

Moral Harassment - Legal Regulation, Theoretical and Practical Aspects

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Abstract

In the present paper, we aim to analyze the methods of reducing or even eliminating moral harassment, an objective that has become a true purpose in the contemporary society. In the first part, we will refer to the meaning of the concept of moral harassment, which covers a wide range of offensive, unpleasant and harmful behaviors both at work and in private life. In the second part of the paper, we will present the current legislation in Romania regarding mobbing and the methods of combating all forms of moral harassment. This type of behavior has produced serious situations in the workplace, whether it is public institutions or private organizations, and has generated serious violations of fundamental human rights, violations that lead to the moral, psychological and even physical damage of the victims. We will argue that clear rules are needed, which are to be strictly applied in order to stop these abusive behaviors and misconducts, and the professional environment, the workplace, becomes a safe place: a place where job duties are properly performed, the right to career development, the dignity of the human being, the right to physical and mental integrity and the right to private life are respected for each person.

Keywords: moral harassment, mobbing, ethics, methodology, guide, regulation, fundamental human rights.

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1. Introduction

Regardless of the form it takes, harassment is a behavior that disrupts and harms the physical and/or psychological integrity and dignity of the victim. Harassing behaviors are generally understood as actions intended to disturb or upset the person they are directed at. They also tend to be repetitive, making it difficult for the victim to predict an end to harassment. Legally, harassment is considered intentional behavior that threatens or persistently disturbs the victim. Sexual harassment refers to unwanted and persistent sexual advances, usually in the workplace, where rejecting such advances can potentially have very disadvantageous consequences for the victim's career or professional life.

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Some of the earliest observations regarding this type of behavior came from specialists studying animal behavior. In 1963, Konrad Lorenz² described the phenomenon of *mobbing* among rabbits and geese, triggered by the appearance of a fox and of crows at the appearance of cats. "Social animals in particular take every possible chance to attack the 'eating enemy' that threatens their safety. This process is called 'mobbing'. Crows or other birds' 'mob' a cat or any other nocturnal predator, if they catch sight of it by day."³ Later, in 1969, this phenomenon was also observed among human groups by a Swedish physician.

Clearly, among humans, this aggressive behavior is highly problematic and has required proper legal regulations to be prevented and/or sanctioned. Today, moral harassment is considered a type of aggression that occurs in the workplace. It is characterized by repeated, undesired, aggressive and offensive behavior against a person. The harassment can include veiled malicious comments, threats, offensive jokes and other forms of intimidating actions. Among the legal remedies available to victims of moral harassment is, for example, in the United States, the possibility of filing a complaint with the *Equal Employment Opportunity Commission* (EEOC) or even going to court, by filing a legal action.

The expression "moral harassment" is often used to describe a type of harassment which takes place at work, in the work environment. Moral harassment is a form of harassment which usually takes place in the working environment, and it began to be protected by legal provisions in the last few years. It is a very disturbing and hurtful behavior, depending on the sensitivity of the victim or victims but it clearly affects even the strongest individuals and decreases the quality of life and work. If it reaches a certain level, moral harassment generates a hostile work environment.

Moral harassment is manifested in various forms but, most of the time, it consists of any behavior which has as a result the humiliation, intimidation or the emotional distress of the victim. It usually includes ironic and derogatory comments or innuendos about one's physical appearance, personal life or behavior, spreading of mean rumors, excessive and unjustified criticism. In most legal systems, moral harassment is considered misconduct, even a felony if the consequences are severe or the actions are quite bad.

Moral harassment is considered misconduct if it is repeated, if it forms a pattern, and is originated in discrimination based on race, religion, sex, or disability. It does not affect everyone in the same way, but, like domestic violence, it tends to be repetitive and pervasive and creates a hostile work environment, it may be considered a violation of the law⁴.

Another definition, enshrined by the *Code for the Prevention of Harassment in the Workplace* of the IE University, Spain⁵ states that moral harassment, bullying or

² Konrad Lorenz, *On Aggression*, Taylor and Francis e-Library, 2005, Master e-book, pp. 23-24, https://monoskop.org/images/d/d0/Lorenz_Konrad_On_Aggression_2002.pdf, ISBN 0-203-99426-4.

³ Ibid, p. 24.

⁴ Athanasiu, Alexandru, Vlăsceanu Ana-Maria, *Dreptul muncii. Note de curs*, Ed. C.H. Beck, Bucharest, 2017, p. 76.

⁵ Code for the Prevention of Harassment in the Workplace, IE University, Spain, available at <https://docs.ie>.

mobbing represent forms of "systematic and reiterated harassment that takes place over a prolonged period of time, which may be incited by workmates and/or superiors, individuals or groups, and is based on physical and/or psychological actions aimed at making the victim give up his/her position or simply at deriving pleasure from the victim's suffering."⁶

Harassment can also be sexual in nature, meaning it involves undesired sexual innuendos or direct commentaries, advances, proposal or requests for sexual favors, and other verbal or physical sexual harassment. If these advances are rejected, the victim may even risk losing their job.

Power harassment is a type of workplace aggression carried out by a superior in the hierarchy, someone who occupies a position of authority and who tries to control, intimidate, or undermine the person being in a subordinate position.

Both power harassment and sexual harassment create a hostile and frightening work environment, but they are different, even though they can be encountered within the behavior of one person. First, power harassment is not always and necessarily motivated by sexual desire, while sexual harassment consists precisely of that. Furthermore, "power harassment is typically directed at someone perceived as a threat to the harasser's power or position, whereas sexual harassment can target anyone, regardless of their rank in the company"⁷.

If someone feels that they are victims of harassment at their workplace, they should document the behavior and "keep a record of any witnesses. This will be crucial evidence if they decide to take legal action"⁸.

Moral harassment in the workplace is a serious issue that can negatively impact employees' health and well-being. It can take many forms, including verbal abuse, threats, and intimidation. In some cases, it may even escalate into physical violence.

2. Effective Ways to Combat Harassment

There are several ways to combat, diminish and sanction moral harassment which takes place at workplace. The victim should inform a superior—someone other than the aggressor if the harasser holds a managerial position. Addressing the issue early can be key to preventing further harm and creating a safer work environment.

As it was mentioned by Grazina and Magalhães⁹ „some factors present in the daily life of organizations result in a climate of rivalry between individuals, such as: hierarchy, age differences, ethnics, internal competition, work stress, gifts and awards, lack of communication, dismissals, among others. It is under these conditions that moral

edu/sustainability/resources/Code-for-the-Prevention-of-Harassment.pdf, accessed on 7th of May 2025.

⁶ Ibid.

⁷ Athanasiu, Alexandru, Volonciu, Magda, Dima, Luminița-Elena, Cazan, Oana, *Codul muncii. Comentariu pe articole, Vol. I. Articolele 1 – 107*, Ed. C.H. Beck, Bucharest, 2007, p. 143.

⁸ Dima Luminița-Elena, *Dreptul muncii. Curs universitar [Labor Law]*, Ed. C.H. Beck, Bucharest, 2017, p. 94.

⁹ Grazina I. and Magalhães J, „Moral harassment at work: the relationship with organizational culture”, *Journal of Business and Retail Management Research (JBRMR)* Vol 7, Issue 1, October 2012, pp. 12-26.

harassment appears and reduces the respect for the well-being and dignity of the human being. Based on these factors, the main goal of this investigation is to find out the relationship between the organizational culture and the occurrence, or not, of the moral harassment at work.”

In the wake of the #MeToo movement, many companies are scrutinizing their workplace policies and procedures regarding sexual harassment. For example, Taiwan’s Labor Contract Act (LCA) states that moral harassment is “any behavior that affects a person’s dignity or physical or mental health and is based on discrimination due to race, ethnicity, gender, age, disability, religion, or sexual orientation.” The same law states that “employers are responsible for preventing and stopping moral harassment in the workplace”¹⁰.

In Romania, on August 10, 2020, Law No. 167/2020 was enacted, amending and supplementing Government Emergency Ordinance No. 137/2000 for the prevention and sanctioning of all forms of discrimination, as well as Article 6 of Law No. 202/2002 regarding equal opportunities and treatment between women and men. This law introduced significant changes to workplace harassment regulations, imposing strict penalties even for employees.

Additionally, Romania’s Labor Code was modified through Law No. 151/2020, which expanded general provisions prohibiting workplace discrimination and harassment. It introduced a new concept in art. 5 para. (6) discrimination by association which „consists of any act or fact of discrimination committed against a person who, although not belonging to a category of persons, identified according to the criteria set out in para. (2), is associated or presumed to be associated with one or more people belonging to such a category of people”¹¹.

Employers are now required to take preventive measures against moral harassment in the workplace and to enforce disciplinary sanctions against responsible employees. If an employer fails to meet this obligation, authorities may impose substantial administrative fines for inaction.

Moral harassment is not a novelty for the Romanian legal frame. In 2015, Law No. 202/2002 was amended to incriminate psychological harassment: “any inappropriate behavior that occurs over a period of time, is repetitive or systematic, and involves physical actions, oral or written language, gestures, or other intentional acts that could affect a person’s personality, dignity, or physical or psychological integrity”¹².

Moral harassment is defined by legislators as hostile and unwanted behavior, including verbal comments, actions, or gestures, directed at an employee by another employee—whether a manager, a subordinate, or a colleague with a similar job position—with the intent to deteriorate working conditions. Such deterioration can disrupt the work environment, cause stress and physical exhaustion (the “burnout”

¹⁰ Dima, Luminița-Elena, *Relații de muncă și industriale în Uniunea Europeană*, Ed. C.H. Beck, Bucharest, 2012, p. 63.

¹¹ Labor Code, available at <https://www.codulmuncii.eu/>, accessed on May 5, 2025.

¹² Law 202/2002 on equal opportunities and treatment between women and men, available at <https://www.legisplus.ro/Intralegis6/oficiale/index.php>, accessed on May 5, 2025.

phenomenon), infringe on the employee's rights or dignity, harm their health — including physical and mental integrity — or jeopardize their professional standing¹³.

Employers may face significantly harsher penalties if they fail to include disciplinary measures against moral harassment in their internal regulations or if they remain passive and do not take the necessary steps to prevent and combat workplace harassment. Administrative fines start at 30,000 lei (approximately 6,000 EUR) and can reach up to 50,000 lei (approximately 10,000 EUR).

Employers are legally obligated to establish rules in their internal policies regarding non-discrimination and the elimination of any form of dignity infringement. However, if such regulations are absent, smaller fines apply — between 3,000 lei and 10,000 lei (approximately 600 EUR to 2,000 EUR) — and are limited to violations related to gender-based discrimination or harassment. Additionally, territorial labor inspectorates (ITM) can require employers to update their internal policies to include the rules. Non-compliance may result in administrative fines ranging from 5,000 lei (approximately 1,000 EUR) to 10,000 lei (approximately 2,000 EUR).

Furthermore, if an employer, through any internal rule or measure—compels, encourages, or influences employees to commit moral harassment at the work, they can face an administrative fine between 50,000 lei (approximately 10,000 EUR) and 200,000 lei (approximately 40,000 EUR).

Finally, failure to comply with measures imposed by the National Council for Combating Discrimination can result in administrative fines ranging from 100,000 lei (approximately 20,000 EUR) to 200,000 lei (approximately 40,000 EUR).

Employees who commit moral harassment by violating the rights or dignity of a colleague can face administrative fines ranging from 10,000 lei (approximately 2,000 EUR) to 15,000 lei (approximately 3,000 EUR).

Furthermore, while the guilty employee may be held disciplinarily accountable, this does not preclude additional types of liability, whether administrative or even criminal, depending on the severity of their actions.

The National Council for Combating Discrimination (CNCD) has the prerogative to impose administrative sanctions for moral harassment, while courts handle claims arising from such incidents. If CNCD finds a legal violation, it can order the employer to provide compensation, including covering psychological counseling costs for the affected employee.

According to the law, a court that establishes the occurrence of moral harassment may:

- Require the employer to take all necessary measures in order to stop workplace moral harassment (CNCD may also enforce this action).
- Order the reinstatement of the affected employee.
- Require the employer to compensate the employee for lost salary and benefits.
- Compel the employer to pay compensatory and moral damages if necessary.

¹³ Cristescu, Răzvan-Gabriel, Cristescu, Cristina, *Codul muncii modificat și republicat 2011, Analize și soluții*, Bucharest, Ed. Hamangiu, 2011, p. 114.

- Mandate psychological counseling compensation for a reasonable and useful period, as determined by a specialist, an occupational health physician (CNCD may also enforce this measure).

- Instruct the employer to modify the affected employee's disciplinary records.

Employees have the right to seek moral damages in court, and employers may be legally required to pay moral damages claimed by employees if found responsible for workplace moral harassment.

Importantly, the victim must provide evidence of the harassment. However, the law states that intent to harm does not need to be proven—it is sufficient to demonstrate that moral harassment occurred.

Thus, in the specialized literature it has been stated "the legislator discourages and thus tries to prevent, in general, moral harassment at the workplace by defining, describing, establishing rights, obligations, prohibitions and preventive measures and, especially, by regulating disciplinary, contravention or criminal sanctions capable of discouraging the phenomenon in question"¹⁴.

Over the years, Romanian courts have defined psychological harassment as intentional and unjustified behavior that occurs over a significant period, aiming to affect employees' personality, dignity, or physical and mental integrity. For instance, in a case ruled by the Bucharest Court of Appeal in 2017, an employer — through its agents, including managers and colleagues — persistently accused an employee of incompetence for an extended period. Despite receiving consistently positive feedback from clients, the employee received low performance evaluations, had limited access to work platforms, and saw their complaints left uninvestigated. The court deemed this psychological harassment and ordered the employer to pay moral damages amounting to 45,000 lei (approximately 9,000 EUR).

According to Romanian legislation and jurisprudence, moral harassment must involve repeated actions — isolated incidents are generally not considered relevant. The behavior must be unjustified and intended to undermine the employee's dignity and mental integrity. While certain actions may appear legitimate — such as disciplinary investigations — if repeated overtime without reaching a conclusion, they may be viewed as hidden attempts to damage the employee's dignity at the workplace.

If internal workplace regulations do not adequately address harassment — or need updating — employers should introduce new provisions reflecting recent legislative changes or revise existing ones. Thus, a critical step in combating harassment is the review and update of internal regulations and workplace policies¹⁵.

Continuous employee training is also necessary to prevent discrimination and harassment. Preventive measures can help avoid undesirable situations, and leadership training programs are beneficial for identifying and addressing instances of harassment

¹⁴ Ștefănescu, Ana, „Prevenirea hărțuirii morale la locul de muncă în contextul noilor modificări legislative”, *Revista română de dreptul muncii*, nr. 5/2021, pp. 33-38.

¹⁵ Code for the Prevention of Harassment in the Workplace, IE University, Spain, available at <https://docs.ie.edu/sustainability/resources/Code-for-the-Prevention-of-Harassment.pdf>, accessed on 7th of May 2025.

or discrimination.

Employers must establish specific internal communication channels for handling harassment or discrimination complaints, ensuring confidentiality.

As stated in the specialized literature, teleworking, being a recent way of conducting employment relations, still requires specific legal regulations¹⁶ and it would be advisable for these new regulations to also include provisions on preventing and combating acts of online harassment.

3. Adopted Methodology

Government Decision No. 970/2023 approves the Methodology for Preventing and Combating Harassment Based on Sex and Moral Harassment in the Workplace¹⁷. This methodology complements existing regulations that require employers to provide periodic training for employees in areas such as data protection, occupational health and safety, and emergency situations.

The methodology applies to all types of employers, including public institutions, local and central government authorities (civil and military), and private companies. Its purpose is to ensure that workplace policies and regulations are promoted:

- Equal opportunities and fair treatment for both men and women,
- Recognition of every employee's right to a workplace free from violence and harassment,
- A fair and safe work environment based on mutual respect and dignity,
- Respect for human rights and fundamental freedoms,
- Elimination of any form of dignity infringement in the workplace.

The methodology provides concrete examples of behaviors that constitute sexual and moral harassment at work. These include:

- Physical conduct: Unwanted or repeated physical contact, physical violence (including sexual assault), threats or workplace-related rewards used to solicit sexual favors.
- Verbal conduct: Comments about an employee's looks, appearance, age, or private life; sexual remarks, malicious jokes, or stories; repeated and unwanted invitations for dates or physical intimacy; insults related to gender; systematic sending of humiliating, degrading, sexually explicit messages via phone, email, or other communication channels.
- Non-verbal behavior: Displaying suggestive or sexually explicit materials, making sexual gestures, whistling, or repeatedly staring in an intrusive manner.
- Other behaviors: Any actions intended to harm a person's dignity or create an

¹⁶ Mirică, S. C. (2023). „The Peculiarities of Telework for Civil Servants”. *The Annals of "Dunarea de Jos" University of Galati. Legal Sciences*. Fascicle XXVI, 6(2), 158-165.

¹⁷ Government Decision No. 970/2023 approving the Methodology for preventing and combating harassment based on gender, as well as moral harassment at the workplace, available at <https://www.legisplus.ro/Intralegis6/oficiale/afis.php?f=293405&datavig=2025-05-08&datav=2025-05-08&dataact=&showLM=&modBefore=>, accessed on May 5, 2025.

intimidating, hostile, degrading, humiliating, or offensive work environment.

Employers can take several steps to ensure a safe and discrimination-free work environment, protecting employees from harassment based on race, nationality, ethnicity, language, religion, social category, beliefs, gender, sexual orientation, age, disability, chronic non-contagious illness, HIV infection, or disadvantaged status. These measures include:

- Prohibiting any form of power imbalance between women and men.
- Implementing zero-tolerance policy, the prohibition of gender-based discrimination and moral harassment in the workplace.
- Treating all harassment incidents thoroughly and seriously and investigating complaints effectively and rapidly.

- Disciplinary sanctions, including dismissal, for proven cases of harassment.

Beyond these direct actions, employers can ensure compliance with legislation by:

- Incorporating the principles, rules, and procedures outlined in the methodology into internal regulations, tailored to their specific industry.
- Developing a workplace harassment prevention guide.
- Establishing clear procedures for handling harassment complaints.
- Analyzing and resolving harassment cases at the organizational level.
- Defining specific roles and responsibilities for both employers and employees in preventing harassment.

- Creating internal reporting mechanisms for inappropriate behavior.
- Ensuring confidentiality and protecting victims after filing complaints.
- Appointing a dedicated person or committee to handle harassment complaints.
- Providing regular employee training on harassment prevention, including annual workshops on the methodology's provisions, etc.

The Ministry of Labor and Social Solidarity, through the Labor Inspection Authority, is responsible for ensuring compliance with employer obligations under the Methodology for Preventing and Combating Harassment. Employers who fail to meet these obligations may face fines of up to 200,000 lei per violation.

4. Conclusions

As Grazina and Magalhães conclude that there is „an imminent need to preserve the psychological health of workers, which is one of the values inherent to human dignity itself. This way, the promotion of prevention and defense from moral harassment by means of information, prevention and multidisciplinary intervention is of crucial importance.”¹⁸

There is a growing need to establish minimum legal standards for online harassment offenses, particularly to address the most severe forms of digital abuse.

These standards should include repeated or continuous threatening behavior

¹⁸ Grazina I. and Magalhães J., „Moral harassment at work: the relationship with organizational culture”, *Journal of Business and Retail Management Research (JBRMR)*, Vol. 7, Issue 1 October 2012, pp. 12-26.

directed at an individual, especially when such actions involve threats via information and communication technology (ICT) to commit crimes, leading the victim to fear for their safety or that of their dependents. Publicly accessible threatening or insulting behavior conducted in coordination with others via ICT, which may cause severe psychological harm to the victim¹⁹.

Large-scale online attacks — including coordinated mob harassment — can escalate into offline aggression or cause significant psychological trauma. In extreme cases, victims may resort to self-harm or suicide. These attacks frequently target women in prominent roles, such as politicians, journalists, human rights defenders, or other public figures. However, they can also occur in schools, universities, and workplaces.

Given the serious consequences of online harassment, legal frameworks should be strengthened to incriminate these behaviors and provide effective protection for victims.

Furthermore, moral harassment, whether committed through traditional or online means, remains difficult for victims to prove, often compounded by the victim's own sense of inadequacy and guilt, who finds it difficult to talk about what is happening to them. In fact, this is certainly one of the aspects that aggressors rely on when they are not afraid of consequences: in addition to the higher rank, the higher position in terms of hierarchy, there is also the deep embarrassment of the victim, who is often ashamed to file a complaint and then prove the abuses to which she is subjected.

Another aspect of moral harassment is represented by the consequences that this behavior has on the efficiency and proper functioning of the organization within which it occurs. Thus, in a work environment where moral harassment is allowed or tolerated, a negative atmosphere is created, the people targeted by the harassment can no longer concentrate fully on their work tasks and thus, the organization can even end up with financial losses. Therefore, it is also in the interest of each organization to have a policy of awareness and sanctioning of these behaviors, not only in the interest of the fundamental rights of the people who work there but also in the interest of its own benefits: the profit and image of that organization.

The directive requires EU member states to submit data from population surveys to the European Commission (Eurostat) to assess the prevalence and trends of all forms of violence covered by the directive as soon as they become available. To ensure comparability and standardization of administrative data across the EU, member states work to collect data based on common breakdowns established in cooperation with the European Institute for Gender Equality (EIGE) and in accordance with its standards. Each year, member states transmit these data to EIGE, ensuring that no personal data is included in the reports.

At least until the end of the 2021-2027 multiannual financial framework, the European Commission supports or conducts research on: causes and effects of workplace harassment, incidence rates and conviction rates for various forms of violence covered by the directive. Additionally, the directive mandates reporting and review of relevant information until June 14, 2032.

¹⁹ Cristescu, Răzvan-Gabriel, Cristescu, Cristina, *op. cit.*, p. 114.

This comprehensive approach to moral harassment highlights the seriousness of the issue and underscores the need for prompt responses from member states to effectively address workplace harassment.

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