



## European network of legal experts in gender equality and non-discrimination

### NEWS REPORT

<b>Country:</b>	Cyprus
<b>Title:</b>	Direct discrimination and harassment of TV presenter by a work colleague's posts on Facebook
<b>Date:</b>	6 December 2016
<b>Expert:</b>	Corina Demetriou
<b><u>Context</u></b>	
<b>Issue at stake:</b>	The equality body finds the employer guilty of discrimination for failing to take disciplinary measures against an employee who was posting on Facebook negative comments against another employee
<b>Ground of discrimination:</b>	National origin, gender
<b>Source:</b>	Report of the Equality Authority regarding a complaint for harassment at work and for discrimination on the ground of gender and national origin of an employee at the Cyprus Broadcasting Corporation ( <i>Έκθεση της Αρχής Ισότητας αναφορικά με καταγγελία για παρενόχληση στην εργασία και διάκριση λόγω φύλου και εθνικής καταγωγής που υπέστη εργαζόμενη στο Ραδιοφωνικό Ίδρυμα Κύπρου</i> ), File No. A.K.I. 45/2015, 12 October 2016
<b>Field:</b>	Employment
<b>Applicable law:</b>	The combating of racial and other forms of discrimination (Commissioner) Law N. 42(I)/2004; Law on Equal Treatment in Employment and Occupation N. 58(I)/2004

### **Content**

**Case:** In September 2015, the Equality Body received a complaint from a female TV presenter of Bulgarian origin employed at the state TV channel CyBC against a work colleague of hers who was posting insulting comments about her on social media (Facebook) with references to her gender and her national origin. The complainant had repeatedly complained to the board of the TV Channel (hereinafter 'the board') about the degrading comments against her posted on social media by a particular employee. Initially, the board commenced a disciplinary procedure against the perpetrator but this was subsequently discontinued before conclusion when the board's director changed. The board offered no justification for the termination of the disciplinary procedure arguing that, according to the channel's disciplinary code, the Director General has absolute discretion to terminate any disciplinary procedure. The board stated that a warning letter had been sent to the perpetrator, demanding that he removes from Facebook the insulting comments, which the perpetrator complied with. The board added that its decision to terminate the disciplinary procedure was based on legal advice, pointing out that, in her repeated complaints to the board, the complainant had not raised the issue of her national origin being the reason of harassment. When asked by the Equality Body to explain the reasons

for the termination of the disciplinary procedure, the board merely repeated that such termination was within the Director's discretion, essentially refusing to be subjected to the equality body's scrutiny.

**Decision of the Equality Body:** The Equality Body examined the complaint from the perspective of harassment at the workplace as well as under the light of the anti-discrimination law on the ground of gender and ethnic origin, using the terms 'ethnic' and 'national' origin interchangeably. Citing the relevant Eurofound report<sup>1</sup> and Council Directive 2002/73 the Equality Body defined harassment as conduct which may include psychological violence consisting of either isolated incidents or systematic patterns of behaviour manifested by persons in a hierarchically higher position than the victim at the workplace. Such behaviour may range from simple expressions denoting disrespect to acts amounting to a crime.

The Equality Body underlined the board's refusal to justify its decision to terminate the disciplinary procedure and criticized the invocation of the director's discretion in this area. It also questioned the board's statement that the complainant had failed to cite her national origin as a ground for her harassment, pointing out that the comments which the perpetrator had posted on Facebook referred to the complainant's national origin. The report found that the board's failure to investigate the complaint amounted to direct discrimination prohibited by law on the ground of gender and national origin, rendering the TV channel equally liable with the perpetrator for the unlawful discrimination. The report found that the TV channel was under a duty to adopt effective measures and policies to combat discrimination and harassment at the workplace irrespective of the hierarchical position of the persons involved and called upon the board to introduce within the next three months a code for the prevention and combating of harassment including sexual harassment at the TV channel as is required for all employers under the law on equal treatment between men and women in employment and occupation, specifying that the code must regulate the procedures to be applied in relation to harassment or sexual harassment at the workplace.

**Internet link source:**

[http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/0A52E0036CDFD812C2258060003466A9/\\$file/%CE%91%CE%9A%CE%9945\\_2015\\_12102016.doc?OpenElement](http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/0A52E0036CDFD812C2258060003466A9/$file/%CE%91%CE%9A%CE%9945_2015_12102016.doc?OpenElement).

---

<sup>1</sup> Eurofound (2015), *Violence and Harassment in European Workplaces: Extent, impacts and policies*, available at <http://www.eurofound.europa.eu/observatories/eurwork/comparative-information/violence-and-harassment-in-european-workplaces-extent-impacts-and-policies>.