

# Counteracting Mobbing: The Role of Collective Bargaining Agreements and Forensic Expert Studies

Nataliia Filipenko \*

\* Doctor of Legal Sciences, Professor, National Aerospace University “Kharkiv Aviation Institute” (KHAI), Kharkiv, Ukraine, ORCID: <https://orcid.org/0000-0001-9469-3650>, e-mail: [n.filipenko@khai.edu](mailto:n.filipenko@khai.edu)

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*This scientific paper examines mobbing as one of the most harmful forms of psychological pressure within workplace collectives, undermining employee well-being and organizational stability. To accomplish the goal, general scientific methods have been employed: observation, comparison, abstraction, analysis, synthesis, modelling, etc. It emphasizes that, despite the statutory incorporation of the concept of «harassment (mobbing)» into the Labour Code of Ukraine, existing legal mechanisms require further development, while anti-discrimination legislation calls for stronger practical instruments. In this context, the collective bargaining agreement assumes particular importance as a preventive tool, enabling the institutionalization of corporate ethics, the establishment of clear grievance procedures, guarantees of protection against unfounded sanctions, and a precise definition of the parties' liability. At the same time, the role of forensic expertise as a crucial evidentiary mechanism in mobbing cases is underscored. Specifically, forensic examinations – psychological, linguistic, and sociological – provide objective substantiation of psychological pressure, facilitate the analysis of workplace communications, and assess their impact on employees' mental health. The synergy between the preventive function of collective bargaining agreements and the evidentiary strength of forensic expert studies creates a comprehensive system of protection against mobbing. The article also explores international standards, notably International Labour Organization's Convention No. 190 and ILO Recommendation No. 206, as well as European Union – Directive 2000/78/EC, which establish*

*principles of equality and prohibit psychological violence in the workplace. Their fundamental role in harmonizing national legislation and building a multi-level system of mobbing prevention – based on the integration of legal guarantees, organizational measures, socio-psychological methods, and forensic expert studies – is substantiated.*

**Keywords:** *mobbing; labour relations; collective bargaining agreement; discrimination; social dialogue; counteraction; prevention; forensic expert studies.*

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## Research Problem Formulation

International jurisprudence and comparative legal analysis indicate that counteracting mobbing has become a cornerstone in the evolution of labor law and social policy within European jurisdictions. Ukraine is progressively harmonizing its national framework with international standards on the protection of employees against psychological harassment. Recent amendments to the Labour Code of Ukraine (notably Law No. 2759-IX and subsequent normative acts effective as of 2026) – together with contemporary legislative initiatives – are aimed at institutionalizing response mechanisms and strengthening both direct and vicarious employer liability. This phenomenon acquires heightened legal and social significance amidst the ongoing state of war – wherein the psychological burden on human capital escalates sharply. Under such circumstances, mobbing functions as an additional factor destabilizing work collectives. Ensuring a psychologically safe and supportive occupational environment therefore transcends statutory compliance – it constitutes a fundamental element of national resilience and post-conflict recovery. At the same time, forensic expertise is underscored as a pivotal evidentiary instrument in mobbing litigation. Multidisciplinary forensic examinations – psychological, linguistic, and sociological – provide

objective corroboration of psychological pressure, deconstruct hostile communication patterns within the workforce, and assess their impact on employees' mental health. The synergy between the preventive function of collective bargaining agreements and the evidentiary strength of forensic studies establishes a comprehensive, multi-tiered system for counteracting mobbing – indispensable for maintaining social stability during wartime challenges and subsequent national recovery.

## Analysis of Essential Researches and Publications

In scholarly literature, mobbing is characterized as a complex, multidimensional phenomenon encompassing legal, social, victimological, and psychological dimensions. The collective works of L. Harashchenko, A. Kolota, O. Kachmar, O. Korablyova, N. Mekheda, O. Serdyuk, O. Soroka, N. Filipenko, and others analyze the causes of mobbing, its impact on work collectives, and international approaches to counteracting this phenomenon. Their research highlights the need to establish effective legal mechanisms for employee protection and to integrate international standards in occupational health, safety, and corporate social responsibility. Within the scope of this article, emphasis is placed not only on investigating the causes of mobbing but

also on identifying practical pathways for its mitigation – including the management of victimological risks and the strategic application of forensic expertise. Psychological, linguistic, and sociological examinations serve as essential instruments for substantiating psychological pressure, analyzing intra-collective communications, and assessing their harmful impact on employees' mental health. The synthesis of preventive measures and evidentiary mechanisms enables the formation of a comprehensive system for counteracting mobbing. It is important to note that Ukrainian scholars conceptualize mobbing as a factor undermining organizational resilience – and, in the context of armed conflict, as an additional threat to workforce psychological well-being and social stability. Consequently, the integration of global best practices, adaptation of corporate governance standards, and formulation of national strategies for counteracting mobbing must incorporate the systemic use of forensic expertise as a primary evidentiary resource in labor relations.

### **Article Purpose**

The aim of the study is not only to synthesize the fundamental provisions regarding the nature of mobbing within work collectives but also to model the causes of its occurrence – with due regard for contemporary socio-economic conditions. Particular emphasis is placed on developing comprehensive counter-mobbing measures that integrate national legislation with international standards and the practical application of forensic expertise. Comprehensive forensic examinations are characterized as a pivotal evidentiary instrument – enabling the objective corroboration of psychological pressure, the assessment of its impact on employees' mental health, and the provision of an admissible evidentiary basis to the court.

### **Research Methods**

General scientific methods are used: observation, comparison, abstraction, analysis, synthesis, modeling, etc.

### **Main Content Presentation**

In examining contemporary issues surrounding mobbing, it is methodologically essential to conduct a comparative legal analysis of practical experience in European jurisdictions – which have developed distinct, multi-layered models for counteracting this phenomenon. These paradigms encompass not only robust statutory frameworks and institutionalized adjudication protocols within work collectives – but also a sophisticated reliance on forensic evidentiary standards to address the multifaceted nature of psychological harassment in the modern workplace.

In Germany, mobbing is not categorized as a discrete criminal offense; however, it is adjudicated by courts as a violation of the employee's personality rights and a systematic form of discrimination. The landmark ruling of the Federal Labour Court (Bundesarbeitsgericht, 15.01.1997 – 7 ABR 14/96) defines mobbing as «systematic hostility or harassment that creates unacceptable working conditions and infringes upon the dignity of the employee». The Court emphasized that the employer bears a legal duty of care to prevent such conduct, and failure to fulfill this obligation may result in civil liability. The jurisprudence of German courts frequently incorporates psychological and medical forensic evaluations to substantiate the harm occasioned by mobbing. For instance, in the case of the Higher Labour Court of Thuringia (Landesarbeitsgericht Thüringen, Urteil vom 10.04.2001 – 5 Sa 403/00), the court recognized mobbing as systematic actions by a supervisor that induced a psychological disorder in an

employee. The court awarded compensation for non-pecuniary damage, relying on the findings of a forensic psychological examination. In such instances, forensic evaluations are of paramount importance for establishing the causal nexus between the employer's conduct and the impairment of the employee's health – in strict accordance with forensic standards of proof<sup>1</sup>.

In France, both labour and criminal legislation define mobbing – specifically categorized as «moral harassment» (*harcèlement moral*) – as repetitive acts that deteriorate working conditions and are capable of causing prejudice to an employee's rights or dignity. Pursuant to Article L.1152-1 of the French Labour Code (*Code du travail*): «No employee shall be subjected to repeated acts of psychological pressure which have as their object or effect a deterioration of working conditions that is likely to infringe upon their rights and dignity, to affect their physical or mental health, or to compromise their professional future»<sup>2</sup>. The jurisprudence of the Court of Cassation of France (*Cour de cassation*) classifies as «moral

harassment» such conduct as demotion in rank, the unauthorized disclosure of medical confidentiality, the removal of personal effects, the imposition of tasks inconsistent with an employee's professional designation, and systematic derogatory criticism<sup>3</sup>. It is of paramount legal significance that in France, the «burden of proof» (*onus probandi*) is shifted to the employer, while employees are afforded procedural guarantees of protection against disciplinary sanctions and termination throughout the period of judicial proceedings.

Conversely, in Italy, the judiciary also recognizes mobbing as systematic hostile acts that result in deleterious consequences for an employee's health. However, in accordance with the Italian Code of Civil Procedure, the evidentiary burden remains with the employee, who must substantiate both the fact of the harm and its specific «causal nexus» with the occupational environment<sup>4</sup>. The Supreme Court of Cassation of Italy (*Corte Suprema di Cassazione*), in its ruling dated January 27, 2017 (*Cass.*, no. 2142), stipulated that for the legal es-

- 1 See more: Das Bundesarbeitsgericht (BAG). Urteil vom 15. Januar 1997 (7 ABR 14/96). Mobbing als Verletzung von Persönlichkeitsrechten / Bundesarbeitsgericht : web. URL: <https://www.bundesarbeitsgericht.de> (date accessed: 20.03.2026) ; Workplace bullying: The complete guide for victims and companies / Rotwang Law : web. 01 Aug 2025. URL: <https://rotwang-law.de/en/mobbing-am-arbeitsplatz-der-komplette-leitfaden-fur-betroffene-und-unternehmen/> (date accessed: 20.03.2026) ; Weberndörfer F., Posluschny C., Bachmeier M., et al. Bullying in the Workplace: What Employers Should Consider / Norton Rose Fulbright : web. Oct 2024. URL: <https://www.nortonrosefulbright.com/en/knowledge/publications/d2be19cc/bullying-in-the-workplace-what-employers-should-consider> (date accessed: 20.03.2026) та ін.
- 2 Code du travail. Article L1152-1 / Légifrance : web. URL: [https://www.legifrance.gouv.fr/codes/article\\_lc/LEGIARTI000006900818](https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000006900818) (date accessed: 20.03.2026).
- 3 See more: Cour de cassation : web. URL: <https://www.courdecassation.fr/decision/harcement-moral> (date accessed: 20.03.2026) ; Artus C., & Chihi S. Harassment in the Workplace: A Major Challenge for Employers in France. *National Law Review*. 2025. Vol. XVI. No. 86. URL: <https://www.natlawreview.com/article/harassment-workplace-major-challenge-employers-france> (date accessed: 20.03.2026).
- 4 See more: Santagata de Castro R. Workplace Bullying in Italy. Malicious Intent and Role of EU Anti-discrimination Law. *Biblioteca '20 Maggio'*. 2019. Vol. 2. Pp. 209–224. URL: [https://csdle.lex.unict.it/sites/default/files/Documenti/Articoli/2019-2\\_deCastro.pdf](https://csdle.lex.unict.it/sites/default/files/Documenti/Articoli/2019-2_deCastro.pdf) (date accessed: 20.03.2026) ; Trifirò E., Moretti J. Straining e Mobbing: quando le condotte diventano giuridicamente rilevanti secondo la Cassazione / Trifirò & Partners : web. 7 Gen 2025. URL: <https://www.trifiro.it/approfondimenti/straining-e-mobbing/> (date accessed: 20.03.2026).

establishment of the fact of mobbing, it is necessary to substantiate «a series of persecutory acts over a prolonged period, which in their totality infringe upon the dignity and mental health of the employee»<sup>5</sup>. In this legal context, forensic expertise acquires paramount significance, as it facilitates the substantiation of the «causal nexus» between the employer's conduct and the resulting harm occasioned to the employee. Psychological and linguistic forensic examinations have emerged as pivotal evidentiary instruments within the forensic analysis of mobbing.

The Montenegrin Law «On the Prohibition of Abuse at Work» (Official Gazette of Montenegro No. 30/2012, as amended by No. 54/2016) constitutes a *lex specialis* – a dedicated legislative act that directly regulates the issues of mobbing. Pursuant to Article 1: «*This Law regulates the rights, obligations, and responsibilities of employers and employees regarding the prevention of abuse at work (mobbing), as well as other matters of significance for protection against mobbing*» (Official Gazette of Montenegro, No. 30/2012)<sup>6</sup>. The Law defines «mobbing» as any systematic behaviour or series of acts that have as their object or effect the infringement of an employee's dignity and the creation of a hostile or offensive atmosphere. Pursuant to these provisions, the employer is legally mandated to ensure a safe and healthy working environment, implement measures for the prevention of mobbing, and develop internal policies and

procedures for the adjudication of complaints (Official Gazette of Montenegro, No. 54/2016)<sup>7</sup>. An employee is entitled to lodge a formal complaint with the Labour Inspectorate or the court, to receive protection against disciplinary sanctions during the pendency of the case, and to claim compensation for both «pecuniary and non-pecuniary damage». The 2016 amendments reinforced procedural guarantees by codifying the employee's right to job security (retention of the workplace) throughout the judicial process and by refining the specific procedures for the adjudication of complaints. The Law provides for both civil and administrative liability for employers who fail to implement anti-mobbing measures – including the imposition of punitive fines and the provision of restitution to victims.

In Lithuania, mobbing is directly regulated in labor legislation as «psichologinis smurtas darbo ukrytė» (psychological violence in the workplace). According to Article 30 of the Labor Code of the Republic of Lithuania (Darbo kodeksas, 2017), the employer is obliged to ensure a safe and healthy working environment, and any manifestations of psychological harassment are recognized as a violation of labor rights<sup>8</sup>. Judicial practice confirms that mobbing is qualified as systematic actions that infringe upon the dignity of an employee and may result in impairment of their health. For instance, in a case adjudicated by the Supreme Court of Lithuania (Lietuvos Aukščiausioji Teisma, June 19, 2015,

5 Mobbing: necessario l'intento persecutorio da parte del datore di lavoro : Cassazione Civile, Sez. Lav. 27 gennaio 2017. N. 2142 / Olympos : web. URL: <https://surli.cc/hvbylq> (date accessed: 20.03.2026).

6 The Law on Prohibition of Harassment at Work. *Official Gazette of Montenegro*. 2012. No. 30. URL: <https://wapi.gov.me> (date accessed: 20.03.2026).

7 Report on the Non-Accepted Provisions of the Revised European Social Charter. Montenegro, 2016. 48 p. URL: <https://rm.coe.int/montenegro-report-on-the-non-accepted-provisions-of-the-revised-europe/1680b692ae> (date accessed: 20.03.2026).

8 Lietuvos Respublikos darbo kodekso patvirtinimo, įsigaliojimo ir įgyvendinimo įstatymas. 2016-09-14. Nr. XII-2603. TAR, 2016-09-19, Nr. 23709. URL: <https://www.e-tar.lt/portal/lt/legalAct/f6d686707e7011e6b969d7ae07280e89/asr> (date accessed: 20.03.2026).



No. 3K-3-408/2015) it was established that the systematic ignoring of an employee and the deprivation of their actual job functions constitutes «psychological violence», and that the compensation for «non-pecuniary damage» must be predicated upon the findings of a forensic psychological examination. Scientific research further underscores the critical importance of forensic expertise in mobbing litigation: Gumbyte (2022) <sup>9</sup> the research analyzes the theoretical and practical aspects of the legal regulation of mobbing, emphasizing the imperative need for «comprehensive psychological and sociological studies» to substantiate the harm sustained; J. Vveinhardt and W. Sroka (2020) in their work on corporate social responsibility within Polish and Lithuanian organizations, they state that: «*Forensic expertise is a pivotal evidentiary instrument in establishing the causal nexus between the employer's conduct and the employee's state*» <sup>10</sup>.

In contrast to other European nations, the issue of counteracting mobbing in Sweden is regulated not only through legislation but also via robust institutional mechanisms. In addition to statutory norms, there exists the Ombudsman for Labour and Social Relations, who coordinates the activities of expert groups and develops recommendations for the prevention of psychological harassment. This model integrates legal regulation with practical prevention tools – including educational programs and public information campaigns – and provides for the active uti-

lization of expert studies as the evidentiary basis in labour disputes <sup>11</sup>.

Numerous nations have already established progressive anti-mobbing systems that synthesize legal mechanisms with preventive and educational measures aimed at fostering a safe and healthy working environment. These systems demonstrate the efficacy of an institutional approach – wherein specialized bodies not only react to violations but actively work to prevent them. Drawing upon this international experience, it is expedient for Ukraine to establish a dedicated institution – for instance, an «Ombudsman for Countering Mobbing and Psychological Violence in the Workplace» – who would coordinate interaction between employers, trade unions, and state authorities, develop methodological recommendations, monitor mobbing incidents, and guarantee the protection of aggrieved employees.

In the context of the ongoing war, the application of «comprehensive forensic examinations» – psychological, linguistic, sociological, and medical – acquires particular significance. These examinations enable the objective corroboration of psychological pressure, the determination of its impact on the mental health and professional future of employees, and the provision of an admissible evidentiary basis to the court. Such an approach will ensure not only prevention but also the substantive protection of human rights in the workplace, marking a crucial step towards the implementation of international standards

9 Gumbyte G. A. Mobbingo teisinio reguliavimo teoriniai ir praktiniai aspektai. Theoretical and Practical Aspects of Mobbing Legal Regulation : Magistro darbas. Vilnius, 2022. 56 p. URL: <https://epublications.vu.lt/object/elaba:175680744/index.html> (date accessed: 20.03.2026).

10 Vveinhardt J., Sroka W. Workplace Mobbing in Polish and Lithuanian Organisations with Regard to Corporate Social Responsibility. *International Journal of Environmental Research and Public Health*. 2020. Vol. 17. Is. 8. DOI: 10.3390/ijerph17082944 (date accessed: 20.03.2026).

11 European Social Charter (Revised) (ETS No. 163). Strasbourg, 03/05/1996 / Council of Europe : web. URL: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/163> (date accessed: 20.03.2026).

and the formation of a national anti-mobbing system in Ukraine.

The study of the European experience in combating mobbing is impossible without reference to Council Directive 2000/78/EC, which established a general framework for equal treatment in employment and occupation. The significance of this document lies in its legal definition of «harassment», which is inherently identical to the mechanisms of mobbing. Furthermore, it enshrines the principle of equal treatment and defines the harassment of an employee as a form of discrimination. Pursuant to Article 2(3): «*Harassment shall be deemed to be discrimination when unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment*» (Council Directive 2000/78/EC, 2000)<sup>12</sup>. This implies that both the State and the employer are mandated not only to react to instances of aggression but also to ensure an environment where psychological pressure and systematic harassment are rendered impossible due to their «unlawful nature». It is upon this foundational basis that the Court of Justice of the European Union (CJEU) formulates its jurisprudence in labour and discrimination cases, where mobbing is adjudicated as a form of harassment. For instance, in the case of «*Kücükdeveci v Swedex GmbH*» (C-555/07, 2010)<sup>13</sup> the Court ruled that national courts are obliged to disapply provisions that contravene the principle of non-dis-

crimination – even if they remain formally in force within national law – thereby reinforcing the protection of employees against systematic harassment.

Furthermore, in the recent landmark case of «*Bervidi*» (C-38/24, 2025)<sup>14</sup> the Court reaffirmed the prohibition of indirect discrimination on the grounds of disability in instances where an employee is subjected to harassment due to their role as a caregiver for a child with a disability. This ruling effectively encompasses situations of psychological pressure and mobbing. Both judgments demonstrate how the provisions of the Directive are transformed into practical mechanisms for protection against psychological aggression within work collectives.

A crucial element of the European employee protection system is the provision of the European Social Charter (1961, revised in 1996), which in Article 26 explicitly establishes the obligation of State Parties «*to promote the prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct by employers*»<sup>15</sup>. The practice of the European Committee of Social Rights (ECSR) confirms the efficacy of this norm: in the case of «*Marangopoulos Foundation for Human Rights v. Greece*» (Complaint No. 47/2008), it was established that the absence of adequate measures to prevent harassment constitutes a violation of Article 26. Furthermore, in the

12 Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation / EUR-Lex : web. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0078> (date accessed: 20.03.2026).

13 Seda Küçükdeveci v Swedex GmbH & Co. KG : Case C-555/07. Judgment of 19 Jan 2010 / EUR-Lex : web. URL: [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62007CJ0555\\_SUM](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62007CJ0555_SUM) (date accessed: 20.03.2026).

14 Bervidi : Case C-38/24. Judgment on 11 Sept 2025 / EUR-Lex : web. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62024CJ0038> (date accessed: 20.03.2026).

15 European Social Charter ... . URL: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/163> (date accessed: 20.03.2026).

case of «Finnish Society of Social Rights v. Finland» (Complaint No. 106/2014), the Committee recognized that insufficient attention to the problem of mobbing and the lack of effective institutional mechanisms represent a breach of international standards<sup>16</sup>.

According to the definition provided by the International Labour Organization (ILO), mobbing is interpreted as a form of «psychological harassment» of a collective nature, manifesting in systematic actions aimed at undermining the dignity and professional status of an employee. This may encompass negative remarks, social isolation from the collective, exclusion from professional communications, the dissemination of false information, or other forms of pressure. In the ILO study «Workplace Violence in Services Sector – Case Studies and Good Practices» (Geneva: ILO, 2003), it is stated: «*Mobbing is a form of collective psychological harassment, characterized by repeated hostile remarks, social exclusion, denial of communication, and dissemination of false information, which may seriously affect the victim's mental health and professional life*»<sup>17</sup>. This definition underscores that mobbing is not merely an interpersonal conflict, but a systematic practice that can lead to long-term psychological consequences – including the development of stress disorders, depression, and occupational burnout. Crucially, the ILO interprets mobbing as a component of the broader phenomenon of «workplace violence», which necessitates comprehensive

counter-measures, including legal, organizational, and psychological instruments.

The legal nature of countering mobbing is predicated upon the protection of fundamental human rights, which find their supreme expression in the norms of the Basic Law. In particular, Article 3 of the Constitution of Ukraine establishes that: «*The human being, his or her life and health, honour and dignity, inviolability and security are recognized in Ukraine as the highest social value*» (Constitution of Ukraine, 1996)<sup>18</sup>. This constitutional norm serves as the primary source and the legal bedrock for the protection of the work collective against any manifestations of «psychological terror». Consequently, mobbing – as a phenomenon accompanied by the systematic degradation of dignity – constitutes a direct infringement upon the constitutional order and the fundamental principles of a state governed by the rule of law.

A pivotal stage in the evolution of national labour law was the official codification of the concept of mobbing within the Labour Code of Ukraine (Law No. 2759-IX of 16.11.2022). The legislator defines mobbing as: «*Systematic (repeated) prolonged intentional acts or omissions by an employer, individual employees, or a group of employees of the work collective, aimed at humiliating the honour and dignity of an employee, their professional reputation, including for the purpose of the acquisition, modification, or termination of their labour rights and obligations, manifesting in the form of psychological and/or economic pressure, particularly*

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16 Finnish Society of Social Rights v. Finland : Complaint No. 106/2014. 29 Apr 2014. Decision on 08 Dec 2016 / Council of Europe : web. URL: [https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset\\_publisher/5GEFkjmH2bYG/content/no-106-2014-finnish-society-of-social-rights-v-finland](https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFkjmH2bYG/content/no-106-2014-finnish-society-of-social-rights-v-finland) (date accessed: 20.03.2026).

17 Workplace violence in services sector. Country case studies and good practices / Synthesis report by V. di Martino. Geneva, 2002. 49 p. URL: <https://www.who.int/docs/default-source/documents/violence-against-health-workers/wvsynthesisreport.pdf> (date accessed: 20.03.2026).

18 Конституція України : Закон України від 28.06.1996 р. № 254к/96-ВР (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/254к/96-вр#Text> (date accessed: 20.03.2026).



through the use of electronic communication, creating a tense, hostile, or offensive atmosphere towards the employee, including such that compels them to underestimate their professional fitness» (Article 2-2 of the Labour Code of Ukraine)<sup>19</sup>. This definition encompasses both psychological and economic pressure – including the use of «electronic communication» – which aligns with the contemporary challenges of the digital environment. Furthermore, Part 2 of Article 2 of the Labour Code of Ukraine guarantees employees the right to «healthy and safe working conditions, as well as dignified treatment by the employer and other employees». This provision is directly linked to the concept of countering mobbing, as the creation of a safe working environment constitutes a foundational guarantee of labour rights.

Of equal importance is the provision of Point 7, Part 1 of Article 1 of the Law of Ukraine «On the Principles of Prevention and Combating Discrimination in Ukraine», where harassment (ukr. *utysk*) is defined as «conduct that is unwanted by a person and/or a group of persons, the purpose or effect of which is the humiliation of their human dignity based on certain characteristics, or the creation of a tense, hostile, offensive, or contemptuous atmosphere towards such a person or group of persons»<sup>20</sup>. This concept possesses a broader legal application, encompassing diverse spheres of legal relations; however, within the labour sphere, it is concretized through the category of «mobbing».

In the system of countering mobbing, the Law of Ukraine «On Collective Bargaining Agreements and Accords» merits separate consideration<sup>21</sup>. This Law defines the legal framework for the conclusion of collective bargaining agreements and accords between employers and employees, while also establishing mechanisms for the regulation of labour relations at the enterprise, sectoral, and national levels. The Law explicitly mandates that collective agreements and accords must contain provisions for the assurance of appropriate, safe, and healthy working conditions, as well as guarantees for the social protection of employees. Within this context, mobbing – as a form of psychological pressure – may be subject to regulation through the incorporation of special norms into collective agreements aimed at preventing harassment and the creation of a hostile atmosphere within work collectives.

Significantly, the Law grants the parties to social dialogue the right to define additional guarantees and employee protection mechanisms. This implies that trade unions and employers may jointly entrench provisions within collective agreements regarding a «zero tolerance» policy towards mobbing, procedures for investigating instances of psychological harassment, and support measures for aggrieved employees. Such an approach aligns with international standards, which emphasize the necessity of establishing preventative mechanisms in the sphere of labour.

19 Кодекс законів про працю України від 10.12.1971 р. № 322-VIII (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/322-08#Text> (date accessed: 20.03.2026) ; Про внесення змін до деяких законодавчих актів України щодо запобігання та протидії мобінгу (цькуванню) : Закон України від 16.11.2022 р. № 2759-IX (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/2759-20#Text> (date accessed: 20.03.2026).

20 Про засади запобігання та протидії дискримінації в Україні : Закон України від 06.09.2012 р. № 5207-VI (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/5207-17#Text> (date accessed: 20.03.2026).

21 Про колективні договори і угоди : Закон України від 01.07.1993 р. № 3356-XII (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/3356-12#Text> (date accessed: 20.03.2026).

The Law of Ukraine «On Forensic Expertise»<sup>22</sup> is a key legislative act that defines the legal framework for conducting examinations in criminal, civil, and administrative proceedings. In the context of mobbing and labour disputes, its significance is paramount, as expert opinions often emerge as the decisive evidence in court.

Firstly, the Law enshrines the court's right to appoint an examination to establish facts requiring specialized knowledge. In cases of mobbing, this may include: psychological examinations – to determine the presence and consequences of psychological pressure; linguistic examinations – to analyze official correspondence or communications containing offensive language; medical examinations – to substantiate harm to health.

Secondly, in labour disputes, forensic expertise facilitates the establishment of the «causal nexus» between the actions of the employer or the collective and the psycho-emotional state of the employee. This is particularly crucial since mobbing often manifests in covert forms – such as isolation, systematic insults, or the dissemination of false information – necessitating objective corroboration.

Thirdly, the Law «On Forensic Expertise» integrates with the provisions of the Labour Code of Ukraine, where mobbing is defined as a violation of labour rights. Consequently, in cases involving the termination of an employment contract, claims for compensation, or reinstatement, expert opinions become the pivotal evidence allowing the court to qualify the employer's actions as unlawful.

An analysis of the application of forensic expert opinions in mobbing-related litigation indicates that Ukrainian courts already appoint psychological examinations to corroborate instances of harassment. For instance, in a case involving an employee's resignation due to systematic psychological pressure, the court recognized an expert's conclusion regarding the presence of «signs of mobbing» as sufficient evidence to grant a claim for the compensation of non-pecuniary damage<sup>23</sup>.

In the context of countering mobbing, pivotal significance is held not only by the collective agreement as an instrument of corporate ethics – but also by the formalization of procedures within it that provide access to forensic expertise. While the agreement itself forms a system of social control within the work collective, its efficacy is enhanced when it contains provisions regarding grievance mechanisms, the liability of the employer and employees, and the procedure for engaging experts to corroborate instances of psychological harassment. This facilitates not only the resolution of conflicts at the level of commissions or authorized persons – but also ensures the evidentiary basis in the event of a legal dispute.

In this instance, the collective agreement may synthesize local and special-criminological measures at the level of the work collective, based on accumulated theoretical and practical experience in countering mobbing. The most critical among these include:

1. Overcoming anomie within the work collective – an essential element of mobbing prevention. This pertains

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22 Про судову експертизу : Закон України від 25.02.1994 р. № 4038-XII (зі змін. та допов.). URL: <https://zakon.rada.gov.ua/laws/show/4038-12#Text> (date accessed: 20.03.2026).

23 Данилюк В. Протидія мобінгу в Україні: механізми захисту працівників і судова практика / LIGAZAKON : web. 18.09.2025. URL: [https://jurliga.ligazakon.net/analitics/239126\\_protidya-mobngu-v-ukran-mekhanzmi-zakhistu-pratsvnikov--sudova-praktika?form=MG0AV3&form=MG0AV3&utm\\_source=copilot.com](https://jurliga.ligazakon.net/analitics/239126_protidya-mobngu-v-ukran-mekhanzmi-zakhistu-pratsvnikov--sudova-praktika?form=MG0AV3&form=MG0AV3&utm_source=copilot.com) (date accessed: 20.03.2026).

not merely to eliminating chaotic or destructive tendencies – but to creating a transparent and equitable system of interaction. Practical steps include implementing clear career advancement procedures, fair distribution of resources and rewards, precise articulation of corporate values and ethical standards, and regular communication between management and employees to avoid an information vacuum.

2. Victimological prevention – effective counter-measures against mobbing are impossible without victimological prevention, which contemporary criminologists regard as a strategic direction of preventive policy. Its objective lies not only in reducing vulnerability to victimization – but also in fostering an active stance among employees regarding the protection of their own rights. As N. Filipenko and H. Spitsyna notes: «*Victimological prevention must be regarded as a constituent of state security policy, integrating legal, organizational, and information-analytical mechanisms to influence criminogenic factors*»<sup>24</sup>. In the sphere of labour relations, this implies that mobbing prevention must encompass not only psychological training – but also legal literacy and institutional protection guarantees that provide employees with a genuine opportunity to defend their rights. It is expedient to entrench within the collective agreement the employer's obligation to organize training in methods of psychological self-defence – such as assertiveness, conflict de-escalation, and the development of emotional competence – as well as algorithms for legal counter-action: preserving official correspondence, documenting testimony, and appealing to trusted persons. A vital element is the implementation of a «zero tolerance» policy towards mobbing – which clearly defines the impermissibility of any forms of psychological harassment or bullying in the workplace. Such a policy should be accompanied by the creation of internal channels for anonymous reporting of mobbing incidents – guaranteeing employees confidentiality and protection from potential reprisals.
3. Neutralization of the aggressor's criminogenic influence – a critical direction in countering mobbing within the work collective. If a manager demonstrates destructive or aggressive behavioural models, these rapidly transform into a «role model» – increasing the risk of emulation by subordinates and triggering a «chain reaction» of negative influence. Therefore, it is necessary to implement systems for the control and evaluation of managerial conduct – enabling the timely detection and neutralization of such patterns. The use of internal monitoring tools is advisable, and in the event of conflicts – the engagement of psychological and sociological examinations, which allow for an objective assessment of the collective's atmosphere and the determination of the risk level for the spread of aggressive models.
4. Procedural guarantees in the collective agreement – the following provision may be entrenched: in the

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24 Філіпенко Н., Спіцина Г. Віктимологічна профілактика як складова сучасної кримінологічної політики. *Архів кримінології та судових наук*. 2025. № 2 (12). С. 147–158. DOI: [10.32353/acfs.12.2025.17](https://doi.org/10.32353/acfs.12.2025.17) (date accessed: 20.03.2026).

event of an employee filing a mobbing complaint, they have a guaranteed right to initiate an independent examination to corroborate facts of psychological harassment; the findings of the examination are recognized as official evidence in internal investigations and may be utilized in judicial proceedings; an employee who has exercised the right to an examination shall not be subjected to discrimination, harassment, or dismissal in connection with the realization of this right.

## Conclusions

In summarizing the above, it should be emphasized that the collective agreement serves as a fundamental and comprehensive mechanism for countering mobbing – capable of ensuring the genuine efficacy of employee protection through the integration of legal, organizational, psychological, and expert instruments of influence. It must be regarded not as a formal document, but as a potent preventive tool – wherein it is expedient to entrench norms of corporate ethics and mutual respect, transparent grievance procedures, guarantees of protection against unsubstantiated disciplinary sanctions, and clear liability of the parties for violations of established rules. Particular significance is acquired by the implementation within collective-bargaining regulation of the employee's right to initiate an independent examination for the objective corroboration of mobbing facts. Such a systemic approach forms a reliable regulatory framework for cultivating a safe and healthy working environment – where mobbing is recognized as an impermissible phenomenon that violates labour and social rights, and forensic expertise becomes the key instrument for verifying and protecting the employee's dignity.

## **Протидія мобінгу: роль колективного договору та судово-експертних досліджень**

**Наталія Філіпенко**

*Мета статті — розглянути проблему мобінгу як одну з найбільш небезпечних форм психологічного тиску в трудових колективах, що негативно впливає на добробут працівників і стабільність організації. Для досягнення поставленої мети застосовано загальнонаукові методи: спостереження, порівняння, абстракцію, аналіз, синтез, моделювання тощо. Підкреслено, що, попри закріплення поняття «цькування (мобінг)» у Кодексі законів про працю України, наявні правові механізми потребують деталізації, а антидискримінаційне законодавство — посилення практичного інструментарію. У цьому контексті особливого значення набуває колективний договір як локальний превентивний інструмент, що дає змогу закріпити правила корпоративної етики, передбачити чіткі механізми розгляду скарг і гарантії захисту від необґрунтованих санкцій та визначити відповідальність сторін. Водночас наголошено на ролі судової експертизи як основного доказового механізму у справах про мобінг. Саме експертні дослідження — психологічні, лінгвістичні й соціологічні — забезпечують об'єктивне підтвердження фактів психологічного тиску, аналізування комунікацій та оцінювання його впливу на психічне здоров'я працівника. Поєднання превентивної функції колективного договору й доказової сили судової експертизи створює комплексну систему захисту від мобінгу. Проаналізовано також міжнародні стандарти, зокрема Конвенцію Міжнародної організації праці № 190, її Рекомендацію № 206 і Директиву Ради Європи 2000/78/ЄС, які визначають принципи рівності й недопущення психологічного насильства у сфері праці. Обґрунтовано їх*

фундаментальне значення для гармонізації національного законодавства та побудови багаторівневої системи превенції мобінгу, що має ґрунтуватися на синергії правових гарантій, організаційних заходів, соціально-психологічних методів і судово-експертних досліджень.

**Ключові слова:** мобінг; трудові відносини; колективний договір; дискримінація; соціальний діалог; протидія; превенція; судово-експертні дослідження.

### Фінансування

Це дослідження не отримало жодного спеціального гранту від фінансових установ у державному, комерційному або некомерційному секторах.

### Відмова від відповідальності

Засновники не грали жодної ролі у розробленні дослідження, добиранні й аналізуванні даних, рішенні про публікацію або підготовку рукопису.

### Учасники

Авторка зробила свій внесок винятково в інтелектуальну дискусію, що є основою цього документа, дослідження судової практики, написання та редагування, і бере на себе відповідальність за її зміст і тлумачення.

### Декларація щодо конфлікту інтересів

Авторка заявляє про відсутність конфлікту інтересів, що стосується цієї теми; хоча вона є членом редколегії збірника, вона не брала участі в ухваленні рішення щодо оприлюднення, і цю статтю піддано повному процесу експертної перевірки та редагування.

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