

Protection against mobbing and discrimination

Igor Kyrzewski · 25.05.2025 · Kadry i Płace – JDG, Kadry i Płace – Spółki

▣ Introduction

The employer has a **legal obligation to prevent mobbing and discrimination**. Protection concerns both the content of the contract and everyday relationships in the workplace. Neglecting these duties may result in liability for damages, supervision by the National Labor Inspectorate, or even a lawsuit.

▣ 1. Legal basis

- **Labor Code:**
 - art. 11³–11⁵ (principle of equal treatment),
 - art. 18^{3a}–18^{3e} (prohibition of discrimination),
 - art. 94³ (definition of mobbing),
- **Constitution of the Republic of Poland** – art. 32 and 33 (prohibition of discrimination),
- **Charter of Fundamental Rights of the EU**,
- **Civil Code** – grounds for compensation.

▣ 2. Prohibition of discrimination in employment

▣ What is discrimination?

It is **unjustified, unequal treatment of employees** based on certain personal characteristics. Discrimination can take the form of:

Direct - Lower pay simply because someone is a woman

Indirect - An apparently neutral criterion works to the detriment of a specific group (e.g., ban on remote work only for mothers)

Harassment - Behaviors violating dignity (e.g., offensive comments)

Systemic discrimination - Inequality in promotion, training, and benefits policies

⚖ **Protected criteria (art. 18³a § 1 LC):**

- sex, age, disability, race, religion, nationality,
- political beliefs, trade union membership, sexual orientation,
- fixed-term/open-ended employment, working hours.

☐ The prohibition of discrimination applies **at every stage of employment:** recruitment, pay, access to promotion, termination of the contract.

☐ **3. Mobbing - definition and conditions (art. 94³ LC)**

☐ **What is mobbing?**

Mobbing refers to actions or behaviors towards an employee, consisting of:

- **persistent and long-term harassment or intimidation,**
- **resulting in a lowered assessment of professional value,**
- **causing or intended to cause humiliation, ridicule, isolation,**
- **leading to lowered self-esteem or depression.**

☐ Mobbing can be perpetrated by **supervisors as well as coworkers.**

☐ **4. Employer's obligations**

The employer is obliged to:

- **prevent mobbing and discrimination** (art. 94³ § 1 LC),
- introduce an anti-mobbing and anti-discrimination policy,
- consider employee complaints,
- provide anonymous reporting channels (e.g., suggestion box, email),
- keep documentation of reports,

- conduct training and inform about rights.

□□ 5. Employee rights

The employee has the right to:

- equal treatment and protection of dignity,
- report mobbing or discrimination without fear of retaliation,
- **compensation (art. 18^{3d} and art. 94³ § 4 LC)** – in case of violation of the principle of equal treatment or mobbing,
- terminate the contract without notice due to the employer's fault (art. 55 § 1¹ LC),
- protection of identity (if an internal complaint or a complaint to the National Labor Inspectorate has been made).

□**The burden of proof for discrimination or mobbing** partially rests on the employer – they must demonstrate that their actions were justified and not discriminatory.

□□ 6. Consequences for the employer

Mobbing confirmed by the court - Compensation, even 3-12 salaries + reputation

Lack of anti-mobbing procedures - PIP penalty, civil liability

Discrimination upon termination - Reinstatement, compensation

Ignoring internal complaints - Risk of lawsuit

□□ 7. Example preventive measures

- Introducing a **anti-mobbing regulation**,
- Health and safety training with elements of psychology of workplace relationships,
- Regular **anonymous satisfaction surveys**,

- “Zero tolerance” policy for verbal aggression and harassment,
- Clear channel for reporting problems (email, direct contact with HR).

☐☐ Legal basis

- **Labor Code:** art. 11³–11⁵, 18³a–18³e, 94³
- **Constitution of the Republic of Poland** – art. 30, 32, 33
- **Charter of Fundamental Rights of the EU**, art. 21 and 23
- **Supreme Court rulings:** including the judgment of 10.10.2012, II PK 60/12 – definition of mobbing