

Emotional Abuse at Work: Mobbing, Bossing and Discrimination

1. Can the Defender intervene directly against emotional abuse at work?

Generally, the Defender cannot provide assistance in disputes between an employee and his or her employer. For more information on the Defender's competence in this field, see the leaflet "*Employment Relationships and the Labour Inspectorate*". This means that, in most cases of emotional abuse at work, the Defender cannot directly intervene in your favour. By way of exception, this is not true in cases where emotional abuse also amounts to discrimination (see below). This is so because the Defender provides victims of discrimination with methodological assistance in submitting applications to initiate proceedings on the grounds of discrimination.

2. What are the characteristics of emotional abuse at work?

Emotional abuse among co-workers covers all forms of creating long-term hostile and humiliating relations at work. If the hostile and humiliating atmosphere is created by a superior (misusing his/her position), we speak of "*bossing*". If the source of abuse is a co-worker or co-workers, the situation is called "*mobbing*".

3. What exactly is mobbing and bossing?

Signs of bossing include: unjustified unequal treatment of certain employees; imposing arbitrary sanctions on an employee; assigning tasks that the employee cannot realistically fulfil; assigning humiliating tasks; social isolation etc. Bossing may also include sexual harassment of an employee (for more information, see below). Note that bossing should not be confused with standard use of powers and authorisations of a superior. For example, if a superior does not grant a bonus to an employee because his/her performance in the given period was not adequate, we cannot speak of emotional abuse. Bossing means that the superior misuses his/her position to humiliate or intimidate a subordinate. Such pressure may even result in "voluntary" termination of employment by the employee.¹

The signs and consequences of mobbing can be very similar, except that they are caused by an aggressor who has a similar position as the victim. This means that we usually deal with small repetitive slights which make the victim's life unpleasant in the long-term, such as the creation of social isolation; verbal abuse; intimidation; ridiculing the victim's personal life or his/her individual differences; sexual harassment; spreading rumours and gossip; creating obstacles or making the employee's work more difficult.

4. When emotional abuse at work amounts to discrimination?

We must note that not every instance of humiliation or emotional abuse amounts to discrimination according to the Antidiscrimination Act.² If mobbing or bossing is to be considered discrimination, the emotional abuse must be motivated by one of the "grounds of discrimination", i.e. race, ethnicity, nationality, sex, age, sexual orientation, disability, religion, beliefs and worldview. Examples of discriminatory bossing include situations where the employer invites an employee for a private meeting and if the employee rejects the employer, the employer does not grant her a bonus or "punishes" her in some other way (does not enrol the employee for training etc.).³ Discrimination by a superior may manifest itself in the area of remuneration (smaller salary than others, no bonuses) as well as in other areas, e.g. planning of shifts and assigning unpopular work, ordering the employee to work overtime, on holidays and weekends etc.

¹ For more information on protection in case of termination of employment, see the leaflet "*Termination of Employment and what Comes Next?*"

² Act No. 198/2009 Coll., on equal treatment and legal remedies for protection against discrimination (hereinafter the "Antidiscrimination Act").

³ This may concern a female employee emotionally abusing a male employee just as well as *vice versa*.

Co-workers may also discriminate against (harass) others, for example by ridiculing a homosexual co-worker, using racist insults, ridiculing the disability of another employees etc. If mobbing is to be discriminatory, it must be related to discrimination based on the employee's attributes (e.g. sex, race, ethnicity, disability, age etc.). This means that if an employee is continuously ridiculed and humiliated because of the way he/she dresses, we are dealing with mobbing, but not discrimination.

5. What are the possibilities of dealing with emotional abuse in employment relationships?

If you become a victim of one of the forms of psychological violence at work, it is useful to first carefully collect all evidence and ensure witness testimonies of your colleagues. After that, you have the following options:

- submit a complaint to your employer with a request for remedy under Section 276 (9) of the Labour Code. If you use this option, the employer may not penalise or disadvantage you because you asserted your rights in a statutory manner (Section 346b (4));
- request that your employer comply with the principle of equal treatment of all employees as regards the conditions for work, remuneration, possibility of promotion and training etc., as included in Section 16 (1) of the Labour Code;
- if remedy is not ensured, you may contact the competent District Labour Inspectorate responsible for surveillance over observation of labour-law regulations. For more information on the competence of Labour Inspectorate bodies, including contact details, see the information leaflet "*Employment Relations*". In this respect, we must point out that the Inspectorate must maintain confidentiality of the complainant's identity. However, the complainant may release the Inspectorate of from this obligation, which seems suitable in cases of psychological violence, as this gives the Inspectorate a much wider range of possibilities;
- if you request, for example, financial compensation, you need to file a lawsuit with a court. Given the complexity of such court disputes, it is suitable to seek legal advice provided by attorneys-at-law. For more information, see the information leaflet "*Do you Need Legal Aid?*"

6. In what situations can the Public Defender of Rights assist me?

As already outlined in the introduction, we need to differentiate between two types of cases:

1. If emotional abuse also amounts to discrimination (i.e. it is based on grounds of discrimination associated with you), you may directly contact the Defender, because the Defender provides victims of discrimination with methodological assistance in submitting applications to initiate proceedings on the grounds of discrimination. For more information, see the information document "*Equal Treatment and Protection Against Discrimination*".
2. In other cases, the Defender may investigate only into the procedure followed by the Labour Inspectorate bodies (including the State Authority for Labour Inspection as the central authority in this area).⁴ This means that you first need to submit a complaint to the inspection. In the complaint, you need to expressly indicate what you consider a shortcoming on the part of the Labour Inspectorate.

⁴ See www.suip.cz.