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veřejný ochránce práv

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SEXUAL HARASSMENT AT THE WORKPLACE – CASE STUDIES



**CONFERENCE
TOWARDS GENDER EQUALITY IN EUROPE**

2023



Unwanted conduct that is sexual in nature, that is intended or has the effect of lowering a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment, or that may reasonably be perceived as a condition for a decision affecting the status of the harassed person (so-called quid pro quo conduct).

Section 4(1-2) of the Czech
Antidiscrimination Act

Sexual harassment is verbal, non-verbal or physical conduct of a sexual nature that is intended or likely to have the effect of violating a person's dignity and that creates an intimidating, humiliating, degrading, disrespectful, hostile or offensive environment.

Section 2a(5) of the Slovak
Antidiscrimination Act



Sexual harassment is conduct which is

- inappropriate (combination of objective and subjective element),
- has the intensity amounting to an attack on human dignity
- and is of a sexual nature.
- Intention is not relevant („... *conduct, that is intended or has the effect...*“)

WHAT THE OMBUDSMAN CAN DO in cases of sexual harassment



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- (So-called) investigation of discrimination – we ask the employer to give us his statement regarding the situation, then we issue (non-binding) opinion on discrimination
- We may recommend that the victim of discrimination turns to
 - court with the antidiscrimination lawsuit,
 - labour inspectorate with the motion to initiate an inspection at the workplace,
 - police
- We may then investigate the conduct of the inspectorate and request remedy in individual cases or with respect to future cases
- We may not represent the victim before court but may collaborate with the attorney during court proceedings

OTHER ACTIVITIES Of the Ombudsman

Raising awareness in the field of equal treatment and discrimination

- Collaboration with public administration – trainings
- Handbook Prevention of sexual harassment in state administration
- For general public – podcasts
Coffee with the Ombudsman



**NA KÁVU
S OMBUDSMANEM**



PORN PICTURES ON PC DESKTOP

1108/2023/VOP



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- A colleague put a pornographic image on the computer desktop as an initiation ritual for a new female employee - the team leader
- Questions about sexual preferences, favourite sex positions, questions about genital size, colleagues spilling glue on a shared desk, suggesting it was semen, or dripping some liquid on the keyboard, the complainant told she could lick it.
- Repeated complaints by the employee, allegedly not addressed by the employer, non-renewal of her employment contract

Neither the labour inspection nor a review of the Ombudsman showed discrimination

- Employer reassigned employee-complainant to another hall following complaint, terminated employee who put the pornographic image on PC, reprimanded supervisor for failure to address
- Reason for non-renewal of contract – the complainant failed to pass the tests required for a team leader



- Male teacher placed in the traditional male role by female colleagues, requests for help with carrying objects etc.
- Verbal abuse, spanked on the bottom from female colleague, offer to wipe back after shower
- Principal did not adequately address teacher's complaints

Inspection by Labour Inspectorate (LI) and subsequent investigation of LI's procedure by Ombudsman + investigation of discrimination by Ombudsman

- S. harassment not proven - principal claimed to have dealt with the complaint but teacher did not specify who should have spanked him, allegedly did not complain about other things



- Attorney-employer degradingly called the law clerk "Macku," demanding kisses on the lips, recounting the employer's sexual experiences, physically checking the presence of the clerk's underwear, openly propositioning her for sexual intercourse, having the employer lick her ear, jointly purchasing a vibrator for the then-assistant, holding the clerk by the knee and communicating this fact to the client via telephone, and undignified punishment for unsatisfactory job performance.
- Challenging her at a birthday party to strip down to her underwear and take a dip in an inflatable pool. She refused, her employer told her that as a result of that he would not increase her pay.

Ombudsman investigation, discrimination proven partially

DISMISSAL FOR REPORTING

3822/2023/VOP



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- Employee reported sexual harassment that did not involve her personally
- Employer terminated her work contract, official reason was lack of experience, but other employees were less qualified
- Employee believes that reason for her dismissal was her effort that the employer deals with complaint about sexual harassment

Case pending

HARASSMENT AT UNIVERSITY

17724/2022/VOP



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- An academic was harassed by a colleague
- She heard that other colleagues had similar experiences and that they made a complaint
- She wanted advice on what to do, but did not want us to reveal her identity to the Dean

The Ombudsman asked the Dean general questions about whether he had any records of complaints of harassment among staff and what mechanisms the Faculty had in place to prevent and report s. harassment

The Dean stated that harassment of female students had been addressed in cooperation with the police, the teacher's employment had been terminated, and the Faculty had a social safety contact group to which victims of harassment could turn, a complaint could be made to the ethics committee, and a psychologist could be sought (provided by the Faculty)

We provided an explanation and passed on information to the academic



- Director of social services facility made open sexual offers to female employee
- After refusing, she was dismissed
- Her husband filed a complaint against the director with the founder (Regional authority)
- The director offered the woman a written apology, financial compensation and a new employment contract for the same position with a place of work in another facility
- The employee accepted the offer (except for the compensation)

Subsequently, she filed a complaint with the labour inspectorate, but the LI did not address the harassment because it considered that the employee no longer wanted to address it, when Ombudsman got involved in the case, the statute of limitations for punishing the employer had expired

ROMANTIC

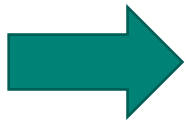
Case handled by the labour inspectorate



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- Employee in a small company, informal relationship with the director
- Over the course of a few years, the director made several attempts to become closer (invitations to meet outside of work, an attempted kiss, poems), all escalating with the publication of the poem „Pomněnka“ [forget-me-not], a completely open confession of feelings, and an e-mail „three years with P.Š.“
- The employee responded that she wanted to maintain professional relations, found the behavior inappropriate, and demanded that the poem be withdrawn from Facebook
- This was followed by an e-mail in which the director proposed to terminate her employment by mutual agreement

- Number of cases regarding sexual harassment is growing
- Complicated defence – very difficult to prove harassment for courts, labour inspectorates and even for employers who investigate employees' complaints



only few successful cases

- Cases dealt in criminal proceedings are more successful (more serious conduct)
- Solution? Probably education, raising the topic of sexual harassment



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