of the representative from the Institute of mental health that there have been no trainings organized for the employees regarding the harassment at the workplace, yet it was also stated that the employees are informed as result from the promoted Code of conduct, which partially includes the aspects of harassment at the workplace.

With regard to the extent to which the superiors and managers of the public institutions are informed, the interviewed representatives shared different opinions. Thus, at the Institute for public health there is no insight into the extent of knowledge, whereas at the public health institution Polyclinic Zelezara and the Institute of social activities it is believed that these people are sufficiently informed about the phenomena of psychological and sexual harassment at the workplace. Concerning this aspect, the representative of the Agricultural Institute at the University Ss Cyril and Methodious shared a negative view that the managerial staff is not informed, and also that there is no interest about the topics of harassment at the workplace, in general.

Part of the survey was also aimed to establish whether the legally foreseen mechanisms of protection are used in the public institutions in cases of violation of worker's rights, such as: possibility for submission of



written request to the employer²¹, as well as initiation of disciplinary procedures for offensive or violent behavior at the workplace²². The utilization of these mechanisms was analyzed because they can indirectly indicate to the existence of violation of worker's rights, including the psychological and sexual harassment at the workplace.

With regard to the frequency of having the employees submit a written request to the employer, the findings from all public institutions show insufficient application of this mechanism for protection in case of violation of the worker's rights. At three of the public institutions, it was stated that employees do not submit at all any written requests or petitions to their managers or directors, whereas at the public institution Agricultural Institute at the University Ss Cyril and Methodius it was stated that it happens very rarely. This situation is even more worrisome given the fact that the interviewed representatives stated that the employees are not informed and familiar with the possibility specified by law. In addition, it was stated that the information sharing is done through internal meetings in the institution, through managers, trade unions or legal department in the institutions, where the employees can ask for information when they believe that their rights have been violated.

The situation is also identical with regard to the use of the mechanism for initiation of disciplinary procedures as result of perpetrated offensive and violent behavior in accordance with the Law on Public Servants. Namely, no disciplinary procedure on this ground has been initiated in any of the public institutions.

Obtained findings about the utilization of the two indirect mechanisms for protection: written request and disciplinary procedure were supplemented with the obtained data in terms of whether the public institutions have developed internal organizational procedures for cases of psychological and sexual violence at the workplace. The findings from all public institutions show that the internal procedures for reporting and processing cases of psychological harassment are inexistent, thus accordingly there is no single registered reported case of perpetrated psychological and sexual violence at the workplace.

The non- use of any of the above-stated mechanisms for protection of workers illustrates that there is lack of organizational policy and culture in the public institutions for treatment of the issues of psychological and sexual harassment at the workplace, as phenomena which can be timely detected and adequately prevented. The established situation does not enable building of trust among the employees, as well as trust among the employees and the superiors that the cases of harassment at the workplace shall be adequately processed, and the victims are given the necessary support and protection.

²¹Article 181: „If the employee believes that the employer does not provide the rights arising from employment or violates any of the rights from labor relations, he/she has the right to submit written request to the employer to eliminate the violation, i.e. to fulfill the obligation. “, law on Labor Relations, Official Gazette No. (62/2005; 106/2008; 161/2008; 114/2009; 130/2009; 149/2009; 50/2010; 52/2010; 124/2010; 47/2011; 11/2012; и 39/2012).

²²V. Responsibility of civil servants- Disciplinary responsibility, law on Civil Servants, Official Gazette No. (52/2010; 36/2011; 6/2012 и 24/2012)

The question regarding the organization of the employees within a trade union was analyzed especially from the aspect whether the worker, i.e. the workers united in the trade union organization would be able to more efficiently exercise their worker's rights, among others, the right to healthy and safe working conditions, i.e. inexistence of violence at the workplace. Therefore, the interviewed representatives were asked whether the employees in these institutions are members of trade unions, whereby the obtained data lead to the conclusion that in certain public institutions part of the employees are members of trade unions.

Besides the fact that part of the employees are members of the trade union, yet they have not approached the trade union so far, i.e. the trade union representative in cases of violation of their worker's rights in terms of discrimination, unequal treatment and violence at the workplace (psychological and sexual harassment). Concerning the detected situation, it is a worrisome fact that the trade union representatives have not approached the manager or director of the institution for violation of worker's rights, including the harassment at the workplace. The especially passive role of the trade unions is further confirmed by the statements of the representative of the Institute of mental health and the Institute of social activities: „The trade union is completely defocused, unlike the essential role and impact of the trade unions in other European countries“, „The current set up of the trade unions makes them passive towards cooperation and open communication.

The purpose of the interviews was to establish the views of the public institutions regarding the legislative regulation of the phenomena and the mechanisms for protection, as well as to obtain recommendations regarding the improvement of the situation of harassment at the workplace. Thus, the representative of the Institute of mental health stated that the Law on Labor Relations adequately regulates the psychological harassment at the workplace and the mechanisms for protection of employees, and there is no need for essential changes in the legal provisions. With the exception of the institute, the other public institutions stated that there is a need of further regulation of these matters by law, given the fact that the legal provisions are too general, i.e. unclear and imprecise. The Agricultural Institute also provided concrete directions that it would be necessary to provide further regulation of the phenomena of harassment at the workplace, among others, also about the procedure for protection of the employee, clear definition of the mechanisms for protection as well as about the evidentiary procedure to prove the acts of harassment at the workplace.

The representatives of the public institutions were asked about their opinion regarding the need for undertaking other measures, besides the legislative measures, in order to improve the situation in this area, thus they stated the following proposals: establishment of independent bodies that will work exclusively on the processing of cases of psychological and sexual harassment at the workplace, strengthening the capacities of the legal departments to act in cases of harassment at the workplace, as well as conducting trainings, educational activities and activities to raise the awareness of the employee, employers and trade unions.

All the public institutions shared a positive view about the need of introducing internal procedures for prevention and processing of cases of harassment at the workplace.

II. Organizational policies of private companies

INTRODUCTION

Given the significant number of people employed in the private sector²³, the survey was aimed to obtain data about the organizational policy and culture in the private companies with regard to the phenomena of psychological and sexual harassment at the workplace. Moreover, that was due to the obtained indications from the previously conducted interviews that the situation is very unfavorable in the private sector regarding the protection of worker's rights, as well as the findings that there is an exceptionally low level of trade union organization and accordingly an inability for exercising the worker's rights.

For the needs of the survey, the identified private companies were divided in three categories based on the number of employees, (in companies where the number of employees is up to 30 – interviews were conducted with representatives of 7 companies, in the companies with up to 60 employees there were 3 interviews conducted and in companies with more than 60 employees there were interviews conducted with representatives of 4 companies). The interviewed representatives were mostly part of the managerial team in the companies.

Information available about the legislation and the mechanisms for protection from mobbing and sexual harassment

In order to establish the extent to which the directors, i.e. managers of the private companies are informed about the phenomena of psychological and sexual harassment at the workplace, they were asked if they can define the phenomena of psychological and sexual harassment at the workplace, whether they are informed about the respective regulations as well as whether they are informed about the prescribed mechanisms for protection available to the workers for their protection, including the protection in cases of psychological harassment (mobbing) and sexual harassment at the workplace.

From the conducted interviews, one can conclude that there is a basic level of knowledge about the phenomena of psychological and sexual harassment at the workplace among the interviewed managers in the private companies. Namely, regarding the question whether they can define the phenomena of psychological and sexual harassment at the workplace, with the exception of the interviewed representative from one company, all other interviewed representatives (total of 13) defined part of the constitutive elements of the phenomena of psychological and sexual harassment at the workplace. Furthermore, when defining the phenomena of psychological and sexual harassment, the interviewed representatives stated the possible perpetrators of harassment and well as the individuals to whom these can be directed. Five of the interviewed representatives also stated the negative effects when they were defining the phenomena of harassment, i.e. consequences suffered by the worker as result of psychological and sexual harassment at the workplace.

²³From the total number of employees 652 498, 490 289 are employed in the private sector, whereas 162 209 employees are employed in public, mixed, joint or state ownership companies. State statistical bureau, III quarter 2012.

The existence of information and knowledge among employers in terms of the regulation of these phenomena in our country, indeed is an important precondition which has essential influence for raising the awareness and taking activities to protect the workers in cases of psychological and sexual harassment at the workplace. Namely, regarding the question whether these phenomena are regulated by law, the managers, i.e. directors from 12 private companies (85, 7%) stated that they are informed about the legislation. From the total number of informed representatives, half of them stated that they are informed that the phenomena of mobbing and psychological harassment are part of the changes in the Law on Labor Relations, whereas the other five representatives stated which are the laws that provide the regulation. Only the representatives of two companies provided more comprehensive information regarding the regulation of discrimination in the Law on Labor Relations, whereby they also stated that psychological and sexual harassment at the workplace are defined as forms of discrimination. These two private companies belong to the third category of companies with big number of employees, thus the possibility for direct and current information sharing and monitoring the changes in the legislation in the area of labor relations by the human resources departments and legal departments which function within the companies.

In order to obtain more comprehensive information about the existing mechanisms for protection of worker's rights, including the psychological and sexual harassment at the workplace, the employers were asked if they have knowledge about those mechanisms of protection. Namely, half of the companies (53,8%), that is, seven companies stated the mechanisms which are usually used by the workers for violation of worker's rights, i.e. submission of report or complaint to the employer, company director or the management team, submission of complaint to the legal department or human resources department. Besides these mechanisms, four of these companies stated the possibilities for protection in a judicial procedure, and the same number of companies stated the trade union as one of the mechanisms for protection of the workers. Three of the companies did not answer this question at all, whereas other three companies did not state the mechanism for protection of worker rights, including the harassment at the workplace. None of the companies stated other mechanisms for protection of workers, such as for example the possibility to submit a petition to the Commission for protection from discrimination, or the Ombudsman.

From the obtained data, there is a reason for major concern that none of the companies involved in the survey did not mention the State labor inspectorate, although it is an important mechanism for protection of worker's rights.

Education and information of the employees/management team regarding the phenomena of psychological and sexual harassment at the workplace

Regarding the question whether the employers think that employees in their company are sufficiently informed about the legal provisions from the Law on Labor Relations regarding discrimination, psychological and sexual harassment, only 3 of total of 14 companies gave affirmative answer, i.e. the employees are informed and familiar with the legislation. Unlike them, the other 11 companies think that the employees are not sufficiently familiar with the legal provision on discrimination, psychological and sexual harassment at the workplace. This is further supported by the statements of some of the representatives of the companies: „Mobbing is still unknown phenomenon both for the employees and the employers“ ; „Employees have some knowledge regarding the provisions on salaries, annual leave etc., and not to mention mobbing and sexual harassment“; „ All employees should be informed about these provisions of the Law on Labor Relations, but also all citizens in the country“; „Laws are being constantly changed, workers are not sufficiently informed and things remain as they used to be in the past“.

As opposed to the low familiarity of the employees, the companies stated that the management team in the company is informed about the legal provisions that regulate the phenomena of harassment at the workplace, whereas only four of the interviewed representatives stated that the management team does not have information regarding the legislation. Yet, the subjective element of the interviewed persons needs to be taken into consideration during the analysis of the respective data, i.e. motivation to show the company, i.e. the management team in a good light.

None of the interviewed companies has taken activities to inform the employees exclusively about the phenomena of psychological and sexual harassment. The situation is identical with regard to the activities taken to inform the management team about the phenomena which are subject of this analysis. On the question whether the company had organized trainings on the topics of discrimination, psychological and sexual harassment at the workplace both for the employees and the management team, the respondents stated that there have been no specific trainings neither on any of the topics nor about the legislation that regulates these phenomena as well as the mechanisms for protection of workers in case of psychological and sexual harassment at the workplace. The matters of harassment at the workplace have not been processed as part of the trainings on safety and health at the workplace, whereby the realization of those trainings is foreseen with the respective law.

The exception is only one company, which in cooperation with the trade union enabled the female employees to attend a training on psychological harassment (mobbing). In this context, it is unclear which is the policy of the management in the company about the attendance of trainings on psychological harassment only by female employees, but not by male employees and the representatives of the management team of the company. Only one of the companies stated that the trainings on the rights arising from labor relations also incorporate the concept of discrimination.

The above stated situation also indicates the fact the companies neither have interest nor need to conduct special trainings on psychological and sexual harassment at the workplace. The director or the management team is the one that decides about the needs for training and information sharing both for the employees and the management team, and this usually happens if there is legal obligation for the employer to organize those trainings or if that is imposed by the State labor inspectorate.

The companies also stated other ways they practice to inform the employees but only about issues they consider as priority, and not about the psychological and sexual harassment at the workplace. For instance, the same companies stated that at the internal weekly or monthly meetings in the company they discuss openly about issues that refer to their mutual relations and tolerance, the relation manager/employee, organizational culture, development and promotion of human resources, problems encountered by the employees at the workplace, etc. Another example for sharing information is the forwarding of information to the management team, which is then obligated to inform the employees in the company.

Respect for the principle of equality, equal treatment and non-discrimination at the workplace

Twelve of the total fourteen interviewed respondents – representatives of the management team of the companies, stated that their company respects the principle of equality, equal treatment and non-discrimination of the employees, whereby only half of them elaborated in details the manner in which they realize i.e. apply the principle of equal treatment and non-discrimination. This can be illustrated with some of the following statements: „Every individual has the right and the possibility to apply for any job in the company regardless of age, gender or nationality. After being employed, all employees have the same rights

regardless if they are newly employed or already employed for some time. Also, every employee has the right to equal access to the mechanisms for protection in the company“ ; „We are all equal at work, we all function together and we do not humiliate each other“.

Submission of written request to the employer in case of violation of the rights of employees from labor relations

One of the legal mechanisms prescribed in the Law on Labor Relations in Chapter XVI – Exercising and protecting the rights, obligations and responsibilities from labor relations²⁴, is the possibility for the employee to submit a written request to the employer if the employee believes that the employer does not provide the rights from labor relations. The mechanism for submission of written request is the first formal step which the employee should take in case of violation i.e. non-fulfillment of the rights from labor relations, such as in cases of psychological and sexual harassment at the workplace. Therefore, we also examined the extent to which this legal mechanism is used within the identified private companies. Almost half of the interviewed companies do not use the foreseen legal mechanism, i.e. submission of written request to the employer in case of violation of worker’s rights. More precisely, small companies with up to 30 employees consider this mechanism as unnecessary and practice informal problem resolution, i.e. verbal conversation. The following statements of the respondents confirm the findings: „ Most often, the requests are stated verbally. If we request, that can also be submitted in written“; „Usually, we verbally resolve all problems. If we reach the stage of written complaints, it means that we have considered the problem much deeper“; „There have been no written requests so far. We resolve them verbally immediately“.

Unlike them, the employees in middle-size (to 60 employees) and large private companies (over 100 employees) use the mechanism for submission of written requests to the employer in case of violation of worker’s rights, whereby some of them submit the written request in electronic form most often to the human resources department, the legal department and to the trade union. One of the companies stated that written requests are no longer used and they have been substituted with the possibility for submission of petition through the established web portal of the company on which the employees can anonymously state their problems. There are increased number of petitions which the company receives through the web portal and most often they refer to the duration of the office hours, suggestions for organization/ reorganization of the working process and adjustment of the employees to the working process. Besides the use of the web portal for the existing problems of the employees, they also have discussions during informal meetings within the company.

The obtained data lead to the conclusion that the submitted written requests, i.e. petitions do not refer to the problems of psychological and sexual harassment at the workplace. Or precisely, only one of the companies stated that a process of psychological harassment has been processed on basis of submitted petition through a formal procedure in which the case was reviewed by a special committee that invited both the individual who submitted the petition and questioning witnesses. The procedure lasted quite long, whereby at the end the committee reached decision to the advantage of the submitter.

²⁴ Article 181, paragraph.1 „If the employee thinks that the employer does not provide the rights from labor relations or violates any of his/her rights, he/she has the right to submit a written request to the employer to eliminate the violation, i.e. to fulfill the obligation, Law on Labor Relations, Official Gazette No.62/2005; 106/2008; 161/2008; 114/2009; 130/2009; 149/2009; 50/2010; 52/2010; 124/2010; 47/2011; 11/2012; and 39/2012).

The second equally valid aspect in determining the utilization of the legally prescribed possibility for submission of a written request is whether the employees are informed in general about the respective possibility. The lack of information and attitude regarding this question is characteristic for most of the interviewed companies. The same refers to the question about the manner in which employees are informed about this possibility.

In addition to the utilization of the mechanism – submission of written request to the employer in case of violation of worker's rights, we also analyzed the utilization of the conditionally stated "the last mechanism for protection at the level of employer, that is, resignation²⁵ by the employee in case of violent behavior by the employer, lack of equal treatment or no-action in case of sexual harassment at the workplace. Some of these reasons are regulated by the Law on Labor Relations according to which an employee three days after having warned the employer in written about the fulfillment of obligations, he/she can cancel the employment contract. When the employee resigns due to the above stated reasons, he/she has is entitled to compensation payment and indemnification which is not less than the amount of the lost salary during the notice period. Namely, the obtained data show that so far in none of the companies there was a case when the worker resigned because of violent behavior by the employer, non-provision of equal treatment and not taken action in case of sexual harassment at the workplace.

Internal procedure for reporting and further processing of psychological and sexual harassment at the workplace

None of the companies have developed internal organizational procedures on reporting, processing and protection in cases of harassment at the workplace. Although three of the companies, in general have around 800 employees, yet, these companies have not developed an organizational policy which ensures that adequate action is taken for cases of harassment at the workplace, and general prevention of these phenomena in future.

As result from the inexistent organizational policies regarding the questions of interest, perpetrated psychological and sexual harassment have not been reported in any of the companies.

Nine of the companies stated the internal Code of conduct as the only internal document that regulates several aspects of the company's operation such as the conduct at the workplace, people relations in the company, rights and duties at the workplace, procedure for protection of the worker. The adopted codes of conduct in the private companies neither include the issues of mobbing and sexual harassment at the workplace nor the procedure for protection in these cases. Only in one of the interviewed companies, it was stated that the adopted collective employment contract at the level of the employer, besides the rights and duties of the employees, it also regulates the psychological and sexual harassment at the workplace as well as the manner of taking action in such cases.

²⁵Article.100

6) the employer offends or has violent behavior towards him/her or despite his/her warnings does not prevent such behavior by other employees;

7) the employer does not provide equal treatment considering the gender and

8) the employer did not take any activities to prevent the employee to become victim of sexual harassment.

(2) The employee in case of resignation because of the behavior from paragraph (1) of this article has the right to compensation at least to the amount of the salary lost during the notice period., Law on Labor

The trade union and its role in the exercising and protection of worker's rights

The employees in the companies are not members of the trade union, that is, only in two companies it was stated that their employees are members of the trade union, whereby the first one is a middle-size company (up to 60 employees), and the second company is with more than 500 employees. With regard to the familiarity of the employees with the provisions of the general, i.e. special collective employment contract, one can also notice an insufficient extent to which the employees are familiar with it. In this sense, only three of the companies stated that their employees are informed and familiar with the content of the collective employment contracts. These companies used different ways to inform the employees about the content of the collective employment contract, such as: the newly employed workers attend a short course provided by the human resources sector, whereby they are told about their basic rights, and the collective employment contract is displayed on a visible place or it is printed as a booklet and distributed to all employees in the company.

Employers do not have information if any of the employees have approached the trade union, i.e. the trade union representative about violation of some of the worker's rights on the grounds of discrimination, unequal treatment and violence at the workplace (psychological and sexual harassment at the workplace). Given the fact that the initial findings show that trade unions exist only in two of the companies, therefore the obtained data about the proactive role of the trade unions are limited. Thus, two of the companies that have trade unions stated that the trade union representative has so far approached the employer, whereby the requests for protection of worker's rights most often referred to the request for salary amount, change in working processes, fulfillment of the conditions from the Law on safety and health at the workplace, etc.

Despite the fact that employees are insufficiently organized in trade unions in these companies, it is a concern that data show non-expression or lack of attitudes whether the trade union has an essential role and can contribute to the promotion and protection of worker's rights, including the harassment at the workplace. Namely, positive views in this context were only expressed by two companies where the employees are organized in trade unions. That is supported by the following statements: "The trade union has potential for work, however, that potential is underused. In any case, there is a need for sharing information and introduction of novelties in their operations, because the legislation and organizations undergo many changes, so that the new challenges imply new guidelines for work"; "They have the capacity. So far, we have not had any more serious problems. Indeed, the trade union has very important role to protect the worker's rights, as well as to organize the necessary educational gatherings and seminars on topics relevant to the workers".

Legislation on discrimination, i.e. psychological and sexual harassment at the workplace

The survey examined the attitudes and knowledge of employers regarding the legislation on discrimination, i.e. psychological and sexual harassment at the workplace, i.e. whether they think that the Law on Labor Relations adequately regulates these phenomena. Majority of the companies, despite the knowledge that the Law on Labor Relations regulates the matters of mobbing and sexual harassment, they do not possess additional information on the scope of regulation by the law. Only four of the companies gave affirmative answers that the Law on Labor Relations adequately regulates the above stated phenomena, however, they did not provide explanation about the respective adequacy.

Relations, Official Gazette of RM No.62/2005; 106/2008; 161/2008; 114/2009; 130/2009; 149/2009; 50/2010; 52/2010; 124/2010; 47/2011; 11/2012; and 39/2012).

Unlike the above given statements, four of the interviewed companies have more thorough knowledge regarding the adequacy of the legal provisions that regulate discrimination, psychological and sexual harassment at the workplace, whereas two of the companies clearly stated that there is need for further regulation of these phenomena by law. That is supported by the following statements: „The Law on Labor Relations has sufficiently well regulated the subject matter; however the legal provisions were stipulated at certain point of time for certain phenomena, which means that they reflect the current situation which is not permanent and is constantly changing. It implies the need for amendment, explanation and better structuring of the subject matters.“, „The wording of the law is incomplete especially with regard to the definition of the vulnerable groups, and for that reason I think that this part should be further elaborated. The solutions provided by the law are incomplete, and these cannot respond to the requirements in the long run. I expect that the employers and the Government shall work on the further detailed elaboration of the law in the long run“. Two of the companies have clearly stated their views that further regulation of certain phenomena is indispensable considering that these phenomena are only regulated in general without any detailed elaboration.

None of the companies answered the question if the Law on Labor Relations clearly defines the mechanisms for protection of the worker in case of psychological and sexual harassment at the workplace, which implies that there is lack of knowledge and use of the existing mechanisms for protection, as stipulated in the Law on Labor Relations.

The interviewed companies have different attitudes regarding the need to further regulate the phenomena of psychological and sexual harassment at the workplace. Namely, half of the companies share the opinion that there is need for further regulation of the phenomena which are subject of this analysis. Besides the clearly expressed attitude about the need to further regulate the phenomena, the companies do not dispose of sufficient information and that is why they cannot assess the precise areas in which the phenomena of psychological and sexual harassment at the workplace should be further regulated. Thus, the companies expressed almost identical views that these phenomena should be better explained, specified and elaborated.

We considered it especially important to leave room and possibility for the companies to propose other types of measures that need to be undertaken towards prevention and protection of victims of psychological and sexual harassment. Most of the companies stated their proposals for improvement of the situation in this area, whereby some of them refer to taking preventive activities, such as: increasing the knowledge; raising the awareness through media campaigns; taking internal activities of any type that enable discussions about these matters and in general about all problems that employees encounter, as well as informing both employees and employers at top level at workshops, meetings, trainings. Some of the proposals made by the companies refer to taking measures which imply improvement of the institutional actions and the system for protection, such as: affirmation of the institutions and their mandate in taking action to provide protection to the victims of psychological and sexual harassment, institutional strengthening and promotion, proactive attitude of the institutions in the fight against these phenomena; organized system of professional services and psychologists, introduction of internal procedures for prevention and protection of workers from these phenomena.

One of the companies stated several proposals for improvement: „When the legislation undergoes certain changes, it implies also institutional strengthening. If new law on mobbing is adopted, it would also mean that an institution needs to be identified to monitor the implementation and enforcement of the law. In

addition, the trade union should have the key role with more serious and systematic approach regarding the treatment of these phenomena. Seminars which are organized, at least some of them or maybe once a year should be dedicated to the psychological harassment (mobbing) and sexual harassment. The companies also proposed some additional measures, such as: education for the labor inspectorate, increasing and imposing fines and imprisonment sentence for perpetrators of psychological and sexual harassment, as well as more active role of the citizen associations that work in this area.

According to most of the companies, the introduction of internal regulations and procedures by the employers for prevention and protection of workers from violence at the workplace is measure that will ensure improvements of this situation. According to the employers, it will not be sufficient just to adopt those internal regulations and procedures, but they should be shared with the employees through educational and informative meetings. One of the companies thinks that such procedures or internal regulations, such as the Code of conduct, would bring results in bigger organizations/companies with bigger fluctuation of the labor force, but not in the small companies with up to 30 employees.





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