



Code of Conduct on Preventing and Combating Harassment and Sexual Harassment in Public Services

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Cyprus Law

- ✦ *The Equal Treatment of Men and Women in Employment and Vocational Training Law 205(I)2002 harmonized national Law with the Recast Directive, ensuring the implementation of the principle of equal opportunities and equal treatment of men and women in relation to:*
 - (a) Access to employment, including promotion and vocational training*
 - (b) Working conditions, including pay*
 - (c) Occupational social security schemes*

National Law (cont.)

- *Article 12 (4) of the mentioned Law stipulates that:*
- *"Employers (...) They shall be required to take all appropriate and timely measures to prevent the acts referred to in subsection (1) in general in their field of competence, and shall be deemed to take such a measure when introducing a code of conduct to prevent Actions (...) and shall take sufficient practical measures to implement those laid down in such code.*
- *Otherwise, and, if committed by the Head of the Service or a person competent or responsible (...) or any other employee or trainee, the prohibited under subsection (1) acts, they are all jointly and fully responsible with those persons"*

Code of Conduct



Code of Conduct(cont.)

- ✦ *The Code of Conduct on Preventing and Combating Harassment and Sexual Harassment in Public Services was approved by the Council of Ministers in July 2018 and it was published in January 2019.*
- ✦ *As per the Code, each public authority should designate an Equality Committee and the Commissioner asked them to do so, as soon as possible, in order to proceed with the training of the members of the Committees.*
- ✦ *Since January 2019, our Office, in cooperation with other authorities, started 2 types of trainings: a general training to inform employees in the public sector about the Code of Conduct and a specialized training for the members of the Equality Committees.*

Code of Conduct (cont.)

- ✿ *The Code is a necessary measure under the abovementioned Law as well as the Public Service Law and its relevant Regulations concerning disciplinary offences.*
- ✿ *It is also a very useful tool for all the public servants, and for each competent authority. The Commissioner recommended to all public authorities to upload the Code of Conduct in their Ministry's/Department's/Office's website, so as to be easily accessible to all employees of the public sector. Many of the authorities have already proceeded with publishing the Code in their websites.*

Code of Conduct (cont.)

- ✿ *The Code clearly identifies harassment on the ground of gender and sexual harassment as gender based violence.*
- ✿ *It underlines two crucial aspects:*
 1. *The importance to **prevent** this phenomenon and*
 2. *The obligation to ensure that **a strict procedure is followed** when complaints are submitted by victims.*

Impact

- ✿ Until now, 25 training sessions were held.
- ✿ Almost 700 employees participated in the trainings (until now)
- ✿ Almost 10 public authorities informed our Office that they designated their Equality Committee.
- ✿ 1 specialized training (for Equality Committees) was organized and 2 more were taken place in September and October.
- ✿ Many employees contacted our Office for clarification or information regarding the implementation of the Code.

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Scope of the Code

- ✦ *To **inform** the employees in public service of:*
 - *The terms and the definition of “harassment” and “sexual harassment”,*
 - *The applicable legislation and the protection afforded to persons who become subject to harassment or sexual harassment*
 - *The rights of persons who may be subjected to harassment or sexual harassment;*
 - *The actions to be taken by a person when they consider themselves to be a victim of harassment or sexual harassment.*
- ✦ *To **promote** education and training of employees and to **encourage** them to participate and contribute in the prevention and combat of harassment and sexual harassment in the workplace.*

Scope of the Code (cont.)

- ✿ To **define** the obligations of each competent authority and to **encourage** it to adopt and implement **a prevention policy** to tackle harassment and sexual harassment in the workplace and **monitoring mechanisms** to evaluate its performance for the purpose of improving it.
- ✿ To **promote** co-operation between each competent authority and its employees to maintain a healthy and safe working environment.
- ✿ To **provide** direct protection to any employee who considers that he/she is a victim of sexual harassment or harassment and **to advise** each competent authority of the ways to correctly and promptly address complaints of harassment or sexual harassment;

Useful terms and concepts

- In the Code there are the following **definitions**:
 - **Harassment** - is any unwanted by the recipient conduct related to his/her gender with the purpose or effect of violating his/her dignity, and of creating an intimidating, hostile, degrading, humiliating, or offensive environment.
 - **Sexual Harassment** - is any unwanted by the recipient conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating, or offensive environment.
 - **Components of conduct** -unwanted conduct, conduct related to gender and conduct of sexual nature, such conduct that it can reasonably be considered under the circumstances as offensive, intimidating and degrading by the recipient and which creates a hostile working environment).

Useful terms and concepts(cont.)

- **Unwanted Conduct** - is any conduct that is unpleasant and offensive to a woman or a man.
- **Conduct of a sexual nature** - it can be presented by various ways:

-Verbally

-Non – verbally

-Visual conduct

-Other form of conduct

Competent Authority – it defines who is the responsible authority to take measures per each category of employees in the Public Service regardless their employment status.

Concepts

- ✿ *It does not matter whether such conduct is isolated or repetitive.*
- ✿ *It also does not matter how the offender perceives his/her conduct towards the recipient, nor does it need the recipient of the conduct to inform the offender that his or her conduct is undesirable.*
- ✿ *The intention of the offender (male or female), whatever that is, is completely indifferent.*

...

- ✿ *Delaying the submission of the complaint should not be considered as a sign of accepting harassing conduct.*
- ✿ *Different people may react in a different way towards a specific conduct.*
- ✿ *What matters is that one of the recipients of the conduct reasonably considered the conduct as unpleasant or intimidating or hostile or degrading, or humiliating or offensive environment.*

Prohibited discrimination on grounds of gender

- ✿ *Harassment and sexual harassment constitute discrimination on grounds of gender and are prohibited.*
- ✿ *Any discrimination on grounds of gender in the workplace, in employment and vocational training is forbidden.*
- ✿ *Any direct or indirect less favourable treatment is also forbidden due to the repulsion of harassment or sexual harassment or to the submission of a complaint of harassment or sexual harassment in regarding to:*



- *The access to employment or a work position in public service*
- *The definition and the implementation of the terms and conditions of employment, the criteria for placement or permanency, relocation or movement, secondment or promotion*
- *The terms and conditions of dismissal from any work;*
- *The access to professional orientation, vocational education and training or apprenticeship, vocational training and retraining, training for changing occupation or work and their terms and conditions of provision.*

Prohibited discrimination on grounds of gender (cont.)

- ✿ *The prohibition of harassment and sexual harassment is absolute.*
- ✿ *Harassing conduct can occur inside and outside the workplace, during work or off working hours (e.g. business seminars and trips, social/cultural/business events or leisure meetings of Employees).*
- ✿ *The harassment and sexual harassment is forbidden to be carried out by:*
 - *the competent authority*
 - *the Head of the service*
 - *a colleague of the same rank or*
 - *any other employee in the public service.*
- ✿ *The harassment and sexual harassment constitute a criminal offence and the recipient may submit a complaint to the Police.*

Instructions to the employees for preventing and combating Harassment and Sexual Harassment in the workplace

- ✿ *To seek comprehensive and objective information on relevant legislation and protection mechanisms.*
- ✿ *To participate in actions and programs that combat the causes of gender discrimination, of stereotypes and of prejudices that maintain and perpetuate harassment and sexual harassment.*
- ✿ *To avoid discussions, comments, innuendos, gestures, expressions that target the gender or the sexual orientation of a colleague.*

Instructions (cont.)

- ✿ *To correct your conduct once you realize that it is disturbing or offensive to a colleague and do not hesitate to apologize.*
- ✿ *To define your individual boundaries to colleagues in case there is evidence that their conduct offends you.*
- ✿ *To cooperate with Equality Committee or Equality Officers for the improvement of the working environment and the implementation of the Code.*

Instructions (cont.)

- ✿ *The recipients of harassment or sexual harassment seek to ignore or conceal it. Therefore they shall:*
 - *avoid such a defensive, tolerant and deadlock practice*
 - *not underestimate the unpleasant feelings that cause them*
 - *trust their instincts and not feel uncomfortable, shy or blame themselves for the conduct of the offender (male or female)*
 - *not isolate themselves from their colleagues,*
 - *not justify the conduct of the offender (male or female).*

Instructions (cont.)

- ✦ *Define your boundaries to the offender (male or female).*
- ✦ *Repel or confront calmly and decisively the offender's conduct.*
- ✦ *Tell one trusted colleague and talk to your family as well.*
- ✦ *Keep a calendar of incidents of harassment or sexual harassment*
- ✦ *Inform the competent authority -submit a written complaint giving specific and objectively details on what happened, when and where*
- ✦ *Consult the Ombudsman's Office or the Gender Equality Committee in Employment and Vocational Training, or the Inspectors of the Labour Department.*

Duties and responsibilities of the competent authority

Each competent authority is legally responsible:

- to recognize that harassment and sexual harassment are forms of gender-based violence and constitute prohibited discrimination on grounds of gender in the workplace.*
- to ensure a safe, decent, healthy and friendly working environment.*
- to prevent and combat harassment and sexual harassment*

...

-to protect the employees in public service from any such conduct

-as soon as is informed about the incident, to take all the appropriate measures to stop the conduct, remove all the consequences and ensure that the conduct will not be repeated.

-Otherwise the competent authority shall be in co-responsible with the person who has committed the prohibited referred acts.

Measures for the Prevention of Harassment and Sexual harassment

- *Each competent authority shall:*
 - *disclose the code, in writing or otherwise, to the staff and ensure that harassment or sexual harassment in the working environment is not acceptable, taking appropriate measures where any employee fails to comply.*
 - *secure an affordable, safe and friendly working environment, where the employees' relationships will be distinguished by their mutual respect, nobility, honesty, understanding, trust, cooperation and solidarity.*
 - *provide education and training programs for employees, irrespective of their position in the public service with regard to the prohibited discrimination, the importance of tackling and eliminating such practices, and the doing away with the stereotypes that maintain and perpetuate discrimination, gender violence, sexual harassment, inequality in the workplace, relevant legislative provisions and the benefits of their implementation.*

Measures for the prevention of harassment and sexual harassment (cont.)

- *Establish an Equality Committee* (or appoint Equality Officers, if not practicable), in any public service, consisting of 3 officers of both sexes, one of whom shall be a senior officer
- *for the submission of suggestions to each competent authority*
- *for the adoption of measures deemed to be needed for the improvement of policies,*
- *for organizing of the referred programs,*
- *for the monitoring of the implementation of the Code, or the evaluation of its effectiveness and the qualitative upgrading of the working environment and relations between the employees and*
- *for the random inspections at the work place.*

Measures for the prevention of harassment and sexual harassment (cont.)

- ✦ *Establish internal regulations concerning the composition, the tenure and the operation of each Equality Committee.*
- ✦ *Facilitate the functioning of the Equality Committee, and provide specialized education/training to its members*
- ✦ *Encourage employees to cooperate with the Equality Committee, to contribute to its activities and to express their views on programs and on measures to prevent and combat sexual harassment and harassment and on their efficiency in relation to the working environment.*

Measures for Combating Harassment and Sexual Harassment

- ✦ Each competent authority shall:
 - **ensure confidentiality** in a case an incident of harassment and sexual harassment occurs
 - **encourage the employee to report the incident** before it escalates
 - **support the employee** and provide all the necessary assistance to cope with the consequences that may already have been incurred.
- ✦ The gender or the sexual orientation of the employee does not justify or should give cause for the incident of harassment or sexual harassment to be treated in a different way.

The stages of the Procedure

✦ A. Internal/informal procedure

- Its aim is to immediately address harassment or sexual harassment before it further escalates and avoids the need for the victim to have to collect documents and further evidence
- It is **appropriate** especially when:
 - The employee who claims to have suffered harassment or sexual harassment, **is informed about the procedure**, confirms that he/she wishes to follow this procedure instead of the formal procedure.
 - The complainant and the alleged offender have continuous or frequent contact, due to the nature of their work duties and for this reason, **the complainant wishes to deal with the incident unofficially with the aim to restoring a positive employment relationship between them.**
 - The incidents are less serious in nature and the complainant expects that they are likely to be dealt with, without having to follow the formal procedure.

Internal/Informal Procedure(cont.)

- ✦ *Each competent authority shall ensure that the internal/informal procedure:*
 - *is clear, explained and understood by all staff.*
 - *is conducted confidentially and objectively.*
 - *it provides satisfactory guidance and support to the complainant.*
 - *the complainant is not to be victimized.*
 - *any witnesses are not victimized.*
 - *it shall be effective within a reasonable period of time from the date of submission of any complaint*
 - *it shall not substitute the official procedure of submitting and investigating a complaint for harassment or sexual harassment.*

Internal/Informal Procedure(cont.)

- ✿ *The internal/informal procedure may at anytime be converted into an official case if this is the wish of the complainant.*
- ✿ *Within the context of this procedure, each competent authority shall:*
 - *approach and treat the complainant with respect*
 - *encourage him/her to refer to the incidents either orally or in writing*
 - *recommend to him/her to save any information available*
 - *ask if he/she wishes to deal with the situation their selves or whether they need its assistance*
 - *inform him/her for the right to submit a formal complaint.*

Internal/Informal Procedure(cont.)

✦ Procedure:

- *The complainant may ask the competent authority to speak with the offender.*

In such case:

- *the complaint shall be submitted to the Head of the competent authority in writing,*
- *if it is required and without having stigmatized the parties involved, any professional cooperation between them shall be avoided and if they are located in nearby offices or on the same floor, they shall be relocated from each other*
- *the competent authority shall inform the offender in writing of the complaint, at the latest within 3 days of its submission and invite him/her to submit his/her comments within the next 3 days*



-if the offender admits orally or in writing the complaint to the competent Authority within the above deadline, the latter invites him/her to immediately apologize to the complainant and then the internal/informal procedure is terminated.

-if the offender does not admit, or omits to answer whether or not he/she admits to the alleged harassment actions, the competent authority shall inform the complainant, after the expiration of the deadline, of his/her right to submit a formal complaint.

Formal Procedure

- ✦ *For a formal procedure to be initiated, a complaint in writing must be submitted by the complainant to the competent authority in order to be investigated according to the procedure established by the laws and regulations for disciplinary offences*
- ✦ *It applies to all employees in the public service, irrespective of their employment status, and the employer must act under the provisions of article 12 of the Equal Treatment of men and women in Employment and Vocational Training Law.*
- ✦ *Harassment or sexual harassment may be reported to the Police, who will investigate the incident in regards to whether or not a criminal offence was committed.*

Policy recommendation

- *The Commissioner suggested to the Public Administration and Personnel Department to amend the disciplinary Code of Public Service in order for the sexual harassment to be constituted as a separate disciplinary offence with serious consequences.*

Where can you Report it?

- ✿ *To the employer -the competent authority*
- ✿ *To the Inspectors of the Labour Department*
- ✿ *To the Gender Equality Committee in Employment and Vocational Training*
- ✿ *To the Commissioner for Administration and the Protection of human rights, acting as an Equality Body*
- ✿ *To the Police*
- ✿ *To the Industrial Disputes Tribunal or to District Court for damages*

Conclusions

- ✿ *Having a code of conduct does not mean that there will be no harassment complaints.*
- ✿ *However, having **an effective policy and procedures**, coupled with anti-harassment training for all staff, will assist in preventing harassment and support individuals who are being harassed to come forward and ensure that the problem is addressed quickly and effectively.*

Thank you for your attention!

✦ *You can contact us as follows:*

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- *Office of the Commissioner for Administration and the Protection of Human Rights*

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