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Cooperation Partnership in Youth Project

Say NO to gender-based discrimination, sexual harassment and sexual assault! #NOT ME

**Guidelines for youth mentors:
„Prevent sexual harassment at work“**

**``How to say no! Prevent gender based
discrimination, sexual harassment and sexual assault!``**

2023

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Introduction

Goal and target group

The guidelines are designed for mentors and representatives of employers working with young employees to understand their responsibilities, but also the actions they can take to prevent sexual harassment at work. The guidelines will also provide information about how to settle positive working environment and how to prevent sexual abuse in working settings in different cultural backgrounds. The guidelines are addressed especially to mentors, leaders, supervisors and other representatives of employers to be able to prevent sexual harassment.

It is addressed to any organization looking to train its workforce on sexual harassment, such as software companies, legal firms, manufacturing, hospitals, medical practices, city/county/state government, etc.

Expected result and impact

The outcome will be a detailed guide for representatives of employers working with young people that will equip them with knowledge and skills on how to prevent sexual harassment at organizational level, how to support young employees to report it, and how to take the appropriate actions and measures.

More specific impacts on representatives of employers are:

- a) improvement and development of skills as social responsibility, critical thinking, decision making, leadership, empathy.
- b) raising the awareness on the importance of adopting a range of behaviors, procedures, policies, measures, at the organizational level, to ensure gender equality and balance, as well as equal opportunities. This will lead to raising motivation, job satisfaction, job performance and personal and professional fulfillment of young employees.
- c) creating a pleasant working atmosphere where young employees feel safe, which leads to their well-being and contentment,
- d) getting the tips and tricks how to speak about the topic and broaden the sensitivity also in between the young employees themselves.



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Topics

The guidelines will be composed by chapters, covering the following topics:

- Identify and prevent sexual harassment in the workplace.
- Identify the effects of sexual harassment at work: how the work of an individual is affected and what are the effects at organizational and societal level.
- Create a positive working environment.
- Handle complaints and assure investigations and disciplinary action.
- When sexual harassment is a crime and actions to do as mentor, supervisor, leader of young employees.
- Responsibilities and legal obligations of employers related to sexual harassment at work.
- Mechanisms, strategies, and procedures to prevent sexual harassment at work.
- How to encourage the young employees to talk about and to report if they are victims of sexual harassment at work.

Each chapter will have a part with attractive theoretical aspects, suggestions, and tips and one with practical and problem-solving exercises. Each chapter will include:

- part with attractive theoretical aspects
- suggestions and tips
- practical and problem-solving exercise (also case study)
- resources for the representatives of employers who are interested more on a certain topic

At the end, we will provide resources for the representatives of employers who are interested more on a certain topic.

Modules

In order to make the text more interconnected and accessible we have organized the above-mentioned topics into 6 modules that create the core of this document that we hope will come in handy to you.

- **Module 1: Creating positive working environment**



- **Module 2: Identification and prevention of sexual harassment in the workplace.** Identification of the effects of sexual harassment at work: how the work of an individual is affected and what are the effects at organizational and societal level.
- **Module 3: Mechanisms, strategies and procedures to prevent and solve sexual harassment at work** and how to handle complaints and assure investigations and disciplinary action.
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MODULE 1: POSITIVE WORKING ENVIRONMENT

- Creating positive working environment

Theory, suggestions and tips:

A positive working environment can have a significant impact on employee well-being, as well as on the prevention of gender-based discrimination. When employees feel safe, supported, and valued, they are more likely to experience job satisfaction, better mental health, and improved physical health.

A positive working environment that promotes respect, inclusivity, clear expectations, and support can also play an important role in preventing gender-based discrimination. By creating a culture of respect and equality, employers can help to eliminate discrimination and harassment based on gender, sexual orientation, or any other characteristic. This can help to foster a workplace culture where all employees are treated with dignity and fairness, and where they feel comfortable reporting incidents of discrimination or harassment without fear of retaliation.

Moreover, a positive working environment that promotes diversity and inclusivity can help to reduce unconscious bias and increase awareness around gender-based violence. This can lead to employees being more vigilant and proactive in identifying and reporting any behaviors or actions that may contribute to gender-based violence, as well as taking action to prevent it.

In order to promote a positive work environment that is free from judgment and bias, it is important to consider a wide range of elements.

Here you will find an overview of the different things you may want to consider to set a positive atmosphere in your workplace!



- **Respect:** Creating a culture of respect is critical to preventing gender-based violence in the workplace. This means valuing diversity and treating all employees with dignity and fairness, regardless of their gender, race, ethnicity, sexual orientation, or any other characteristic.

Leaders and managers can set the tone for respectful behavior in the workplace by modeling respectful behavior themselves. This means treating all employees with dignity and fairness, actively listening to their perspectives, and valuing their contributions to the organization.

Employers can create a workplace culture that encourages open and honest communication, where all employees feel comfortable sharing their thoughts, ideas, and concerns. This can help prevent misunderstandings and conflicts that can lead to incidents of gender-based violence.

- **Inclusivity:** Promoting inclusivity in the workplace means creating an environment where all employees feel welcome and valued, regardless of their gender, race, ethnicity, religion, sexual orientation, or any other personal characteristic. This involves actively seeking out and incorporating diverse perspectives and experiences, and ensuring that everyone has equal access to opportunities for growth and advancement.

To promote inclusivity, employers can take several steps, such as:

Creating a culture of respect and understanding: Employers can foster a workplace culture that values diversity and encourages open and honest communication. This means promoting respect, empathy, and active listening, and making it clear that all employees are welcome and valued.

Offering diversity and inclusion training: Employers can provide their employees with training and education on topics such as unconscious bias, cultural competence, and inclusive communication. This can help raise awareness and promote understanding of different perspectives and experiences.

Ensuring equal access to opportunities: Employers can ensure that all employees have equal access to opportunities for growth and advancement, such as training programs, promotions, and leadership positions. This means creating clear guidelines and criteria for advancement, and ensuring that these guidelines are applied consistently and fairly.

Incorporating diverse perspectives: Employers can actively seek out and incorporate diverse perspectives and experiences in their decision-making processes. This can involve creating diverse teams and committees, seeking input from employees with different backgrounds and experiences, and considering the impact of decisions on different groups of people.

- **Clear expectations:** Clear expectations and guidelines around appropriate workplace behavior are essential to preventing gender-based violence. This means communicating expectations around respect and professionalism, and making it clear that harassment and discrimination will not be tolerated. To achieve this, employers should provide their employees with clear guidelines around what constitutes acceptable workplace behavior, including what types of language, actions, and behaviors are considered inappropriate or offensive. They should also establish clear channels of communication for reporting any incidents of harassment or discrimination, and make sure that employees feel safe and supported when they do so.

In addition to communicating expectations, employers should also make sure that they are modeling appropriate behavior themselves. This means creating a workplace culture that is respectful, inclusive, and free from harassment and discrimination. Employers should also hold themselves and their employees accountable for adhering to these expectations, and should take swift and appropriate action in response to any reports of harassment or discrimination.

- **Training and education:** Providing training and education on topics such as gender-based violence, unconscious bias, and bystander intervention can help raise awareness and empower employees to take action to prevent and address these issues. Certainly! Providing training and education on topics such as gender-based violence, unconscious bias, and bystander intervention is an important element of creating a positive working environment that is free from gender-based violence and harassment.

Training and education can help raise awareness among employees about the dynamics of gender-based violence, the impact it can have on individuals and the workplace, and the importance of taking action to prevent and address these issues. By educating employees



about gender-based violence, organizations can help promote a culture of respect, empathy, and support for all employees.

In addition, training and education can help employees recognize unconscious biases and stereotypes that may contribute to gender-based violence and harassment. By becoming aware of these biases and stereotypes, employees can work to overcome them and create a more inclusive and equitable workplace.

TIPS AND SUGGESTIONS

Specific training and education can also empower employees to **take action as bystanders**. Bystander intervention involves taking action to prevent or address incidents of gender-based violence or harassment, even if the person taking action is not directly involved. By providing employees with the skills and knowledge to intervene safely and effectively, organizations can help create a workplace culture in which everyone is responsible for preventing and addressing gender-based violence.

- **Support:** Providing access to support services such as counseling, employee assistance programs, and legal resources can be an important element of creating a positive working environment. This can help ensure that employees who experience gender-based violence have the resources they need to seek help and recover. Access to support services, such as counseling, employee assistance programs, and legal resources, can provide employees with a range of options for seeking help and support. For example, counseling services can help employees cope with the emotional and psychological effects of gender-based violence, while employee assistance programs can offer a range of resources such as financial and legal advice.

TIPS AND SUGGESTIONS

Legal resources can also be particularly important for employees who have experienced gender-based violence, as they can help them understand their rights and options for seeking justice or protection. By providing access to legal resources, organizations can help employees feel empowered and supported in their efforts to address gender-based violence. Nearly all employers do have in-house lawyers, it is great to use their knowledge. BUT don't forget that even those lawyers should be well trained and prepared for the situation of tackling sexual harassment from the perspective of survivor.



Another suggestion is to offer legal counseling or other types of counseling - either internally or externally, in cooperation with specialized organizations.

- **Empathy:** Empathy involves understanding and caring about the feelings and experiences of others. When employees feel that their colleagues and supervisors care about them and are willing to listen to their concerns, they are more likely to feel valued and respected in the workplace. This can create a sense of trust and psychological safety that can help prevent incidents of gender-based violence.

Empathy can also help employees understand the perspectives and experiences of those who are different from them, such as those from different cultural backgrounds or who identify as a different gender or sexual orientation. By promoting empathy and understanding, organizations can create a more inclusive workplace that respects and values diversity.

TIPS AND SUGGESTIONS

Empathy can play a key role in bystander intervention, which involves taking action to intervene in situations where someone is at risk of experiencing gender-based violence.

When employees are trained to recognize the signs of potential violence and to respond with empathy and support, they can play an active role in preventing incidents from occurring and supporting those who may be at risk. Create a specific training for the employees to be able to react empathetically in the different situations.

- **Active listening:** Active listening is another important element of a positive working environment that can help prevent gender-based violence. Active listening involves fully engaging with and understanding what someone is saying, without interrupting or judging them. When employees feel that they are being actively listened to, they are more likely to feel heard and understood, which can promote a sense of trust and mutual respect.

Active listening can be particularly important when it comes to preventing gender-based violence because it can help identify situations where someone may be at risk. By actively listening to employees and being attuned to their concerns, supervisors and colleagues can



recognize warning signs and take action to intervene before a situation escalates. In addition, active listening can be an important part of responding to incidents of gender-based violence. When someone comes forward with an experience of harassment or assault, it is important to listen to them without judgment or blame, and to provide support and resources as needed. Active listening can help create a safe and supportive environment for those who have experienced gender-based violence, which can be critical to their recovery and healing. Overall, active listening is an important element of a positive working environment that can promote respect, empathy, and a sense of safety and support for all employees, while also helping to prevent incidents of gender-based violence.

Practical and problem-solving exercises

Even if it can be overwhelming to think about all the elements at the same time, do not worry. Even a small step toward a more positive workplace is a great start. There are plenty of ways in which employers can foster positivity and improve the mentality of employees. The following exercises are examples of activities that can be conducted during team meetings or as part of training sessions. By regularly practicing these exercises, employees can develop the skills and attitudes necessary to create a positive work environment.

- To foster empathy and help employees understand and relate to the experiences of their colleagues, you can create scenarios that require employees to put themselves in the shoes of others and think about how they would feel in that situation. This can help build empathy and improve communication and collaboration in the workplace. An activity could be the **empathy mapping exercise**. Let each person write a situation or event they experienced (without revealing how they felt) and put it in the Feeling Box.

Each person picks one story from the feeling box: did the same situation ever happen to them? How did they feel? If not, how would they feel if that situation happened to them?



Ask them to try to give a name to that emotion and write it down on a green post-it. At the end, they will need to fill in the Empathy Map (they will need to write down something they usually say, something they usually think and something they usually do when feeling those emotions.). Ex: When I feel nervous, I might think I'm making mistakes. When I feel this way, I apologize a lot (say) and often take a deep breath (do). This activity shows that: we can connect to others' emotions, we can have a personal reflection on that emotion, we can have a collective reflection on the emotion itself. Bottom line: emotions are personal, everybody has a personal understanding of the emotion, but in the end we are all able to connect to emotions.

- Communication exercises: Communication is a key element of a positive work environment. You can create exercises that focus on improving communication skills, such as active listening, clear and concise expression, and non-verbal communication. Try this exercise, called **“Can you hear me”**: Divide your employees in pairs and ask them to describe themselves to the other participant giving as much information as they can. They will have 10 minutes (5 for each participant): for 5 minutes they will be the speaker, 5 minutes they will be the listener. At the end of the 10 minutes, ask them to describe themselves as if they were the other person. This activity can help to really understand the meaning of active and passive listening (Active: It is a type of careful listening, in which listening is an active process and a conscious decision in order to fully understand what the speaker wants to communicate; Passive: It is a type of ineffective listening, in which you do not pay attention to what the speaker wants to communicate.)

You can carry out debriefing with some questions, such as “How did you feel during the activity?”, “What do you think your listening level was?”, “Were you listening passively or actively?”. Lastly, you can explain the importance of active listening in the workplace.

- Team building exercises: Team building exercises can help foster a sense of camaraderie and collaboration among employees. For example, you can create team building exercises such as problem-solving challenges, trust exercises, or group brainstorming sessions. One activity that you can do is to divide your group into teams and ask them to carry out a challenge (for example to build the highest tower only by means of sheets of paper). Before starting, assign one role to each member of the team (ex: the organizer, the explainer, the



bossy, the shy, the time manager...). During the challenge, each person needs to follow his/her role. At the end you can ask each team whether they recognised the assigned roles. To start discussion you can use the following questions: “Did you understand which role was assigned to the others? Was it difficult to follow your role? Was it hard to collaborate all together? How did you build your strategy?...” The activity can help people to understand how to better collaborate in a team even when there is a very heterogeneous group. Not always it is easy to carry out the task, however if people feel more like crew rather than passengers it will be easy for them to get on board!

- Diversity and inclusion exercises: Diversity and inclusion are important aspects of a positive work environment. You can create exercises that promote diversity and inclusion, such as discussing different cultures, traditions, and beliefs. You can also discuss unconscious biases and how they can affect our interactions with others. One activity that you can present to the team could be “**Inclusion quest**”: divide your employees into groups of 4 or 5 people. Each group will be given a handout with 10 tasks (you can invent the tasks!) to complete in a set time (it can be half an hour). Before starting, assign to each team member a disability (one cannot talk, one cannot see, one cannot use hands...). Ask the teams to complete all the 10 tasks in as little time as possible with the rule that each person in the team needs to be included. At the end of the activity carry out a small debriefing: “How did the people who cannot talk feel? Were you included? Which was the hardest part? Were you able to carry out some of the tasks? How did you divide the tasks?...” This activity can help people to get into other shoes for a while, thus enabling them to foster empathy and consideration.
- Conflict resolution exercises: Conflict is a natural part of any workplace, but it's important to have tools to address and resolve conflicts in a constructive manner. You can create exercises that focus on conflict resolution, such as role-playing scenarios where employees have to find a mutually agreeable solution to a problem. One effective exercise is the 6 thinking hats challenge. The "Six Thinking Hats" is a technique for group discussion and individual thinking created by Edward de Bono. It involves assigning different "hats" to each participant, with each hat representing a different mode of thinking. The six hats are:



- White Hat - focuses on objective facts and information
- Red Hat - represents emotions and feelings
- Black Hat - represents critical thinking and cautiousness
- Yellow Hat - focuses on positive thinking and benefits
- Green Hat - represents creativity and new ideas
- Blue Hat - represents control and organization of the thinking process

The purpose of this technique is to encourage different perspectives and modes of thinking, and to help the group explore a problem or idea from multiple angles. By considering different perspectives and modes of thinking, participants can gain a more comprehensive understanding of the issue and develop more creative and effective solutions.

You can try the activity by proposing the following situation and ask the group to solve it depending on the hat they are wearing:

Scenario: *“The company has received complaints from female employees about a male colleague making inappropriate comments and gestures towards them. The male colleague has denied the allegations and has said that his behavior was misinterpreted.”*

Task: The employees are tasked with analyzing this situation using the 6 thinking hats method. Each employee will put on a hat and analyze the situation from the perspective of that hat.

- White Hat: Analyze the facts and data of the situation. What is known and what is not known?
- Red Hat: Analyze your feelings and intuition about the situation. How do you feel about the allegations and the denial?
- Black Hat: Identify the risks, drawbacks, and potential problems with the situation. What are the potential consequences of not addressing the issue?
- Yellow Hat: Identify the benefits, opportunities, and positive aspects of the situation. What are the potential benefits of addressing the issue?
- Green Hat: Generate creative solutions and alternatives to address the issue. How can the company address the issue in a way that benefits all parties involved?
- Blue Hat: Analyze the thinking process as a whole. Are there any gaps in the analysis? What other perspectives or considerations should be taken into account?



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Resources:

International Labour Organization: <https://www.ilo.org/global/topics/gender-equality/lang-en/index.htm>

World Health Organization:
https://www.who.int/health-topics/violence#tab=tab_1

UN Women: <https://www.unwomen.org/en/what-we-do/ending-violence-against-women/prevention>

The National Sexual Violence Resource Center:
<https://www.nsvrc.org/>

The Centers for Disease Control and Prevention:
<https://www.cdc.gov/violenceprevention/sexualviolence/index.html>

EU commission
https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/gender-equality/gender-equality-strategy_en#annual-report-on-gender-equality

Eurostat
<https://ec.europa.eu/eurostat/web/gender-based-violence/overview>

On empathy
<https://www.youtube.com/watch?v=KZBTYViDPiQ&pp=ygUUZWIwYXRoeSBhbmQgc2ltcGF0aHk%3D>

Empathy resources and activities
<https://positivepsychology.com/empathy-worksheets/>

Active listening resources and activities
<https://www.mindtools.com/az4wxv7/active-listening>

The beauty of conflict
https://www.youtube.com/watch?v=55n9pH_A0O8&t=752s&pp=ygURdGVkIHRhbGsgY29uZm xpY3Q%3D



MODULE 2: IDENTIFICATION OF SEXUAL HARASSMENT IN THE WORKPLACE

- Identification and prevention of sexual harassment in the workplace
- Identification of the effects of sexual harassment at work
- How the work of an individual is affected and what are the effects at organizational and societal level.

Identification of sexual harassment in the workplace

Sexual harassment in the workplace is a form of sex discrimination which negatively affects the working environment, undermines gender equality at work, creates unfair practices in employment, and adversely impacts the dignity and well-being of workers. It creates psychological anxiety and stress for victims and if ignored, can result in high costs for companies through loss of productivity, low worker morale, absenteeism, and staff turnover.

The term “workplace” in the Code refers not only to the specific location where work is being performed, such as an office or factory, but also to locations where work-related business may be conducted. These could include, but are not limited to:

1. Work related social activities, such a reception organized by the enterprise for staff or clients, etc.;
2. Conferences and training sessions;
3. Official business travel;
4. Business meals;
5. Work related telephone conversations; and
6. Work related communications through electronic media.

“Sexual harassment” is defined as any behaviour of a sexual nature that affects the dignity of women and men, which is considered as unwanted, unacceptable, inappropriate and offensive to the recipient, and that creates an intimidating, hostile, unstable or offensive work environment.

Sexual harassment is committed when an employer, supervisor, manager or co-worker, undertakes or attempts to influence the process of recruitment, promotion, training, discipline, dismissal,



salary increment or other benefit of an existing staff member or job applicant, in exchange for sexual favors. The worst forms of sexual harassment are criminal acts such as sexual assault or rape, which are covered under the Penal Code.

How the work of an individual is affected and what are the effects at organizational and societal level?

Sexual harassment in the workplace is traumatic. The experience may have long-term consequences on everyone involved, including the victim, witnesses, and the company itself. Some lasting consequences of sexual harassment are:

<p>Emotion and physical harm</p>	<p>The victims of sexual harassment in the workplace might suffer long-term emotional and physical damage.</p> <p>According to a study by JAMA Network, a traumatic event like sexual harassment acts as a stressor that may cause various health problems in the long term.</p> <p>Besides affecting the victim’s self-esteem, depression and anxiety are common mental health effects resulting from sexual harassment. These mental health conditions may lead to additional physical health problems, including high blood pressure, hormonal imbalance, or a weakened immune system</p>
<p>Decreased job satisfaction and productivity</p>	<p>For the victim recovering from a traumatic experience like sexual harassment, there may be a lot of emotional and physical injuries to address and process before the individual is comfortable getting back to work. Not allowing the victim to have the space to recover from their harassment experiences might lead to missed meetings, distracted employees, and lack of motivation in general.</p> <p>The harassed person might find that these distractions decrease their work performance and hinder their careers in the long run. A 2019 survey from AAUW showed that 38% of</p>



	<p>women who had been harassed mentioned it as a factor in leaving their job, while 37% said that it affected their career advancement</p>
<p>Lawsuits</p>	<p>Lawsuits are tricky, especially when they involve sexual harassment in the workplace.</p> <p>According to the U.S. Equal Employment Opportunity Commission (EEOC), harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, prohibiting all types of gender discrimination, including sexual harassment.</p> <p>While the EEOC enforces this law at a federal level, local employment laws also apply for sexual harassment in the workplace. The victim at a company with fewer than 15 employees may file their claim in local courts.</p> <p>The victim of a successful sexual harassment suit may be entitled to financial compensation. As a business, you might have to compensate victims for lost wages caused by the sexual harassment incident and compensate them for emotional damages and other expenses caused by the incident. If you've been negligent when victims filed a sexual harassment complaint, you may also have to pay for punitive damages.</p>



<p>Damaged reputation company</p>	<p>Thanks to the internet and social media, spreading information to the public is easy. Meaningful conversations occur more frequently, and critical movements are amplified. However, for a company handling a sexual harassment allegation or having a history of one, this kind of attention might not be a good thing.</p> <p>A study in 2018 showed that a sexual harassment incident decreases a company's value in the public's eye, citing the cause of the harassment to be the company's culture instead of the personality of the harasser. However, the study also mentions that handling the sexual harassment claim redeems the company's reputation in the participants' eyes.</p> <p>Still, a drop in your company's reputation may lead to a loss in sales and a reluctant talent pool, as there will be some who don't want to associate with a company that's publicized to have a cultural problem within</p>
<p>Reduced retention employee</p>	<p>The anxiety, gossip, and overall hostile atmosphere brought about by a sexual harassment incident can quickly turn toxic.</p> <p>This toxicity might lead many people to resign because they no longer feel safe working at your company. That shift in attitude may result in a high turnover rate and an increased hiring need.</p> <p>The time and resources required to find qualified candidates to fill empty positions are significant. Plus, you could face financial losses as projects grind to a halt because there aren't enough qualified resources to manage or finish them.</p> <p>This 2007 study calculated an average of \$22,500 in lost productivity and employee turnover alone per employee affected by a sexual harassment case</p>



**Negative team morale
and lack of trust**

Sexual harassment affects everyone in your workplace.

Although the victim is the one who suffers most, witnesses and even bystanders will also feel the impact of sexual harassment cases.

Beyond sympathy for the victim, they might also feel anxious and worry that they might be victimized. The uneasy atmosphere leads to low morale, stress, and absenteeism, among other things.

The damaging impact on team morale is especially severe if employees feel their organization has mishandled a sexual harassment incident. Dismissing allegations may make it seem like the company condones sexual harassment in the workplace, making employees feel unsafe. On the other hand, not thoroughly investigating claims might result in false accusations that are just as destructive to the work environment

Practical and problem-solving exercises

We have gathered a few case studies. Read them and think on the answer to the following questions:

1. What led to this sexual harassment case?
2. What are the possible consequences for the victim and the bully?
3. Whether the victim's behavior was correct
4. What evidence the victim was able to gather?
5. What can be the end of this case and possible solutions?

Case studies

1. Polish Embassy in Vilnius

In 1999, the secretary of the Polish embassy in Vilnius, A. C., reported that she was sexually harassed by the embassy's first secretary B. M. The man denied it. The courts did not examine this story because the Polish Ministry of Foreign Affairs relied on diplomatic immunity.

Later, A. C. was fired from her job due to absenteeism, although she herself claimed that she was not allowed in the workplace. In 2010, the European Court of Human Rights decided that the woman's complaint regarding her dismissal as a violation of international law in Lithuania was refused.



Source: [Istockphoto.com](https://www.istockphoto.com)

2. Vilnius University

In February 2004, the media reported that Vilnius University lecturer P. B. could demand sexual services from his student L. K. The girl had met with the teacher in a cafe to discuss the conditions for taking the exam. She said that Mr. P. B. obviously made it clear that the girl would get the necessary signature if she met him in the evening.



After going to meet the teacher at the apartment in Vilnius, the girl secretly recorded the conversation. In the recording, the teacher was heard calling the student a cat, and the teacher's phrase: "you don't understand that I want all of you" can be heard. P. B. himself called the girl's accusations a provocation, but he was fired from his job.

3. Parliament

In March of 2017 a group of girls accused Kaunas businessman and parliamentarian K. P. of sexual harassment, which led to the initiation of a pre-trial investigation. Prosecutors have asked the Parliament to destroy the parliamentarians' legal immunity in order to file charges against him. The politician denies guilt, but publicly apologized to the girls.

One of the victims, a girl who tried to work as an assistant to K. P., said that she received an offer from a member of the Parliament to visit his room in the Parliament hotel, to inspect the bedroom, and statements that "how fun it would be to roll around in the bedroom bed". Girl said that during the first interview she received comments about her chest and other inappropriate hints.

4. At theater

In July 2017, law enforcement began a pre-trial investigation into the possible sexual harassment of L. M. Z., former director of the Panevėžys Theater. Earlier this year, actress E. R. publicly announced the harassment of L. M. Z., and he was dismissed from his position.

The girl said that during the rehearsals, the director of the Drama Theater repeatedly mentioned to her that after the performance's premiere, she would have to sleep with him, thus thanking her for the rehearsals. According to E. R., the director told her that she would be a star only if she had sex with him, otherwise she would be forced to quit her job. The girl claimed that L. M. Z. had kissed her several times during coercion.

5. In the cinema.

Last Friday, actress J. S. reported on Facebook that she was sexually assaulted by director Š. B. In an interview published on Monday on the news portal 15min.lt, the actress claimed that everything happened five years ago in the studio, after the selection of actors. She said that she drank alcohol with the director and that the director persuaded her to commit to him. J. S. claimed that upon



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returning to Lithuania she intends to contact the law enforcement regarding the actions of the director.

On Monday, the artist and scenographer P. B. also reported about the possible sexual harassment of Š. B. In an interview with the website nanook.lt, she said that it happened five years ago. In the audio recording published by the website, the girl testified that she also participated in the director's filming, worked at his homestead in Molėtai as a film artist, where after drinking alcohol Š. B. began to harass her, also used physical force against her, through various objects.



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Resources:

<https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2705688>

<https://onlinelibrary.wiley.com/doi/10.1111/j.1744-6570.2007.00067.x>

<https://www.eeoc.gov/harassment>

<https://hbr.org/2018/06/research-how-sexual-harassment-affects-a-companys-public-image>

MODULE 3: PREVENTION AND SOLVING SEXUAL HARASSMENT AT WORK

- Mechanisms, strategies and procedures to prevent and solve sexual harassment at work
- How to handle complaints and assure investigations and disciplinary action.

How to prevent sexual harassment at work: 5 basic tips for employers



Source: www.jauciuosigerai.lt

1. Look into the problem

It's important to understand that so-called lesser forms of sexual harassment, such as making lewd jokes or lewd looks, can have just as serious consequences as one serious case of harassment involving unwanted touching, showing of genitals, or sending sexually explicit propositions via e-mail, by mail, SMS messages.

TIPS AND SUGGESTIONS

It is necessary to be aware of those situations (could) happen even in your workplace. It is necessary to be open and sensitive to be able to tackle it, name it and solve it.

2. Take precautions and have clear rules



The most effective way to prevent sexual harassment is a zero-tolerance policy based on the principles of gender equality, human dignity and non-discrimination. When drafting the policy, clearly define sexual harassment, direct and indirect discrimination, and name examples of undesirable actions. Communicate the internal policy to employees both formally and proactively, such as through training to recognize sexual harassment.

TIPS AND SUGGESTIONS

However, cultural differences could underpin the understanding of sexual harassment. To create the policy which will be understandable and acceptable by all employees it is possible to use the bottom-up approach: draft the policy participatory way. Create a working group from diverse employees with different understanding of the topic. Their outcome will be much more coherent with the working environment and acceptable for the community.

3. Focus on the actions of the harassed employee

When dealing with sexual harassment cases, make sure that your focus is on the actions of the person who is accused of harassment. In order for the employee to open up, listen carefully to his/her story and the facts presented, do not interrupt, do not judge, react sensitively and empathetically. Evaluate each case in its specific context, taking into account the hierarchy of professional relationships, the circumstances of time and place, and other relevant details. Provide administrative, legal and medical assistance to victims.

Based on the evidence provided by the victim, initiate an investigation. If there are none, explain how to collect them. To ensure an unbiased and comprehensive assessment, consider the victim's and the harasser's statements separately.

4. Create a safe and tolerant atmosphere

Organize trainings and discussions about gender stereotypes, gender equality, how to recognize harassment or sexual harassment and how to react when you experience such behavior yourself or those around you. Print and display posters or other visual materials to remind employees and visitors to your company that sexual harassment is not tolerated in this space. If you notice colleagues who seemingly "innocently" cross your boundaries, don't stay silent and publicly shame the person doing so. Finally, set common agreements: for example, if you shake hands when you say hello at the office, agree to do it not just with one or a few co-workers, but with everyone.



5. Monitor the situation

Conduct periodic surveys to assess how employees feel about the workplace and how they respond to sexual harassment. Encourage and publicly recognize those employees who actively participate in the prevention of sexual harassment, for example, by preparing and displaying posters in the company or otherwise contributing to the implementation of the policy.

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I. Mechanisms, strategies and procedures to prevent and solve sexual harassment at work

In order to prevent sexual harassment in the workplace and create a safe working environment, it is essential to implement appropriate mechanisms, strategies and procedures. To understand the phenomenon by the responsible people as well as to create a wide understanding between all employees it is necessary to create a wide and robust system. In this regard we will focus on:

- education and awareness rising
- creating policies and specific procedures
- creating support and assistance available in the workplace.

A. Education and awareness

1. Education and periodic training

To prevent sexual harassment in the workplace, it is vital to provide regular training and education to all employees. This should include the definition of sexual harassment, concrete examples of unacceptable behaviour, the impact on victims, the role of bystanders in intervening and supporting victims and individual responsibilities in preventing and combating it. Training should be provided periodically to all employees.



2. Education and training

Don't rely only on the overall training. It is necessary to create your own training, tailored to the specific needs of the organization and employees to ensure a clear and up-to-date understanding of the issue.

TIPS AND SUGGESTIONS

By those specific training employer could tackle also the specific situation in the workplace- for example focusing on the situation of the healing of the working community, when the sexual harassment happen.

3. Awareness and communication campaigns

Organizations should launch awareness campaigns that promote the values of respect, equality and non-discrimination. These campaigns may include posters, seminars, information boards and educational materials distributed throughout the organization. Consistent and clear communication about the organization's sexual harassment policy and available reporting channels must be a priority.

TIPS AND SUGGESTIONS

Campaign could be targeted to different target audiences: think on the final user of the communication message. It is important to provide clear message for overall public: that we do not tolerate sexual harassment. But also we should target the survivors/victims and provide them clear information about what to do and which steps should be taken on the individual level and which steps will be taken on the institutional level.

3. Promoting gender equality and diversity

Another strategy that organizations can adopt relates to promoting gender equality and diversity. This may include implementing recruitment and promotion policies and practices based on objective and non-discriminatory criteria. Promoting women in leadership positions and creating a work environment where all employees feel respected and valued, regardless of gender, race, sexual orientation or other characteristics, can significantly contribute to the prevention of sexual harassment.

4. Promoting a healthy organizational culture



A healthy and gender-oriented organizational culture is another key element in preventing sexual harassment. Organizations should foster an atmosphere of respect, collaboration and integrity. This can be achieved through policies and practices that promote diversity and inclusion, by involving managers and all employees in preventing sexual harassment, and by ensuring open and confidential channels of communication.

B. Policies and Procedures

1. Clear policies and regulations

Organizations need to develop clear policies and regulations regarding sexual harassment in the workplace. They should explicitly define sexual harassment, specify prohibited conduct, establish confidential reporting channels, and describe procedures for investigating and sanctioning reported cases. Policies must be accessible to all employees and updated regularly to reflect changes in legislation and social standards.

2. Confidential and non-retaliation reporting channel

Organizations need to provide a confidential and safe reporting channel for employees who experience sexual harassment, where they can report such incidents in an environment without fear of retaliation. This channel should be independent of the hierarchical structure and easy to access, i.e. offer multiple options, such as reporting to a manager, an HR representative or an external telephone line. It is also essential to protect complainants from retaliation and to ensure that there is a prompt and fair investigative process.

TIPS AND SUGGESTIONS

The reporting channel could (but don't have to be) often linked to whistleblowing reporting channels. It is to comply with EU Directive 2019/1937 on the Protection of Persons Who Report Breaches of Union Law.

Have a look at it and be aware also about GDPR when handling personal data and information. It is necessary to comply also with your national legislation when setting up your own approach towards reporting and handling incidents of sexual harassment.

3. Prompt and efficient investigation of complaints



It is essential that organizations have well-defined procedures for investigating complaints of sexual harassment. These procedures must ensure a prompt, fair and confidential investigation, involving personnel specialized in handling sexual harassment cases, including independent third parties, if necessary. It is important that all complaints are taken seriously and appropriate action is taken based on the results of the investigation, ensuring there are consequences for perpetrators and support for victims.

TIPS AND SUGGESTIONS

The employer does not have the right to investigate in the same way as the police, because the perpetrators do not have to cooperate. The employer does not even have the right to judge and pronounce judgments, as there are no lawsuits. At the same time, however, the employer has an obligation to protect victims and create a healthy working environment.

The relationship towards the perpetrators is strictly within the employment relationship. Therefore the investigation and the procedures should comply with Labor Code and Code of Ethics in the organization/company.

4. Sanctions and corrective measures

Organizations must establish clear and proportionate sanctions for employees found that sexual harassment happen. These sanctions may include written warnings, temporary suspension, disciplinary sanctions, dismissal or even legal action, depending on the seriousness of the offense. In addition, corrective action must be taken to remedy the impact on victims and prevent the unacceptable behavior from recurring.

C. Support and assistance

1. Support for victims

Victims of sexual harassment need adequate support and assistance to cope with the trauma and regain confidence in the workplace. Thus, organizations should provide adequate support and assistance to victims of sexual harassment. This may include specialized counselling services, access to external support resources (such as support groups for survivors of sexual harassment) and facilitating the recovery and reintegration of victims into the work environment. It is important that organizations provide ongoing support and ensure that victims do not suffer further negative consequences or retaliation.



2. Evaluation and continuous improvement

Prevention of sexual harassment is an ongoing process and must be subject to continuous evaluation and constant improvement. Therefore, organizations should regularly monitor and evaluate the effectiveness of their sexual harassment prevention policies and procedures. This can be achieved through employee satisfaction surveys, periodic reviews, analysis of data on incidents reported and how they were handled, number of complaints reported and employee feedback. This information can be used to identify deficiencies and implement additional measures to prevent sexual harassment in the future.

3. Creating a culture of transparency and accountability

Organizations must create a culture of transparency and accountability in preventing and addressing sexual harassment. This may include publishing statistics on reported complaints, the results of investigations and sanctions imposed. Transparency can help improve trust in the system and deter potential abusers.

4. Collaboration with external organizations and other institutions

Organizations should collaborate with external specialist organizations and relevant institutions to obtain support and guidance in preventing sexual harassment. This may include partnerships with counseling organizations, legal services, or support centers for survivors of sexual harassment. Collaboration can provide opportunities for sharing best practices and expertise in the field.

Case studies

Case study 1: Company "H" - Implementation of a sexual *harassment prevention program and a healthy organizational culture*

Company "H", a software manufacturer with more than 500 employees, faced problems related to sexual harassment in the workplace. These incidents had a negative impact on employee morale and created a tense work environment. Following these events, the company decided to implement concrete measures to prevent sexual harassment and promote a healthy organizational culture.

Implemented mechanisms and strategies:



- a. Clear policies and regulations : Company “H” has developed clear policies and regulations regarding sexual harassment, which have been communicated to all employees. These included specific definitions of sexual harassment, reporting and investigation procedures, and penalties for violating these policies.
- b. Periodic training and education: The company organized training and education sessions for all employees, where the basic concepts of sexual harassment, the impact on victims and individual responsibilities in preventing this behavior were discussed. These sessions were facilitated by HR specialists and encouraged open dialogue and clarification of any questions or concerns.
- c. Confidential reporting channel: The company introduced a confidential reporting system, which allowed employees to report incidents of sexual harassment safely and without fear of retaliation. This system included multiple reporting options, including via a dedicated phone number, a confidential email and an online form.

Results and impact:

The implementation of these mechanisms and strategies had a significant positive impact on the "H" company. Employees felt encouraged to report incidents of sexual harassment and trusted that these reports would be taken seriously. This resulted in a significant increase in the number of reports and a decrease in unresolved incidents. There has also been an improvement in organizational culture, with a greater emphasis on respect and collaboration.

Case Study 2: *ABC Company - Supporting victims and changing organizational culture*

ABC Company, a consulting company with more than 1,000 employees, has had a troubling history of sexual harassment in the workplace. A number of unresolved complaints and a condoned organizational culture contributed to the perpetuation of this undesirable behavior. The company recognized the seriousness of the situation and took steps to prevent and combat sexual harassment.

Implemented mechanisms and strategies:

- a. Creation of a specialized department: ABC Company has established a dedicated department dedicated exclusively to handling complaints related to sexual harassment. This department consisted of human resources professionals and counselors specializing in handling sexual harassment cases.



b. Support and assistance for victims: The company has provided counseling and support services for victims of sexual harassment. Employees who reported incidents received specialized assistance in navigating the investigation process and were referred to external support resources such as support groups or specialized organizations.

c. Changing the organizational culture: The company has invested in creating a healthy organizational culture, by promoting the values of respect, diversity and equality. Training and education sessions were held for all employees, focused on raising awareness of sexual harassment and promoting open and respectful communication.

Results and impact:

The implementation of these mechanisms and strategies had a significant impact on the ABC company. The number of reported sexual harassment complaints increased significantly as employees gained confidence that they would be supported and that their incidents would be taken seriously. At the same time, organizational culture began to change and tolerance for sexual harassment decreased. The company has become an example of best practice in the field and has been recognized for its commitment to preventing sexual harassment.

QUESTIONS:

What is your organization's position on sexual harassment prevention?

What mechanisms and strategies are already applied and how do they work?

How could they be improved, what other strategies would be needed?

II. How to handle complaints and assure investigations and disciplinary action

Sexual harassment is a pervasive issue that affects workplaces worldwide, creating a hostile and unsafe environment for victims. As a supervisor or superior, it is your responsibility to ensure that



your organization maintains a safe and respectful workplace for all employees. Effectively handling sexual harassment complaints is essential in promoting a culture of accountability, empathy, and zero tolerance for such behaviour. Here are some tips and suggestions that will equip you with the necessary tools and strategies to navigate the process of handling sexual harassment complaints:

1. Understanding Sexual Harassment

Before delving into the management of complaints, it is crucial to grasp the different forms of sexual harassment. Sexual harassment can manifest in verbal, non-verbal, or physical conduct that is unwelcome and of a sexual nature. It can include unwarranted advances, offensive jokes, innuendos, explicit comments, or any conduct that creates a hostile environment based on gender. Familiarizing yourself with these behaviors will enable you to recognize and address potential issues in the workplace.

2. Creating a Safe and Inclusive Workplace Culture

To prevent sexual harassment, supervisors must foster a workplace culture built on trust, respect, and inclusivity. An open-door policy encourages employees to communicate their concerns freely, knowing they will be taken seriously. Demonstrating zero tolerance for harassment and providing assurance that employees will not face retaliation for reporting incidents builds confidence in the reporting process.

These are some suggestions on how you can create a safe and inclusive workplace culture:

- Organizing regular training sessions: Implement training programs that focus on identifying sexual harassment, reporting mechanisms, and the consequences of engaging in such behavior. These training sessions should be mandatory for all employees, including supervisors.
- Encouraging bystander intervention: Teach employees how to intervene and support their colleagues if they witness inappropriate behavior. Bystander intervention can be an effective way to prevent or stop harassment in its early stages.



- **Leading by example:** Demonstrate appropriate behavior and language in your interactions with employees. As a supervisor, your actions set the tone for the entire team.

3. Developing Clear Policies and Procedures

Effective policies and procedures are the foundation of managing sexual harassment complaints. Supervisors should work with human resources to create comprehensive policies that define sexual harassment, the reporting process, and the steps taken to investigate complaints. These policies should be easily accessible to all employees through training sessions, employee handbooks, and online platforms.

Developing clear policies and procedures involves:

- **Collaborating with HR and legal teams:** Work closely with human resources and legal professionals to ensure that the policies and procedures are legally compliant and aligned with the organization's values.
- **Communicating the policies:** Disseminate the policies and procedures to all employees and ensure they understand their rights and responsibilities. Highlight the organization's commitment to addressing sexual harassment and promoting a safe workplace.
- **Providing multilingual resources:** If your organization employs individuals who speak different languages, provide translated versions of the policies and resources to ensure everyone understands their rights and reporting options.

4. Implementing a Reporting System

A well-designed reporting system encourages employees to report harassment promptly and without fear. The reporting process should be simple, confidential, and free from any potential bias. Providing multiple reporting options, such as anonymous hotlines or online portals, ensures employees feel comfortable coming forward.

- **Setting up multiple channels:** Offer various reporting options, such as reporting to a supervisor, human resources, an ombudsman, or an external entity. Different reporting channels cater to employees' preferences and comfort levels.



- Ensuring confidentiality: Guarantee that all reports will be treated with utmost confidentiality, and the identity of the complainant will be protected throughout the investigation process.
- Anti-retaliation policy: Clearly communicate that the organization prohibits retaliation against individuals who report harassment in good faith. An anti-retaliation policy creates a safe environment for employees to come forward without fear of reprisals.

5. Listening Empathetically and Documenting Complaints

When an employee files a complaint, supervisors must approach the matter with empathy and compassion. Active listening allows the complainant to share their experience without fear of judgment. Documenting all pertinent details accurately, including dates, times, locations, and any potential witnesses, provides a comprehensive record for the investigation.

- Choosing an appropriate setting: Conduct the initial conversation in a private, comfortable setting where the complainant feels safe and heard.
- Practicing active listening: Show genuine interest and concern while the complainant shares their experience. Avoid interrupting or making assumptions.
- Documenting the complaint: Take detailed notes during the conversation, capturing all relevant information shared by the complainant. Be clear and precise in recording the details to ensure an accurate investigation.

6. Initiating a Fair and Impartial Investigation

To maintain objectivity, supervisors who are directly involved in the complaint or have a conflict of interest should appoint an impartial investigator. This investigator should possess the necessary expertise and training to handle sensitive matters effectively. The supervisor should cooperate with the investigator while respecting the confidentiality of the process. Here are some suggestions related to this aspect:



- **Selecting an unbiased investigator:** Choose an investigator who has no personal or professional relationship with the parties involved. This ensures an objective and impartial inquiry.
- **Clarifying the process:** Inform the complainant and the alleged harasser about the investigation process, the expected timeline, and the confidentiality measures in place.
- **Providing access to evidence:** Give the investigator access to all relevant evidence, including emails, messages, surveillance footage, and witness statements. A thorough investigation relies on comprehensive evidence collection.

7. Maintaining Confidentiality and Protecting All Parties Involved

Throughout the investigation, confidentiality is paramount to protect the privacy and well-being of all parties involved. Employees should be reassured that retaliation against the complainant or witnesses will not be tolerated. This commitment to confidentiality fosters an environment in which employees feel safe to participate in the investigation.

- **Limiting information dissemination:** Only share information about the investigation with individuals who are directly involved or need to know for legitimate purposes.
- **Explaining confidentiality measures:** Clarify to all parties the organization's commitment to maintaining confidentiality throughout the process and the potential consequences of violating confidentiality.
- **Anti-retaliation measures:** Remind employees that retaliation against any individual involved in the investigation is strictly prohibited and will be dealt with accordingly.

8. Gathering and Preserving Evidence

During the investigation, the investigator should gather all available evidence related to the complaint. This may include emails, messages, photographs, security footage, or any other documentation relevant to the case. Careful handling and preservation of evidence are critical to maintaining its integrity and credibility. This involves:



- **Maintaining a chain of custody:** Ensure that all evidence is collected, handled, and stored following proper protocols to avoid any tampering or contamination.
- **Documenting the evidence:** Record details of the evidence collected, including the date, time, and location of collection, as well as the individual responsible for handling it.
- **Seeking expert assistance if needed:** In cases where specialized knowledge is required (e.g., digital forensics), seek the assistance of experts to handle the evidence appropriately.

9. Interviewing Parties and Witnesses

Conducting interviews with the complainant, the alleged harasser, and any potential witnesses is a crucial step in the investigation process. The investigator should prepare a list of questions in advance to elicit detailed and objective information. Interviews should be conducted in a private and neutral setting to ensure the comfort and safety of all parties involved.

- **Preparing interview questions:** Develop a structured list of questions that cover the incident's details, timing, location, and any relevant interactions.
- **Being impartial and unbiased:** Approach each interview with an open mind and without preconceived notions about the outcome.
- **Recording interviews:** With the consent of the interviewees, record the interviews or take detailed notes to ensure accurate documentation.

10. Evaluating the Evidence and Making a Determination

After completing the investigation, the investigator must evaluate the evidence objectively and impartially. Credibility and consistency of the statements provided by all parties are crucial factors in determining the validity of the complaint. The investigator should assess whether the evidence substantiates the allegation of sexual harassment.

Evaluating the evidence and making a determination involves:



- Weighing the evidence: Analyze all evidence collected during the investigation and assess its relevance and reliability.
- Cross-referencing statements: Identify any inconsistencies or discrepancies in the statements of the parties involved and witnesses.
- Drawing conclusions: Based on the evidence and the organization's policies, make a determination on whether sexual harassment occurred.

11. Disciplinary Action and Accountability

Upon confirming the occurrence of sexual harassment, supervisors must take appropriate disciplinary action against the harasser. The severity of the harassment, the harasser's previous conduct, and the organization's policies should guide the decision-making process. Disciplinary actions may range from verbal warnings and counseling to suspension or termination, depending on the circumstances.

- Reviewing the organization's policies: Ensure that the disciplinary action taken aligns with the organization's policies and values. Consistency in applying disciplinary measures is crucial to avoid perceived favoritism.
- Consulting with HR and legal: Seek guidance from human resources and legal experts to ensure the chosen disciplinary action is fair and legally compliant.
- Communicating the outcome: Inform the complainant of the investigation's outcome and any actions taken to address the harassment. Communicate the organization's commitment to maintaining a harassment-free workplace.

TIPS AND SUGGESTIONS

Some cases may reveal systemic deficiencies in the procedures, regulations or processes operating within the organization. Therefore, the remedy should be aimed in this direction as well: the recommendations made at the institutional level should be handed over to the top management, who will work on the implementation.



12. Providing Support to Victims and Witnesses

Throughout the process, supervisors must offer support and resources to the complainant and any witnesses affected by the investigation. Connecting them with counseling services or employee assistance programs can help them cope with the emotional toll of the experience.

- **Offering counseling services:** Ensure that the organization provides access to counseling services for complainants and witnesses who may require emotional support.
- **Addressing retaliation concerns:** Monitor the workplace for any signs of retaliation and take immediate action to address such behavior.
- **Creating a safe environment:** Assure victims and witnesses that the organization is committed to ensuring their safety and well-being in the workplace.

13. Learning and Continuous Improvement

The investigation process provides valuable insights into the organization's strengths and weaknesses in addressing sexual harassment. Supervisors should use this information to identify areas for improvement in policies and procedures. Continuously educating employees and supervisors on sexual harassment prevention and reporting fosters a safer workplace.

- **Conducting post-investigation evaluations:** Assess the investigation process, including the effectiveness of policies and procedures, and identify areas for improvement.
- **Incorporating feedback:** Encourage employees to provide feedback on the reporting and investigation process to address any shortcomings.
- **Updating policies and training:** Based on the lessons learned, update policies, training materials, and reporting mechanisms to enhance effectiveness.

14. Communication and Transparency

Throughout the entire process, supervisors should maintain open communication with all parties involved. Keeping employees informed of the progress and outcomes of the investigation promotes



transparency and trust within the organization. Being approachable and available to answer questions or concerns is essential in reassuring employees that their well-being is a top priority.

- Communicating investigation updates: Provide periodic updates to the complainant and alleged harasser on the status of the investigation, ensuring they are aware of the progress.
- Ensuring confidentiality: While being transparent, maintain confidentiality by only sharing relevant information on a need-to-know basis.
- Addressing concerns promptly: Address any concerns or questions raised by employees regarding the investigation promptly and transparently.

15. Monitoring and Evaluation

Supervisors should periodically review and assess the effectiveness of their organization's sexual harassment prevention and response measures. Conducting internal audits, seeking feedback from employees, and analyzing complaint trends can help identify areas that require improvement and ensure the organization is consistently providing a safe and respectful work environment.

- Analyzing complaint data: Review past sexual harassment complaints to identify patterns or trends that may indicate systemic issues.
- Conducting climate surveys: Periodically survey employees to gauge their perceptions of the workplace culture and identify any potential areas of concern.
- Seeking external reviews: Consider seeking external reviews or audits of the organization's policies and procedures to gain an unbiased perspective.

Effectively handling sexual harassment complaints and ensuring thorough investigations and disciplinary action is a multifaceted and vital responsibility for supervisors and superiors. By creating a safe and inclusive workplace culture, establishing clear policies and procedures, and conducting fair and impartial investigations, supervisors play a pivotal role in preventing and addressing sexual harassment. By fostering an environment where employees feel safe to report incidents, supervisors can contribute to a workplace where all individuals are treated with respect and dignity. Continuous learning, communication, and monitoring are essential to ensuring a workplace free from sexual harassment, promoting employee well-being, and upholding the



organization's values and ethics. As supervisors and leaders, you have the power to shape a workplace culture where everyone can thrive without the fear of harassment or discrimination.

EXERCISES:

Situation 1: *As a supervisor, you have recently received a sexual harassment complaint from an employee. You realize that your organization's policies and procedures on handling sexual harassment complaints are outdated and may not adequately address the issue. You want to ensure that the policies are up-to-date and effectively communicated to all employees to prevent future incidents.*

Task: Develop a plan to review and update your organization's sexual harassment policies and ensure that they are effectively communicated to all employees. After you create your plan, you can read and consider the following solutions to improve it.

a. Policy review:

1. Gather a team of HR professionals, legal experts, and key stakeholders to review the existing sexual harassment policies.
2. Identify any gaps or areas for improvement in the policies to ensure they are comprehensive, legally compliant, and aligned with the organization's values.
3. Seek input from employees through anonymous surveys or focus groups to understand their perspectives and suggestions for policy improvement.

b. Policy update:

1. Work with the review team to update the policies, incorporating feedback and best practices.
2. Include clear definitions of sexual harassment, reporting procedures, confidentiality measures, anti-retaliation policies, and disciplinary actions.
3. Ensure that the policies are easily accessible to all employees through the company's intranet, employee handbooks, or training materials.

c. Communication plan:



1. Develop a communication plan to ensure that all employees are aware of the updated policies.
2. Schedule mandatory training sessions for all employees to familiarize them with the revised policies and procedures.
3. Use engaging and interactive training methods, such as role-playing scenarios, to enhance employees' understanding of the policies.
4. Encourage employees to ask questions during the training sessions to clarify any doubts they may have.

Situation 2: *You have been assigned to conduct an investigation into a sexual harassment complaint filed by an employee against their immediate supervisor. The alleged harasser is a senior member of the team, making the investigation complex and sensitive.*

Task: Develop a plan to handle the investigation in a fair, impartial, and confidential manner, ensuring the well-being of all parties involved. After you create your plan, you can read and consider the following solutions to improve it.

a. Appoint an impartial investigator:

1. Recruit an external HR professional or an investigator from a different department who has no personal or professional relationship with the parties involved.
2. Ensure that the investigator is well-versed in handling sensitive investigations and has experience with sexual harassment cases.

b. Create a safe environment:

1. Arrange a private and neutral space for conducting interviews with the complainant, alleged harasser, and any witnesses.
2. Reiterate the organization's commitment to maintaining confidentiality and protecting individuals involved in the investigation.

c. Conduct thorough interviews:



1. Schedule interviews with the complainant, alleged harasser, and any potential witnesses.
 2. Prepare a set of well-structured questions to gather detailed and objective information from all parties involved.
 3. Allow each interviewee enough time to share their account without feeling rushed or pressured.
- d. Gather relevant evidence:
1. Request access to any relevant evidence, such as emails, messages, or other documentation that may support the claims made during the interviews.
 2. Preserve and handle the evidence carefully to maintain its integrity and credibility.
- e. Evaluate the evidence:
1. Analyze the evidence objectively, cross-referencing statements to identify any inconsistencies or patterns.
 2. Avoid making premature conclusions before thoroughly evaluating all evidence.
- f. Determine appropriate disciplinary action:
1. Consult with HR and legal experts to determine the appropriate disciplinary action, if necessary, based on the investigation's findings.
 2. Follow the organization's policies and procedures regarding disciplinary actions to ensure fairness and consistency.

Situation 3: *Following the resolution of a sexual harassment complaint, you notice that there is a lack of trust among team members, and there are concerns about possible retaliation against the complainant and witnesses.*



Task: Develop a plan to prevent retaliation, rebuild trust within the team, and promote a safe and respectful workplace. After you create your plan, you can read and consider the following solutions to improve it.

a. Reiterate anti-retaliation policies:

1. Reinforce the organization's anti-retaliation policies during team meetings and through internal communication channels.
2. Emphasize the consequences of engaging in retaliatory actions and the organization's commitment to protecting employees who come forward with complaints.

b. Monitor the work environment:

1. Pay close attention to the dynamics within the team to detect any signs of retaliation or hostility.
2. Encourage open communication with team members and create opportunities for anonymous feedback to identify any ongoing concerns.

c. Facilitate team building activities:

1. Organize team-building workshops or activities to promote collaboration and strengthen relationships within the team.
2. Encourage open discussions about workplace culture and values to foster a sense of belonging and mutual respect.

d. Offer support and resources:

1. Provide counseling services or employee assistance programs to employees who may be experiencing emotional distress due to the incident or its aftermath.
2. Ensure that employees are aware of the available resources and encourage them to seek help if needed.

e. Reinforce training on respectful workplace behavior:



1. Conduct regular training sessions on respectful workplace behavior, emphasizing the importance of treating colleagues with dignity and empathy.
2. Include modules on bystander intervention to empower employees to step in and support their colleagues if they witness inappropriate behavior.

f. Lead by example:

1. Demonstrate ethical and respectful behavior as a supervisor, setting a positive example for the team to follow.
2. Show support and understanding for employees who may need additional time or assistance in rebuilding trust and confidence in the workplace.

RESOURCES:

https://www.humanrights.vic.gov.au/static/8070e6b04cd51969490ccdecddff0c00/Resource-Guidelines-Workplace_sexual_harassment-Aug20.pdf

<https://thedocs.worldbank.org/en/doc/895091561658673520-0090022019/original/WBGSexualHarassmentActionPlanFINALPublic.pdf>

https://equalopportunity.gov.tt/downloads/publications/Guidelines_Sexual%20Harrassment_in_the_workplace.pdf

https://humanrights.gov.au/sites/default/files/content/sexualharassment/employers_code/COP2008.pdf

https://unsceb.org/sites/default/files/2021-07/Investigators%20Manual-March%202021_print.pdf

https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-suva/documents/policy/wcms_407364.pdf

<https://www.dol.gov/sites/dolgov/files/OASAM/crc/files/SexualHarassmentInvestigationGuidelines.pdf>

<https://www.shrm.org/>



Co-funded by the
Erasmus+ Programme
of the European Union

<https://www.eeoc.gov/>

<https://www.unwomen.org/en>

<https://www.ilo.org/global/lang--en/index.htm>

<https://www.workplacefairness.org/>



MODULE 4: RESPONSIBILITY OF THE EMPLOYER and YOUNG EMPLOYEES ENCOURAGEMENT

- The responsibility of the employer to protect the employees against the sexual harassment
- How to encourage the young employees to talk about and report if they are victims of sexual harassment at work

Sexual harassment can cause a victim/survivor to experience everything from depression and anxiety to shame, guilt, and self-blame (Gordon, 2021). If you have experienced sexual harassment at work, there are a number of things you can do to heal from the experience (Gordon, 2021). But it is going to take some work (Gordon, 2021).

1. In law:

- a. A victim of an alleged criminal offense has to be recognised by the **national legal system** in the proceedings that have given rise to the application to the European Court (McBride, 2009).
- b. Victims of crime means persons who, individually or collectively, **have suffered** harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power (United Nations, 1985).

2. In psychology:

- a. A victim is an individual who is **the target** of another person's violent, discriminatory, harassing, or assaultive behaviors (American Psychological Association, 2023), or
- b. A victim is an individual who **has experienced an accident** (American Psychological Association, 2023).

3. In victimology:

- a. Victims are thought as people who had **harm by different types of trauma** such as accidents, disasters, assaults and wars (Van Dijk, 1999)
- b. Victims are individuals who **are negatively affected by an event** such as a criminal act, disaster or accident (Yilmaz, 2021).

4. In language

- a. **Semantics show the impact of the language and usage of the words to create the notion.**
- b. Survivor or victim as a term matters: Victim is seen as more passive and when speaking, the harm is again and again presented. When speaking about survivors, the attention is paid to the active part of the healing and recovering processes. The usage of the concept of "victim" for example in the empowerment social work services has a pervasive notion of victimhood in discourses around programmes dealing with gender-based violence. Leburu, G. . (2023).



- c. The victimhood is strongly associated with the blame. New research showed that male (but not female) participants *implicitly* blamed the woman more after viewing victim images, but *explicitly* blamed her more after viewing survivor images (Schwark, Bohner 2019). .

Vicarious liability and Organic theory of corporate liability (Ontario Human Rights Commission, 2023):

A corporation, trade union or occupational association, unincorporated association or employers' organization will be held responsible for discrimination, including acts or omissions, committed by employees or agents in the course of their employment. This is known as **vicarious liability**. Vicarious liability may make an employer responsible for discrimination arising from the acts of its employees or agents, done in the normal course, whether or not it had any knowledge of, participation in, or control over these actions.

Despite the USA context, it has the implication for European experience too. Vicarious liability does not apply to breaches of the sections of the Code dealing with harassment. However, since the existence of a poisoned environment is a form of discrimination, when harassment amounts to or results in a poisoned environment, vicarious liability will apply.

In these cases, the “**organic theory of corporate liability**” may also apply. **Under this theory, an organization may be liable for acts of harassment carried out by its employees if it can be proven that it was aware of the harassment, or the harasser is shown to be part of the management or "directing mind" of the organization. In such cases, an organization will be liable for the decisions, acts or omissions of the employee where:**

- **the employee who is part of the “directing mind” engages in harassment or inappropriate behavior that violates the Code**
- **the employee who is part of the “directing mind” does not respond adequately to harassment or inappropriate behavior they are aware of, or should reasonably be aware of.**

TIPS AND SUGGESTIONS

Generally speaking, managers and central decision-makers in an organization are part of the “directing mind.” People with only supervisory authority may also be part of the “directing mind” if they act, or are seen to act, as representatives of the organization.

It is necessary to bear in the mind, that employers may also have responsibility for sexual harassment by third parties in the workplace. Third parties may include contractors, customers or clients, service or repair people, etc.

Note that an employer may also be held liable for sexual harassment in cases involving activities or events that happen outside of normal business hours or off business premises, but are linked to the workplace and employment. Therefore the preventative measures as well as practically drawn policies are more than necessary.



As mentioned previously, legal decisions have interpreted “in the workplace” (a phrase that appears prohibiting sexual harassment in employment) broadly to include comment or conduct that has work-related consequences, regardless of where it occurred.

Increasingly, sexual harassment is taking place through electronic media (such as blogs, email, text messages, or social media). Electronic media can be found to be an extension of the workplace where sexual harassment that is communicated electronically has work-related consequences. Unwanted, uninvited visits by an employer, supervisor, manager, co-worker, etc. to an employee’s home may also be sexual harassment.

Who May Be Liable (“Liable” means “legally responsible”) for Workplace Sexual Harassment? according to the US context is very similar to the European one too: (Legal Voice, 2022):

- **An employer** who directly participated in the harassment may be liable if he or she is an owner, manager, partner or corporate officer or supervisor (who has authority over you).
- **An employer** may be liable if he or she knew or should have known about the harassment and did not take prompt and effective action to stop the problem.
- Individual **supervisors or managers** may be liable if their own actions are directly discriminatory (like promoting only men, even though there are qualified women).
- Under some circumstances, **a union or its representatives** may be liable.
- **An employment agency** may be liable.
- **Religious organizations** may be liable even though they have some protections from liability based on religious freedom.
- **Perpetrator - IS LIABLE, but needs to be sued on the individual level by Penal CODE (if applicable in the national law system).**

TIPS AND SUGGESTIONS

For example in the Czech Republic, the managers are responsible for creating well-being in the workplace, and thus also for stopping harassment. We can apply thus organic theory of corporate liability

As an employee you should (i-Sight, 2023),

1. Follow the harassment policy of your organization as the harassment policy of your organization is guiding for right and wrong in your organization.
2. Train Yourself: Learn what harassment is, how to recognize it, and how to report it. You might not know that a behavior could be considered harassment. A list of acceptable and unacceptable conduct developed by your organization could discourage potential bad actors and encourage victims to report.
3. Implement Internal Complaint System of your organization: Knowing how to use an internal complaint system can make you as an employee feel safe and supported. A formal complaint system has to acknowledge the victim’s rights to anonymity and security from retaliation, otherwise the victim might not come forward. Victims will fear the potential backlash, and the lack of support might be worse than the harassment they already face.



Prevention is better than cure:

- When dealing with harassment at work, prevention is better than cure. Engaging with employees on the issue and raising awareness of the company's zero-tolerance policy for unacceptable behaviour are key to avoiding incidences of sexual harassment occurring in the first place. A workplace environment which values difference, is free from hostility and based on tolerance, will enable people to contribute more effectively and achieve higher levels of job satisfaction. People cannot make their best contribution if they are working in fear of harassment or bullying. Alongside policies, employers should promote the importance of respect between employees at every level of the organization, encouraging a supportive and inclusive culture so that people's behavior reflects the right values.
- Senior and middle managers have a defining influence on the working culture and set the tone for expectations around dignity and respect. They need to take a visible lead on the issue and set the tone for fostering a working environment where people feel empowered to speak up. How managers role-model respectful behavior will be instrumental in setting the right expectations for everyone. Therefore, it's encouraging that in our 2020 research a significant proportion of employers report positive behavioral change among senior leaders, managers as well as employees. The organization also needs to be seen to take swift and robust action where needed, and deal appropriately with any criticism that could be focused on issues relating to leadership and trust. Senior leaders and line managers need to consistently role model and champion these behaviors so that people feel secure and can get on with their work without worry or fear of recrimination should they raise any concerns.
- HR (human resources manager) also has a crucial role to play in helping to build a workplace culture that is inclusive, and fosters openness and transparency. The profession has a responsibility to ensure that any poor practices and behaviors that have led in the past to grievances and complaints do not continue.
- Organizations should also strive to develop a culture in which harassment is known to be unacceptable and where individuals are confident enough to bring complaints without fear of ridicule or reprisal. Organizations should deal promptly, seriously and discreetly with any issues that are raised.
- The first step to achieving this is to put in place a robust policy that clearly articulates the organization's commitment to promoting dignity and respect at work. Communicating the details of this policy is crucial, so that all individuals know their rights, what steps to take if they want to make a complaint, but also that they have a responsibility to behave in ways which support a non-hostile working environment for themselves and their colleagues. Induction is a good way of raising awareness and setting clear expectations of behavior from the start of someone's employment. These standards need to be reiterated and updated on a regular basis to build an inclusive culture that doesn't tolerate any form of discrimination or harassment.
- Employees, and in particular line managers, should be encouraged to play their part in making the organization's policy a reality, and be prepared to challenge



- inappropriate behavior and take action if they observe or have evidence that someone is being harassed. Line managers are at the forefront of identifying and managing conflict, including bullying and harassment, as well as often being a cause of it. They need to have the confidence and capability to be proactive and deal with unfair treatment at the earliest possible stage: this means challenging behaviors that cross the line into being inappropriate and being sensitive to situations where banter becomes bickering or bullying, as well as picking up on any underlying tensions in their team. The tendency for organizations, and the people profession, to be compliance-focused and rely on the perceived safety of formal procedures to resolve conflict is even truer of people managers, particularly where they lack the ongoing guidance and support of HR (human resources manager). It's vital that employers, and people professionals, invest in the skills and competence of managers so that they are not afraid of tackling conflict head on and encouraging informal, positive routes to resolution where appropriate.
- Organizations should monitor the gender diversity of its workforce at every level, including at recruitment, for succession planning and for recording the number of women who are making it into middle and senior level management roles. Through tracking these data, it should be possible to have a clear picture of whether or not there is any potential discrimination or harassment on grounds of gender. Staff attitude surveys are also a valuable way of gathering feedback from people on their perceptions in areas like gender equality. It's in the interest of employers to not only eradicate discrimination against women in the workplace, but to develop proactive strategies for progressing female talent, so that they can reap the many benefits from having a gender-diverse workforce.

About legalistic grievance procedures (Dobbin, & Kalev, 2020):

Many companies have a grievance procedure. These procedures were first cooked up by lawyers to intercept victims who were planning to sue, and then were adapted to protect companies against suits by the accused.

Victims suffer when grievance procedures backfire. But why do those procedures backfire? The answer is retaliation against victims who complain. Who had reported their harassers were subsequently assaulted, taunted, demoted, or fired by their harassers or friends of their harassers. This kind of retaliation has long-term effects. Victims who file harassment complaints end up, on average, in worse jobs and poorer physical and mental health than do women who keep quiet. And retaliation may be the only thing many victims get after filing a grievance, because most procedures protect the accused better than they protect victims.

Part of the problem is that confidentiality rules are unenforceable and thus can't prevent retribution. Both the accused and their accusers are told that the complaint is confidential because **the accused is innocent until proven guilty**. Those accused often think they are free to tell their friends, and managers who hear complaints may also tell others, looking for either corroboration or support for the accused. No matter how word gets out, friends of the accused may retaliate.

Another part of the problem is **evidentiary rules**. Many companies use the "beyond a reasonable doubt" standard to determine guilt, not the lower "preponderance of evidence" standard that the courts use for harassment claims. That makes it nearly impossible to prove guilt without a



confession or a witness. Even if the accused is found guilty, confidentiality generally applies to the ruling, and thus word doesn't get out that, say, women should steer clear of Jerry. Victims who reported their harassers were subsequently assaulted, demoted, or fired.

Yet another is a reluctance to **punish perpetrators**. Companies sometimes offer to transfer victims to other departments or locations, but they almost never actually transfer or fire the accused, because they worry that the accused will sue. Instead they typically mandate more training. Many companies even keep verdicts secret from accusers, which can lead to a perverse outcome: A victim who has "won" her case sees her harasser roaming the halls, and believing that this means she has lost it, she becomes dispirited or frustrated or angry and decides to leave her job. But victims who face retaliation often quit well before the process is complete.

The evidence is **unambiguous**: the current grievance system puts victims at a distinct disadvantage, through unenforceable confidentiality rules, a high evidentiary bar, and punishments that leave harassers in place. Moreover, everybody knows that the system is rigged. Accusers have only two real options: report harassment and suffer the consequences, or don't report it. It's a lose-lose situation.

Alternative Complaint Systems - If the current system isn't working, how can you and your organization do better:

- **The ombuds office:** This is an entity that sits outside the organizational chain of command and works independently to resolve sexual harassment complaints. An ombuds (formerly ombudsman) system is informal, neutral, and truly confidential—only the ombuds officer needs to know of the complaint. This approach has two advantages over the current system: It allows accusers to determine whether to make their complaints known to the accused, and it avoids legalistic hearings entirely. Ombuds offices have spread across academia, law firms, and major news organizations over the past few decades. To help resolve harassment problems, these offices should make explicit that employees can come to them confidentially with their claims and concerns. What's most important about the ombuds system is that it puts victims in the driver's seat. If they don't want the accused to know they're talking, that's OK—the ombuds can hear them out confidentially and help them think through their options. Ombuds offices hold no formal hearings, are guided by no rules of evidence, and impose no restrictions on discussing the problem with others. Moreover, by tracking complaints by department and location, they can identify problem spots that need attention and alert leaders. They track complaints more effectively than grievance officers can, because people actually bring complaints to them. Setting up an ombuds office isn't hard. You need ground rules for complaint handling, which a professional officer can help you design, working along International Ombudsman Association guidelines. (A tip: You should be explicit about the fact that the ombuds will help with harassment.)
- **Voluntary dispute resolution:** For an alternative that falls somewhere between a formal grievance procedure and an ombuds office, consider a dispute-resolution system that relies on mediation. In this model, mediators hear claims, notify the accused, and try to find solutions that satisfy both sides. Some employers use professional mediators; others train their own workers to do the job. The system is less adversarial than a legalistic grievance procedure. This often suits victims, many of whom simply want their harassers to cut it out. But the victim must feel comfortable being identified to the accused, and both parties



must be committed to finding a solution. Obviously, this approach doesn't work for the most egregious cases of harassment, for which the only sensible solution is to fire the perpetrator. The advantage of voluntary dispute resolution is that accusers can decide at key points in the process whether to proceed. Once the process is initiated, if they feel the accused isn't engaging in good faith, or that the complaint needs to be handled in a more legalistic way, they can bow out and file a formal grievance. An option to avoid.

- **Mandatory arbitration** is all the rage today. When an employer adopts mandatory arbitration, all current employees and new hires are required to sign away the right to sue for any employment-related dispute, including claims of harassment. In exchange they are promised that any claim they file will be turned over for independent review to an external arbitrator who will hear both sides of the dispute and render a binding decision. Mandatory arbitration is all the rage because it best protects from litigation. That may sound like dispute resolution, but it's far from it. Signing the arbitration contract means agreeing to keep any dispute confidential, to abide by arbitrators' decisions, and to refrain from taking employment disputes to court. If victims feel that arbitration isn't working, they have no recourse to a formal grievance system. And they don't choose the arbitrator, which may put them at a disadvantage: Because arbitrators hope to be hired again by the company, they may be reluctant to find it seriously at fault.
- Changing the Culture: The changes proposed address shortcomings of the programs that the Supreme Court backed in 1998. But reducing harassment will require more than that. It will require changing the culture of your organization so that fighting harassment becomes part of your mission. You'll need to engage as many people as possible in the effort and create systems of accountability that get everyone involved in oversight. Three tools offer promising ways to do that:
 - o train-the-trainer programs that turn employees into harassment experts;
 - o harassment task forces that put employees in charge of diagnosing problems and designing solutions; and
 - o openly published numbers so that everyone can track progress.
 - **Train-the-trainer programs:** Employees who volunteer to be trained as harassment trainers tend to become leaders committed to changing the culture. This approach is less expensive than using outside trainers, and it's much more effective than tick-the-box online courses. A harassment task force can tailor solutions to the needs of a given company.
 - **Harassment task forces:** Establishing a task force is the single best way to improve diversity in the workplace. It also promises to help curb harassment by engaging more people. A CEO might commission a harassment task force and ask department chiefs to join it or send a lieutenant. The task force can look at HR data on harassment complaints, interview people across the company about their experiences, study company data on what kinds of workers are quitting, and more. Once the members have figured out what and where their company's specific problems are, they can brainstorm solutions and take them back to their own departments. Maybe work teams need to be mixed up so that women aren't so often outnumbered. Maybe the company needs to get more women involved in recruitment or more men



involved in conducting harassment training. The beauty of this approach is that it allows solutions to be tailored to the needs of a given company. Who better to dream up those solutions than people who know the workplace and the culture? And how better to align your managers and employees with the goal of stemming harassment than by putting them on the task force? That's a lesson straight out of Psychology: The best way to convert people to your cause is to get them to help you with it.

- **Published numbers:** There's something to the adage "You can't manage what you can't measure"—or in this case, "what you don't measure." If you publish data that exposes a problem, managers will focus on it, and solving the problem will become part of the culture. The Ombuds office could post the number of complaints, broken down by department. An annual employee survey could surface problems by department and location. Most managers have no idea how their own departments are faring, because people rarely file formal complaints. Shining a light on where problems lie can change the culture.



Suggestions and tips for young employees

1. One of the first steps in overcoming sexual harassment is **to acknowledge what happened to you and recognize that it was wrong** (Gordon, 2021). In fact, sexual harassment is a serious issue that is regulated by the law. It is against the law to harass a person because of that person's sex.. It also is against the law to make unwelcome sexual advances, request sexual favors, touch someone inappropriately, make sexual remarks, engage in sexual bullying, and share sexually-offensive jokes. Basically, anything sexual in nature that creates a hostile work environment is considered sexual harassment. What's more, sexual harassment is not limited to male-to-female abuse even though it is by far the most common form of harassment. Female-to-female sexual harassment, male-to-male sexual harassment, and female-to-male sexual harassment also take place and are against the law. It becomes harassment when it creates a toxic work environment or when it results in adverse employment conditions such as being fired or reprimanded due to sexual harassment (Gordon, 2021).
2. **Impact on Victims/Survivors:** While every person deals with the trauma of sexual harassment differently, if you have been victimized by sexual harassment, you may start off feeling shocked and then move to denial. These responses are normal and are usually followed by feelings of victimization, which can lead to low self-esteem. Additionally, your response can be so significant that you may even have trouble functioning from day to day. The key is **to address the issue or leave the work environment**. It also is not uncommon for victims of sexual harassment to have difficulty sleeping, getting up in the morning, eating, exercising, or doing anything that they used to consider fun. Other symptoms that sexual harassment can lead to might include headaches, difficulty concentrating, forgetfulness, stomach issues, and elevated blood pressure. You might also feel betrayed, angry, powerless, hopeless, and out of control. And in extreme cases, victims may experience depression, anxiety, and thoughts of suicide (Gordon, 2021).
3. **Tips on Healing From Sexual Harassment:** Moving on after being sexually harassed at work can seem like a daunting task. You may feel stuck or hopeless about your situation. But with hard work and counseling or therapy, you should be able to make sense of your experience, heal from it, and move on. Here are some steps every victim/survivor can take in order **to heal from sexual harassment** (Gordon, 2021):
 - a. **Accept what happened.** What this means is to validate your experience. Do not minimize what happened or make excuses for the perpetrator. It is also important to allow yourself to experience your emotions. Do not bottle up the hurt and anger you are feeling. Find healthy ways to express these feelings. Some options include prayer, meditation, yoga,⁴ and other stress-reducing activities.
 - b. **Talk to someone about harassment.** It always helps to talk with a safe person. Try to find someone who will respect your feelings and your perspective. Don't share your thoughts and feelings with someone who is going to tell you that you are overreacting or being emotional. If you do not have anyone to talk with about your experience, consider joining a support group or starting one of your own.



- c. **Journal about your experience.** Describe how sexual harassment affected you. Explore the different emotions you are feeling. Sometimes it is helpful to include in your journal a letter to the person who harassed you. Say all the things you wish you would have said, but didn't. It can be very healing to get all of that out of your system. Journaling also may help you make sense of what happened to you.⁵ And it is a safe place to say whatever is on your mind without trying to filter anything out.
 - d. **Stop blaming yourself.** What happened to you was not your fault. You did not cause it and you could not control the other person. Remind yourself too that you have nothing to be ashamed of and you should not feel guilty. Blaming yourself will slow your healing. The only guilty person is the perpetrator. They made a choice to sexually harass you. The only choice you have in the matter is how you are going to deal with what happened to you. Remember, you have complete control over your response and where you go from here. Focus on that fact and let it empower you.
 - e. **Bring closure to your experience.** An important part of the healing process is putting the past behind you and detaching from the trauma you experienced. Sometimes this means changing jobs or careers. It also could mean discovering who you really are. Too many times, a person's identity is tied to their work. Instead, rediscover what makes you you. Start a new hobby and develop new interests. And most importantly, do not dwell on what happened to you. Find a healthy way to put the past behind you and try to remain positive about things in your life.
 - f. **Use the experience to help others.** Sometimes, you can bring meaning to what happened to you by integrating your experience into your life in some way. For instance, you could write a blog about what you have experienced and offer suggestions to readers. Or, you could lead a support group, build a website for harassment victims, or speak to others. Another option is to volunteer with non-profit groups that address sexual harassment. The key is taking a negative experience and turning it into something positive. Doing so helps build your resiliency.
 - g. **Find a counselor.** If you find it difficult to move on after your experience, you may benefit from seeing a counselor who specializes in dealing with workplace sexual harassment. Counselors that specialize in sexual assault or abuse may also be helpful. Additionally, if you have been harassed at work or school, advocates advise not using your school or employer's mental health staff. Sometimes the lines of confidentiality get blurred and the counselor will share your information about you to others in the organization. In extreme cases, they may even try to protect the organization from liability. It is always best to find a counselor outside of where the sexual harassment occurred. Not only is it an added protection for your privacy, but you may find it easier to open up to someone that is not associated with the organization where the harassment occurred.
4. Some extra comments (Gordon, 2021):
 - a. Dealing with the trauma of sexual harassment is something that should not be put off or ignored. It is important that you explore your underlying feelings and find



healthy ways of dealing with these emotions. Too many times people try to numb their feelings with other things like busy work or food.

- b. Some will even resort to drugs and alcohol to numb the pain and forget for a period of time. But these are not healthy ways of coping. If you find that you cannot develop good coping skills on your own, be sure to ask your doctor for recommendations for a reputable counselor. Remember, it is not a sign of weakness to get counseling. In fact, it is a sign of wisdom and courage.

Tips for Friends of Sexual Harassment Victims/Survivors

If you have a friend or family member who is dealing with the aftermath of sexual harassment, you may want to help, but just don't know where to start. Simply being there to listen and be supportive is often all that is required.

You do not need to fix things for your friend, nor do you need to offer sage advice. Your most important role is to be patient with what they are going through and support them where you can.⁶ They need to know that they are safe with you and that you believe them. You also could remind them that the harassment was not their fault. Here is a list of additional tips for when you are interacting with your friend:

Remember not to judge them. Try to understand their feelings and offer support. Be there for them when you can and encourage them to talk to others as well.

Encourage them to stay connected. The worst thing your friend can do is become isolated or spend a lot of time alone. While it is common for any victim of harassment to withdraw from others, this is not helpful to their healing. Nudge them to stay connected to you and other people.

Respect their boundaries, and give them space if they need it. Remember, their boundaries were violated when they were sexually harassed so they will likely fight pretty hard to develop new ones. Allow them the freedom to do that. Do not smother them with attention or help.

Allow them to heal at their own pace. Do not rush them or try to fix things. Everyone heals at different rates. Try to be patient if they are taking longer to get over their experience than you think they should.

Support their decisions even if you do not agree with them. It is very important that your friend makes their own decisions. They need the space and the control takes back their life on their terms. While it is fine to make suggestions, do not try to control them or tell them what to do.

5. What should a **victim of sexual harassment at work** do (Legal Voice, 2022):
 - a. Tell your harasser to stop. If you do not feel safe or comfortable doing this, do your best to make it clear to the harasser that the offensive behavior is unwelcome.



- b. Report the harassment to management and ask that something be done to stop it. Report the harassment to a person with decision-making authority. If your employer has workplace sexual harassment complaint procedures, follow them. Try to make your complaint in writing. If possible, have a trusted witness present when you make your complaint. Try to get some proof that the employer actually received your complaint and the date and time the complaint was made (for example, ask your employer to confirm in writing that they received your complaint). Keep a copy of your complaint. In most cases, before an employer can be liable under discrimination laws, the employer must be given notice of the harassment and must have a chance to deal with the problem.
- c. Cooperate in the employer's investigation of your complaint. Take advantage of any preventive or corrective opportunities provided by the employer.

CASE 1: Is the employer liable for the sexual harassment case if an employee, in exchange for romantic or sexual services, could:

- Receive a job offer
- Receive a promotion
- Receive a raise
- Receive opportunities (e.g. better projects, more time off)
- Receive other special treatment
- Avoid a workplace investigation (as described above)
- Avoid a demotion
- Avoid termination

CASE 2: What should the employer do if, after a waitress complained of harassment, the female manager she told revealed her complaint to coworkers, who subjected the waitress to nonstop jokes?

CASE 3: Is a head chef responsible for addressing the problems if they arise among the kitchen staff?



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CASE 4: Was an employer liable for the sexual harassment of his/her employees in the workplace by a service technician who was on-site to fix office equipment?

CASE 5 May an employer be held liable for incidents that take place during business trips, company parties or other company-related functions.

CASE 6: Was a female employer liable for her husband's sexual harassment of a live-in caregiver?

CASE 7: Who is liable if a contracted maintenance worker repeatedly makes lewd comments to a young female tenant? (landlord).

CASE 8: Think if reporting sexual harassment affects your job?

For an answer, watch video here: https://www.youtube.com/watch?v=GX_YBOGSszA



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CASE 9: Sexual Harassment in the Workplace. How To Deal With a Harasser Effectively

For an answer, watch video here: <https://www.youtube.com/watch?v=k-ljkBQyeJE>

CASE 10: (Lawyer) How To Report Sexual Harassment At Work in a legally correct way?

For an answer, watch video here: <https://www.youtube.com/watch?v=R4PiO1HdOz0>



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MODULE 5: LEGAL OBLIGATION OF THE EMPLOYERS

- Responsibilities and legal obligations of employers related to sexual harassment at work

Introduction: the law

All partner countries of the project are member states of the European Union and are therefore bound, apart from the international treaties they have ratified – mainly those produced by the United Nations (UN) and its specialized agencies, in our case especially the International Labor Organization (ILO), and the Council of Europe (CoE) – are bound by the **European Union law**, which is binding for all member states, unless they have negotiated some exceptions. However, there are very few of them and we will not address them here, they rather belong to the national legislation of the individual countries.

In its legal documents, the European Union deals very extensively with the issue of discrimination in relation to the labor market and employment, since the **free movement of persons** has been an important pillar and foundation on which it builds since its historical beginnings. And it is precisely discrimination – which includes (sexual) harassment according to the legislation – that is considered one of the possible obstacles to the fact that every person, regardless of sex/gender, skin color, ethnicity, health status, political or other opinion, etc. can fulfill their potential according to their abilities. This is a prerequisite for them to be effective in their working life as well and to make the most of their potential. In short, this is a kind of goal of the EU in this area and the emphasis is especially on the economic side of the matter, which it has been promoted from its beginnings mainly through the European (Economic) Community (EEC/EC). This later became one of the pillars of the European Union itself.

Since roughly the 1970s, one can observe the growing interest of the European Union (then the European Economic Community, EEC) in issues related to **equality** on the labor market. At this time, they issued several **directives** that regulated this area and thus created a certain basis in this area – together with the conventions of the International Labor Organization, which, however, unlike the EU, has a global regional scope and its law is not immediately binding, unless individual states ratify the relevant conventions.

From our project's point of view and the countries involved in it, we can consider the law of the European Union as a kind of **common minimum** that unites us and establishes obligations that are common to all the countries mentioned. Therefore, national legislation and other international legal obligations, which we will not deal with in this section, are beyond their scope. The national dimensions are introduced later in this text.



European Union law and employment

Let's recap how the European Union law is formed (note, the term "European law" is broader, as it also includes the obligations of the Council of Europe, so it is more appropriate to use the designation EU law):

- **EU primary law** – primary law is the highest-level law and consists of so-called "treaties", i.e., treaties on the establishment of the European Union and individual European Communities that preceded the establishment of the EU. In addition to the European (Economic) Community (EEC/EC), there are also the European Coal and Steel Community (ECSC) and the European Atomic Energy Community (Euratom). All of them were established in the period of 1950-1960. The EU itself was established on 1 January 1993.
- **Secondary EU law** consists of several types of documents that differ in their degree of binding for individual member states:
 - o regulation – are immediately binding for all member states in full,
 - o directives – they are binding on the Member States in their main requirements, but it is left to the Member States how they will integrate them into their national legislations,
 - o decisions – they are binding only for the states to which they are addressed,
 - o opinions – they are more interpretive in form,
 - o recommendations – they are not legally binding, but they contain recommendatory procedures by the EU institutions.
- **EU jurisprudence** is shaped by the Court of Justice of the European Union (CJEU), which oversees the implementation and interpretation of EU law. Only member states, not individual persons (citizens), can appeal to this court. Attention, this is also important for us!
- **Tertiary law** of the EU is an unofficial name and includes all other non-legally binding documents of the nature of strategic, tactical and operational documents in individual areas that the EU deals with.

TIPS AND SUGGESTIONS

The core of European legislation regarding the regulation of working conditions, including the behavior of employees and the obligations of employers with regard to the prevention and resolution of potential discrimination, is located at the level of **secondary law**, specifically contained in several **directives**. These are therefore binding for the member states in the core of their messages, but individual states translate them into their domestic legislation in different ways. As an employer, it is challenging to keep updated about EU legislation and the trends in this area. Therefore use the possibilities of the training and stay in touch with professionals working in the area.

*At the same time, employment belongs to the sphere that is so-called harmonized by the European Union, but does not belong to its full scope. Matters that the EU does not regulate in its legally binding documents are at the discretion of individual national legislatures. The so-called **principle***



of subsidiarity applies here, meaning that situations should be resolved as close as possible to the center of their origin.

Legal obligations of the EU in the area of protection against discrimination in employment

According to Article 2 of the Directive 2002/73/EC, Sexual Harassment is defined as: where 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 environment.

So, this definition is very broad, but what is important is that it addresses any inappropriate or unwanted behavior of any form that interferes with the dignity of the person and creates a hostile environment. And of course, this also applies to the employment environment.

In the event that the court finds that discrimination has occurred with a high degree of probability, it can stipulate that the so-called **shared burden of proof** will be applied, where not only the proposing party proves that its rights have been violated, but also the sued party (usually the employer) must demonstrate that discrimination did not occur and concrete steps had been taken to prevent it. There is no full transfer of the burden of proof to the defendant in the case of discrimination on the basis of gender, this is the case only for the discriminatory reason of race and ethnicity. This requirement is originally based on Article 10 of Directive 2000/78/EC, which establishes a general framework for equal treatment in employment and occupation.

The European Union is currently preparing or has already approved some other directives that touch on the area of gender equality, and may therefore, in the broader sense of the word, interfere with the prevention and solution of sexual harassment in the workplace. These are primarily the following legal regulations – some are already in the phase of being transposed into the national legislation of the member states:

- **Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union.**
- **Directive (EU) 2019/1158 of The European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU.**
- **Directive (EU) 2019/1937 of The European Parliament and of The Council of 23 October 2019 on the protection of persons who report breaches of Union law.**
- **Directive (EU) 2022/2381 of the European Parliament and of the Council of 23 November 2022 on improving the gender balance among directors of listed companies and related measures.**



Important

All these directives are available in the languages of the individual Member States on the EUR-lex website: <https://eur-lex.europa.eu/homepage.html>.

TIPS AND SUGGESTIONS

In particular, the directive regarding the protection of persons who report violations of EU law (so-called **whistleblowing**) is very important, as it prohibits any retaliatory actions against persons who report, for example, also (but not only) a case of (sexual) harassment in the workplace.

It came into force last year and many companies are starting to handle the cases. To get well with the reporting system, it is necessary to connect the GDPR well with the process of the compliance of the reports connected with cases. It is advisable to connect the whistleblowing system with the policies towards the prevention of harassment and discrimination in the workplace.

Case study and questions

Read the following case study carefully, several questions will follow and we will work with them indirectly in the rest of the text of this module.

Petra has been working in the company as a technical assistant for many years and also has long-term problems with sexual harassment by her colleague. The beginnings of these manifestations were inconspicuous and creeping, but gradually escalated, Petra has not been feeling well at work because of them, and that is why she recently started to solve the situation. As an assistant, she often conducts various meetings or attends meetings with clients or people from the company, so it is assumed that she will go to work appropriately dressed. Petra has never had a problem with this, she likes to wear suits, skirts, etc. However, when she is not in a meeting, she likes to take off her jacket in the office, and this probably started to attract the interest of her colleague, who observed her for a long time making her feel uncomfortable. For example, during a conversation or during lunch, he kept looking at her cleavage and started making verbal comments about her beautiful figure, beautiful breasts, and that she could use them in another business, etc. At first, these expressions were only occasional and "inconspicuous" between the speech but over time they started to escalate and became almost daily. Petra started to work at the company as a newcomer and at first, she didn't feel like saying anything to her colleague, moreover, she works well with him and they are in daily contact, so she put up with it and didn't want to "make it stuffy". Recently, however, she does not feel comfortable in the company of this colleague, she has noticed that she even started to dress a little differently and buys clothes that attract less attention and cover her more than she would otherwise choose. In addition, the colleague recently made similar remarks about her appearance in a group meeting or in front of clients.



Petra therefore turned to her colleague and tried to talk to him about this situation, but he trivialized everything by saying that she is "not a girl" and that "after all, every woman likes to be observed and is happy when men appreciate it". So, she turned to the head of the section, but he told her that he didn't have time to deal with such things and that she and his colleague should settle it between themselves, after all, they are adults and know how to behave in the workplace. In addition, they have been working together in the office without problems for a long time, so he does not understand what the problem is after all.

Case study questions

(the answers can be found directly or indirectly in the following and previous text of the module)

- In your opinion, is this the case of sexual harassment?
- Can we talk about discrimination in this case?
- Was the boss's reaction adequate? Did he comply with legal requirements?
- How should the company (management, HR) proceed in similar situations?

Obligations of the employer in case of (sexual) harassment

Question

Do you think it is possible for an employer to give up on a case of (sexual) harassment in the workplace, if they learn about it, referring to the fact that "after all, the people are adult (employees involved in the situation), that they should know how to behave and that they should resolve it between/among themselves"?

The answer is, perhaps surprisingly for some, negative. If such an action takes place between employees at work or in connection with it, the employer – through authorized persons, in particular the manager and the personnel department – is obliged to act.

The employer's action on issues of harassment and sexual harassment can be divided into several main areas or phases:

- **prevention** – creating a work environment that is friendly, inclusive and allows everyone to do their job. This also includes steps leading to the deterioration of the mental health of employees (i.e., not only preventing accidents or such),
- **non-discrimination** – active steps leading to the prevention of discriminatory environment, and behavior, including (sexual) harassment,
- **resolution procedure** – it is ideal to anchor the procedure for submitting and investigating potential disciplinary offenses, a certain "minimum" in this regard is the valid legislation, which is not always sufficiently instructive for all those involved, therefore it is good for the employer to determine and set the procedure for resolving similar cases,



- **individual cases handling** – specific actions when (sexual) harassment is detected at the workplace or in connection with it, including drawing up relevant disciplinary or labor law consequences.

TIPS AND SUGGESTIONS

Similar cases happen from time to time in every workplace, and the bigger the organization gets, the more likely it is to happen. Everywhere you can encounter people who, out of ignorance or on purpose, annoy others and treat them inappropriately or undignified. That is why it is important to include this issue in the initial and subsequent training, to establish the frame procedures for collecting and solving all reported cases and to create an open atmosphere and culture in the workplace where it is possible to talk about such problems, solve them and, above all, prevent them in time. The key role of the employer is in prevention.

Summary

- The employer must act actively in matters of (sexual) harassment and discrimination!
- The employer's role is not only "reactive", i.e., to deal with cases that occur, but also preventive, meaning to create suitable working conditions and climate in the workplace!
- In matters of safety, the employer must pay attention not only to the "physical" health (physical in the narrow sense of the word), but also to the mental health, which is threatened by possible sexual harassment. Employers are liable to create a positive working environment!
- Employees have an obligation to behave properly at the workplace and to respect others, behaviour of a character including sexual harassment is prohibited and is punishable by various legal channels in the field of labour law, possibly also civil or criminal law, depending on the type, nature and seriousness of the offense (see also further, anchoring in national legislations).
- The employer has an obligation to take action in the event of sexual harassment, i.e., to resolve cases or situations about which they are informed – this is also why it is important to ideally prepare informational material on how to submit complaints and how they will be specifically dealt with.
- The employer cannot leave the given situation to be solved only by the persons involved and not fulfill its role, if it took place in or in connection with the job.



National legislations' base

The purpose of this part of the module is to recapitulate briefly where and how in the national legislations of the countries involved in our project, employers' obligations related to the prevention and resolution of harassment and sexual harassment are established.

The Czech Republic

In the Czech Republic, the equality of all people is encoded in The **Constitution of the Czech Republic** (The Charter of Fundamental Rights and Freedoms), specifically, the principle of prohibition of discrimination is regulated in the **Anti-Discrimination Act** and labor law standards, which include mainly the **Labour Code**, the Service Act and specific legal regulations for working conditions in certain defined professions (police, firefighters, army, etc.). The anti-discrimination law, to which other labor law standards also refer, and the Labour Code (or service and other laws) have a specific position in this direction, which regulate in more detail the obligations of employers and employees.

The Anti-discrimination Law

Act No. 198/2009 Coll., on equal treatment and on legal means of protection against discrimination and on the amendment of certain laws (anti-discrimination law)

Available here: <https://www.zakonyprolidi.cz/cs/2009-198>

- **Harassment** is defined by the law as unwanted behavior related to discriminatory reasons, the intention or effect of which is to reduce the dignity of a person and create an intimidating, hostile, humiliating, humiliating or offensive environment, or which can be legitimately perceived as a condition for a decision affecting the exercise of rights and obligations from legal relations. If the harassment is sexual in nature, we consider it **sexual harassment** in accordance with the law. See § 4, paragraphs 1 and 2.
- According to this legal norm, we can consider **persecution** (in some cases also stalking) any adverse treatment, punishment or disadvantage that occurred as a result of the exercise of legal rights - i.e., retaliatory actions when reporting a case of harassment, to be persecution. See § 4, paragraph 3.

According to § 2, paragraph 2, discrimination is direct and indirect. Harassment, sexual harassment, persecution, instruction to discriminate and incitement to discrimination are also considered discrimination. Harassment is also discrimination and as such can be a reason for legal defense in accordance with the anti-discrimination law, not only the labor code (see below).

The Labour Code

Act No. 262/2006 Coll., Labor Code

Available here: <https://www.zakonyprolidi.cz/cs/2006-262#cast1>

Adjustment of working conditions is regulated in the Czech labor law in particular by § 16 of the Labour Code, similarly in other legal norms, such as the Civil Service Act (234/2014 Coll.) and



legal norms regulating work in selected other jobs, especially in defense and police components. Key § 16 of the Labour Code therefore states that:

(1) Employers are obliged to ensure equal treatment of all employees with regard to their working conditions, remuneration for work and the provision of other monetary benefits and monetary value, professional training and the opportunity to achieve functional or other employment advancement.

(2) In employment relations, any discrimination is prohibited, in particular discrimination on grounds of gender, sexual orientation, racial or ethnic origin, nationality, citizenship, social origin, gender, language, state of health, age, religion or belief, property, marital and marital status and relationship or family obligations, political or other thinking, membership and activity in political parties or political movements, in trade unions or employers' organizations; discrimination on grounds of pregnancy, maternity, paternity or gender identification is considered discrimination on grounds of sex.

The creation of a safe working environment is based, among other things, on the provisions of § 224, paragraph 1, where it is said that employers are obliged to create working conditions for employees that enable the safe performance of work... Similarly, § 248, paragraph 1: The employer is obliged to ensure his employees such working conditions so that they can properly perform their work tasks without endangering health and property; if they (employer) discover defects, they are obliged to take measures to eliminate them. Let's add that health also means mental health, not just somatic.

According to the applicable legislation, the employer has the option of drawing **disciplinary sanctions**, in the case of a gross violation of the labor law regulations, this can also mean (immediate) termination of the employment relationship – see in particular § 50 of the Labour Code et seq. In the case of public service employment relationships, these conditions are specified partially differently (disciplinary sanctions and termination of employment).

Legal protection against (sexual) harassment can be enforced in **court**, due to a violation of labor legislation and/or anti-discrimination law, if other legal reasons are met. In certain cases, the so-called shared burden of proof is applied (see above).

In the case of particularly serious cases, which often also have elements of restriction of personal freedom, persecution/stalking or violence (physical, psychological, combined), these are crimes that also have the character of a criminal offense and their resolution falls within the scope of the **criminal law**, i.e., in the first phase of the investigation **Police** of the Czech Republic. For less serious offenses, it is also possible to use the institutes of misdemeanor law, although in practice this is not used much.

Control activities in this area are carried out by the **Labour offices** (ÚP), especially in the labor recruitment phase, and in the next phase by the **State Labour Inspection Office** (SÚIP). It is also possible to address these public authorities for violations of the legislation on equality in the field



of employment, which therefore also includes the area of (sexual) harassment as a specific form of discrimination.

See:

- ÚP: <https://www.mpsv.cz/web/cz/prace-a-zamestnani>
- SÚIP: <https://www.suip.cz/web/suip/podani-podnetu>

It is also possible to contact some **non-governmental non-profit organizations** operating in the Czech Republic, which provide, for example, free legal services or can help you with the question of whom to contact or solve the situation with. These are, for example:

- Gender Studies, o.p.s.: <https://genderstudies.cz/>
- Konsent: <https://konsent.cz/>
- ProFem: <https://www.profem.cz/cs>

Sources used and recommended:

- Zákon č. 198/2009 Sb., o rovném zacházení a o právních prostředcích ochrany před diskriminací a o změně některých zákonů (antidiskriminační zákon). Dostupný zde: <https://www.zakonyprolidi.cz/cs/2009-198>.
- Zákon č. 262/2006 Sb., zákoník práce. Dostupný zde: <https://www.zakonyprolidi.cz/cs/2006-262#cast1>.

Germany

The **General Act on Equal Treatment (AGG)** comprehensively protects anybody against discrimination on the grounds of the characteristics stated in Section 1 AGG in relation to the world of work. The Act results in specific obligations for employers (Section 12 AGG). They range from preventive measures and immediate actions to general organizational obligations. Conversely, under the General Act on Equal Treatment, employees are entitled to demand from their employers that they take the respective measures to protect the employees. For example, employers must take preventive action against discrimination. This can take the form of staff training or codes of ethics that clearly declare discrimination as inadmissible and train employees sufficiently in order to prevent discrimination in the work environment.

In addition, employers are required to act if employees discriminate against others at work. That means it is the obligation of employers to proactively prevent discrimination. In less severe cases,



a warning or targeted training may be enough, in more severe cases of discrimination, appropriate measures may include moving, relocating or dismissing the employee.

Employers are also required to protect employees from discrimination by **third parties**. For example, a supplier. Employers are required to make available the General Act on Equal Treatment in its entirety and to provide information on the complaint's procedure.

See:

- <https://www.antidiskriminierungsstelle.de/EN/about-discrimination/areas-of-life/work-life/obligations-of-employers/obligations-of-employers.html>

The **Antidiscrimination Law** provides a legal definition for sexual harassment (in the context of harassment at the workplace): “Sexual harassment shall be deemed to be discrimination in relation to Section 2(1) Nos 1 to 4, when an unwanted conduct of a sexual nature, including unwanted sexual acts and requests to carry out sexual acts, physical contact of a sexual nature, comments of a sexual nature, as well as the unwanted showing or public exhibition of pornographic images, takes place with the purpose or effect of violating the dignity of the person concerned, in particular where it creates an intimidating, hostile, degrading, humiliating or offensive environment.”

The prohibition of harassment was included in the 2006 General Equal Treatment Act (AGG).

Employers are specifically required to **protect employees** from being discriminated against. In concrete terms this means that they must:

- inform employees of the legal protection from harassment in the company and take preventive action to ensure a safer work environment (duty to prevent and inform),
- establish a body to which employees may submit complaints if they are discriminated against or harassed at work (complaints body pursuant to section 13 of the General Act on Equal Treatment (AGG))
- take every complaint seriously, examine the individual case and, in the event of harassment, take precautions ensuring that such harassment may not happen again (duty to act).



There are no legal requirements on concrete measures to be implemented by the company as the company knows their employees best.

See:

<https://www.gleichstellungsbuero.uni-freiburg.de/de/download/HLFenglisch#:~:text=Sexual%20harassment%20has%20been%20considered,person%20is%20liable%20to%20prosecution.>

<https://eige.europa.eu/gender-based-violence/regulatory-and-legal-framework/legal-definitions-in-the-eu/germany-sexual-harassment#:~:text=“Sexual%20harassment%20shall%20be%20deemed,the%20unwanted%20showing%20or%20public>

<https://www.antidiskriminierungsstelle.de/EN/about-discrimination/areas-of-life/work-life/obligations-of-employers/obligations-of-employers.html>

The **complaints body** plays a central role, which is why every company is required to establish one. Its main task is to investigate and review the facts of the case after a complaint has been made. In addition, it can assume other tasks such as providing information or evaluating the complaints procedure. It does not act as a counseling unit, however, whose responsibility would be to side with the persons affected. Rather, the complaints body assumes employer responsibilities during the complaints procedure and must act objectively. The **procedure** should clearly set out what **steps** will be taken first when a complaint is made, what parties will be involved, at what stage interviews with staff will be held and how decisions on protective measures and sanctions will be made.

If discrimination within the meaning of the AGG has occurred in a company, employers must take **remedial action** and take measures to protect the affected employees. If employers, in case of harassment or sexual harassment (Section 3 (3) and (4) of the AGG), do not take any or obviously inappropriate measures to put an end to the harassment, the affected employees have the right to end their professional activity without losing their pay if this is necessary for their protection (Section 14 AGG).



See: <https://www.antidiskriminierungsstelle.de/EN/about-discrimination/areas-of-life/work-life/obligations-of-employers/obligations-of-employers.htm>

<https://www.antidiskriminierungsstelle.de/EN/about-discrimination/areas-of-life/work-life/obligations-of-employers/obligations-of-employers.html>

Germany has created The **Federal Anti-Discrimination Agency** that works on the basis of the General Act on Equal Treatment (Allgemeines Gleichbehandlungsgesetz, AGG). The General Act on Equal Treatment came into force in Germany in 2006. The purpose of the Act is to prevent or stop discrimination because of racism or on the grounds of ethnic origin, gender, religion or belief, disability, age or sexual identity in the field of labor law and with regard to some aspects of civil law.

See:

https://www.antidiskriminierungsstelle.de/EN/about-us/statutory_basis/statutory_basis_node.html There are also informational and support hotlines which may be used in case of sexual harassment (only for women in some cases):

- The Violence against women support Hotline – Support and counseling for women:

<https://www.hilfetelefon.de/en.html>

Berlin-Based Hotline for Women Affected by Violence:
<https://www.frauenhauskoordinierung.de/en/thematic-portal/support-system/nationwide-support-hotline>

Italy

The general principle of equality between women and men has been enshrined in:

- **Article 3 of the Italian Constitution:** 'All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions. '
- **Legislative Decree No. 198 of 2006 established the National Code of Equal Opportunities between Women and Men** and is considered the Italian legal framework for gender equality and women's empowerment.

Among the forms of discrimination, Article 26 of the Equal Opportunities Code expressly identifies harassment, i.e., unwanted conduct, carried out for reasons related to sex or with sexual connotations, expressed in physical, verbal or non-verbal form, having in any case the purpose or



effect of violating the worker's dignity and creating an intimidating, hostile, degrading, humiliating or offensive climate.

The worker, in the face of gender discriminatory conduct, can access not only the conciliation procedures governed by collective agreements and the attempt at conciliation under Article 410 of the Code of Civil Procedure or Article 66 of Legislative Decree No. 165/2001, but also the appropriate judicial protection.

In particular, according to the provisions of Article 38 of Legislative Decree No. 198\2006, if discrimination is carried out in breach of the aforementioned prohibitions, the employee or, by proxy, the SSOs or the Equality Advisor, may appeal to the Court, acting as labor judge, to protect their rights and obtain an immediately enforceable decree ordering the perpetrator of the discrimination to cease the unlawful conduct and remove the effects thereof. Failure to comply with this decree results in a criminal sanction, against the perpetrator of the discrimination, of a fine of up to EUR 50,000.00 or imprisonment of up to six months.

Before adopting an overall national strategy on gender mainstreaming in July 2021, Italy relied on regional or sector-specific good practices. An overall strategy focused on gender equality, ‘the **National Strategy for Gender Equality**’ (**Strategia nazionale per la parità di genere**) is covering the period 2021-2026. In this strategy the attention is focused on the work, salaries/income, competences, time, power, and the impact of COVID-19.

The independent **gender equality body in Italy is the National Equality Counsellor (Consigliera nazionale di parità) and is covered by Law No. 125, Legislative Decree 2006/198.** There is defined the National Equality Counsellor’s profile and competences which are exclusively focused on gender equality. **The National Equality Counsellor monitors the conditions under which women are employed in the labor market and the equal treatment of women and men in the workplace. Amongst others, its working areas include access to employment, career progression, professional training, remuneration, dismissal, resignation, and pensions. The Counsellor also promotes the principle of equal opportunities in policies, projects and other initiatives. Further, counselors have the power to intervene in cases of discrimination relating to employment,**

The National Equality Counsellor is a member of the National Equality Committee.

The first thing to do when experiencing harassment is to contact your employer or HR manager. It is important to report harassment as soon as possible, to prevent the situation from worsening and to enable prompt action to be taken.

In the event that the harassment concerns the employers or if the complaint to the relevant bodies within the organization is not followed up and taken care of, it is possible to turn to and report the harassment to the labor inspectorate (using the [appropriate form](#)), in accordance with Legislative Decree No. 149/2015, or to the competent authorities for the protection of workers' rights, or to trade unions, trade associations and other organizations for the protection of workers' rights.



In order to protect themselves and obtain timely intervention, the victim may:

- immediately report the harassment suffered by initiating a [whistleblowing](#) procedure;
- collect evidence of the harassment suffered, such as emails, messages, testimonies from colleagues, to be used in any legal proceedings, including in the event of a claim for compensation
- request a transfer if possible to avoid further interaction;
- request [medical or psychological support](#) in the event of symptoms of stress or anxiety related to the situation, liaising with the Competent Doctor;
- in case of discrimination or illegal behavior, initiate criminal action and file a complaint with the competent authorities, such as the Carabinieri or the police.

The victim's complaint may lead to an internal investigation, with the aim of identifying and sanctioning the person responsible and implementing new measures to prevent future violations. Employers may also decide to proceed with the lawful dismissal of the person identified as responsible for harassment in the workplace: in fact, unwanted behavior against colleagues constitutes just cause for dismissal of employees.

See:

- Article 36-28 of the Degree 2006/198:
https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf
- Law No. 125, Legislative Decree 2006/198:
<https://www.parlamento.it/parlam/leggi/deleghe/06198dl.htm>
- <https://www.bollettinoadapt.it/discriminazioni-di-genere-sul-luogo-di-lavoro-sanzioni-e-tutele/>
- <https://www.gazzettaufficiale.it/showNewsDetail?id=5978&backTo=archivio&anno=2023&provenienza=archivio>

Romania

The **Romanian Constitution** enshrines gender equality at work and in the labor market. It establishes equal opportunities for women and men in accessing public, civil or military jobs and equal pay. In 2002, the parliament adopted **Law 202/2002 on Equal Opportunities between Women and Men, which specifically focused on gender equality (the Gender Equality Law)**. Among other measures, the law provides for positive action promoting gender equality as ‘special actions that are adopted temporarily to accelerate the realization in practice of equal opportunities between women and men’

The **National Council for Combating Discrimination (Consiliul Național pentru Combaterea Discriminării - CNCD)** is the independent equality body in charge of promoting equal treatment of all persons and ensuring there is no discrimination on the grounds of sex.



Among others, there lies the responsibilities of the Council in the prevention, mediation, investigation and sanctioning of discriminatory actions. Its litigation and decision-making competences include legally binding decisions, legal standing to take cases on its initiative, **providing legal advice and assistance to alleged victims of discrimination**, and awarding dissuasive sanctions (civil fines).

In addition, art 223 from new Criminal Code in 2023 frames sexual harassment in offenses against sexual freedom and integrity.

There are also important, the Labor Code – (Law no. 53/2003) and the Government Ordinance no. 137/2000 on the prevention and sanctioning of all forms of discrimination.

see:

- Law on equal opportunities and treatment between women and men (2002)
<https://anes.gov.ro/wp-content/uploads/2018/10/Legea-202-din-2002.pdf>
- <https://lege5.ro/Gratuit/gezdmnrzgi/art-223-hartuirea-sexuala-codul-penal?dp=gqytsojuha3dk>
- <https://legislatie.just.ro/Public/DetaliiDocumentAfis/128646>
- <https://legislatie.just.ro/Public/DetaliiDocument/24129>

Lithuania

Also in Lithuania, there is a general principle of equal opportunity and equal treatment enshrined in the Constitution (in Article 29). Furthermore it is embedded in the special legislation directed to antidiscrimination: the Law on Equal Opportunities for Women and Men (1998) and the Law on Equal Treatment (adopted in 2003 and entered into force in 2005), covering fourteen grounds of discrimination including gender.

The Office of the Equal Opportunities Ombudsperson is the independent gender equality body in Lithuania. The Law on Equal Opportunities for Women and Men (1998) established the ombudsperson and deals with all grounds of discrimination, such as gender, sexual orientation, age, disability, race, ethnic origin, nationality, language, social status, belief or religion, convictions or views, and citizenship.

The Ombudsperson is **responsible for researching gender equality, as well as conducting a gender-sensitive analysis of policy. It oversees the publication and dissemination of gender equality-related information and training materials.**

see:

- Republic of Lithuania Law on Equal Opportunities for Women and Men (2017)
<https://www.e-tar.lt/portal/lt/legalAct/TAR.746227138BCB/asr>



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MODULE 6: SEXUAL HARASSMENT AS A CRIME

- Sexual harassment as a crime in partner countries
- Actions to do as mentor, supervisor, leader of young employees

Introduction to the law

All partner countries of the project: Romania, Italy, Lithuania, Germany and Czech Republic are member states of the European Union and thus similar legislation is applied. However some specificities could exist despite the fact, that the topic is covered under the international treaties (produced by the United Nations (UN), the International Labor Organization (ILO), and the Council of Europe (CoE))

In this way the approach towards sexual harassment as a crime is very similar in all partner countries. We will therefore note only the differences, when they will appear. But the general problem within the approach to the question of harassment as a crime is its understanding. As we have shown above, harassment is usually connected with myths and its understanding is deeply contextualized and changes during the time. The willingness to understand harassment as a crime is also culturally bounded - therefore in some countries just begins efforts to incorporate the topic into the penal law, while in other countries crimes involving harassment have long existed and there is no problem in applying them.

It depends on the environment and context

In the same case, the specific actions of a person can fulfill the elements of a criminal offense or misdemeanor and at the same time be a disciplinary offense in the case of a student, or a violation of labor law obligations in the case of an employee.

This is true mainly in the context of specific organizations such as school or university. In the event that the action in question results in the discrimination of persons (under which harassment usually lies), the university may be held liable for other damage caused by such action, and in some cases it may also incur a sanction from the Labor Inspectorate (Homfray, 32).

Also if there happened violent harassment which is covered by the criminal code, there are parallel investigations in place. Parallel investigations and actions may take place: criminal through actors in criminal proceedings (including the police, prosecutors and the court), but also labor-law or disciplinary proceedings within the organization/employer in whose environment this act took place.



Regulation of the sexual harassment as a crime

The areas of crimes and misdemeanors related to gender-based violence and sexual harassment at the employers will have in particular the fact that they are detected, dealt with and sanctioned primarily by authorities outside the employer: in particular law enforcement authorities (police authorities, prosecutors, courts) and competent legal authorities to discuss misdemeanors (especially misdemeanor commissions at the offices of territorial self-governing units).

Employers have the status of a cooperating entity here, they may also be subject to certain reporting obligations. At the end of the relevant processes, employers usually have to respond in some way to the resulting decision of a public authority, for example to prevent the performance of an activity for which an employee has been banned from working (Homfray, 14).

CRIMINAL CODE and SEXUAL HARASSMENT

Sexual harassment has been considered a criminal offense in Germany since November 2016 and can now be reported to the police. According to Section 184i of the German Criminal Code (StGB), “whoever touches another person in a sexual manner, and thereby harasses that person” is liable to prosecution. Fines or terms of imprisonment of up to two years may be imposed for acts such as a targeted fondling of the breasts or the buttocks (“fondling”), even above the clothing, “without the need of an act of coercion (use of force or threat).”

In Romania, according to art. 223 of the Penal Code updated in 2023, "repeatedly claiming favors of a sexual nature within a work relationship or a similar relationship, if through this the victim was intimidated or put in a humiliating situation, is punishable by imprisonment of from 3 months to a year or with a fine".

In the Czech Republic, there does not exist sexual harassment as a criminal act. But some of the behaviors linked to it (rape, sexual assault) could be prosecuted and punished according the related definitions of criminal offenses:

- crimes against human dignity in the sexual area, especially rape (§ 185) and sexual coercion (§ 186);
- crimes against personal freedom (§ 168 et seq.);
- crimes against the protection of personality (§ 180 et seq.), including the crime of defamation (§ 184);
- crimes of dangerous threats (Section 353) or dangerous persecution (Section 354) and other crimes disrupting the coexistence of people (Section 352 et seq.);



Similarly in Italy Sexual Harassment (*Molestia sessuale*) is not a crime specifically defined in the Criminal Code. Only Art. 26 of the Code of equal opportunities between men and women - Legislative Decree No. 198/2006) defines sexual harassment.

The role of employer in the criminal proceedings

On the employer lies the DUTY TO PREVENT CRIMINAL OFFENSE. With regard to the public interest, the Criminal Code in European countries imposes obligations related to the prevention of criminal activity on natural and legal persons. Failure to comply with them can be considered criminal cooperation, i.e. the crimes of failure to prevent a crime (In Czech Penal Code: Section 367 of the Criminal Code) and failure to report a crime (Section 368 of the Criminal Code). The obligation to report that a crime has been committed only applies to certain crimes (from the range of crimes that can be considered in connection with gender-based violence and sexual harassment, only some crimes against life and health or personal freedom are involved, including murder and grievous bodily harm).

But, this does not mean that other crimes should not be reported, only that, unlike the crimes explicitly mentioned, it is not an obligation, the failure of which would be considered a crime in itself. The obligation to prevent a crime (even by reporting it to the public prosecutor or police authority in time) applies to a wider range of crimes, in addition to those mentioned above, including crimes of rape, extortion or unauthorized handling of personal data.

The employer could HAND OVER the case FOR CRIMINAL PROSECUTION

In more serious cases of sexual harassment the employer could hand-over the solution of the matter to administrative authorities or law enforcement authorities, which have the relevant tool. As stated, the in-house possibilities of investigation of the sexual harassment are not very strong and this hand-over could bring the necessary light to the situation. Also, in serious cases it is necessary to comply with law (as stated above: there exists a duty to report and duty to prevent a crime).

The employer could HAND OVER the case FOR CRIMINAL PROCEEDINGS

To tackle the situation, when sexual harassment is not perceived as criminal act, there usually exists criminal proceedings of discriminatory acts. For example in the Czech Republic: § 7 paragraph 3 letter b) the Act on Certain Offenses, according to which a person commits an



offense when causing harm to another because of his membership of a national minority or because of his ethnic origin, because of his race, skin color, gender, sexual orientation. Employers could also use this opportunity to hand-over the case.

The role of the victim in criminal proceedings

If you want to report a crime, you should contact your nearest police station. Once you have officially reported a crime, the process cannot be reversed. This is because police and prosecutors are legally obliged to investigate almost all types of crime reported to them. Therefore you can meet their first obstacles: the unwillingness to accept the report of the crime.

Nobody expects to become a victim of crime. Therefore it is logical that you could need somebody to help and support. There exist various organizations providing help and support in your countries. We list here only a few of them, to get oriented in the beginning.

TIPS AND SUGGESTIONS

Don't forget, in many countries, you are a victim of crime- you are entitled to have an accompanying person. The victim has the right to be accompanied by a confidant to the criminal proceedings and to the submission of an explanation too.

In many countries, the position of the victim of particularly sensitive crimes is also more protected in criminal proceedings and against the court. It for example mean that you do not have to testify repeatedly, that you do not have to meet the aggressor at the court, etc

In Germany: You can find an overview of who to turn to here (German only): www.bmj.de

- You can also go to a police station or search the German Database for Victims of Crime (www.odabs.org – German only).
- **NATIONWIDE SUPPORT HOTLINE:** The Violence against women support Hotline – Support and counseling for women: <https://www.hilfetelefon.de/en.html>;
- **Berlin-Based Hotline for Women Affected by Violence:** <https://www.frauenhauskoordination.de/en/thematic-portal/support-system/nationwide-support-hotline>: there is also the Berlin-based BIG hotline which serves as a central telephone counseling center in cases of domestic violence. It can be reached every day from 8 am to 11 pm – also on Sundays and holidays – under the telephone number 611 03 00. It is possible to bring in interpreters for counseling. More information can be found at www.big-hotline.de.
- **Children and young people** who are the victims of violent or sexual offenses are offered professional care and support before, during and after the trial. This is called



"psychosocial assistance in court proceedings." In some cases, adult victims of serious violent or sexual offenses may also receive this kind of support if they need it. Psychosocial assistance is free of charge for victims if the court has approved it. Ask at your nearest police office or victim support organization for more details. You can also find lots of information on psychosocial assistance in court proceedings online by visiting www.bmj.de/opferschutz and clicking on "psychosoziale Prozessbegleitung" (German only) or on www.hilfe-info.de (english).

In the Czech Republic: there is a specialized help-line for victims of crime Bílý Kruh Bezpečí. They offer counseling and could also provide supportive services such as accompaniment to the police.

- you can use their hotline: 116 006
- Člověk v tísni offers the help to the victims of crime too: <https://www.clovekvtisni.cz/co-delame/socialni-prace-v-cr/pomoc-obetem-trestnych-cinu>
- you can use counseling of RESPONDEO <https://www.respondeo.cz/trestne-ciny/>
- Children and young people (when studying until the age of 26) are entitled to special help from the Child Helpline. You can call 116 111

In Italy: if you are experiencing forms of violence, you can consider calling “Numero Rosa” - 06 3751 8282 for psychological and legal support. They are available 24/7 and will advise you on the best ways to proceed. Another free number against violence and stalking is 1522. Here is the website <https://www.1522.eu/>.

In Romania: there is Consiliul Național pentru Combaterea Discriminării - National Council for Combating Discrimination where you can search for help even in the case of harassment. They are providing you with the information you need, protection services, psychological and/or legal counseling, to help you in completing your complaint to the police on the **green helpline +40 800 500 333, provided by Agenția Națională pentru Egalitatea de Șanse între Femei și Bărbați - National Agency for Equal Opportunities between Women and Men)**

REMEDIES AND COMPENSATION, DAMAGES FOR PAIN AND SUFFERING

If you suffered injury because of a sexual harassment (or other related crime), or would you like to receive damages for pain, you can "add" your compensation claims to the trial, however, you must first submit an application. You can do this immediately when you report the crime to the authorities.



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You can also claim compensation outside of the trial. In this case you must turn to a civil court. You can ask the court for financial assistance to obtain legal advice if your income is too low.

CASE STUDY OF GERMANY

Have you suffered damage to your health as a result of a violent crime? If so, the law allows you to receive state benefits. For example, you can receive help to pay for medical treatment or counseling, or to buy equipment such as a cane, walker or wheelchair. You can also receive support in the form of a pension (for example to compensate for loss of earnings).

You can apply for these benefits immediately when you report the crime to the police.

If you have been attacked by extremists or have been affected by terrorism, you can apply for financial assistance from the Federal Office of Justice (BfJ). You can find out more about whether you are entitled to this and how you can claim it by looking on their website (you can find this by going to an Internet search engine and typing in “BfJ victim compensation”).

If you have become a victim of domestic violence, German law states that you may be entitled to additional protection. For example, you can ask the family court to prevent the person who hurt you from making any contact with you. Also, if you share your home with a person who was violent towards you, the court might give you the right to live there alone.

You can submit applications to the court in writing, or you can speak to staff at the court itself and they will file your application immediately. You do not have to be represented by a lawyer.



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