

TACKLING SEXUAL HARASSMENT IN PROFESSIONAL ENVIRONMENTS

Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention): sexual harassments - any form of unwanted verbal, non-verbal or physical 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.

In Ukrainian legislation, sexual harassment is defined as actions of a sexual nature expressed verbally (threats, intimidation, indecent remarks) or physically (touching, patting) that degrade or offend individuals who are in relationships of employment, service, financial, or other forms of subordination (sixth paragraph of **Article 1 of the Law of Ukraine dated 08.09.2005 No. 2866-IV "On Ensuring Equal Rights and Opportunities for Women and Men"**).

Employment and service subordination constitute a type of employment/service relationship where individuals of lower rank (by position, title) are subject to carrying out decisions (orders) and requirements of those higher-ranking. Essentially, these are relationships between a superior and a subordinate.

Material subordination occurs, in particular, when the victim is fully or partially dependent on the person who perpetrates the harassment, resides in their household, and also when the guilty person, through their actions or inaction, is capable of causing a significant deterioration in the financial situation of the survivor.

The defining characteristic of sexual harassment is the undesirability of such actions for one of the parties involved.

Legislation obliges employers to take measures to prevent and protect employees from instances of sexual harassment and other manifestations of violence based on gender.

By Order No. 56 (2020) of the Ministry of Social Policy of Ukraine, Methodological Recommendations for the Inclusion of Provisions Aimed at Ensuring Equal Rights and Opportunities for Women and Men in collective agreements and labour contracts were approved. This document recommends including provisions in collective agreements and labour contracts aimed at combating sexism, various forms of harassment, bullying, and other forms of aggressive behaviour in the workplace.

Currently, these recommendations are not mandatory, and employers may include these provisions in collective agreements at their discretion. It is important to note that if these provisions are included in collective agreements, disciplinary measures such as reprimand or dismissal may be applied to employees who engage in such actions.

Persons who commit sexual harassment may be held to administrative or criminal liability.

Article	The text of the article	Punishment
Article 173-2 of the Code of Ukraine on Administrative Offenses	The commission of domestic violence, violence based on sex, namely the intentional commission of any actions (acts or omissions) of a physical, psychological, or economic nature (the use of violence that does not result in bodily harm, threats, insults or persecution, deprivation of housing, food, clothing, other property or funds to which the victim is legally entitled, etc.), as a result of which harm could be or was caused to the physical or mental health of the victim, as well as failure to comply with an urgent prohibition order by the person against whom it is issued, or failure to inform authorized units of the National Police of Ukraine about their temporary whereabouts in case such an order is issued.	Imposition of a fine ranging from UAH 170 to UAH 340 or community service for a period of 30 to 40 hours, or administrative arrest for a period of up to 10 days. If a person commits the same administrative offense again within a year, they may be held to liability under Part 2 of this article. The punishment includes a fine ranging from UAH 340 to UAH 680 or community service for a period of 40 to 60 hours, or administrative arrest for up to 15 days.
Part 2 of Article 154 of the Criminal Code of Ukraine	Forcing a person, without voluntary consent, to engage in a sexual act with a person on whom the victim is financially or professionally dependent.	A fine of up to UAH 17,000 or imprisonment for up to 2 years
Part 3 of Article 154 of the Criminal Code of Ukraine	Forcing a person, without voluntary consent, to engage in a sexual act combined with the threat of destruction, damage, or confiscation of the property of the victim or their close relatives, or with the threat of disclosing information that would disgrace them or their close relatives.	Imprisonment or restriction of liberty for up to 3 years.

The victim has the right to compensation for material damages and moral harm caused to them as a result of sexual harassment. Moral harm is compensated regardless of the material damages that are subject to compensation and are not related to their amount.

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