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# SEXUAL HARASSMENT IN THE PUBLIC ADMINISTRATION IN KOSOVO

VISIBLE TO VICTIMS, INVISIBLE TO THE SYSTEM

Implemented by:



Qendra Kosovare për Studime Gjinore  
Kosovar Gender Studies Center

Researcher and Author: Mirishahe Syla

Research Assistant: Fleta Çetaj

Editor: Liridona Sijarina

Peer Reviewer: Nicole Farnsworth

Kosovar Gender Studies Center (KGSC) ([www.kgscenter.net](http://www.kgscenter.net))

KGSC has been contributing to gender mainstreaming since 2002 and continuously makes efforts to achieve gender equality in Kosovo. It has been pioneering changes to the discriminatory system, social norms, and double standards, and is very active in monitoring public institutions. KGSC mission is to integrate gender-sensitive analysis, programs, and policies in all sectors of Kosovar society by increasing gender awareness and focus on gender issues, developing gender studies and ensuring the inclusion of gender-sensitive policies through research, policy development, advocacy, and lobbying.

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# 1. List of Abbreviations

**AGE** – Agency for Gender Equality

**PA** – Public Administration

**KAS** – Kosovo Agency of Statistics

**OI** – Ombudsperson Institution

**KIPA** – Kosovo Institute for Public Administration

**DC** – Disciplinary Committee

**CEDAW** – Convention on the Elimination of all forms of Discrimination Against Women

**IOBCSK** – Independent Oversight Board for the Civil Service of Kosovo

**CCRK** – Criminal Code of the Republic of Kosovo

**LGE** – Law on Gender Equality

**LPD** – Law on the Protection from Discrimination

**LL** – Law on Labour

**LPO** – Law on Public Officials

**MPA** – Ministry of Public Administration

**MJ** – Ministry of Justice

**MCR** – Ministry of Communities and Return

**KGSC** – Kosovar Gender Studies Center

**KWN** – Kosovo Women’s Network

**OGG** – Office on Good Governance

## 2. Background

Sexual harassment in the workplace, already sanctioned by the Criminal Code of Kosovo, remains one of the most concerning forms of gender-based discrimination in the workplace. However, data on the prevalence of this form of discrimination is missing. In Kosovo, in general, the labor market continues to be difficult and inhospitable for women, who are the most frequent victims of various forms of discrimination, including sexual harassment and assault. In addition to victims suffering the direct consequences of sexual harassment, this also creates an unsafe working environment for everyone, especially for women. Such an environment hinders opportunities for productive work and affects the well-being of society in general. Although sexual harassment is punishable under the criminal code, the protection and sanctioning of this offense in the workplace is lacking and/or is not enforced in both the private and public sectors. On the other hand, research shows that citizens are not very informed about this form of gender-based discrimination as well as about the internal and external mechanisms, where they can address this offense.

The public administration (PA), as the largest employer in the Republic of Kosovo, faces several challenges in guaranteeing gender equality and a safe working environment for women. Statistics show that women in the PA remain among vulnerable groups, holding lower positions. Consequently, they are more predisposed to experience sexual harassment and assault. In 2019, the Kosovo Agency of Statistics (KAS), has registered a total of 24 thousand employees in public administration in Kosovo, of which 4.5 thousand women and 19.3 thousand men.<sup>1</sup> There are no accurate data on the prevalence of harassment and sexual assault in public administration. Meanwhile the mechanisms in place remain ambiguous and difficult for civil servants to access.

The relevant authorities for monitoring the public administration, such as the Independent Oversight Board for the Civil Service of Kosovo (IOBCSK), in the annual report on the progress of the work of the PA do not include sexual harassment/assault as an indicator of the functioning of the administration. All of these pose a challenge, as they do not contribute to promoting the reporting of harassment and sexual assault in the public administration and continue to enable the harmful practice of discrimination, mainly against women in the workplace.

## 3. Methodology

The key questions that this research addresses are:

- How is sexual harassment addressed within the public administration of Kosovo?
- How well are civil servants informed about the mechanisms through which they can report sexual harassment within the PA?
- Is sexual harassment reported in the public administration by oversight bodies such as the Independent Oversight Board for the Civil Service of Kosovo and the Ombudsperson Institution?

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<sup>1</sup> Kosovo Agency of Statistics, accessed: [https://askdata.rks-gov.net/PXëeb/pxëeb/sq/askdata/askdata\\_Labour%20market\\_02%20Annual%20labour%20market\\_Pun%c3%absimi/fs05.px/table/tableVieëLayout1/?rxid=7864cfa1-80ae-4edb-9905-b5cc2af3558a](https://askdata.rks-gov.net/PXëeb/pxëeb/sq/askdata/askdata_Labour%20market_02%20Annual%20labour%20market_Pun%c3%absimi/fs05.px/table/tableVieëLayout1/?rxid=7864cfa1-80ae-4edb-9905-b5cc2af3558a)

Mixed methods were used to answer these questions. This included a review of the existing legal framework, documents sanctioning sexual harassment, mechanisms in place within the public administration and mechanisms monitoring the inclusion of sexual harassment in the reports of the Independent Oversight Board for the Civil Service of Kosovo (IOBCSK) and the Ombudsperson Institution. Statistical data obtained from relevant institutions as well as existing research by local and international organizations addressing the problem of sexual harassment in Kosovo were also reviewed.

Structured interviews were conducted with a deliberately selected sample. The interviewees selected were Human Resources officers and other civil servants from ministries: Ministry of Justice, Ministry of Local Government, Ministry of Internal Affairs, Ministry of Infrastructure, Ministry of Economy and Environment, Ministry of Culture, Youth, and Sports, Ministry of Public Administration, Ministry of Returns and Communities, and Ministry of Education, Science and Technology.

The interviews were conducted with a sample of 18 representatives, of which six were Human Resources officers and 12 were civil servants. The gender composition of the selected sample was equal to 50 percent men and 50 percent women. All the interviewees were of Albanian ethnicity.

## 4. Executive Summary

This research summarizes the legal and institutional framework in Kosovo that addresses sexual harassment in the public administration in Kosovo. Through a review of primary and secondary data, such as existing documents and field research, the research presents data on internal regulations/policies and mechanisms that sanction and address sexual harassment within the public administration, as well as reporting rates and monitoring by the responsible authorities. Ultimately, this research serves to inform policies to sanction sexual harassment in the workplace within the public sector in order to prevent or punish such acts and to guarantee fundamental human and workers' rights for everyone working in the public administration in Kosovo.

In summary, the main findings show that:

- Despite the existing legal framework, public employees in the public administration in Kosovo are not informed about existing laws and regulations in the country that address sexual harassment.
- The extent of sexual harassment in general, and especially that which occurs in the workplace, remains unidentified as sexual harassment or sexual violence. In general, sexual harassment continues to be among the most underreported forms of violence.
- Although public officials agree that sexual harassment is a very present phenomenon in society, they do not think that such a problem is reflected in the public administration. The public officials interviewed tended to state that they have not experienced, seen or heard of cases of sexual harassment in the respective institutions where they work.
- Public officials tended to blame the victim for sexual harassment, stating that 'someone's clothing is a form of sexual harassment' as well.
- Public workers are not informed about the regulations that address sexual harassment.

- The institutional framework for addressing and dealing with sexual harassment within the public administration exists but is not effective as employees are not sufficiently familiar with this framework. Unclear reporting procedures make reporting difficult, leading to a very low reporting rate.
- In the reports of the institutions responsible for monitoring the work of the public administration and receiving complaints from civil servants, sexual harassment is mentioned very little or not mentioned at all.

## 5. Definition of Sexual Harassment

### 5.1. In Kosovo legislation

The direct implementation of international agreements and instruments is incorporated in article 22 of the Constitution of Kosovo. These international agreements and instruments have priority over provisions, laws, and other local acts in Kosovo.<sup>2</sup> Among the international conventions included in the Constitution, in point 6 of this article is the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).<sup>3</sup> In this convention, harassment in the workplace is defined as gender discrimination and as a form of gender-based violence. Article 11 of the CEDAW Committee's general recommendations states that *"equality in employment may be seriously violated when women are subjected to gender-specific violence, such as sexual harassment in the workplace."* Sexual harassment is further defined in paragraph 18 which includes all forms of sexual harassment, including physical and psychological.<sup>4</sup>

In September 2020, the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, otherwise known as the Istanbul Convention, was included in the Constitution of Kosovo. In this convention, sexual harassment is defined as *"any form of unwanted verbal, nonverbal or physical conduct of a sexual nature, with the intent or effect of violating the dignity of a person, especially when creating a threatening, hostile, degrading, humiliating or insulting environment"* and it is envisaged that the signatory parties should take necessary legislative or other measures to ensure that sexual harassment is criminally or in other legal forms sanctioned.<sup>5</sup>

Sexual harassment is a criminal offense under the Criminal Code of the Republic of Kosovo. Sexual harassment as a form of discrimination is also sanctioned through the Law on Gender Equality, the Law on Protection from Discrimination, the Labor Law, and the Law on Civil Servants. Moreover, the Constitution of Kosovo guarantees the dignity of everyone<sup>6</sup>, protecting all from all forms of violence

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<sup>2</sup> Constitution of the Republic of Kosovo, accessed: <https://kryeministri-ks.net/ep-content/uploads/2018/03/Kushtetuta.e.Republikes.se.Kosoves-2.pdf>

<sup>3</sup> Convention on the Elimination of All Forms of Discrimination against Women, accessed: <https://hrrp.eu/alb/docs/CEDAW-a.pdf>

<sup>4</sup> General recommendations of the Committee on the Elimination of Discrimination against Women, article 11, paragraph 18, accessed: <https://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom1>

<sup>5</sup> Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, article 40, accessed: <https://rm.coe.int/168046031c>

<sup>6</sup> Constitution of the Republic of Kosovo, accessed: <http://www.kryeministri-ks.net/repository/docs/Kushtetuta.e.Republikes.se.Kosoves.pdf>

and discrimination against all, including protection from sexual harassment as a violation of human rights and freedoms.

Article 183 of the Criminal Code of the Republic of Kosovo defines sexual harassment as *"Anyone who sexually harasses another person, in particular a person who is more vulnerable due to age, illness, disability, addiction, pregnancy, or severe physical or mental disability."* The prescribed punishment for this criminal offense is a fine or imprisonment up to three (3) years. Whereas if the perpetrator of this criminal offense has a position of authority over the victim, the punishment provided is imprisonment of six (6) months to three (3) years.<sup>7</sup>

**Law no. 03 / L-212 on Labor** in paragraph 5 stipulates that *"Provisions of Law no. 2004/3 Anti-Discrimination, will apply directly when it comes to the employment relationship between the employee and the employer."*<sup>8</sup> Also, this law details legal procedures in case natural or legal persons do not comply with the provisions of the law, fines range from 100 to 10,000 euros.<sup>9</sup>

## **5.2. According to Human Resource officials and Civil Servants in the Public Administration in Kosovo**

***"Those who are provoked, harass"*** said one of the human resources officials interviewed about the definition of sexual harassment.

From the data obtained from interviews with human resources officials in the aforementioned ministries, sexual harassment tended to be defined as verbal violence exercised against someone with the intent to violate the sexual integrity of the person. Among the main concepts mentioned is the concept of consent. However, consent was mentioned mostly when talking about sexual harassment rather than sexual assault/rape. In general, respondents have shown a tendency to blame victims for sexual harassment stating that:

***"The 'female' (woman) herself with her dressing or with her provocative behavior, provokes the male (man). Most of the males do not harass without a reason. A number of females are themselves guilty or have a part to be blamed"***. – civil servant, man, 64 years old.

***"Provocative clothes are the starting point; I'm saying this as a sociologist"***. – civil servant, woman, 34 years old

The definition of sexual harassment by female civil servants tended to be more concrete; in their definition of sexual harassment, they included details which may have been part of their experiences as victims of sexual harassment, such as *"when someone provokes you with words, escorts you on the street, when they want to touch you unwillingly"* or *"excessive looks to embarrass someone and cat calling on the street"*, *"sexist compliments that embarrass you"*. Male civil servants tended to define sexual harassment in more general terms such as *"all forms, expressions, verbal harassment of a sexual nature"*, *"to mock someone with words or gestures"*.

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<sup>7</sup> Criminal Code of the Republic of Kosovo, accessed: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=18413>

<sup>8</sup> Law on Labour, accessed: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2735>

<sup>9</sup> Ibid, article 92.



# 6. The extent of sexual harassment in the workplace

## 6.1. Data for Kosovo

Although sexual harassment remains an underreported crime, the lack of reporting does not mean that there is no sexual harassment. The low reporting rate is in fact indicative of victims' reluctance to report for a variety of reasons, including fear of stigma, distrust of institutions, thinking of sexual harassment as private matter, and other reasons related to cultural and gender norms.

Data on the extent and forms of sexual harassment in the workplace in Kosovo are missing. However, some research conducted by KGSC and KWN address this problem. About three out of four women in senior positions in the workplace have suffered sexual harassment in the workplace, according to a European Commission report.<sup>10</sup> While women make up the largest number of victims of sexual harassment, men make up the largest number of perpetrators of sexual harassment. Men also hold higher managerial positions compared to women, the report said. Among other things, it states that "*women in male-dominated workplaces have experienced more sexual harassment than women in workplaces where there is balance, or which is dominated by women.*"<sup>11</sup>

Data from the KCGS survey show that 35.6% of respondents think that the phenomenon of sexual harassment in public institutions in Kosovo is present, 41.6% say that it is "*somewhat present*", according to 12.9% of them "*Not present*", and 9.7% of them "*have no information*" if the phenomenon of harassment is present, while 2% "*have no answer*".<sup>12</sup> Regarding the findings on the prevalence of sexual harassment, 9% of respondents said that they have experienced sexual harassment, "*more than three times*", 7.6 percent said "*once*", and 73% said they had "*never*" been victims of sexual harassment. 80% of victims of sexual harassment, according to this research, are women, while 70% of perpetrators are men.<sup>13</sup>

Further, in a KWN publication on sexual harassment in Kosovo, 20 of the 561 people who reported experiencing sexual harassment said they had been harassed by colleagues at work, and 7 by their manager.<sup>14</sup>

Similar findings have emerged from interviews conducted with human resources officials and civil servants in the public administration of Kosovo in the framework of this research. From the sample of human resources officers who were interviewed, most of them said that they have not experienced or received reports of cases of sexual harassment in the workplace. Only one of the female respondents stated that she had experienced sexual harassment. Whereas the majority of the civil servants said that

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<sup>10</sup> European Union Agency on Fundamental Human Rights, accessed: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2014-vaë-survey-main-results-apr14\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-vaë-survey-main-results-apr14_en.pdf)

<sup>11</sup> Ibid. page 112.

<sup>12</sup> KGSC, Perceptions of Civil Servants Regarding Sexual Harassment, page. 11, accessed: [http://www.kgscenter.net/site/assets/files/1414/8\\_perceptimet\\_e\\_sherbyesve\\_civile\\_ne\\_kosove\\_lidhur\\_me\\_ngacmimin\\_seksual\\_ne\\_vendin\\_e\\_punes.pdf](http://www.kgscenter.net/site/assets/files/1414/8_perceptimet_e_sherbyesve_civile_ne_kosove_lidhur_me_ngacmimin_seksual_ne_vendin_e_punes.pdf)

<sup>13</sup> Ibid, page 11.

<sup>14</sup> Sexual Harassment in Kosovo, Kosovo Women's Network, accessed: <https://womensnetëork.org/wp-content/uploads/2018/10/20160224112147815.pdf>

during the time they have worked at the public administration of Kosovo they have not experienced sexual harassment.

## 7. Public Administration in Kosovo

The public administration is regulated by Law no. 06 / L-113 on the Organization and Functioning of the State Administration and Independent Agencies.<sup>15</sup>

The Law on Public Officials creates the legal basis for the employment of public officials in the institutions of the Republic of Kosovo. Public officials in this law are Civil Service officials, Public Service officials, Cabinet officials, and administrative and support officials.<sup>16</sup>

Part III on the rights and obligations of public officials, sub-chapter 1, article 18, states that *"every institution provides a safe and appropriate working environment for the protection of the physical, moral and dignity of the official"* and *"the institution of employment protects the employee during the exercise of duty or in connection with it, seeking, if necessary, the support of specialized bodies under the law."*<sup>17</sup>

Further, in sub-chapter 1 of the Law on Public Servants, Article 46 provides for disciplinary violations for civil servants, which are divided into serious violations and minor violations. Sexual harassment is not mentioned as a violation of this law as contained in the Civil Service Code of Conduct Regulation. In this law, repeated violation of the rules of the code of ethics in the civil service is considered a serious violation, while only a violation of the rules of ethics is considered a minor violation.<sup>18</sup> This definition leaves room for such violations to be further defined in the code of ethics as a separate document.

### 7.1. How is sexual harassment addressed in the Public Administration?

Addressing sexual harassment as part of disciplinary offenses is regulated through the internal regulations of various institutions that provide procedures for reporting various disciplinary offenses and complaints. However, as KWN found, *"internal regulations in various institutions and procedures for reporting sexual harassment cases are not entirely clear, thus hindering the implementation of these laws."*<sup>19</sup>

In the Law on Public Officials in subchapter 1 on discipline in the civil service, Article 48 on competencies and disciplinary procedures provides that disciplinary measures and reprimand is given by the direct supervisor. Point 2 of article 48 states that *"the direct supervisor is obliged to initiate disciplinary*

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<sup>15</sup> Law on State Administration of the Republic of Kosovo. accessed: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2706>. This law simultaneously abolishes the Law on State Administration no. 03 / L-189 of the Republic of Kosovo. Law no. 06 / L - 114 for Public Officials

<sup>16</sup> Law on Public Officials, article 2, accessed: <https://mpb.rks-gov.net/ap/desk/inc/media/2DF4E40D-6163-4BB6-A34B-79A24051A372.pdf>

<sup>17</sup> Ibid. Part III, chapter 1, article 18, paragraph. 1,2.

<sup>18</sup> Ibid. article 46.

<sup>19</sup> Kosovo Women's Network, page 4, accessed: <https://womensnetwork.org/wp-content/uploads/2018/10/20160224112147815.pdf>

*proceedings on the basis of concrete and proven facts for the violation of obligations by the civil servant*<sup>20</sup>. Whereas paragraph 3 states that disciplinary measures including the prohibition from 20% to 40% of the salary for a period of six months; prohibition of promotion, including a decrease in the salary for a period of two to five years; as well as dismissal from public service, are the competence of the disciplinary committee.<sup>21</sup>

The disciplinary committee, according to the law, initiates the procedure in the following cases: *"at the request of the direct supervisor of the civil servant", "on the recommendation of any other public body or unit with powers of administrative control, financial inspection or audit, or any other official with tasks of hierarchical control over the civil servant, as well as at the request of the citizen", and "at the initiative of each member of the committee, based on concrete provable facts for committing a disciplinary violation"*.<sup>22</sup> It is further stated that *"if there is reason to believe that the continuation of the exercise of duty by the civil servant, against whom a disciplinary procedure has been initiated, hinders the disciplinary investigation or may impair the proper exercise of his duty, the disciplinary committee may decide to suspend the civil servant or take any other appropriate measure until a final decision is made"*.<sup>23</sup> Disciplinary measures are recorded in the personal file of the employee, and they are terminated after a time in accordance with Article 51.<sup>24</sup>

In November 2020, the Policy Against Sexual Harassment was approved in the Public Administration Bodies of Kosovo<sup>25</sup>. This policy was drafted by KGSC, in cooperation with the Office for Good Governance (OGG), in order to implement Law no. 05 / L-021 on Protection from Discrimination and Law no. 05 / L-020 on Gender Equality. *"The purpose of the policy against sexual harassment in public administration bodies in Kosovo is to serve as a guide for the prevention of all forms of sexual harassment in the workplace with guidelines for ensuring a work environment free of discrimination and sexual harassment."*<sup>26</sup> This policy includes the definition of sexual harassment, the definition of who may be a victim of sexual harassment, the consequences of sexual harassment, the reporting of sexual harassment, measures to implement this policy, the prevention of sexual harassment in the workplace, and mechanisms responsible for implementing this policy.

### **7.1.1. Internal regulations**

Disciplinary measures in the Civil Service of the Republic of Kosovo are regulated in Chapter Eight of Law no. 03 / L-149 on the Civil Service of the Republic of Kosovo as well as secondary legislation which includes:

Regulation no. 04/2015 on the Code of Conduct in the Civil Service of the Republic of Kosovo.

Regulation no. 04/2011 on Disciplinary Procedures in the Civil Service.

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<sup>20</sup> Law on Public Officials, article 48, accessed: <https://mpb.rks-gov.net/ap/desk/inc/media/2DF4E40D-6163-4BB6-A34B-79A24051A372.pdf>

<sup>21</sup> Ibid.

<sup>22</sup> Ibid. article 48, paragraph 4

<sup>23</sup> Ibid. article 48, paragraph 5

<sup>24</sup> Ibid. article 51.

<sup>25</sup> Policy against Sexual Harassment in Public Administration in Kosovo, accessed: [http://kgscenter.net/site/assets/files/1772/politika\\_e\\_nenshkruar.pdf](http://kgscenter.net/site/assets/files/1772/politika_e_nenshkruar.pdf)

<sup>26</sup> Ibid. article 1.

Regulation no. 05/2011 on Dispute Resolution and Complaints Procedures.

Sexual harassment as a disciplinary violation is defined only in Regulation no. 04/2011 on Disciplinary Procedures in the Civil Service, which is also referred to by the Law on Civil Service of the Republic of Kosovo. However, this violation is not mentioned in the report on disciplinary measures in the Civil Service of the Republic of Kosovo in 2018. Sexual harassment is not even mentioned as a disciplinary violation in this report although it refers to the regulation and mentions other violations included in this regulation.<sup>27</sup>

**Regulation no. 04/2011 on Disciplinary Procedures in the Civil Service**, in accordance with Law no. 03 / L149 further details the definition of minor offenses and serious offenses. Sexual harassment is defined as a serious violation of this regulation. In Article 6, paragraph 1.20 sexual harassment is defined as "*sexual harassment of any other civil servant, public official or party, defined as physical or verbal conduct of a sexual nature that violates the dignity of a woman or a man at work and which is undesirable or offensive to the person*"<sup>28</sup>

The disciplinary measures foreseen for serious violations are provided in Article 8 and include preventive suspension with pay for up to three months pending an investigation, which must be proposed by the direct supervisor and approved by the body responsible for personnel management in the institution; suspension of duties and removal of 1/3 of the salary for a period of up to two months by the disciplinary commission upon the request of the direct supervisor; removal from office and transfer to another location with similar duties and prohibition of promotion for up to five years by the disciplinary commission; termination of employment in the Civil Service by the disciplinary commission, without harming or reducing the right to a pension; and early retirement of civil servants, who have two years left until the retirement date.

Article 9 provides for the establishment and composition of the disciplinary committee. This article states that every institution of public administration, which has civil servants employed, establishes a disciplinary commission to take disciplinary measures in case of serious violations of work duties defined by the regulation and the Law on Civil Servants.<sup>29</sup> The procedure defined in Regulation no. 04/2011 requires that the Disciplinary Committee be composed of three members from the civil service, who are appointed by the top administrative manager of the institution, who must know the area where the violation was committed, including gender diversity.<sup>30</sup> However, this regulation does not provide for the transfer of the burden of proof in the event of serious violations of sexual harassment, which is required by the Law on Protection against Discrimination. Article 10 of the regulation stipulates that disciplinary violations must be reported to the direct manager or the highest administrative manager. Submission can be done orally or in writing. After the case is presented to the manager, in case the manager finds that the violation is serious, where sexual harassment is included, within two working days the case is presented in writing to the head of the personnel unit, after which the head of the staff passes the alleged violation for review to the relevant disciplinary committees.<sup>31</sup>

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<sup>27</sup> Ministry of Public Administration, Report on the Situation in the Civil Service of the Republic of Kosovo for the year 2018, accessed: <https://mpb.rks-gov.net/ap/desk/inc/media/7144FD0F-D52E-47E2-A5C6-6C2CDD8D728C.pdf>

<sup>28</sup> Regulation on Disciplinary Procedures in the Civil Service article 6, accessed: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8317>

<sup>29</sup> Ibid. article 9.

<sup>30</sup> Ibid.

<sup>31</sup> Regulation on Disciplinary Procedures in the Civil Service, accessed: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=8317>

**Regulation no. 04/2015 on the Code of Conduct in the Civil Service of the Republic of Kosovo** aims to determine the rules of etiquette of civil servants in the Republic of Kosovo, to achieve standards, and to inform the public about the behavior that the civil servant have. According to Article 5 of the Code of Conduct in the Civil Service, civil servants are guided by the principles of professional independency, personal integrity, responsibility, and honesty. Civil servants must perform their duties and responsibilities fairly and efficiently.

Although sexual harassment is not decisively addressed in this regulation, harassment as a form of discrimination can be included in Article 4 of this regulation in the basic principles of civil service in paragraph 1.2 which states *"no direct or indirect discrimination on the basis of race, color, sex, language, religion, political opinion, national or social origin, affiliation with any community, property, economic, social status, sexual orientation, birth, disability or any other personal status"*.<sup>32</sup>

**Regulation no. 05/2011 on Dispute Resolution and Complaints Procedures**, procedures for resolving disputes and complaints, from the employment of civil servants, as well as the competencies and criteria for the appointment of members of the Commission in the Institutions of the Republic of Kosovo. Civil servants have the right to appeal against an administrative decision or any breach or omission of general administrative rules or procedures that affect and relate to their employment relationship.

## **8. How well informed are the employees in the Public Administration regarding the legal framework**

Although both the HR officers and civil servants interviewed tended to state that the institution where they work is very effective in addressing sexual harassment, they were not well informed about the legal framework within the institution or how sexual harassment is generally regulated. Asked about regulations or policies that exist within their institution that address sexual harassment, a recurring trend was that most of them are not informed that there is such regulation or are aware that there is a Code of Ethics that does not include sexual harassment as a violation.

The civil servants interviewed were not sufficiently informed about the legal framework in Kosovo that addresses sexual harassment. Some respondents said they were not informed if sexual harassment is addressed in any of the laws in Kosovo. In general, interviews suggested that both human resources officers and civil servants are not well informed regarding the legal framework in Kosovo.<sup>33</sup>

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<sup>32</sup> Regulation on the Code of Conduct in the Civil Service of the Republic of Kosovo, accessed: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=10764>

<sup>33</sup> KGSC's interview with public officials, September – November 2020.

## 8.1. Mechanisms within institutions

According to the legal framework in the country, the legal mechanisms that are foreseen to be formed in each institution and that enable the review of complaints and the supervision of institutions in general are:

- Personnel units.
- Disciplinary committees.
- Independent Oversight Board for the civil service.

According to the Law on Civil Service of Kosovo, every institution that employs civil servants has a unit for the management and development of personnel and human resources, or personnel unit. The personnel unit in public institutions is the most basic structure that monitors the ethics and integrity in the public administration of the Republic of Kosovo. According to Article 64 of the Law on Civil Service, civil servants, who are responsible for staff supervision, are responsible for good management and supervision.<sup>34</sup>

According to Article 70 of the Law on Civil Service of Kosovo, every institution of public administration which employs civil servants, establishes a disciplinary committee to take disciplinary measures in case of serious violation of the Civil Service Law or bylaws. The chairperson and the members of the disciplinary committee are appointed by the Secretary General, or from the equivalent positions of the respective institutions and the members of the disciplinary committees cannot serve as members of the complaints committee of the respective institution. The chairperson and members of the disciplinary committees are from the ranks of civil servants with superior school training, are appointed for a period of two (2) years, with the possibility of extension and should reflect the diversity of Kosovo society, especially including gender diversity. The procedures for the functioning of the commissions and their composition will be regulated by a sub-legal act. According to Article 71, the disciplinary committee has the following competencies: to hear the evidence related to the alleged violation; decide on the basis of evidence whether the violation has been committed and determine the sentence to be imposed.<sup>35</sup>

Asked how much they are informed about the mechanisms in the institutions where they work through which they can report sexual harassment, respondents tended to mention the disciplinary committee in their institutions and that the disciplinary committee is the mechanism that reviews complaints of this nature. fewer mentioned the complaints committee or knew the hierarchy to be followed in case of reporting sexual harassment, saying that they should first notify their superior, or personnel manager, and then the case goes to the appropriate committee.

## 9. Institutional framework related to work of Public Administration

**Ministry of Public Administration (MPA)**<sup>36</sup> among others, designs and oversees the implementation of civil service policies. Also, this ministry through the Department of Civil Service Administration (DCSA) supervises the implementation of the Code of Conduct in the Civil Service of Kosovo. While within the

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<sup>34</sup> Law on Civil Service of the Republic of Kosovo, article 64, accessed: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2679>

<sup>35</sup> Ibid. article 70, 71.

<sup>36</sup> Ministry of Public Administration, accessed: <https://mpb.rks-gov.net/ap/page.aspx?id=1,18>



Department for Public Administration Reform and European Integration (DRAPE), this ministry has the responsibility to monitor and report on the process of implementing integrity and ethics in public administration. In this context, this department prepares the annual report on disciplinary measures in the civil service. The 2018 report of this department does not specify if there have been any cases of sexual harassment.<sup>37</sup>

**Kosovo Institute for Public Administration (KIPA)**,<sup>38</sup> as a government institution established for the training of civil servants and increasing the sustainability of the Civil Service in Kosovo (KCS) in order to develop and enhance the quality of civil services provided by the public administration in the country, is responsible for implementing training, research policies, vocational training and capacity development for civil servants.<sup>39</sup>

**Office of Good Governance**, human rights, equal opportunities and anti-discrimination<sup>40</sup> provides advice to the Prime Minister and relevant units in the areas of good governance, human rights, equal opportunities, and anti-discrimination issues; oversees and advises ministries in areas of good governance, human rights, equal opportunities, and anti-discrimination issues; and develops policies in the areas of good governance, human rights, equal opportunities, and anti-discrimination issues.

**Agency for Gender Equality**<sup>41</sup> has the mandate to design, implement, propose, coordinate, and monitor local and international public gender equality policies. Its Legislation Division proposes the drafting, amendment and supplementation of laws, regulations, as well as the adoption of other measures. Therefore, it has a key role in the designing of policies that address sexual harassment in the public administration in the country. The mandate, duties, and responsibilities of AGE are defined in the Law on Gender Equality<sup>42</sup>.

**Ombudsperson Institution**<sup>43</sup> (OI) is a mechanism for the promotion, monitoring, and support of equal treatment without discrimination on grounds protected by the Law on Gender Equality and the Law on Protection against Discrimination. The role and competencies of the OI are defined by the Constitution of the Republic of Kosovo and the Law on Ombudsperson Institution<sup>44</sup>. OI conducts investigations, makes recommendations, publishes reports, and advocates for human rights and freedoms. Thus, the OI publishes annual reports which, among other things, include complaints filed with this institution related to sexual harassment in the workplace.

**Independent Oversight Board for the Civil Service of Kosovo**<sup>45</sup> (IOBCSK) is the highest supervisory structure of the public administration established by Article 101 of the Constitution of the Republic of Kosovo. IOBCSK monitors public administration institutions that have civil servants employed, regarding the implementation of the rules and principles of civil service legislation. The organization and functioning of the IOBCSK are regulated by the Law on the Independent Oversight

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<sup>37</sup> Ministry of Public Administration, Report on disciplinary measures in the civil service of the Republic of Kosovo during 2018, accessed: <https://mpb.rks-gov.net/ap/desk/inc/media/7144FD0F-D52E-47E2-A5C6-6C2CDD8D728C.pdf>

<sup>38</sup> Kosovo Institute for Public Administration: <https://ikap.rks-gov.net/>

<sup>39</sup> Law on Kosovo Institute for Public Administration, accessed: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=9446>

<sup>40</sup> Office of Good Governance, accessed: <https://zqm.rks-gov.net/>

<sup>41</sup> Agency for Gender Equality, accessed: <https://abgj.rks-gov.net/home>

<sup>42</sup> Law on Gender Equality, accessed: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10923>

<sup>43</sup> Ombudsperson Institution, accessed: <https://www.oik-rks.org/>

<sup>44</sup> Law on Ombudsperson Institution, accessed: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=10922>

<sup>45</sup> Independent Oversight Board for the Civil Service of Kosovo, accessed: <https://kpmshc.rks-gov.net/>

Board for the Civil Service of Kosovo.<sup>46</sup> IOBCSK reports to the Assembly of the Republic of Kosovo. Within the IOBCSK there is a secretariat that assists the council in carrying out its duties and responsibilities. The secretariat is headed by the Executive Director who reports directly to the Chairperson of the Council.

## **9.1. Sexual harassment in annual reports of IOBCSK**

The IOBCSK annual reports include detailed data and information on all activities and work performed, including data on complaints received during the year. These contain data on the reason of complaint, the gender of complainants, the ethnicity of complainants, as well as the institutions against whose decisions an appeal has been filed.

In the work report of the IOBCSK for 2019,<sup>47</sup> it is stated that IOBCSK during 2019 received 784 complaints, as well as 112 complaints that have been carried over from 2018 to 2019, making a total of 896 complaints for review. Out of 784 complaints received, 68% of them were male complainants, or 533, while women were 32% or 251. Among these complaints, the report did not mention complaints of sexual harassment. The same applies to the 2018 report where there was also a high number of complaints (863) received for 2018 and another 74 under review, which were carried over from 2017. The breakdown by gender of complainants was: male complainants were 569 or 65.93%, while female complainants were 294 or 34.06%<sup>48</sup>. This report, as in 2019, does not mention any complaints of sexual harassment in the workplace.

## **9.2. Sexual harassment in annual reports of OI:**

In the work report of the OI of 2019<sup>49</sup>, it is alleged that based on the complaints filed, there were also complaints of sexual harassment in the workplace. The complaint about sexual harassment was against a company with public authorizations, regarding the complainant's allegations of harassment by its director, after which the complainant was punished by non-extension of the employment contract. Following the ombudsperson's reaction to the responsible authority, the authority in question sent a reply stating that the complainant's employment contract had expired. Meanwhile, the complainant has filed a lawsuit in the Basic Court in Prishtina. The ombudsperson has received two other complaints regarding sexual harassment in the workplace. Following the actions taken by the Ombudsperson, the cases were processed by the employer and the relevant authorities<sup>50</sup>.

The annual report of the Ombudsperson Institution of 2018 does not mention any case of sexual harassment in the workplace, or the phenomenon of sexual harassment in the workplace.

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<sup>46</sup> Law on the Independent Oversight Board for the Civil Service of Kosovo, accessed: <https://gzk.rks.gov.net/ActDetail.aspx?ActID=17745>

<sup>47</sup> Annual work report of the Independent Oversight Board for the Civil Service of Kosovo 2019.

<sup>48</sup> Annual work report of the Independent Oversight Board for the Civil Service of Kosovo 2018.

<sup>49</sup> Annual Report 2019, No 19.

<sup>50</sup> Ibid.



# 10. Recommendations

## **For the Independent Oversight Board for the Civil Service of Kosovo:**

- Investigate the real situation of sexual harassment in the public administration based on the Law on IOBCSK.
- Include sexual harassment as an indicator of public administration performance in annual reports.
- Organize information sessions, trainings, and workshops on this issue as provided in the law on the IOBCSK.

## **For the Kosovo Public Administration Institutions:**

- Organize trainings that address the problem of sexual harassment and inform public servants about the legal and institutional framework in place that address sexual harassment in the Public Administration.

## **For the Office of Good Governance:**

- Based on its mission, in cooperation with civil society organizations, monitor the public administration in the implementation of anti-discrimination, including sexual harassment policies

## **For the Ministry of Labour and Social Welfare, Labour Inspectorate:**

- Labour inspectors should attend training on sexual harassment to inspect possible cases of sexual harassment in the workplace, including informing inspectors about the definition of sexual harassment and how to report it.

## **For the Ministry of Public Administration:**

- Conduct mandatory initial training where sexual harassment is addressed for public officials and new employees, provided by the recruitment office.
- During trainings introduce employees to policies, regulations, and ways to address sexual harassment within their institution.
- Harmonize laws and internal regulations in the public administration regarding the definition as well as the procedures for addressing sexual harassment in the workplace.

## **For Civil Society:**

- Carry out regular monitoring of laws that protect against discrimination and sexual harassment in the workplace, with emphasis on public administration in Kosovo.
- Institutionalize the training to inform civil servants about sexual harassment in the workplace as obligatory training
- Advocate to institutions responsible for developing policies that address sexual harassment in the workplace as a form of discrimination and violation of workers' human rights.

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