

Rights / Obligations Awareness Training Curriculum

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This publication includes the national legal framework of all partner countries.

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Introduction to the Rights / Obligations Awareness Training Curriculum

The **Rights/ Obligations Awareness Training Curriculum** (“Curriculum”) was developed in 2021 by a team of experts from Bulgaria, Greece, Spain and Italy, working together on the project TEAMWORK (combaT sExuAl harassMent in the WORKplace). The overall aim of the TEAMWORK is to strengthen the prevention and fight against sexual harassment at the workplace (“SH”).

Rationale/ Purpose

Training employees is a critical piece of a holistic sexual harassment prevention effort. The Curriculum is designed to provide employees with the specific knowledge and skills they need to respond to SH in the workplace that either happened against them or against a fellow colleague. Training should ensure that workers understand what SH involves; what are the rights of the employees and the obligations of the employers; how to provide assistance to SH survivors; what victimisation is; who to address in order to make a complaint.

Even the best sexual harassment training can't prepare everyone for every single scenario. But sexual harassment awareness and proper education, especially as it relates to prevention, needs to start everywhere. Every workplace should conduct a sexual harassment training at least once a year for all employees.

Moreover, the Coronavirus-19 pandemic has revealed a worrying increase in violence harassment against working women. The increase in domestic violence during restrictions and closures of companies and institutions affected women working online or

from home¹. Higher levels of sexual harassment were found against front-line workers in healthcare and trade, and an increase in levels of sexual harassment and hostile behaviour of customers and buyers were observed, from a refusal to wear masks, to not maintaining social distance and not minimizing personal contact with workers.

Methodology

This Curriculum is based on the findings of the research conducted by the project partners with 499 participants – employers and employees from four countries (Bulgaria, Italy, Spain and Greece) and series of studies and analysis that show the existing gaps in the knowledge of the issue of SH and its underestimation both for the individual who has been a victim of such violence and for society as a whole.

In the framework of Teamwork project, the partners have cocreated Guidelines for Employers and HR professionals, a Capacity-Building Seminar Curriculum for Employers and HR professionals and the Rights/ Obligations Awareness Training Curriculum for employees.

Milestones of organizing an effective anti SH training for employees:

- A) Create a training that is engaging and relevant, while reflecting the unique working environment.

The best way of training on the proposed theme is interactive training either face to face or online. In any case, it is crucial that the employees are given the opportunity to learn about SH through realistic scenarios and interactive assessment and quiz.

¹ International Finance Corporation 2020, COVID-19 and Gender-Based Violence: Workplace Risks and Responses, accessible in <https://www.ifc.org/wps/wcm/connect/42b50ce3-3867-48b2-9818-acfbc4080ea2/202007-IFC-GBV-COVID+D.pdf?MOD=AJPERES&CVID=ndOei13>

B) Use innovative e - learning technologies and tools.

Innovations in eLearning strategies and tools are transforming online compliance training into an interactive, engaging learning experience.

Here are some tools that can be used in the eLearning process:

- ❖ <https://www.zeetings.com/>
- ❖ <http://ideaboardz.com>
- ❖ <https://jamboard.google.com>

C) Make the training available anytime, on any device.

Employees often have emergencies and unpredictable schedules, which can make it hard to fit training in during a “typical workday.” Mobile-optimized training enables employees to access courses anytime on their smartphones, tablets or laptops.

How to use the Curriculum?

The Curriculum is organized around 4 training topics and modules, which build upon each other in terms of information and are sequenced in logical presentation order for an actual training workshop.

The Topics to be covered are the following:

1. Sexual Harassment in the Workplace (SH): Definitions and Basic Principles
2. Legal framework
3. Rights and Obligations
4. Pathways for reporting – Ways to support colleagues – victims of sexual harassment

Each topic has the following components:

- A. Learning Objectives
- B. Theoretical framework
- C. Exercises, games, quizzes

At the end of the Curriculum the trainers can find additional chapters:

- Pre and post evaluation questionnaires
- Case studies and dilemmas
- Final evaluation questionnaire
- References/ Additional resources

Training Overview

The total duration of the training is 6 hours and the duration of each topic is approximately 1- 1.5 hour.

Training agenda	Methods used
Introduction to the training: Get to know the participants and the training objectives	
Module 1: Sexual Harassment in the Workplace (SH): Definitions and Basic Principles	
Module 2: Legal Framework	

Module 3: Rights and Obligations	
Module 4: Pathways for reporting – Ways to support colleagues – victims of sexual harassment	
Wrap up & Evaluation	
Training Evaluation	

Module 1: Sexual Harassment in the Workplace (SH): Definitions and Basic Principles

A. Learning outcomes

By the end of this module the participant of the training will be familiar with the basic concepts of SH in the workplace: definition, forms, examples of SH, factors that lead to the prevalence of SH, who can be a Harasser or a Victim of SH, where can SH occur, what is the impact of SH (consequences for the victim, the colleagues, the company) and why women are mainly victims of SH and at the same time that SH can happen to any worker regardless of gender/ position.

B. Theoretical framework:

1. What is Sexual Harassment in the Workplace

Definition of Sexual Harassment:

Any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment².

Sexual Harassment in the Workplace (SH) occurs in the place of work or in a work-related environment.

Sexual Harassment is acknowledged as a form of gender-based violence, as it is deeply rooted in gender inequality.

² EIGE, <https://eige.europa.eu/thesaurus/terms/1376>.

Examples of Sexual Harassment in the Workplace:

- Unwelcome sexual advances.
- Requests for sexual favours.
- Other verbal or physical conduct of a sexual nature that affects an individual's employment, unreasonably interferes with his or her work performance, or creates an intimidating, hostile or offensive work environment.

People in different European countries have been found to have a different understanding of what constitutes sexual harassment at work. **Key factors** are whether the affected individual considers the act as unwanted and whether they can distance themselves without fear of reprisals.

Complimenting someone may not necessarily amount to sexual harassment. Much depends on the context and nuances of the relationship between those involved. A good rule of thumb is that comments about people's appearance in today's workplace are best avoided.

What are the results of Sexual Harassment?

- fear, anxiety, shame, anger; guilt;
- depression, low self-esteem, isolation;
- sleep disturbances, headaches, dermatological reactions, gastrointestinal distress;
- reduced productivity;
- high absenteeism;
- reduced performance;

- high staff turnover

2. Prevalence of Sexual Harassment

Sexual harassment is a form of discrimination and violence. Victims are predominantly women and perpetrators are predominantly men. When FRA surveyed women about experiencing sexual harassment in the employment context, men were perpetrators in 86% of cases. Men can also be targets of sexual harassment and women can also be perpetrators, though this is less common.

About a third of women who faced sexual harassment in the EU experienced it in the workplace³.

3. The main forms of Sexual Harassment are:

- Quid pro quo (Latin for “this for that” or “something for something”)
- SH by creating a hostile work environment

3.1. Quid Pro Quo

Definition

Quid Pro Quo harassment occurs when a tangible employment action is made based on the employee's submission to or rejection of unwelcome conduct. This kind of harassment

³ FRA, Violence against women: an EU-wide survey – Main results, Publications Office of the European Union, Luxembourg, 2014 (https://fra.europa.eu/sites/default/files/fra_uploads/fra2014-vaw-survey-main-results-apr14_en.pdf).

is generally committed by a supervisor or someone who can make or recommend formal employment decisions that will affect the victim.

Main characteristics

- Person in authority trades or tries to trade job benefits for sexual favours;
- Type of harassment occurs between an employee and someone with authority, who has the ability to grant or withhold job benefits;
- A tangible employment action against the victim

What is a tangible employment action?

Something that involves a significant change in status, e.g., change in pay, work status, dismissal, demotion, hire, failure to promote, transfer, undesirable reassignment, and work assignments.

Examples of tangible employment actions:

- Offering or granting better working conditions or opportunities in exchange for a sexual relationship;
- Threatening adverse working conditions or denial of opportunity for refusal;
- Using pressure, threats or physical acts to force a sexual relationship;
- Retaliating for refusing to engage in a sexual relationship

S. receives smaller pay increase based on performance than other employees with similar performance because he/ she refused to go out with his/ her supervisor, M.

3.2. SH by creating a hostile work environment

Definition

A hostile work environment can result from the unwelcome conduct of supervisors, co-workers, customers, contractors, or anyone else with whom the victim interacts on the job, and the unwelcome conduct is so severe or pervasive that it renders the workplace atmosphere intimidating, hostile, or offensive to a reasonable person.

In addition to speech and/or conduct, covers explicit or suggestive items that are e-mailed, texted, electronically provided or displayed in the workplace that interfere with job performance or that create an abusive or hostile work environment.

In other words, a hostile work environment may be created by words, signs, jokes, pranks, intimidation, physical actions or violence, either of a sexual nature (**sexual harassment**) or not of a sexual nature, but directed at an individual because of that individual's sex. i.e., bullying, yelling, name-calling (**sex-based discrimination**).

Examples of SH by creating a hostile work environment

- Display of sexually graphic pictures, posters, photos or publications in the workplace
- Sexual comments or jokes
- Suggestive looks, staring or leering
- Propositions and sexual advances
- Intrusive questions about a person's private or sex life or a person discussing their own sex life
- Sexual posts or contact on social media
- Spreading sexual rumours about a person
- Sending sexually explicit emails or text messages

- Unwelcome touching, hugging, massaging or kissing

M. is leering at and intentionally brushing against S.

M. texts and instant messages his/ her co-workers with sexually explicit jokes and pictures

Examples of sex-based discrimination (discrimination because of the individual's sex)

- Sabotaging an individual's work
- Bullying, yelling, name-calling

4. Victim and Harasser

SH can occur between males and females or between persons of the same sex. Anyone in the workplace can be a victim or a harasser.

Who can commit SH?

- Anyone in the workplace
- Co-workers
- Supervisors
- Third party
- Non-employees
- Interns
- Customers or vendors
- Security
- Visitors

Who can be a victim of SH?

- All genders can be victims of SH; however, research has shown that women are more frequently victimized than others
- LGBT+ people, people who have a non-normative sexual orientation or gender identity and expression are also more exposed to this kind of behaviour.

Workers can be subject to third party SH while carrying out their work

Third party SH means violence caused by any person who is external to the employer, such as customers, clients, patients, service users, students and members of the public. Third party SH may take the form of physical or verbal abuse with the effect of causing physical or psychological harm to the worker. Significant risks of any kind of violence from third party, including SH exist in transport workers, such as bus drivers, conductors, stewards and in typical women's professions, such as shop assistants working in bars and restaurants, teachers, nurses and social workers.

5. Where can Workplace Sexual Harassment occur?

- Whenever and wherever employees are fulfilling their work responsibilities (employer sponsored event, trainings, conferences and office parties)
- Employee interactions during off hours, can have an impact in the workplace

SH and other circumstances in which the worker is not actually working but are related to work.

Whether or not acts committed outside of work are committed 'in the course of employment' will depend on the strength of the connection with work in each particular

case. The circumstances in which the sexual harassment took place are significant in order to identify the relation to the work environment.

Example: A worker is harassed by her colleague on two occasions. The first time, during drinks in the pub with colleagues immediately after work. On the second occasion, at a leaving party for another worker, which also takes place in the pub. Although the workers are not working at the time, these social gatherings with work colleagues immediately after work or at an organized leaving party may be closely connected with employment. Therefore, they fall within the definition of 'in the course of employment'.

Example: A worker receives an unexpected visit to her home from a colleague late at night, who subjects her to unwanted sexual advances. The incident is considered too remote from work to be 'in the course of employment'. Although the two colleagues met through work, they are essentially in the same position that they would have been had they merely been social acquaintances.

6.1. Common excuses for Sexual Harassment:

- "It was just a joke."
- "She/he is from a different era."
- "But she/he is so nice!"
- "She/he is from a different culture."
- "It was just a one-off."
- "You're being too sensitive!"
- "She/he was only flirting."

6.2. None of these excuses are valid. Remember that:

- all staff should be aware of what behaviour constitutes sexual harassment and need to be held to account if they breach the legislation, staff regulations and policy;
- inappropriate jokes can constitute sexual harassment;
- one instance of sexual harassment is too much and should be reported;
- there could be other victims;
- nobody has the right to violate another person's dignity.

C. Exercises, games, quizzes

Exercise One

This exercise presents one option for starting the training session: ask the participants to fulfil the following table of three SH examples, individually or all of them together, while you write their answers on the flip chart list.

Non-verbal conduct	Verbal conduct	Physical conduct
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When they finish, present the other flip chart list you have prepared in advance and comment if there are differences or missing examples:

Table of Sexual Harassment Examples⁴

Non-verbal conduct	Verbal conduct	Physical conduct
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⁴ M. Rubenstein: "Dealing with sexual harassment at work: The experience of industrialized countries", Work Digest : Combating sexual harassment at work, Vol. 11, 1992, p.11

Display of sexually explicit or suggestive material	Comments on a worker's appearance, age, private life, etc.	Physical violence
Sexually-suggestive gestures	Sexual comments, stories and jokes	Physical contact, e.g. touching, pinching
Whistling	Sexual advances	
The use of job-related treats	Repeated social invitations	
The use of job-related rewards to solicit sexual favours		

Exercise Two

Below are some examples that the trainer can use to check the level of SH issue understanding by the trainees:

- ❖ Sexual interaction that is invited, mutual or consensual is not sexual harassment because it is not unwanted. However, sexual conduct that has been welcomed in the past can become unwanted.

Example: A female worker has a brief sexual relationship with her supervisor. The worker tells her supervisor that she thinks it was a mistake and doesn't want the relationship to continue. The next day, the supervisor grabs the worker's bottom, saying 'Come on, stop playing hard to get'. Although the original sexual

relationship was consensual, the supervisor's conduct after the relationship ended is unwanted conduct of a sexual nature.

- ❖ In some cases, it will be obvious that conduct is unwanted because it would clearly violate a person's dignity.

Example: A male manager is to interview a female worker for a promotion opportunity. The manager says that she's the favourite for the job because she's the best-looking candidate. The manager's statement is self-evidently unwanted.

Exercise Three

- ❖ How to Recognize Sexual Harassment

Often, sexual harassment goes unaddressed because we can't recognize it. The first step to fighting sexual harassment is recognizing sexual harassment. There can't be a comprehensive list of types of sexual harassment. So how do you recognize sexual harassment? One method used to determine if behaviour is sexual harassment is called the "reasonable person" standard.

It works like this:

- If a reasonable person in the same or similar circumstances would find what's happening intimidating, hostile, or abusive, then it's probably harassment.
- Keep in mind that this requires you to examine your biases.

Exercise Four

- ❖ Understanding the differences between sex-based violence (including discrimination) in the workplace and sexual harassment in the workplace.

Example: During a training session attended by both male and female workers, a male trainer directs a number of remarks of a sexist nature to the group as a whole. A female worker finds the comments offensive and humiliating to her as a woman.

How would you characterise the abovementioned behaviour?

The female worker would be able to make a claim for harassment related to sex (sex-based discrimination), even though the remarks were not specifically directed to her.

Module 2: Legal framework

A. Learning outcomes:

By the end of this module the participant of the training will be familiar with the national legislation regarding SH prevention and tackling, as well as the competent authorities to receive a report / complaint regarding an incident.

B. Anti SH legislation in Spain (Catalonia), Bulgaria, Italy and Greece.

ANTI SH LEGISLATION IN SPAIN	PROVISIONS OF THE LAW
<p>Definition of Sexual harassment</p> <p>Spanish Constitutional Act 3/2007 of 22 March, for effective equality between women and men (Article 7)</p> <p>Catalan Act 17/2015, of 21 July, on effective equality between women and men</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>In the Catalan law 17/2015 sexual harassment is defined as any <u>verbal, non-verbal or physical</u> sexual behaviour whose purpose or effect is to undermine the dignity of a person, especially if it creates an intimidating, hostile, degrading, humiliating or offensive environment.</p>
<p>Sexual harassment as an act of discrimination</p> <p>Spanish Constitutional Act 3/2007 of 22 March, for effective equality between women and men (Article 7)</p>	<p>Article 7 establishes that sexual harassment and harassment on the grounds of sex will be considered to constitute discrimination under any and all circumstances. 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>Rights of the SH survivor / Consequences for the Harasser</p> <p>Spanish Workers' Statute</p> <p>Spanish Constitutional Act 3/2007 of 22 March, for effective equality between women and men (Article 7)</p> <p>Catalan Act 5/2008 of 24 April on women's right to eradicate sexist violence</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>Furthermore, in Catalonia, Law 5/2008 of 24 April, 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>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.</p> <p>The employer is entitled to undertake disciplinary measures against the harasser, such as disciplinary dismissal.</p>
<p>Shifting the burden of proof to the harasser</p> <p>Spanish Constitutional Act 3/2007 of 22 March, for effective equality between women and men (Article 13)</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>Consequences of SH for the labor relationship</p> <p>Spanish Workers' Statute</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"> - Any act or omission constitutes a serious breach of the privacy or dignity of the worker (Article 8.11).

	<ul style="list-style-type: none"> - 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). - An act of harassment on the grounds of sex, committed within an employment relationship and under the responsibility of the employer, will also constitute a very serious offence, regardless of who the perpetrator may be, provided that the employer is aware that it has occurred and has not acted to stop it (Article 8.13).
<p>SH as a criminal offence</p> <p>Spanish Penal Code (Article 184)</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 behaviour 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>Support by trade unions</p> <p>Constitutional Act 3/2007 of 22 March, for effective equality between women and men (Article 48) Catalan Act 17/2015, of 21 July, on effective equality between women and men (Article 33)</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>Competent authorities and organizations to receive a report / complaint of SH</p>	<ul style="list-style-type: none"> - Support and advice services for women. - Specialised support services for women victims of gender-based. - Catalan Women's Institute: hotline 900 900 120 - Trade Unions / Workers' representative - Labor Inspectorate - Police - Court

<p>Responsibilities of the employer</p> <p>Constitutional Act 3/2007 of 22 March, for effective equality between women and men (Article 48) Catalan Act 17/2015, of 21 July, on effective equality between women and men (Article 33)</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. 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>Responsibilities of the public authorities</p> <p>Catalan Law 17/2015, of 21 July, on effective equality between women and men</p>	<ul style="list-style-type: none"> - Within two years from the entry into force of the Law 17/2015, the institutions of the Generalitat, the Administration of the Generalitat and public agencies related or reporting to them shall approve a protocol for preventing sexual and sex-based harassment (Article 18 - Catalan Law 17/2015, of 21 July, on effective equality between women and men). - Catalan universities, higher education facilities and research centres and institutions shall provide information and advice to prevent any discrimination, sexual or sex-based harassment or other forms of gender-based violence and implement positive action measures and include mechanisms for cooperation between institutions which help to prevent sexual and sex-based harassment which is the highest expression of inequality between the sexes, ensure such prevention is effective, and enable an appropriate response to any complaints which may be made in this respect by any member of the university community (article 28 - Catalan Law 17/2015, of 21 July, on effective equality between women and men). - The public authorities shall put in place mechanisms drawing on the recommendations of the Equality and Working Time Committee of the Council for Labour Relations for responding to complaints about sexual and sex-based harassment so as to ensure that companies comply with the protocol for preventing and addressing such harassment (article 32 - Catalan Law 17/2015, of 21 July, on effective equality between women and men)..

ANTI SH LEGISLATION IN BULGARIA	PROVISIONS OF THE LAW
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<p>Definition of Sexual harassment</p>	<p>The EU definition of sexual harassment is fully recognized in the Bulgarian Law on Protection against Discrimination.</p>
<p>Sexual harassment as an act of discrimination https://postedworkers.gli.government.bg/view/34/zakon-za-zashchita-ot-diskriminatsiya</p>	<p>The Law on Protection Against Discrimination:</p> <p>Art. 17 explicitly recognizes sexual harassment as a form of discrimination and bans it.</p> <p>Art. 4. (1) (suppl., SG 70/04) Prohibited shall be any practice or indirect discrimination based on sex, race, nationality, ethnic belonging, human genome, citizenship, origin, religion or belief, education, convictions, political affiliation, personal or public status, disability, age, sexual orientation, family status, property status or any other characteristics established by an Act or by an international agreement party to which is the Republic of Bulgaria.</p> <p>(2) Direct discrimination is every less favourable treatment of a person on the grounds of the characteristics under para 1 as compared with another person, treated, having been treated or would be treated in similar circumstances.</p>
<p>Rights of the SH survivor / Consequences for the Harasser</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.</p> <p>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>Law on Protection Against Discrimination: Art. 9. (amend. – SG 26/15) In proceedings for protection from discrimination, after the party claiming to be discriminated submits facts, by which an assumption can be made that discrimination is present, the responding party shall have to prove that the principle of equal treatment has not been violated.</p>
<p>Consequences of SH for the labor relationship</p>	<p>The consequences of SH 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. SH 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</p>

	<p>phenomenon. SH 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>Law on Protection Against Discrimination: Art. 18. The employer, in cooperation with the trade unions, shall be obliged to take effective measures for prevention of all forms of discrimination on the working place. Art. 19. For failure to fulfil his obligation under art. 18 the employer shall bear responsibility under this Act for acts of discrimination committed on the working place by his employees. The Law on Obligations and Contracts 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.</p>
<p>Competent authorities and organizations to receive a report / complaint of SH https://www.kzd-nondiscrimination.com/layout/</p>	<p>Commission for Protection against Discrimination - The Commission for Protection against Discrimination (CPD) - a state institution. It was established in April 2005 under the Protection against Discrimination Act, with the main goal of "preventing discrimination, protection against discrimination and ensuring equal opportunities". Art. 47. The Commission for protection from discrimination shall: 1. establish violations of this or other laws settling equality of treatment, the offender and the affected person; 2. order prevention and termination of the offence and restoration of the initial state; 3. imposed the stipulated sanctions and apply measures of administrative enforcement; 4. give obligatory prescriptions with regard of observing this Act or other laws settling equality of treatment;</p>

	<p>5. appeal administrative acts issued in violation of this or other laws settling equality of treatment, lay claims in court and intervene as an interested party to proceedings instituted pursuant to this Act or other laws settling equality of treatment;</p> <p>6. extend proposals and recommendations to the state and municipal bodies for termination of discrimination practices and for revoking their acts issued in violation of this or other laws settling equality of treatment;</p> <p>7. maintain a public register for decisions and obligatory prescriptions issued by it and enacted;</p> <p>8. give opinion on draft normative acts for their compliance with the legislation for prevention of the discrimination, as well as recommendations for adopting, revoking, amendment and supplement of normative acts;</p> <p>9. provide an independent help to the victims of discrimination in filing complaints for discrimination;</p> <p>10. carry out independent studies regarding the discrimination;</p> <p>11. publish independent reports and make recommendations on all issues related to the discrimination;</p> <p>12. (new – SG 58/12, in force from 01.08.2012) inform the public via the mass media of the regulations in force concerning the protection against discrimination;</p> <p>13. (prev. text of item 12 – SG 58/12, in force from 01.08.2012) carry out other competence stipulated by the regulation for its structure and activity.</p> <p>Art. 50. Proceedings before the Commission shall be instituted on:</p> <ol style="list-style-type: none"> 1. complaint of the affected persons; 2. initiative of the Commission; 3. signals by individuals and corporate bodies, of state and municipal bodies. <p>Art. 51. (1) The complaint or the signal to the commission shall be filed in writing. When written in a foreign language they shall be accompanied by a translation into Bulgarian.</p> <p>(2) The complaint or signal shall contain:</p> <ol style="list-style-type: none"> 1. the name or denomination of the sender; 2. the address or seat and address of management of the sender; 3. exposition of the circumstances on which the complaint or signal is based; 4. exposition of the requests to the Commission; 5. date and signature of the person filing the complaint, or of his representative.
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	<p>(3) Anonymous complaints and signals shall not be considered by the Commission.</p> <p>Art. 55. (1) The reporter shall start a procedure of enquiry, gathering all written evidence necessary for the full and thorough clarification of the circumstances, using employees and outside experts.</p> <p>(2) All persons, state and local bodies shall render assistance to the Commission in the process of the enquiry, and they shall be obliged to submit the required information and documents and to give the necessary explanations.</p> <p>(3) The presence of commercial, industrial or other secret protected by an Act may not be grounds for refusal of assistance.</p> <p>(4) In the presence of grounds for access to classified information it shall be submitted by the order of the Protection of Classified Information Act.</p> <p>Art. 56. (1) On carrying out its legal capacities the Commission shall have the right:</p> <ol style="list-style-type: none"> 1. to require documents and other information related to the enquiry; 2. to require explanation by the persons of the enquiry on issues related to the enquiry; 3. to interrogate witnesses. <p>(2) On refusal to submit information requested by the Commission, or a refusal of access to premises, as well as in other cases of refusing assistance to the Commission the guilty persons shall bear responsibility under this Act.</p> <p>The victim can also file a report to the territorial 'Labour Inspection' Directorate accompanied by detailed information on the case.</p>
<p>Responsibilities of the employer</p>	<p>The Law on Protection Against Discrimination:</p> <p>Art. 17. An employer having received a complaint from an employee who considers himself subject to harassment, including sexual harassment, on the working place, shall be obliged to make immediately an enquiry, to take measures for termination of the harassment, as well as for imposing disciplinary liability if the harassment has been carried out by another employee.</p> <p>Art. 20. The employer shall apply equal criteria in imposing disciplinary penalties regardless of the characteristics under art. 4, para 1.</p> <p>Art. 22. The employer shall put in a place in the enterprise, accessible for the employees, the text of the law, as well as all provisions of the internal rules and of the clauses of the team employment contract regarding the protection from discrimination.</p>

	<p>Art. 23. (1) On request, the employer shall submit information to the person claiming that his rights under this section have been violated.</p> <p>(2) The information under para 1 shall contain the grounds for the decision taken by the employer, as well as other data thereto.</p> <p>Art.29(2) The management of an educational institution shall take effective measures for prevention of all forms of discrimination at the educational place in the country on a part of a person from the pedagogical or non-pedagogical personnel or by a student.</p> <p>Art. 30. The head of the educational institution shall put in an accessible place the text of the law, as well as all provisions of the internal rules regarding the protection from discrimination.</p> <p>Art. 31. The head of an educational institution, having received a complaint of a student who considers himself a subject of harassment by a person from the pedagogical or non-pedagogical personnel or by another student, shall be obliged to enquire immediately and take measures for termination of the harassment, as well as for imposing disciplinary liability.</p> <p>Art. 37. (1) (prev. text of Art. 37 – SG 58/12, in force from 01.08.2012) Not admitted shall be a refusal to submit commodities or services, as well as the submitting of commodities and services of a lower quality or under less favourable conditions on the grounds of the characteristics under art. 4, para 1.</p> <p>(2) (new – SG 58/12, in force from 01.08.2012) Discrimination on the grounds of Art. 4, para 1 in the public or the real sector, directly or indirectly related to the conduct of business, including the establishment, equipment or expansion of a business or start-up or expansion of any other form of such activity, shall not be allowed.</p> <p>(3) (new – SG 58/12, in force from 01.08.2012) Rejection of or submission to a person's behaviour that constitutes harassment or sexual harassment in the framework of the activities under para 2, cannot serve as a basis for a taking a decision affecting that person. 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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ANTI SH LEGISLATION IN ITALY	PROVISIONS OF THE LAW
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<p>Definition of Sexual harassment</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 case of sexual harassment in the workplace.</p> <p>Harassment is also considered as discrimination. Among SH general definition of the CC refer to: unwanted behaviours, 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. 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 26th 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 law provide the opportunity to ask for a compensation but it does not recognize it as a 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>
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<p>Sexual harassment as an act of discrimination</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).</p>
<p>Rights of the SH survivor / Consequences for the Harasser</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).</p> <p>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>Consequences of SH for the labor relationship</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 a new paragraph 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 behaviour, has been defined in various offenses such as private violence, discrimination, stalking etc.</p>

<p>Support by trade unions</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 of conduct have been adopted with the 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>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 Councilor, 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/his functions, the Equality Councilor is a public officer with the obligation to report to the judicial authority the crimes of which she/he becomes aware. It deals with protection and support to male and female workers who have suffered discrimination at the workplace (including gender discrimination such as SH).</p>

<p>Responsibilities of the employer</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"> • Competent Doctor, • Head of Prevention and Protection Service, • Workers' safety representative. <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>Responsibilities of the public authorities</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"> - protection and prevention measures, - verification of application of the law - Reinforce compensation mechanisms, guidance, training and awareness to prevent and eliminate SH. <p>The Convention is accompanied by the Recommendation on Violence and Harassment (recommendation n.206 ILO).</p>

ANTI SH LEGISLATION IN GREECE

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 here</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 here and Law No. 3896/2010 accessible in Greek here.</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 behaviors 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 behavior, 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>Who may be a victim</p> <p>Law No. 4808/2021, accessible in Greek here</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>

	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>Where can sexual harassment occur</p> <p>Law No. 4808/2021, accessible in Greek here</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,</p> <p>(b) during work-related trips, travel, training and work-related events and social activities; and</p> <p>(c) work-related communications, including carried out through information and communication technologies.</p>
<p>Sexual harassment as an act of discrimination</p> <p>Law No. 3896/2010 (article 3 par. 2) accessible in Greek here</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>Rights of the SH survivor / Consequences for the Harasser</p> <p>Law No. 3896/2010 (articles 22, 23, 25) accessible in Greek here.</p> <p>Law No. 4808/2021 (art. 12), accessible in Greek here</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 ("Sinigoros tou Politi").</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</p>

	<p>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>Consequences of SH for the employment relationship</p> <p>Law No. 4808/2021 (art. 13), accessible in Greek here</p> <p>Law No. 2112/20 (articles 1-7) accessible in Greek here and relevant case law (indicatively see here).</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>SH as a criminal offence</p> <p>Greek Penal Code article 337 par. 4 accessible in Greek here.</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>Shifting the burden of proof to the harasser</p> <p>Law No. 3896/2010 (article 24) accessible in Greek here.</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>Support by trade unions</p> <p>Law No. 3896/2010 (article 22 par. 2) accessible in Greek here.</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 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)

	<p>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>
<p>Employer's duty of care for the workers</p> <p>Greek Civil Code articles 651, 657, 658 and 660 (more information are accessible here)</p> <p>Law No. 1568/85 (article 32) accessible in Greek here - 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"> • 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. • 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. • To prepare a program of preventive action and improvement of working conditions in the company.

Module 3: Rights and Obligations

A. Learning outcomes:

By the end of the module, employees should be able to understand why SH happens and what rights do employees have in a SH incident in the workplace against them or against a colleague as well as the employer's obligations.

I. Rights of the employees.

A. Theoretical framework

1. Introduction: SH, gender inequality and power dynamics in the workplace

While sexual harassment can be perpetrated or experienced by both men and women, it is known that women are most often the targets and men the perpetrators. Harassment in the workplace largely reflects gender power imbalances and is part of a spectrum of disrespect and inequality that women face in the workplace and everyday life.

Any violence and harassment against women in the world of work is a serious violation of women's human rights and a major barrier to achieving equality of opportunity and access to decent and dignified work. It has a devastating impact on women workers' health, wellbeing and performance at work. It is also deeply rooted in social norms, values and stereotypes that foster gender inequalities, discrimination against women and unequal power relations between men and women, including intersecting forms of discrimination, for example, based on gender and race, disability or social origin⁵.

Sexual harassment often happens between people who have an uneven power dynamic: the boss and the employee, the co-worker in the "in" group and the person new to the company.

It is important to know why SH in the workplace really happens so that we can combat it and create a respectful working culture and environment.

⁵ UN Women ILO (2019) HANDBOOK Addressing violence and harassment against women in the world of work, p. 2-3 https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---ilo-ankara/documents/publication/wcms_731370.pdf

2. Employees' rights in sexual harassment incident in the workplace (SH).

❖ The right to report the incident and receive support by the available services.

SH survivors have the right to **report** the incident to the competent legal authorities (such as the gender equality organizations, administration bodies, police, prosecutor or court, see Module 2).

They also have the right to report the incident to the authorized contact person/ committee of the **company** that they work for, in order for the company procedure to initiate.

Colleagues that **witness** SH against another colleague are also advised to report it to the authorized contact person/ committee of the company; however, they should firstly contact the SH victim and let them know that they are aware of the incident and that they want to support them.

❖ The right not to be subject to acts of victimisation/ retaliation (both for victims and witnesses).

This is also an obligation of the employer, so for more information please read the relevant paragraph below (II).

❖ The right to confidentiality

The authorized contact person/ committee of the company should respect confidentiality when they receive a complaint on SH.

Confidentiality is fundamental to creating the psychological safety in workplaces, which will help to prevent sexual harassment in a systemic way. During the complaint and the investigation procedures, the employer should ensure that all the information is kept confidential and only those who need to know about the issue in order to help resolve it, and prevent further incidents, know the details. This will protect the complainant from any further disadvantage, such as gossip among colleagues about the harassment.

II. Obligations of the employers

- ❖ **Obligation to take prevention measures in order to guarantee safety and welfare of the workers (including prevention of SH) and to promote inclusiveness.**

This obligation may include developing an anti SH policy, providing an internal complaint procedure, properly disseminating all relevant information so that they are easily accessible by staff of all levels and employment status. Prevention measures could also include training the staff.

- ❖ **Obligation to guarantee a transparent and fair company complaints' procedure.**

If the company implements an internal complaints' procedure, it should be organized in a way that it respects the rights of the sexually harassed employee and leads to effective prevention of future incidents. The procedure should safeguard confidentiality for the person that reports SH.

Reports should be taken seriously and promptly investigated, with effective remedial action when appropriate.

The employers should:

- A) Specify the SH complaint procedure for employees and encourage them to report unwanted and inappropriate behaviours.
- B) Once a complaint is filed, it's the responsibility — and liability — of the employer to take swift and appropriate action to stop the harassment. These steps may include:
 - Fully informing the complainant of his/her rights
 - Fully and effectively investigating the claim
 - If harassment is proven, there must be prompt and effective remedial action.
- C) If a manager witnesses inappropriate behaviour and does nothing, *"you're basically sending a message to all of the others on your team that you're condoning it."*⁶

⁶ RuÁno, trainer and consultant for Train Me Today in Huntington Beach, California.

Often a complainant may not feel able to resolve an issue directly and may need support from a third party to resolve their complaint. For example, an employer must allow a worker to be accompanied by another person if that would be necessary:

Example: A worker has made a complaint of sexual harassment. She isn't in a trade union and it would be unreasonable to expect her to recount explicit details of the harassment in front of a colleague. She finds it very stressful and upsetting to talk about the matter and requires emotional support in order to do so. It would be reasonable in these circumstances to allow the worker to be accompanied by someone who can offer emotional support, such as a friend.

The main prerequisite for reporting cases of SH is the existence of a written procedure in the business company, which will have a preventive role on the one hand, and on the other - will provide solutions when such a problem arises.

The company complaint procedure should not place the burden on the complainant to resolve an issue personally, but should support her/him with concrete advice and written rules.

- ❖ **Obligation to prevent and abstain from any acts of victimisation/ retaliation against the person that reports SH.**

The company complaints' procedure should explicitly state that victimisation or retaliation against a complainant will not be tolerated.

What is retaliation and which are the activities protected against it

- Any action taken to alter an employee's terms and conditions of employment because that individual engaged in any of the protected activities.
- Any negative action taken by the employer against the employee, that could have the effect of discouraging a reasonable worker from making a complaint about harassment or discrimination.
- Negative action need not be job-related or occur in the workplace, and may occur after the end of employment (unwarranted negative reference).

Any employee who has engaged in “protected activity” has to be protected from being retaliated against.

Protected activities:

- Making a complaint to a supervisor, manager or another person designated by your employer to receive complaints about harassment
- Reporting suspected harassment, even if you are not the recipient
- Filing a formal complaint about harassment
- Opposing any discrimination
- Assisting another employee who is complaining of harassment
- Providing information during a workplace investigation of harassment, or testifying in connection with a complaint of harassment filled with a government agency or in court

What is not Retaliation

- Employees continue to be subject to all job requirements and disciplinary rules after having engaged in such activity.
- If a negative employment action occurs after the employee engages in protected activity, the employer must be able to show that the adverse action was not motivated by the protected activity.

Role of the Victimization for the Reporting

- Victimization means treating a worker badly (subjecting them to a detriment) because they have done a protected act – for example, making a complaint of SH, or are going to do a protected act.
- Victimization is one of the biggest barriers to people reporting SH at work. It is important that employers recognize the role that fear of victimization plays in relation to how they approach and deal with harassment and sexual harassment at work. This will be a key factor in their ability to fulfil their duty to prevent and protect employees from SH.

C. Exercises, games, quizzes

Retaliation/ Victimisation

Example: A bar owner hears a rumour that one of his workers may make a grievance about SH by a colleague. As the worker has only been in his employment for a few weeks, the owner dismisses the worker to avoid dealing with the grievance. The worker, in fact, had no intention of raising a grievance.

Is this an act of retaliation?

The bar owner has subjected her to a detriment because he believed that she would, and as such her dismissal is an act of retaliation.

Example: Laura has been sexually harassed by one of her colleagues for months. She finally made a formal complaint to her supervisor. Since then, she has been feeling left out at work. Her colleagues turned their backs on her and are no longer nice to her.

Is this an act of victimisation?

Yes, it is.

Example: A nurse is employed by an “A Trust”. She is being treated at the hospital where she works. She brings a claim under the services provisions of the Act against the “A Trust”, relating to SH that she was subjected to while undergoing treatment. She is subsequently denied a promotion by her manager who says that she is not a ‘team player’, a view based on her bringing a claim against her employer. Although her claim is brought under the services provisions of the Act, she is still protected against being subjected to a detriment in her employment and can accordingly bring a claim for victimisation.

Module 4: Pathways for reporting – Ways to support colleagues – victims of sexual harassment

A. Learning outcomes

By the end of this module the participant of the training will understand the reasons why SH often goes unreported, the importance of transparent fair procedures and proper dissemination of them (explicit complaint procedure, contact person, non-retaliation statement, confidentiality, corrective actions), what someone should do if they are sexually harassed or witness a fellow colleague being sexually harassed, how to support victims of SH and help them seek assistance from the available services.

B. Theoretical framework

B1. Pathways for reporting

Sexual Harassment often takes place and goes unreported, especially when there is a power imbalance in the workplace. One UK survey found that 79 % of targets of sexual harassment in the workplace did not report it⁷. The reasons given for not reporting included:

- fear that relationships at work would be negatively affected;
- fear that the report would not be believed or taken seriously;
- embarrassment;
- fear of a negative impact on career

The European Foundation for the Improvement of Living and Working Conditions (Eurofound) also found that a lack of public discussion on sexual harassment, as well as high societal tolerance of such violence, lead to under-reporting⁸.

Most of the time women and girls are afraid to denounce violence. They may feel ashamed or are afraid they will be blamed or, as much sexual harassment happens in the workplace, are

⁷ TUC, Still just a bit of banter? Sexual harassment in the workplace in 2016, TUC, London, 2016

(<https://www.tuc.org.uk/sites/default/es/SexualHarassmentreport2016.pdf>).

⁸ Eurofound, Violence and harassment in European workplaces: extent, impacts and policies, Eurofound, Dublin, 2015, p. 52.

afraid of losing their job or being penalised⁹.

Common workplace-based responses by those who experience SH are to avoid the harasser, deny or downplay the gravity of the situation, or attempt to ignore, forget, or endure the behaviour.

Furthermore, the lack or the inappropriate procedures followed by the companies hinders reporting SH. Specific barriers and problems identified include:

- ❖ Lack of awareness of laws and their implementation, including poor fulfilling the obligations of employers to prevent sexual harassment;
- ❖ Long and bureaucratic procedures for filing lawsuits and the stigma associated with filing complaints. There are difficulties in establishing evidence including reversing the burden of proof;
- ❖ Lack of awareness and sense of priority of the problem among the social partners, as well as a general limited understanding and lack of serious intention for tackling sexual harassment in the workplace;
- ❖ Patriarchal culture and the pervasive culture of sexism and inequality between the sexes;
- ❖ Victims do not sue because they fear that there will be negative consequences for them, which is also associated with difficulties in proving sexual harassment;
- ❖ In some sectors, the lack of policies, procedures and systems for filing complaints, as well as sanctions for perpetrators, remain significant obstacles to tackling sexual harassment in the workplace.

Any employee who has engaged in “protected activity” should be protected by law from being retaliated against.

What is a “protective activity”?

- ❖ Making a complaint to a supervisor, manager or another person designated by your employer to receive complaints about SH
- ❖ Reporting suspected SH, even if you are not the recipient
- ❖ Filing a formal complaint about SH
- ❖ Opposing discrimination
- ❖ Assisting another employee who is complaining of SH

⁹ European Parliament resolution of 26 October 2017 on combating sexual harassment and abuse in the EU (2017/2897(RSP) (https://www.europarl.europa.eu/doceo/document/TA-8-2017-0417_EN.pdf).

- ❖ Providing information/ evidence during a workplace investigation of SH, or testifying in connection with a complaint of SH filled with a government agency or in court

What should I do if I am harassed?

- ❖ If you believe you have been subjected to sexual harassment, you have a number of choices. Take the time you need to decide and get expert advice from experts (unions, workers' representative, women's organizations...).
- ❖ First, whatever you plan to do, you should keep notes and evidence of the incidents. Write down what happened, what was said or touched, who did it, whether anyone was around to witness what happened, where you were, what the time was... If there is any physical evidence (for example, notes, images, emails) save it.
- ❖ If you want to lodge an internal complaint, you should complete the complaint form and submit it to either your supervisor or to the company person authorized for the purpose, according to the company's procedure.
- ❖ You can report any behaviour you experience about that is inappropriate, without worry about whether or not it is unlawful SH.
- ❖ If the incident amounts to criminal offence, you can also report it to the police.
- ❖ During the internal formal investigation, you will be asked to cooperate by attending an interview with the designated person or committee. Under no circumstances, you can be required to meet the harasser.

The SH survivors are not obliged to follow the company's procedure; in any case and time, they can report the incident to the competent authorities (public authorities, labour inspectorate, court etc.). Employers will be liable for any kind of harassment or victimisation committed by their workers unless they can show that they took all reasonable steps to prevent such behaviour and respond to it effectively. Victims have the right to seek compensation from the employer for the lost earnings and emotional distress that resulted from the harassment.

What should I do if I witness Sexual Harassment?

Witness or becomes aware of potential instances – REPORT to Supervisor or to the person authorized for the purpose, following the company's complaint procedure. During the formal investigation, witnesses might be asked to cooperate by attending an interview with the designated person or committee.

It will be unlawful to retaliate for reporting suspected sexual harassment or assisting in any investigation.

Nevertheless, prior to any formal notification to the company, witnesses should talk to the victim, offer her/his support and make sure the complaint does not prejudice them. You could approach a victim by asking general questions in order to make her /him feel that you care about him/her and want to help:

- How are you? Is something going on at work?
- Lately, I have noticed that you do not seem to be happy...
- The other day I saw that X was saying nasty things to you. Are you ok?

B2. Ways to support victims / help them seek assistance

When an employee experiences sexual harassment or abuse, the support received from colleagues is crucial to enable a recovery process and to avoid victimisation.

If there is supportive environment, the victim will probably feel more encouraged to disclosure and report the incident, as well as feel in a safe environment. The following suggestions/information can help you be a supportive colleague¹⁰:

Listen and support

- Support and understanding are essential. It takes a lot of courage for a victim to share their experience;
- Try to provide a safe/non-judgmental environment, emotional comfort, and support for the victim to express feelings;
- Let them know that they can talk with you. Listen. Don't rush to provide solutions.

Believe

The most common reason people choose not to tell anyone about sexual harassment abuse is the fear that the listener won't believe them. People rarely lie or exaggerate about abuse; if someone tells you, it's because they trust you and needs someone to talk to.

- People rarely make up stories of abuse. It is not necessary for you to decide if they were "really hurt." If the victim says they were hurt, that should be enough;

¹⁰ Adapted from: Sexual harassment & Rape prevention program, University of New Hampshire. Retrieved 09/04/21 from <https://www.unh.edu/sharpp/helping-friend>

- Believe what the person tells you. It may have been difficult for them to talk to you and trust you.

Reassure

Sexual harassment is NEVER the victim's fault. No one asks to be sexually harassed by what they wear, say or do. Let the victim know that only the perpetrator is to blame;

The victim needs to hear that fears, anxieties, guilt, and anger are normal, understandable and acceptable emotions;

Remember, no one ever deserves to be abused or harassed.

Be Patient

Don't press for details – let your colleague decide how much they want to share. Ask them how you can help;

Victims have to struggle with complex decisions and feelings of powerlessness, trying to make decisions for them may only increase that sense of powerlessness.

You can be supportive by helping them to identify all the available options and then help by supporting their decision-making process.

The victim can't just "forget it" or just move on. Recovery is a long term process and each individual moves at their own pace.

Encourage

Encourage the victim to seek psychological support, report the harassment, and or contact any specialized organization or mutual support group. Remember, the victim must ultimately make the decision as to what to do. They are the expert in their own lives. Don't push.

Respect Privacy

Don't tell others what the victim tells you. Let the individual decide who they will tell. It is important not to share information with others who are not involved;

If you do need to share information for their safety, get permission by letting them know what you will share and with whom it will be shared.

Establish Safety

An important part of helping the victim is to identify ways in which the victim can re-establish their sense of physical and emotional safety. You are a step in the process. Ask your colleague what would make them feel safe and how you can help them accomplish this.

If the harassment is ongoing, help your colleague to develop a plan of what to do if a new incident happens. Having a specific plan and preparing in advance can be important if the violence escalates.

Things you can say

It is hard to know what to say to someone when they confide in you. Refrain from asking a lot of questions, instead, support your colleague with these phrases:

- It's not your fault
- I'm sorry this happened
- I believe you
- How can I help you?
- I am glad you told me
- I'll support your choices
- You're not alone

C. Exercises, games, quizzes

Quiz 1:

You walk by the copy room and you overhear your co-worker Jude ask an intern, Ayanna, if she'd like to get a drink with him after work. She does not seem comfortable with the situation.

What's something you can say to intervene in this situation?

A "Hey, Ayanna, you don't seem comfortable. Are you okay?"

B "Daniel, stop harassing Ayanna or I'll go to HR."

C "Daniel, are you sure you want to ask Ayanna on a date? It seems inappropriate."

D "Ayanna, I need your help with something. Can you come with me for a few minutes?"

Why D:

The other answers are confrontational, and could embarrass Ayanna or escalate the situation. If Ayanna does come with you, you can be honest with her: you thought she might have been

uncomfortable in that situation and so you wanted to give her an opportunity to leave. You can also improvise and ask her for feedback on something you're working with.

Quiz 2:

During a team meeting you have noticed that your colleague Carolina seems to be very tense and after the meeting she refuses to go out for a coffee with the rest of the team. After a while you go to her office to make sure that everything is ok. She immediately starts crying and tells you that she had been dating Marc, a colleague from the office, but she decided not to continue the relationship one week ago. Since then, Marc hasn't stopped sending her messages and yesterday he cornered her in the hallway and tried to kiss her. She is feeling very bad and argues that she should not have dated him ever. What should you say to Carolina?

A " I am really surprised to hear that. Marc is a very nice guy".

B "This is not your fault. He should understand that you do not want to have a relationship with him. How can I help you?"

C "He must stop. I am going to talk to him right now".

D "Are you sure you were clear enough to him? Maybe he hasn't understood that you don't want to be with him. Go and talk to him"

Why B:

No matter how nice Marc might seem to you, you should believe what Carolina is telling you and understand how she feels. You should try to make her feel accompanied and not blaming herself. You should also respect her needs and wants and do not intervene, unless she asks you to do so.

ANNEXES:

1. Knowledge/ Perception Evaluation Questionnaires

Module 1

Pre-evaluation questions

1. *How would you define sexual harassment in the workplace (SH)?*
2. *By whom can SH occur?*
3. *Do you think that SH is common in your country?*
4. *Do you think that SH is linked to gender?*

Post-evaluation questions

1. *What are the main forms of SH? Can you provide 1 example for each form?*
2. *What is the impact of SH for the survivors?*
3. *Can a joke of sexual nature be considered as SH?*

Module 2

Pre-evaluation questions

1. *Is SH prohibited in your country?*
2. *What rights does the SH survivor have?*
3. *Which do you think the competent authorities are to receive a SH report/ complaint?*

Post-evaluation questions

See exercise provided in the main core of the Curriculum, Module 2.

Module 3

Pre-evaluation questions

1. *Do the employees have specific rights in case they face SH?*
2. *Does the employer have an obligation to prevent SH?*

Post-evaluation questions

3. *Name 2 rights that the employees have in case they face SH.*
4. *Is the employer obliged to organize a complaints' procedure for SH within the company?*
5. *Name 3 conditions of an effective a complaints' procedure for SH within the company.*

Module 4

Pre-evaluation questions

1. *Is sexual harassment in the workplace commonly reported?*
 - a) Yes, most of the cases are reported.
 - b) Yes, indeed sexual harassment is over-reported. People are too sensitive to this topic.
 - c) No, most of the cases remain unreported.
 - d) I don't know.

2. *What someone should do if they face SH?*

Post-evaluation questions

1. *Please, choose 3 key works that should be taken into account when providing support to a victim of sexual harassment in the workplace?*

2. Case studies and dilemmas

Module 1

Case study 1: Mark is the head of the department that Dina is working the past 6 months. He is kind and helpful with all the employees. One day Marks suggests to Dina that they go for dinner after work so that they get to know each other better and discuss work related issues. Dina kindly denies, as she is not comfortable with this. After this incident, Mark's behaviour changes: he starts complaining to Dina about her work and after a while, Dina is called by the company's management to explain her low performance at work as reported by Mark.

Would you consider this a SH incident? Why?

Case study 2: Norman and Penelope are working together in a small business. Norman is constantly picking at Penelope making jokes about her tight clothes and how it suits her. Penelope never replies to these jokes and ignores him. One day Penelope complains to their employer, Daniel, that Norman is sexually harassing her referring to her appearance and clothes and asks him to support her. Daniel replies that he would have intervened, however Norman is just joking and Penelope should not feel offended by his remarks.

Would you consider this a SH incident? Why? Is Daniel right?

Case study 3: In the company that Layla works, a fellow colleague working in higher position has just resigned and Layla along with other colleagues is hoping to receive promotion to this position. Layla's boss tells her privately that he thinks that she is not qualified for it, however he has not made his final decision yet and he suggests that if they spend more time together by going on a trip in the weekend, he will consider it again and maybe give her the position.

Would you consider this a SH incident? Why?

Module 3

Niya is a 23 years old woman. She started working in a dispatching company and fell in love with a colleague. It doesn't take long for them to become partners in life and to start living together. After a while, however, Niya decides that she wants to end their relationship and leaves the dormitory. Peter tries to get her back, but without success. That's how it all starts. At work, they continue to be together every day, and soon insults

and attacks begin. Niya' s ex-boyfriend Peter and her superior, who is a friend of Peter, start harassing her verbally in front of the other colleagues. They comment on Niya' s sexual behaviour, humiliate her, and make up stories about her previous partners. All this happens in the absence of the company's managers. After a while, her other colleagues stopped communicating with her.

- *How would you characterise this behaviour? Who are the individuals responsible for it?*
- *Please suggest possible solutions to this case - what do you think the end of the story might be?*
- *Discuss the rights of the employee and the obligations of the employer in case of SH.*

Module 4

Case study 1: Joana is a waitress. She has been sexually harassed by a customer but she is not sure whether she should report the incident because her boss is not very empathetic. She explains the incident to her colleague Adam because she feels upset and undecided. When she starts explaining the incidents to Adam, he constantly interrupts her with invasive questions and he doesn't let her speak. He argues that that customer is an idiot and that she shouldn't wear tight clothes at work to avoid this kind of incidents. He adds that she should have already told their boss.

Question: Has Adam been supportive to Joana?

Answer: Even though he seems to believe Joana's story, he was not an active listener. He made too many questions and asked for unnecessary details. Furthermore, questioning her clothing choices is an example of victim-blaming, as he implicitly suggested that her clothes provoked the incidents. Tight clothing does not excuse sexual harassment. Furthermore, he doesn't seem to understand her feelings and insecurity. He shouldn't tell her what to do, but rather encourage her to make her own choices.

3. Final evaluation questionnaire

1. What is SH by Quid Pro Quo? Please, provide an example.
2. What is SH by creating a hostile work environment? Please, provide an example.
3. What are the law provisions in case of SH a) for the survivor, b) for the harasser, c) for the employer?
4. What would you do if you are subject to or witness SH? Please name individuals or authorities that are competent to receive a complaint for SH.
5. Suggest the proper approach and support to a colleague that tells you that they have been subject to SH.
6. Is an employee who reports SH against him/ her or a colleague protected from acts of retaliation/ victimisation?

References/ Additional resources

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