



## NEWS REPORT

**Date:** 22 September 2011  
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**Title:** Equality Body report on the handling of a sexual harassment complaint made by a female migrant domestic worker  
**Country:** Cyprus

### Context

**Issue at stake:** The Equality Authority finds systemic discrimination in the handling of complaints from migrant domestic workers for sexual harassment by their employers.

**Ground of discrimination:** Race/ ethnic origin; gender.

**Source:** Equality Body report Ref. AKI 67/2010

**Field:** Employment

**Legislative provisions:** Law on Equal Treatment of Men and Women in Employment and Vocational Training 2002-2009, articles 12, 14 and 17.

### Content

**Case:** A sexual harassment complaint was submitted by a NGO on behalf of a migrant female domestic worker against the Police, the Labour Office and the Immigration Department for the mishandling of the worker's claim against her employer for sexual harassment. The NGO claimed that complaints by migrant workers for violence or sexual harassment at the workplace are not examined through the 'lenses' of specialized modern legislation but on the basis of the antiquated Criminal Code which offers neither the same potential for criminalization of these offences nor the same efficiency as regards the protection of the victims. As soon as the victim turned up at the police station to file a complaint against her employer for sexual harassment, she was arrested and detained on the basis of an arrest warrant issued by the Court as a result of a complaint that had been filed against her by her employer for allegedly having stolen money from the house she was working at.

She was subsequently released because the employer's claim could not be substantiated but she was ordered to leave the country because her application to change employer was rejected.<sup>1</sup>

The Equality Body investigation, which was focused on locating systemic weaknesses in the investigation of complaints by migrant workers for sexual harassment at the workplace, revealed that the practice in these cases was to follow the procedure foreseen by the Criminal Code, which requires strong evidential basis in order to proceed further, instead of following the administrative procedure foreseen in the Law on Equal Treatment of Men and Women in Employment and Vocational Training, which is more flexible and victim-oriented. In this case, the Labour Office refused to investigate the complaint on the ground that it was being handled by the police, whilst the Attorney General found that there was insufficient evidence to charge the employer under the Criminal Code; the case against the employer was thus dropped. The Law on Equal Treatment of Men and Women in Employment and Vocational Training of 2002-2009, which protects the victim of sexual harassment from direct or indirect disadvantageous treatment by the employer and reverses the burden of proof, was completely disregarded.

**Decision of the Equality Body:** The Equality Body report criticized the handling of the complaint and particularly the refusal of the Labour Office to investigate the complaint, pointing out to the Law on Equal Treatment of Men and Women in Employment and Vocational Training which includes sexual harassment at the workplace in the definition of a 'labour dispute'. This refusal denied the victim from the right to use the administrative procedure foreseen in the Law, by virtue of which an investigation is carried out by the Labour Office equality inspectors, who have wide powers to enforce the Law and where the rules of evidence are far more flexible than in the criminal procedure. Instead, the victim was forced to confine herself to the criminal procedure which requires evidence beyond reasonable doubt. The report concluded that the Labour Office's refusal to investigate the complaint was unlawful and inevitably discouraged other migrant workers from reporting sexual harassment at the workplace, leading to a climate of

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<sup>1</sup> Migrant workers are not granted a blank permit to work in Cyprus, but a permit to work for a specific employer. If that permit is terminated or if it expires, the worker has to leave the country. Migrant workers can file a complaint against their employers and while the examination of this complaint is pending, the worker is allowed to remain in the country. But if the complaint is decided in favour of the employer, which is usually the case, the worker is ordered to leave Cyprus. If the complaint is decided in favour of the worker, the latter is allowed to change employer and remain in Cyprus. Female migrant domestic workers are not allowed to change employer during the first year of their employment.

unfairness and tolerance of violation of labour and human rights. The report refers to a survey carried out in 2009, which showed that 14% of migrant domestic workers had been sexually harassed by their employers, 6% had been subjected to sexual exploitation by their employer, and 4% had been subjected to physical violence (rape) from their employers. By contrast the statistical data kept by the Labour office recorded only 100 complaints for sexual harassment of migrant domestic workers for the period July 2008-December 2010, only two of which were deemed by the Labour Office to be well founded.

The Report recommends that the complaint be examined by the Labour Office, triggering the procedure foreseen under the Law on Equal Treatment of Men and Women in Employment and Vocational Training, pointing out that the examination of a complaint by the police (a legal procedure) does not automatically exclude the administrative procedure such as the one foreseen under the aforesaid law. The report added that the Labour Office's refusal to examine the victim's complaint essentially victimized her again and left her exposed to the risk of deportation. The failure of the Labour office to examine the complaint violates the complainant's right to the dignified working environment guaranteed by the aforesaid law and as a result the detention and deportation order must be cancelled. The Equality Body expressed its intention to issue a binding Recommendation and thus invited all parties to a consultation on the content of such Recommendation.

**Internet link source:** <http://www.no-discrimination.ombudsman.gov.cy/ektheseis-aki>