**Procedure for counteracting discrimination, mobbing and sexual harassment**

**in force at the “Konflikt” Foundation based in Warsaw**

**Table of contents:**

**1. Glossary.**

**2. General provisions.**

**3. Rights and obligations of the Entity and members of the Entity's Staff.**

**4. Liability for discrimination, mobbing, including sexual harassment.**

**5. Preventive measures. Counteracting discrimination, mobbing and sexual harassment.**

**6. Actions taken by a member of the Entity's Staff after becoming aware of the occurrence of sexual harassment or mobbing.**

**7. Proceedings towards the Entity's Beneficiaries who are suspected of being victims of sexual harassment or human trafficking.**

**8. Procedures in the event of discrimination, mobbing, including sexual harassment.**

**9. Intervention measures.**

**10. Final provisions.**

1. **Glossary.**

Whenever this document refers to:

1. **Labour Code** – it should be understood as the Act of 26 June 1974 Labour Code (Journal of Laws 2022.1510, i.e. of 2022.07.19).

2. **Penal Code** – it should be understood as the Act of 6 June 1997 Penal Code (Journal of Laws 2022.1138, i.e. of 2022.05.30).

3. **Mobbing** – it should be understood as actions or behaviours concerning a member of the Entity's Staff or directed against them, consisting in persistent and long-term harassment or intimidation of a member of the Entity's Staff, causing them to underestimate their professional suitability, causing or aimed at humiliating or ridiculing a member of the Entity's Saff, as well as aimed at isolating or eliminating them from the team of members of the Entity's Staff.

4. **Sexual Harassment** – it should be understood as any undesirable behaviour of a sexual nature or relating to the sex of a member of the Entity's Staff or the Entity's Beneficiary, the purpose or effect of which is violation of dignity or humiliation. These behaviours may include physical, verbal or non-verbal elements.

5. **Human Trafficking** – it should be understood as recruiting, transporting, delivering, transferring, storing or receiving a person using:

1) violence or unlawful threats,

2) kidnapping,

3) deceit,

4) misrepresentation or exploitation of an error or inability to properly assess a given action,

5) abuse of the relationship of dependence, exploitation of a critical situation or state of helplessness,

6) granting or accepting a material or personal benefit or a promise thereof to a carer or a supervisor of another person in order to use that person, even with their consent, in particular in prostitution, pornography or other forms of sexual exploitation, in forced labour or services, in mendicancy or other forms of exploitation that degrade human dignity or for the purpose of obtaining cells, tissues or organs against the provisions of the Penal Code. If the perpetrator's behaviour concerns a person under the age of 18, it constitutes human trafficking, even if the methods or means listed in points 1 – 6 have not been used.

6. **Entity** – it should be understood as the non-governmental organisation “Konflikt" Foundation with its registered office in Warsaw (02-577), Aleja Niepodległości 118/89, entered into the Register of Associations, other social and professional organisations, foundations and public health care institutions and into the Register of Entrepreneurs of the National Register Court conducted by the District Court for the Capital City of Warsaw in Warsaw, 13th Commercial Division of the National Court Register under KRS number: 0000635116, NIP: 1132917279, REGON: 365350266.

7. **Management Board** – it should be understood as the body authorised to represent the Entity in accordance with the National Court Register.

8. **Concerned Person** – it should be understood as any person accused of mobbing or sexual harassment and any aggrieved person (a victim of mobbing or sexual harassment).

9. **Entity’s Staff** – it should be understood as any natural person providing work in the Entity, regardless of the type of employment contract concluded and the position held, including a person cooperating with the Entity on the basis of a civil law contract.

10. **Entity's Beneficiary** – it should be understood as each of the natural persons to whom assistance is provided by the Entity.

11. **Procedure** – it should be understood as this Procedure for counteracting discrimination, Mobbing and Sexual Harassment.

12. **Report** – it should be understood as a report of a case of Mobbing or Sexual Harassment made by a member of the Entity's Staff, including a victim or witness (in accordance with this Procedure).

13. **Evidence Proceedings** – it should be understood as a set of all factual and/or formal activities performed by the Management Board aimed at solving a specific case or problem, including all kinds of explanatory proceedings, e.g. conversations, interviews. The concept of taking evidence in this case is not tantamount to taking evidence as defined by the relevant provisions of civil and criminal law.

2. **General provisions.**

1. This Procedure sets out the rules for counteracting discrimination, Mobbing and Sexual Harassment in the Entity.

2. This Procedure applies both in relations between members of the Entity's Staff and between members of the Entity's Staff and Entity's Beneficiaries.

3. This Procedure also governs the methods of response by members of the Entity's Staff in the event that it is found that the Entity’s Beneficiary may be a victim of Sexual Harassment or Human Trafficking.

4. Each member of the Entity's Staff is obliged to familiarise themselves with the content of this Procedure.

5. Persons who are members of the Entity's Staff are obliged to observe the principles of social coexistence and to comply with the provisions contained in the documents adopted by the Entity.

6. If a **Report** concerns a person who is a member of the **Management Board**, that person is automatically excluded from participation in the proceedings referred to in the **Procedure** in question. If this person is one member of the **Management Board**, the **Report** shall be submitted directly to the Supervisory Body of the Foundation, which appoints a proxy to carry out the procedure referred to in point 8 of this **Procedure**.

3. **Rights and obligations of the Entity and members of the Entity's Staff.**

1. The Entity is obliged to take all actions permitted by law, including those described in the Procedure, in order to prevent discrimination, Mobbing and Sexual Harassment in the Entity.

2. Any form of discrimination is prohibited, regardless of age, gender, disability, race or ethnic origin, nationality, religion or lack of religious denomination, sexual orientation or gender identity. All members of the Entity's Staff as well as the Entity's Beneficiaries are treated equally, in a partnership manner and without prejudice.

3. The Entity is obliged to take all actions provided for by the law, including those described in the Procedure, in order to mitigate the social effects of discrimination, Mobbing, Sexual Harassment, including in particular taking intervention measures and providing assistance to victims.

4. The Entity is entitled and obliged to take all actions provided for by law, in particular the provisions of the Labour Code and the Penal Code, against persons who are perpetrators of discrimination, Mobbing, including Sexual Harassment.

5. The Entity is obliged to take the actions described in the Procedure in each case of a Report being submitted.

6. The Entity undertakes the actions indicated in the Procedure also in any other case of becoming aware of the occurrence of discrimination, Mobbing, Sexual Harassment from a source other than a Report.

4. **Liability for discrimination, Mobbing, including Sexual Harassment.**

1. Discriminating, mobbing or harassing persons who are members of the Entity's Staff are subject to liability provided for in the law, including in particular the Labour Code and the Penal Code.

2. The liability referred to in section 1 above, also applies to persons who unjustifiably allege discrimination, Mobbing or Sexual Harassment.

5. **Preventive measures. Counteracting discrimination, Mobbing and Sexual Harassment.**

1. The Entity conducts active activities against discrimination, Mobbing, including Sexual Harassment, consisting in particular in:

a) taking preventive measures indicated in section 2 below, aimed at counteracting discrimination, Mobbing, Sexual Harassment;

b) undertaking intervention measures aimed at the immediate cessation of discrimination, Mobbing, including Sexual Harassment.

2. The Entity undertakes preventive measures aimed at counteracting Mobbing and Sexual Harassment, consisting in particular in:

a) mandatory familiarisation of all members of the Entity's Staff with the issues of discrimination, Mobbing and Sexual Harassment, as well as counteracting these phenomena;

b) conducting trainings for members of the Entity's Staff devoted to e.g. interpersonal relations, anti-discrimination, anti-mobbing or sexual harassment prevention;

3. Preventive measures may also be initiated by members of the Entity's Staff.

6. **Actions taken by a member of the Entity's Staff after becoming aware of the occurrence of Sexual Harassment or Mobbing.**

If a member of the Entity's Staff becomes aware of Sexual Harassment or Mobbing against the Entity's Beneficiary or another person belonging to the Entity's Staff, he or she should follow the following rules of conduct:

1. A member of the Entity's Staff should:

a) Listen to the Entity’s Beneficiary without judging the situation;

b) Try to establish the facts by answering the questions: who, what, when, where;

c) Inform the Entity what actions will be taken next.

2. A member of the Entity's Staff must not:

a) Undermine the credibility of the Entity’s Beneficiary reporting the problem;

b) Negate what the Entity’s Beneficiary says;

c) Disregard or ignore a Report made;

d) Blame other persons;

e) Make assumptions without knowing the facts;

f) Make promises that cannot be kept;

g) Investigate the matter themselves and/or react to the situation without informing the First Contact.

7. **Proceedings towards the Entity's Beneficiaries who are suspected of being victims of Sexual Harassment or Human Trafficking.**

1. Each Entity’s Beneficiary who is suspected to be a victim of Sexual Harassment or Human Trafficking has the right to be heard and treated with respect, in accordance with the Entity's service provision rules. The conversation with such Entity’s Beneficiary should be conducted with empathy and in a delicate manner so as not to violate the dignity and privacy of such a person.

2. Each Person of the Entity's Staff is obliged to inform the person who is believed to be a victim of Sexual Harassment or Human Trafficking about possible legal actions.

3. In the event of a justified suspicion that a crime has been committed, the Entity's Staff is obliged to notify the relevant authorities, in particular the Police or the Prosecutor's Office, by submitting a notification of suspicion of committing a crime. The Entity's Staff is obliged to immediately notify the Management Board of any suspected crime.

4. The Entity's Staff has the option of providing psychological support to a person who is suspected to be a victim of Sexual Harassment or Human Trafficking.

5. In a situation where Sexual Harassment against the Entity's Beneficiary was committed by the Entity's Staff, then, in order to ensure the safety of the therapeutic relationship, the Entity's Staff redirects the Entity's Beneficiary who experienced Sexual Harassment to an external therapeutic centre.

6. The Entity's Saff not trained in psychology refer a person who is suspected to be a victim of Sexual Harassment or Human Trafficking to another person belonging to the Entity's staff with appropriate qualifications in order to provide them with psychological or therapeutic support. In a situation where there is no person with appropriate qualifications among the Entity's Staff, the Entity's Staff refers the person who is suspected to be a victim of Sexual Harassment or Human Trafficking to an external therapeutic centre.

7. The Entity's Staff informs a person suspected of being a victim of Sexual Harassment or Human Trafficking about the possibility of obtaining help from such institutions as the Police, Family Court, Crisis Intervention Centre, Social Welfare Centre, Health Care Centres and, if necessary, provides guidance on what kind of assistance the Entity's Beneficiary should apply for and which institution to turn to.

8. **Procedures in the event of discrimination, Mobbing, including Sexual Harassment.**

1. Each Report should be submitted to the Entity in writing (by letter or in person), with the handwritten signature of the reporting person. A Report may be made by a person who is not the Concerned Person. Reports should be made to the Management Board. A member of the Entity's Staff who receives a Report is obliged to immediately forward it to the Management Board.

2. The Entity’ s Beneficiary may also submit an anonymous Report via a letter sent to the following address: Aleja Niepodległości 118/89, 02-577 Warszawa or via an e-mail to: kuchniakonfliktu@gmail.com or kuchniakonfliktu.complaints@gmail.com.

3. The Management Board starts the proceedings within 7 working days from the date of receipt of a Report that meets the requirements set out in section 1 above.

4. The Management Board should complete the complaint procedure within 21 days from the date of receipt of a Report.

5. The task of the Management Board is to establish the facts in the course of the Evidence Proceedings.

6. The Management Board is obliged to listen to all Concerned Persons and to allow all Concerned Persons to speak freely.

7. The Management Board is obliged to maintain objectivity and impartiality when assessing specific cases.

8. After listening to the explanations of the aggrieved member of the Entity's Staff, the alleged perpetrator(s) and possible witnesses of Mobbing or Sexual Harassment, and after conducting the Evidence Proceedings, the Management Board makes a decision as to the legitimacy of the complaint under consideration.

9. **Intervention measures.**

1. After the intervention procedure is completed, the Management Board draws up a Protocol (a template of the Protocol is attached as Appendix 1 to the Procedure), which is signed by all members of the Management Board. The Protocol is a final document and requires a written justification and an indication of the factual grounds on which the Protocol was issued. The Protocol shall mention the possibility of referring the case to the General Court. The protocol is delivered to all Concerned Persons.

2. In the case of a Protocol stating that a case of Mobbing or Sexual Harassment took place, each member of the Management Board, in accordance with applicable regulations, in particular the Penal Code, in the cases specified in the Penal Code is obliged to submit a notification of the possibility of committing a crime.

3. The aggrieved person is instructed by the Management Board about the common legal protection measures available to them, in particular the possibility of taking the case to the General Court.

10. **Final provisions**

1. All persons having information on the subject of activities related to discrimination, Mobbing and Sexual Harassment carried out in the Entity are obliged to maintain confidentiality regarding all facts learned in the course of work and should sign a Declaration in which they undertake to maintain confidentiality before starting work.

2. The data contained in the materials and documents of the Management Board regarding the case under consideration may contain personal data that is subject to protection provided for in Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC.

Appendix No. 1 to the Procedure

**PROTOCOL**

From the course of proceedings regarding a complaint submitted by a member of the Entity's Staff:

..................................................................... (name and surname) employed in

……………………………………………………………………….. in the position of:..........................................................

The Management Board of the “Konflikt" Foundation with its registered office in Warsaw composed of:

1. Mr./Mrs. .................................................. ......................- Chair of the Board;

2. Mr./Mrs. .................................................. ......................- Member of the Board

In the course of the proceedings, the Management Board took the following actions:

1. ..............................................................................................................................................

2. .............................................................................................................................................

3. ..............................................................................................................................................,

as a result of which it established the following facts:

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Recommendation for further actions by the Entity:

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Signatures of the Management Board

…..............................................................................

….............................................................................

Warsaw, on ………………..

**Declaration**

I hereby confirm that I have read the Procedure for counteracting discrimination, Mobbing and Sexual Harassment (hereinafter: "Procedure") in force at the "Konflikt" Foundation with its registered office in Warsaw, I do not raise any objections to the Procedure and undertake to comply with the provisions contained therein.

…..............................................................................

signature of a member of the Entity's Staff