

## Information sheet

Legislation and competent authorities against sexual harassment in the workplace in Greece, Italy, Bulgaria and Spain



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## Information sheet

### Legislation and competent authorities against sexual harassment in the workplace

In order to successfully contribute in the prevention and tackling of Sexual Harassment in the workplace (SH), individuals should be informed about the legislation and competent authorities in case of experienced/ witnessed SH.

The information sheet accompanies the info platform managed by the TEAMWORK project partners, which aims to let survivors speak freely about the violence they have encountered and to raise public awareness on the issue of SH.

### Greece

LEGISLATION	PROVISIONS OF THE LAW
<p>Prohibition of violence and harassment in the workplace, including sexual harassment</p> <p>Law No. 4808/2021, accessible in Greek <a href="#">here</a></p>	<p>Law No. 4808/2021 ratified the 190 ILO Convention.</p> <p>According to art. 4, "All forms of violence and harassment that occur during or associated with or arising from work, including gender-based violence and sexual harassment, are prohibited".</p>
<p>Definitions</p> <p>Law No. 4808/2021, accessible in Greek <a href="#">here</a> and Law No. 3896/2010 accessible in Greek <a href="#">here</a>.</p>	<p>According to art. 4 of Law No. 4808/2021:</p> <p>"Violence and harassment" in the workplace mean actions, practices or threats thereof which are, are intended to be, or are likely to result in physical, psychological, sexual or financial harm, whether manifested individually or repeatedly.</p> <p>"Harassment" in the workplace means forms of conduct which have as their purpose or effect the violation of a person's dignity and the creation of an intimidating, hostile, degrading, humiliating or aggressive environment, whether or not they constitute a form of discrimination, including gender-based harassment or other reasons of discrimination.</p>

	<p>“Gender-based harassment” means the behaviours associated with a person's sex, which have as their purpose or result the violation of that person's dignity and the creation of an intimidating, hostile, degrading, humiliating or offensive environment. These forms of behaviour include the sexual harassment of Law 3896/2010, as well as forms of behaviour related to sexual orientation, expression, identity or gender characteristics of the person.</p> <p>According to art. 2d of Law No. 3896/2010: "Sexual harassment" represents any form of unwanted verbal, non-verbal or physical sexual behaviour, with the aim or effect of insulting the dignity of a person, in particular by creating an intimidating, hostile, degrading, humiliating or offensive environment.</p>
<p><b>Who may be a victim</b></p> <p>Law No. 4808/2021, accessible in Greek <a href="#">here</a></p>	<p>According to art. 3 of Law No. 4808/2021:</p> <p>Employees in the private sector, irrespective of their contractual status, including contract workers, independent services, as well as persons in training, including interns and apprentices, workers whose employment has been terminated, volunteers, job applicants, and workers in the informal economy.</p> <p>Employees in the public sector, irrespective of their status, are protected under the provisions of art. 4 to 8, 13, 14, 15 and 12 (mutatis mutandis).</p>
<p><b>Where can sexual harassment occur</b></p> <p>Law No. 4808/2021, accessible in Greek <a href="#">here</a></p>	<p>According to art. 4 of Law No. 4808/2021: Forms of violence and harassment may take place in particular:</p> <p>(a) in the workplace, including public and private spaces and places where the worker provides work, receives payment, takes a break in particular, for rest or food; in areas of personal hygiene and care, locker rooms or accommodation provided by the employer, (b) during work-related trips, travel, training and work-related events and social activities; and (c) work-related communications, including carried out through information and communication technologies.</p>

<p><b>Sexual harassment as an act of discrimination</b></p> <p>Law No. 3896/2010 (article 3 par. 2) accessible in Greek <a href="#">here</a></p>	<p>Sexual harassment, as well as any less favourable treatment based on a person's rejection of or submission to such conduct constitutes an act of discrimination on sexual grounds and is therefore prohibited.</p>
<p><b>Rights of the SH survivor / Consequences for the Harasser</b></p> <p>Law No. 3896/2010 (articles 22, 23, 25) accessible in Greek <a href="#">here</a>.</p> <p>Law No. 4808/2021 (art. 12), accessible in Greek <a href="#">here</a></p> <p>Greek Civil Code articles 57, 59, 914, 932.</p>	<p>Any person who considers that they have been sexually harassed, even if the relationship in which SH occurred has ended, has the right to judicial protection, as well as the right to appeal before the competent administrative authorities.</p> <p>The survivor has the right to report the incident to the Labour Inspectorate (“Soma Epitheorisis Ergasias” – “S.E.P.E.”) and the Greek Ombudsman (“<a href="#">Sinigoros tou Politi</a>”).</p> <p>The survivor has the right to follow the company procedures (if existing).</p> <p>The survivor has the right to leave the workplace for a reasonable period of time, without deprivation of salary or other adverse consequences, if in his/her reasonable belief there is an imminent serious danger to life, health or safety, in particular, when the employer is the perpetrator of such conduct or when he does not take the necessary appropriate measures to restore employment peace, or when such measures are not capable of terminating the behavior of violence and harassment.</p> <p>When an employee violates the prohibition of violence and harassment, the employer is obliged to take the necessary and appropriate measures on a case-by-case basis against the complainant, in order to prevent a recurrence of such an incident or behaviour. These measures may include enforcing compliance, change of position, schedule, place or manner of employment or the termination of the employment.</p> <p>In addition, the survivor has the right to claim before the court for full compensation, which will cover every kind of damage suffered, as well as the moral damage.</p>



<p><b>Consequences of SH for the employment relationship</b></p> <p>Law No. 4808/2021 (art. 13), accessible in Greek <a href="#">here</a></p> <p>Law No. 2112/20 (articles 1-7) accessible in Greek <a href="#">here</a> and relevant case law (indicatively see <a href="#">here</a>).</p>	<p>The termination of the employment relationship is prohibited and is invalid, as well as any other adverse treatment of the survivor if it constitutes retaliatory behaviour for an incident of violence and harassment.</p> <p>An employee who has been sexually harassed by the employer has the right to consider that the employer's conduct constitutes an adverse change in their working conditions leading to the direct termination of the employment contract and they are entitled to compensation.</p> <p>On the other hand, the dismissal of an employee because of their refusal to give in to the sexual harassment of the employer is invalid, which means that the dismissed employee maintains their rights from the work relationship.</p>
<p><b>SH as a criminal offence</b></p> <p>Greek Penal Code article 337 par. 4 accessible in Greek <a href="#">here</a>.</p>	<p>The SH survivor can file a complaint stating that the crime of violation of sexual dignity has been committed against them.</p> <p>According to the law, "whoever makes sexual gestures or proposes to have sex with a person who is dependent on him for work or who takes advantage of a person's need to work, is punishable by up to three years in prison or a fine. Prosecution requires a complaint".</p>
<p><b>Shifting the burden of proof to the harasser</b></p> <p>Law No. 3896/2010 (article 24) accessible in Greek <a href="#">here</a>.</p>	<p>When there is a prima facie case of sexual harassment, the law shifts the "burden of proof" to the presumed offender. Therefore, it shall be for the accused to prove before court or other competent authority that sexual harassment has not occurred.</p>
<p><b>Support by trade unions</b></p> <p>Law No. 3896/2010 (article 22 par. 2) accessible in Greek <a href="#">here</a>.</p>	<p>Associations, organizations or other legal entities which have a legitimate interest (such as trade unions) may engage, either on behalf or in support of the complainant, with his/her approval, in the relevant judicial and/or administrative procedures.</p>

**Competent authorities and organizations to receive a report / complaint of SH**

- Labour Inspectorate (SEPE)
- Greek Ombudsman
- General Secretariat for Family Policy and Gender Equality (hotline 15900)
- Research Centre for Gender Equality (“KE.TH.I.”) - counselling centres
- Police / Prosecutor
- Court
- Company (if an internal complaint procedure exists and operates according to the law provisions).

**Obligations of the employer to prevent and deal with violence and harassment**

Law No. 4808/2021, accessible in Greek [here](#).

According to art. 5 of Law No. 4808/2021:

“Each employer, regardless of the number of employees, as well as the persons who exercise the managerial right or represent the employer are obliged:

(a) receive, investigate and manage any complaint or report showing zero tolerance for violence and harassment, in confidence and in a manner that respects human dignity, and does not obstruct the receipt, investigation and management of complaints;

(b) provide assistance and access to any competent public, administrative or judicial authority in the investigation of such incident or conduct, if requested by them;

(c) provide employees with information on the potential risks of violence and harassment in the workplace and related prevention and protection measures, including the obligations and rights of employees and the employer in the event of such incidents;

(d) post in the workplace and make accessible information on company-wide procedures for reporting and dealing with such conduct, as well as contact details for the competent administrative and judicial authorities in accordance with the provisions in force”.

According to art. 9 of Law No. 4808/2021:

Companies employing more than twenty (20) people are required to adopt a policy to prevent and combat violence and harassment at work within the meaning of Articles 3 and 4, which declares zero tolerance for such behaviour and identifies the rights and obligations of employees and the employer to prevent and deal with such incidents or conduct. This policy may be part of or accompanied by a



	<p>policy to promote equal opportunities and to combat discrimination and shall include at least: (a) an assessment of the risks of violence and harassment at work; (b) measures to prevent, control, to limit and deal with these risks, as well as to monitor such incidents or forms of behaviour; (c) staff information and awareness-raising activities; (d) information on the rights and obligations of employees and the employer, (e) designating a person as a reference person at company level, responsible for guiding and informing employees on the prevention and response to violence and harassment at work, (f) the protection of employment and the support of workers victims of domestic violence, as far as possible, by any appropriate means or reasonable adjustment.</p> <p>According to art. 10 of Law No. 4808/2021:      Companies with more than twenty (20) employees are required to adopt a policy for managing internal complaints of violence and harassment within the meaning of Articles 3 and 4, which describes the procedure for receiving and examining such complaints in a way that ensures the protection of the victim and respect for human dignity. This policy may be part of or accompanied by other policies and shall include, as a minimum: a) secure and easily accessible channels of communication for the reception of complaints, as well as the identification of the competent persons within the undertaking for the receipt and examination of complaints and the information of complainants; b) investigating and examining complaints with impartiality and protecting the confidentiality and personal data of victims and complainants; c) the prohibition of retaliation and further victimization of the affected person, d) the description of the consequences on the detection of violations, e) the cooperation and provision of any relevant information to the competent authorities, if requested.</p> <p>According to art. 11 of Law No. 4808/2021:      The policies of Articles 9 and 10 are subject to collective bargaining as part of the Collective Bargaining Agreement or the Rules of Procedure or are drawn up by the employer in consultation with the representatives of the most representative trade union organization of the company (...)</p>
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<p><b>Employer's duty of care for the workers</b></p> <p>Greek Civil Code articles 651, 657, 658 and 660 (more information are accessible <a href="#">here</a>)</p> <p>Law No. 1568/85 (article 32) accessible in Greek <a href="#">here</a> - Directive 89/391/ EEC</p>	<p>The employer has a general duty to protect the workers' health, safety and welfare.</p> <p>In all private and public sector companies, regardless of the economic activity, the employer has the obligation (indicatively):</p> <ul style="list-style-type: none"> <li>• To take all necessary measures to ensure that employees and third parties present at the workplace are free from any danger that may threaten their health or physical integrity.</li> <li>• To ensure the preventive and periodic monitoring of the health of the employees in a specialized way, based on the occupational risks to which they are exposed.</li> <li>• To prepare a program of preventive action and improvement of working conditions in the company.</li> </ul>

## Bulgaria

LEGISLATION	LAW PROVISIONS
<p>Definition of Sexual harassment</p>	<p>Sexual harassment is an unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated, where a reasonable person would anticipate that reaction in the circumstances.</p> <p>Examples of sexually harassing behaviour include:</p> <ul style="list-style-type: none"> <li>• unwelcome touching;</li> <li>• staring or leering;</li> <li>• suggestive comments or jokes;</li> <li>• sexually explicit pictures or posters;</li> <li>• unwanted invitations to go out on dates;</li> <li>• requests for sex;</li> <li>• intrusive questions about a person's private life or body;</li> </ul>

	<ul style="list-style-type: none"> <li>• unnecessary familiarity, such as deliberately brushing up against a person;</li> <li>• insults or taunts based on sex;</li> <li>• sexually explicit physical contact; and</li> <li>• sexually explicit emails or SMS text messages.</li> </ul> <p>The EU definition of sexual harassment is fully recognized in the Bulgarian <b>Law on Protection Against Discrimination</b>.</p>
<p><b>Sexual harassment as an act of discrimination</b></p>	<p>The <b>Law on Protection Against Discrimination (Art.17)</b> explicitly recognizes sexual harassment as a form of discrimination and bans it.</p> <p>Article 4 (1) (Amended SG No. 70/2004 - effective 1.01.2005) Any direct or indirect discrimination on grounds of gender, race, nationality, ethnicity, human genome, citizenship, origin, religion or belief, education, convictions, political affiliation, personal or social status, disability, age, sexual orientation, marital status, property status, or on any other grounds established by law or by an international treaty to which the Republic of Bulgaria is a party, shall be banned.</p> <p>(2) Direct discrimination shall be any less favourable treatment of a person on the grounds referred to in Paragraph (1), than the treatment another person is receiving, received, or would receive in comparable similar circumstances.</p> <p><b>Article 5</b> Harassment on the grounds referred to in Article 4 (1), sexual harassment, incitement to discrimination, persecution and racial segregation, as well as the building and maintenance of an architectural environment hampering the access to public places of people with disabilities shall be considered discrimination.</p>
<p><b>Rights of the SH survivor / Consequences for the Harasser</b></p>	<p>The victim has the right to lodge a complaint with the Commission for Protection against Discrimination - the body responsible for preventing discrimination, protection against discrimination and ensuring equal opportunities. It is a specialized public authority which controls the application and compliance with the Law on Obligations and Contracts or other laws on equality of treatment. The victim can also file a report to the territorial 'Labour Inspection' Directorate accompanied by detailed information on the case.</p>

<p>Shifting the burden of proof to the harasser</p>	<p><b>Law on Protection Against Discrimination</b> <b>Article 9</b> In proceedings for protection against discrimination, after the party claiming to be a victim of discrimination proves facts which may lead to a conclusion that discrimination has occurred, the respondent must prove that the right of equal treatment has not been infringed.</p>
<p>Consequences of SH for the labour relationship</p>	<p>The consequences of SHW are undoubtedly a problem, not only for the victims themselves, but also for society as a whole, because the negative effects are manifested in different directions and their impact is not only immediate but also long-lasting. SHW can lead to reduction of labour productivity, deteriorated relations and taking leave or sick leave in order for the victims to protect themselves from the impact of this phenomenon. SHW has a negative impact on the work environment, on business and the economy as a whole.</p>
<p>SH as a criminal offence</p>	<p>Sexual harassment in general is not included in the country's criminal code.</p>
<p>Support by trade unions</p>	<p><b>Law on Protection Against Discrimination</b> <b>Article 18</b> The employer, in cooperation with the trade unions, shall be obliged to take effective measures to prevent any form of discrimination in the workplace. <b>Article 19</b> In the event of failure to fulfil the obligation under Article 18, the employer shall bear liability under this Act for acts of discrimination committed at the workplace by a factory or office worker employed by him/her. <b>The Law on Obligations and Contracts</b> gives the right to the trade union organization to initiate proceedings, with a written report, before the Commission for Protection against Discrimination. Also, the trade union organizations and their divisions, as well as non-profit legal entities for carrying out public benefit activities, may file a claim on behalf of the persons whose rights have been violated, at their request. The law gives trade unions the right to make proposals to the Commission for Protection against Discrimination in order to prevent or stop violations of this law or other laws governing equality of treatment, as well as to prevent and eliminate the harmful consequences of them and take compulsory administrative measures.</p>

<p>Competent authorities and organizations to receive a report / complaint of SH</p>	<p>Commission for Protection against Discrimination - <a href="https://www.kzd-nondiscrimination.com/layout/">https://www.kzd-nondiscrimination.com/layout/</a></p> <p>The Commission for Protection against Discrimination (CPD) - a state institution. It was established in April 2005 under the <b>Protection Against Discrimination Act</b>, with the main goal of "preventing discrimination, protection against discrimination and ensuring equal opportunities".</p> <p><b>Article 47</b> (1) The Commission for Protection against Discrimination shall:</p> <ol style="list-style-type: none"> <li>1. ascertain violations of this or other Acts regulating equal treatment, the perpetrator of the violation and the aggrieved person;</li> <li>2. decree prevention and termination of the violation and restoration of the original situation;</li> <li>3. impose the sanctions envisaged and implement administrative enforcement measures;</li> <li>4. issue mandatory directions for compliance with this or other Acts regulating equal treatment;</li> <li>5. appeal against administrative acts decreed in contravention of this or other Acts regulating equal treatment, bring action in court and join as a concerned party in proceedings instituted under this or other Acts regulating equal treatment;</li> <li>6. make proposals and recommendations to the state and municipal authorities to discontinue discrimination practices and revoke their acts issued in violation of this or other Acts regulating equal treatment;</li> <li>7. maintain a public register of its decisions and mandatory directions which have entered into force;</li> <li>8. issue opinions on the conformity of draft statutory act with the legislation on prevention of discrimination, as well as recommendations for adoption, revocation, amendment and supplementing of statutory acts;</li> <li>9. provide independent assistance to victims of discrimination filing complaints against discrimination;</li> <li>10. conduct independent research into discrimination;</li> <li>11. publish independent reports and make recommendations on all matters relating to discrimination;</li> <li>12. (in force from 01.08.2012) informs the public through the media about the current provisions in the field of protection against discrimination;</li> </ol>
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	<p>13. (item 12 – SG 58/12, in force from 01.08.2012) perform other competencies laid down in its Rules of Organisation and Procedure.</p> <p><b>Article 50</b> (1) Proceedings before the Commission shall be instituted on:</p> <ol style="list-style-type: none"> <li>1. a complaint by the aggrieved persons;</li> <li>2. the initiative of the Commission;</li> <li>3. tip-offs from natural and legal persons, state and municipal authorities.</li> </ol> <p><b>Article 51</b> (1) The complaint or tip-off to the Commission shall be in writing. If they are written in a foreign language, they shall be accompanied by a translation in Bulgarian.</p> <p>(2) The complaint or tip-off must contain:</p> <ol style="list-style-type: none"> <li>1. the name or designation of the person submitting it;</li> <li>2. the address or the registered office and address of the place of management of the person submitting it;</li> <li>3. a statement of the circumstances on which the complaint or tip-off is based;</li> <li>4. a statement of requests to the Commission;</li> <li>5. dates and the signature of the person submitting the complaint or of his/her representative.</li> </ol> <p>(3) Anonymous complaints or tip-offs shall not be considered by the Commission.</p> <p><b>Article 55</b> (1) The rapporteur shall start an investigation in which he/she shall collect written evidence necessary for the full and comprehensive clarification of the circumstances, using officers and outside experts.</p> <p>(2) All persons, state and local authorities shall assist the Commission in the course of the investigation and shall be obliged to provide the required information and documents, and to give the necessary explanations.</p> <p>(3) The presence of a commercial, industrial or other secret protected by law may not form grounds for refusal of assistance.</p> <p>(4) Should there be grounds for access to classified information, it shall be provided under the conditions and procedure of the Classified Information Safeguarding Act.</p> <p><b>Article 56</b> (1) In exercising its powers, the Commission shall have the right to:</p> <ol style="list-style-type: none"> <li>1. demand documents and other information related to the investigation;</li> </ol>
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	<p>2. demand explanations from the persons investigated about matters relating to the investigation;</p> <p>3. question witnesses.</p> <p>(2) In the event of refusal to provide information required by the Commission, or in the event of refusal to give access to premises, as well as in other cases of not assisting the Commission, the culprits shall bear liability under this Act. The victim may also submit a report to the regional Directorate "Labour Inspectorate", accompanied by detailed information on the case.</p>
<p><b>Responsibilities of the employer</b></p>	<p>The <b>Law on Protection Against Discrimination (Art.17)</b> provides for protection measures against sexual harassment in the workplace, and regulates that employers must hold inquiries regarding complaints and take measures to stop the harassment. The law explicitly recognizes sexual harassment as a form of discrimination and bans it.</p> <p><b>Article 17</b> An employer who has received a complaint from a factory or office worker who believes that he/she is subject to harassment, including sexual harassment, in the workplace, shall be obliged to immediately hold an inquiry, take measures to stop the harassment, as well as to hold disciplinarily liable another factory or office worker if he/she caused the harassment.</p> <p><b>Article 20</b> The employer shall apply equal criteria in imposing disciplinary sanctions, notwithstanding the grounds referred to in Article 4 (1).</p> <p><b>Article 22</b> The employer shall post, in a place in the enterprise accessible to the factory and office workers, the text of this Act, as well as all provisions of the internal rules and the clauses of the collective labour agreement relating to protection against discrimination</p> <p><b>Article 23 (1)</b> Upon request, the employer shall provide information to a person who claims that his/her rights under this Section have been violated.</p> <p>(2) The information referred to in Paragraph 1 shall contain the grounds for the decision taken by the employer, as well as other relevant data.</p> <p><b>Section II</b> <b>Protection in Exercising the Right to Education and Training</b></p> <p><b>Article 29 (1)</b> (amend. – SG 74/09, in force from 15.09.2009; amend. – SG 68/13, in force from 02.08.2013) The Minister of Education and Science and</p>

	<p>the local government authorities shall take the necessary measures not to allow racial segregation in the training institutions.</p> <p>(2) The head of the training institution shall take effective measures to prevent any form of discrimination at the place of training by teaching or non-teaching staff or a student.</p> <p><b>Article 30</b> The head of the training institution shall display in an accessible place the text of this Act and all provisions of the internal rules relating to protection against discrimination.</p> <p><b>Article 31</b> Upon receiving a complaint from a student who considers himself subject to harassment by a person on the teaching or non-teaching staff or a student, the head of the training institution shall be obliged to immediately hold an inquiry and take measures to stop the harassment, as well to impose a disciplinary sanction.</p> <p><b>Article 37</b> (Previous text of Art. 37 – SG 58/12, in force from 01.08.2012) A refusal to provide goods or services, as well as the provision of goods and services of a lower quality or on less favourable terms on the grounds referred to in Article 4 (1) shall not be allowed.</p> <p>(2) (new – SG 58/12, in force from 01.08.2012) Discrimination on the basis of the signs under Art. 4, para. (1) in the public or real sector, directly or indirectly linked to the conduct of an economic activity, including as regards the establishment, equipment or expansion of an economic activity or the commencement or extension of any other form of such activity.</p> <p>(3) (new – SG 58/12, in force from 01.08.2012) In the activities under para. 2 the rejection or incurdation by a person of conduct constituting harassment or sexual harassment cannot serve as a basis for a decision affecting that person.</p> <p>There are no special legislative measures encouraging private companies to be involved in the prevention, protection and reintegration of victims of VAW outside the workplace.</p>
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## Italy

LEGISLATION	LAW PROVISIONS
<p><b>Definition of Sexual harassment</b> Law No. 198/2006, accessible in Italian <a href="#">here</a></p> <p>Law No. 4/2021, accessible in Italian <a href="#">here</a></p>	<p>Law No. 198/2006 (Code of Equal Opportunities) defines sexual harassment in the same terms used in the International Convention on the Elimination of Violence and Harassment in the World of Work and envisages civil remedies in cases of sexual harassment in the workplace. Harassment is also considered as discrimination, i.e. unwanted behaviors, carried out for reasons related to sex, with the purpose or with the effect of violating the dignity of a worker and creating an intimidating, hostile, degrading climate in the workplace.</p> <p>Sexual harassment and violence at the workplace constitute an abuse and violation of human rights and represent a threat to equal opportunities, therefore they are unacceptable and incompatible with a decent work environment and must be eliminated and prevented, never tolerated.</p> <p>This is one of the key principles of the International Labor Organization Convention on the Elimination of Violence and Harassment in the Workplace, adopted in Geneva on 21 June 2019, which Italy ratified with Law 4 of 2021, published in Official Journal the 26<sup>th</sup> of January. For this reason, Italy has to realize and update its legislations and norms in line with this Convention.</p> <p>At the moment, Italian legislation has to face a revision process of its legislation for the prevention and elimination of the phenomenon and for the protection of the survivors who face many challenges to receive a compensation and recognition for the damages they have suffered. In Italy the norms reports the opportunity to ask for a compensation not the right. For this reason in many workplaces, survivors and offenders go through a negotiation process. In absence of relevant proofs, there are not many possibilities to proceed.</p>

<p><b>Sexual harassment as an act of discrimination</b> Judgment no. 23286 of 15 November 2016, accessible in Italian <a href="#">here</a> Council Directive 2000/78/EC of 27 November 2000, accessible <a href="#">here</a></p>	<p>Article 26 of the 2006 Code of Equal Opportunities (Legislative Decree no. 198/2006) establishes "the equivalence between sexual harassment and gender discrimination" (Civil Court of Cassation, Labour Section, Judgment no. 23286 of 15 November 2016). Judgment no. 23286 of 15 November 2016 is an implementation of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.</p>
<p><b>Rights of the SH survivor / Consequences for the Harasser</b> Art. 2697 Civil Code, accessible in Italian <a href="#">here</a>  Art. 2043 Civil Code, accessible in Italian <a href="#">here</a> Art. 2049 Civil Code, accessible in Italian <a href="#">here</a></p>	<p>The survivor has the right to legally pursue the offender but according to the Civil Code, he/she has to prove the act (art. 2697 Civil Code).  In case the court recognizes the occurring of SH: the CC (art. 2043 and 2049) declares that the offender has to compensate for the damage, also the owner/management of the company has to compensate the offense.</p>
<p><b>Consequences of SH for the labour relationship</b> Law of 27 December 2017, n. 205, accessible in Italian <a href="#">here</a></p>	<p>Law of 27 December 2017, n. 205 (State budget for financial year 2018 and multi-year budget for the three-year period 2018-2020) has amended Article 26 of the equal opportunities code referred to in Legislative Decree 198/2006 inserting new paragraphs which "provides for specific protection for those who take legal action for being harassed or sexual harassed at the workplace. The worker who prosecutes the employer/co-worker for discrimination, harassment or sexual harassment at workplace cannot be: sanctioned, demoted, fired, transferred or subjected to another organizational measure that have direct or indirect negative effects on working conditions if this measure is the consequence of the complaint itself. If the reporting is found to be false, this clause is not more valid".</p>

<p>SH as a criminal offence</p>	<p>The Italian law does not provide ad hoc case and interpretation with regard to crimes like SH. At the jurisprudential level, sexual harassment at the workplace, depending on the severity and manner of the harassing behavior, has been defined in various offenses such as private violence, discrimination, stalking etc.</p>
<p>Support by trade unions</p> <p>Agreement text, accessible in Italian <a href="#">here</a></p>	<p>A central role is played above all by the trade unions delegates and delegates in the workplace, because - normally - they represent the first link among the worker, the employer and the protection system.</p> <p>Many national employment contracts (even if not all) deal with the subject of sexual harassment, in the chapter reserved for protection of the dignity of the person. In some private companies and in the public sector, there are specific signed protocols from the OO.SS. and by employers' associations that define code of conduct and safeguarding standards. In public companies and also in some private companies, Codes have been adopted of conduct with internal identification of a specific profile: the Trusted adviser, a specialist called to address the issue of sexual and moral harassment or mobbing at the workplace. The Code and the trusted adviser have been enhanced by the Permanent Advisory Commission at the Ministry of Labour referred to in art.6 of Legislative Decree 81/2008.</p> <p>On January 25, 2016 Cgil, Cisl, Uil and Confindustria, signed an agreement that implements the Framework Agreement on Harassment and Violence in the Workplace reached on April 26, 2007 by their respective representations at the European level BusinessEurope, CEEP, UEAPME and ETUC.</p>
<p>Competent authorities and organizations to receive a report / complaint of SH</p>	<p>At the municipality/provincial level there is the figure of the Equality Councillor, who is an institutional figure, which carries out the function of promotion and monitoring the implementation of the principles of equality, equal opportunities and non-discrimination for women and men at work. In the practice of her functions, the Equality Councillor is a public officer with the obligation to report to the judicial authority of the crimes of which he becomes aware. It deals with protection and support to male and female workers who</p>

	<p>have suffered discrimination at the workplace (including gender discrimination such as SH).</p>
<p><b>Responsibilities of the employer</b> Art. 2087 Civil Code, accessible in Italian <a href="#">here</a></p> <p>Law No. 81/2008, accessible in Italian <a href="#">here</a></p>	<p>Article 2087 of the Civil Code establishes "a general obligation of safety at work, imposing on the entrepreneur to take all necessary measures to protect the physical integrity as well as the psychological well-being of workers".</p> <p>Article 28 of Legislative Decree 81/2008 - Consolidation Act on Health and Safety in the Workplace and subsequent amendments, has specifically identified work-related stress (SLC) as one of the risks subject to mandatory assessment by the Employer and the result of the collaboration of prevention actors:</p> <ul style="list-style-type: none"> <li>• Competent Doctor,</li> <li>• Head of Prevention and Protection Service,</li> <li>• Workers' safety representative.</li> </ul> <p>The new paragraph 3-ter of Article 26 of the Code of Equal Opportunities about the employer's obligation, pursuant to Article 2087 of the Italian Civil Code, to provide working conditions that guarantee the physical and moral integrity and dignity of workers.</p>
<p><b>Responsibilities of the public authorities</b> Violence and Harassment Convention No. 190, accessible <a href="#">here</a></p> <p>Recommendation n. 206 ILO, accessible in Italian <a href="#">here</a></p>	<p>Italy has been the first European country to ratify the Convention on the elimination of violence and harassment in the workplace (ILO). Thanks to this convention, legislations and labour rules have to be revised and updated in order to improve:</p> <ul style="list-style-type: none"> <li>• protection and prevention measures,</li> <li>• verification of application of the law</li> <li>• Reinforce compensation mechanisms, guidance, training and awareness to prevent and eliminate SH.</li> </ul> <p>The Convention is accompanied by the Recommendation on Violence and Harassment (recommendation n. 206 ILO).</p>



## Spain (Catalonia)

LEGISLATION	LAW PROVISIONS
<p><b>Prohibition of violence and harassment in the workplace, including sexual harassment</b></p> <p>Spanish Constitutional Act 3/2007 of 22 March, for effective equality between women and men accessible in English <a href="#">here</a></p>	<p>According to art. 10 of the Spanish law 3/2007:</p> <p>Any act or clause in legal transactions constituting or causing discrimination on the grounds of sex will be considered to be null and void and will give rise to liability both through a system of redress or indemnity that will be real, effective and proportional to the injury suffered and, as appropriate, through an effective system of deterrents consisting in penalties to prevent discriminatory conduct.</p>
<p><b>Definitions</b></p> <p>Spanish Constitutional Act 3/2007 of 22 March, for effective equality between women and men accessible in English <a href="#">here</a>.</p>	<p>According to art. 7 of the Spanish law 3/2007:</p> <p>Sexual harassment is defined in the Spanish law 3/2007 as any form of 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 intimidating, degrading, or offensive environment.</p>
<p><b>Who may be a victim</b></p> <p>Spanish Workers' Statute, accessible in Spanish <a href="#">here</a></p>	<p>The Spanish Workers' Statute (Spanish Royal Legislative Decree 1/ 1995, of 24 March, which approves the consolidated text of the Workers' Statute Law) states the worker's right not to be discriminated against and establishes the right of every worker to protection of privacy and dignity against sexual harassment and harassment on the grounds of sex (Article 4.2).</p>
<p><b>Where can sexual harassment occur</b></p> <p>Catalan Act 17/2020 of 22 December in modification of Act 5/2008 of 24 April on women's right to eradicate sexist violence, accessible in Catalan <a href="#">here</a></p>	<p>According to art. 4 of Law 17/2020:</p> <p>Workplace violence: consists of physical, sexual, economic, online or psychological violence that can occur at the workplace during the workday, or outside the workplace or working hours if related to work. It can be of two different types:</p> <ol style="list-style-type: none"> <li>Sex-based harassment.</li> <li>Sexual harassment.</li> <li>Pregnancy or maternity discrimination</li> </ol>

<p><b>Sexual harassment as an act of discrimination</b></p> <p>Spanish Constitutional Act 3/2007 of 22 March, for effective equality between women and men accessible in English <a href="#">here</a></p>	<p>Article 7 of the Law 3/2007 establishes that sexual harassment and harassment on the grounds of sex will be considered to constitute discrimination under any and all circumstances.</p> <p>The conditioning of a right or expectation of a right to the acceptance of a situation constituting sexual harassment or harassment on the grounds of sex will likewise be regarded to be discrimination on the grounds of sex.</p>
<p><b>Rights of the SH survivor / Consequences for the Harasser</b></p> <p>Spanish Workers' Statute, accessible in Spanish <a href="#">here</a></p> <p>Spanish Constitutional Act 3/2007 of 22 March, for effective equality between women and men (Article 7) accessible in English <a href="#">here</a></p> <p>Catalan Act 17/2020 of 22 December in modification of Act 5/2008 of 24 April on women's right to eradicate sexist violence, accessible in Catalan <a href="#">here</a></p>	<p>The Spanish Workers' Statute (Spanish Royal Legislative Decree 1/ 1995, of 24 March, which approves the consolidated text of the Workers' Statute Law) states the worker's right not to be discriminated against and establishes the right of every worker to protection of privacy and dignity against sexual harassment and harassment on the grounds of sex (Article 4.2).</p> <p>Any employee can raise a harassment claim before the employment courts against their employer and against the individual employee who has harassed them.</p> <p>Sexual harassment that constitutes a criminal offence could be punished with a sentence of imprisonment. In addition to criminal law, Spanish Organic Law 3/2007, of 22 March, for Effective Equality between Men and Women also contains some important provisions with respect to sexual harassment and harassment on the grounds of sex and establishes legal consequences for discriminatory conduct. The employer is entitled to undertake disciplinary measures against the harasser, such as disciplinary dismissal.</p> <p>Furthermore, in Catalonia, Law 17/2020, on the right of women to eradicate gender-based violence, increases the area of protection beyond violence in affective relationships, to protect from all forms of violence against women. It guarantees the rights of female workers to prevention, support, assistance, protection, recovery and reparation, in any situation of harassment.</p>

<p><b>Consequences of SH for the employment relationship</b></p> <p>Spanish Workers' Statute, accessible in Spanish <a href="#">here</a></p> <p>Real Decreto Legislativo 5/2000, de 4 de agosto, por el que se aprueba el texto refundido de la Ley sobre Infracciones y Sanciones en el Orden Social, accessible in Spanish <a href="#">here</a></p>	<p>Any infringement of the workers' rights stipulated in the Spanish Workers' Statute in the context of an employment relationship will have consequences under the laws stipulating sanctions in the area of labour law (Royal Legislative Decree 5/2000, of 4 August, which approves the consolidated text of the Law of Infractions and Sanctions in the Social Order):</p> <ul style="list-style-type: none"> <li>- Any act or omission constitutes a serious breach of the privacy or dignity of the worker (Article 8.11).</li> <li>- An act of sexual harassment, committed within an employment relationship and under the responsibility of the employer, constitutes a very serious offence, regardless of who the perpetrator may be (Article 8.13).</li> </ul>
<p><b>SH as a criminal offence</b></p> <p>Spanish Penal Code (Article 184) accessible in Spanish <a href="#">here</a>.</p>	<p>The Spanish Penal Code includes sexual harassment as a criminal offence, among other forms of sexual gender-based violence.</p> <p>According to article 184 of the Penal Code, sexual harassment is defined as any acts of a sexual nature intended to harass or to attack the integrity and dignity of the victim in an employment, educational, or business context. To be considered sexual harassment, such behavior must cause a situation that is objectively and seriously intimidating, hostile, or humiliating for the victim. Moreover, if the perpetrator is taking advantage of a position of superiority when committing these offences, then the punishment will be greater. When the victim is particularly vulnerable because of their age, position, or their circumstances, the punishment will also be greater.</p>
<p><b>Shifting the burden of proof to the harasser</b></p> <p>Spanish Constitutional Act 3/2007 of 22 March, for effective equality between women and men accessible in English <a href="#">here</a></p>	<p>According to the Law 3/2007, pursuant to procedural law, in proceedings in which the plaintiff alleges discriminatory conduct on the grounds of sex, it will be incumbent upon the defendant to prove the absence of discrimination in the measures adopted and their proportionality.</p> <p>The provisions of the preceding item will not be applicable to penal proceedings.</p>

<p><b>Support by trade unions</b></p> <p>Spanish Constitutional Act 3/2007 of 22 March, for effective equality between women and men accessible in English <a href="#">here</a></p>	<p>The Law 3/2007 establishes that workers' representatives must contribute to preventing sexual harassment and harassment on the grounds of sex at the workplace by sensitizing workers to this issue and reporting to company management any conduct or behaviour coming to their attention that might favour harassment.</p>
<p><b>Competent authorities and organizations to receive a report / complaint of SH</b></p> <ul style="list-style-type: none"> <li>• Support and advice services for women.</li> <li>• Specialised support services for women victims of gender-based.</li> <li>• Catalan Women's Institute: hotline 900 900 120</li> <li>• Trade Unions / Workers' representative</li> <li>• Labour Inspectorate</li> <li>• Police</li> <li>• Court</li> </ul>	
<p><b>Obligations on companies to prevent and deal with violence and harassment</b></p> <p>Constitutional Act 3/2007 of 22 March, for effective equality between women and men (Article 48) accessible in English <a href="#">here</a></p>	<p>According to article 48 of the Law 3/2007:</p> <p>Employers must foster working conditions that prevent sexual harassment and harassment on the grounds of sex and institute specific procedures to prevent such conduct and for handling accusations or claims formulated by the persons affected.</p> <p>The measures that may be established for this purpose, which should be negotiated with workers' representatives, include the formulation and circulation of codes of good practice, information campaigns and specific training.</p> <p>Failure to comply with the obligation to prevent sexual harassment could imply that the employer is liable for any harassment committed by its employees. Employers will be held responsible to pay real and effective compensation proportional to the damage.</p>

<p><b>Employer's duty of care for the workers</b></p> <p>Constitutional Act 3/2007 of 22 March, for effective equality between women and men (Article 48) accessible in English <a href="#">here</a></p>	<p>According to Article 45 of the Law 3/2007, companies with fifty or more workers must draw up and enforce equality plans, which must contain, amongst other aspects, adequate sexual harassment prevention. These equality plans shall be available to the workers' legal representatives or the employees, should there be no workers' legal representatives.</p>
<p><b>Obligations on public authorities to prevent and deal with violence and harassment</b></p> <p>Constitutional Act 3/2007 of 22 March, for effective equality between women and men (Article 48) accessible in English <a href="#">here</a></p>	<p>Article 62 of the Law 3/2007 establishes that:</p> <p>The central, regional and local governments and workers' legal representatives will negotiate a protocol to prevent sexual harassment and harassment on the grounds of sex, which will include at least the following principles:</p> <ul style="list-style-type: none"> <li>a) Commitment on the part of the Central Government and its associated or subordinate public bodies to prevent and institute zero tolerance of sexual harassment and harassment on the grounds of sex.</li> <li>b) Conveyance to the entire staff of their duty to respect human dignity and the right to privacy, as well as equal treatment for women and men.</li> <li>c) Confidential treatment of reports of events that may be considered to constitute sexual harassment or harassment on the grounds of sex, without prejudice to disciplinary provisions.</li> <li>d) Identification of the persons with whom complaints or accusations in this regard are to be lodged.</li> </ul>





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