

The Activity of Corporate Legal Departments in Uzbekistan In the Prevention and Investigation of Bullying, Mobbing and Harassment: Drawing on Best International Practice

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Abstract

Drawing on applied-scholarly and methodological approaches, the article examines the legal substance and the organizational and legal mechanisms of the activity of corporate legal departments of the Republic of Uzbekistan in the prevention, suppression and investigation of instances of bullying (mobbing) and harassment in the world of work. The relevance of the topic is determined by the global prevalence of the phenomenon: according to the first-ever global survey conducted by the ILO together with the Lloyd's Register Foundation and Gallup (2022), at least 22.8 per cent (743 million) of employed persons have encountered violence and harassment at work at least once during their working life. The empirical and doctrinal basis comprises numerous peer-reviewed scholarly works by researchers from Uzbekistan, the CIS countries, Europe, the Americas, Asia and Africa, instruments and publications of the UN, the ILO, the Council of Europe, the institutions of the European Union, the World Bank Group and the EBRD, as well as the case law of the United States, the ECtHR and the courts of a number of countries. The principal research aim is to identify the gaps in national regulation and to develop a scientifically grounded model for the participation of the corporate legal department in anti-bullying compliance. Ten key problems are identified and systematized; detailed scholarly conclusions and concrete proposals of a legislative and local (corporate) nature are formulated, including a model internal-investigation procedure for companies in Uzbekistan.

Keywords: Bullying, mobbing, harassment, sexual harassment, oppression, dignity of the employee, legal department, internal investigation, compliance, ILO Convention No. 190, labour law of Uzbekistan, de lege ferenda, comparative law.

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1. Introduction

Human dignity is recognized as the highest value both in international law and in national legal orders. The Universal Declaration of Human Rights of 1948 proclaims that all human beings are born free and equal in dignity and rights (Art. 1). As applied to the world of

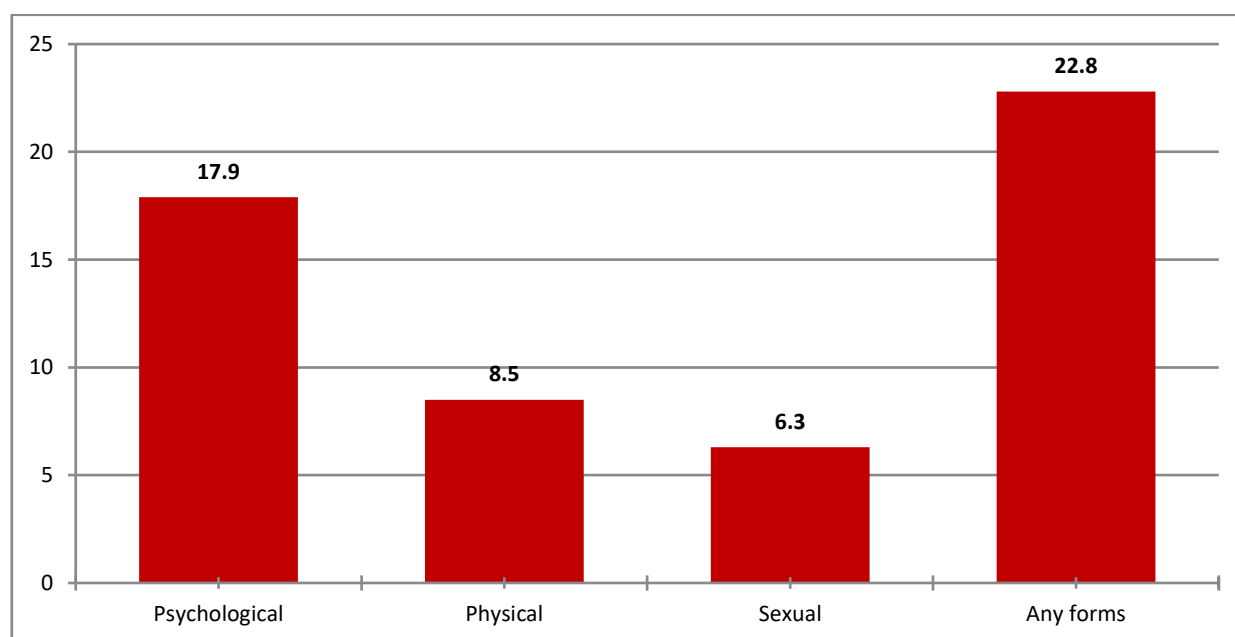
work, this means that the employer is bound to ensure an environment free from violence, humiliation and persecution. Yet empirical data attest to the scale of the opposite practice. According to the first-ever global survey conducted by the International Labour Organization (ILO) together with the Lloyd's Register Foundation and Gallup on the basis of a poll of

approximately 75,000 employed persons in 121 countries, more than one in five workers (22.8 per cent, or 743 million persons) were subjected to violence and harassment in the workplace at least once during their working life; of these, 17.9 per cent encountered

psychological, 8.5 per cent physical and 6.3 per cent sexual violence and harassment. Of particular concern is the latency of the phenomenon: only about half of those affected ever spoke about what they had experienced, and most often only after repeated incidents.

Figure No. 1.

**PREVALENCE OF VIOLENCE AND HARASSMENT
IN THE WORLD OF WORK BY TYPE, % OF THE EMPLOYED**



The problem has not only a human-rights but also a pronounced economic dimension. In its annual study “Women, Business and the Law”, the World Bank Group treats the existence of laws prohibiting sexual harassment in employment as one of the key indicators of women’s economic opportunity, and the corresponding index of legal equality correlates positively with the level of women’s labour-force participation and negatively with the gender pay gap. In its Strategy for the Promotion of Gender Equality for 2021–2025, the European Bank for Reconstruction and Development (EBRD) singled out combating gender-based violence and harassment (GBVH) as a self-standing thematic strand of its investment policy. Empirical research by the American sociologists H. McLaughlin, C. Uggen and A. Blackstone confirms that sexual harassment entails significant career and material losses for those affected, compelling many to change their place of work. Accordingly, the prevention of bullying and harassment should be regarded as a factor in the resilience and

productivity of the company itself.

Uzbekistan, which since 2017 has been carrying out large-scale reforms in the field of human rights and labour, has adopted a number of significant instruments: the Law “On Guarantees of Equal Rights and Opportunities for Women and Men” and the Law “On the Protection of Women from Oppression and Violence” (both of 2 September 2019), as well as a new Labour Code, approved by Law No. ZRU-798 of 28 October 2022 and brought into force on 30 April 2023. At the same time, the legislation still contains no legal definitions of “bullying”, “mobbing” and “harassment” as applied to employment relations, imposes on the employer no direct duty to prevent and investigate such facts, and lays down no internal-investigation procedures. In these circumstances it is precisely the company’s legal department that bears the burden of constructing local protection mechanisms – both by virtue of the requirements of international standards and

the group (corporate) policies of transnational groups, and by virtue of mounting reputational and legal risks.

The problem has a long-standing and multinational doctrinal tradition. The very term “mobbing” traces back to the works of the Austrian ethologist Konrad Lorenz, who described group aggression among animals. It was H. Leymann who transferred the concept into the world of work. In parallel, in the United Kingdom the journalist Andrea Adams brought the expression “bullying at work” into wide circulation, while in France the psychiatrist Marie-France Hirigoyen put forward the concept of “moral harassment” (*harcèlement moral*) as “the perverse violence of everyday life”. The first systematic legal treatment of the problem was undertaken by David Yamada, professor of law at Suffolk University (Boston), who substantiated the need for a “status-blind hostile work environment protection”, that is, one not tied to any particular ground of discrimination. These concepts form the doctrinal foundation of the present study.

The scholarly novelty of the work lies in the fact that the problem of bullying and harassment is approached not in the traditional criminal-law or gender-law key, but in an organizational labour-law key – through the prism of the functions of the corporate legal department as a subject of prevention and quasi-jurisdictional investigation.

The object of the study is the body of social relations arising in connection with the prevention and investigation of bullying and harassment in the world of work.

The subject is the norms of international and national law, doctrine and case law that govern the corresponding duties of the employer and the role of its legal department.

The aim is to develop a scientifically grounded and practically applicable model for the activity of corporate legal departments in Uzbekistan that takes into account best international practice.

To achieve it, the following tasks are set: (1) to delimit the conceptual apparatus; (2) to systematize international standards; (3) to generalize foreign experience and case law; (4) to assess the state of national regulation; (5) to identify the key problems; (6) to formulate conclusions and proposals.

2. Methods

The methodological basis of the study is formed by a

body of general and specialized scholarly methods. The formal-legal method was applied to elucidate the content of the norms of the Labour Code of the Republic of Uzbekistan, Laws No. ZRU-561 and No. ZRU-562, and the Code of Administrative Liability. The comparative-legal method was used in juxtaposing the legal orders of the United States, the EU Member States, India, the Republic of South Africa, Japan, Russia and Kazakhstan. The historical-legal method made it possible to trace the evolution of the concepts of “mobbing” and “bullying”. The statistical method was employed in analysing the data of the ILO and the World Bank Group. Particular importance was attached to the method of analysing judicial decisions (case study): the decisions of the U.S. Supreme Court, the European Court of Human Rights (ECtHR) and the Supreme Court of India were examined. The empirical base comprised official documents and publications of the UN, the ILO, the Council of Europe, the institutions of the European Union, the World Bank Group and the EBRD, as well as peer-reviewed scholarly works by researchers from Uzbekistan, the CIS countries, Europe, the Americas, Asia and Africa.

The phenomenon of violence and harassment in the world of work has a rich interdisciplinary tradition of study. At its origin stands the monograph of the American psychiatrist and anthropologist Carroll M. Brodsky (University of California, San Francisco), “The Harassed Worker” (1976), one of the first to describe the systematic persecution of an employee in the workplace. The legal conceptualization of sexual harassment as a form of sex discrimination was laid by Catharine A. MacKinnon (professor of law at the University of Michigan and Harvard Law School): in her seminal work “Sexual Harassment of Working Women” (1979) she was the first to propose distinguishing “quid pro quo” harassment from harassment that creates a “hostile environment” – a distinction subsequently embraced by the U.S. Supreme Court.

The psycho-legal tradition of researching mobbing was founded by the Swedish work psychologist Heinz Leymann (professor at Stockholm University and the National Institute for Occupational Health of Sweden), who developed the “Leymann Inventory of Psychological Terror” (LIPT). His ideas were developed by leading European scholars: Ståle V. Einarsen (professor of work and organizational psychology at the University of Bergen, Norway, head of the Bergen Bullying Research Group), Helge Hoel (emeritus professor at the University of Manchester, United

Kingdom), Dieter Zapf (professor at the Goethe University Frankfurt, Germany) and Cary L. Cooper (professor of organizational psychology and health at the University of Manchester). Their joint handbook has run to three editions and is considered the most cited in this field; it was they, too, who validated the generally accepted measurement instrument – the revised “Negative Acts Questionnaire” (NAQ-R). A link has been empirically established between leadership style and the prevalence of bullying, as well as the high level of shame and reputational costs among those affected.

In the labour-law scholarship of the CIS states the problem has received a thorough treatment. Questions of the conformity of national legislation with international labour standards are studied by N. L. Lyutov (professor, head of the Department of Labour Law and Social Security Law of the Kutafin Moscow State Law University). A fundamental contribution to the theory of the branch was made by A. M. Lushnikov (professor) and M. V. Lushnikova (professor; P. G. Demidov Yaroslavl State University). The problems of violence and harassment in the world of work are directly addressed by the works of S. Yu. Golovina (, professor, head of the Department of Labour Law of the Ural State Law University), E. V. Sychenko and I. V. Voytkovskaya , M. M. Kharitonov (HSE University) and U. V. Shcherbakova . Particular aspects of the employer’s liability and of the employer’s acts are analysed by N. A. Abuzyarova (Doctor of Juridical Sciences, professor).

In domestic (Uzbek) scholarship, questions of the protection of human labour rights on the basis of international standards are considered, in particular, in the works of researchers of the Department of Labour Law of the Tashkent State University of Law (Sh. A. Ismoilov, G. D. Sattarova, Kh. V. Burkhanhodzhaeva, N. A. Yusupov, M. A. Rakhimov), as well as in the fundamental teaching and scholarly works of A. A. Inoyatov and M. A. Usmanova; particular cognate aspects – the provision of safe working conditions, collective-bargaining regulation and compensation for moral harm – are treated in the works of S. I. Saydakhmedov, G. D. Sattarova and B. M. Khamrakulov . Comparative material is supplied by studies from Asia and Africa: the Turkish scholars M. Z. Cogenli and O. Barli treat mobbing as systematic hostile behaviour , while the South African jurists K. R. Malatjie and G. Mbajjorgu analyse harassment as a form of discrimination, emphasizing the ineffectiveness of complaint-handling procedures . Thus, despite the

considerable volume of foreign and pan-CIS literature, the organizational labour-law aspect of the activity of corporate legal departments in Uzbekistan remains practically unexplored, which precisely defines the scholarly lacuna filled by the present work.

A distinct stratum is formed by the psychological-empirical studies that constitute the factual basis of legal regulation. The Norwegian psychologist Dan Olweus (research professor, University of Bergen) laid the methodology for studying bullying, defining it as negative behaviour repeated over time under conditions of a power imbalance. H. Leymann operationalized the concept of mobbing, describing, on the material of around 800 cases, its stages and consequences. S. Einarsen and A. Skogstad (University of Bergen) established the epidemiological indicators of bullying in the public and private sectors, while S. Einarsen himself generalized the “Scandinavian approach” to the problem. The most large-scale proof of harm is provided by the meta-analytic reviews of M. B. Nielsen (National Institute of Occupational Health, Oslo) and S. Einarsen, which demonstrated a stable association of bullying with the deterioration of mental and physical health, post-traumatic stress symptoms and the intention to leave. B. Tepper (professor at the Ohio State University) identified the distinct phenomenon of “abusive supervision”, while L. Quine (University of Kent) documented the high prevalence of bullying in the healthcare system. These works confirm that the employer’s legal duty to prevent bullying rests not on speculative assumptions but on verified empirical data on harm.

3. Results

1. The conceptual apparatus: the correlation of bullying, mobbing and harassment. Terminological delimitation is the initial methodological premise of any legal analysis. The concept of “mobbing” (from the English mob – to attack in a crowd) was introduced into scholarly circulation by H. Leymann, who defined it as “Psychical terror” – hostile and unethical communication which is directed in a systematic way by one or a number of persons mainly toward one individual who, due to mobbing, is pushed into a helpless and defenceless position and held there by means of continuing mobbing activities” . In the Anglophone tradition the term “bullying” prevails. S. Einarsen, H. Hoel, D. Zapf and C. Cooper define Bullying at work means harassing, offending, socially excluding someone or negatively affecting someone’s work tasks. Accordingly, “mobbing” and “bullying” are used in scholarship as

close concepts emphasizing systematic character, duration and the asymmetry of power.

“Harassment” is a broader generic concept. As K. MacKinnon emphasized as early as the 1970s, defines sexual harassment as “the unwanted imposition of sexual requirements in the context of a relationship of unequal power”. In the law of the European Union, harassment is defined as unwanted conduct related to a protected characteristic with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading or offensive environment (Art. 2(1)(c) of Directive 2006/54/EC): “‘harassment’: where unwanted conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment” . M.

M. Kharitonov proposes to consider harassment through the category of the victim’s “dependence” – both employment-related and “spatio-temporal” – which conditions the particular vulnerability of an employee who, by virtue of work duties, “cannot avoid contact with the source of harassment”. The most authoritative legal definition is enshrined in ILO Convention No. 190: “the term ‘violence and harassment’ in the world of work refers to a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment” (Art. 1(1)(a)) . The national legal order of Uzbekistan, by contrast, operates with disparate concepts of “oppression”, “harassment” and “discrimination” that have no single labour-law common denominator.

Table No. 2.

**THE CORRELATION OF THE CONCEPTS OF “BULLYING”,
“MOBBING” AND “HARASSMENT”**

Concept	Origin, key authors	Key legal features
Mobbing	Ethology (K. Lorenz); transferred into the world of work by H. Leymann (Sweden)	Systematic “psychological terror”; recurrence (per Leymann – at least once a week for ≥ 6 months); helplessness of the victim
Bullying	Anglophone tradition; A. Adams (United Kingdom); S. Einarsen, H. Hoel, D. Zapf, C. Cooper	Systematic negative actions over a prolonged period of time; power imbalance; difficulty of self-defence
Harassment	C. MacKinnon (USA); EU law; ILO Convention No. 190	Generic concept; unwanted conduct that violates dignity; the “quid pro quo” and “hostile environment” forms; Art. 1 of Convention No. 190 – physical, psychological, sexual and economic harm

2. International legal standards. The cornerstone international instrument is ILO Convention No. 190 (2019) – the first universal treaty to recognize the right of everyone to a world of work free from violence and harassment. The Convention covers all forms of such conduct and applies to all persons in the world of work

irrespective of their contractual status, including interns, volunteers and job applicants (Art. 2(1)): “This Convention protects workers and other persons in the world of work, including employees as defined by national law and practice, as well as persons working irrespective of their contractual status, persons in

training, including interns and apprentices, workers whose employment has been terminated, volunteers, jobseekers and job applicants". Article 9 requires States to mandate employers to take – in a manner commensurate with their means – measures to prevent violence and harassment, including the adoption of a policy, risk assessment and the provision of information to workers. The accompanying Recommendation No. 206 (2019) directs the establishment of internal complaint-handling procedures and the protection of complainants from victimization. As N. L. Lyutov and E. S. Gerasimova observe, international labour standards form the "normative substance" against which the national legislator is bound to measure its internal regulation. Global trends confirm the consolidation of this standard: as of December 2025, Convention No. 190 had been ratified by 54 States, and the process embraces the post-Soviet space as well – in December 2025 it was ratified by Armenia, whereas Uzbekistan and Kazakhstan have not yet ratified the Convention.

At the European level, particular significance attaches to the autonomous Framework Agreement of the European

social partners on harassment and violence at work of 26 April 2007, signed by ETUC, BUSINESSEUROPE, UEAPME and CEEP. Concluded on the basis of Arts. 154–155 of the Treaty on the Functioning of the EU, it obliges companies to introduce mechanisms for the identification, prevention and resolution of problems at the level of the undertaking, enshrining that mutual respect for dignity is a key characteristic of a successful organization. The picture is completed by the EU equal-treatment directives (2000/43/EC, 2000/78/EC, 2006/54/EC) and the revised European Social Charter (1996), Art. 26 of which enshrines the worker's right to dignity at work. Within the UN system, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) retains foundational significance: General Recommendation No. 19 of the CEDAW Committee expressly classifies sexual harassment in the workplace as prohibited discrimination. Finally, the development institutions – the World Bank Group and the EBRD – enshrine combating harassment as a condition of economic inclusion and as an investment standard.

Table No. 3.

KEY INTERNATIONAL LEGAL STANDARDS

FOR COMBATING VIOLENCE AND HARASSMENT IN THE WORLD OF WORK

Instrument (year)	Body	Key provision
Convention No. 190 (2019)	ILO	The first universal treaty on the right to work free from violence and harassment; Art. 9 obliges the employer to adopt a policy, conduct risk assessment and inform workers
Recommendation No. 206 (2019)	ILO	Establishment of internal complaint-handling procedures; protection of complainants from victimization (retaliation)
Framework Agreement (2007)	EU social partners	Introduction of mechanisms for identification, prevention and resolution at the level of the undertaking
Directives 2000/43, 2000/78, 2006/54	EU	Prohibition of harassment as discrimination; legal definition of harassment (Art. 2 of Dir. 2006/54/EC)
European Social Charter (1996), Art. 26	Council of Europe	The worker's right to the protection of dignity at work
CEDAW (1979), General Rec. No. 19	UN	Sexual harassment in the workplace classified as prohibited discrimination

3. Best international practice and case law. The United States of America developed the doctrine of the “hostile work environment” earlier than many States. In *Meritor Savings Bank v. Vinson* (1986) the U.S. Supreme Court held unanimously that sexual harassment creating a hostile or abusive work environment constitutes sex discrimination prohibited by Title VII of the Civil Rights Act of 1964, even in the absence of tangible loss; what is decisive is not the “voluntariness” but the unwelcomeness of the conduct to the victim: “The gravamen of any sexual harassment claim is that the alleged sexual advances were ‘unwelcome’”. Crucially, subsequent practice made the scope of the employer’s liability directly contingent upon its having reasonable measures of prevention and a complaint-handling procedure, that is, upon the quality of the work of the HR and legal departments. Current statistics confirm the acuteness of the problem even under developed legislation: according to the U.S. Equal Employment Opportunity Commission (EEOC), in fiscal year 2023 some 31,354 charges of harassment in the world of work were filed, including 7,732 of sexual harassment (against 5,581 in 2021), while the total amount of relief recovered for those affected in harassment cases exceeded USD 200 million.

Through the case law of the ECtHR, the Council of Europe extended the State’s positive obligations to the sphere of the worker’s psychological integrity. In *Špadijer v. Montenegro* (*Špadijer v. Montenegro*, 2021) the Court unanimously found a violation of Art. 8 of the Convention: the State had failed to provide effective protection to a female prison-service employee subjected to bullying after reporting wrongdoing by colleagues; the national courts had formally relied on a failure to meet the “frequency threshold” and denied protection. This decision demonstrates the danger of a mechanical application of the “frequency” criterion, which is capable of leaving the victim without protection.

In Asia, India stands as a model of judicial law-making. In *Vishaka v. State of Rajasthan* (1997) the Supreme Court, relying on CEDAW and constitutional guarantees (Arts. 14, 15, 19(1)(g), 21 of the Constitution of India), in the absence of a specific statute formulated the binding “Vishaka Guidelines”, directing every employer to establish an internal complaints committee: sexual harassment as “such unwelcome sexually determined behaviour (whether directly or by implication) as: a) physical contact and advances; b) a demand or request for sexual favours; c) sexually coloured remarks; d)

showing pornography; e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature”. The Indian experience confirms the thesis of the present article: effective prevention is impossible without an institutionalized intra-corporate investigation mechanism.

In Africa, the South African model is the most elaborated. The Employment Equity Act 55 of 1998 classifies harassment as a form of unfair discrimination (Art. 6), and its Art. 60 imposes on the employer a duty to take proactive and remedial measures; non-compliance gives rise to vicarious liability. The Code of Good Practice of 18 March 2022 sets out in detail the employer’s duty to adopt a policy, conduct training and investigate, extending protection to remote work, corporate communications and third parties. At the same time, as K. R. Malatjie and G. Mbajiorgu note, even under developed legislation the persistence of harassment is largely conditioned by the “ineffectiveness of complaint-handling procedures” at the employer level – which only underscores the decisive role of the quality of internal procedures. The South African model is valuable for Uzbekistan for its gender neutrality and broad circle of protected persons.

In East Asia, Japan deserves attention, where amendments to the Act on Comprehensive Promotion of Labour Measures introduced an express prohibition of “power harassment” (パワーハラスメント, power harassment), imposing on employers a duty to take preventive measures (for large companies – from June 2020; for small and medium-sized businesses – from April 2022). In the CIS countries, scholarly development of the problem outpaces the legislative: on the material of Russia and Kazakhstan, S. Yu. Golovina, E. V. Sychenko and I. V. Voytkovskaya conclude that the labour legislation of these countries “does not protect workers from violence and harassment to the full extent” and does not conform to international labour standards, while judges are poorly aware of the categories of “mobbing”, “bullying”, “bossing” and “harassment”. The situation that has developed in post-Soviet legal orders is in many respects identical to the Uzbek one, which enhances the applied value of the comparison.

The American doctrine of the “hostile environment” was subsequently refined by the U.S. Supreme Court. In *Harris v. Forklift Systems* (1993) the Court indicated unanimously (opinion of Justice S. Day O’Connor) that, to establish a hostile environment, it is not necessary to prove psychological injury – it suffices that a “reasonable

person” would find the environment hostile or abusive: “Conduct that is not severe or pervasive enough to create an objectively hostile or abusive work environment ‘-’ an environment that a reasonable person would find hostile or abusive ‘-’ is beyond Title VII’s purview ‘...’ So long as the environment would reasonably be perceived, and is perceived, as hostile or abusive, there is no need for it also to be psychologically injurious” . In *Oncale v. Sundowner Offshore Services* (1998) the Court held that the protection of Title VII extends to same-sex harassment as well: “we hold today that nothing in Title VII necessarily bars a claim of discrimination ‘because of ... sex’ merely because the plaintiff and the defendant (or the person charged with acting on behalf of the

defendant) are of the same sex” , which confirms the gender neutrality of the approach. In the United Kingdom, the House of Lords in *Majrowski v. Guy’s and St Thomas’ NHS Trust* (2006) recognized the possibility of the employer’s vicarious liability for harassment committed by its employee. A comparative-legal analysis of psychosocial risks in the labour law of Europe, North America, Australia and Japan is generalized in the collective work edited by L. Lerouge, a researcher of the French National Centre for Scientific Research (CNRS) . At the same time, as researchers emphasize, the very multiplicity of definitions (“bullying”, “mobbing”, “harassment”) creates practical difficulties of qualification.

Table No. 4.

**COMPARATIVE FOREIGN EXPERIENCE OF THE LEGAL
COUNTERING OF BULLYING AND HARASSMENT**

Jurisdiction	Source (instrument / precedent)	Key principle
Japan	Act on the Promotion of Labour Measures (2019)	Express prohibition of “power harassment”; preventive duties of the employer
ECtHR (Council of Europe)	Špadijer v. Montenegro (2021)	Positive obligations of the State (Art. 8); impermissibility of a mechanical “frequency” criterion
India	Vishaka v. State of Rajasthan (1997); POSH Act (2013)	A mandatory internal complaints committee at every employer
South Africa	Employment Equity Act (1998), Art. 60; Code of Good Practice (2022)	Proactive duty of the employer; vicarious liability; gender neutrality
USA	Meritor (1986); Harris (1993); Oncale (1998); Burlington Northern (2006)	“Hostile environment” as discrimination; the “reasonable person” criterion; gender neutrality; prohibition of retaliation
EU (CJEU)	Coleman v. Attridge Law (2008)	Expansive interpretation; protection by “association” with a protected characteristic

4. The state of legal regulation in the Republic of Uzbekistan. The regulation in force may be characterized as fragmentary and predominantly gender-oriented. The Labour Code of 2022 enshrines the principle of equality of labour rights and the prohibition of discrimination (Art. 4) and the right to the protection of dignity during the period of employment; the Code,

however, contains no special rule on bullying, mobbing or harassment. The Law “On the Protection of Women from Oppression and Violence” of 2 September 2019 No. ZRU-561 introduced for the first time the concepts of “oppression” and “persecution” and defined the types of violence, yet is addressed exclusively to the protection of persons of the female sex. The Law “On Guarantees of

Equal Rights and Opportunities for Women and Men” of 2 September 2019 No. ZRU-562 enshrines the concept of “harassment” and the right to appeal against instances of discrimination (Art. 28). The public-law protection of dignity is ensured by administrative and criminal legislation: Art. 41 of the Code of Administrative Responsibility establishes a fine of from 20 to 40 base calculation units for the intentional humiliation of honour and dignity. This toolkit, however, is oriented towards punishing the offending natural person rather than towards imposing on the employer (the company) duties of prevention and investigation. As a result, the national system is characterized by three deficits: conceptual, institutional and personal (gender-asymmetric).

Deepening the analysis of the domestic legal regulation, one should emphasize its constitutional foundation: Article 42 of the Constitution of the Republic of Uzbekistan guarantees the right to work and to just conditions of work, while the dignity of the individual is recognized as inviolable. The Labour Code of 2022 (ZRU-798) prohibits discrimination in the world of work and provides for compensation to the employee for moral harm, yet contains neither a legal definition of bullying and mobbing nor a procedure of internal investigation in respect of such acts. As Z. Azhimuratova notes, the existing guarantees are in many respects declaratory in nature and require procedural content. Domestic law thereby protects the employee’s dignity “by result”, but offers the employer and the legal department no ready-made toolkit of prevention. At the same time, the effectiveness of the reforms has received international recognition: in the World Bank Group study “Women, Business and the Law 2024”, Uzbekistan, with a score of 82.5 points, entered the top five States – the world leaders in the pace of improvement of the legal status of women (an increase of 11.9 points over the year).

Comparative experience of the countries of Central Asia and the CIS. The most indicative is the reform in Kazakhstan. According to a sociological survey conducted by the Ministry of Labour and Social Protection of the Population (2025), around 30% of employees have encountered sexual harassment at work, while most companies lack internal response procedures. To date, such acts have been qualified predominantly as “minor hooliganism”, and ILO Convention No. 190 has not been ratified by Kazakhstan. In this connection, it is planned for the first time to introduce into the Labour Code of the Republic of Kazakhstan the concept of “sexual harassment in the workplace” and to oblige

employers to take preventive measures and to provide an accessible mechanism for lodging complaints. This experience is valuable for Uzbekistan as an example of the movement from a criminal-administrative to a labour-law, preventive model.

Similar problems are recorded by the doctrine of other CIS States. M. V. Nevezhina (researcher at the Institute of Legislation and Comparative Law under the Government of the Russian Federation) regards harassment as a form of discrimination in the world of work and points to the extreme difficulty of restoring violated rights in the absence of special procedures. S. N. Eremina (Associate Professor at the Southern Federal University) analyses the systemic problems of inequality within the scope of labour-law norms, A. A. Karavanov and I. Yu. Ustinov treat mobbing and harassment as a threat to the work collective, while S. V. Orlova (Associate Professor at the Baikal State University) and K. V. Moloshag qualify harassment as a variety of discrimination, noting the multiplicity of terminology and the predominance of substantive over procedural norms. K. D. Krylov (Professor) and T. A. Soshnikova (Professor) emphasize the need for the genuine securing of the right to the protection of dignity and the prevention of violence in the world of work.

At the supranational level, a certain role is played by the model legislation of the CIS. The Inter-Parliamentary Assembly of the CIS Member States (established on 27 March 1992 on the basis of the Alma-Ata Agreement) adopted the Model Law “On Social Partnership” (2006), which directly enshrines gender equality in social and labour relations. K. L. Tomashevskiy (Professor at the International University “MITSO”, Minsk), on the basis of a comparative-legal analysis, demonstrates the heterogeneity of the labour codes of the EAEU Member States and substantiates the need for their harmonization; A. M. Kasumov ogly compares the internal structure of the labour codes of Azerbaijan and Russia. The generalizing international context is set by the fundamental work of D. Chappell (former Director of the Australian Institute of Criminology) and V. Di Martino (ILO expert), which regards violence at work as a complex problem of human rights, occupational safety and criminal justice. Thus, the optimal strategy for Uzbekistan is one of “managed convergence” – the gradual approximation of national regulation to ILO Convention No. 190 while drawing on the model solutions of the CIS and the positive experience of neighbouring States.

5. Key problems of the activity of legal departments (a systematization). On the basis of the analysis carried out, ten interconnected problems have been identified and systematized.

Problem 1. Conceptual and terminological uncertainty. The absence of legal definitions of “bullying”, “mobbing” and “harassment” compels the legal department to construct the conceptual apparatus of local acts on its own, relying on the disparate categories of “oppression”, “harassment” and “discrimination”. The international standard (Art. 1 of ILO Convention No. 190) and doctrine (H. Leymann, S. Einarsen) provide a ready-made integrated model.

Problem 2. Fragmentariness and gaps in the regulatory framework. Protection is “dispersed” among the Labour Code, the Code of Administrative Responsibility, the Criminal Code and Laws No. ZRU-561 and No. ZRU-562, none of which forms an integral anti-bullying regime. Unlike South Africa (Art. 60 of the EEA) and India (the POSH Act 2013), Uzbekistan has no instrument that directly and systematically addresses the duties of the employer.

Problem 3. Gender asymmetry and a narrow circle of protected persons. Law No. ZRU-561 protects only women, whereas ILO Convention No. 190 (Art. 2) and the South African Code of 2022 cover all persons in the world of work irrespective of sex and contractual status. A legal department guided solely by the national minimum leaves significant categories of workers outside protection.

Problem 4. The employer’s lack of a direct duty to prevent and investigate (a proactive duty). National law enshrines no analogue of Art. 60 of the South African Act, the “Vishaka Guidelines” or Art. 9 of ILO Convention No. 190. The preventive and investigative functions of the legal department rest not on the law but on the goodwill of management, which renders them unstable.

Problem 5. The absence of intra-corporate investigation procedures. The law does not require the existence of a policy, a reporting channel, a complaints committee or investigation rules. Yet it is precisely the procedural infrastructure that constitutes the core of effective protection, as confirmed by the practice of the USA (the Faragher/ Ellerth cases) and the EU Framework Agreement of 2007.

Problem 6. Latency and the difficulty of proof.

According to ILO data, only about half of those affected disclose the facts. Proof of psychological impact is complicated by its non-obviousness; the mechanical application of a “frequency” criterion (as in the Špadijer case) is capable of depriving the victim of protection. Methodologies for assessing the totality of episodes and a mechanism for reallocating the burden of proof, known to EU law, are required.

Problem 7. The weakness of the protection of complainants and witnesses against victimization and retaliation. National law contains no direct prohibition of retaliation against a bona fide complainant and does not protect witnesses. The Špadijer case demonstrated the consequences of an informant’s lack of protection. ILO Convention No. 190 and Recommendation No. 206 require guarantees against victimization.

Problem 8. The uncertainty of the employer’s liability (vicarious liability) and of sanctions. In Uzbekistan, liability for the humiliation of dignity is imposed on the natural person (Art. 41 of the Code of Administrative Responsibility), whereas the company’s liability for inaction is not institutionalized. In the USA (Meritor; Faragher/ Ellerth) and South Africa (Art. 60 of the EEA), the employer bears vicarious liability, the extent of which depends on the measures taken.

Problem 9. The digital environment, cyberbullying and the expansion of the “world of work”. ILO Convention No. 190 and the South African Code of 2022 directly cover the digital environment and remote work. National regulation does not take this dimension into account, leaving unanswered the questions of the employer’s jurisdiction over incidents in messaging applications and in the course of remote work.

Problem 10. A personnel-and-competence and organizational deficit. An internal investigation requires of the lawyer quasi-jurisdictional skills (impartial interviewing, record-keeping, the assessment of credibility, due process) and interaction with HR, compliance and the security service. In the absence of methodologies and training, an investigation risks resulting in procedural violations and in the challenging of its results in court.

6. The role and functions of the company’s legal department. A generalization of foreign experience makes it possible to describe the legal department as the centre of anti-bullying compliance, performing five interrelated functions:

a rule-making (policy-forming) function – the development of a local act (a “zero-tolerance” policy) integrating the definitions of ILO Convention No. 190, a gender-neutral circle of protected persons, a prohibition of retaliation and a procedure for handling complaints;

a preventive-educational function – the training of employees and managers, risk assessment;

a receptive function – the provision of a confidential channel and the registration of reports;

an investigative (quasi-jurisdictional) function – the conduct of an internal investigation in observance of

impartiality and of the right of both parties to a defence;

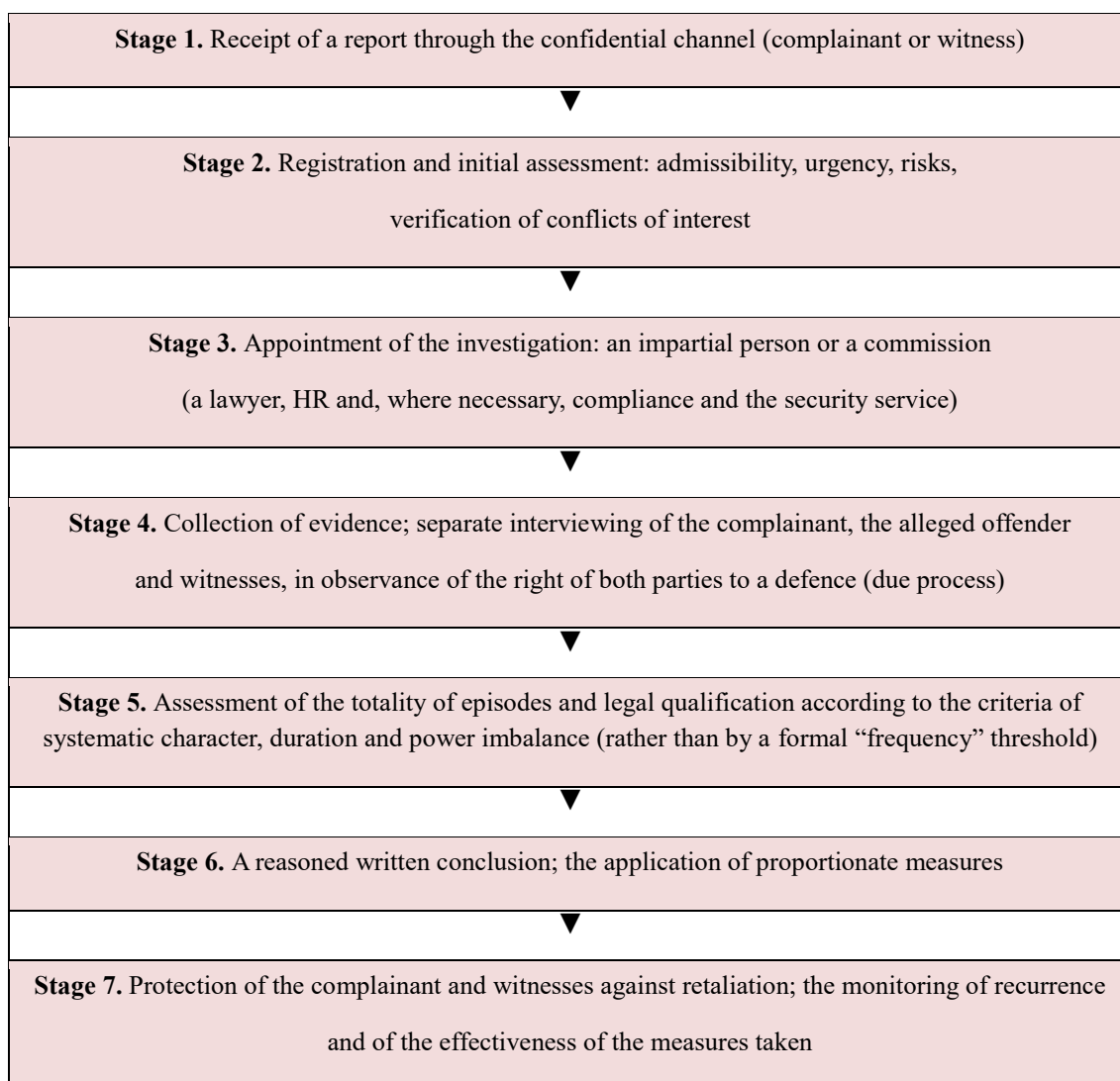
a responsive and protective function – the application of proportionate measures, the protection of the complainant and witnesses, and the monitoring of recurrence.

It is precisely the combination of these functions that transforms the legal department from a passive adviser into an active agent of securing the employee’s dignity.

The functions set out are realized through a formalized procedure that may be represented in the form of the following scheme (Fig. No. 5).

Figure No. 5.

**A MODEL PROCEDURE FOR THE INTERNAL INVESTIGATION
OF INSTANCES OF BULLYING AND HARASSMENT**



4. Discussion

A comparison of national regulation with international standards and foreign practice reveals a stable regularity: the effectiveness of protection is directly proportional to the degree of institutionalization of intra-corporate mechanisms. Where the law imposes on the employer a proactive duty and links the extent of liability to its performance (the USA, South Africa, India), a powerful incentive to prevention is formed, and the legal department acquires a firm legal foundation. Uzbekistan is at the same starting point as a number of CIS States: while constitutional and cross-sectoral guarantees of dignity exist, a special labour-law regime has not yet been formed.

An additional argument in favour of pre-emptive corporate regulation is provided by economic logic. World Bank Group data show that legal protection against harassment is positively associated with women's participation in the labour force and with the narrowing of the gender pay gap, while the studies of H. McLaughlin, C. Uggen and A. Blackstone record direct career and financial losses for those affected and, as a consequence, staff turnover and a decline in productivity. In this light, expenditure on prevention (a policy, training, an investigation procedure) constitutes not a cost but an investment in human capital and in the sustainability of the company, which is also consistent with the investment standards of the EBRD.

From the foregoing, a two-level strategy follows. At the macro level, legislative enshrinement of the regime is required (up to the prospective ratification of ILO Convention No. 190). The absence of a special law, however, does not release the company from risks and does not preclude the creation of pre-emptive local regulation. At the micro level, the legal department is already able today, relying on the rules in force (Art. 4 of the Labour Code, Laws No. ZRU-561/562, Art. 41 of the Code of Administrative Responsibility) and on international standards as a benchmark, to build a full-fledged system of prevention and investigation. Such pre-emptive compliance simultaneously reduces reputational and litigation risks, satisfies the requirements of the group policies of transnational groups (which is especially significant for the official bottler of an international brand) and in fact prepares the company for future legislative changes.

The balance of interests in the course of an investigation deserves particular attention. The experience of the USA

(the doctrine of “reasonable measures” and the “affirmative defense”) and of the ECtHR (the requirement of an effective rather than a formal response) shows that only that investigation is legally robust which combines promptness and impartiality with procedural guarantees for both parties. As S. Yu. Golovina and co-authors emphasize, the low awareness among law-enforcers of the nature of mobbing and harassment itself becomes a barrier to protection; consequently, the educational and methodological work of the legal department is of no less importance than its rule-making work. Disregarding the alleged offender's right to state his position is just as dangerous as inattention to the complainant: both are capable of entailing the successful challenge of the employer's decision in a labour-dispute court and the reinstatement of the employee. Finally, it is methodologically important to take into account the caution of H. Hoel and co-authors that not all forms of negative behaviour are equally harmful, – which requires of the lawyer a differentiated rather than a formal qualification of episodes.

The correlation between the “discrimination-based” and the “dignity-centred” models of protection deserves deeper reflection. Whereas American law proceeds from the prohibition of discrimination (Title VII), the European tradition, going back to the works of M.-F. Hirigoyen, emphasizes the protection of dignity as such. Professor D. Yamada rightly observes that the narrow “discrimination” frame leaves unprotected the victims of bullying not connected with a protected characteristic, and proposes a “status-blind” model. For Uzbekistan, where the gender-oriented Law No. ZRU-561 protects only women, it is precisely the dignity-centred, gender-neutral model that appears preferable.

Organizational prevention is of decisive importance. D. Salin, Professor at the Hanken School of Economics (Finland), shows that the prevention of bullying is above all a question of human-resource management and depends on the commitment of senior management and on the existence of a policy and procedures. M. Vartia (Finnish Institute of Occupational Health) empirically links the prevalence of mobbing with an unfavourable psychological climate and management style. Empirical generalizations on prevalence and risk groups are systematized in the works of D. Zapf and co-authors. It follows that the legal department must act in close conjunction with the personnel service, while the local policy must be reinforced by genuine managerial will.

The economic argument in favour of prevention is

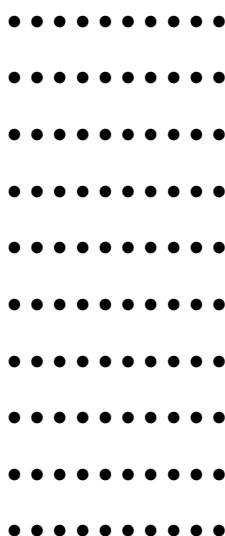
reinforced by data from leading international institutions. Experts of the International Monetary Fund show that the removal of barriers to women's participation in the labour force yields a significant macroeconomic gain. The European Foundation for the Improvement of Living and Working Conditions (Eurofound) qualifies violence and harassment as an "encroachment on personal dignity" entailing a rise in absenteeism and a decline in productivity, while the European Institute for Gender Equality (EIGE) estimates the annual cost of gender-based violence in the EU at EUR 366 billion per year, of which around EUR 289 billion (79%) is attributable to violence against women. With regard to Uzbekistan, the World Bank Group, in its "Country Gender Assessment" (2024), records significant progress of the reforms while gaps in enforcement persist. In this light, expenditure on prevention constitutes not a cost but an investment in

human capital. The scale of the problem is vividly illustrated by the pictogram below.

These conclusions are reinforced by up-to-date quantitative data. Thus, according to the European Working Conditions Telephone Survey (EWCTS, 2021), one or another form of adverse social behaviour at work was encountered over the year by an average of 12.5% of those employed in the EU, with this indicator higher among women (14.6%) than among men (10.8%). With regard to Uzbekistan, the World Bank Group estimates that, with the full involvement of women in the economy, the country's national income could be approximately 29% higher, whereas the gap between the labour-force participation rates of women and men reached 28 percentage points in 2021.

Pictogram No. 6.

THE SCALE OF THE PHENOMENON: OUT OF EVERY 100 EMPLOYED PERSONS, $\approx$ 23 HAVE, AT LEAST ONCE IN THEIR WORKING LIFE, ENCOUNTERED VIOLENCE AND HARASSMENT AT WORK (ILO, 2022)



● – encountered ($\approx$ 23 out of 100) ○ – did not encounter

Comparative data confirm the universality of the problem. The American researchers P. Lutgen-Sandvik and co-authors record the severe consequences of bullying for the health and careers of employees. The Japan Institute for Labour Policy and Training (JILPT), in a comparative report, documents the development of anti-bullying regulation in Germany, the United Kingdom, Austria and Ireland. As early as 2003, the World Health Organization issued a special guide on psychological harassment at work. This makes it possible to assert that the building of anti-bullying compliance in

Uzbekistan corresponds not to a local but to a global trend, reflected also in the investment standards of the EBRD.

A deepening of the analysis requires turning to the problem of proof and qualification. The psychometric studies of G. Notelaers and S. Einarsen made it possible to determine the threshold values of the Negative Acts Questionnaire (NAQ-R) at which it is legitimate to speak of the presence of bullying. For the legal department, this means that the qualification of episodes must rely on a

totality of objective criteria (systematic character, duration, power imbalance) rather than on a formal “frequency” threshold, the mechanical application of which, as the Špadijer case showed, is capable of depriving the victim of protection.

It is essential to take into account the vertical of power. B. Tepper showed that “abusive supervision” acts as a persistent source of stress, staff turnover and a decline in productivity. K. Aquino (Professor at the University of British Columbia) established that hierarchical status and the style of conflict resolution are structural determinants of an employee’s victimization. A link has also been established between bullying and a heightened sense of job insecurity. It follows that the local policy must extend directly to bossing (top-down bullying) and provide for mechanisms neutralizing conflicts of interest in the investigation of complaints against managers.

The protection of the complainant against retaliation is of key importance. The U.S. Supreme Court in the case *Burlington Northern & Santa Fe Railway Co. v. White* (2006) established that prohibited are any “materially adverse” actions of the employer capable of “dissuading a reasonable worker” from making or supporting a complaint of discrimination, even if they are not directly connected with the conditions of work and do not occur at the workplace: “a plaintiff must show that a reasonable employee would have found the challenged action materially adverse, which in this context means it well might have ‘dissuaded a reasonable worker from making or supporting a charge of discrimination’”. This standard directly corresponds to the requirements of ILO Convention No. 190 and Recommendation No. 206 concerning protection against victimization and should be incorporated into the local policies of Uzbek companies in the form of a direct prohibition of retaliation against complainants and witnesses.

Finally, the contemporary international agenda is shifting the emphasis towards prevention through occupational-safety systems. As early as 2003, the International Labour Organization adopted a Code of Practice on the problem of workplace violence in the services sector, and in 2024 a report substantiating the integration of countering violence and harassment into the occupational safety and health (OSH) management system. This confirms that the system built by the legal department must be not reactive-disciplinary but preventive-managerial, embedded in the general framework of assessing and minimizing occupational risks.

The practice of international judicial bodies deserves separate attention. The Court of Justice of the European Union in the case *Coleman v. Attridge Law* (2008) interpreted the prohibition of harassment under Directive 2000/78/EC expansively, recognizing that protection extends also to an employee subjected to hostile treatment in connection with the disability of a close person, even if the employee himself is not disabled: “Directive 2000/78 ... must be interpreted as meaning that the prohibition of direct discrimination laid down [therein] is not limited only to people who are themselves disabled”. This approach confirms the general tendency towards the expansion of the circle of protected persons and towards the priority of the protection of dignity over formal characteristics. Taken together with the reforms of the countries of Central Asia and the CIS, this makes it possible to speak of a “managed convergence” of post-Soviet legal orders towards the standards of ILO Convention No. 190, in which it is precisely the company’s legal department that acts as the key conduit of international requirements to the corporate level.

5. Conclusions

The study carried out makes it possible to formulate the following detailed scholarly conclusions.

1. Bullying (mobbing) and harassment constitute not disparate but interconnected manifestations of a single phenomenon of violence and harassment in the world of work; their adequate legal basis is the integrated concept of Art. 1 of ILO Convention No. 190, and their doctrinal basis is the criteria of systematic character, duration and the asymmetry of power developed by C. MacKinnon, H. Leymann and S. Einarsen.
2. The national regulation of Uzbekistan is characterized by three deficits – conceptual, institutional and personal (gender-asymmetric) – as a result of which the preventive and investigative activity of legal departments is deprived of a firm legislative foundation.
3. Comparative-legal analysis stably confirms the dependence of the effectiveness of protection on the degree of institutionalization of intra-corporate mechanisms: the employer’s proactive duty (Art. 60 of the South African EEA, the “Vishaka Guidelines”, Art. 9 of ILO Convention No. 190) and the vicarious liability associated with it (Meritor; Faragher/ Ellerth) form an incentive to prevention.
4. Protection against bullying and harassment has a proven economic dimension: according to World Bank

Group data and the studies of H. McLaughlin and co-authors, legal protection is associated with an increase in women's participation in the labour force and a reduction in turnover costs, by virtue of which prevention is an investment in the company's human capital.

5. Case law (Meritor Savings Bank v. Vinson; Špadijer v. Montenegro; Vishaka v. State of Rajasthan) demonstrates that only that model is legally robust in which the employer has reasonable measures of prevention, a real investigation procedure and guarantees for the complainant; the mechanical application of a "frequency" criterion is impermissible.

6. The absence of a special law does not release the company from legal and reputational risks and does not preclude the creation of pre-emptive local anti-bullying compliance; it is precisely the legal department that is its natural centre, combining the policy-forming, preventive, receptive, investigative and protective functions.

7. Comparative-legal analysis shows that Uzbekistan and the other States of Central Asia and the CIS are at a common point of development: while constitutional and cross-sectoral guarantees of dignity exist, a special labour-law regime for countering bullying and harassment has not yet been formed in them. This warrants a strategy of "managed convergence" – the phased approximation of national legislation to the standards of ILO Convention No. 190, drawing on the model legislation of the CIS and the positive experience of neighbouring States, above all Kazakhstan.

On the basis of the conclusions, the following concrete practical proposals are made.

A. Proposals of a legislative nature (de lege ferenda):

- 1) to supplement the Labour Code with a separate article (chapter) on the prohibition of violence and harassment in the world of work, enshrining the gender-neutral definitions of "violence and harassment", "bullying (mobbing)" and "harassment" on the basis of Art. 1 of ILO Convention No. 190;
- 2) to impose on the employer a direct duty to prevent and investigate the relevant facts (on the model of Art. 60 of the South African Employment Equity Act) and a duty to adopt a local policy and to provide a reporting channel;
- 3) to establish a prohibition of retaliation (persecution) against complainants and witnesses and

guarantees of their protection in accordance with ILO Recommendation No. 206;

- 4) to introduce vicarious liability of the employer for the failure to take reasonable measures, the extent of which depends on the existence and quality of preventive procedures; to consider the mechanism for reallocating the burden of proof known to EU law;
- 5) to extend protection to the digital environment and remote work, as well as to persons irrespective of contractual status (interns, volunteers, job applicants, contractors);
- 6) to supplement the Labour Code of the Republic of Uzbekistan with legal definitions of bullying, mobbing and harassment, as well as with a rule on the employer's duty to conduct an internal investigation, using ILO Convention No. 190 and the model acts of the CIS as a benchmark;
- 7) to consider the question of the prospective ratification of ILO Convention No. 190 and the bringing of national legislation into conformity with its requirements.

B. Proposals of a local (corporate) nature – for legal departments:

- 1) to adopt a "zero-tolerance" Policy on bullying and harassment with gender-neutral definitions, a broad circle of protected persons, a direct prohibition of retaliation and a description of the procedure for lodging and handling complaints;
- 2) to establish a standing collegial body for the handling of complaints (a committee/commission) on the model of the Indian ICC, with the participation of a lawyer, an HR representative and an independent member, excluding conflicts of interest;
- 3) to introduce a confidential multi-channel reporting mechanism (a hotline, an electronic form, an authorized person) and a system for registering reports;
- 4) to approve internal-investigation rules guaranteeing promptness, impartiality, confidentiality and the right of both parties to be heard (due process), with record-keeping and standards for the assessment of evidence;
- 5) to develop a matrix of proportionate disciplinary measures and an algorithm for protecting the complainant and witnesses against victimization, as well

as the monitoring of recurrence;

6) to organize regular training of employees and managers, risk assessment (including digital risks) and a periodic audit of the effectiveness of the policy;

7) in developing a local anti-bullying policy, to take into account the comparative experience of the countries of Central Asia and the CIS, including the Kazakh practice of enshrining the employer's duties and an accessible mechanism for lodging complaints;

8) to ensure the documentary robustness of the procedures (compliance with the rules on personal data and on honour and dignity), so that the employer's decisions are resilient when challenged in a labour-dispute court.

The implementation of the proposals set out will enable the legal departments of companies in Uzbekistan to move from a reactive to a proactive model of protecting the employee's dignity, to bring corporate practice into conformity with advanced international standards and substantially to reduce the legal, reputational and financial risks associated with bullying and harassment in the world of work.

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