

**UNIVERSITY OF EAST SARAJEVO**

**EAST SARAJEVO**

**RULEBOOK**

**ON PROTECTION AGAINST HARASSMENT AT WORK**

**AT THE UNIVERSITY OF EAST SARAJEVO**

**East Sarajevo, April 2022**

Pursuant to Article 51, paragraph 1, item 17 of the Law on Higher Education (“Official Gazette of the Republic of Srpska”, No. 67/2020), Article 27, item 9 of the Statute of the University of East Sarajevo, and in connection with Article 15, paragraphs 4 and 5 of the Law on Protection from Harassment at Work (“Official Gazette of the Republic of Srpska”, No. 90/21), and upon the previously obtained opinion of the Coordinating Board of the Higher Education Trade Union of the Republic of Srpska for the University of East Sarajevo, act No. 6/2022 of 08 April 2022, the Governing Board of the University of East Sarajevo, at its 5th session held on 15 April 2022, hereby adopts the following:

## **RULEBOOK**

### **ON THE PROCEDURE FOR PROTECTION AGAINST HARASSMENT AT WORK AT THE UNIVERSITY OF EAST SARAJEVO**

#### **I General Provisions**

##### **Article 1**

This Rulebook on the Procedure for Protection against Harassment at Work at the University of East Sarajevo (hereinafter: the Rulebook) prescribes the procedure for protection against harassment at work at the University of East Sarajevo (hereinafter: the University), in particular the manner of submitting a request for protection against harassment at work, the person or body to which such request is submitted, the manner of appointing a commission for conducting the procedure for protection against harassment at work, the work of the commission, the manner of ensuring confidentiality of data, and other issues relevant for the conduct of the procedure for protection against harassment at work.

##### **Article 2**

The provisions of this Rulebook shall apply to the University in its capacity as employer and to employees who are employed at the University, persons engaged by the University outside an employment relationship in the work process, other persons who on any basis participate in the work process at the University, and persons seeking employment at the University (hereinafter: employee).

##### **Article 3**

Terms used in this Rulebook to designate the masculine or feminine gender shall be deemed to include both genders.

## **II Harassment at Work**

### **Article 4**

(1) Harassment at work shall mean any conduct directed towards an employee, a group of employees, or the University, which may cause physical, psychological, or sexual harm.

(2) Harassment at work may be committed by a single act or by occasional or repeated conduct, whether active or passive.

(3) The perpetrator of harassment at work referred to in paragraph 2 of this Article may be the University, the Rector of the University, an employee, a group of employees of the University, or a third party with whom the employee or the University regularly comes into contact in the performance of work.

(4) Harassment at work shall also include a person who incites or assists another person in committing harassment at work.

### **Article 5**

(1) Harassment at work that may cause physical harm shall mean any physical assault on an employee, regardless of whether an injury has occurred, which causes fear, pain, humiliation, or an offensive environment for the employee.

(2) Harassment at work that may cause psychological harm shall mean any conduct towards an employee that endangers the employee's dignity, honor and reputation, personal and professional integrity, and which may cause harm to the employee's physical or mental health or compromise the employee.

(3) Harassment at work that may cause sexual harm shall mean any unwanted verbal, non-verbal, or physical conduct of a sexual nature that endangers the dignity of the employee and may create an intimidating, hostile, degrading, humiliating, or offensive environment for the employee.

### **Article 6**

Acts of harassment at work, in accordance with the Law on Protection from Harassment at Work and Article 4 and 5 of this Rulebook, shall include:

- 1) physical assault or threat of physical assault,
- 2) verbal assault, shouting, threats, or insults,
- 3) inappropriate public comments on the employee's personal characteristics and traits,
- 4) making vulgar comments,
- 5) unjustified exclusion of the employee from work processes and decision-making processes, deprivation of means necessary for the performance of work and prohibition of communication with the employee,
- 6) unjustified withholding of necessary information, intentional provision of incorrect information or instructions related to work or the work process,
- 7) setting unreasonably short deadlines for the completion of work or unjustified overburdening of the employee with work tasks,
- 8) continuous assignment of inadequate tasks not in accordance with the employee's professional qualifications and abilities, except in cases and in the manner prescribed by regulations governing the field of work,
- 9) unjustified constant belittling of the employee's work results,
- 10) collection and processing of data on family or marital status and family planning, requesting certificates or other data not of direct relevance to the performance of work at the University or the exercise of the employee's rights,
- 11) unjustified obstruction or denial of the exercise of rights arising from employment,
- 12) other acts aimed at or constituting an endangerment of the employee's dignity, reputation, personal and professional integrity, health, and position, which cause fear or create an intimidating, hostile, degrading, humiliating, or offensive environment, deteriorate working conditions or result in the employee being isolated or induced to terminate the employment contract or another contract.

### **III Procedure for Protection against Harassment at Work**

#### **Article 7**

(1) The procedure for protection against harassment at work at the University shall be initiated by submitting a request for protection against harassment at work.

(2) The procedure for protection against harassment at work at the University shall be urgent and closed to the public.

(3) In the procedure, at the request of one of the parties to the dispute, a representative of the trade union or another representative of the employee may participate.

## **Article 8**

(1) An employee who considers that he or she has been subjected to harassment at work shall have the right to submit a request for protection against harassment at work within 30 days from the day on which the last act of harassment was committed.

(2) The request referred to in paragraph 1 of this Article may also be submitted by a representative of the trade union of which the employee is a member, with the written consent of the employee, in which case the employee's written consent shall be mandatorily attached to the request.

(3) The request referred to in paragraphs 1 and 2 of this Article shall be submitted to the Rector of the University.

(4) By way of exception to paragraph 3 of this Article, where the request for protection against harassment at work concerns the Rector of the University as the alleged perpetrator of harassment, as well as in the case where the Rector of the University has, in his or her capacity as a person against whom harassment was committed, submitted the request for protection against harassment, the request shall be submitted to the Governing Board of the University.

## **Article 9**

A request submitted after the expiry of the time limit referred to in Article 8, paragraph 1 of this Rulebook, as well as a request submitted by an unauthorized person, and a request submitted by a representative of a trade union without the consent of the employee, shall be dismissed by decision of the Rector of the University, or, in the case referred to in Article 8, paragraph 4 of this Rulebook, by decision of the Governing Board of the University.

## **Article 10**

Upon becoming aware that an act of harassment at work has been committed, the University shall initiate a procedure for establishing responsibility for a breach of work discipline.

## **Article 11**

The procedure for protection against harassment at work at the University shall be conducted within 15 days from the date of receipt of the request referred to in Article 8, paragraphs 1 and 2 of this Rulebook, or from the date of initiation of the procedure referred to in Article 10 of this Rulebook.

## Article 12

(1) The procedure for protection against harassment at work shall be conducted by a commission appointed for each individual case.

(2) The commission referred to in paragraph 1 of this Article shall be appointed provided that the request for protection against harassment at work has not been dismissed in accordance with Article 9 of this Rulebook.

(3) The commission for conducting the procedure for protection against harassment at work shall be appointed by decision of the Rector of the University, except in the case referred to in Article 8, paragraph 4 of this Rulebook, when the commission shall be appointed by decision of the Governing Board of the University.

(4) The commission referred to in paragraph 1 of this Article shall consist of three members appointed from among employees who are employed at the University on a full-time basis, ensuring that at least one member holds the academic title of graduate lawyer – 240 ECTS, an academic or scientific title in the field of Law, and that at least two members are appointed from among employees assigned to work in the organizational unit of the University (a faculty of the University or the Rectorate of the University) in which the person alleged to have committed harassment at work is not assigned.

(5) Members of the commission shall have their deputies, who shall be appointed by the decision referred to in paragraph 3 of this Article, from among the employees referred to in paragraph 4 of this Article.

(6) Members of the commission and their deputies may not be persons who may appear in the procedure as witnesses or persons who are related to the person against whom harassment at work has been committed or to the person alleged to have committed harassment at work, nor persons related to the trade union representative if the request for protection against harassment at work was submitted by a trade union representative.

(7) Kinship within the meaning of paragraph 6 of this Article shall mean direct line kinship, collateral kinship up to the fourth degree inclusive, affinity up to the second degree inclusive, and kinship by adoption.

(8) The decision referred to in paragraph 3 of this Article shall designate the Chair of the commission from among its members, the deputy of the Chair from among the deputies of the members, and the deputies of the members.

(9) The Chair of the commission shall convene and preside over the meetings of the commission and coordinate the work of the commission.

(10) The Chair of the commission shall designate the recording secretary, who shall keep the minutes, from among the members of the commission, and his or her deputy from among the deputies of the members of the commission.

### **Article 13**

(1) The decision on the appointment of the commission for conducting the procedure for protection against harassment at work shall be delivered to the members of the commission, the deputies of the members of the commission, the parties to the dispute, as well as to the trade union representative if the request for protection against harassment at work was submitted by a trade union representative.

(2) The persons referred to in paragraph 1 of this Article shall, together with the decision, also be delivered the request for protection against harassment at work and its attachments, if any.

(3) The acts referred to in paragraphs 1 and 2 of this Article shall be delivered with a covering letter informing the persons of the confidentiality and secrecy of the data from the procedure for protection against harassment at work.

(4) By the act referred to in paragraph 3 of this Article, the parties to the dispute shall be instructed that, at their request, a representative of the trade union to which they belong may participate in the procedure.

(5) Due to the urgency of the procedure, the acts referred to in paragraphs 1, 2 and 3 of this Article may be delivered by electronic mail to the e-mail addresses of the persons referred to in paragraph 1 of this Article.

### **Article 14**

(1) Data collected in the course of the procedure shall be of a confidential nature and may be communicated only to the participants in the procedure and to the competent authorities in connection with the procedure for protection against harassment at work.

(2) The confidentiality of data from the procedure for protection against harassment at work shall be ensured in the manner referred to in Article 13, paragraph 3 and paragraph 1 of this Article, and in such a way that the members of the commission, or the deputies of the members of the commission, the parties to the procedure, as well as persons participating in the procedure in the capacity of trade union representatives and witnesses, shall sign a statement on confidentiality and on keeping the data from the procedure secret.

### **Article 15**

(1) Within three working days from the date of receipt of the decision on appointment, the commission shall hold a meeting with the parties to the dispute for the purpose of hearing them.

(2) Due to the urgency of the procedure, the parties to the dispute shall be notified of the meeting referred to in paragraph 1 of this Article by telephone, and an official note thereof shall be drawn up.

(3) The absence of a party to the dispute from the meeting shall not prevent the meeting from being held, and the party to the dispute shall be informed thereof during the hearing.

(4) At the meeting, the commission shall hear the parties to the dispute who are present, and thereafter the trade union representative(s) to which the parties to the dispute belong, if present.

(5) After hearing the persons referred to in paragraph 4 of this Article, the same persons may propose the taking of evidence by hearing witnesses or by examining documentary evidence.

(6) Upon proposal of evidence, the commission shall schedule the next meeting to be held before the expiry of the time limit referred to in Article 11 of this Rulebook, and the parties to the dispute shall be informed that, by being notified of the date and time of the next meeting, they shall be deemed duly informed thereof and shall not be summoned by a separate notice.

(7) A party to the dispute who was not present at the meeting for the purpose of hearing the parties to the dispute shall, due to the urgency of the procedure, be notified of the next meeting by telephone, and an official note thereof shall be drawn up.

(8) Minutes shall be kept of the meeting and shall be signed by all persons who attended the meeting.

## **Article 16**

(1) At the second meeting, the proposed evidence shall be taken.

(2) The proposed evidence shall be taken irrespective of whether the parties to the dispute are present at the meeting.

(3) Minutes shall be kept of the meeting at which the proposed evidence is taken, and shall be signed by all persons who attended the meeting, provided that witnesses shall sign only next to the statement given for the record.

## **Article 17**

(1) Upon taking the evidence, the commission shall withdraw in order to assess the evidence and determine whether the person alleged to have committed harassment at work has in fact committed harassment at work.

(2) If the commission determines that the person alleged to have committed harassment at work did not commit harassment at work, the commission shall propose the conclusion of an agreement between the parties to the dispute in which the parties jointly establish that, on the basis of the evidence taken in the procedure, or the data collected, it follows that the person alleged to have committed harassment at work did not commit harassment at work.

(3) If the commission determines that the person alleged to have committed harassment at work did in fact commit harassment at work, the commission shall propose the conclusion of an agreement between the parties to the dispute in which the parties jointly establish that, on the basis of the evidence taken in the procedure, or the data collected, it follows that the person alleged to have committed harassment at work committed harassment at work.

(4) The agreement referred to in paragraph 3 of this Article shall contain measures aimed at cessation of the conduct constituting harassment at work and prevention of further harassment.

(5) The agreement referred to in paragraph 3 of this Article may contain provisions on compensation for material and non-material damage.

## **Article 18**

(1) The agreement referred to in Article 17, paragraph 2, or the agreement referred to in Article 17, paragraph 3 of this Rulebook shall be concluded in written form between the parties to the dispute.

(2) If, at the time of offering the proposed agreement, one or both parties to the dispute are not present, the commission shall deliver the proposed agreement to the absent party or parties for signature, specifying a time limit for signing and returning the signed agreement.

(3) If, in the case referred to in paragraph 2 of this Article, the party to the dispute does not sign the agreement within the prescribed time limit and does not return the signed agreement, it shall be deemed that it has refused to sign the agreement.

(4) In addition to the parties to the dispute, the agreement referred to in Article 17, paragraph 2, or the agreement referred to in Article 17, paragraph 3 of this Rulebook shall also be signed by the members of the commission.

(5) The agreement referred to in Article 17, paragraph 2, or the agreement referred to in Article 17, paragraph 3 of this Rulebook shall be drawn up in four identical copies, one of which shall be delivered to each party to the dispute, one shall be delivered to the Rector of the University, or in the case referred to in Article 8, paragraph 4 of this Rulebook to the Governing Board of the University, and one shall be placed in the case file.

### **Article 19**

(1) The procedure for protection against harassment at work at the University shall be concluded by the conclusion of the agreement referred to in Article 17, paragraph 2, or the agreement referred to in Article 17, paragraph 3 of this Rulebook.

(2) The agreement referred to in paragraph 1 of this Article shall have the force of an enforceable instrument.

### **Article 20**

(1) The University shall be obliged to implement the measures from the agreement referred to in Article 17, paragraph 3 of this Rulebook that relate to the cessation of harassment.

(2) The Rector of the University shall ensure the implementation of the measures referred to in paragraph 1 of this Article by issuing instructions for their execution.

(3) By way of exception to paragraph 2 of this Article, in the case where the Rector of the University is a party to the dispute, the Governing Board of the University shall ensure the implementation of the measures referred to in paragraph 1 of this Article by issuing instructions for their execution.

### **Article 21**

(1) The commission for conducting the procedure for protection against harassment at work shall endeavour to ensure that the parties to the dispute conclude the procedure by reaching an agreement.

(2) If the parties in the procedure do not conclude an agreement on the subject matter of the dispute within the time limit referred to in Article 11 of this Rulebook, the Rector of the University shall issue a decision on termination of the procedure.

(3) By way of exception to paragraph 2 of this Article, where the Rector of the University is a party to the dispute, the decision on termination of the procedure shall be issued by the Governing Board of the University.

### **Article 22**

(1) If the procedure at the University is terminated without a concluded agreement, the employee who considers that he or she has suffered harassment at work may submit a proposal for amicable settlement of the dispute to the Agency for Amicable Settlement of Labour Disputes or file a lawsuit for protection against harassment at work.

(2) The right to submit a proposal for amicable settlement of the dispute, or to file a lawsuit, shall be conditional upon the employee's prior addressing of the employer (the University) with a request for protection against harassment at work.

(3) By way of exception to paragraph 2 of this Article, where the Rector of the University, as the responsible person of the employer, committed the harassment, the submission of a proposal for amicable settlement of the dispute, or the filing of a lawsuit, shall not be conditional upon the employee's prior addressing of the University as employer with a request for protection against harassment at work.

(4) The time limit for submitting a proposal for amicable settlement of a labour dispute shall be three months from the day on which the last act of harassment at work was committed, or three months from the expiry of the time limit referred to in Article 11 of this Rulebook.

(5) The time limit for filing a lawsuit shall be three months from the day of termination of the procedure for amicable settlement of the labour dispute before the Agency, or six months from the day on which the last act of harassment at work was committed.

### **III Transitional Provisions**

#### **Article 23**

The procedure for protection against harassment at work shall be conducted independently of the procedure for establishing disciplinary responsibility or the procedure for establishing violations of ethical principles, which shall be conducted in accordance with the rules of procedure regulated by special regulations.

### **IV Final Provisions**

#### **Article 24**

For matters in the field of protection against harassment at work which are not regulated by this Rulebook, the Law on Protection from Harassment at Work shall apply directly.

#### **Article 25**

This Rulebook shall enter into force on the eighth day from the date of its publication on the official website of the University.

**Number: 01-VO-IV-71-1/22**

**Date: 15 April 2022**

**CHAIR OF THE GOVERNING BOARD**

**Prof. Mr. Sandra Ivanović**