WORKPLACE HARASSMENT:
A CONTEXT ANALYSIS FOR THE ROMANIAN MANAGERS

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Abstract

The present article describes the key elements of the workplace harassment issues in general and from the Romanian official documents and regulations perspective. The divergences between these regulations and the international approaches on workplace harassment are analysed, considering the practical implications for managers and human resources departments, in order to reveal the needs for adaptation of the Romanian official framework related to this issue. Findings show that treating the harassment as discrimination, and not as form of psychological violence, creates the biggest challenges for managers.

1. INTRODUCTION

Work-related violence is a negative social phenomenon occurring in organisations, referring to both physical and psychological violence. The main feature of this phenomenon is his subtle and gradual manifestation. Sometimes work related violence is a highly visible phenomenon, but mostly, is a hidden, covert, undergrounded phenomenon. Hence, a clear and structured approach is difficult and subject to many interpretations.

The focus of the current analysis is the workplace harassment, a particular form of psychological violence. The importance of this topic is given by the general increased social preoccupation concerning the toxic behaviours in organizations. The concern is justified by the fact that harassment usually has severe negative consequences for the affected individuals, but also has negative effects for their families, co-workers and the organisations. Another basis of the concern is the social context in which the harassment is occurring, with his organizational characteristics, the current regulations and the proven tools and procedures to prevent and manage these occupational risks.

The study of the literature and the regulatory documents from Romania gave us a series of arguments pointing towards the idea that the Romanian framework for dealing with

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workplace harassment is, in some major aspects, unsuitable for assuring correct diagnosis and reactions in order to stop the harassment and to eliminate its effects. Due to this, the managers, involved in diagnosis and corrective actions, can have difficulties in dealing with harassment situations in their area of responsibility. For the human resource management (HRM) practice, the workplace harassment is an issue of great importance, given the magnitude of the negative effects on the individuals, on the work climate within the organization and in the end on organisation's performance.

The highest conceptual reference framework is the workplace health and wellbeing. According to the European Agency for Safety and Health at Work (EU-OSHA), the workplace health and wellbeing is a state of being for each employee and employer which enables each individual to reach his/her full potential in the workplace by ensuring his/her work ability through the promotion of mental, physical, emotional and psychological health and wellbeing (EU-OSHA, 2013, p. 19) The organizations, through the managers and the human resources (HR) departments, are expected to create and maintain working conditions and a workplace social climate able to offer health and wellbeing to the individuals. Addressing the workplace harassment issues should be an important piece of this concern and that is why having a clear legal framework would be more useful for the organizations.

2. MAIN CONCEPTS

Typically, the harassment situation involves a victim and a harasser, but, in some cases, the aggressor or the victim could be a group of individuals. If it takes place in a work context provided by an organization, we are in the case of workplace harassment. The managers could be involved, being in one of the three hypostases: bully, leader of the mobbing group or as an official responsible to solve the problem.

The concept of harassment is present in both academic literature and regulatory documents, as well. The EU-OSHA refers to harassment as the phenomenon also called bullying or mobbing, describing repeated, unreasonable behaviour directed towards an employee, or group of employees by a colleague, supervisor or subordinate, aimed at victimising, humiliating, undermining or threatening them (EU-OSHA, 2011, p. 26).

The literature presents the use of several concepts related to workplace harassment, such as bullying, mobbing, harassment, psychological harassment, abusive behaviour, emotional abuse and workplace aggression. There is no surprise in the fact that these terms are sometimes used interchangeably and sometimes with different meanings, since it is easily observable that they are basically confined in the area of psychological work-related violence. The first noticeable observation is that the physical violence is left outside, being considered a distinct phenomenon, and, as a consequence, a distinct concept.

One of the most prominent definitions in the field of harassment is indirectly proposed by Leymann in 1990: "Psychical terror or mobbing in working life means hostile and unethical communication which is directed in a systematic way by one or a number of persons mainly toward one individual" (Leymann, 1996, p. 168).

According to EU-OSHA, violence is a generic term that covers all kinds of abuse: behaviour that humiliates degrades or damages a person's well-being, value or dignity" (EU-OSHA, 2011, p. 16). Therefore, harassment is to be considered a form of violence. First of all, it excludes the physical violence, which means that his focus is the generation of negative psychological effects for the victim. Second, the harassment that takes place in a work-related context is referred to as "work-related violence" or "workplace violence" (EU-OSHA, 2011, p. 26).

Characteristic for the harassment is the fact that, by taking place in an organizational context, it involves a misuse or abuse of power by the perpetrators, causing difficulties for the targets in defending themselves. A specific case is that of managers abusing their subordinates.

An important distinction to be made is about the perpetrators. They can be members of the organization or individuals from outside the organisation, intervening in the work of the victim. Accordingly, we need to differentiate between internal harassment and external harassment. The *internal harassment* is realised by individuals from the organization: managers, colleagues or subordinates. The *external harassment* is realised by individuals from outside the organization: suppliers, clients, inspectors, auditors or controlled persons. The last case is possible only for victims having jobs which imply controlling activities from other organizations, or direct contact with organizational external environment.

The external harassment is the same as the 'third-party violence', used to refer to threats, physical violence, and psychological violence (e.g. verbal violence) by third parties such as customers, clients, or patients receiving goods or services (EU-OSHA, 2011, p. 26).

The terms 'mobbing' and 'bullying' are also used to differentiate between negative behaviour by groups and negative behaviour by a single person (EU-OSHA, 2011, p. 26).

2.1. Mobbing

The term „mob" comes from "to attack in a mob". In Australia and New Zealand, is used without disparagement for "a crowd." The meaning of "gang of criminals working together" is from 1839, originally meaning thieves or pick-pockets; American English sense of "organized crime in general" is from 1927 (Harper, n.d.). Synonyms for „mob" are crowd, band and gathering, and that is why „*workplace mobbing*" is harassment of a victim by a group of individuals within an organizational context.

The characteristics of the mobbing are, as we can see from the following definitions: existence of a systematically abuse, existence of several perpetrators, social exclusion and discrimination of the victim. „Mobbing is a conflict-laden communication in the workplace among colleagues or between supervisors and subordinates, by which the target is overwhelmed and abused by another person or by several other persons. The target is systematically and over a long period of time directly or indirectly abused with the goal and/or the effect that the abused person is forced out of the workplace and experiences this as discrimination." (Hecker, 2007, p. 440)

Mobbing is a phenomenon that occurs in the organizational context and consists in hostile actions, aggression (verbal, physical, sexual), professional discredit, contempt, isolation etc. All these behaviours are performed by a person/group of persons on a person/group of people, the ultimate goal being, most times, the exclusion of individuals/group of individuals from the organization (Gheondea *et al.*, 2010, p. 114). Mobbing is a type of conflict associated with the expressions of inadequate interaction in the workplace, of the violence that characterized to complex societies (Antequera Manotas, 2015, p. 1609).

Since negative opinions on a person are easily spread and believed, mobbing is sometimes thought of as a terrible and unrestrained virus that spreads throughout the organization (NoBullying, n.d.). A very big number of tactics, more than forty-five according with Hainz Leymann, are potentially applied regularly to the target person. The most important tactics includes: gossip, baseless accusations, humiliation, isolation, intimidation, condescending behaviour, public discrediting, creating a hostile environment, malicious, relentless emotional abuse. These are applied by gangs, headed by leaders who incite his followers to engage in

actions adverse to the victim. In many cases, these followers are peoples characterised as: inexperienced, with emotional frustrations, with doubtful social values or people seeking managerial positions by any price, able to remove or psychically destroy competent people.

2.2. Bullying

The term "bully" meant, in the 1530s, "sweetheart", applied to either sex, from Dutch boel "lover". His meaning deteriorated in the XVII-nth century, from "fine fellow" and "blusterer" to "harasser of the weak" (1680s, from bully-ruffian, 1650s). Perhaps this was by influence of bull, but a connecting sense between "lover" and "ruffian" may be in "protector of a prostitute", which was one sense of bully (though not specifically attested until 1706). The expression meaning "worthy, jolly, admirable" (especially in 1864, in U.S.) is first attested 1680s, and preserves an earlier, positive sense of the word. In present is very used in the schools environment, from where was extended to the working area (Harper, n.d.).

Workplace bullying is a term used more in the English speaking countries - United Kingdom, North Ireland, United States of America and Australia - and represents mistreatment of one or more persons (targets) by one or more perpetrators.

Bullying at work means harassing, offending, socially excluding someone or negatively affecting someone's work. In order for the label bullying to be applied to a particular activity, interaction, or process, the bullying behaviour has to occur repeatedly and regularly (e.g. weekly) and over a period of time (e.g., six months). Bullying is an escalating process in the course of which the person confronted ends up in an inferior position and becomes the target of systematic negative social acts (Einarsen *et al.*, 2011, p. 45)

Bullying is an abusive behaviour consisting in intimidation, insults, violence, belittling opinion, excessive monitoring of an employee's work, meaningless tasks, not providing credit when deserved, and rumour spreading, among others (Fox and Stallworth, 2005, p. 442), (Parzefall and Salin, 2010, p. 769). Bullying usually involves repeated incidents or a pattern of behaviour that is intended to intimidate, offend, degrade or humiliate a particular person or group of people. It has also been described as the assertion of power through aggression. Sometimes, bullying can involve negative physical contact as well (Canadian Centre for Occupational Health and Safety, 2014)

2.3. Bullying vs. Mobbing

A lot of researchers consider that bullying, used in English country, is synonymous with mobbing, used more in Scandinavian and German country, but an important difference is highlighted by Kenneth Westhues (Westhues, 2006).

„No matter how often the words ''mobbing'' and ''bullying'' are said to be synonyms, they are not. They are alike in denoting aggression. ''Mobbing'' posits a collective, nonviolent source in a distinct episode. ''Bullying'' points to a single, physically threatening aggressor, sometimes aided by toadies, over an extended period of time. ''Mobbing'' implies a mob, a crowd of normal people who have temporarily lost their good sense. ''Bullying'' implies a bully, an abnormal person who is habitually cruel or overbearing toward weaker people. ''Mobbing'' highlights situation, the ganging up in a specific circumstance of ordinary people against someone. ''Bullying'' highlights character, the humiliation of someone by one or more psychologically disordered individuals" (Hecker, 2007, p. 441).

2.4. Harassment

Carol Brodsky, who wrote the first book, in 1976, on harassment at work topic, defined harassment as "repeated and persistent attempts by one person to torment, wear down, frustrate, or get a reaction from another. It is treatment that persistently provokes pressures, frightens, intimidates, or otherwise discomfits other people" (Brodsky, 1976)

Heinz Leymann, the pioneer of the workplace bullying research, defined psychological terror or mobbing in working life as 'hostile and unethical communication, which is directed in a systematic way by one or a few individuals mainly towards one individual who, due to mobbing, is pushed into a helpless and defenceless position, being held there by means of continuing mobbing activities.'

The harassment is triggered by a conflictual event in which the two roles get differentiated: the victim and the harasser. Leymann described a four-stage process (Leymann, 1990, p. 120). After the triggering event, the negative acts against the victim increases in frequency and the escalating nature of the harassment can be easily observed. The victim is stigmatized and endures aggression and psychological pressure on a daily basis. The third stage is the involvement of the management. Assuming the case when the ranking manager is not one of the perpetrators, either the victim or one of the perpetrators informs the managers about the conflict. Judging the situation is difficult for the managers, as most arguments are contingently against the victim. Usually, the reputation of the victim in the eyes of the others is already destroyed and his credibility is ruined. Even more, in cases of mobbing, the opinion of many is confronted with the opinion of one, and the tendency is to put the blame for the conflictual situation on the mobbed person. Getting rid of the problem easily becomes getting rid of the person. In cases of bullying, the fear from the bully might prevent the colleagues to speak out their true opinion about the facts. This attribution error leads to diagnosis of the situation based on the personal characteristics of the victim and not based on the environmental factors (Jones *et al.*, 1984), such as problems in work design (role conflict), a socially exposed position of the victim, a negative or hostile social climate, or the incompetent management and leadership (EU-OSHA, 2011, p. 11). The management is responsible for the negative psychosocial work environment but may refuse to accept this responsibility. The victim is rarely able to present evidences of the acts of others, the confrontation remaining only on verbal declaration of the opponents.

Often the managers arrive at a wrong diagnosis, leading to wrong corrective actions. A study on bullying, conducted in 2014 in the USA, showed that only on 28% of the cases the official reactions where favourable to the victim (acknowledge the situation, eliminate the harassment or condemn the harassers). For 72% of the cases the decisions were against, having different explanations: the official reaction was to deny the situation (25%), to discount the situation (16%), to rationalize, as to consider this normality (15%), to defend the harassers (11%) or even to encourage the harassers (6%) (Workplace Bullying Institute, 2014, p. 12). As we can see, the worst for the victim is when, after wrongly diagnosing the situation, the manager become an active part of the mobbing group.

A particular situation is that in which the manager has the role of the bully or of the leader of the mobbing group. In this case, his assumed role will prevent him from understanding and recognising the harassment situation from an objective point of view. The victim cannot count on his support for stopping the harassment and should contact higher instances to call for help.

3. ROMANIAN REGULATION FRAMEWORK

When a restaurant manager asks a female candidate on a chef assistant position: "How do you think you'll handle the fact that all chefs in my kitchen are men?" variate reactions could be encounter, considering the geographical area in which the question is used. We may assume that, in USA and West European countries, the reaction could be of accusing the restaurant manager of gender discrimination, while in Romania, it might only be seen as a harassment prevention action. Thus, this paper's section aims at investigating the regulation context in which managers from Romania have to conduct their business.

As could easily be seen in the aforesaid sections, most of the studies were conducted in USA or West side of Europe and the few information we have on the harassment subject into Romanian context are provided by laws or institutions also international, like European Agency for Safety and Health at Work or European Institute for Gender Equality (with respect to little research conducted within the country).

Considering the workplace harassment issues addressed at macro level, by international institution, the subject was discussed from two points of view: the companies approach (e.g. Eurofound, 2015) and the State approach (e.g. Gamonal and Ugarte, 2012).

According to Eurofound (2015), Romania is considered similar to countries like Bulgaria, Croatia, Cyprus, Greece, Hungary, Italy, Malta, Poland, Portugal and Spain. In their report, they classify the European countries considering the prevalence of the violence and harassment at workplace, the policies and procedures in place from the organizations and also the level of awareness in the country. Romania is framed in the B Group, in which the violence and harassment at work are not seen as a major issue and the awareness is low or it is easily increasing (Eurofound, 2015, p. 15). The foundation explained that our country consider other issues, like economic crisis, as being more important at this moment and also that some sociocultural characteristics of workplaces (like higher power distance) may influence the state of play.

Regarding the State approach, only the matter of sexual harassment is discussed. Romania is described as being a country in which sexual harassment is treated in a preventive form in collective agreements and also is focused on repairing moral damages. (Gamonal and Ugarte, 2012, p. 7)

However, when joining the European Union, Romania signed the "Framework agreement on harassment and violence at work". One of the reasons could be the fact that harassment issues are not distinctly addressed and the existent regulations do not approach the matter directly.

First of all, the main definition offered by law is presented by an Anti-discrimination Law (L324/2006), art. 2 (5): "Constitutes harassment and is sanctioned contraventionally any behaviour on criterion of race, nationality, ethnicity, language, religion, social category, beliefs, gender, sexual orientation, appurtenance to a disadvantaged category, age, disability, refugee or asylum status or any other criteria that could create an intimidating, hostile, degrading or offensive context" ("L324/2006 Anti-discrimination law," 2006).

This law article is supported also by the principle of equality amongst citizens, of exclusion of privileges and discrimination mentioned in art 1. (2): (b) the right to security of the person and to obtain protection from the State against violence and mistreatments from any individual, group or institution ("L324/2006 Anti-discrimination law," 2006). It can be seen that the State assumes the role of protector of the individual against violence, and guarantees the equal treatment of all citizens in providing protection. But harassment may

occur without any reason or without having a discrimination criterion, but just because an employees' colleague or manager feels more powerful than the victim/s.

Another law that addresses the harassment issues is Law 202/2002, regarding equality of opportunity between women and men republished in 2013, which stipulates that "harassment is any behaviour in relation to gender about which the person who is responsible knows that is affecting the dignity of persons, if such a behaviour is rejected and represents a motivation for a decision affecting those persons"("L340/2006 for the amendment and approval of Law 202/2002 regarding equality of opportunity between women and men," 2006). Without any doubt, the text refers only to sexual harassment.

Another misleading reference is also encountered in the third example, the Criminal Code, chapter VI, Offenses against individual freedom. According to art. 208, harassment is:

(1) The act of an individual who repeatedly, with or without a right or legitimate interest, pursues an individual or supervises their domicile, working place or other places attended by the latter, thus causing to them a state of fear.

(2) Making of phone calls or communications through remote communication devices which, through their frequency or content, cause a state of fear to an individual ("L286/2009 Criminal Code with amendments from 2015," 2009)

This definition links the concept to general freedom of the person, with consequences in terms of fear for a victim and not as a form of discrimination. This kind of harassment can occur against a witness of a criminal act, if the accused one tries to discourage the witness to make complete statements about the events. Even if fear is an emotion produced in many cases of the workplace harassment, this is not the main intended consequence of the perpetrators.

As can be seen from the text of the three laws, the subject is either too generally described or to narrowly defined (sexual harassment), so the managers could have difficulties in defining the issue into an organizational context. Moreover, the two most often discussed forms of moral harassment – mobbing and bullying – are not mentioned anywhere in the law texts or any other regulation documents. They are only reminded by the Work Inspection into their promotional flyers, as being a psychosocial risk that might be encountered at the workplace.

Same general approach of the matter is also presented in the Romanian Labour Code and the Security and Health Law 319/2006. For example, in the Labour Code, there are three general elements that can be used by managers in order to develop a strategy for preventing, stopping and mitigating the harassment's effects:

a) art. 8, in which fundamental principles are presented, including the consensually and good-will principles within work relations;

b) art. 39, in which the employees' rights are presented: (e) the right for dignity at work and (f) the right for work security and health ("L53/2003 Romanian Labour Code with all the amendments published in 2011, 2013, 2015," 2003);

c) Title V, Work Health and Security, through which the employer is obligated to assure the employees' security and health in all work-related matters; even though the most health and security issues addressed are more suitable for accidents kind of risks, because there is no mention about which kind of risk they approaches, physical or psychological, we may suppose that both of them could be considered. The title, with additions brought by 319/2006 law, explicitly describes the procedures that should be followed in order to assure safety and health, including the necessity for creating a special committee to manage this type of issues for organizations with more than 50 employees. For organizations with less than 50 employees, the tasks are accomplished by an employee who is responsible for work protection in the organization ("L53/2003 Romanian Labour Code with all the amendments published in 2011,

2013, 2015," 2003). Furthermore, the Romanian Labour Code, art. 178. (2), force the employer to include, in his Internal regulations, rules regarding the safety, security and health of the employees, but no specific mention is offered for including or excluding the harassment issues.

Thus, even though it had been shown that all forms of harassment have many negative effects, the subject is still generally addressed, fact that produces difficulties in gathering data relevant for the topic. For example, there are no statistics on workplace harassment registered because companies report their incidents to Work Inspection on two large domains: work accidents and work conflicts (of all type). We can assume that workplace harassment issues might be considered, in Romanian regulations terms as a work conflict.

Moreover the National Institute for Research-Development in Work Protection "Alexandru Darabont", recently subordinated to National Education Ministry, has no research active on this topic. The subject was although introduced in them research strategy recently and is incorporated in the category of psychosocial risks, along with work stress. Because of the lack of an explicit definition and a specific approach to the matter, even though the institute is now undergoing a research with international partners on psychosocial risks, the harassment issues are not addressed. We can imagine that managers and HR departments are confronted with the same difficulties in gathering information for monitoring potential harassment situations in their organizations, due to the improper references. The only specific legal leverage the managers have is offered by Labour Code which sustains the requirement of having Internal Regulations. Managers should explicitly include the workplace harassment issues within these documents in order to at least try preventing the manifestation of any form of harassment. Unfortunately, when the aggressor is in fact the manager, who did not properly defined the workplace harassment issues within its Organizational internal documents, the country regulations offers too little support for those who became victims.

4. CONCLUSIONS

The workplace harassment can be considered the most comprehensive concept, covering the significance spheres of bullying and mobbing together.

The Romanian regulation is patched, incomplete references for parts of the sphere of the workplace harassment being present in several official documents. No reference to the internationally used concepts of mobbing and bullying is made.

The most covering reference, from the point of view of the sphere of the concept, posits harassment as discrimination and not as form of psychological violence.

For the managers and HR departments, the lack of explicit details about the acts and the situations related to workplace harassment, in the regulation, makes it difficult to frame and to classify the situation for correct diagnosis and effective corrective measures.

Specific references about the harassment conducted by managers, misusing by their hierarchical power against the victim, are completely absent from the national regulation, creating a permissive context for this kind of abuse.

The organizations can complement the national regulation, by stating better, clearer procedures regarding the workplace harassment, in their internal regulation. However, the incoherent regulatory framework makes it impossible to correctly gather data, analyse and monitor the phenomenon, both in organizations and at national level.

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