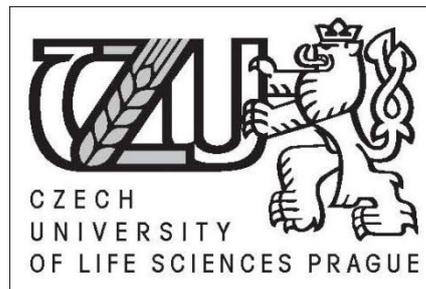


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Mobbing and bossing in labour law

Bachelor thesis

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Declaration

I declare that I worked on bachelor thesis titled **Mobbing and bossing in labour law** completely on my own and that I marked all quotations in the text. The literature and other sources I have used are mentioned in the references of the bachelor thesis.

In Prague, Jan 31, 2011

.....
Iva Šlosarová

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Mobbing and bossing in labour law

Mobbing a bossing v pracovním právu

Summary

This bachelor thesis is focused on special type of bullying in labour law and on labour market. We can call this discrimination mobbing and bossing. It shows big danger of this type of bullying and its widespread on labour market. First part deals with definitions and linkages of bullying more specifically it is focused on mobbing and bossing and gives practical example from personal experiences. Further part deals with summary of the Czech legislation system and especially anti-discrimination Act.

Last part is practical where gathered information by questionnaire is. At the end the entire thesis is analyzed and evaluated.

Keywords

Mobbing, Bossing, bullying, mobber, labour law, Legislation in Czech Republic

Souhrn

Tato bakalářská práce je zaměřena na speciální druhy šikany na pracovním trhu. Tento druh šikany nazýváme mobbing a bossing. Práce ukazuje na velké nebezpečí tohoto druhu šikany a její rozšíření na trhu práce. První část vysvětluje základní definice a termíny, typy šikany, především mobbing a bossing a poskytuje praktický příklad z osobní zkušenosti. Další část se zabývá přehledem legislativy v České republice a především antidiskriminačního zákona.

V poslední části, tedy praktické jsou shromážděny informace pomocí dotazníkového šetření. Na konci této bakalářské práce jsou popsány a vyhodnoceny výsledky zmíněného dotazníkového šetření.

Klíčová slova

Mobbing, bossing, šikana, mobber, pracovní právo, Legislativa v České republice

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1. INTRODUCTION

In the workplace we can meet with discrimination, it can be collective, but in the most cases it is related to only one person. This person can be weird or differ from others. In a larger team is more obvious meet with bullying. It is not noticeable. We can become easily participants of bullying or victim.

This thesis deals with problem of major importance that can affect many of us. This very serious type of discrimination or bullying at the workplace is specifically referred to as mobbing and bossing.

Furthermore, this thesis gives advice on widespread of mobbing and bossing on our labour market. Mobbing can be defined as an abuse in the workplace. It referred to when someone force someone else out of the workplace. Behind the term mobbing we can find workplace trauma, emotional violence, and psychological terror.

In addition, this type of bullying also influences physical and mental health. At present time, it is quite suitable situation for bullying at our labour market due to worsened economic situation and high rate of unemployment as well. Almost everyone can meet with this type of bullying at the workplace. This thesis deals with danger of mobbing, why mobbing and bossing occur and what people can do against it.

2. OBJECTIVE AND METHODOLOGY OF THESIS

Main objective of the theoretical part of this bachelor thesis is to write quality and comprehensive literature retrieval and describe basic terms such as mobbing and bossing, its historical background, categories, offenders, victims and causes of mobbing, consequences mobbing and to show differences between terms of mobbing and bossing and the widespread of this types of discrimination. Further to introduce and describe legislation in Czech Republic.

The purpose of the practical part is data gathering and evaluation of awareness of people in the Czech Republic in terms of mobbing and bossing and their personal experience with this form of bullying. Partial goals were found originator of mobbing and bossing, if respondents have personal experiences, if they try to solve the problem, if yes how they solve it or if now the reason why. Furthermore how many men and women have personal experiences with mobbing and bossing and from other socio demographic perspectives.

Theoretical part will be described from specialized books, and internet sources. Further will be complemented with selected laws of Czech Republic related to the issue.

Practical part of this thesis will be based upon a questionnaire research concerned aimed at knowledge of mobbing and bossing. The questionnaire is in a form of web application and spread mainly via social network Facebook and e-mails. This form is time-saving, easy to use and also comfortable for respondents which do not have to use any external documents and send back answers via e-mail or post. Responses are saved into a SQL database and consequently analyzed and evaluated. Firstly will be briefly displayed basic and socio-demographic information about responders, such as number of total involved respondents, their gender, place of living distribution and some other indicators. Further the main part of the investigation includes awareness and personal experience from different points of view will be processed and evaluated.

3. MOBBING AND BOSSING

Mobbing and bossing is not a specialty of the Czech Republic, but it happening around the world. It is surprising how little people know and talk about this issue. It is important to admit this issue and try to solve it. It is very dangerous, typically for its secret and malice.

3.1. History background of terms mobbing and bossing

Firstly the term of mobbing was used by Konrad Lorenz and Heinz Leymann. Konrad Lorenz was Austrian ethnologist. He studied the behaviours of animals and described animal territoriality. Many species of animals live in given territories. When they discover intruder they do not to attack him. Mobbing means that they attack intruder from their territory.

Swedish psychologist Heinz Leymann (German author) applied animal behaviour into the situation at the workplace. His patients had communication and relational problems at their workplace. He found at some companies the manners of attacking colleagues. This manner was determined as mobbing. Mobbing is kind of violence which finally leads into big damage.

Mobbing is a conflict, which can cause incredible costs in organisation or state health system.

Costs of mobbing can achieve around 225 billion EUR per year. This example is from Germany. [1]

3.2. Types of discrimination

We can divide discrimination into two parts. One of them is direct and the next one is indirect discrimination.

Direct discrimination is discrimination where an employee is treated due to their race, sex, religion, sexual orientation, gender reassignments, age, disability, pregnancy or maternity.

For example, a female candidate with the best qualifications and experiences does not get a job but male with fewer experiences does. An employer cannot argue that it was not their intention to discriminate; the law only considers the end effect. [7]

Indirect discrimination is discrimination when a working condition or rule disadvantages one group of people more than another. [8]

This is less obvious form of discrimination. When an Employment tribunal solves this problem, they find factors such as:

a) Number of people from racial group or one sex that can meet the criteria for a job is smaller than the rest of population

b) The criteria cannot be justified by employees like a requirement for the job. Then candidate who cannot meet criteria could still do the job as well as anyone else

c) Thus person cannot comply with these criteria suffer in some way. Person cannot complain unless they lost out in some way.

Employer can argue that indirect discrimination can be discrimination but they fill required for given job. This form is not happen very often, but sometimes it can occur. For example in Chinese restaurant will want Chinese staff rather than white staff. Indirect discrimination applies to race, age, religion, sex, marriage, civil partnerships. [6]

3.3. Mobbing

Mobbing is very dangerous, typically for its secret and malice. Nowadays the increase mobbing is caused due to economic situation, stress in society and relative high percent of unemployment. The main aim of mobber or aggressor or group of aggressors is to exclude victim from collective. Mainly aggressor adds more team member. Victim is often under psychological pressure from mobber or group of mobbers. Mobbing often means exclusion on the edge, limited communication, gossip, ridicule. [2]

3.3.1. Categories of Mobbing

Professor Leymann tried to find “behaviour” which is similar for offender and victims. He did not find connections. He analyzed deeply workplace and divide regularly forms of behaviour into five categories, which they have on the victim.

Firstly effect on victim possibilities to communicate (management give no possibility to communicate, verbal attack, verbal threats, verbal activities in order to reject you).

Secondly attacks to social contacts such as isolated in a room far away from other colleagues, do not talk with your colleagues. Other category is damage personal reputation (gossiping, other form of ridiculing, fun about ethic heritage, fun about way of moving or talking). Fourth category affects on victim occupational situation such as not given any work assignments, you are given constantly new assignments, and you are given meaningless assignments). The last category is attack to physical health such as given very dangerous assignments, your colleague or group of colleagues threatens you physically or you are attacked physically, you are sexually harassed in active way and etc.) [14]

3.3.2. Phases of Mobbing

Mobbing is process that lasts more than half a year. From Austrian statistical analysis average mobbing lasts around 40 months. Psychologist created model of mobbing which include 4 phases. We know that every cases are different and it is not possible apply this model in given situation.

We can divide mobbing into 4 following phases:

- 1) Conflict is not solved constructively
- 2) Psychical terror is carried out systematically
- 3) Response personnel department
- 4) Victim of mobbing is excluded from company

ad 1) It may be start like as an occasional conflict, but if we do not solve this it can turn into a dangerous conflict. “We can define a **conflict of interest** as a situation in which a person has a private or personal interest sufficient to appear to influence the objective exercise of his or her official duties as, say, a public official, an employee, or a professional“. [5]

Conflict causes stress – People are not released, they act under pressure. Conflict should be solved due to the satisfaction in both parts and work daily routine.

Behind the work conflict we can find – different interests, different experiences, different characters, different information resource, different processing of information, organizational problems, conflicting goals, Etc.

ad 2) If the conflict is not resolved, it changes in systematic psychological terror. Bullied person is pushed into role of victim. This person is more sensitive and worsens in the physical health. Victim loses own confidence and suffers felling of fear and isolation. Victims try to „escape“ from a workplace.

Methods of mobber are various, for example:

Victim gets incomplete information.

Mobber impeaches competence and ability of victim.

Victim does not get important information.

Mobber often uses „terror on the phone“.

ad 3) In this, third phase usually solves victim bullying with superior. The victim should find support in superior. Attack by mobber brings victim stress, which reflected into quality of work. In many cases the destiny of victims is sealed. The superior decided about “disloyal person”. It is necessary to solve it. We can get into fourth phase.

ad 4) Victim is excluded from company. The solution is very usually leaving of the company. It is complicated formulate the legitimate reason for leaving. The “purest” solution is voluntary leaving.

Mobbing shows that is effective solution to relate problems at workplace. Often can happen that mobber is victim of mobbing. [1]

3.3.3. Causes of mobbing

What are the main reasons of mobbing? It can be lack of qualification for leadership, low ability to solve conflict, constant pressure for increase labor efficiency and reduce costs, low efficiency with low level of ethics, shortcomings in internal structures, afraid of losing their job (bad economic situation), envy and competitive relationships, lack of tolerance, destructive usage of errors and mistakes, personality structure of mobber of victim of mobbing. [1]

3.3.4. Offenders of mobbing

We cannot standardize typical victim and offenders as well. Some person have disposition to creation of conflict. According some researcher these dispositions are: lower level of mental ability, emotional lability or emotional instability, irritability, lack of confidence, increased level of aggressiveness, impulsiveness, inability to adapt, attempt to blame to others.

These properties cannot lead to conflict. The most common causes of conflict include: inability to resolve conflicts, need to present their power, effort to achieve the goal at any price, belief, faith of the individual, defense of their rights and needs, efforts to gain advantage, benefit (financial valuation), fear, need to solve psychological stress, mental illness or behavioral disorder.

We can define several types of offenders. They can be inventors who typical invented new way to push victim into corner. The next types are random offenders. They become offender due to meaningless conflicts, which evolves into dispute in which they gain advantage. The crucial is moral standard of random offender because they can choose if destroy victim or let leave them. Finally there are partakers. We can divide them into two groups. First group actively supports inventor and other sees problem but they ignore him. This last group professor Leymann determine as a potential perpetrators.

Both gender bullying in different way. While women prefer very active form the men prefer passive method and put greater pressure to their victim. What are the typical strategies of gender? Women rather gossip than say something in the eye, talking to colleagues, mock the weaknesses of others, spread false speech to harming colleague, as

a boss of relationship to women colleagues, abusing her position to pressure, try to kick competitors.

Men is cooler and does not make lot of emotional detours, they make pressure by oral not by written threats, they often assign work to the victim which is below the level of his qualification. [1]

3.3.5. Victim of mobbing

We cannot define typical victim of mobbing. Mobbing can affect anyone. Mobbing affects both women and men. Research showed that only woman who is in group of men has a difficult position, she become easy target of attack. These women work in sectors, which is domain of male. Similarly those men occupy position, which is determined to women such as nurse. Another group, which is attacked, is new workers who come to coordinated team. These workers are often perceived as an alien. If he or she has higher education and better knowledge of languages their colleagues envy him. Then he or she becomes target of mobbing.

Other groups are people, which are noticeable in some way. They wear eccentric clothes or have disability etc. Also successful and active people are sometimes excluded from team. They are often perceived as a threat to other workers. These people become easy target of mobbing.

Mobbing can affect men and women. Difference is between genders of offenders. Women are bullied by women 40%, 30% men, 30% of both sexes. Men are bullied 76% of men, women, 3% and 21% of women and men. Statistically women younger than 35 years and older men around 50 years were met with mobbing. While the average age of offender is 40 years. [2]

3.3.6. Defense against mobbing

If is treated human dignity and attack from one or more person are prolonged, it is appropriate to think how to solve violence in the workplace.

The best defense is gathering records tracks. It is also appropriate to find witness among colleagues. This is really problematic, because victim often stays alone. Their colleagues do not mix into conflict or stand aside.

The best solution seems to be leaving from work. But this solution can increase mobber confidence and the mobber fined another victim.

If nothing change and bullying go on it is necessary to find help in personal management. But many victims do not meet with positive result.

How can company prevent against mobbing? Although the mobbing is kind of violence in workplace the companies usually do not create antimobbing solutions. The reasons can be different. It can be unwillingness to solve it or it can be bad image to company or bad consequences. It will be efficient to establish principle of fair cooperation. It will be suitable to use style which we call collaborative. It means that boss sees staff like partners and not only like simple labor and want maximization of their satisfaction.

In large company will be suitable to create work place that matter mobbing issues. He or she helps staff to solve this problem and inform staff about it. This worker becomes a part of confidante who helped to staff and would try to solve problem in company. The employer can punish mobber for his practices. The mobber would be punishing by loss of personal evaluation, warnings, pay extra fees or leaving from company. [2]

3.4. Bossing

Bossing is one form of mobbing. It is mobbing from „above“. The main reason for bossing can be fear from loosing own position or fear of losing control, pressure from above. Some Germany's largest companies show statistics on web site where mobbing comes in 44% cases from colleagues, mobbing comes in 37% cases from bosses and in 10% from cooperation of colleagues and bosses and in 9% of cases was inferior the initiator. [12]

The boss uses other strategies for bullying. The basic motifs are jealous or fear about losing their position. The boss has negative personal characteristics as a leader or he acquires the power. The basic strategies are completely pointless tasks or tasks, which are below from qualification of worker in others, hand tasks too difficult.

Other strategy controls all processes at work – control partial project of work, telephone conversations, attendance at work, early arrivals, etc. Another method is the

isolation, in fact that employees are not invite to meetings or are not inform about important decisions.

We can meet with behaviour that is below human dignity. An example can be inability go to the toilet during working hours. In some supermarket the shop assistant had to wear red headbands if they had menstruation and other shop assistants have to said to chief their days of menstruation in order to do other work. Other type of bullying is number of pencils and paper on a desk.

These examples we can define as a bullying by employer. Most people who met with bullying they kept silent rather than lost their occupation. [1]

3.5. Differences between mobbing and bossing

How we can define meaning of mobbing and bossing? Mobbing is derived from word mob and it means vulgar curse. Mob as a noun means rabble.

Mobbing means systematic attack individual or several individuals against individual person for a long time (at least half a year). Mobbing is about lack of communication skills, disrespect, envy, bad manners, inability to resolve conflicts and problems.

For mobbing we can use other expression bullying.

It includes: psychological terror and aggression, trauma in given workplace, emotional violence and incivility. Other expression can be abuse in workplace – e.g. „ganging up“ by co-workers, subordinates. It means to force someone out of the workplace through discrediting, isolation, rumor, and innuendo. [16]

The word bossing is derived from noun boss = Chief.

Both of these terms involved systematic attack by individual or groups to a specific person.

Bossing is systematic attack from the leaders and it is bullying by supervisor.

Somewhere we can find Rufmord. It is from German and we can derived into Mord = murder and Ruf = reputation. [1]

3.6. Consequences of mobbing and bossing

The stress situation causes mental and physical problems, which often last rest of life. Bullying affects atmosphere in workplace and also decline culture in company. The cost of health instance increases. Due to increasing sick employees decline their motivation. Due to frequent leaving of employees thus increase fluctuations, which reduce level of business and enhance competitors.

The list of negative health effect related to mobbing is long. Many of consequences are related to high level of stress. Stress is not the employee's inability to cope with excessive workload or the unwelcome attentions of bullying co-workers and managers; stress is a consequence of the employer's failure to provide a safe workplace. [15]

3.7. Other type of discrimination

Nowadays we can define many terms, which are close to mobbing. These terms are staffing, stalking, chairing, shaming and defaming.

Staffing is from English word staff 'which means management. It attacks employees to managers. The aim is destruction of manager or all management. This attack occurs rarely. Staffing is associated with arrival of new managers as a leader and his methods employers do not respect.

Stalking is commonly obsessive attention by individual or groups of people to other. It can be defined as repeated following, watching of another people. Mostly stalkers want to force a relationship with someone or unavailable. Stalking is illegal; however the action that contributes to stalking is legal such as gather information, calling someone on the phone, send emails or gifts. [19]

Defaming tries to attack personal reputation or honour of by false and malicious statements.

Chairing is derived from English noun chair, which mean kind of furniture. It is fight between top managers.

Shaming is from English verb shame (painful emotion caused by a strong sense of guilt, embarrassment, unworthiness, or disgrace). [1]

3.8. Solution

If someone feels that someone bullies him or discriminates him, they may find help from employer that should evoke a good working climate and solve problem if there is a tendency for mobbing.

The next level can be labor unions; the aim of labor union is to defend the right of employees. Their activity is based on solidarity with all victims of discrimination and all forms of violence. Their role is to protect employees against violence and sexual harassment. If the person is member of labor unions, the person can solve problem through them. The labor unions also support employees who are not participants of labor unions. Unfortunately these persons cannot have free legal assistance and free representation at the court.

The next is NGO which means non-governmental organization. NGO is for example Civil society work and relationships, the aim of this organization is monitoring of discrimination and respect the anti-discrimination laws, monitoring workplace, psychological and legal assistance to people who are affected by discrimination known as mobbing and bossing.

Other non-governmental organization is Czech Helsinki Committee. These organizations also represent their clients in matters of protection against discrimination against sex, racial or ethnic origin, religion, faith, belief, disability, age or sexual orientation a participant can be represented by legal entity created by special legislation (83/1990. On Association of Citizens, as amended) to which the activities listed in the articles include protection against discrimination. [11]

The next option can be Bureau of Labor. For discrimination or violence can be noted in written of personal form. It is unusual to around to Office work in cases of mobbing.

In areas with high level of unemployment it can be main reason why person affected by mobbing does not solve situation due to fear of losing job.

The next step should be police, which solve a crime such as extortion, restriction of personal freedom.

Other possibility should be lawyers. They provide services, which are paid. Then the case is going to the court that decides on the rights and obligations. The Constitutional Court decides in cases when there were broken the rights under the Charter and International conventions.

3.9. Legislation in Czech Republic

If we want to find legal protection against mobbing in legislation of Czech Republic, we only find specifically regulated sexual harassment and discrimination. The working conditions are established in the Charter of Fundamental Rights and Freedoms. Protection against discrimination is specified by international conventions in which the Czech Republic is bound.

We know that mobbing affects personality such as health, life and we can talk about violation of right of privacy. We can also define it as a criminal responsibility related to attacks.

We can determine as a crime of harming our health, offense of defamation. We can find prohibition of discrimination in the Charter of Fundamental Rights and Basic Freedoms. (Act No. 2/1993 Coll.) Chapter 1, Article 3.

Under this article are basic rights and basic freedoms guaranteed to all irrespective of gender, race, color, language, religion, belief, political opinion, national or social origin, belonging to national or ethnic minority, property, birth or status.

Act. No. 2/1993 Coll., Charter of Fundamental Rights and Basic Freedoms

Chapter I

Article 3

(1) Everyone is guaranteed the enjoyment of her fundamental rights and basic freedoms without regard to gender, race, colour of skin, language, faith and religion, political or other conviction, national or social origin, membership in a national or ethnic minority, property, birth, or other status.

(2) Everybody has the right freely to choose his nationality. It is prohibited to influence this choice in any way, just as is any form of pressure aimed at suppressing a person's national identity.

(3) Nobody may be caused detriment to her rights merely for asserting her fundamental rights and basic freedoms.

We can continue with Article 10 of Charter of Fundamental Rights and Basic Freedoms. Under this article everyone has to preserve human dignity, personal integrity, and good reputation.

Act. No. 2/1993 Coll., Charter of Fundamental Rights and Basic Freedom

Chapter II

Article 10

(1) Everyone has the right to demand that his human dignity, personal honor, and good reputation be respected, and that his name be protected.

(2) Everyone has the right to be protected from any unauthorized intrusion into her private and family life.

(3) Everyone has the right to be protected from the unauthorized gathering, public revelation, or other misuse of his personal data.

The working conditions are protected mainly in the fourth title of Charter of Fundamental Rights and Basic Freedoms. Under this article is determine general term of social, economic and cultural rights. The Article 28 gives worker right to fair working conditions. The article 29 of Charter of Fundamental Rights and Basic freedoms gives special status to females, juveniles and person with disabilities; they have to have special working conditions and increased protection of health.

Act. No. 2/1993 Coll., Charter of Fundamental Rights and Basic Freedom

Chapter IV

Article 29

- (1) Women, adolescents, and persons with health problems have the right to increased protection of their health at work and to special work conditions.
- (2) Adolescents and persons with health problems have the right to special protection in labor relations and to assistance in vocational training.
- (3) Detailed provisions shall be set by law. [13]

In connection with the protection against discrimination can also mention some international conventions. For example: the International Convention on the Elimination of All Forms of Racial Discrimination (No. 95/1974 Coll.), The Convention on the Elimination of All Forms of Discrimination against Women (No. 62/1987 Coll.), The International Covenant on Civil and Political Rights and the International Covenant on Economic and Social and Cultural Rights (č.120/1976 Coll.). The conventions adopted by the Council of Europe is of crucial importance in particular Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which prohibits any discrimination on grounds such as sex, race, color, language, religion, political or religious beliefs, national or social origin, national minority, property, birth or other status. Art. 14 prohibit discrimination only in the enjoyment of rights and freedoms set forth in this Convention. Therefore, it was adopted Protocol No. 12 to the Convention, which amends Article 14 of the general prohibition of discrimination. International Labor Organization adopted the Convention concerning discrimination in employment or occupation.[18]

The labor relationships are governed by the Labor Code, Act. No. 65/1965 Coll., Labour Code, as subsequently amended. With entering to the European Union, it was necessary to ensure code compability with European Community law. Therefore, in year 2000, adopted by Act. No. 155/2000 Coll, it called harmonization amendment, which entered on 1 January 2001. In March 2004, was accepted second Euro-amendment Act. No. 46/2004 Coll. The aim was adopted to criteria of European Communities into the Czech Labor Law and achieve the compability of Labor Code with European Communities law. The EC directives, which influenced the Czech labour laws, are:

Directive 76/207/EEC implements the equal treatment of men and women. This directive prohibits discrimination on the grounds of sex, particularly with reference to marital or family status in employment, including access to employment, promotion, vocational training and working conditions.

Directive 75/117/EEC (Equal Pay). Article 1 of this directive provides that the principle of "principle of equal pay" in Article 119 of the EC Treaty means "for the same work or for work to which equal value is attributed, the elimination of all discrimination on grounds of sex with regard to all aspects and conditions of remuneration

Directive 2000/43/EC implement principle of equality between people of different racial or ethnic origin.

Directive 2000/78/EC establish a general framework for equal treatment in employment and occupation. This directive prohibits employment discrimination on the grounds of religion or belief, disability, age or sexual orientation. Article 2 prohibits both direct and indirect discrimination and defines harassment as amounting to discrimination. Articles 4-6 provide for exceptions to the principle of equal treatment. Other key provisions of the directive include shifting of the burden of proof and the prohibition of victimisation.

Harmonization novel of law introduced the principle of equality regardless of tender. This principle is one of the most advanced treatments in EU labour legislation not only in primary legislation as well as secondary legislation. Further it was modified equal opportunities, working conditions and occupational safety and health at work. Then the second Euro-amendment clarifies the definition of exception to general principle of equal treatment of employees of the employer. This may result from Act or regulation or the practical nature of the work. Only the employer can justify this difference in treatment between employees or groups of employees and imposes a strict ban on direct and indirect discrimination.[10]

Act. No. 282/2006 Coll., Labor Code

Chapter IV

Equal treatment, prohibition of discrimination and consequences of breaches of right and duties, arising from labour relations

§ 16

1) Employers shall safeguard equal treatment for all employees as regards employees working conditions, remuneration for work and other emoluments in cash and in kind (of monetary value), vocational training and opportunities for career advancement (promotion).

(2) Any form of discrimination in labour relations is prohibited. The terms, such as direct discrimination, indirect discrimination, harassment, sexual harassment, persecution, an instruction to discriminate and/or incitement to discrimination, and the instances in which different treatment is permissible, shall be regulated by another Act.

(3) Discrimination shall not mean a different treatment in the instances pursuant to subsection (2) where owing to the nature of occupational, activities or owing to the context in which they are carried out, such a reason constitutes a substantive and decisive occupational requirement for an employees work performance and the requirement is necessary for carving out work of the given type, the objective (aim) followed under this exemption must be legitimate and the requirement must be adequate. Discrimination shall further not be deemed to occur when an employer takes a temporary measure aimed at levelling out the proportion of men and women being employed by this employer and this is taken into account in recruitment of employees, their vocational training and promotion opportunities if there is a reason for this measure due to an uneven share of men and women employed by this employer. However, the employer 's procedure (practice) may not be detrimental to an employee of the other sex where these employee 's qualities exceed those of another individual (employee), in respect of whom the employer applies a temporary measure in accordance with the second sentence. [17]

3.9.1. Legal Regulation of Mobbing

Legislation related to mobbing and bossing, which occurred in one piece of legislation is yet in our future music. It would be certainly the case if this problem started in addition to civil society groups to address the members and thus create an effective weapon in the form of legislation or new elements of the offense in the Criminal Code that would help victims of harassment in their unenviable situation. It would be appropriate to mobbing explicitly addressed the Labor Code. As to sexual

harassment by the Labor Code expressly conceived for the discrimination would also mobbing could be explicitly mentioned as a discriminatory act. We could also take heed of international rules, which are engaged in harassment. For example the employer with such competence would entitle him to take action against the originators of mobbing as a warning to public reprimand, a monetary fine or even dismissal. And contrary to enable employees who become victims of harassment to require the employer adequate pain, if the harassment and failed to prevent harm to health.

It would be appropriate to define which behavior is accessible and which not. Then determine how to resolve situation and consequences of mobber. It will be suitable penalties. Penalties for proven commit harassment could be differentiated by injury, which caused casualties mobber.

3.9.2. Anti-discrimination Act

On 17 June 2009 after length negotiation in the Czech Parliament adopted a law on equal treatment and legal meant of protection against discrimination. Anti-discrimination law, except that the second part of came into effect on 1 September 2009. The law should govern the issue of discrimination on the complex legal system, which means not only for employment but also affected health care and social security and access to goods and services including housing. The aim amendment is to extend remit of ombudsman to private entities. The experience of the Czech Republic and abroad as well that the actors are mostly discrimination by private entities. The current legislation the scope of Ombudsman applies only to public entities and its scope is define in relation to the protection of individual from the actions or inaction of authorities and other public bodies, in contrary to democratic principles. In the future the ombudsman should have power to increase procurement of legal help, mediation, making recommendation, conducting research and provide public information.

A similar law already applies to Slovak Republic. If employees become victims of harassment or other forms of discrimination, they may contact ombudsman but also the Slovak National Centre for Human Rights, which is in Bratislava. This center provides legal assistance to victims of discrimination.

Anti- Discrimination Act is the first comprehensive legislation of its kind in the country. Implements the directives of the European Communities in accordance with

international treaties binding on the Czech Republic and the Charter of Fundamental Rights and Freedoms defines the right of every individual to equal treatment and non-discrimination in employment rights and access to employment, access to the profession, business and other self-employment, membership in trade unions, works councils and employers' organizations, access to education, health care, social security, etc.

The anti-discrimination law is defined notions of direct and indirect discrimination, harassment, including sexual harassment, the permissible forms of differential treatment, the principle of equal treatment for men and women in social security schemes and provides the legal means of protection against discrimination. The law allows a person whose rights arising from the right to equal treatment or discrimination was affected by the actions of another, the courts demanded the abandonment of discrimination, the elimination of discriminatory interference and provide adequate redress. In cases of reputation or dignity of the person or the esteem in society to a large extent, such a person has a right to demand compensation for the loss in money. The decision of the court with regard to the seriousness of the injury and the circumstances under which the infringement occurred. The burden of proof is on the defendant who must prove that the conduct was not discriminatory. Moreover, employers must demonstrate that it respected the principle of equal treatment, respectively, that means any unequal treatment was not discriminatory.

Adoption Anti-Discrimination Act is also fraught with employers' duty to give a collective agreement and internal regulations issued in accordance with new legislation.

Major changes resulting from effective anti-discrimination law is not expected to be difficult. The law is in many of its provisions, follows the presentation has long been included in other legislation such as the Employment Act, or directly in the Charter of Fundamental Rights and Freedoms. [9]

3.10. Example from practice

People who are affected by mobbing or other form of violence in workplace are higher number, but we cannot find much of them which only waving with hands about this problem. It is very few workers, which try to solve this problem with court. The reason can be reticence of this problem in Czech Republic and also awareness of legal

subject in term of legal protection. There are efforts to solve the problem face to face or behind door and not apply to the court. The main factor can be consuming time and expensive procedure. If someone is encourage and try to solve it find support in the law in case of direct or indirect discrimination or sexual harassment. In this cases, reverse is true which is called burden of proof.

Worst is with mobbing, which sill did not find place in our legal system. If you would like the body on which the psychological or physical violence exercised to court, the burden of proof would have to stand alone and thus prove that it is right to assert the existence of violence held.

If someone decides to solve it, he has to prepare it, obtain witnesses, wrote notes, and need medical documentation. The medical documentation is necessary if mobbing damaged the health of victim. Also some views in question of mobbing or sexual harassment that this is maximization problem. The biggest problem is in non-exist consultants.

The example is from retirement home for seniors. The main participant of mobbing was nurse. This nurse works in retirement home, where she became a victim of mobbing. Mobber try to her all sort of strategies which are known for mobbing. She was isolated from collective, the person concerned lies, rumors. She became uncomfortable but she does not to find cause. The interview with supervisor, she was told that no one wants to stay with her and she can consider to staying in employment. Supervisor don be able to specify complaints on her personality. Any further dealings with her have been conducted without evidence of decency and had been removed and night shifts. Thus the supervisor tries to remove sister, she stay. The constant stress and tension is signed on her health. She began to complain about procedure in a retirement home, she wrote in Region Office in České Budejovice into Department of Social Affairs and Health. She received a letter of her redundancy. The nurse did not give up and fought for her honor. She team with associations that gave her helped in case of labor relations. The association contacts the employment office in order to examine the termination of employment. The employment office did not find that employer committee violence of labor laws. This decision did not nurse accept and she brought an action to court due to non-validity termination notice for redundancy.

After time, the people tell her that the reason for mobbing can be a fact that she fills an application to a director in another retirement home and she can become dangerous competitor.

4. EVALUATION

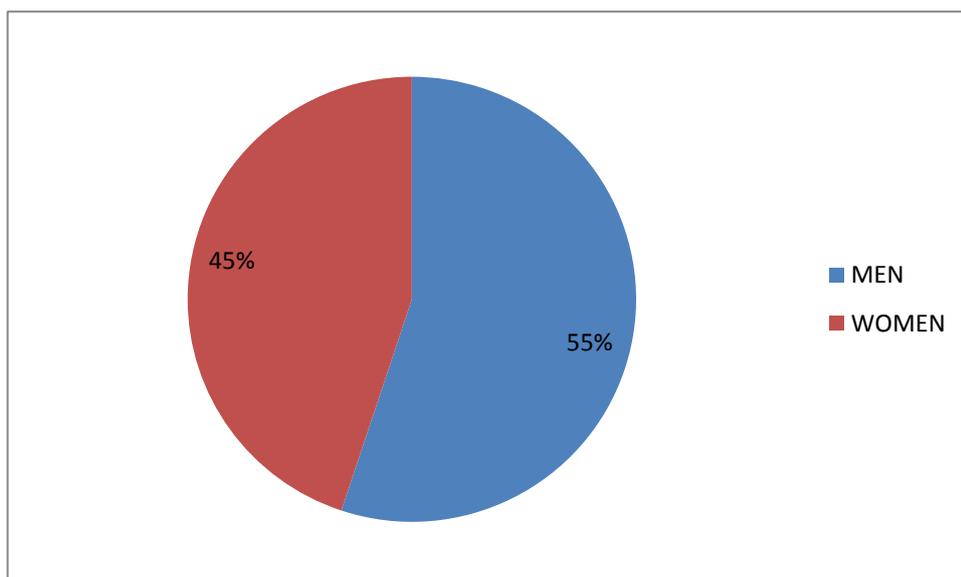
The main goal of this part of bachelor thesis is to analyse and evaluate questionnaire about mobbing and bossing in labour law. The questionnaire was published in a form of a web application and answers were saved into a SQL database. The original questionnaire is enclosed in the supplements – chapter 7. The source data is available in attached CD.

4.1. Summary

The questionnaire was spread via social network such as Facebook and emails, Finally 216 people were answered to questions. Educational attainment was following: 48% (104) achieved high school education, 41% (88) achieved university education, 4% (9) were skilled workers, 4% (8) primary educated, and 3% (7) achieved higher education. More than half of respondents 60 % were from Prague, 15% were from Central Bohemian region and 7% from Liberec region.

The 45% (97) was women and 55% (119) was men from that. Complete results are depicted in following graph:

Graph 1: Gender of respondents

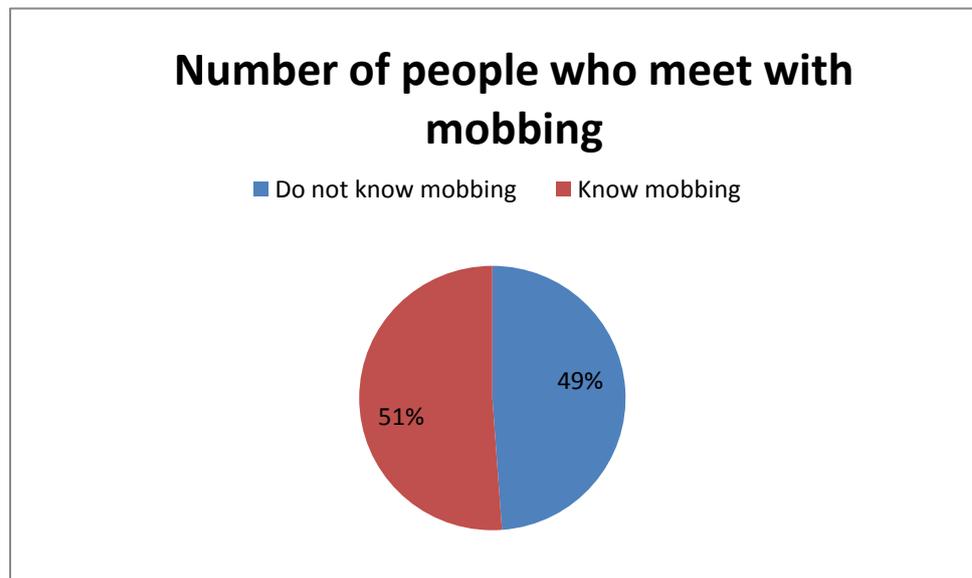


Source : Author 's source

4.2. Representation of Mobbing

Nowadays the term of mobbing is very common phenomenon. It helps to mobbing fierce competition and threat of unemployment. In graph number 2 is displayed knowledge of mobbing; it means number of people who have ever heard about term of mobbing. The graph shows that 51% of respondent know term of mobbing and 49% do not know term of mobbing.

Graph 2: Knowledge of term of mobbing

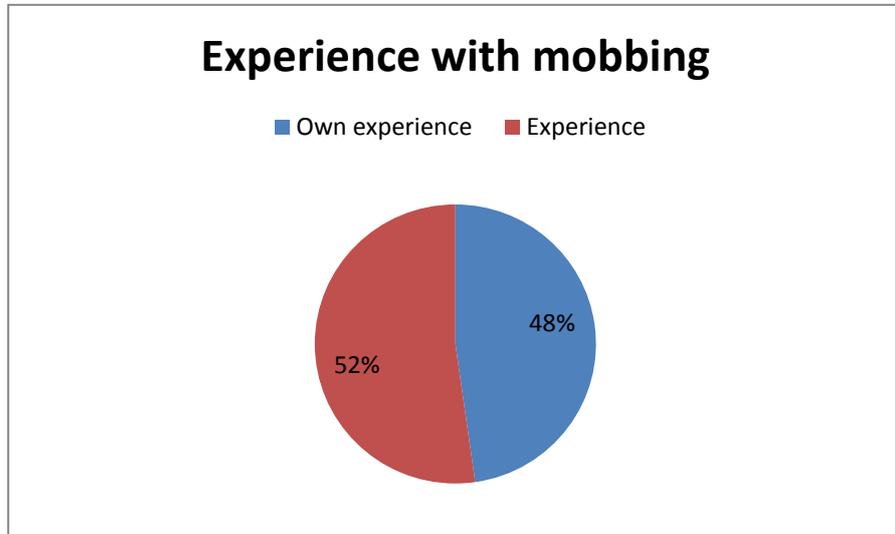


Source: Author 's source

The next question leads into experiences with mobbing. Many from us have experiences from our outside, but many of us can have unfortunately own experience. The research showed that 48% of respondents try to their own mobbing and 52% have experiences due to friends, family or from outside. The hidden dangerous of mobbing that can affect each of us.

Complete distribution is displayed in graph 3:

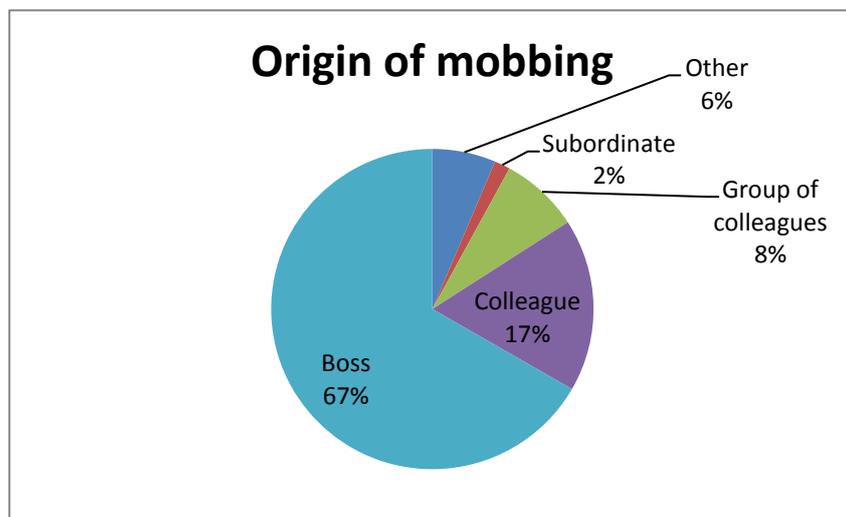
Graph 3: Experience with mobbing



Source: Author 's source

If we solve discrimination; we can define who will be offender. In the research in many cases the discrimination come from boss, we call this type of discrimination bossing. It shows how widespread is this problem in our society and in company and for employees is too difficult defence. The research shows that 67% respondents were bullying by boss and 17% of respondents were bullying by colleagues. Complete distribution of origin of mobbing is shown in following graph:

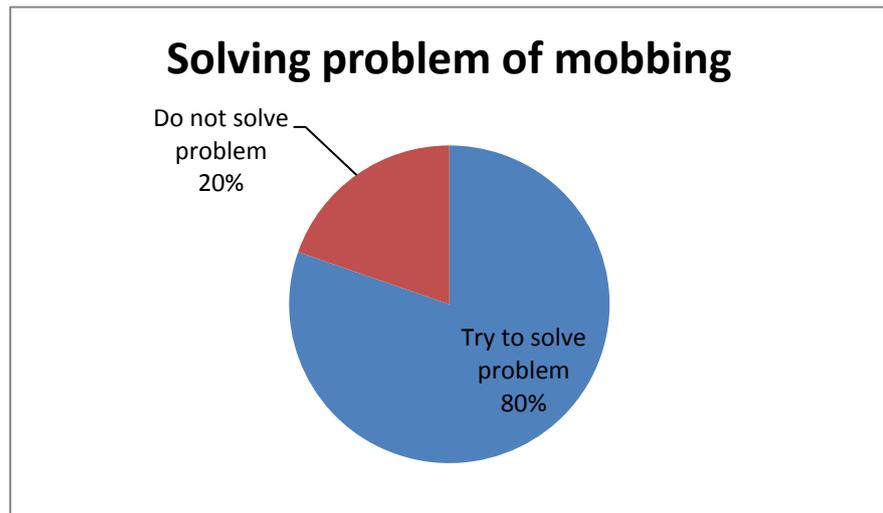
Graph 4: Origin of Mobbing



Source: Author 's source

Following graph shows higher number of people who try to solve the problem of mobbing it is 80% and 20% percent do not try to solve it. The main reasons why they do not try to solve it, you can see in graph number 6.

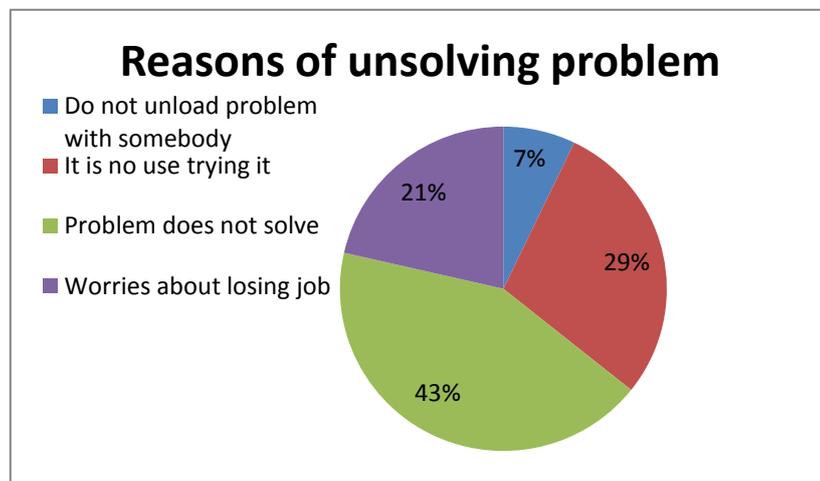
Graph 5: Solving problem of mobbing



Source: Author 's source

This graph shows us the reasons why respondents do not solve problem with mobbing. The highest number 43% does not solve problem and then 29% that is no use trying solve problem and 21% worry about losing their job.

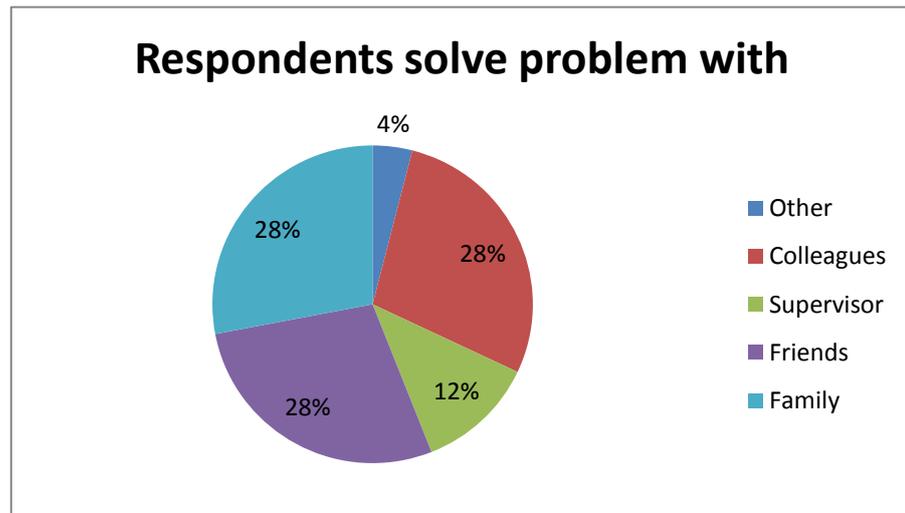
Graph 6: Reason of unsolving problem with mobbing



Source: Author 's source

Some of respondents try to solve a problem, the graph 7 shows with whom they solve it. The domain was family 28% and the same percentage 28% solve problem with friends and the last domain group solve it with colleagues.

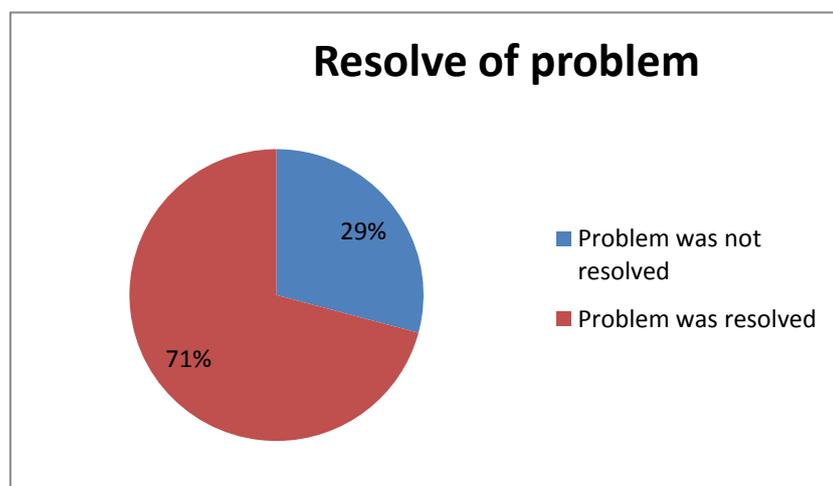
Graph 7: Respondets solve problem with



Source: Author 's source

The graph number 8 shows if the respondents resolve problem with mobbing. Many of respondents 71% resolved the problem and the rest of them 29% they do not resolved it. How they resolve it is shown in following graph number 9.

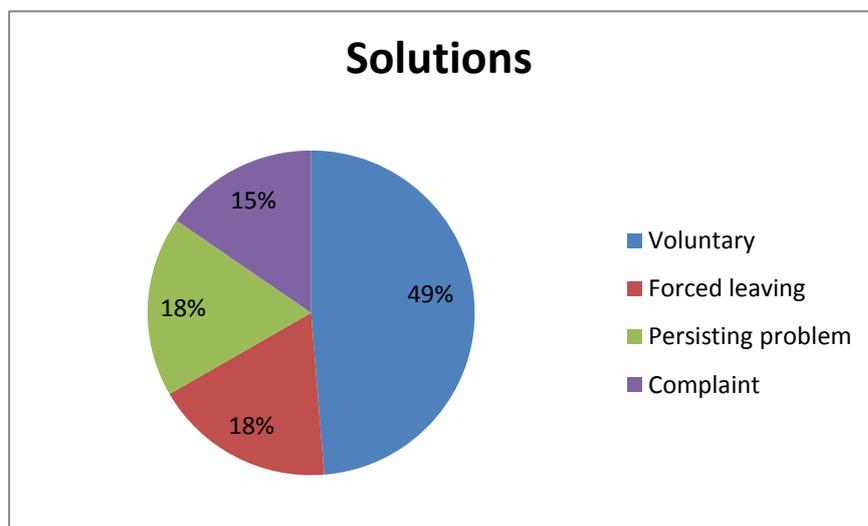
Graph 8: Resolve of problem



Source: Author 's source

In graph number 9 we can see how respondents resolve their persisting problem with mobbing. The main reason for resolving the problem is the most common mental and physical exhaustion. The graph showed that 49% of respondents leave their occupation voluntarily, for 18% of respondents mobbing is still a persisting problem and the 18% of respondents have to be forced to leave from employment. Complete distribution is displayed in graph 9:

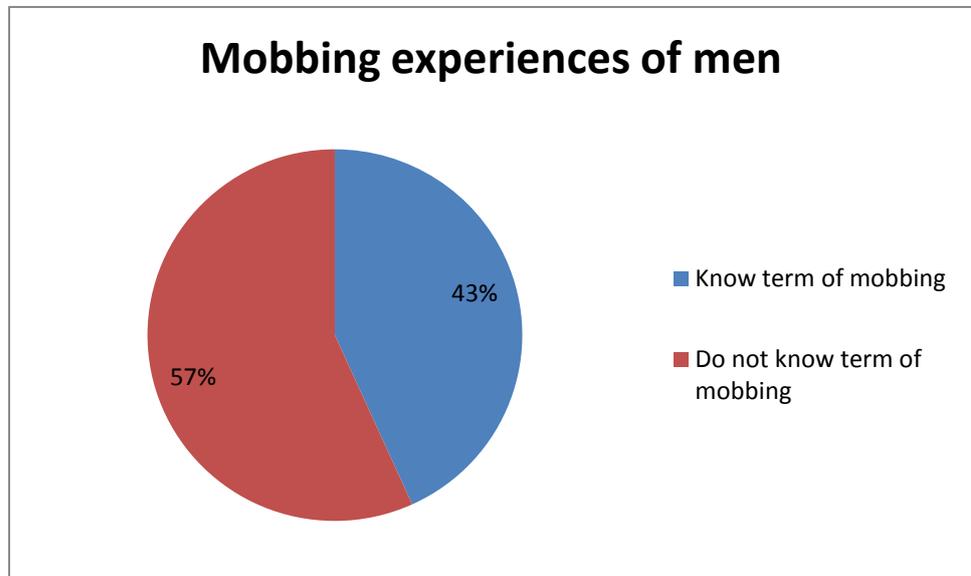
Graph 9: Solutions



Source: Author's source

The research also showed the number of men who meet with mobbing and if they have their own experiences. Graph number 10 displayed that 57% do not know the term of mobbing and 43% know the term of mobbing.

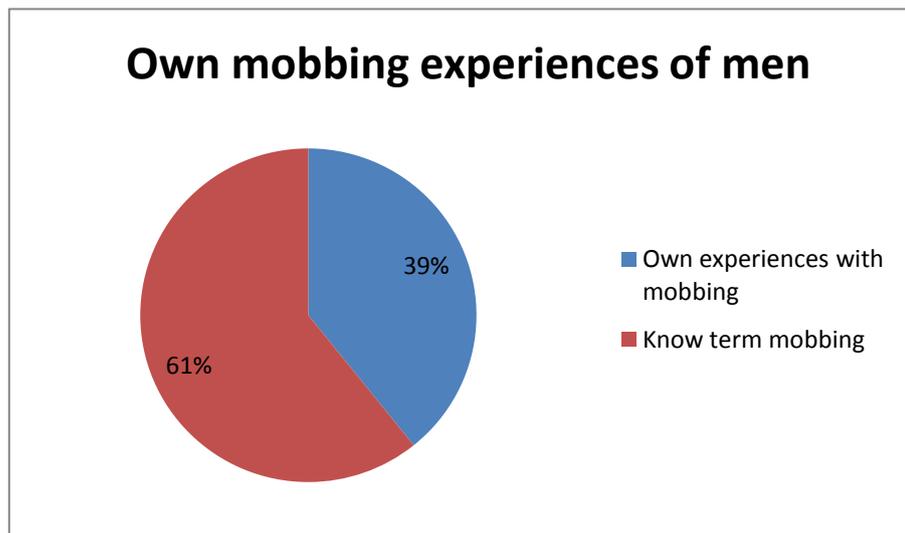
Graph 10: Mobbing experiences of men



Source: Author 's source

The graph 11 determine that men know about mobbing only 39% have their personal experience with mobbing.

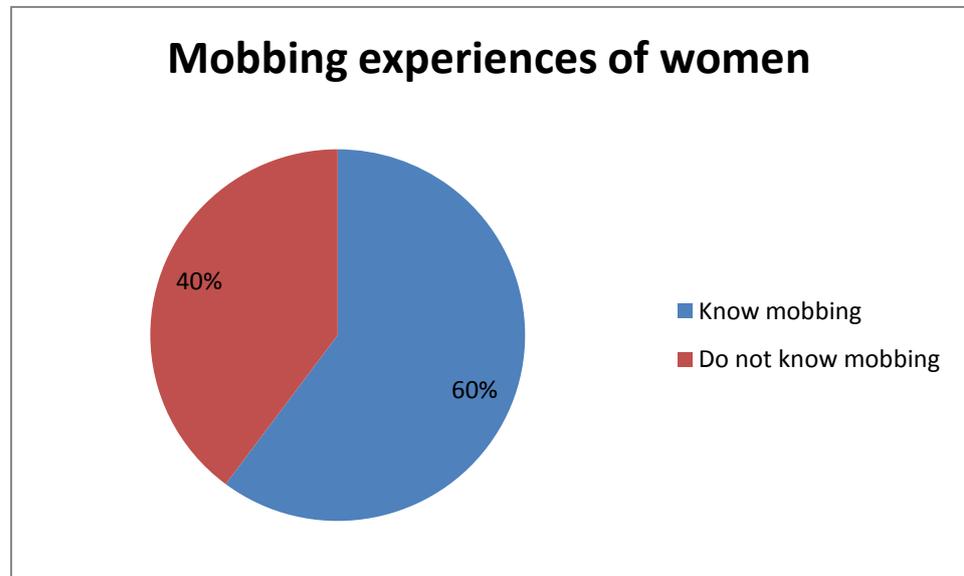
Graph 11: Own mobbing experiences



Source: Author 's source

In the graph 12 you can see higher number of women who know term mobbing than in cases of men. The distribution of women experience is show in following graph:

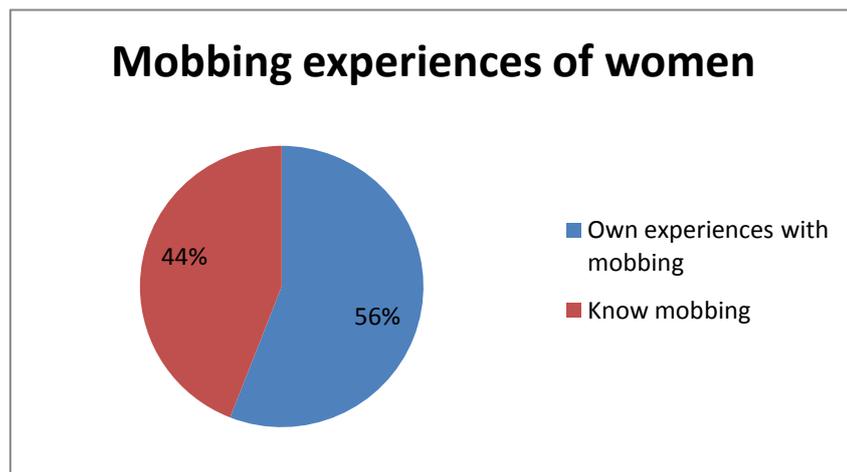
Graph 12: Mobbing experiences of women



Source: Author 's source

Also women have more personal experiences with mobbing than men it is 15% more than men. It is confirm the opinions of researchers that women are easier target of bullying and women as offender are very insidious.

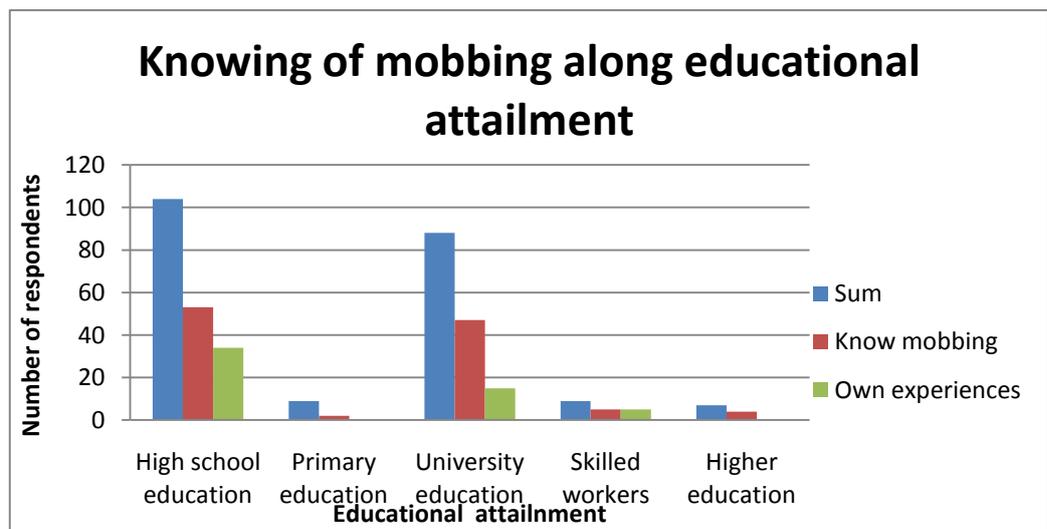
Graph 13: Mobbing experiences of women



Source: Author 's source

This graph determine how many respondents know term of mobbing and have own experiences along educational attainment. The greatest awaransess of mobbing respondents who achieved high school education and second one is respondents who achieved university education. Also the higher number of respondents who achieved high school education have personal experience with mobbing.

Graph 14: Knowing of mobbing along education

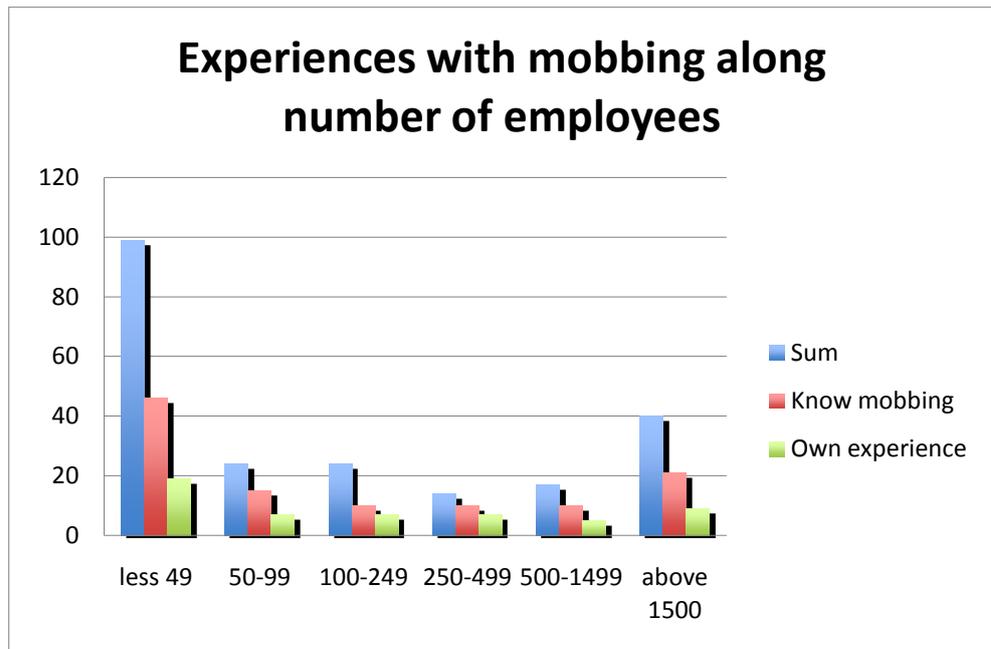


Source: Author 's source

This part of research was focused on the experiences of mobbing in terms of number of employees in the company. I thought that the highest number of bullying in the workplace will be in company with high number of employees, but the highest number of bullying respondents was in the company until 49 employees.

Complete distribution of mobbing experience along number of employees is shown in following graph:

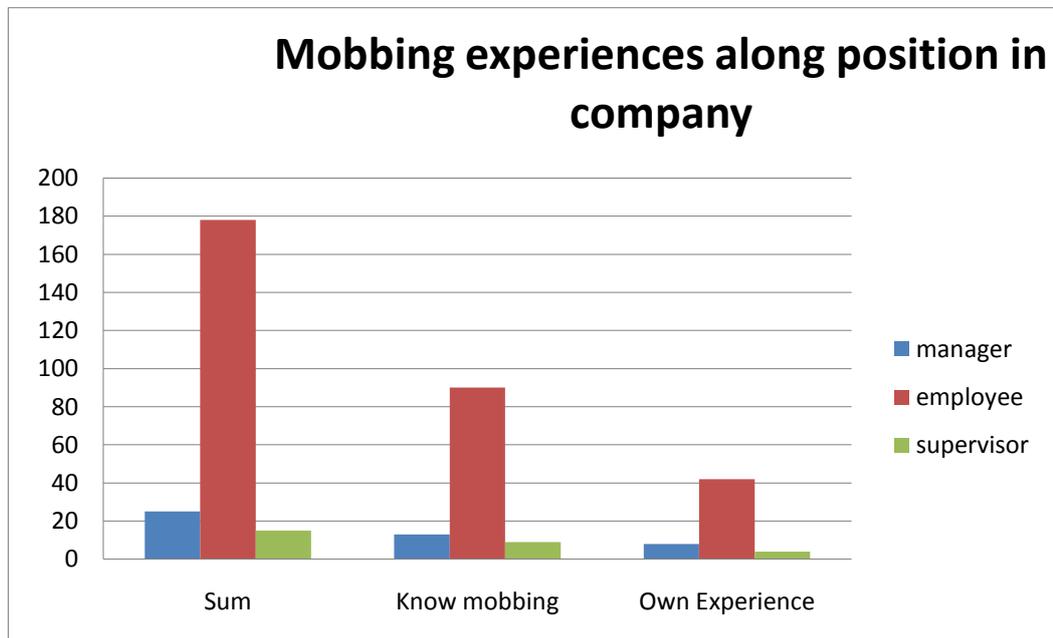
Graph 15: Mobbing experience along number of employees



Source: Author 's source

The one of the most important factor is naturally position in company. The higher position is, the better working condition. In my research was the highest number of employee and also employees have the highest mobbing experiences in many cases from side of bosses. The situation is alarming, the employees do not have many chance to defence and in many cases leave their occupation „voluntary“.

Graph 16: Mobbing experiences along position in company



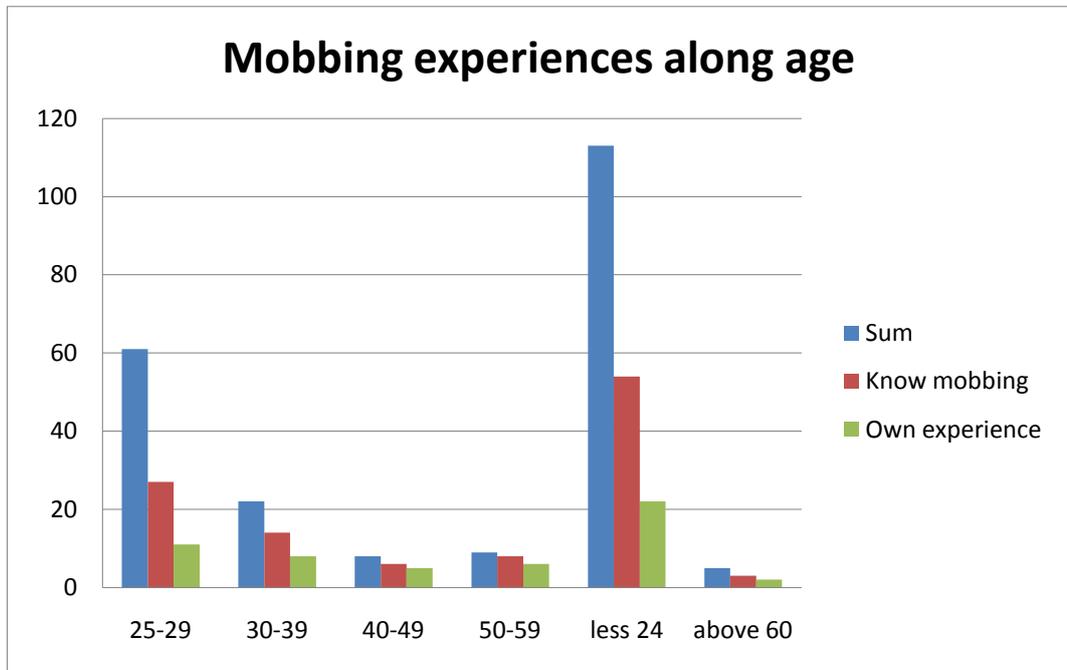
Source: Author 's source

Further aim was found what is the most vulnerable group in terms of age.

Due to this research we can determine that very vulnerable are group of respondents younger than 24 years. The following group is respondents between 25 - 29 and third place belongs to group between 50 - 59. The last group between 50 - 59 is the most vulnerable, they haveing before retirement but in terms of age employer do not want them.

Complete distribution along age is shown in following graph:

Graph 17: Mobbing experiences along age



Source : Author's source

5. CONCLUSIONS

The bachelor thesis introduced in the theoretical part term of mobbing and bossing as a type of discrimination and also showed differences between these terms and their historical background. Further, the victims, the offenders, causes of mobbing, consequences were described and commonly Czech legislation system.

In the practical part of this thesis the data from the questionnaire research aimed at knowledge of mobbing and bossing, which was responded by 216 persons, were analysed and brought interesting results. The results showed that 67% of respondents are bullied by the boss. In these cases it is very difficult to defend. In most cases the victim does not have any ally because everyone is afraid of losing her/his job. The majority of respondents (about 80%) try to solve their problem with bullying, but in most cases the problem does not solve or not worth it. Most respondents confided their problem to their family, friends or colleagues. They know that their close relatives support them. Most frequent way to solve problem of bullying was voluntary leaving from employment followed by involuntary leaving from employment. The research showed that women have higher ratio of experience with bullying in the workplace than men; concretely 56% of women and 39% of men. Intriguingly most experience with bullying have employees in the company which have less than 49 employees. The employees who work in company with 400-1499 number of workers have less experience with bullying. Another part of research was according position in the company. The highest number of employees has personal experience of mobbing while the lowest supervisors. The next part of the research was focused on bullying in terms of age, most experience with bullying have respondents younger than 24 years. Final criterion was according education. The respondents who achieved high school education have highest personal experience followed by university education.

After processing the questionnaire it is evident that the situation is alarming. In order to prevent mobbing and bossing it would be advisable to hold interview with superiors. In the Czech legislative system is no comprehensive law that addressed the protection against specific type of discrimination. These issues are inadequately addressed in the Czech legislation. In many cases the victims of discrimination often convinced themselves that there is no chance to succeed in litigation with the company.

It is of major important to increase awareness of employers and employees about their rights and obligations and also cultivate environment not only on labour market but in company.

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7. SUPPLEMENTS

Supplement I

Dotazník k Bakalářské práci

Jmenuji se Iva Šlosarová a jsem studentkou oboru Agriculture Economics and Management na České zemědělské univerzitě v Praze. V současné době zpracovávám bakalářskou práci na téma Mobbing a bossing v pracovním právu. V souvislosti s tím bych Vás ráda požádala o pomoc v podobě vyplnění krátkého dotazníku.

Dotazník je anonymní a shromážděná data budou využita výhradně a jen pro zpracování této bakalářské práce. Předem Vám děkuji za ochotu a Váš čas.

S přáním hezkého dne

Iva Šlosarová

Pro vyplnění dotazníku je dobré objasnit následující pojmy

Mobbing

teror na pracovišti, který způsobují spolupracovníci. Jedná se o dlouhodobé šikánování na pracovišti s cílem poškodit a znepříjemnit život na pracovišti. Útoky bývají zcela bez příčiny.

Bossing

teror na pracovišti, který způsobují pracovníci na vedoucích pozicích. Příčiny bývají většinou obavy z podřízeného, který by mohl ohrozit funkci "bosse". Většinou se projevuje zadáváním nespílitelných úkolů.

PRVNÍ ČÁST - Informace o zkušenostech se šikánou na pracovišti

1. Setkal/a jste se někdy s pojmem šikana na pracovišti?

- Ano
 Ne

2. Týkala se šikana na pracovišti Vás osobně, popř. Vašich blízkých?

- Ano
 Ne

3. Kdo byl původce šikany?

- Spolupracovník
 Vedoucí pracovník
 Podřízený pracovník
 Skupina spolupracovníků
 Někdo jiný

4. Mluvil/a jste s okolím o svých problémech týkajících se šikany?

- Ano
 Ne

5. Komu jste se s problémem svěřil/a?

- Rodině
 Přátelům
 Přímému nadřízenému
 Kolegům v práci
 Někdo jiný

6. Vyřešil/a jste výše zmiňovaný problém?

- Ano
 Ne

7. Jakým způsobem jste problém vyřešil/a?

- Po stížnosti se problém vyřešil
 Problém přetrvává
 Dobrovolný odchod ze zaměstnání
 Nucený odchod ze zaměstnání

8. Z jakého důvodu jste se nikomu nesvěřil/a, problém neřešil/a?

- Obavy o ztrátu zaměstnání
 Nemám se na koho obrátit
 Myslím, že by to nemělo cenu
 Nic by se nevyřešilo

DRUHÁ ČÁST - Sociodemografické údaje potřebné ke zpracování

9. Jste muž nebo žena?

- Žena
- Muž

10. Vyberte prosím svoji věkovou skupinu?

- 24 a méně
- 25 až 29
- 30 až 39
- 40 až 49
- 50 až 59
- 60 a více

11. Jaké je Vaše nejvyšší dosažené vzdělání?

- Základní
- Středoškolské bez maturity
- Středoškolské s maturitou
- Vyšší odborné
- Vysokoškolské

12. Ve kterém kraji bydlíte?

- Praha
- Středočeský kraj
- Plzeňský kraj
- Vysočina
- Pardubický kraj
- Jihomoravský kraj
- Olomoucký kraj
- Zlínský kraj
- Moravskoslezský kraj
- Ústecký kraj
- Jihočeský kraj
- Karlovarský kraj
- Královéhradecký kraj
- Liberecký kraj

13. Do jaké kategorie spadá podnik, ve které pracujete?

- Podnik do 49 zaměstnanců
- Podnik od 50 do 99 zaměstnanců
- Podnik od 100 do 249 zaměstnanců
- Podnik od 250 do 499 zaměstnanců
- Podnik od 500 do 1499 zaměstnanců
- Podnik nad 1500 zaměstnanců

14. Jaká je Vaše pozice v zaměstnání?

- Vedoucí pracovník / Manažer
- Vedoucí oddělení
- Řadový zaměstnanec

Supplement II

This questionnaire will be used as the basis for a bachelor's thesis.

My name is Iva Šlosarová and I am a student of Agriculture Economics and Management at the Czech University of Life Science in Prague. I am conducting this questionnaire as bachelor research on Mobbing and bossing in labor law. All details will be kept confidential so take your time and give as much information as possible.

Thank you in advance for your willingness and your time.

Have a nice day

Iva Šlosarová

It is better to clarify the following terms:

Mobbing is terror in workplace. The offenders are colleagues. It is long-term bullying in workplace in order to harm life in workplace. The attacks are without causes.

Bossing is terror in workplace and the offenders are bosses. The causes are mainly fear of losing position. The basic strategy is unrealizable task.

Part one- Experiences with bullying in the workplace

1. Have you ever met with term of bullying at the workplace?

Yes

No

2. Was your experience with bullying personal?

Yes

No

3. Who was the originator of bullying?

Co-worker

Officer

Subordinate

Group of employees

Someone else

4. Did you speak with other people about problem related to bullying?

Yes

No

5. Whom did you tell it?

Family

Friends

Supervisors

Colleagues

Somebody else

6. Did you resolve the problem?

Yes

No

7. How did you solve the problem?

After complaints, the problem was solved

Persisting problem

Voluntary leaving employment

Forced to leave job

8. Why did not you tell anyone?

Worries about losing job

Do not unload problem with somebody

Problem does not solve

It is no use trying it.

Part two – Socio-demographic information

9. What is your gender?

Male

Female

10. What is your age?

Less than 24

24-29

30-39

40-49

50 – 59

Above 60

11. What is your highest educational qualification attained?

Primary education

Skilled workers

High school education

Higher education

University education

12. Which region do you live in?

Prague

Central Bohemian

Plzen

Vysocina

Pardubice

South Moravian

Olomouc

Zlín
Moravian-Silesian
Ústí nad Labem
South Bohemian
Karlovy Vary
Hradec Králové
Liberec

13. How many employees work for your company?

Less than 49 employees
50-99 employees
100-249 employees
250-499 employees
500- 1499 employees
Above 1500 employees

14. What is your position at work?

Manager
Supervisor
Employee

Supplement III

The bachelor thesis includes a CD with source data.