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NEWS REPORT

Country:	Cyprus
Title:	Sexual harassment
Date:	04 June 2018
Expert:	Lia Georgiades
<u>Context</u>	
Issue at stake:	Court case on sexual harassment by an employer. App. No: 556/11, the Industrial Tribunal Limassol.
Ground of discrimination:	Sex
Source:	National Court Decision
Field:	Other
Applicable law:	Equal Treatment of Men and Women in Employment and Vocational Training Law No 205 (I)/ 2002 as Amended by Laws 191 (1) 2004, 40 (1) 2006, 176 (1) 2007, 39 (1) 2009

Content

On 20 December 2017, the Industrial Tribunal Limassol ruled on a sexual harassment case. The parties to the case were; Nektaria Veresie (applicant), and Michalis Michael (defendant No1) and the Community Council of Souni-Zanadjia, (defendant No2)

Facts of the case: The Applicant worked as secretary of the Community Council of Souni-Zanadjia from June 2000 to December 2017. The Community Council consists of the President (Defendant No1) and six Counsellors (Defendant No2), all elected by the community of Souni- Zanadjia of Limassol District.

On 27 September 2010, the Applicant submitted a complaint about sexual harassment to the Inspectors of the Equality Committee of the Ministry of Labour, and asked them to assess a possible violation of the provisions of the Equal Treatment of Men and Women in Employment and Vocational Training Law No 205 (I)/ 2002.

On 20 October 2010, the Inspector investigated the complaint. In November 2010, the six Counsellors submitted a claim to the District officer of Limassol and to the Ministry of Interior requesting them to dismiss the President of the Community or ask him to abstain from his position. The claim was rejected because the President of the Community is an elected government official, and cannot be dismissed unless there is a criminal case against him. Five of the six Counsellors resigned and were replaced by the runners- up.

On 26 September 2011, the Applicant filed Application No 556/2011 to the Industrial Tribunal of Limassol against the President of the Community (Defendant No1) and the Community Council (Defendant No2), by which she claimed: a) damages, b) punitive and/or exemplary damages, c) any other remedy or order the Court might consider reasonable, d) lawyers' fees, e) legal interest.

The applicant claimed that she had been sexually harassed since February 2010 by Defendant No1 who made comments and propositions of a sexual nature, asked impertinent questions about her personal life, pressured her to have sexual relations with him and exposed her to webpages with pornographic content. She stated that she showed him her embarrassment for his actions and that she attempted to stop him. Once Defendant No1 understood that the Applicant was not interested in his sexual advances, he stopped sexually harassing her but created a hostile and intimidating working environment.

Defendant No 1 rejected the Applicant's accusations against him and argued that his behaviour was only genuine interest between two colleagues and denied that his actions could be considered sexual harassment.

Defendant No2 maintained that when they were informed in July 2010 about the insulting behaviour of the President of the Community, they took measures to protect the Applicant, but they had no power under the Law to take more effective measures because no complaint was made to the Police and there was no criminal case before the Court against the President.

The Applicant testified that Defendant's No1 behaviour in general affected her psychologically and caused her stress and she had to take sick leave very often.

The Court, after hearing and evaluating the evidence brought before it, reached the following conclusions:

- (a) The Applicant made general allegations about acts of sexual harassment by the President of the Community against her, but did not give concrete details about the relevant facts. This made it difficult for the Court to evaluate her evidence.
- (b) The applicant did not provide the Court with a copy of the written complaint she made to the Equality Committee, thus not enabling the Court to examine more deeply her complaints in case the written complaint to the Committee had more details.
- (c) The Applicant did not provide evidence that she had suffered material harm or injury.

The Court found that the above- mentioned weaknesses of the Applicant were substantial, that she did not put before the Court all the material facts in their proper dimension and therefore found that her testimony was not sufficient to enable the Court to have a complete picture.

Furthermore, the Court found the evidence of the Inspector and the casual employee trustworthy. The burden of proof was put on the Defendants. After evaluating all the evidence put before it, the Court decided that the only act of Defendant 1 which constituted sexual harassment was his request at the office of the Community Council to open a webpage which had pornographic content. On the basis of this conclusion, the Court found that the Defendants No2 were also responsible for the sexual harassment the Applicant suffered because the evidence they put before the Court was not sufficient and trustworthy to prove that it was impossible to take measures to protect the Applicant.

On the basis of the reasons stated above, the Court decided that the Applicant had a right to damages for the moral injury she suffered as a result of the sexual harassment caused by the exposure to pornographic content at her office, and having in mind the employer-employee relationship between her and Defendant No1 who asked her to open the webpage without disclosing its content. The Court decided that she was entitled to fair and reasonable damages which it fixed to EUR 1000, plus interest from July 2010 and legal costs.

Internet link source:

<https://drive.google.com/file/d/0B0o8MhVUuiLUTzRKcThKazQtOGh2N2MyOXNmZ2FyeExLYWRr/view>.