



RSE on the REU «Republican Scientific
and Research Institute for Labour
Protection under the MLSP of the RK»



**STUDYING THE LEVEL AND MAIN CAUSES OF VIOLENCE
AND SEXUAL HARASSMENT AT WORKPLACE
IN THE REPUBLIC OF KAZAKHSTAN**

FINAL REPORT

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RSE on the REU «Republican Scientific and Research Institute for Labour Protection under the MLSP of the RK» in its activities actively supports the main directions and initiatives of the UN-Women Entity, which promotes equal participation of women in all spheres of life, in particular, the empowerment of women in the economy and the prevention of violence in any of its manifestations in all spheres of life, including at work.

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1. RESULTS OF STATISTICAL STUDIES ON THE PREVALENCE OF VIOLENCE AND WORKPLACE SEXUAL HARASSMENT AGAINST WOMEN IN THE REPUBLIC OF KAZAKHSTAN

IMPLEMENTATION TIMELINE 2.05.2022 – 3.06.2022

1.

At the theoretical stage of statistical study on the prevalence of violence and workplace sexual harassment against women in the Republic of Kazakhstan, publications of domestic and foreign researchers studying this issue and describing the problems of harassment had been searched and studied.

There are relatively few studies in the Social Sciences focused at violence and sexual harassment at work. This is primarily because the problem of violence and harassment began to be positioned as significant relatively recently and is difficult to study by quantitative methods. Among the few works, it is necessary to highlight the studies of Russian researchers, due to the relatively similar structure of the legislative framework and approaches to the norm-setting activities of government agencies.

M. Kharitonov in the «The concept of sexual harassment and mechanisms of countering it in the employment and labour law of Russia»¹ article provides an overview of the definitions of «harassment» and «abuse» terms. The author notes that the form and content of the utterance may not coincide; its understanding depends on the context, which creates additional problems for the qualification of speech acts or behavior as a harassment. The ways of separating harassment from sexually attributed forms of behavior are proposed.

N. Agazade, referring to the official definition of the UN in 2008, provides the broadest interpretation of harassment, meaning inappropriate and undesirable behavior that can offend and humiliate another person².

S.Yu. Golovina, E.V. Sychenko, I.V. Voitkovskaya note, the judicial practice of Russia and Kazakhstan is indicative of low awareness of judges regarding the problems of protecting workers from such forms of violence as abuse, persecution, mobbing³, harassment⁴.

S.G. Ereemeev proposed to develop and implement a system for monitoring harassment and countering it, by defining the regulatory framework, subjects and procedure for reviewing the identified facts, the specifics of protecting victims of harassment and the consequences for the aggressor⁵.

¹ M.M. Kharitonov «The concept of sexual abuse (harassment) and mechanisms of countering it in the employment and labour law of Russia» (publication). URL: <https://cyberleninka.ru/article/n/ponyatie-seksualnogo-domogatelstva-harassmenta-i-mehanizmy-protivodeystviya-emu-v-trudovom-prave-rossii/viewer>

² N. Agazade, Psychological harassment at work and mental health problems accompanied by suicidal trends Methodology and theory of legal psychology 35 // Medical psychology in Russia. 2013. № 3(20). URL: <http://medpsy.ru>

³ Mobbing (in English mob is an aggressive crowd, gang) is a form of psychological bullying against an individual by a group in any context, such as a family, peer group, school, workplace, neighborhood, community, or online. When it occurs as physical and emotional abuse in the workplace, such as «ganging up» by co-workers, subordinates or superiors, to force someone out of the workplace through rumor, innuendo, intimidation, humiliation, discrediting, and isolation ([https://ru.wikipedia.org/wiki/%D0%9C%D0%BE%D0%B1%D0%B1%D0%B8%D0%BD%D0%B3\(%D1%81%D0%BE%D1%86%D0%B8%D0%BE%D0%BB%D0%BE%D0%B3%D0%B8%D1%8F\)](https://ru.wikipedia.org/wiki/%D0%9C%D0%BE%D0%B1%D0%B1%D0%B8%D0%BD%D0%B3(%D1%81%D0%BE%D1%86%D0%B8%D0%BE%D0%BB%D0%BE%D0%B3%D0%B8%D1%8F)))

⁴ S.Yu. Golovina, E.V. Sychenko, I.V. Voitkovskaya «Protection from violence and harassment at work: challenges and opportunities for Russia and Kazakhstan» (publication). URL: <https://cyberleninka.ru/article/n/zaschita-ot-nasiliya-i-domogatelstv-v-sfere-truda-vyzovy-i-vozmozhnosti-dlya-rossii-i-kazhstana>

⁵ S.G. Ereemeev «Harassment: a modern look at the problem» (publication). URL: <https://cyberleninka.ru/article/n/harassment-sovremenny-vzglyad-na-problemu>

M.V.Nevzhina explored the problem of legal regulation of the prohibition of harassment in the field of labour and the restoration of violated rights of workers who have been harassed in the framework of work⁶. Based on the analysis of Russian legislation, the article concludes that it is extremely difficult to restore violated rights of employees who have been harassed (rather impossible). In addition, the author notes that it is difficult to readily accept the certain provisions of Convention 190 and Recommendation № 206.

V.E. Petrov in his work reveals the psychological essence of the phenomenon of harassment at work. He examines the problems of relationships between police officers of the opposite gender⁷.

The article by I.Gorshkova and O.Miryasova presents the results of studying the causes and manifestations of gender inequality in terms of optimizing the costs of higher education in the period 2010-2018 and in the context of establishment propaganda of conservative values. There is a gender pay gap, the presence of a «glass ceiling», and inattention to the needs of workers with family obligations⁸.

At the same time, E.A. Maryasova, K.A. Strakhova, M.V. Vardanyan, K.S. Zholudeva highlight the special influence of the mass media on the shaping of public opinion on the problem of harassment and possible options for speculation and enrichment as a result of a win-win public condemnation of the perpetrators in the consideration of court cases of harassment^{9, 10}.

Studies conducted in Bangladesh, which explored the legal and political framework of the country in order to identify the main gaps to combat gender-based violence and harassment, including sexual harassment at work are of considerable interest¹¹. The study explores laws, policies and practices in Bangladesh related to gender-based violence, including sexual harassment. Based on the conducted research, recommendations are proposed to strengthen the legal and policy framework of Bangladesh regarding gender-based violence and harassment at work. The recommendations comprise: raising awareness of sexual harassment and the High Court Division's guidelines, strengthen enforcement and monitoring of the 2009 workplace guidelines, strengthening the national legal and policy framework on violence and harassment at work, promote the adoption of internal policies to combat sexual harassment, strengthening the capacity and legal authority of the Department of Inspection for Factories and Establishments, counteracting gender-based violence and harassment, training relevant stakeholders on gender-based violence and harassment, and collecting data on violence and harassment at work.

Sociological studies have already been conducted in Kazakhstan. In 2021, MediaNet conducted a survey on the «Attitude of Kazakhstan citizens to sexual harassment»¹². According to the results of the survey, 82% of respondents recognized the problem of sexual harassment as significant. 54% of them believe that this is certainly an important problem that needs to be dealt with, 7% do not see any problem at all. 92% of the surveyed Kazakhstan citizens believe that this issue should be addressed with at the State level. It is necessary to protect victims of harassment at the legislative and corporate levels.

⁶ M.V. Nevezhina «Harassment as one of the manifestations of discrimination at work» (publication). URL: <https://cyberleninka.ru/article/n/harassment-kak-odno-iz-proyavleniy-diskriminatsii-v-sfere-truda>

⁷ V.E. Petrov Harassment as a socio-psychological phenomenon and the problems of relations between police officers of the opposite gender. Science and Practice journal, No.1, 2014 p 206-209

⁸ I. D. Gorshkova, O. A. Miryasova Gender inequality in modern Russian higher education institutions // A woman in Russian society. 2020. № 1. p 29-44.

⁹ E.A. Maryasova, K.A. Strakhova The phenomenon of harassment in the Russian Federation and the United States of America: socio-philosophical analysis // Context and reflection: philosophy about the world and man. 2019. Volume 8. No. 2A. pp. 24-30.

¹⁰ M.V. Vardanyan, K.S. Zholudeva, The dialogue between cultures: harassment in Russia, USA and Europe. Materials of the VI International Scientific and Practical Conference. 2018, p 266-268

¹¹ Overview of laws, policies and practices on gender-based violence and harassment in the world of work in Bangladesh. URL: https://www.ilo.org/dhaka/Whatwedo/Publications/WCMS_757149/lang-en/index.htm

¹² <https://inbusiness.kz/ru/news/opros-82-kazahstancsev-priznali-problemu-seksualnyh-domogatelstv-aktualnoj>

The overwhelming majority of MediaNet survey participants consider it necessary to introduce administrative and criminal liability for sexual harassment. More than a third of citizens believe that effective legislative measures are needed to protect victims of sexual harassment in the fight against gender-based violence.

It is interesting that a third of respondents supported the integration of a sexual education into the school curriculum, and the same number supported the need of increasing the legal and ethical literacy of the population and an active information campaign aimed at combating harassment.

In 2017, the BBC Surveyed agency surveyed 2,000 respondents in the United States. According to the findings of sociological research, most victims of sexual harassment did not report it. 63% of women did not file a complaint¹³. Almost 3 out of 4 allegations of sexual harassment in a work place remain unregistered.

According to the findings of sociological research, it is recommended to work better on the development of culture in organizations to show that filing complaints about sexual harassment is encouraged. In addition to establishing a strict anti-harassment policy, regular trainings on sexual harassment prevention and immediate action on harassment allegations are needed.

A report published by the U.S. Equal Employment Opportunity Commission (EEOC)¹⁴ in 2020 showed that 55.8% of complaints received in 2020 were related to negative consequences after reporting cases of sexual harassment, which contributes to the formation of a toxic work environment. This is manifested in many forms, including downgrading, exclusion from regular activities or unfavorable reassignment.

According to women interviewed by ABC and the Washington Post¹⁵, 95% of harassment remains unpunished. This is a very alarming rate, as it shows that the corporate culture in most companies often protects harassers, not survivors.

Deloitte describes this in detail in its report¹⁶. In addition to the emotional stress for all participants, including witnesses, investigators and victims, workplace harassment also entails substantial financial costs. The loss of efficiency alone costs USD 1,053 per victim.

72% of survivors experienced harassment or violence from senior officials. Harassment by a senior executive or prominent figure can be particularly frightening, given the threats of retaliation. Blaming a more influential figure can be more intimidating, as they seem to have more «allies» than you do in your environment, which can lead to unreported harassment.

31% of survivors of sexual harassment or assault subsequently felt anxious or depressed. 37% of women who were harassed said that harassment adversely affects their career growth. As a rule, they change their workday schedule to avoid harassment.

The findings of the study of international research experience provided a methodological basis for conducting large-scale sociological study in Kazakhstan on the issues of the prevalence of violence and workplace harassment, their types and causes, consequences for health and career, prerequisites and level of prevention, accessibility of appeals and their outcomes.

¹³ <https://inspiredelearning.com/blog/sexual-harassment-in-the-workplace-statistics/>

¹⁴ <https://www.eeoc.gov/newsroom/eeoc-releases-fiscal-year-2020-enforcement-and-litigation-data>

¹⁵ <https://www.i-sight.com/resources/guide-to-workplace-sexual-harassment-infographic/>

¹⁶ <https://www2.deloitte.com/content/dam/Deloitte/au/Documents/Economics/deloitte-au-economic-costs-sexual-harassment-workplace-240320.pdf>

2.

The second stage was the preparation of a methodology and a program for conducting sociological study containing (ANNEX 1):

- the methodological part, including:

- 1.1. Urgency and the range of issues
- 1.2. Purpose and objectives of the study
- 1.3. Object and subject of the study

- the procedural part, including:

- 2.1. The volume of the sampling frame
- 2.2. Justification of the method of collecting information
- 2.3. The structure of the toolset
- 2.4. Methods of information processing
- 2.5. Methods of information analysis
- 2.6. Organization of the study (Action Plan)

In addition, the work in a focus group was included into the program of the sociological study, for which a methodology was also drawn up, and the questions were compiled

The project team with the participation of Sociology expert has prepared questionnaires (ANNEX 2):

- 1) for women¹⁷ regardless of age, social and family status, containing 31 questions
- 2) for employers, the heads of enterprises, organizations, government agencies and private entrepreneurs – employers of employees, containing 11 questions.

3.

In order to outreach to the broader employed population (employed women and employers), the project team prepared a request to social partners with the largest number of member organizations, including Atameken NCE RK, KAZENERGY Association, the «National Association of Mining and Metallurgical Enterprises» ALE. This request was sent signed by the Director of the Department of Labour and Social Partnership under the Ministry of Labour and Social Protection of the Population of the Republic of Kazakhstan (ANNEX 3).

As volunteers, employees of the central office and regional branches of the Contractor's organization based in 12 regions (regions: Akmola, Aktobe, Atyrau, East Kazakhstan, Zhambyl, West Kazakhstan, Karaganda, Kostanay, Kyzylorda, Pavlodar, cities: Almaty, Shymkent) participated in the project, who conducted a survey among these groups of population.

¹⁷ In accordance with the research methodology, it is planned to study the prevalence of violence workplace sexual harassment against women in the Republic of Kazakhstan

4.

Following the program of sociological research, a focus group was held in May 21, 2022. Members of the project team, moderated by the expert, Sh. Zhusipkalieva to cover more regions, conducted the focus group. The meeting of the focus group participants was held online via Zoom.

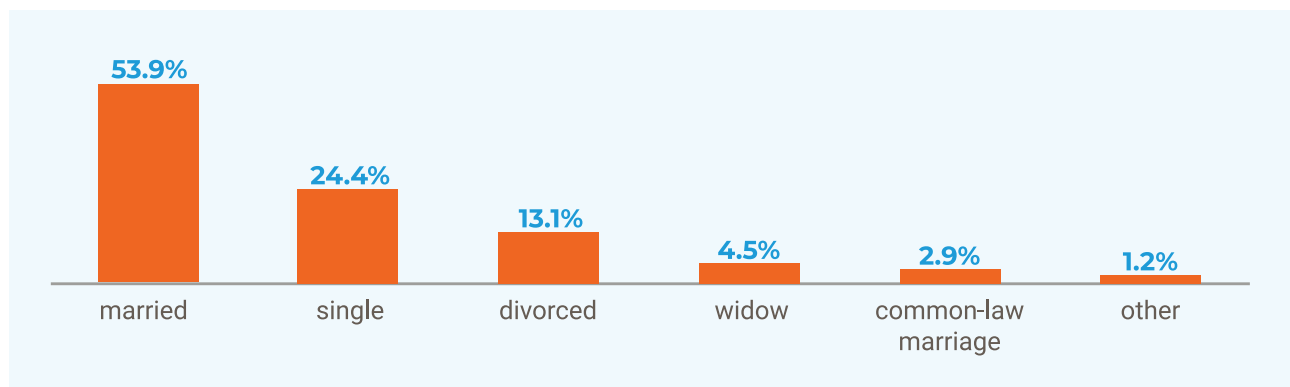
This format was welcomed by the respondents, due to the absence of the need for personal attendance and disclosure of identity, given the nature of the study and the topics of the questions.

The focus group was attended by 14 women and 1 man from different regions of the country, different ages, social and marital status, education (ANNEX 4). The event was accompanied by a video recording for further processing (minutes of the meeting, transcript) and a SCREENSHOT from a computer monitor during the focus group.

THE RESULTS OF A SOCIOLOGICAL SURVEY OF WOMEN

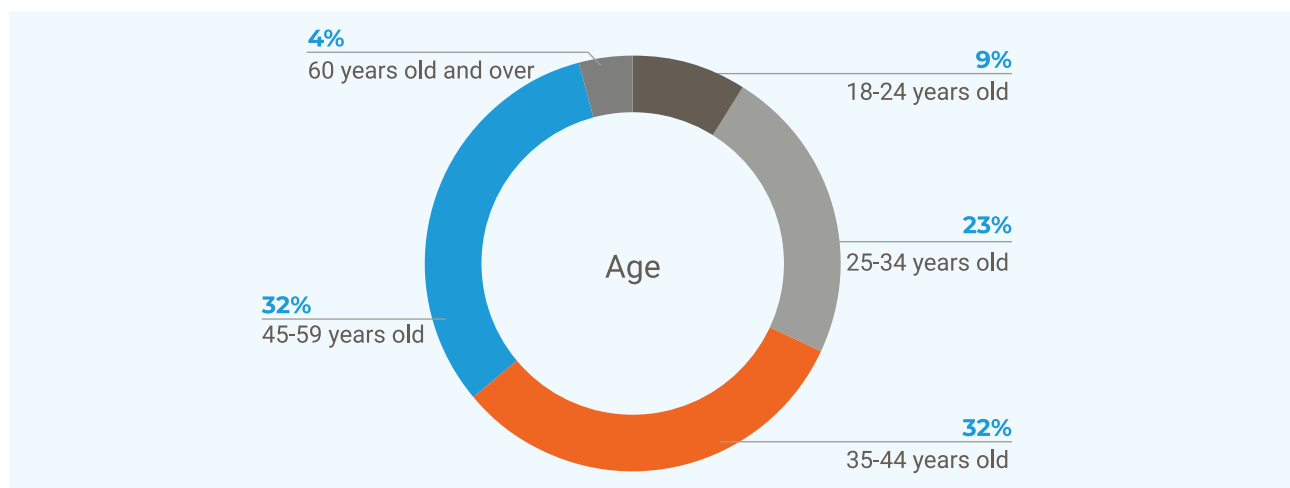
1. RESPONDENTS' PROFILE.

1339 women aged 18 to 60 years of all regions of the Republic of Kazakhstan and cities of regional significance attended the mass survey. A little more than half of the respondents were married at the time of the survey (53.9%). The share of single respondents of the total number of participants in the mass survey was 24.4%, 2.9% of respondents at the time of the survey were in unregistered cohabitation, 13.1% divorced and 4.5% widowed.



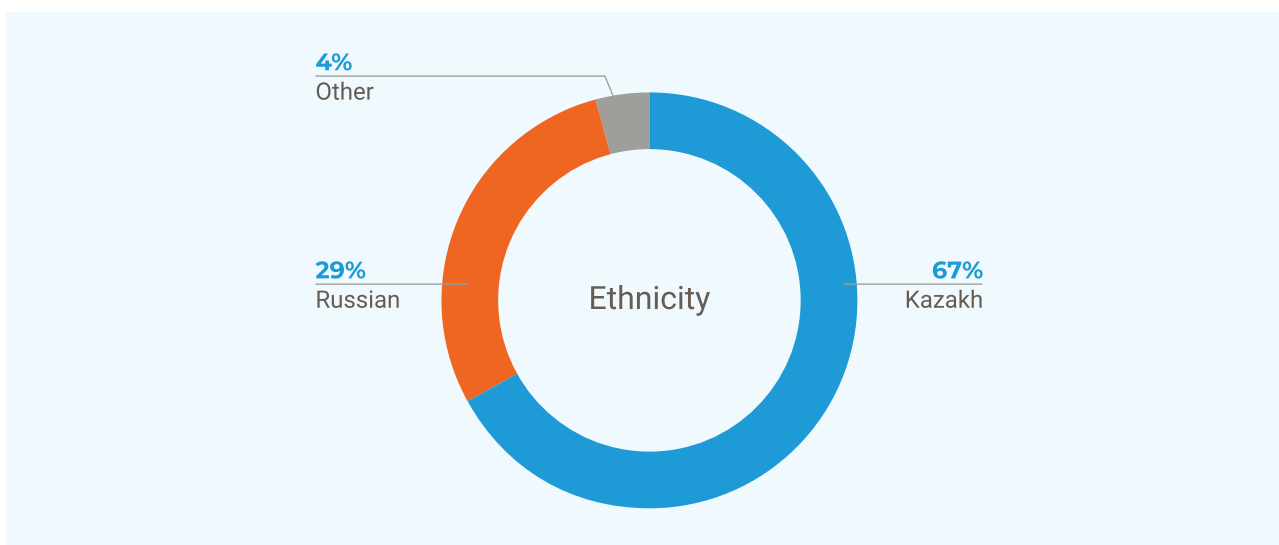
| Family status of women who have been personally harassed. | Qty | % |
|---|-----|------|
| Married | 77 | 44.5 |
| Unregistered cohabitation | 8 | 4.6 |
| Single | 49 | 28.3 |
| Widow | 4 | 2.3 |
| Divorced | 31 | 17.9 |
| Other | 4 | 2.3 |

Breakdown of the sampling frame by age groups is as follows: the largest number of respondents is the group aged 35 to 59 years (64%).

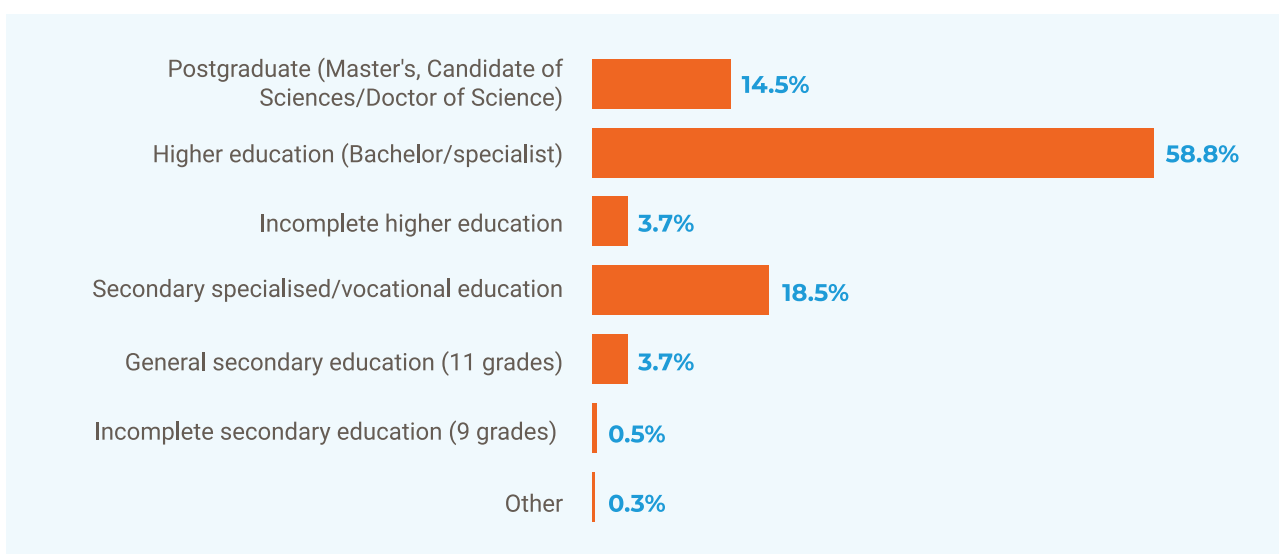


| The age of women who have been personally harassed. | Qty | % |
|---|-----|------|
| 18-24 years old | 22 | 12.7 |
| 25-34 years old | 45 | 26 |
| 35-44 years old | 57 | 32.9 |
| 45-59 years old | 45 | 26 |
| 60 years or older | 1 | 0.6 |
| Not specified | 3 | 1.8 |

In terms of ethnic origin, 66.7% of Kazakh women, 29.4% of Russian women and 3.9% of representatives of other ethnic groups were interviewed: Ukrainians, Uighurs, Tatars, Germans, Koreans and others.

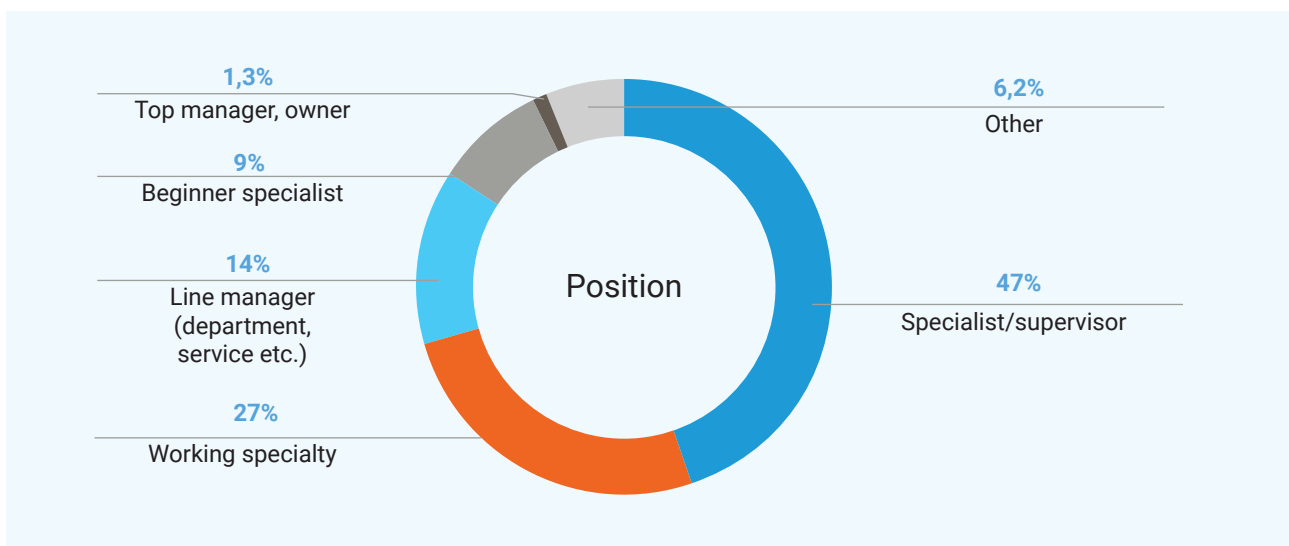


Among the women surveyed, the most significant group of respondents was 58.8% with higher education, 14.5% had a Master's of Science degree, 3.7% of respondents had incomplete higher education at the time of the survey. The group of survey participants with secondary specialized/vocational education was also representative (18.5%).



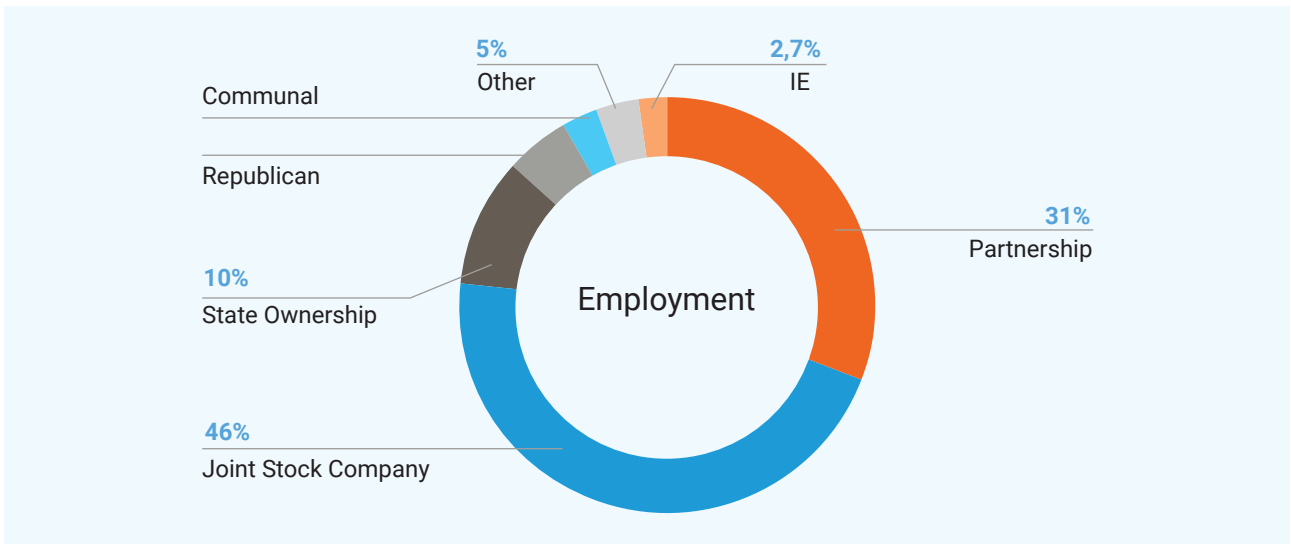
| Education of women who have been personally harassed | Qty | % |
|--|-----|------|
| Postgraduate (Master's degree, Candidate/Doctor of Sciences) | 30 | 17.3 |
| Higher education (Bachelor/Specialist) | 104 | 60.1 |
| Incomplete higher education | 8 | 4.6 |
| Secondary professional/vocational education | 22 | 12.7 |
| General secondary (Grade 11) | 6 | 3.5 |
| Other | 3 | 1.7 |

According to the position in employment, most of the respondents were specialists (including lead ones) (47%), 26.7% had blue-collar jobs, 13.5% of them were line managers, 5.4% of them were entry-level specialists, and only 1.3% of respondents were top managers, company owners.

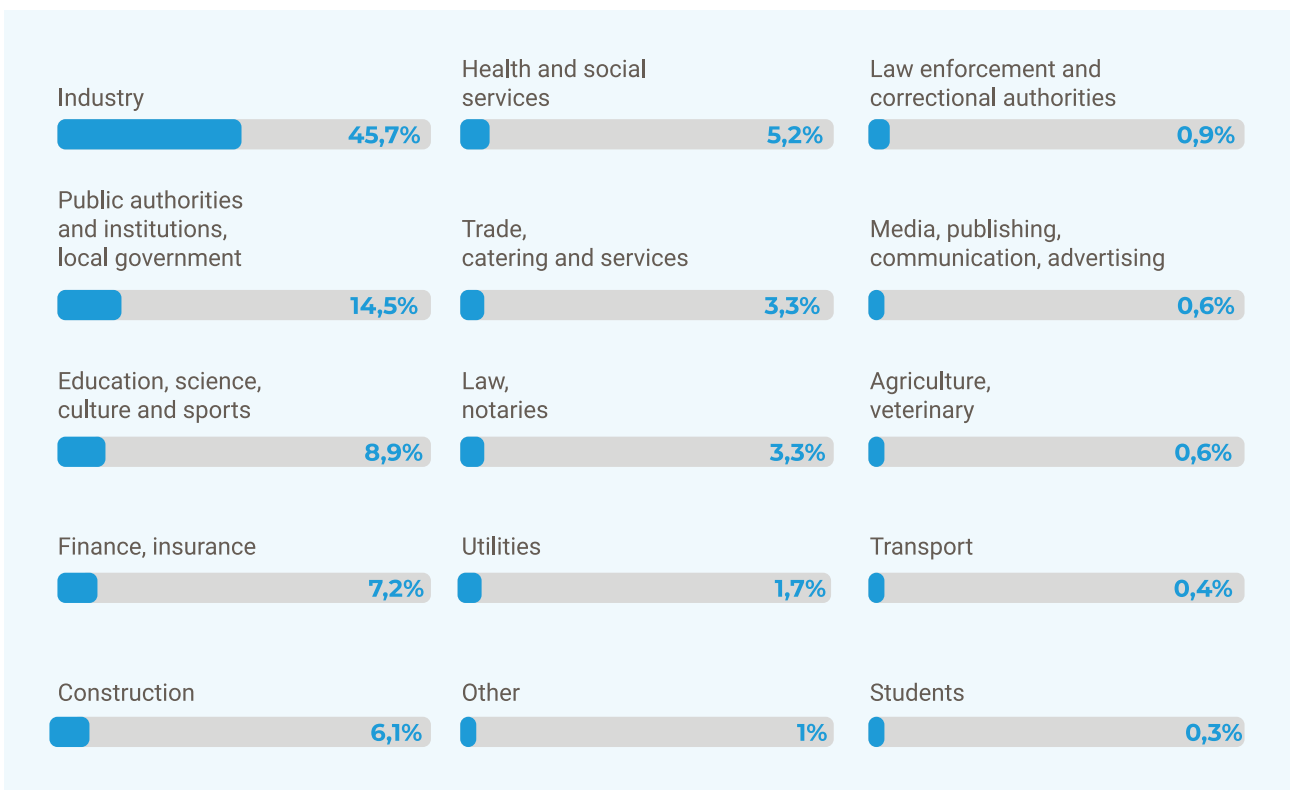


| According to the position in the employment women who have personally been harassed | Qty | % |
|---|-----|------|
| a top manager, a company owner | 4 | 2.3 |
| a line manager (department, service, etc.) | 32 | 18.5 |
| a specialist / lead specialist | 80 | 46.2 |
| an entry-level specialist | 15 | 8.7 |
| manual labor | 29 | 16.8 |
| Other | 13 | 7.5 |

46% of women work in joint-stock companies, 31% in organizations and enterprises with a Limited Liability Partnership form of ownership, 10% work in government-owned enterprises and 2.7% are individual entrepreneurs.



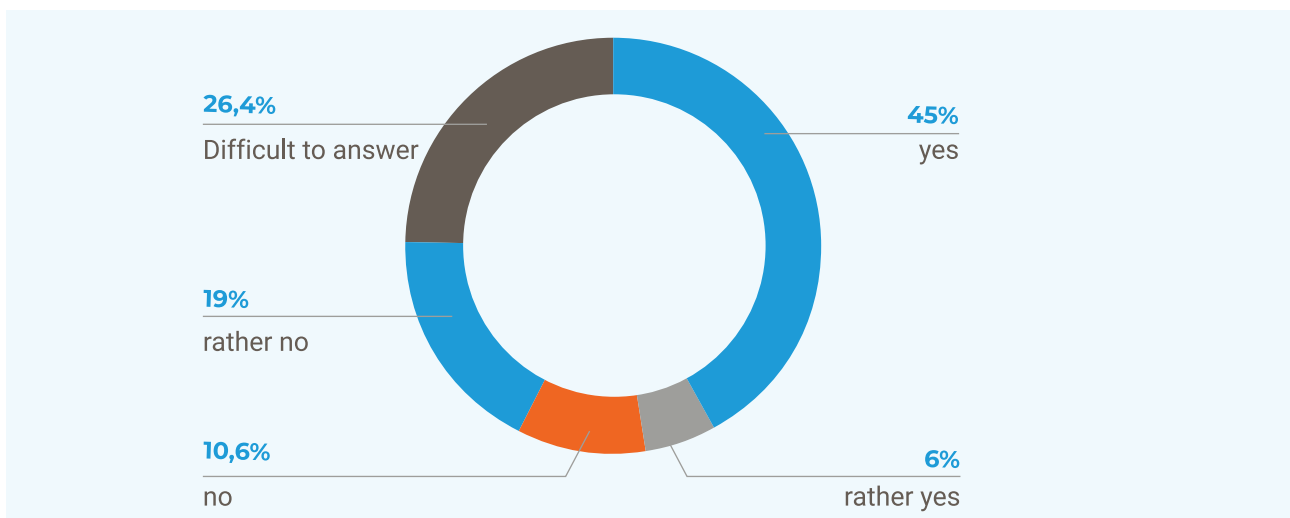
Respondents indicated the main types of economic sector of enterprises (entities): industry – 45.7%, government and local executive bodies, institutions (other than those listed in the options above) -14.5%, academic, science, culture, sports – 8.9%.



| Breakdown of the number of respondents by region | Total | | incl. those who have been harassed | |
|--|-------|-------------|------------------------------------|-------------|
| | Qty | % | Qty | % |
| Astana city and Akmola region | 138 | 10 | 35 | 25.4 |
| Almaty city and Almaty region | 440 | 31.8 | 58 | 13.2 |
| Shymkent city and Turkestan region | 48 | 3.6 | 5 | 10.4 |
| Aktobe region | 33 | 2.4 | 5 | 15.2 |
| Atyrau region | 124 | 9 | 11 | 8.9 |
| East Kazakhstan region | 124 | 9 | 8 | 6.5 |
| Zhambyl region | 45 | 3.3 | 3 | 6.7 |
| West Kazakhstan region | 70 | 5.1 | 4 | 5.7 |
| Karaganda region | 206 | 14.9 | 16 | 7.8 |
| Kostanay region | 47 | 3.4 | 8 | 17.0 |
| Kyzylorda region | 5 | 0.4 | 0 | 0.0 |
| Mangystau region | 46 | 3.3 | 9 | 19.6 |
| Pavlodar region | 38 | 2.7 | 7 | 18.4 |
| North Kazakhstan region | 12 | 0.9 | 0 | 0.0 |

2. DESCRIPTION OF THE RESULTS OF THE SURVEY.

To the question, «Do you think there are cases of violence and workplace harassment in our country?» 45% of women answered that there is, 10.6% believe that there is not.

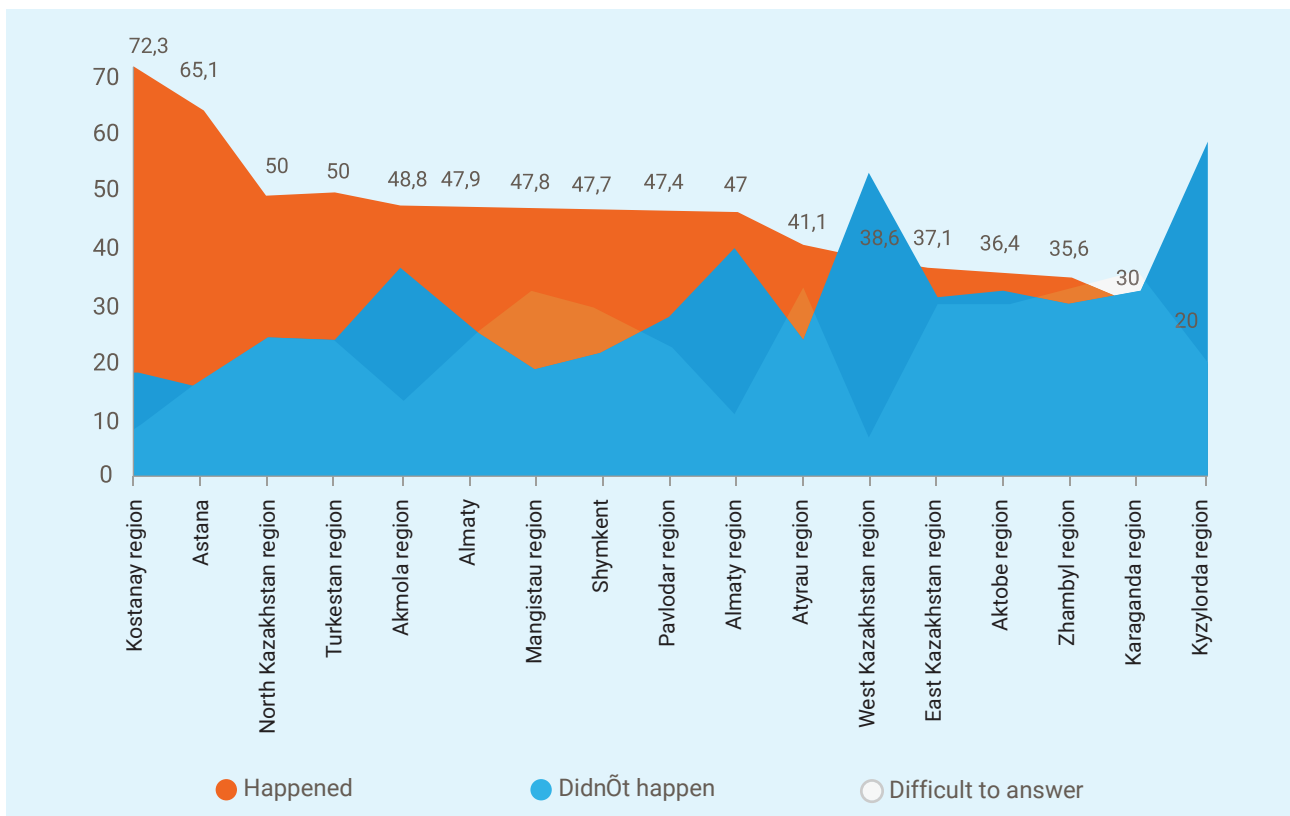


Mostly respondents from the West Kazakhstan region deny the problem.

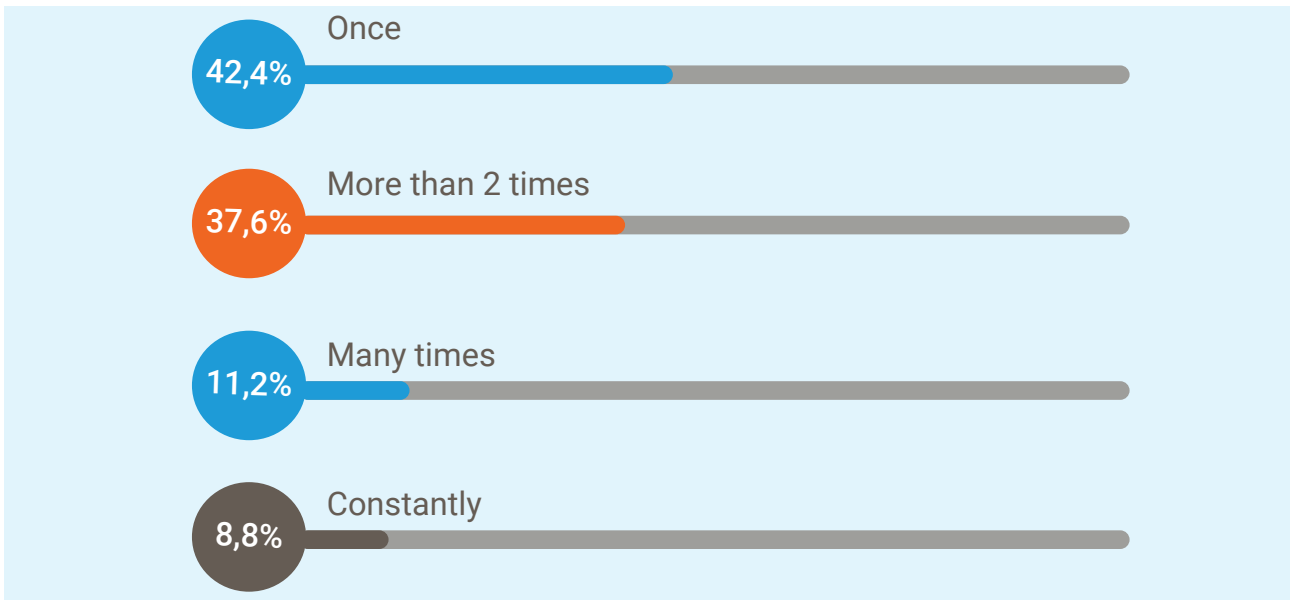
| | Yes, there is | Yes, insignificant number of cases | I don't think there is | Probably not | No | I find it difficult to answer |
|---------------|---------------|------------------------------------|------------------------|--------------|----|-------------------------------|
| Astana city | 63 | 8 | 9 | 5 | 4 | 20 |
| Almaty city | 147 | 24 | 43 | 20 | 35 | 88 |
| Shymkent city | 19 | 2 | 3 | 3 | 4 | 13 |
| Akmola region | 12 | 2 | 5 | 4 | 2 | 4 |

| | Yes, there is | Yes, insignificant number of cases | I don't think there is | Probably not | No | I find it difficult to answer |
|-------------------------|---------------|------------------------------------|------------------------|--------------|----|-------------------------------|
| Aktobe region | 10 | 2 | 2 | 3 | 6 | 10 |
| Almaty region | 30 | 9 | 18 | 8 | 8 | 10 |
| Atyrau region | 44 | 7 | 11 | 8 | 12 | 42 |
| East Kazakhstan region | 43 | 3 | 20 | 7 | 13 | 38 |
| Zhambyl region | 10 | 6 | 9 | 2 | 3 | 15 |
| West Kazakhstan region | 17 | 3 | 10 | 10 | 18 | 12 |
| Karaganda region | 53 | 9 | 19 | 19 | 31 | 75 |
| Kostanay region | 30 | 4 | 4 | 3 | 2 | 4 |
| Kyzylorda region | 1 | 0 | 1 | 0 | 2 | 1 |
| Mangystau region | 20 | 2 | 4 | 3 | 2 | 15 |
| Pavlodar region | 16 | 2 | 6 | 0 | 5 | 9 |
| North Kazakhstan region | 5 | 1 | 2 | 0 | 1 | 3 |
| Turkestan region | 2 | 0 | 0 | 1 | 0 | 1 |

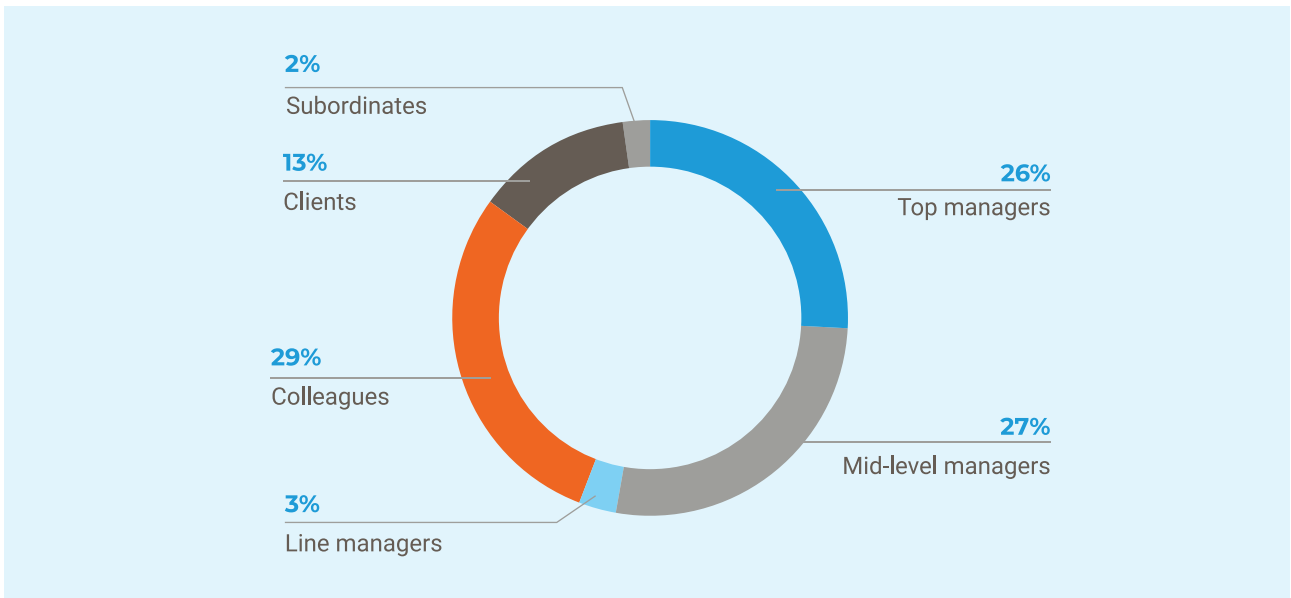
The absolute majority (87.9%) have never been in situations of coercion or unwanted physical contact at work in their lives. Of the 1,331 women who answered this question, 128 or 9.5% faced sexual offers or demands at work, and repeatedly, those who found it difficult to answer should be referred to the second category, due to the fact that later in the survey, they answered affirmatively to clarifying questions. Thus, we count 173 female victims.



Among women who have been harassed, the rate of cases is distributed as follows.



In 52% of cases, violence and sexual harassment come from managers at various levels, however, about a third of cases are caused by colleagues/colleague.

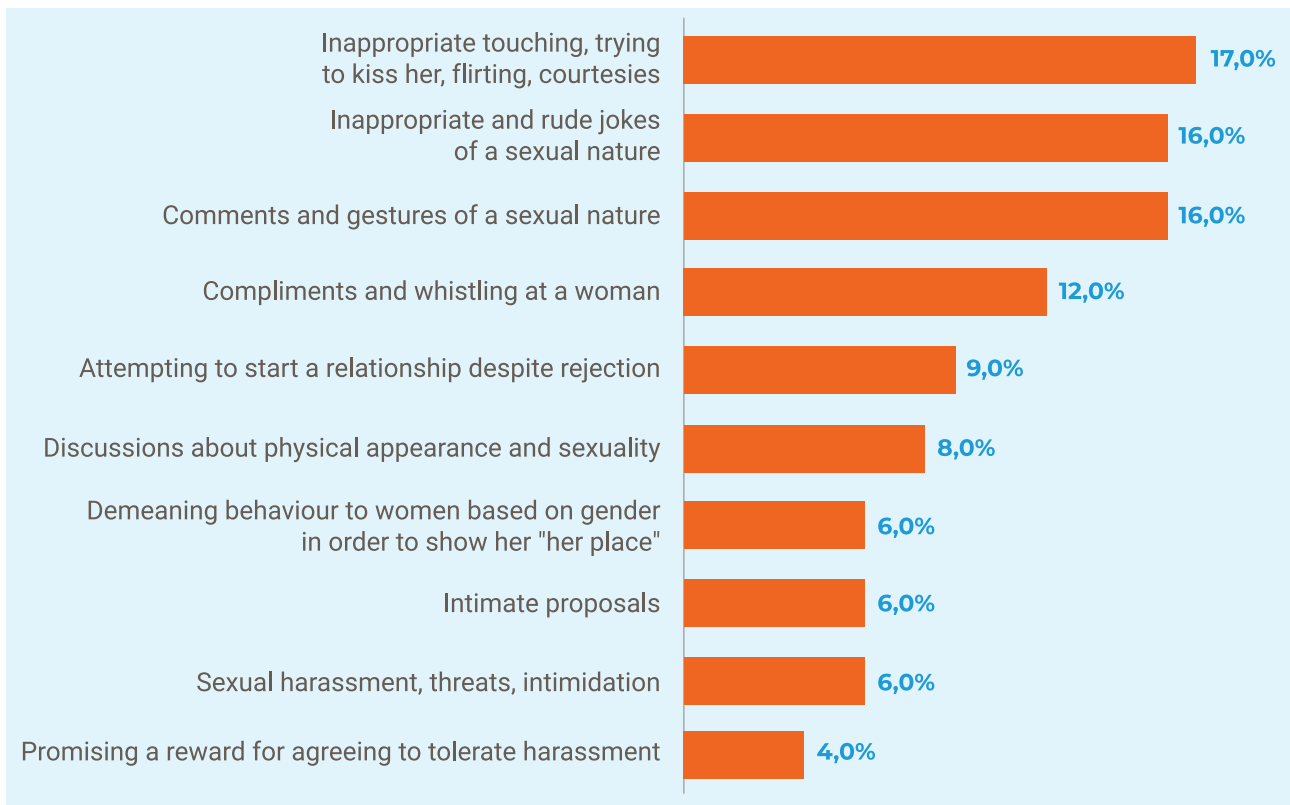


| | Qty | % |
|-----------------------------------|-----|------|
| Young single ladies | 722 | 41.9 |
| Married middle-aged women | 531 | 30.8 |
| Absolutely every woman/young lady | 410 | 23.8 |
| Other | 36 | 2.1 |

According to respondents, young single ladies (41.9%) and 30.8% married middle-aged women most often face harassment at work.

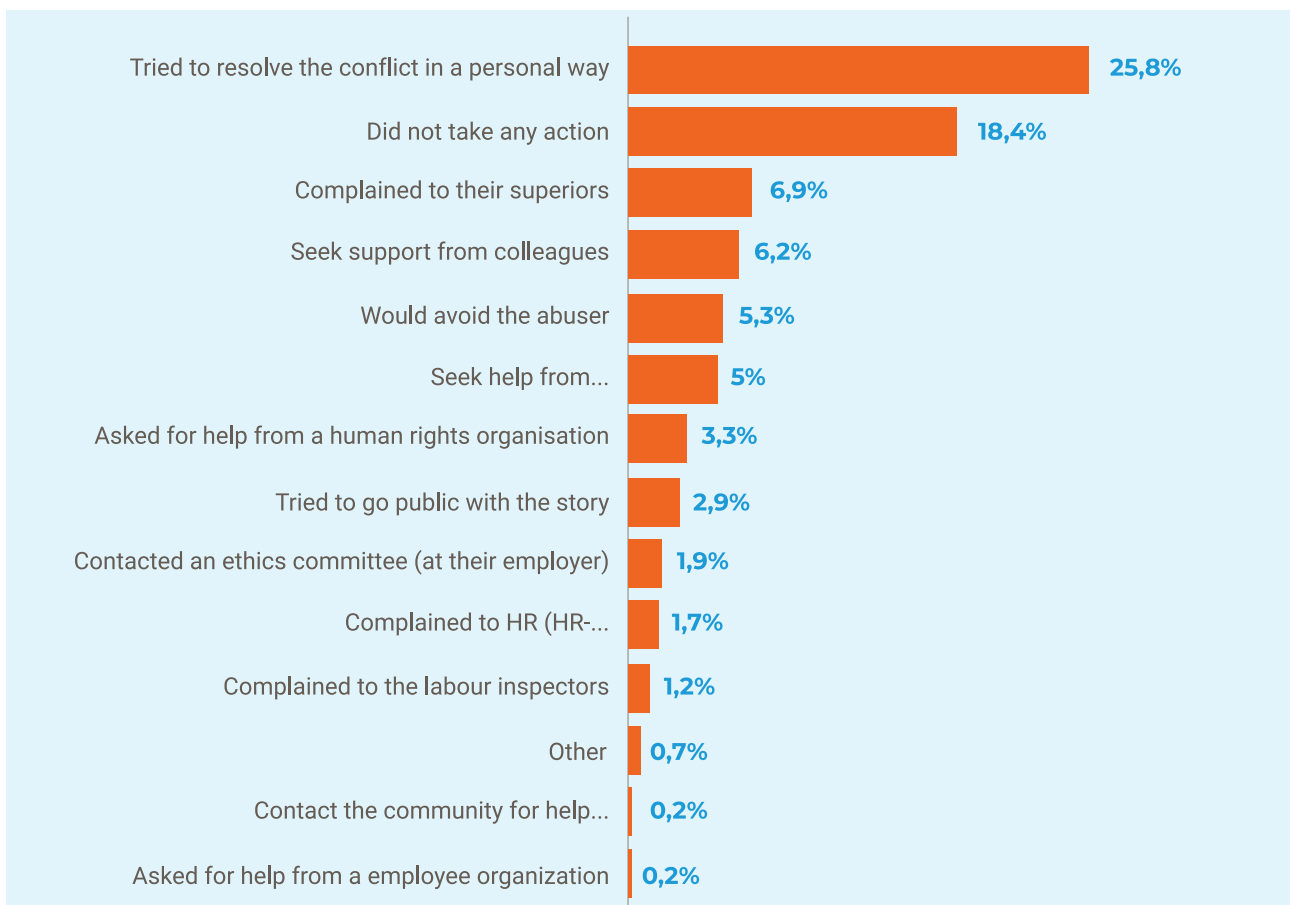
At the same time, almost every fourth woman believes that all women/young ladies have a risk of facing this problem.

The main manifestations of violence and sexual harassment faced by women iat work.

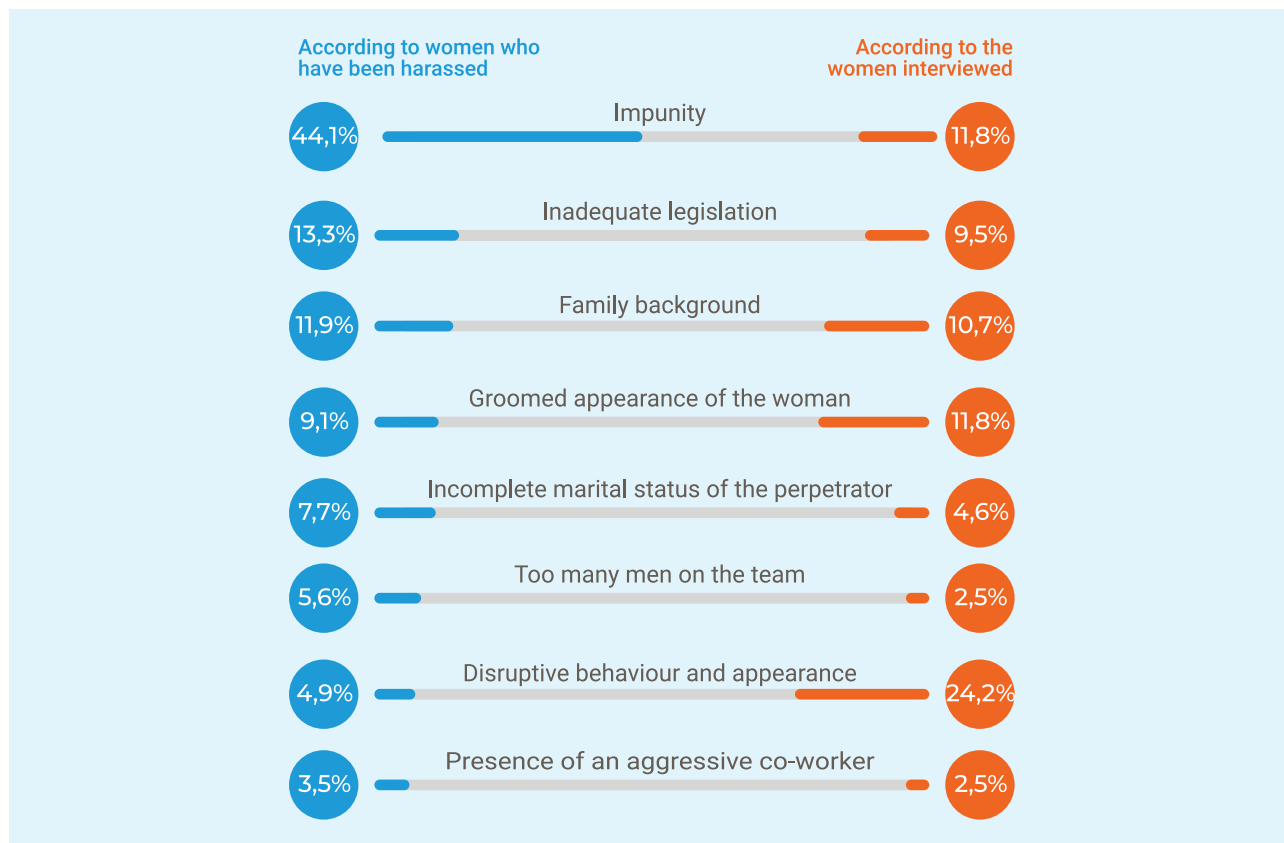


9 respondents (1%) indicated such a type as «A favour for a favour», that is, offers of patronage and promotion on the career ladder in exchange for sexual relations.

To the question, «**Did you take any measures after harassment?**» 25.8% replied that they would try to resolve the conflict in a personal manner (for example, they explained to the offender that it was unacceptable, unpleasant, asked to stop), another 18.4% would not take any measure.



To the question «**What can be the reason for excessive attention to women from male colleagues?**» 11.1% of all respondents and the majority of women who were harassed (44.1%) called the impunity of harassment, 13.3% of women blame the imperfection of legislation, and 11.9% of respondents believe the reason is the shortcomings of family education. At the same time, 24.2% of all women surveyed believe that the victim, her defiant behavior, clothing and availability are to blame.



To the question, «**Did women note the deterioration of mental and/or physical health due to the facts of violence and workplace harassment,** it turned out that 6.9% of cases ended with depression and stress, 1 woman – 0.5% said that after harassment they (or their colleagues, acquaintances) had to see a psychologist, they gained weight and started having communication problems, and 4 – 1% had bodily injuries.

| | Qty | % |
|---|-----|------|
| Yes, I was stressed out | 83 | 20.4 |
| Yes, it was humiliating | 80 | 19.7 |
| I fell into depression | 13 | 3.2 |
| I saw a psychologist | 4 | 1.0 |
| Damage to my health in the form of bodily injury (abrasions, bruises, etc.) | 1 | 0.5 |
| No, it hasn't worsened | 34 | 8.4 |
| I find it difficult to answer | 189 | 46.4 |

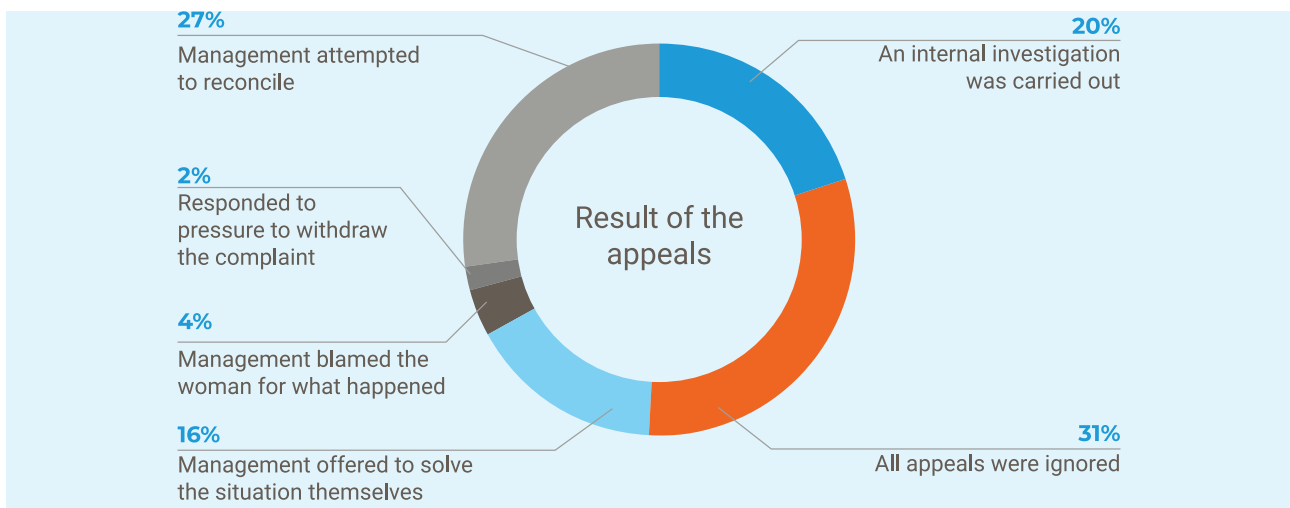
Among women who were personally harassed, 36.6% were stressed out, 38.2% felt humiliated, 8.1% fell into depression. 15.4% indicated that their well-being had not worsened.

| | Qty | % |
|---|-----|------|
| Yes, I was stressed out | 45 | 36.6 |
| Yes, it was humiliating | 47 | 38.2 |
| I fell into depression | 10 | 8.1 |
| I saw a psychologist | 1 | 0.8 |
| Damage to my health in the form of bodily injury (abrasions, bruises, etc.) | 1 | 0.8 |
| No, it hasn't worsened | 19 | 15.4 |

In 35% of cases, women, faced with harassment, did not take any measures.

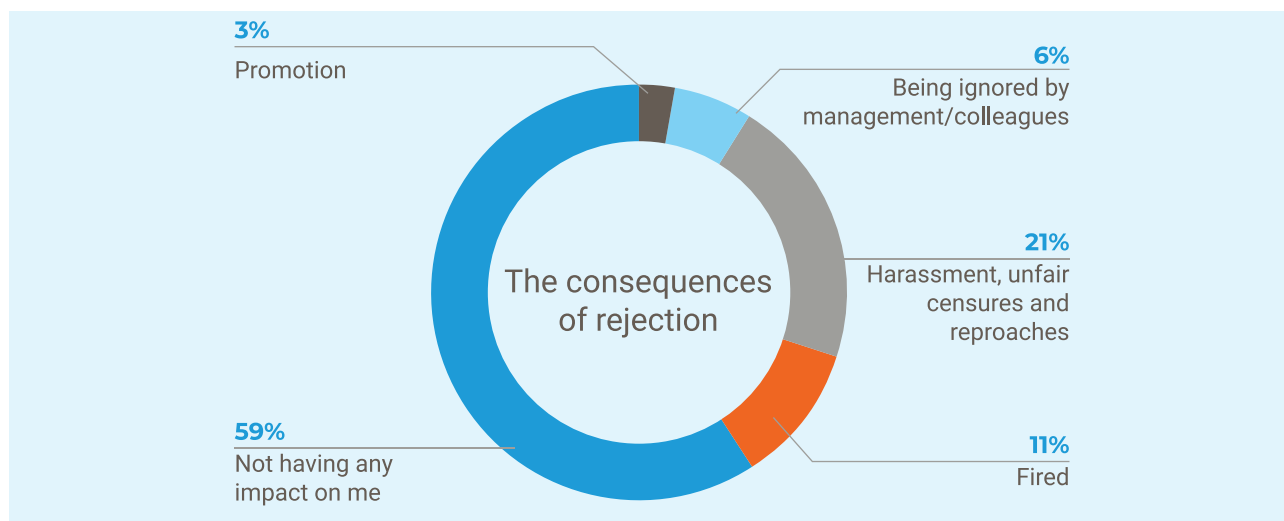


According to the survey findings, in 78% of cases when women reported the incident to the management, there was a disregard or negative reaction. In almost 20% of cases the management took action, the women were heard, the offenders were punished. However, at the same time, in 27% of cases the management tried to reconcile the sides.

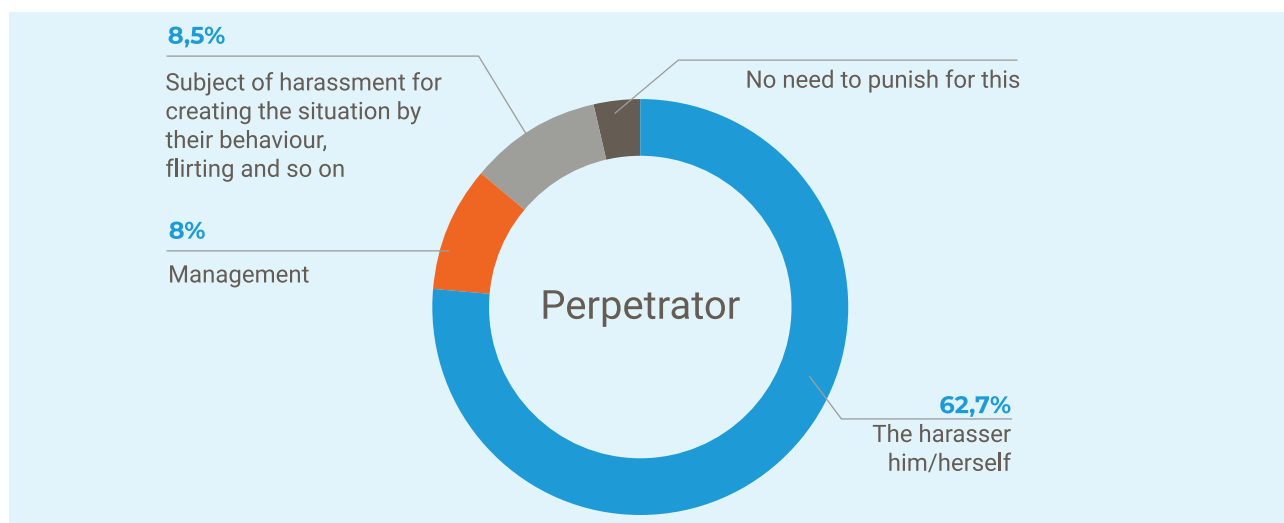


Among women who were personally harassed, 40% transferred to another department, 5% resigned under pressure and 20% of them left voluntarily.

A larger number of respondents to the question about the consequences of refusing to enter into intimate relationships and not accepting courtship from management or colleagues replied that it did not affect them in any way, 21% experienced oppression, unfair complaints and reproaches, 11% were fired, 6% were ignored by the harasser and 3% were promoted.



Along with 62.7% of respondents who believe that the harasser should bear responsibility, 8.2% blame the object of harassment for creating an incident with its defiant behavior and appearance, and 8% believe that an employer also shall bear responsibility.



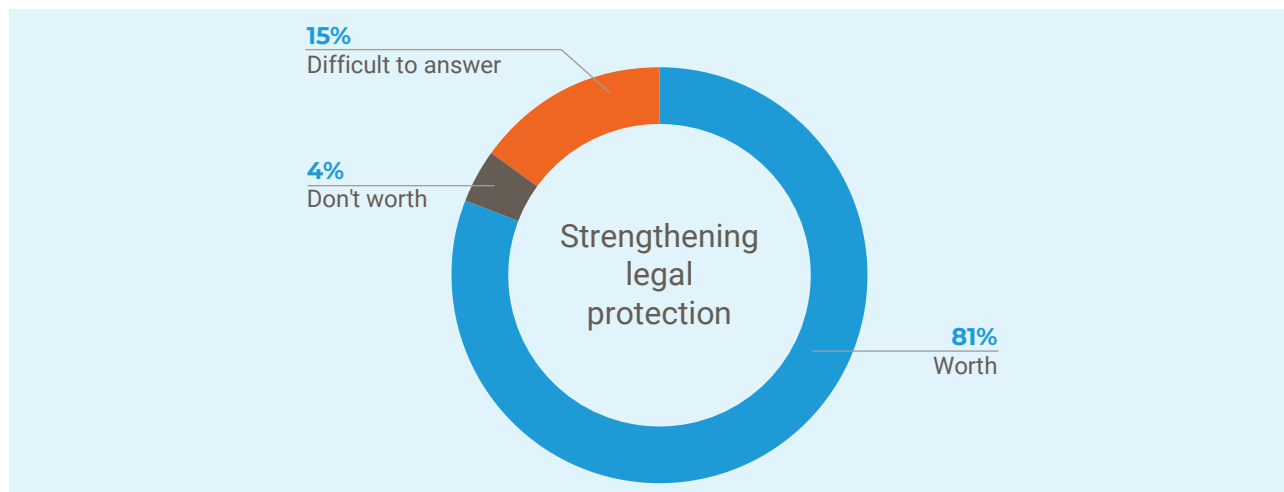
According to the majority of respondents (89.6%), criminal together with disciplinary liability at work (reprimand, remark, dismissal) are punishments by which sexual harassment in a workplace should be punished.

| | Qty | % |
|---|-----|------|
| Disciplinary liability at work (reprimand, remark, dismissal) | 711 | 33.2 |
| Administrative liability (fine) | 476 | 22.2 |
| Criminal liability imprisonment | 733 | 34.2 |
| Refusal to respond | 12 | 0.6 |
| I find it difficult to answer | 211 | 9.9 |

Among women who have personally been harassed, 49.1% agree that physical and psychological harassment from managers and colleagues is not yet discussed as a problem in principle.

To the question, «**Should legal protection against sexual harassment in a workplace be strengthened in Kazakhstan?**» 58.6% unequivocally support the strengthening of legal protection, 21.7% are also tend to this opinion, and 1.5% do not consider it important.

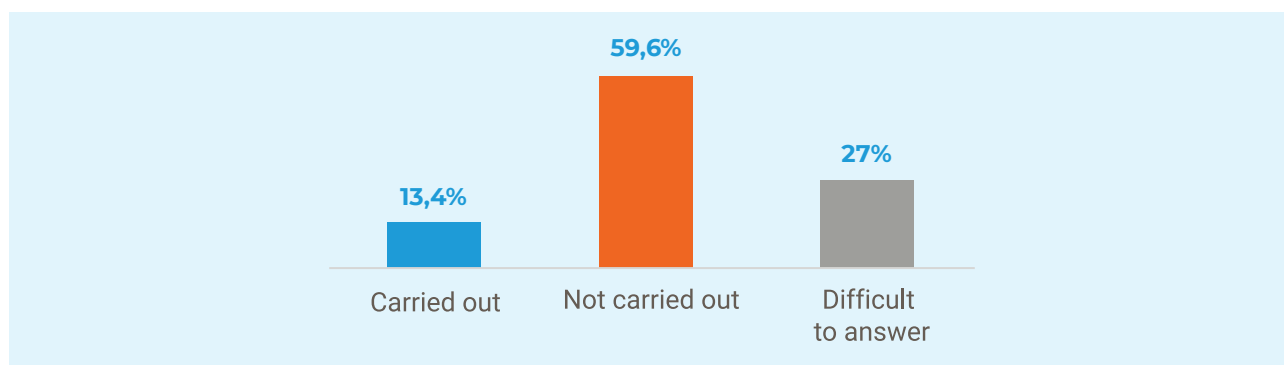
To the question «**How often do women / young ladies become the object of increased attention for colleagues?**», we received the following data. 23% believe that this happens in rare cases and sometimes. Slightly less than 22.8% often and 7.6% never. 39.4% of respondents find it difficult to answer.



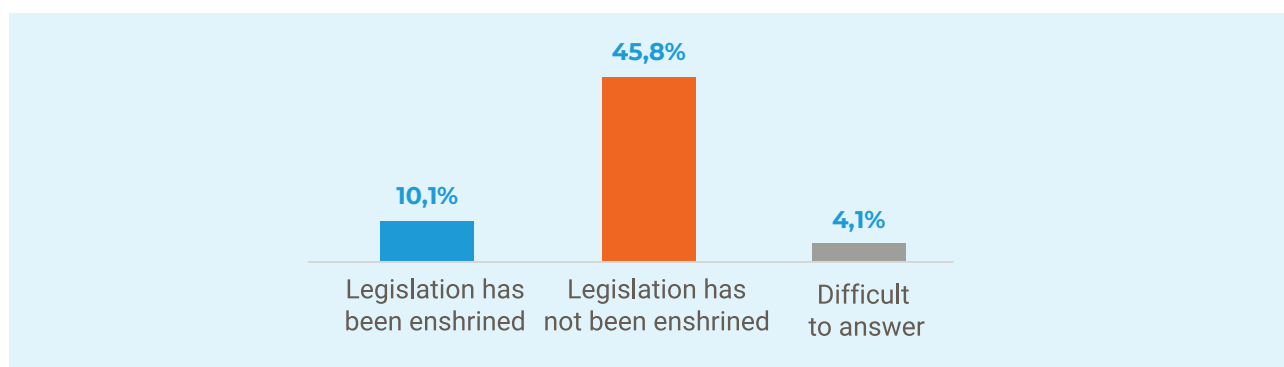
To the question, «**What advice would you give to a friend who was offered a prestigious job or a career promotion in exchange for an intimate relationship?**» 29.2% replied that it is up to each and everyone / she is to decide for herself. 25% would advise to refuse the offer, 19% - to contact law enforcement agencies.



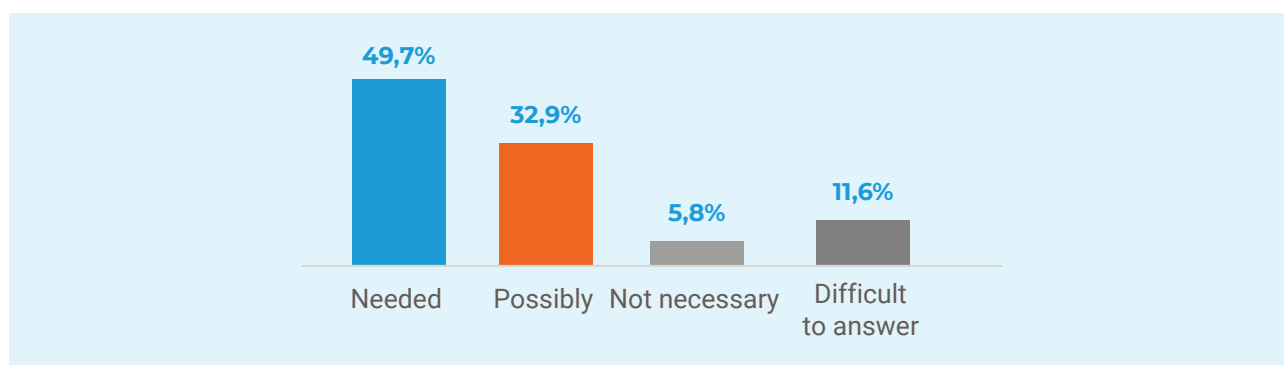
59.6% of respondents indicated that the entity where they work does not implement measures to prevent violence and workplace harassment, 27% found it difficult to answer.



45.8% of women indicated that sexual harassment in our country has no procedural grounds, it is not enshrined in law, there is neither a term nor a definition of what this concept means.



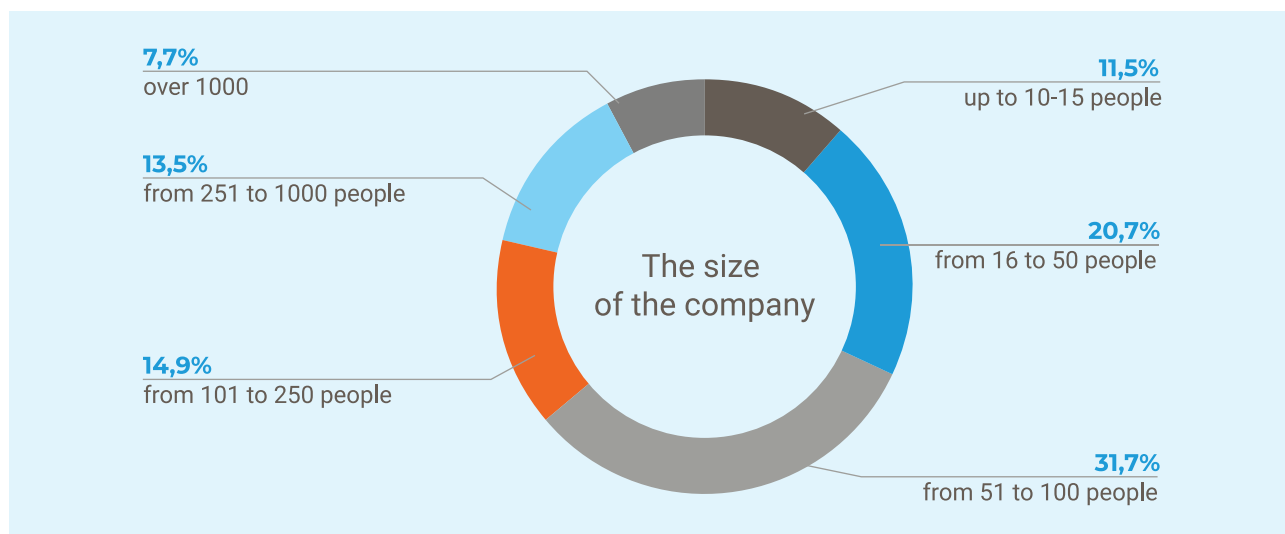
49% answered in the affirmative to the question «Does Kazakhstan need separate laws on sexual harassment?»



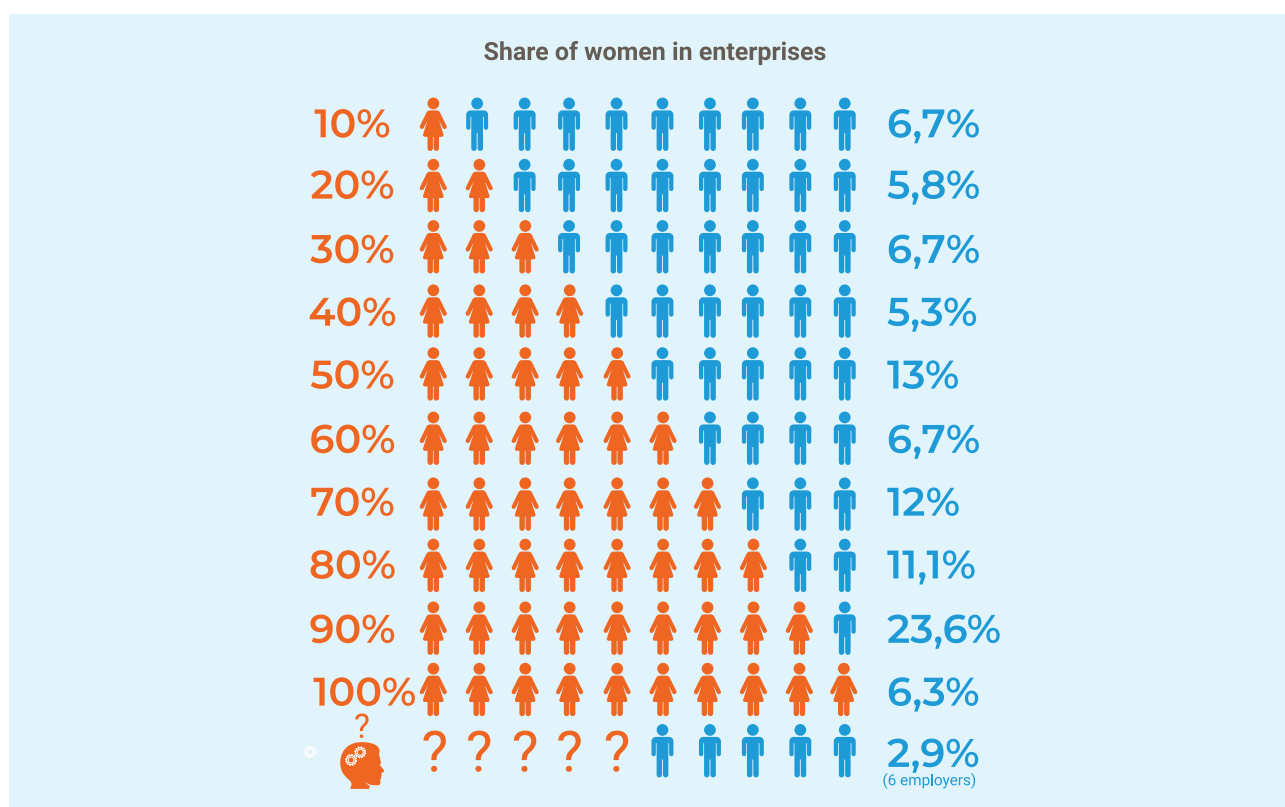
THE RESULTS OF THE SOCIOLOGICAL SURVEY OF EMPLOYERS

3. RESPONDENT PROFILE.

208 company executives took part in the sociological research. In terms of the size of enterprises (by the number of employees) managed by respondents, the picture is as follows: 31.7% - from 51 to 100 people, 20.7% - from 16 to 50 people, 14.9% - from 101 to 250 people, 13.5% - from 251 to 1000 people and 7.7% - over 1000 people.

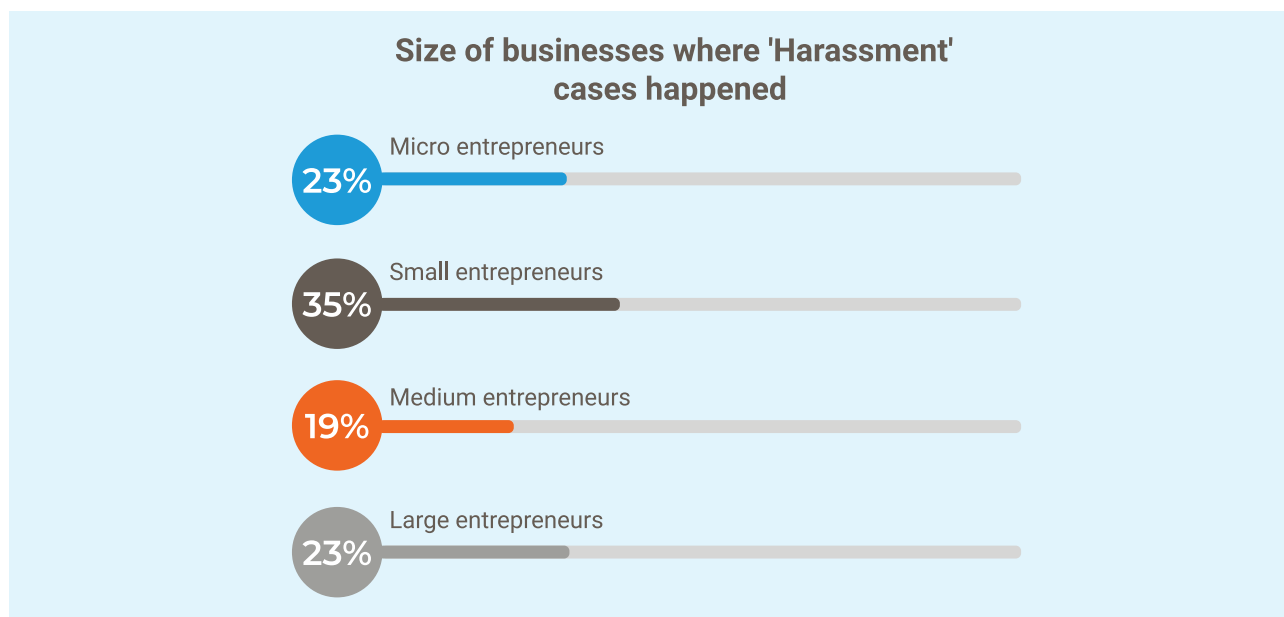


In the majority, heads of enterprises, in which women comprise about 90% and 70% and 50%, attended the survey. 6 employers (2.9%) found it difficult to answer this question.

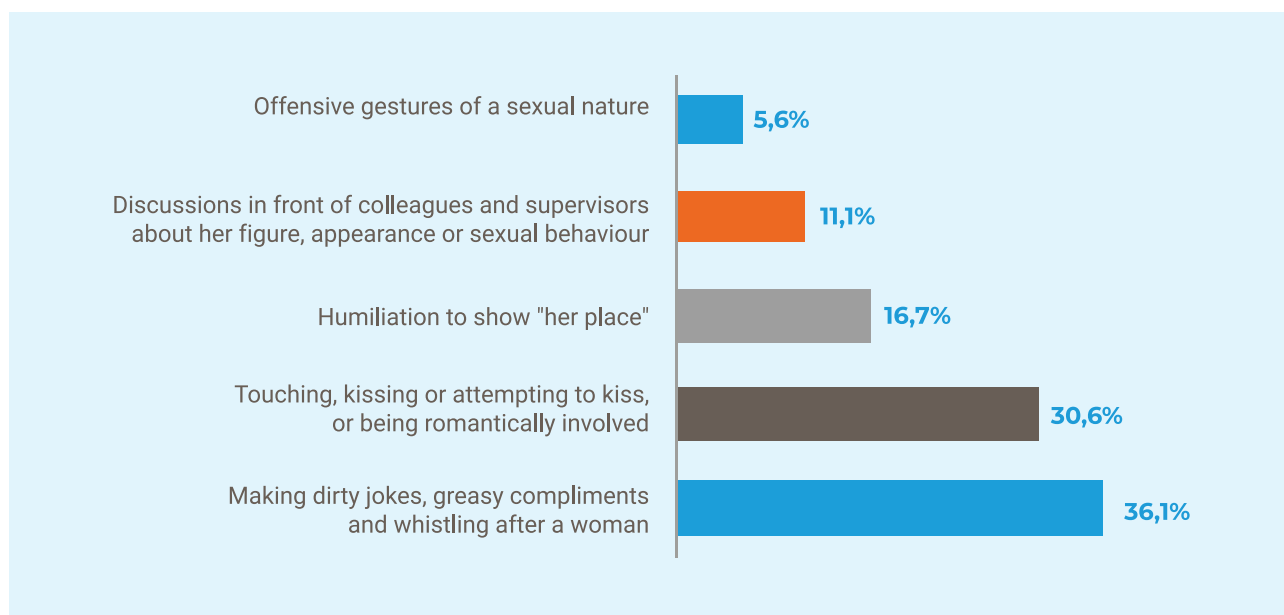


THE RESULTS OF THE SOCIOLOGICAL SURVEY

To the question «As a manager (including other organizations) have you ever received any complaints from women or representatives of the labour collective regarding cases of harassment or indecent behavior humiliating women on the basis of gender?» 87.5% indicate that there were no appeals, 9.6% are aware of the incidents, despite lack of appeals and 2.9% are aware of incidents that occurred at other entities.



Among the main types of gender-based violence and workplace harassment, employers noted vulgar jokes, «greasy» compliments and whistling after a woman (36.1%), touching, kissing or trying to kiss, having a romantic relationship (30.6), humiliation in order to show «her place» and comments about the fact that a woman cannot be a good leader (16.7%).



To the question «**Where did such incidents occur?**». According to 6.7%, this happened directly in the workplace, 6.3% during corporate events, including under the influence of alcoholic beverages, 1.9% during business trips and 1.4% in employee dormitories, rotational villages. 37% could not answer this question.

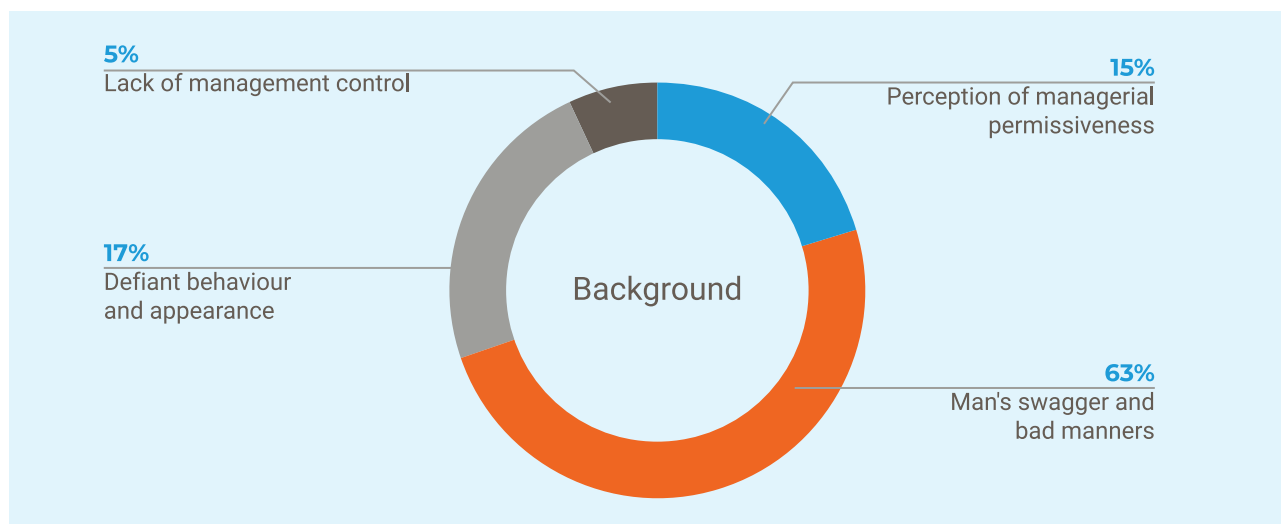
| | Qty | % |
|---|-----|----|
| in employee dormitories, rotational villages | 3 | 9 |
| during corporate events, including under the influence of alcoholic beverages | 13 | 38 |
| during business trips | 4 | 12 |
| directly in the workplace | 14 | 41 |

According to executives, incidents more often were initiated by colleagues (32.7%) and customers, visitors (28.8%) and company executives – 21%.

| | Qty | % |
|----------------------|-----|------|
| company executives | 9 | 17.3 |
| direct line managers | 7 | 13.5 |
| colleagues | 17 | 32.7 |
| subordinates | 4 | 7.7 |
| customers, visitors | 15 | 28.8 |

At the same time, on the part of the company executives, harassment is noted in the majority in micro and small businesses, on the part of colleagues in small and large businesses, on the part of clients, harassment is noted in small businesses.

To the question, «In your opinion, what were the prerequisites for these incidents?», the majority (63%) noted the flashy and bad manners of men, the feeling of permissiveness of the head (15%), as well as the defiant behavior and the appearance of women (17%).



Among the measures taken by the management in response to the appeal of the female victims, only 5% of cases were followed by an appeal to law enforcement agencies, an investigation was conducted in 8% and in 14% of cases no measures were taken, left without a decision, respondents believe that it would not be worthwhile for the management to pay attention.

At the same time, the absolute majority (73%) found difficulty in replying to this question.



Respondents, for the most part, noted that the incident had no consequences for the survivor (62%), a change of job; transfer to another department occurred in 17% of cases and in 20% of women had health issues.

To the question, «**How, in your opinion, should management be organized in an entity in order to protect women from harassment?**» employers proposed strengthening the promotion of family values, respect for women, gender equality (41.3%); organizing the opportunity to report sexual violence and harassment at work to management (28%); suppression of cases of indecent attitude towards women, approve the appropriate (26%).



At the same time, 4.1% of respondents consider it reasonable not to take measures for various reasons.

2. ANALYTICAL AND STATISTICAL BRIEF ON THE MAIN TYPES AND CAUSES OF VIOLENCE AND SEXUAL HARASSMENT AT WORK IN THE REPUBLIC OF KAZAKHSTAN

IMPLEMENTATION PERIOD 01.05.2022 – 10.06.2022

1. INCIDENCE AND MAIN TYPES.

About half of the women surveyed (51%) confirmed that there are facts of violence and workplace harassment in Kazakhstan, most of them from Kostanay region and Astana city. Respondents deny the existence of these facts in the West Kazakhstan and Kyzylorda regions. Women of Zhambyl and Karaganda regions gave approximately the same answers on the presence and absence of violence, which were distributed by a third of the answers “yes”, “no” and “I find difficulty in replying”.

According to the research findings, with the empirical transfer of the data obtained to the scale of the country, it can be assumed that more than 300 thousand women have at least once in their lives faced violence and workplace harassment.

Of the women surveyed who were harassed, more than half indicated that these facts were repeated (57.6%). Empirically, it can be assumed that 26 thousand women endure violence, inappropriate and obscene behavior in their address all the time. This is confirmed by 12% of surveyed employers who have personally received similar appeals from women or have heard about such cases in other organizations. Among the most frequently admitted types of violence, women noted unpleasant touching, flirting, courtship and attempts to kiss (17%), inappropriate jokes on sexual topics (16%), comments and gestures of a sexual nature (16%).

Employers also highlighted a greater number of requests for these types (vulgar jokes, compliments (36%), touching, kissing (31%), discussing the body shape and look in the presence of colleagues (11%). 17% of employers noted that the purpose of such actions is rather not sexual violence, to show a woman «her place» and that she cannot be a good specialist and leader.

2. THE MAIN PREREQUISITES AND REASONS.

According to two-thirds of the women surveyed, violence and workplace harassment came mainly from managers. A third of women mentioned their colleagues and clients as abusers, which was also confirmed by employers. In their opinion, colleagues and clients are more likely to enable harassment, especially in small and medium-sized businesses.

Women are most often harassed at their workplace (41%), during corporate events (38%), less during business trips (12%).

About 10% of employers received reports of harassment while living in employee dormitories and rotational villages. If we take into account that only a part of the surveyed employers

belong to the manufacturing and processing industries, then this indicator can also be considered substantial.

According to respondents, young single women (42%) and married middle-aged women (30.8%) most often face harassment at work. At the same time, almost every fourth woman believes that all female employees have a risk of encountering this.

Employers consider the undue ease and bad manners of abusers to be the main prerequisites for violence and sexual harassment (63%). In second place, the defiant behavior and look of a woman (17%), the feeling of permissiveness of the head (15%), and the lack of control by the head of the enterprise were noted by 5%.

A quarter of all women surveyed cited the defiant behavior and look of women as the main reason causing the risk of harassment, but 44% of women who were harassed called the impunity as the main reason, in addition, they noted faulty legislation and shortcomings of upbringing.

3. THE MAIN CONSEQUENCES.

One of the surveyed women reported that she had bodily injuries, which, when statistically transferred to the scale of the republic, may indicate more than 40 thousand victims who suffered physical harm.

37.6% of the injured women were under stress after the fact of violence, 8% of them suffered depression, 38% were humiliated in the team, which led to dismissal on their own, as well as transfer to another unit. The change of the injured woman's place of work, as one of the main consequences, is highlighted by 17% of employers, a quarter of respondents were aware of the health issues of employees after these facts.

71% of the respondents who were harassed confirmed that the facts and the presence of the risk of harassment lead to a slowdown in the development of a woman as a person and a professional prevent her from climbing the career ladder.

Despite the fact that the majority of women believe that offenders should be punished (62.7%), business leaders (8%) and harassment survivors should be punished along with them for fostering situations with their behavior (8.5%).

It is also interesting that 1.3% of the women surveyed believe that there is no need to punish or stop inappropriate jokes, flirting, harassment, touching, etc.

Among the types of liability for offenses, respondents chose criminal liability, including imprisonment (34.2%), disciplinary at work (33.2%) and administrative liability in the form of fines (22.2%).

4. ACTIONS AND APPEALS.

Only 13.3% of women who were harassed took any measure against the abuser, the rest, for the most part, did not contact the management or law enforcement agencies because they did not see an opportunity to obtain justice (27.2%), were afraid of publicity and felt ashamed (13.3%).

The result of appeals to the management was mostly a negative outcome.

In 31% of cases, all appeals were ignored, or it was proposed to resolve the issue independently. The women remained accused, experienced pressure in response, and a demand to withdraw the complaint in 6% of cases.

Only 20% of women who asked for help from management indicated that an internal investigation had been conducted.

At the same time, 5% of employers are aware of women's appeals to law enforcement agencies, about an internal investigation by an employer (8%), but 14% indicate that these facts were ignored.

The majority of women surveyed assume that they would try to resolve the conflict privately (25.8%) and would not take any action (18.4%). Only 7% would contact their management and 6% sought support from colleagues. 5% of women would find it easier to avoid the abuser and the same percentage of women would tell their spouses and close relatives. Less than 1% of women would seek help from a public organization or a trade union.

Despite the fact that, for the most part, women did not try to publicize cases of harassment and unchaste conduct of men, there had been no consequences after refusing an intimate relationship (60% of cases). Although 21% of the victims stated that they had experienced harassment, unfair reproaches and reproaches, for 11% of respondents the refusal ended in dismissal.

5. A «STATISTICAL PORTRAIT» OF A WOMAN

Based on the findings of sociological research, a «statistical portrait» of a woman who has been subjected to gender-based violence and workplace harassment has been created. On average, this is a married middle-aged woman with a higher education, working as an employee of an industrial enterprise in Almaty and Almaty region. She experienced gender-based violence and harassment from her male manager more than once, including flirting and courtship, as well as in unpleasant touches, attempts to kiss. According to these facts, our female character did not appeal to either the leadership or the law enforcement agencies, as she does not see this as an opportunity to obtain justice.

3. DRAFTING PROPOSALS ON THE POSSIBILITY OF RATIFICATION OF INTERNATIONAL INSTRUMENTS AIMED AT PREVENTING VIOLENCE AND WORKPLACE HARASSMENT IN THE REPUBLIC OF KAZAKHSTAN

IMPLEMENTATION PERIOD 6.06.2022 – 10.06.2022

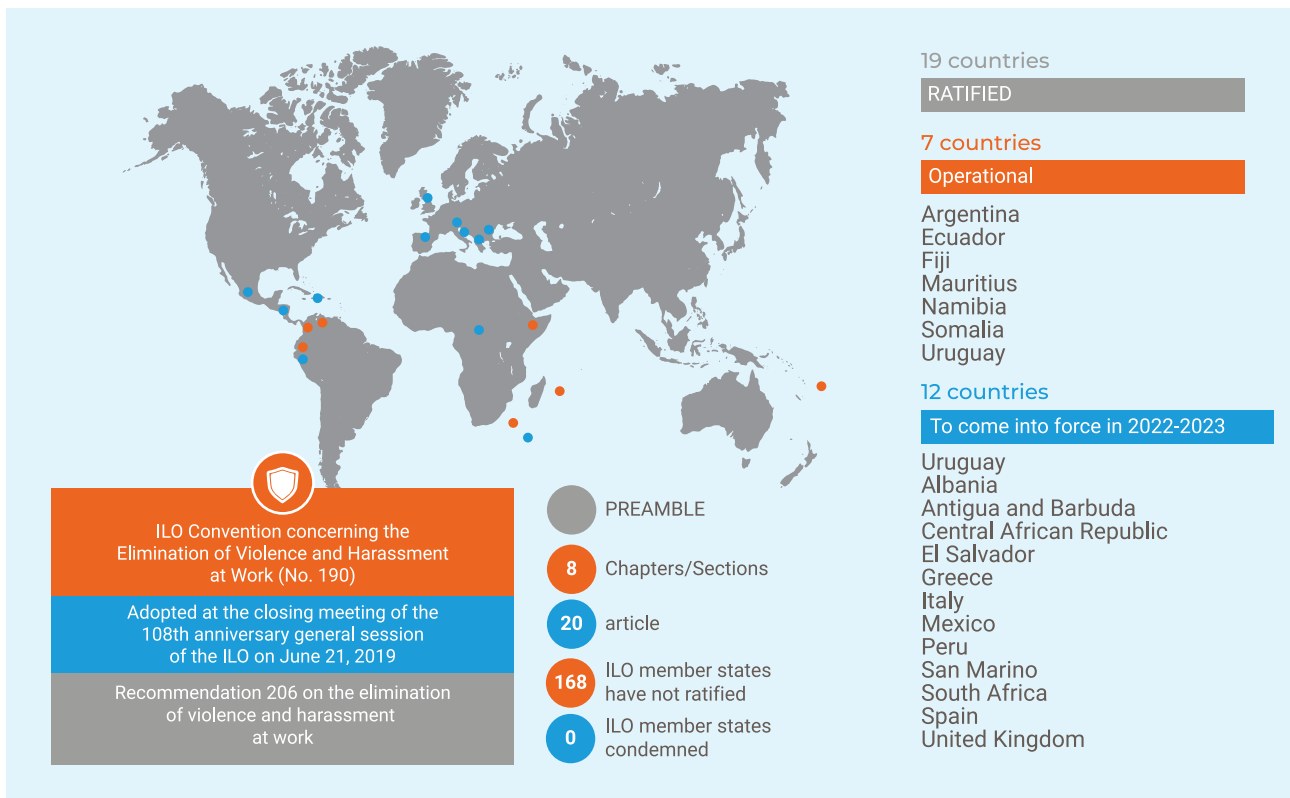
Since 1993, during the 30 years of ILO membership, Kazakhstan has ratified 25 conventions, of which 24 are in force, no convention has been denounced; Part-Time Work Convention, 1994 (No. 175), ratified on May 25, 2022, has not yet entered into force (until May 25, 2023).

On the scope of regulation, Kazakhstan has ratified 3 conventions on freedom of association, collective bargaining and employment relations, 1 convention on tripartite consultations, 2 conventions on the prohibition of forced labour, 2 conventions on the elimination of child labor, protection of children and youth, 2 conventions on labour administration and inspection, 2 conventions on employment policy and promotion, 2 conventions about wages, 1 convention about working hours, 5 conventions about labour protection, 1 convention about maternity protection, 1 convention about seafarers. In addition, 3 conventions on equal opportunities and treatment have been ratified. The object of the study of this section relates to the Convention 190.

The relatively new **ILO CONVENTION NO. 190 «CONCERNING THE ELIMINATION OF VIOLENCE AND HARASSMENT AT WORK»** was adopted at the final meeting (June 21, 2019) of the 108th anniversary General Session of the ILO (the 100th anniversary of the establishment of the ILO). The Convention prohibits violence in the workplace and harassment of employees in enterprises. Most of the representatives of Governments, employers' organizations and trade unions of 187 ILO member States voted for the adoption of this Convention and amended Practical Recommendations No. 206, which contain rules for the application of this international standard.

Each ILO member State that ratified this Convention will have to draw up national laws requiring employers to take measures to eliminate violence and workplace harassment of employees.

To date, 19 member states of the ILO have ratified Convention No. 190 (in seven countries it has already entered into force, in twelve countries it will enter into force this year and next year).



Ukraine had committed itself to ratify ILO Convention №190 by 2023.

Uzbekistan is considering the ratification of ILO Convention №190 by 2025.

1. STUDYING THE LEGAL FRAMEWORK OF THE PROHIBITION OF GENDER-BASED VIOLENCE AND WORKPLACE HARASSMENT IN THE INTERNATIONAL ASPECT

The research team examined the legislation of various countries to identify norms aimed at protecting employees (in some cases only women) from unwanted incidents by executives, colleagues, subordinates and clients, the result or possible consequence of which is causing physical, psychological, sexual or economic harm, including gender-based violence and harassment.

The legislation of 26 countries was reviewed.

It was found that the relevant terms were specified and defined in 19 of them (Austria, Bulgaria, Belgium, Chile, Colombia, Croatia, Czech Republic, France, Germany, Italy, Mexico, Poland, Slovakia, Slovenia, Spain, Ukraine, the Netherlands, Great Britain, Singapore, Switzerland)¹⁸.

The terms and definitions are specified in **ANNEX 5**.

The research team considers the following definitions of the SEXUAL HARASSMENT term to be the most acceptable for understanding and exhaustive for regulation, while not unnecessarily overloaded:

- any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, with the purpose or effect of violating the dignity of a person, in particular when creating an

¹⁸ It is prepared using the materials of the study «CMS Expert Guide on sexual harassment in the workplace», 2021 and the article «Where to draw the line: what does the Law say about harassment» Anna Veselko, 2020 <https://theoryandpractice.ru/posts/18161-gde-provesti-chertu-cto-zakon-govorit-o-kharassmente>

intimidating, hostile, degrading, humiliating or offensive environment (Great Britain);

- an action of a sexual nature expressed verbally (for example, threats, intimidation, indecent remarks) or physically (for example, touching, slapping), which humiliate or insult persons who are subordinate in labour, work, financially, or otherwise (Ukraine);
- verbal, non-verbal or physical conduct of a sexual nature, the intention or consequence of which is or may be a violation of a person's dignity and which creates an intimidating, degrading, disrespectful, hostile or offensive environment (Slovakia).

At the same time, in Convention No. 190, the following terms and concepts are defined:

The term «**VIOLENCE AND HARASSMENT AT WORK**» refers to a range of unacceptable behaviors and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment;

The term «**GENDER-BASED VIOLENCE AND HARASSMENT**» means violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment.

At the same time, considering that the subject and goal of this project is to **STUDYING THE LEVEL AND MAIN CAUSES OF VIOLENCE AND WORKPLACE SEXUAL HARASSMENT IN THE REPUBLIC OF KAZAKHSTAN**, we consider it appropriate to consider variants of terminology aimed at disclosing the concepts of «workplace harassment» and «gender-based violence at work» for use in order to include in the labour law.

Thus, based on the study and analysis of the legislative practice of various countries, the following concepts and definitions are proposed for incorporating into the Labour Code of the Republic of Kazakhstan:

GENDER-BASED VIOLENCE AT WORK is an intentional act, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm on the basis of gender against a male/female employee in the performance of his/her job (official) duties.

WORKPLACE HARASSMENT is behavior or actions of a sexual nature on the part of another person, expressed in a physical, verbal or non-verbal form, creating a threatening, hostile, humiliating or insulting environment towards an employee in the performance of his/her job (official) duties.

The research team reviewed the main policy directions in the field under study. In a number of countries, provisions on the prohibition of gender-based violence and workplace harassment are specified in conceptual and strategic documents. The right of an employee to immediately stop work and terminate employment relations without prior notice is provided (Italy, Turkey, Mexico, Peru). An employer is obliged to draw up a Code of Conduct and incorporate in the company's policy a complaint procedure, take preventive measures, prevention, investigation, sanctions and remedies for an employee (France, Italy, Chile, China, Mexico, Poland, Spain, Belgium, Peru). Appoint an employee or establish a special function for reviewing complaints and implementing preventive measures, as well as provide a specialist in psychological assistance (Croatia, France, Mexico). Ensure the availability and use of technologies (for example, video surveillance, etc.) to ensure the safety of employees. An analysis of the legal regulation of the prohibition of sexual violence and workplace harassment in the international aspect on the example of 15 countries is provided in **ANNEX 6**.

2. ANALYSIS OF THE LEGISLATION OF KAZAKHSTAN ON THE EXPEDIENCY, POSSIBILITY AND IMPLICATIONS OF RATIFICATION OF THE ILO CONVENTION №190

In the course of the research, an analysis of the legislation of Kazakhstan was carried out for the expediency, possibility and implications of ratification of Convention No. 190.

The analysis is presented in APPENDIX 7 hereto. The analytical table provides information on the existence of regulation of norms for each article of Convention No. 190 in the Kazakhstan legislation, as well as proposals for amending and supplementing existing regulatory legal instruments.

To date, none of the 12 articles of Convention No. 190 containing basic information on the subject of regulation is fully implemented in the Republic of Kazakhstan in the practical sphere.

Based on the findings of research, including the analysis of international experience and a sociological survey, we believe that there are complete and compelling grounds for the ratification of Convention No. 190 by the Republic of Kazakhstan.

Amendments and additions to the existing regulatory legal instruments and by-laws following the ratification of Convention No. 190 will contribute to the recognition of the achievements of the Republic of Kazakhstan in the field of eliminating violence and workplace harassment at the international level. It will enable effective sharing of experience in this area with the developed countries of the European Union and other States that have ratified this Convention. Subject to the ratification of ILO Convention No. 190 in the period 2022-2024, as well as amendments to legislation in the manner of the Convention, Kazakhstan will be able to become the only country in Central Asia that has committed to protect its citizens from violence and workplace harassment.

It is legally possible to ratify this Convention. It does not contain provisions that would contradict the provisions of the Constitution of the Republic of Kazakhstan and current international obligations.

At the same time, **the constitutional and legal basis for the implementation of the articles of the Convention has not yet been created.**

There are a number of issues (securing the rights of employees, the responsibility of an employer, assigning a number of functions to an employer, organizing State monitoring and control, assigning responsibility, etc.) that should be indicated in legislation for full and quality ratification of Convention No. 190.

For instance, it should be noted that there are certain norms of the Convention that the Republic of Kazakhstan will not be able to implement into the norms of national legislation in full, particularly, Article 10(h) contains a provision that each Member of the Organization shall take appropriate measures to ensure that: the labour inspection services and other relevant bodies are duly empowered to deal with cases of violence and harassment, including the right to issue orders for the implementation of measures subject to immediate implementation, and orders for termination of work in the event of an imminent threat to the life or health of employees, subject to the right to appeal in a judicial or administrative manner, which may be provided for by law.

In case of ratification of the Convention, the Republic of Kazakhstan will have to take measures for the functional reorganization of the service of State inspectors with the assignment of their functions set out in Article 10(h).

A number of these functions contradict the legal, economic and social conditions and guarantees that ensure freedom of entrepreneurship in the Republic of Kazakhstan, the regulation of public relations arising in connection with the interaction of business entities and the government, including State regulation and support of entrepreneurship, provided for by the Entrepreneurial Code of the Republic of Kazakhstan, approved by the Law of the RK dated October 29, 2015 No. 375-V.

The practical feasibility of such actions relates to politics, not jurisprudence. However, if the validity of the assumption made regarding the meaning of the norm of Article 10 of the Convention is confirmed and a political decision is made, then it is possible to ensure compliance with Article 10(h) with the norms of Kazakhstan legislation regarding the reorganization of the service of technical inspectors and empowering them with broader rights to issue warrants/orders for the implementation of measures subject to immediate implementation, including termination of work in the event of an imminent threat to the life or health of employees, while respecting the right to appeal in a judicial or administrative manner, on a step-by-step basis.

At the initial phase, it is proposed to use such a tool as public control and draft «Standard provisions on a technical inspector for occupational safety and health» consolidating the right of a technical inspector to request and receive information from employer officials about the risks of gender-based violence and harassment, to require officials to immediately take measures to prevent and suppress gender-based violence and harassment in relation to employees in the process of performing job duties, as well as outside the workplace and time, but being under the responsibility of an employer (places of residence during the rotation shift, delivery of employees to the workplace and back on the employer's vehicle, etc.).

There are **a number of other provisions that, in our opinion, go beyond, do not relate to the issue of regulation of Convention No. 190 or contradict the current legislation of the Republic of Kazakhstan.** These include:

- a list of persons (not employees) protected by the Convention, calling them employed persons regardless of their contractual status, volunteers, job seekers and job applicants. At the same time, the provisions of the Convention apply to the area of work, whereas the persons who do not have an employment relationship according to the labour legislation of the Republic of Kazakhstan cannot be under the scope of responsibility of an employer;
- The Convention covers situations involving violence and workplace harassment, arising during work, related to work or arising in connection with work performed while commuting. At the same time, according to the Labour Code of the Republic of Kazakhstan, for example, accidents are deemed occupational, only if they occur when commuting on the employer's vehicle. It is difficult to imagine how an employer can provide protection, organize activities and preventive measures during an employee's trips by public transport or taxi;
- The Convention establishes the powers of the labour inspection service to consider cases of violence and harassment in accordance with the established procedure, which may imply an investigation and, accordingly, the punishment. At the same time, this is the prerogative of the judicial authorities and the court;
- According to the provisions of the Convention, the Government must respond appropriately to ensure that it recognizes the effects of domestic violence on the world of work and takes measures to eliminate them. Domestic violence does not belong to the object under consideration, gender-based violence and workplace harassment. The facts of domestic violence are not applicable to the category of employment relations.

At the same time, the Convention does not specify the possibility of ratification of not all provisions, as it is practiced.

At the same time, on November 25, 2021, the ILO organized a round table «Prospects for ratification and promotion of the ILO Convention No. 190 in the Russian Federation», which was attended by representatives of the Ministry of Labour and Social Protection of the Population of the Republic of Kazakhstan and the Federation of Trade Unions of the Republic of Kazakhstan.

During the round table, **representatives of the ILO highlighted that the adoption of amendments to labour law without ratification is also a positive step in addressing issues of eliminating violence and harassment at work.**

Thus, we consider it appropriate and consistent with the **ILO policy at the first stage (2023-2024) to make efforts on the introduction of relevant regulatory requirements on this issue into labour legislation.**

In order to create a legal and informational basis for ratification, it is necessary to supplement strategic documents with information about the current situation, issues and strategic intentions of Kazakhstan in relation to the prevention and combating violence and harassment in the process of performing job duties.

At the second stage (2024-2025), it is proposed to make appropriate efforts to consolidate responsibility, measures and sanctions in the administrative and, possibly, in the criminal legislation of the Republic of Kazakhstan.

Taking into account the time to prepare an appropriate «platform» and eliminate the regulatory gap regarding abuse and workplace harassment by taking the widest range, and more substantial measures to protect against various types of violence, **it is proposed to plan measures for the ratification of Convention No. 190 tentatively for 2025-2027.**

International experience in regulating the issue under consideration has shown that even with a adequately developed legislative consolidation of the duties of employers and the corresponding responsibility towards both persons who committed unlawful acts and employers for insufficient control and admission of incidents, many countries still hesitate to ratify Convention No. 190 due to insufficient preparation of the regulatory framework for a full-fledged compliance with its provisions.

In particular, of the 19 countries that have prerequisites for the ratification of Convention No. 190 (the relevant terms are enshrined in law, etc.), only 5 have decided to ratify (Italy, Spain, Mexico, Great Britain, Peru).

Kazakhstan has already started work in this area. The Government, in order to prevent cases of workplace harassment and prevent violence using official position, has developed a drafted an amendment to the Labour Code in terms of introducing the concept of «sexual harassment in the workplace», securing the rights and obligations of an employee and employer to protect against workplace harassment.

In turn, the research team proposes to carry out step-by-step work aimed at the ratification by the Republic of Kazakhstan of Convention No. 190, taking into account measures to amend the concept with the development of appropriate action plans, roadmaps, activity plans, amendments to labour, administrative, criminal legislation, in the current subordinate regulatory legal instruments of the Republic of Kazakhstan

4. DEVELOPMENT OF A SET OF MEASURES TO PREVENT AND COUNTERACT VIOLENCE AND SEXUAL HARASSMENT AT WORK, INCLUDING STATE MONITORING AND CONTROL IN THIS AREA

IMPLEMENTATION PERIOD 6.06.2022 – 15.06.2022

Based on the research findings, a set of measures was drawn up, which comprises 3 main areas, taking into account the provisions of Convention No. 190.



Each area contains a number of measures aimed at its implementation.

1. IN ORDER TO PREVENT VIOLENCE AND WORKPLACE HARASSMENT, ELIMINATE UNACCEPTABLE BEHAVIORS AND PRACTICES OR THREATS THEREOF, IT IS RECOMMENDED:

1. Enshrine the terms in Article 1 «Basic concepts» of the Labour Code of the Republic of Kazakhstan:

GENDER-BASED VIOLENCE AT WORK is an intentional act, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm on the basis of gender against a an employee in the performance of his/her job (official) duties.

SEXUAL HARASSMENT IN A WORKPLACE is behavior or actions of a sexual nature on the part of another person, expressed in a physical, verbal or non-verbal form, creating a threatening, hostile, humiliating or insulting environment towards an employee in the performance of his/her job (official) duties.

2. Supplement Article 4 «Principles of labour legislation of the Republic of Kazakhstan» of the Labour Code of the Republic of Kazakhstan with the following principle:

12) *prohibition of all forms of gender-based violence and sexual harassment at work against employees;*

3. Amend Chapter 1 as follows. «Basic provisions» of the Labour Code of the Republic of Kazakhstan, Article 6-1 «Prohibition of gender-based violence and sexual harassment in the world of labour».

1. *No one may be subjected to any form of gender-based violence and sexual harassment while implementing labour rights.*

2. *Persons who believe that they have been subjected to gender-based violence and sexual harassment at work may apply to a court or other instances in accordance with the procedure established by the laws of the Republic of Kazakhstan.*

4. Supplement paragraph 2 of Article 157 of the Labour Code of the Republic of Kazakhstan containing, among others, information on mutual obligations of employees and the employer, which may be included in the content of the collective agreement by Subparagraph 17-1) «on measures to prevent gender-based violence and sexual harassment in the world of labour.»

5. Supplement Article 6 «Prohibition of discrimination in the world of labour» of the Labour Code of the Republic of Kazakhstan

p.p.3-1. An employer is obliged to assist an employee in sending a complaint to the competent authorities about cases of discrimination on the grounds specified in paragraph 2 of this article.

6. Amend Article 22.1 Basic rights and obligations of an employee of the Labour Code of the Republic of Kazakhstan, by paragraph 26)

1. *An employee has the right to:*

26) *ensuring protection from gender-based violence and workplace sexual harassment, ensuring confidentiality when filing and considering complaints about cases of sexual harassment.*

7. State Article 23.2(19) «Basic rights and obligations of an employer» of the Labour Code of the Republic of Kazakhstan to read as follows:

2. *An employer is obliged to:*

19) *take measures to prevent risks in the workplace and in technological processes, cases of gender-based violence and sexual harassment at work, which it became aware of, take measures, including using technology, carry out preventive work taking into account industrial and scientific and technological progress;*

8. Amend Article 23.2 «Basic rights and obligations of the employer» of the Labour Code of the Republic of Kazakhstan, by paragraph 29)

2. *An employer is obliged to:*

29) *provide an available way for employees to file complaints about sexual harassment and gender-based violence against them in the performance of their job (official) duties, as well as a confidential and objective investigation of such complaints.*

9. Add paragraphs 4, 5, 6 to the Article 153 of the Labour Code of the Republic of Kazakhstan as follows:

4. *The General Agreement should provide for provisions on:*

8) *measures to warn and prevent gender-based violence and sexual harassment at work;*

5. *Industry agreements should provide for provisions on:*

7) *measures to warn and prevent gender-based violence and sexual harassment at work;*

6. *Regional agreements should provide for provisions on:*

7) *measures to warn and prevent gender-based violence and sexual harassment at work;*

10. Amend paragraph 4.8. «The task of continuous improvement of the social security system remains» of the Decree of the President of the Republic of Kazakhstan «On approval of the Concept of Legal Policy of the Republic of Kazakhstan until 2030» to read as follows:

Further improvement of labour legislation should be carried out in a way to ensure an appropriate level of safety and labour protection, including protection of employees from gender-based violence and sexual harassment and in the world of labour, protection of employees in employment relations.

11. Add paragraph 10 to the Article 17 of the Law of the Republic of Kazakhstan dated June 27, 2014 No. 211-V «On Trade Unions» to read as follows:

Trade unions are obliged to:

7) *within their authority take measures to warn and prevent gender-based violence and sexual harassment at work;*

12. To amend the «Concept of ensuring safe work in the Republic of Kazakhstan until 2030» and «The Concept of family and gender policy of the Republic of Kazakhstan until 2030» with the consolidation of awareness-raising and control measures aimed at eradicating and preventing the facts of gender-based violence and sexual harassment and at work in the most exposed activities, such as entertainment and services (casinos, bars, saunas, etc.), catering (cafes, restaurants, etc.), passenger transportation (taxi, etc.),

13. Include in MODULE 3 «Legal bases for regulating the activities of legal entities in the field of occupational safety and health» of a Training Program for the development of general professional competencies on occupational safety and health, the following issues:

Measures to prevent the commission of acts of gender-based violence and sexual harassment against an employee, including outside the work, facilities under the employer's control.

The main provisions of labour law:

- types of legal liability for gender-based violence and sexual harassment at work;

2. IN ORDER TO ENSURE THAT VIOLENCE AND HARASSMENT AT WORK ARE COUNTERED, INCLUDING TAKING APPROPRIATE MEASURES, ENSURING ACCESS TO APPROPRIATE EFFECTIVE REMEDIES AND TO SAFE, FAIR AND EFFECTIVE MECHANISMS FOR NOTIFICATION AND DISPUTE RESOLUTION TO COMPLAINT AND INVESTIGATION PROCEDURES, IT IS RECOMMENDED:

1. Amend Article 23.2 «Basic rights and obligations of the employer» of the Labour Code of the Republic of Kazakhstan, by paragraphs 19-1, 24-1.

2. *An employer is obliged to:*

19-1) *take measures to prevent the commission of acts of gender-based violence and sexual harassment against an employee at work*

24-1) *not to prevent an employee from using legal remedies in the event of acts of gender-based violence and sexual harassment against an employee at work*

2. Amend paragraph 1 of Article 181 «Rights and obligations of an employee in the field of occupational health and safety» of the Labour Code of the Republic of Kazakhstan to read as follows:

1. *An employee has the right to:*

9) *refuse from performing work in the event of a threat of gender-based violence and sexual harassment at work and failure by the employer to ensure the safety of an employee;*

3. Supplement Article 152 of Chapter 3. «Criminal offenses against constitutional and other human and civil rights and freedoms» of the Criminal Code of the Republic of Kazakhstan, paragraph 4.1.

Actions against an employee committed by a person performing managerial and other functions due to sexual orientation or gender identity

- *is punishable by imprisonment for up to eight years, with or without the revocation of the right to hold certain positions or engage in certain activities for up to ten years.*

4. Amend Article 121.5 Violent sexual acts of Chapter 1. «Criminal offenses against the person» to read as follows:

2. *The same actions:*

5) *committed by a person and persons in the performance of their job duties in relation to a person engaged in labour activity at work, during business trips or relocations, during communications related to job duties, which are provided by information and communication technologies, in residential premises provided by an employer;*

- *are punished by imprisonment for a term of nine to twelve years.*

5. Supplement Article 152. «Violation of the labour legislation of the Republic of Kazakhstan» of the Criminal Code of the Republic of Kazakhstan, by paragraph 4, as follows:

4. *Repeated manifestation by a person performing managerial functions of unacceptable forms of behavior and practices or threats thereof that aim, result in or are likely to result in physical, psychological, sexual or economic harm, including sexual harassment against an employee,*

- is punishable by imprisonment for up to seven years, with or without the revocation of the right to hold certain positions or engage in certain activities for up to ten years.

6. Change the title of Article 90 of the Code of the Republic of Kazakhstan on Administrative Offenses «Admission of discrimination, gender-based violence and sexual harassment at work» and amend in to read as follows:

1-1. The employer's admission of gender-based violence and sexual harassment at work, expressed in violation of the employee's right to working conditions that meet safety requirements

- entails a fine on officials, small business entities or non-profit organizations, in the amount of thirty, for medium-sized businesses in the amount of sixty, for large business entities in the amount of one hundred monthly calculation indices.

7. Supplement Article 23.2 «Basic rights and obligations of the employer» of the Labour Code of the Republic of Kazakhstan, by paragraphs 19-1, 24-1.

2. An employer is obliged to:

19-1) take measures to prevent the commission of acts of gender-based violence and sexual harassment against an employee at work

8. Supplement paragraph 1 to the Article 181 «Rights and obligations of an employee in the field of occupational health and safety» of the Labour Code of the Republic of Kazakhstan to read as follows:

1. An employee has the right to:

9) refuse from performing work in the event of a threat of gender-based violence and sexual harassment at work and failure by the employer to ensure the safety of an employee;

24-1) not to prevent an employee from using legal remedies in the event of acts of gender-based violence and sexual harassment against an employee at work.

3. IN ORDER TO MONITOR AND ENFORCE NATIONAL LAWS AND REGULATIONS CONCERNING VIOLENCE AND HARASSMENT AT WORK, IT IS RECOMMENDED TO:

1. Supplement the «Subjective criteria for assessing the degree of risk» (Appendix to the Criteria for assessing the degree of risk for compliance with the labour law of the Republic of Kazakhstan in the section «Availability and number of confirmed complaints and appeals» by paragraph 2

2. Repeated facts (two or more) of appeals by individuals or one collective appeal during the year on issues of gender-based violence and sexual harassment at work, confirmed by the results of the audit.

Major degree of violation

2. When drafting Standard regulations on a technical inspector for occupational safety and health, provide for the right of a technical inspector

- request and receive information from the employer's officials about the risks of gender-based violence and workplace harassment;

- require officials to take immediate measures to prevent and combat gender-based violence and workplace harassment;
3. Include in Chapter 3 «The State and employment: support measures» of the National Report «The labour market of Kazakhstan: development in a new reality» information on the state of gender-based violence and sexual harassment in a workplace at enterprises of the Republic of Kazakhstan.
 4. Supplement the section «Labour and Employment Statistics» of the Order of the Head of the Bureau of National Statistics of the Agency for Strategic Planning and Reforms of the Republic of Kazakhstan «On approval of the statistics Activities Plan for ____ year» by the following paragraph:
«Report on the number of employees who have been subjected to gender-based violence and sexual harassment in a workplace.»

5. PRESENTATION AND DISCUSSION OF PRELIMINARY STUDY RESULTS, DRAFT PROPOSALS AND RECOMMENDATIONS

In order to validate preliminary research results, as well as draft proposals and recommendations, a presentation and discussion in the form of a Round Table with key partners from government agencies, the private sector, civil society, international and local development organizations was organized.

The round table was held on August 19, 2022 at 16:00 Astana time. Duration 1 hour 00 minutes.

Due to the complex epidemiologic situation in the Republic of Kazakhstan and in order to provide an opportunity for speakers from different regions to participate in the event, the round table is arranged online via Zoom. UN Women organized simultaneous translation into Kazakh and English.

The round table «Discussion of the findings of study on the level and main causes of violence and workplace sexual harassment in the Republic of Kazakhstan»

More than 25 people took part in the round table.

The audience is represented by:

- employees of the Ministry of Labour and Social Protection of the Population of the Republic of Kazakhstan;
- Members of the National Commission for Women Affairs, Family and Demographic Policy under the President of the Republic of Kazakhstan;

representatives of:

- Atameken National Chamber of Entrepreneurs of the Republic of Kazakhstan;
- Federation of Trade Unions of the Republic of Kazakhstan;
- World Health Organization (WHO);
- International Organization for Migration (IOM);
- UNICEF Children's Fund;
- ILO Bureau for Eastern Europe and Central Asia;
- Department of Safety and Security (UNDSS);
- United Nations Population Fund (UNFPA);
- UN Volunteer Programs (UNV);
- United Nations Development Programmes (UNDP);
- Perspektiva NGO;
- Civil Youth Center Community Development NGO.
- scientific and educational community (Kokshetau University named after Sh.Valikhanov, East Kazakhstan Technical University named after D. Serikbayev), etc.

As part of the round table program, the findings of research obtained during the implementation of this project were presented (speakers: Head of the Development team N.G. Dzhumagulova, senior team member G.Zh. Esenova, team member R.G. Nurmagambetov) (the program is presented in ANNEX 8).

Maria Dotsenko, UN Women Representative to Kazakhstan, made a welcoming speech to the participants of the round table.

The papers presented by the participants of the round table were discussed.

Presentation material and a SCREENSHOT from a computer monitor during the event are presented in ANNEX 8 hereto.

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