

Prevention and Protection from Sexual Harassment at Work in North Macedonia

Executive Summary of National Report on Legal Framework and Judicial Practice



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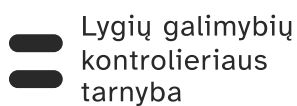


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Introduction

The Commission for Prevention and Protection against Discrimination (CPPD) is an independent and autonomous state body vested with a broad legislative mandate spanning two complementary functions: a proactive role in the prevention of discrimination, and a reactive role in the provision of protection against it. Measured against the Paris Principles on the Status of National Institutions for the Promotion and Protection of Human Rights (UN General Assembly, 1993) — standards subsequently incorporated into two EU Directives — the Commission holds the status of a national human rights institution, specifically in its capacity as an equality body responsible for promoting equality and non-discrimination.

In the exercise of its prevention mandate, the Commission serves as an implementing partner in the transnational project VIOLET — Towards workplaces without sexual harassment and violence — alongside partners from five other countries, including equality bodies, non-governmental organisations, and universities. Co-financed by the European Union, the VIOLET project addresses sexual harassment and violence in the workplace through a coordinated, multi-level strategy. Its activities encompass: building an evidence base on the prevalence of sexual harassment through dedicated research; conducting legal analyses of national frameworks and case law to identify gaps in victim protection; developing and implementing evidence-based prevention programmes at the employer level; strengthening structural protection for victims through monitoring the practices of competent bodies; and delivering two large-scale public communication campaigns targeting the general public. This publication is an executive summary of National report on legal framework and judicial practice. It focuses specifically on the Macedonian legal and institutional framework for the prevention of, and protection from, sexual harassment in the workplace, and was conducted within the scope of the VIOLET project implementation.

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Sexual harassment at work is a universal threat to equality, dignity, and equal opportunities in employment, disproportionately affecting women and other vulnerable groups in the labour market. Since the 1980s, international human rights instruments and labour standards have increasingly addressed sexual harassment in the workplace. At the same time, the European Union gradually developed a legal framework regulating harassment and sexual harassment through equality and non-discrimination legislation. Although Council Directive 76/207/EEC on equal treatment between men and women did not explicitly recognize sexual harassment as sex discrimination, subsequent EU directives filled this gap. These include the Racial Equality Directive 2000/43/EC, the Equality Framework Directive 2000/78/EC, Directive 2002/73/EC on equal opportunities for women and men, later incorporated into the Gender Equality Directive 2006/54/EC, and Directive 2010/41/EU on self-employment. These instruments progressively defined harassment and sexual harassment as forms of discrimination.

The various international, European, and national legal approaches were unified with the adoption of the International Labour Organization's Convention No. 190 on Violence and Harassment in the World of Work in 2019. This convention is the first global instrument establishing comprehensive standards for the prevention and elimination of violence and harassment at work, including gender-based violence and sexual harassment.

The recognition, prevention, and protection against sexual harassment at work are becoming increasingly important issues in the Macedonian legal system and society.

However, persistent gender stereotypes and traditional social norms that place women in subordinate roles continue to hinder the systemic response to gender-based violence and workplace harassment, including sexual harassment. Over the past two decades, North Macedonia has gradually developed its legal framework through labour, equality, anti-discrimination, workplace harassment, and criminal law regulations. At the same time, research on gender-based violence and workplace sexual harassment has begun to emerge, providing empirical data on the prevalence and reporting of such conduct. Despite these legal and social developments, significant challenges remain. The legal framework is still not sufficiently comprehensive, coherent, or clear, while sexual harassment and other forms of gender-based workplace violence remain underrecognized and underreported in society.

1. Legal framework for protection against sexual harassment

1.1. Overview of the applicable legal framework for regulating sexual harassment at work (development, current situation and trends)

Protection against sexual harassment at work in North Macedonia is regulated through a fragmented legal framework spanning labour law, occupational safety and health, equality and non-discrimination law, tort law, and criminal law. The constitutional basis for such protection is found in the Constitution of the Republic of North Macedonia, particularly the principles of equality, protection of physical and moral integrity, prohibition of degrading treatment, and respect for dignity, privacy, and reputation.

The regulation of workplace harassment, including sexual harassment, has evolved gradually over the past two decades through three main phases. The first phase (2005–2009) began with the Labour Relations Law (LLR), which recognized harassment and sexual harassment solely as forms of discrimination. The second phase (2009–2013) expanded the concept through the introduction of psychological harassment or mobbing. The third phase (from 2013 onwards) established a broader and multidisciplinary approach, particularly through the Law on Protection from Harassment at the Workplace (LPHW), which regulates psychological harassment independently of discrimination grounds, while mobbing also remains recognized under labour law. At the same time, sexual harassment is regulated through anti-discrimination legislation, including the Law on Equal Opportunities for Women and Men and the Law on Prevention and Protection against Discrimination (LPPD). Criminal law protection was strengthened in 2023, when sexual harassment was introduced as a separate criminal offense. In addition, the Law on Prevention and Protection from Violence against Women and Domestic Violence of 2021 also addresses sexual harassment, in line with the standards of the Istanbul Convention.

The legal framework for regulating harassment, including sexual harassment at work, is developing under the influence of the relevant EU directives, in particular: the Racial Equality Directive 2000/43/EC of 2000, the Equality Framework Directive 2000/78/EC of 2000 and the Gender Equality Directive in the field of employment and occupation (recast) 2006/54/EC of 2006. In June 2023, the Parliament of North Macedonia also ratified the Convention on the Elimination of Violence and Harassment in the World of Work, No. 190 of the International Labour Organization (ILO). However, despite the formal commitment to the Convention as a key legal document on which national legislation in the area of prevention, deterrence and protection from violence and harassment at work is expected to be built, it is still not aligned or is inadequately aligned with several individual aspects of the Convention.

1.2. Defining the term sexual harassment at work

Workplace harassment, as a broad concept, generally includes three forms: discriminatory harassment, sexual harassment, and psychological harassment independent of

discriminatory grounds, commonly referred to as mobbing or workplace bullying. Discriminatory harassment is based on protected characteristics such as sex, race, or ethnicity, while sexual harassment specifically targets the victim's sexual dignity and is treated as a form of sex discrimination. Psychological harassment, by contrast, refers to abusive conduct at work regardless of discriminatory motive.

In the Macedonian legal context, defining sexual harassment remains a significant challenge due to overlapping regulations and the parallel existence of labour, anti-discrimination, and workplace harassment laws. Additional difficulties arise in distinguishing between "sexual harassment" and broader "gender-based harassment," as well as between sexual and psychological harassment. Moreover, challenges also exist in attempts to distinguish the narrower concept of "sexual harassment" from the broader concept of "harassment related to/on the basis of sex, i.e. "gender" – two different forms of discriminatory harassment that can be subsumed under the common heading of "gender-based harassment at work". Discriminatory and gender-based harassment are primarily regulated by the Labour Relations Law, the Law on Equal Opportunities for Women and Men, and the Law on Prevention and Protection against Discrimination. Under the Labour Relations Law, harassment is defined as unwanted conduct that violates dignity and creates a hostile, humiliating, or offensive environment. Gender-based harassment usually targets a person because of their sex or gender, rather than the perpetrator's sexual intentions, and is often present in male-dominated workplaces. Similar definitions exist in anti-discrimination legislation, although important inconsistencies remain, including the lack of explicit recognition of "gender" as a separate discrimination ground in the Labour Relations Law.

Sexual harassment at work generally occurs in two forms: a hostile work environment and "quid pro quo" harassment. Under the EU Gender Equality Directive 2006/54/EC, hostile environment harassment is defined as unwanted verbal, non-verbal, or physical conduct of a sexual nature that violates a person's dignity and creates an intimidating, hostile, degrading, or offensive environment. "Quid pro quo" harassment refers to situations where employment-related decisions depend on a person accepting or rejecting such conduct. Macedonian legislation regulates sexual harassment only partially, recognizing mainly the hostile work environment form, while failing to adequately address "quid pro quo" harassment. The Labour Relations Law defines sexual harassment as verbal, non-verbal, or physical conduct of a sexual nature that violates dignity and creates fear or a hostile environment. However, the definition has important shortcomings, including the omission of the term "unwanted" conduct and the use of the term "gender harassment" instead of "sexual harassment." More harmonized definitions can be found in the Law on Prevention and Protection against Discrimination and the Law on Equal Opportunities for Women and Men. The distinction between sexual harassment and psychological harassment (mobbing) is also important. Sexual harassment is considered a form of discrimination and may occur through a single act, while psychological harassment does not necessarily involve discriminatory motives and usually requires repeated and systematic conduct over time. In addition, sexual harassment focuses on the violation of dignity, whereas mobbing often requires proof of intent and broader harmful consequences, creating a higher threshold for establishing liability.

In Macedonian legislation, there is also criminal law protection against sexual harassment. This was first time introduced with the changes to the Criminal Code in 2023, where sexual harassment is defined as: verbal, non-verbal or physical action, as well as the use of electronic means of communication, which has a direct or indirect, real or symbolic meaning of insinuation, indecent offer, enticement, expression of sexual passion or other

action that clearly resembles sexual intercourse or other sexual acts equated with it, thereby violating dignity, causing a feeling of discomfort, annoyance, humiliation or fear. Protection from a crime defined in this way is also applied in the field of work, if the crime is committed against a subordinate or a person in a relationship of dependence or another person at work. The prescribed prison sentence is from six months to three years. In the section dedicated to crimes against sexual freedom and morality, the Criminal Code also provides for another crime of “infatuation with abuse of position”. This crime is defined as “the existence of abuse of position by inducing sexual intercourse or other sexual acts against a person who is in a relationship of subordination or dependence, or harassment, intimidation or humiliation of human dignity or personality”. In addition, the actions must be committed with intent and are punishable by a prison sentence of at least five years. In the field of work, this offense can primarily refer to any relationship between an employer or a person authorized by the employer (superior) and an employee (subordinate) but does not exclude the relationship between colleagues, if it meets the elements of the crime. In addition to the previous, general case, the abuse of position can also include a special case in the field of work. In this sense, the Criminal Code specifically incriminates the abuse of position committed by a teacher, educator and doctor. For this crime, the Law provides for a prison sentence of at least 10 years and a ban on performing a profession, activity or duty.

1.3. Scope of protection against sexual harassment at work

1.3.1. Personal reputation (which is protected from sexual harassment at work)

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The personal scope of protection against sexual harassment at work in the Macedonian legal system depends primarily on the applicable regulatory instrument. Analysed from the perspective of labour relations legislation, the scope is narrow and restrictive. Under the Law on Labour Relations, the subjects of protection against harassment — including sexual harassment — are the “job candidate” and the “worker”, with the latter defined as any natural person in an employment relationship based on a concluded employment contract. This definition is broad enough to encompass workers engaged under non-standard employment contracts recognised by Macedonian labour law (including fixed-term, seasonal, part-time, temporary agency, home-based, and domestic employment contracts), but excludes undeclared and informal workers (those working without a formal employment contract and/or mandatory social security registration) and workers in disguised employment (those engaged under civil law contracts that conceal a de facto employment relationship). A partial expansion of personal scope is introduced by the Law on Protection from Harassment at Work, which extends coverage to persons engaged under contracts who participate in the employer’s work process — including volunteering contracts, contracts for work, author’s contracts, and similar instruments. Nevertheless, neither instrument provides protection for: certain categories of persons in training (such as interns or volunteers under specific contractual arrangements); persons exercising employer-level powers, duties, or responsibilities (such as employer-natural persons, directors, or members of management bodies); or self-employed persons. These limitations are partially compensated by the Law on Prevention and Protection against Discrimination, which provides the broadest scope of protection against discrimination, including sexual harassment. That law applies to all natural and legal persons across all fields, including work and employment relations.

1.3.2. Spatial-temporal scope (where and when protection against sexual harassment at work extends)

The spatial-temporal scope of protection against sexual harassment at work is determined by the Law on Protection against Harassment at Work, which contains provisions on the “place” and “time” of harassment at work. The Law on Protection against Harassment at Work defines the “place” of harassment as: the workplace where the employee usually works, the place where he is sent to work and the place/places through which the employee passes during his usual arrival and departure from the workplace. The “time” of harassment is considered to be: working hours and travel time to and from the workplace. However, comparing these criteria with the spatial-temporal scope of protection against violence and harassment in the world of work provided for in Convention No. 190 (Art. 3), it can be noted that the scope of the LPHW may be insufficiently inclusive in covering several criteria arising from K-190, namely : places where the worker is paid, uses the rest or meal period, or uses the sanitary facilities and washing and changing rooms; events or social activities and accommodation provided by the employer . This finding is contributed to by the partial definition of the term working time (regulated in the ZRO) which is not fully aligned with the EU Directive on certain aspects of the organisation of working time 2003/88/EC, as it excludes the element of “the worker’s availability to the employer”. The exclusion of this element from the cumulative definition of working time not only challenges the calculation of the period of “on-call” in working time, but potentially also periods of work-related travel, business trips and training. What remains completely uncovered is harassment enabled by information and communication technologies, as a specific way of committing sexual harassment at work, in the course of work or in connection with work.

1.4. Obligations and rights regarding the prevention, deterrence and protection from sexual harassment at work

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The existing legal framework for the prevention of harassment (including sexual harassment) at work in North Macedonia is regulated in a superficial manner. It primarily arises from the general obligations that the LLR attributes to the employer to ensure conditions for the safety of life and health and to protect and respect the person, dignity and privacy of the employee and that no employee is a victim of harassment and sexual harassment. A more specific operationalization of these principles in the context of the prevention and protection from violence and harassment at work cannot be found even in the Law on Safety and Health at Work from 2007, which in no provision does it explicitly address the hazards and risks that may lead to violence and harassment at work. In this sense, in the management of the occupational safety and health system, it is particularly notable the absence of the obligation to identify hazards and assess risks set out in point 8 of the ILO Recommendation concerning Violence and Harassment in the World of Work, No. 206, which accompanies the ILO Convention No. 190 of the same name. Recommendation No. 206 requires, when assessing risks at work, to take into account in particular the risks that: (a) arise from working conditions and arrangements, the organization of work and the management of human resources; (b) involve third parties such as: clients, customers, service providers, users, patients and the general public; and (c) arise from discrimination, abuse of power relations, gender, cultural and social norms that support violence and harassment. The Law on Protection from Harassment at Work provides for certain general rules for the conduct of the employer and the employee at work, as well as certain general obligations and responsibilities of the employer and the employees, which are of importance for the prevention and protection from harassment. However, the Law on Protection from

Harassment at Work does not, in any provision, oblige employers to: to adopt policies (internal acts) for protection against harassment in the workplace; to inform and consult workers' representatives when adopting such acts; to train workers, persons exercising authority, duties or responsibilities of an employer, including workers who supervise, on appropriate human resources management and recognition and resolution of employees' requests for protection against harassment, nor to appoint a person (employee) responsible for hearing, advising, assisting and supporting the person who has initiated proceedings or is a victim of gender-based violence and harassment in the workplace.

1.5. Enforcement, legal remedies and sanctions in protection against sexual harassment at work

1.5.1. Legal mechanisms and procedures for reporting and resolving disputes for protection against sexual harassment

In North Macedonia, there is no unified legal framework governing the mechanisms and procedures for reporting and resolving disputes related to harassment, including sexual harassment at work. As with the definition itself, protection against sexual harassment is regulated through multiple legal regimes. On the one hand, there is the regime established by the LLR and, subsidiarily, by equal treatment and non-discrimination legislation, primarily the LPPD; on the other hand, there is the regime provided by the LPHW. Within the LLR, the main procedural rule concerns the shifting of the burden of proof: once the plaintiff (a job candidate or employee) presents facts indicating discrimination, the employer must prove that no discrimination occurred. By contrast, the Law on Protection from Harassment at Work sets out a more comprehensive framework for reporting and resolving workplace harassment disputes. Despite its shortcomings, the LPHW has become the principal regime for regulating psychological harassment at work. In cases of sexual harassment, an important role is also played by the Commission for Prevention and Protection from Discrimination as the national equality body competent for prevention and protection against discrimination.

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At the workplace level (at the employer)

Initiation and course of the procedure for reporting and resolving disputes for protection against sexual harassment in the workplace

Under the Law on Protection from Harassment at the Workplace (LPHW), protection against workplace sexual harassment is carried out through two levels of procedure: an internal procedure before the employer and judicial protection before a competent court. The internal procedure consists of two phases: a preliminary procedure and a mediation procedure. The preliminary phase requires the victim to submit a written warning to the alleged harasser, stating that the conduct is disturbing, inappropriate, and unwanted. If the harassment continues, the victim may initiate a mediation procedure, which functions as an internal dispute-resolution mechanism before the employer. The law regulates the procedure, deadlines, and content of the request for protection, as well as the appointment and role of mediators. Different rules apply depending on the size of the employer: employers with more than 50 employees must maintain a list of mediators, while smaller employers appoint mediators through agreement between the parties and the employer. The mediation procedure may end either successfully, through an agreement to stop the harassment and prevent further misconduct, or unsuccessfully, allowing the victim to seek judicial protection. However, the law contains several unclear

and contradictory provisions regarding the relationship between the written warning, mediation, and court proceedings. In some cases, mediation appears to be a prerequisite for judicial protection, particularly in cases of horizontal harassment between colleagues, while this does not apply when the harasser is the employer or a superior. The analysis also highlights significant weaknesses in the system, including the lack of clear standards for mediator qualifications and training, inconsistent rules for appointing mediators, insufficient involvement of workers' representatives, and the unclear relationship between mediation and disciplinary proceedings. These shortcomings contribute to ineffective protection against sexual harassment at the workplace.

Outside the workplace (before equality bodies with special reference to the Commission for Prevention and Protection against Discrimination)

Macedonian legislation provides protection against discrimination and discriminatory harassment, including sexual harassment at work, through several institutions and bodies outside the workplace. These include the Commission for Prevention and Protection against Discrimination, the Ombudsman of the Republic of North Macedonia, and the Legal Representative for conducting procedures for determining unequal treatment of women and men.

The Commission for Prevention and Protection against Discrimination is an independent body established under the Law on Prevention and Protection against Discrimination and serves as the main national institution for combating discrimination. One of its primary responsibilities is handling complaints related to discrimination. Any individual who believes they have been discriminated against may file a complaint free of charge. Complaints can be submitted personally, through a representative, association, foundation, or trade union, and may be filed by mail, in person, or electronically through the Commission's website or email. The complaint procedure generally includes filing the complaint, establishing the facts, and deciding on the case. Complainants must provide the facts and circumstances supporting their allegations, as well as information on any previous legal actions. Complaints should normally be submitted within six months from learning about the discriminatory act, or within one year from the violation itself. However, the Commission may exceptionally act beyond these deadlines in cases affecting a larger group of people, ongoing violations, or matters of public interest. After receiving the complaint, the Commission forwards it to the alleged perpetrator, who may respond within 15 days. The Commission usually issues legal opinions within 60 days, determining whether discrimination occurred and, if so, recommending measures to remedy the violation. The respondent is generally required to comply within 30 days, although longer deadlines may be granted in exceptional circumstances. Failure to comply may result in the Commission initiating misdemeanor proceedings before the competent court.

The Ombudsman of the Republic of North Macedonia is responsible for protecting the constitutional and legal rights of citizens when violated by state authorities or public institutions. Its mandate also includes promoting non-discrimination and equitable representation of communities in public institutions. In this context, the Ombudsman may provide protection to alleged victims of discrimination, including in employment-related matters.

Another mechanism is the Legal Representative for determining unequal treatment of women and men, a civil servant within the Ministry of Social Policy, Demography and Youth. Acting under the Law on Equal Opportunities for Women and Men, the Legal Representative may examine complaints submitted by individuals and legal entities or initiate proceedings

independently. Following an assessment of the facts, the Legal Representative may issue opinions and recommendations concerning unequal treatment. However, in practice, most of these functions have gradually been assumed by the Commission for Prevention and Protection against Discrimination, making the practical significance of this mechanism relatively limited.

Before a competent inspector from the State Labor Inspectorate

The State Labour Inspectorate is the competent state administration body responsible for supervising the application of labour legislation in the broadest sense, encompassing laws, regulations, collective agreements, employment contracts, and other relevant instruments. In the context of workplace harassment, the most directly relevant provisions are those on inspection supervision contained in the Law on Labour Relations and the Law on Protection from Harassment at Work. Under the Law on Labour Relations — which applies as *lex generalis* — inspectors may deploy measures of three kinds. Preventive measures take the form of warnings identifying deficiencies that must be remedied, typically in response to minor violations. Corrective measures consist of orders requiring the employer to adopt or annul an act or take other remedial action, either following a prior warning or, in more serious cases, directly. Repressive measures are misdemeanour sanctions — ordinarily fines — preceded by a settlement procedure that allows the perpetrator to pay half the prescribed amount without initiating formal misdemeanour proceedings. Any inspection order carries immediate enforcement effect, meaning that an appeal does not suspend its execution. Despite this comprehensive framework of supervision and sanctions, the Law on Labour Relations does not provide an adequate basis for effective inspection measures specifically targeting harassment in the workplace. It classifies as serious violations certain employer failures with some relevance to harassment — such as failing to ensure safe and healthy working conditions, failing to introduce and train employees on occupational safety measures, and failing to protect the dignity, personality, and privacy of employees, including ensuring that no employee to be victim from harassment and sexual harassment. In practice, however, imposing inspection measures on these grounds is difficult. The occupational safety and health legislation does not explicitly address workplace violence and harassment, nor LLR establishes a systemic framework for their prevention, reporting, dispute resolution, or sanctioning.

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Compounding this, the Law on Protection from Harassment at Work contains no provisions regulating how inspectors are to act in cases of violation. Inspectors therefore fall back on the Law on Inspection Supervision as the general *lex generalis* in this field. In practice, inspection supervision in harassment cases is largely confined to ordering employers to fulfil two basic procedural obligations: informing potential victims of the available protection measures and procedures under Article 11 of the Law on Protection from Harassment at Work, and compiling a list of employees eligible to serve as mediators in the conciliation procedure under Article 12 of the same law.

Before a competent court

Judicial protection against harassment (i.e. external proceedings) is initiated by filing a lawsuit with the competent court, and the dispute is considered a labour dispute and the provisions of the Law on Civil Procedure (LCP) apply to it. It follows from the provisions of the LCP that protection against harassment at the workplace, which is exercised before the Supreme Court of the Republic of Macedonia by means of an extraordinary legal remedy (review), is regulated in a restrictive manner. This is because if the labour dispute does not relate to termination of employment, or if the value of the subject matter of the

dispute does not exceed 1,000,000.00 denars, the review will be rejected as inadmissible.

The Law on Protection from Harassment at Work does not regulate the deadlines for filing a lawsuit for protection from harassment with the competent court in a clear and coherent manner. The only case in which the Law provides for a preclusive deadline of 15 days for filing a lawsuit and initiating court proceedings is the case in which the parties concerned cannot agree on the appointment of a mediator. Such a deadline is, in any case, too short to ensure adequate and effective protection of the potential victim. The LLVM also does not resolve the dilemma regarding the deadline for filing a lawsuit in the event that the mediation procedure has been initiated, but ended unsuccessfully, i.e. without reaching an agreement between the parties. In such a case, it remains unclear how long and when the deadline for filing a lawsuit for protection from harassment at the workplace with the competent court begins.

In the procedure conducted before the competent court, the burden of proving that harassment has not occurred is on the defendant, if the plaintiff has made the existence of harassment probable during the procedure. A similar provision for shifting the burden of proof to the defendant, assuming that the plaintiff has presented facts that make the claim of discrimination probable, is also provided for in the Law on Prevention and Protection against Discrimination.

1.5.2. Measures, legal remedies and sanctions for sexual harassment at work

The legal framework on prevention and protection from workplace harassment in North Macedonia provides a range of measures, remedies, and sanctions aimed at protecting victims of sexual harassment. These measures differ depending on the authority applying them, such as the employer or the competent court, and the persons against whom they are directed.

Under the Law on Protection from Harassment at the Workplace (LPHW), employers may impose temporary protection measures pending the completion of the internal harassment procedure. These measures include temporary relocation to another workplace or work environment. However, the regulation of such measures remains unclear and restrictive. The law does not specify whether relocation should apply to the victim or the alleged perpetrator, nor does it clearly define the term “work environment.” In addition, temporary measures are limited mainly to situations where the victim’s health has already been affected and confirmed by a competent medical institution. Courts may also impose temporary protection measures, such as prohibiting contact with the victim, restricting communication, or banning the perpetrator from approaching the employee’s workplace. Nevertheless, the law again fails to clarify against whom these measures are directed or what exactly constitutes the “workplace” in such situations. The LPHW further provides judicial remedies that victims may seek through court proceedings, within plaintiff claims, such as: establishing that workplace harassment occurred; prohibiting further harassment; ordering measures to eliminate the consequences of harassment; and awarding compensation for material and non-material damages.

Similar remedies are available under the Law on Prevention and Protection against Discrimination, which additionally allows publication of the operative part of the judgment in the media at the expense of the perpetrator. However, these remedies are regulated only in general terms and do not sufficiently address the structural causes of workplace sexual harassment. In practice, courts could also order broader corrective measures,

such as the adoption of anti-harassment policies, mandatory training, affirmative action programs, or organizational changes within the workplace.

One of the most important remedies is compensation for damages. In this context, determining liability for workplace harassment is crucial. Comparative legal systems generally place primary responsibility on the employer, regardless of whether the harassment was committed directly by the employer, by managers, co-workers, or by third parties such as clients or customers. This reflects the principle of employer liability for ensuring a safe and dignified working environment. The Macedonian framework, however, adopts a more restrictive approach. The LPHW largely excludes employer vicarious liability for harassment committed by managers, employees, or third parties. Instead, liability is placed individually on the direct perpetrator of the harassment. This significantly weakens victim protection and limits employer accountability for preventing workplace harassment. The legal framework also regulates disciplinary liability for perpetrators of harassment, although several shortcomings remain. The LPHW refers generally to labour legislation governing disciplinary responsibility, particularly the Labour Relations Law, which itself does not systematically regulate disciplinary procedures or explicitly recognize harassment and sexual harassment as separate disciplinary offenses. The Law explicitly provides dismissal as the strictest disciplinary sanction, but only after a prior, milder measure—such as a warning or fine—has already been imposed, regardless of the seriousness of the harassment or its consequences for the victim. Furthermore, dismissal is possible only if the perpetrator repeats the harassment within a six-month period, an approach that unnecessarily limits effective sanctions in serious cases of sexual harassment.

An important legal remedy available to victims is the employee's right to terminate employment without notice and claim compensation from the employer. In such cases, the employee may receive compensation equal to lost wages during the notice period and severance pay as if dismissed for business reasons. This remedy applies where the employer failed to prevent harassment, tolerated violent or offensive behaviour, or failed to protect the employee from sexual harassment after receiving prior warning.

Overall, although Macedonian legislation formally provides several protective measures, remedies, and sanctions, the system remains fragmented and insufficiently effective. The lack of clear employer liability, limited disciplinary mechanisms, vague temporary measures, and absence of stronger preventive obligations reduce the practical effectiveness of protection against workplace sexual harassment.

2. Implementation of the legal framework in judicial practice and by public institutions

For the purposes of processing and analysing court cases and cases before national human rights institutions, within the framework of this legal research, methods of direct data acquirement were used by sending requests to the basic courts, the courts of appeal and the Supreme Court, as well as using available databases for the subject data through various legal platforms, online portals of the institutions themselves, including the database of the Commission for Prevention and Protection against Discrimination.

From the provided and available data on judicial and institutional practice, it is concluded that there is almost no relevant legal material for cases of sexual harassment in the workplace in its narrowest conceptual sense.

With regard to court cases, available from all three instances of courts are exclusively court judgments from cases related to harassment in the workplace, i.e. psychological harassment in the workplace. The courts themselves, in their own databases of judgments, in the section of labour relations, keep separate records and qualify judgments only for harassment (mobbing) within the meaning of the Law on Protection from Harassment at Work, which includes the psychological and sexual harassment at work under the same qualification. For the period from 2014 to 2025, a total of 21 judgments from the basic courts, 24 judgments from the courts of appeal and 5 decisions of the Supreme Court are available for review and analysis. These judgments were taken into account for review and processing, because despite the fact that these cases relate to harassment (mobbing), the factual situation of them could still lead to findings directly or indirectly related to sexual harassment. However, from the analysis of the first-instance judgments and the judgments of the appellate courts, specific indicative elements of sexual harassment through discriminatory vocabulary with sex and gender derogatory terms are contained in only one judgment. Such a case contains the most direct signs of behaviour that could be categorized as sexual harassment, and even sexual harassment in accordance with the regulations in the field of protection from discrimination. The case itself refers to certain verbal actions that were in turn an integral part of a set of different actions holistically described and listed in the lawsuit, which were allegations in the lawsuit for psychological harassment committed against the plaintiff by other employees above her. The remaining actions consist of actions of the defendants towards the plaintiff in relation to issues related to the employment relationship, i.e. rights and obligations from it, but which are complementary to the other actions in terms of the positioning of the lawsuit. This case is of interest due to the fact that, in addition to the court failing to recognize harassment in general against the plaintiff and consequently to recognize some of the actions as sexual harassment, the plaintiff did the same with the way she filed her lawsuit, referring exclusively to psychological harassment. This is primarily because they did not perceive the term used as particularly derogatory, misogynistic speech related to sex and gender.

When it comes to sexual harassment in the narrowest sense of the term, covered by the regulations in the field of protection against discrimination, there is no data at all on court cases and relevant verdicts. In addition, the analysis did not take into account the cases

in the courts that relate to disputes regarding the determination of discrimination, which also include gender-based discrimination, which in a broader sense would also include cases of sexual harassment, because they do not relate to the field of labour relations and they are recorded in the database of the courts under other numbers and designations.

Consequently, in the absence of such court records, there is no possibility of direct comparison of court cases that would relate to sexual harassment in the workplace under the Law on Protection against Harassment in the Workplace and cases that would relate to sexual harassment in accordance with the Law on Prevention and Protection against Discrimination in the Field of Labor Relations. Hence, there is no possibility to assess the impact of the legal definitions themselves, which define the terms gender and sexual harassment differently, which as such they would have in terms of achieving judicial protection and their practical interpretation and application by the courts in practice.

Regarding sexual harassment as an incrimination under the Criminal Code in 2023, for a period of almost three years, a certain case law has been created consisting of 22 court judgments. However, of the available judgments, only 6 cases are in some way related to work and employment relations. Five of these cases can be summarized and considered from the aspect of work-relatedness in a broader sense. In these cases, the victim is actually an employee, and the perpetrator is a third party who is not in an employment relationship with the employer. The acts of sexual harassment are work-related in such a way that they were committed within the framework of the victim's employment relationship, while she was performing her work tasks. In only one of the cases, it is a question of sexual harassment where both the victim and the perpetrator are in an employment relationship with the employer and are in a horizontal position. Such cases are actually covered by criminal law proceedings and have bypassed the otherwise existing protection procedures appropriate for this type of harassment in employment relations in accordance with the Law on Protection from Harassment at the Workplace and the Law on Prevention and Protection from Discrimination. Hence, what is interesting is the fact that these cases were processed in accordance with the rules of criminal procedure where the burden of proof does not shift to the other party as is the case with civil proceedings in accordance with the LPHW and the LPPD. In criminal cases, the court assessed whether the essence of the criminal act was fulfilled as defined by the Criminal Code, i.e. it focused mostly on the actions of the perpetrators themselves, which were mostly verbal and to a certain extent consisted of certain indecent physical contacts, and not so much on the effect and consequences and in general on the attitude of the victim towards such actions, i.e. whether the action was unwanted. The fact that there may be more criminal court cases than civil court practice suggests that the victims themselves may have perceived these actions as more serious and criminally liable, perhaps due to the fact that there are no essential legal mechanisms for protection within the employer itself, envisaged as an obligation for the employer to establish certain policies, codes and procedures for effective protection.

Furthermore, the Commission for Prevention and Protection against Discrimination in the period 2014-2025 did not act on cases of sexual harassment at the workplace in the narrowest sense of the term and in accordance with the legal definition in the LPPD. Cases of sexual harassment on which the Commission acted were not in the field of labour relations, but included cases in other areas, mostly in the field of public information and media, in the digital sphere and the space of social media. However, the Commission has acted in a total of five cases of discriminatory harassment in the field of work and labour relations, i.e. in the broader sense of the term gender-based harassment. In almost all of these cases, gender-based harassment was complementary to already established

discrimination in the classical sense of the term, in cases of unequal treatment based on sex, gender and/or in connection with pregnancy as discriminatory grounds. The gender-based harassment was committed with predominantly verbal actions or, to a lesser extent, non-verbal actions as a complement to the unequal treatment. All of the cases are prima facie cases, where the burden of proof was shifted to the other party, and from such cases it is concluded that the harassment was established by the Commission, while the victims were only aware of the actions as a classic form of discrimination, not as harassment as a form thereof.

All in all, the absence of court practice regarding sexual harassment at the workplace, somehow, could lead to findings that confirms the largely underreporting of the cases, that complements the already established findings within some of the previous conducted researches concerning the prevalence of the gender-based discrimination, including sexual harassment at work.

3. Conclusions and recommendations

The legal framework for the prevention and protection against harassment, including sexual harassment at work, in North Macedonia has been built gradually, over a period of a little over 20 years. To a large extent, such a process has been influenced by the need to align with the relevant EU Equality Directives (notably the Racial Equality Directive 2000/43/EC of 2000, the Equality Framework Directive 2000/78/EC of 2000, the Gender Equality Directive in the field of employment and occupation (recast) 2006/54/EC of 2006 and the Gender Equality Directive 2010/41/EU of 2010). Since June 2023 and the ratification of the Convention on the Elimination of Violence and Harassment in the World of Work, No. 190 of the International Labor Organization (ILO), North Macedonia is also bound by this key international standard in the area of prevention and protection from violence and harassment in the world of work, including gender-based violence and harassment.

Despite the relatively good dynamics of harmonization with European legislation and international instruments and standards in the field, as well as the commitment to continuous regulation in the field, the Macedonian legal framework faces systemic problems and challenges in the prevention and protection from sexual harassment at work. Such problems and challenges are noticeable in all aspects of the regulation of sexual harassment at work: the definition of the term; the scope of protection; obligations and rights in relation to the prevention, deterrence and protection from sexual harassment at work; enforcement, legal remedies and sanctions in the protection from sexual harassment at work.

3.1. Conclusions and recommendations in the section on definitions of sexual harassment at work

One of the main challenges in regulating sexual harassment at work in North Macedonia is the existence of multiple laws that regulate the same issue in parallel. Some laws, such as the Labour Relations Law, the Law on Prevention and Protection against Discrimination, and the Law on Equal Opportunities for Women and Men, treat harassment exclusively as a form of discrimination. Others, particularly the Law on Protection from Harassment at the Workplace (LPHW), establish a broader framework for workplace harassment that is not necessarily linked to discriminatory grounds. Although the definitions used in these laws are largely harmonized with European equality directives, important inconsistencies and omissions remain. For example, the Labour Relations Law omits the requirement that sexual harassment must involve “unwanted” conduct of a sexual nature. This omission risks lowering the legal threshold for determining harassment, potentially allowing even isolated or minor sexual remarks, not directed at a specific individual or group, to be interpreted as workplace sexual harassment. Another important problem concerns terminology. Certain laws, including the Labour Relations Law and the LPHW, use the term “gender harassment” instead of the more appropriate term “sexual harassment.” This creates conceptual confusion between sexual harassment, which involves unwanted conduct of a sexual nature, and gender-based harassment, which is motivated by the victim’s sex or gender but does not necessarily involve sexual conduct. Unlike gender-based harassment, sexual harassment is prohibited primarily because of the nature and consequences of the conduct itself, rather than because the victim is treated less favourably in comparison to another person. In addition, Macedonian legislation regulates sexual harassment only in

the form of a hostile work environment and fails to recognize “quid pro quo” harassment, where employment benefits or opportunities depend on accepting sexual demands. As a result, the legal framework is not fully aligned with relevant European Union equality directives, which recognize both forms of sexual harassment. The LPHW also introduces a problematic requirement that victims provide prior written warning to the alleged harasser before protection mechanisms can be fully activated. While such a warning may serve as evidence that the conduct was unwanted, making it a condition for protection establishes an unnecessarily high threshold for victims and may discourage reporting. In practice, this requirement weakens the effectiveness of legal protection against workplace sexual harassment.

Recommendations:

- ✓ **Harmonization, simplification and unification of legal regimes for regulating sexual harassment at work;**
- ✓ **Abandoning the approach of parallel regulation of harassment, including sexual and psychological harassment in the workplace in two regulations governing employment relations (LRO and ZZVRM) and its unification into a new Law on Prevention and Protection from Violence and Harassment at Work, which will be fully harmonized with the ratified ILO Convention on Violence and Harassment in the World of Work, No. 190**
- ✓ **The new Law on Prevention and Protection from Violence and Harassment at Work would have the following features :**
 - inclusiveness (as it would refer to all types of harassment at work, unless otherwise regulated by another law); integratedness (as it would include legal rules that belong to the regulatory framework of labor law, including the framework of occupational safety and health, anti-discrimination law and compensation law) and gender-responsiveness (in the sense of consideration for social norms, values and stereotypes that cause gender inequality, discrimination against women and unequal relations of power and control between men and women);
 - Replacing the term “sexual harassment “ (which is used as such in the existing LLR and LPHW) with the more appropriate term “sexual harassment “;
 - Introducing the epithet “unwanted” in the definition of the term “sexual harassment” in accordance with the relevant EU Equality Directives;
 - Determination of sexual harassment in the form of “quid pro quo” (service for service);
 - The prior written warning by the person who believes that he or she is a victim of sexual harassment at work should not constitute a condition without which the existence of sexual harassment at work cannot be established.

3.2. Conclusions and recommendations in the area of personal and spatial-temporal scope of protection against sexual harassment at work

The existing legal framework contains notable gaps in both the personal and the spatial-temporal scope of protection against sexual harassment at work. While the Law on Prevention and Protection against Discrimination provides the broadest personal scope of protection against discrimination — including sexual harassment — the Law on Labour Relations and the Law on Protection from Harassment at Work are insufficiently inclusive to extend equivalent protection to all vulnerable categories of workers. Specifically, the following groups remain outside the protective scope of those instruments: undeclared and informal workers, namely those working without a formal employment contract and/or mandatory social insurance registration; certain categories of persons undergoing training, such as interns and individuals engaged under voluntary service contracts; persons exercising employer-level powers, duties, or responsibilities, including employer-natural persons, directors, and members of management bodies; and self-employed persons. Beyond the personal scope, the spatial-temporal reach of the existing protection framework also requires clarification and expansion. A particularly significant gap in the labour relations legislation is the absence of any provision addressing harassment enabled by information and communication technologies — a distinct and increasingly prevalent form of sexual harassment that may occur at work, during work, or in direct connection with work. The failure to explicitly regulate this modality leaves a growing category of victims without adequate legislative protection and renders the framework ill-equipped to address the realities of modern working environments.

Recommendations :

- ✓ **Incorporation of the following categories of persons / victims of sexual harassment at work, for whom the existing personal scope of the LPHW is not sufficiently inclusive:**
 - undeclared, i.e. informal workers (who work without a formal employment contract and/or registration for mandatory social insurance);
 - certain categories of persons undergoing training (for example, interns or persons with voluntary service contracts);
 - persons exercising the powers, duties or responsibilities of an employer (for example, an employer-natural person, a director or member of a management body);
 - self-employed persons.
- ✓ **In order to align with the spatial-temporal determinants of the broad concept of “world of work “ provided for in Article 3 of Convention No. 190, in Article 7 of the Law on the Employment of Workers’ Compensation, which regulates the concepts of “place “ and “time “ of harassment at the workplace, the following interventions should be carried out:**

- the term “place “ of harassment should be defined as a sufficiently broad term that will encompass both the permanent (fixed) or main place of work of the employee, as well as other places where work is performed that have been agreed upon by the parties, including work in the employee’s home or in other places outside the premises where work is usually performed at the employer, as well as other places where work is not directly performed, but is related to work (events or social activities and accommodation provided by the employer);
- supplementing the previously mentioned, expanded term “place “ of harassment with the even broader term “ working environment “ which, according to the definition in Article 3, paragraph 1, line 6 of the Law on Safety and Health at Work (defined as the space in which the work is performed, the workplace, working conditions, work processes, social relations, as well as other influences of the external environment) is in principle broad enough to cover the remaining locations that are descriptively listed in Article 3 of Convention No. 198 (places where the worker is paid or uses sanitary facilities and washing and changing rooms), and for which the existing definition provided for in Article 7 of the Law on Safety and Health at Work is too narrow;
- amending and supplementing the term “time “ of committing the harassment, by adding the time spent on “ duty, break during the working day, work-related trips, business trips and training “ in addition to the term “working time “;
- to define and prohibit sexual harassment through the use of information and communication technologies, as a special way of committing sexual harassment at work, during work or in connection with work.

3.3. Conclusions and recommendations in the section on obligations and rights regarding prevention, deterrence and protection from sexual harassment at work

The existing legal framework for employment relations, including occupational safety and health regulations in North Macedonia, almost completely neglects one of the most important aspects related to the prevention and protection from violence and harassment, including sexual harassment at work, which are the obligations provided for in Article 9 of ILO Convention No. 190. These include the obligations of employers to take measures consisting of: adopting policies (internal acts) for protection from violence and harassment at work in consultation with workers and their representatives; taking into account the risks of violence and harassment at work and the related psychosocial risks; identifying hazards and assessing the risks of violence and harassment with the participation of workers and their representatives, and taking measures to prevent and control them and providing workers and other persons concerned with information and training on the preceding measures.

Recommendations:

- ✓ **Introducing a legal obligation (preferably in the Law on Employment and Social Affairs) to oblige employers to prepare and adopt a policy for protection against sexual harassment at work** as a stand-alone measure or as part of a broader policy for protection against violence and harassment at work. Such a policy should be adopted in the form of a general (internal) act of the employer, after prior consultation with the representatives of the workers at the employer. The policy should address the issues covered in point 7 of Recommendation No. 206 on Eliminating Violence and Harassment in the World of Work that can be adapted to the context of sexual harassment at work. Such questions may include:
 - making a statement about intolerance of violence and harassment;
 - establishing preventive programs against violence and harassment, with, if possible, measurable goals;
 - specification of the rights and duties of workers and employers;
 - information about the reporting procedure, i.e. the exercise of protection and the activities that the employer should undertake to determine the existence of potential violence and harassment;
 - commitment to take into account and act upon any internal or external knowledge of an incident related to violence and harassment in the workplace;
 - guaranteeing the protection of the privacy of individuals and the confidentiality of the process, without limiting the right of workers to be informed of all risks and
 - providing measures to protect complainants, victims, witnesses and whistleblowers from victimization or retaliation.
- ✓ In **managing the occupational safety and health system, and especially in the area of hazard identification, risk assessment and taking measures to protect occupational safety and health**, the legal framework must pay special attention to **psychosocial hazards**. **Hazard identification** and psychosocial risk assessment should largely be focused on **the organizational characteristics of the workplace** and address issues such as: job requirements (whether work tasks exceed or are below the capacities, knowledge and abilities of individual workers and whether they involve excessive and strenuous or too little and insignificant work engagement of the worker); control over work (in conditions where workers do not have sufficient influence on the manner or time of work performance); content or involvement of the worker in performing work tasks (violence and harassment can be a “valve through which frustration breaks out” or boredom is avoided in jobs where workers are either not sufficiently involved in performing work tasks or have “overtime”); clarity in the description of work tasks or responsibilities; interpersonal relationships in the workplace (excessive criticism or exclusion, conflicts, lack of support from superiors or managers, feedback or communication); management styles (considering that both “autocratic” and “overly lax” management styles can cause workplace harassment); lack of organizational justice (inconsistent application of workplace policies and procedures, unfair and biased decisions related to work, allocation of resources, promotion and career development and dealing with inappropriate

behavior, i.e. violation of work obligations and inadequate work performance of workers); discrimination, power relations, etc. The identification and assessment of psychosocial risks in the workplace should be accompanied by **measures to eliminate, i.e. control over such risks** (for example, introducing security and alarms in workplaces exposed to a higher risk of violence or clearly defining the work tasks and responsibilities of workers in order to avoid a conflict of responsibilities, responsibilities or expectations in the performance of work obligations). In the context of the above, paragraph 8 of Recommendation No. 206 is also relevant, which, when assessing risks in the workplace, requires that special consideration be given to risks that: *(a) arise from working conditions and arrangements, the organization of work and the management of human resources; (b) involve third parties such as: clients, customers, service providers, users, patients and the general public; and (c) arise from discrimination, abuse of power relations, gender, cultural and social norms that support violence and harassment.*

- ✓ **Introducing a legal obligation (preferably in the LPHW), to oblige employers to provide appropriate training on prevention and protection from sexual harassment in the workplace**, in order to familiarize and empower all workers in the organization with the concept of sexual harassment in the workplace and the responsibilities related to it. Such training should be mandatory and include **programs/modules** tailored to the needs of the different categories of participants in the employer's work process (employees, managers and/or supervisors and workers' representatives if any exist at the employer), including the different stages of the employment relationship, i.e. information regarding the prevention and protection from violence and harassment at work that workers should receive upon employment, promotion to supervisors or managers, etc. Training programs/modules should cover issues such as : determining the expected standards of behavior at work; determining the ways to report and deal with sexual harassment at work ; indicating the organizational units at the employer and external bodies and institutions through which more information and assistance can be provided in cases of sexual harassment at work; raising awareness of the effects that certain behaviors could have on the safety, health and well-being of colleagues; familiarization with the obligations and responsibilities related to the management of the occupational health and safety system, especially in the area of identifying and assessing psychosocial risks and taking measures to protect against them; identifying the ways in which individuals should react and respond when faced with violence and harassment in the workplace, etc. The training could include: use of: scenarios, examples and videos about sexual harassment at work; various types of simulations and group discussion.
- ✓ **Introducing a legal obligation (preferably in the LPHW) to appoint a support person** at the employer who would be responsible for **hearing, advising, assisting and supporting the victim of harassment at work, including sexual harassment** . The role of this person could consist of hearing, informing and referring the employee to his rights and obligations in the disputed situation. The support person would have the authority and obligation to assist the employee in clarifying the term "sexual harassment at work" and in assessing whether the conduct complained of by the employee has a reasonable suspicion/reasonable reason to be considered sexual harassment at work, or whether it is a violation of some other right. On the contrary, it should not be competent to determine the existence or non-existence of sexual harassment, but only to determine the merits of filing a report/request for protection

from sexual harassment. Additionally, we believe that the support person should also prepare **a written note** from the meeting with the harassed person, which would serve to: confirm the victim's initiative and intention to seek protection, while also serving as a "diary of events" that could record the unwanted behaviors the victim encountered at the earliest stage; proof that the support person fulfilled their obligations, as well as a basis for possible liability for giving wrong or inappropriate advice, and proof that the employer has a functional system of preventive protection and trend monitoring (for example, if the same harasser or the same organizational department appears in multiple notes, in order to identify traces of unacceptable behaviors and take timely preventive actions).

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