

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



The State should make sexual harassment punishable

The Georgian Young Lawyers Association (GYLA) responds to news reports about possible cases of sexual harassment at workplace. Due to the high public interest, we would like to make several explanations regarding the legal aspects of sexual harassment.

The GYLA believes that sexual harassment is one of the most covert forms of discrimination against women in Georgia which puts women in a subordinated position compared to men, infringes on their dignity, and interferes with full development of their potential and with the maintenance of labor relations.

The Law on Gender Equality gives a definition of sexual harassment, though it does not make it a punishable act. According to the law, it is impermissible to allow the

following in labor relations: “any unwanted verbal, non-verbal or physical behavior of sexual nature with the purpose or effect of violating the dignity of a person or creating an intimidating, hostile, or offensive environment.”^[1] The law fails to envisage such acts when committed outside labor relations.

It should be noted that the said law does not include an enforcement mechanism and sexual harassment is not regulated by other legislative acts either, which means that **a person who commits such an act is subjected to neither administrative nor criminal sanctions.**

In spite of the fact that international acts regard sexual harassment as a form of discrimination based on sex,^[2] the Law of Georgia on Elimination of All Forms of Discrimination does not recognize such a provision. **Therefore, the law does not make it possible to hold perpetrators of sexual harassment accountable.**

According to the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention), **the State is obligated to establish criminal or other legal sanctions for persons who commit sexual harassment.**^[3] The act should be punishable regardless of whether it is committed within or outside the workplace.

Both women and men can become victims of sexual harassment. In spite of this, sexual harassment is a gender-related offense – the majority of its victims are women, while the majority of the perpetrators are men. Sexual harassment at workplace is especially problematic, because, due to the existing gender and work-related hierarchies, women may be subjected to double pressure. As the legislation does not envisage sanctions for perpetrators of sexual harassment and, at the same time, victims may be stigmatized for talking about such harassment, perpetrators are left completely unpunished, and such acts are not exposed.

On the basis of the aforementioned, we call upon the Parliament to ratify the Istanbul Convention within the shortest period possible and to make sexual harassment a punishable act in accordance with the requirements of the Convention. Before such an article enters into force, the courts should regard sexual harassment as a form of discrimination based on sex.

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[1] The Law of Georgia on Gender Equality, Article 6.1 (b)

[2] See, for example, **Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002. Accessible at:**

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32002L0073>

[3] The Council of Europe Convention on preventing and combating violence against women and domestic violence, Article 40