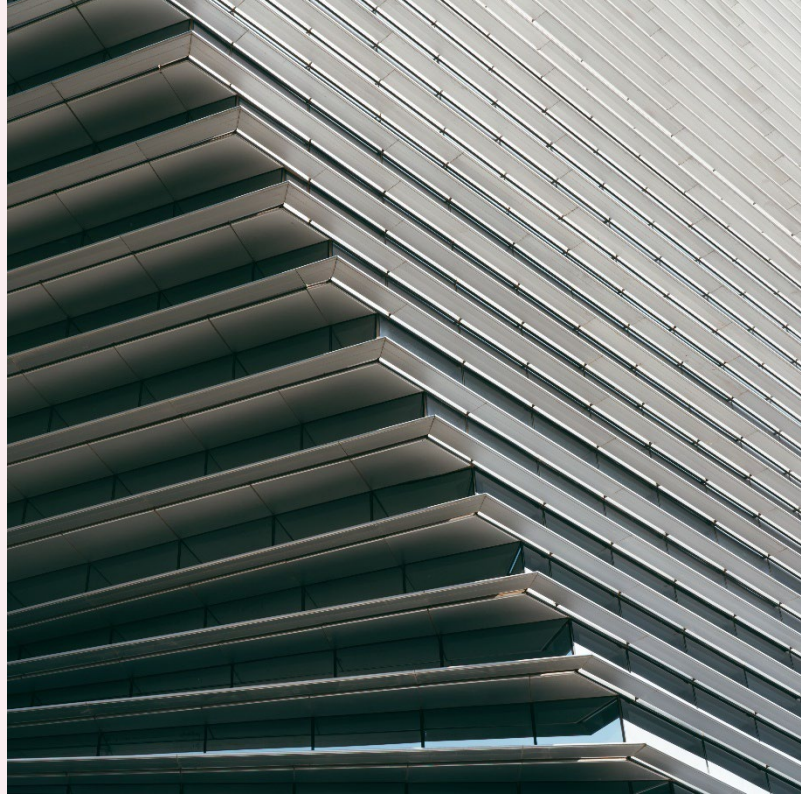


Will there be more mobbing lawsuits in Poland?

22 September 2026 r.



On 5 August 2026, an amendment to the Labour Code and the Code of Civil Procedure of 19 June 2026 (the "Act") was announced, which introduces fundamental changes in the area of employee protection against mobbing and the liability of employers therefor. In particular, the Act simplifies and shortens the list of prerequisites that a victim of mobbing must demonstrate in order to effectively pursue claims and imposes new obligations on the employer to counteract mobbing and other ethical violations. The changes will come into force on November 5, 2026.

Key Issues

- A new definition of mobbing
- Strengthening of claims
- Mandatory procedures and actions to counteract misconduct

A new definition of mobbing

The Act introduces a groundbreaking change in the definition of mobbing. Under the currently applicable regulations, proving mobbing required several preconditions to be satisfied, some of which were very difficult to prove in practice (in particular, the occurrence of a specific effect of mobbing behaviour and the intention of the perpetrator). Consequently, the chances of a successful mobbing claim were limited from the outset.

According to the new definition, **mobbing is behaviour consisting in the persistent harassment of an employee**. Therefore, the Act introduces a significant simplification of the conditions for mobbing and limits them to just two circumstances: the behavior constitutes harassment and is persistent.

The Act clarifies the understanding of the concept of persistence, indicating that these are repetitive, recurrent or constant behaviours – which is a definite simplification compared to the previous requirement of simultaneous persistence and durability of the behaviour.

The Act explicitly lists examples of mobbing (however, this is an open catalogue):

- humiliation,
- insulting,

- bullying,
- underestimating the employee's professional competencies,
- unjustified criticism, humiliation or ridicule of an employee,
- hindering functioning in the work environment in terms of the possibility of achieving results of work, performing work tasks, using competences, communication with co-workers or access to necessary information, and
- isolating an employee or eliminating them from the team.

Mobbing arises if these actions take the form of persistent harassment, even if the harassment is not the intention.

At the same time, the Act clarifies that the exercise of the employer's rights, in particular, holding employees accountable for the work entrusted to them or expressing justified criticism in a proper form do not constitute mobbing.

In terms of the standard of assessment, the Act appears to confirm the principle resulting from current case law, i.e. that the assessment of whether mobbing has occurred is of an individualized nature and takes into account the circumstances of each particular case, both in terms of the circumstances around the behaviour and the employee's individual situation. In our opinion, this maintains the principle that when assessing the perpetrator's behaviour and its consequences, the so-called "reasonable victim" standard should be adopted.

Strengthening of claims

Structured claims

Currently, employees can seek compensation for non-material losses (zadośćuczynienie) for mobbing only if they suffered an impairment to health and, separately, compensation for property damage caused. Under the current provisions of the Labour Code, a person who has experienced mobbing but was unable to prove impairment to health as a result thereof (which required the presentation of medical documentation) or measurable material damage, was generally not entitled to any financial compensation (in particular, no compensation was due for moral harm, which most often occurs in mobbing cases). In practice, such claims had to be pursued on the basis of separate provisions of the Civil Code, because the Labour Code did not provide protection in that regard.

The Act has sorted out this issue. As before, an employee will be able to claim compensation for material damage actually suffered as a result of mobbing. However, compensation for non-material losses will no longer be due only in the event of impairment to health but will be awarded to compensate for any non-material damage (such as poor well-being as a result of stress, reduced sense of professional usefulness, problems in family life, etc.). Importantly, the minimum compensation amount for non-material losses was set at 6 times the minimum monthly wage for work.

New procedural regulations

The Act introduces an important change in procedural rules for claims related to mobbing, discrimination and violation of personal rights. In these cases, the employee will not have to correctly specify the legal basis for the claim. Despite the fact that the employee's claim was based on an incorrect legal basis, the court should award the employee appropriate compensation, if it finds that the employee's rights have been violated, on the basis of other provisions which, in the court's opinion, allow it, but were not invoked by the claimant. This may apply primarily to a case in which an employee seeks compensation for mobbing, and the court considers that although mobbing did not occur, the employee's personal rights (e.g. his dignity or professional reputation) were violated.

This is undoubtedly a significant facilitation in the effective pursuit of claims by employees, especially those not having professional representation.

Recourse to the mobber and new liability rules

The Act grants an employer who has paid compensation for mobbing to an employee, a clear right of recourse against the perpetrator.

The mechanism of recourse itself is not new – this right already existed on the basis of general rules of law. Nevertheless, under the Act the rules on which such recourse can be pursued by employers introduce - as it seems - through the 'back door' very negative changes for employers in terms of the rules of liability.

Namely, the Act introduces a rule according to which allocation of liability for mobbing will correspond to the degree of guilt of the perpetrator and the employer. Judging by the discussions in the course of legislative work on the Act, it can be concluded that the legislator's intention is that the employee continues to sue the employer for mobbing and that the employer pays the full compensation, completely independent of the degree of employer's fault. Only as a second step can the employer separately pursue recourse for the amounts paid from the perpetrator.

Therefore, if the employer has exercised all due diligence by correctly implementing and applying all anti-mobbing tools and procedures, it may potentially seek repayment of the full amount awarded to the employee from the mobber (or group of mobbers). This, however, does not affect the scope of the employer's liability towards the victim of mobbing.

Meanwhile, in the light of the case law formed on the basis of the existing regulations, an employer who properly counteracted mobbing could completely free it from liability or reduce the amount of compensation payable. Although it is not entirely clear, it seems that after the changes introduced by the Act, employers' anti-mobbing activities will not really matter from the perspective of the employer's liability towards the employee, but will only affect the employer's possible recourse to the perpetrator, and the practical benefit of this option is limited. Apart from extreme cases, employers have so far rarely used the possibility of claiming reimbursement from the perpetrators of mobbing, and we assume that this will not materially change in practice.

From the perspective of a specific employee pursuing mobbing claims however, this solution is certainly very beneficial. From the perspective of employers, but also from the perspective of the interest of all employees, as well as the goals of the Act, which is to ensure an ethical, healthy and safe working environment in Poland, we consider this solution to be misplaced. A very important factor that has so far motivated many employers to implement organizational measures aimed at counteracting mobbing, i.e. the possibility of relieving oneself of liability in the event of due diligence, has been eliminated.

Mandatory procedures and actions to counteract misconduct

Employers employing at least 10 employees will be obliged to establish appropriate procedures, rules and regular activities counteracting the violations of personal rights of employees, including of the principle of equal treatment, discrimination and mobbing, in separate regulations, unless these provisions are included in the work regulations or the company's collective labor agreement. Employers will be obliged to adopt such regulations **by 5 April 2027**.

The Act also requires that the content of the regulations be agreed with trade union organizations, and in the absence of trade unions - with employee representatives. Probably as a result of a gap in the regulations, this obligation applies only to separate regulations on mobbing and not to those included in the work rules. In practice, in such circumstances, consulting such provisions with employee representatives is at least recommended good practice.

Summary

In our opinion, the direction of the changes adopted by the Act, as well as most of the individual new regulations, are justified. However, the legislator did not avoid mistakes, insufficiently clear rules or dubious solutions.

Although the new regulations will probably not cause an avalanche of new mobbing claims or lawsuits, they will probably significantly increase the effectiveness of pursuing claims. So far, courts have often dismissed employees' claims due to failure to meet all the criteria of mobbing, despite the fact that the employee was undoubtedly a victim of unlawful, unethical behaviour that caused real damage. Due to the simplification and clarification of the definition of mobbing, it will be easier to prove it, and even if mobbing is not proven – the court can still award the employee appropriate compensation on a different basis, if it determines that the conditions specified therein are met.

It is obvious that the mere adoption by the employers of the procedures required by the new regulations does not exhaust the employer's obligation to counteract mobbing. It is necessary to ensure that these procedures are properly applied in practice, including through systematic and effective detection of irregularities, appropriate response to reports and taking corrective action. Under the new provisions, the financial risks associated with allowing mobbing in the workplace will therefore be even more real and potentially severe, and the employer will probably no longer be able to free itself from liability, even if it has made appropriate efforts

to counteract it. Effective anti-mobbing prevention itself becomes all the more important, as the real purpose is to not allow mobbing to occur at all or at least to identify and eliminate it at an early enough stage that it will not lead to significant damage to employees.

The minimum organisational activities that employers should undertake, in our opinion, in order to prepare for the new legal reality under the regime resulting from the Act include:

- Reviewing and updating existing procedures from the perspective of compliance with the requirements of the Act and their effectiveness; and
- Conducting training for all employees regarding appropriate ethical standards and anti-mobbing procedures, with particular emphasis on training for management and team leaders;
- Building an appropriate organizational culture ensuring a safe working environment.

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