



Compendium of International and National Legal Frameworks on Sexual Harassment in the Workplace

Volume II of V — Countries A-G

FIRST EDITION, DECEMBER 2019



Compendium of International and National Legal Frameworks on Sexual Harassment in the Workplace

Volume II of V

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The Compendium is a working document intended as a reference tool for anyone interested in the topic of Sexual Harassment in the Workplace (development practitioners, lawyers, community leaders, academics, researchers, students, etc.). It does not constitute an exhaustive treatment of the legal framework on Sexual Harassment in the Workplace and may be updated from time to time.

COMPENDIUM OF INTERNATIONAL AND NATIONAL LEGAL FRAMEWORKS ON
SEXUAL HARASSMENT IN THE WORKPLACE

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Volume II of V

This compendium on Sexual Harassment in the Workplace is divided in V volumes. Each volume should be observed as a part of the whole.

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FOREWORD

Millions of women around the world continue to experience violence solely because of their gender. Gender-based violence is a pandemic that is often intractable, and it knows no boundaries.

The United Nations Declaration on the Elimination of Violence Against Women states that “violence against women is a manifestation of historically unequal power relations between men and women” and that it is “one of the most crucial social mechanisms by which women are forced into a subordinate position compared with men”.

This violence comes in many forms and includes domestic violence, child marriage, sexual violence during conflict, and sexual harassment among others.

Sexual harassment in the workplace is one of the most critical challenges facing the global community. Women constitute half the world population, and the benefits of including women in the workforce are countless. They are, without a doubt, an important asset to supporting the growth of every household, every community, and every country.

Women’s active participation in the economy, therefore, helps reduce poverty and promote higher GDP levels. As women join the labor force, the importance of ensuring a safe work environment cannot be emphasized enough.

Unsafe workplaces affect women’s labor market outcomes, and as importantly, the cost of sexual harassment is perceived by the victims as well as by businesses.

Introducing strong legislation that tackles sexual harassment— particularly in the workplace —is critical to providing an early layer of safety and protection for women.

The following Compendium of International and National Legal Frameworks on Sexual Harassment in the Workplace provides a collection of international instruments that address the issue, and national legislations adopted to prevent and prosecute sexual harassment in the workplace. This is a practical online legal tool to inform and empower those seeking to put an end to sexual harassment in the workplace.

I hope this responds to the needs of all persons and professionals interested in this subject as well as those who work with and support women affected by sexual harassment at the work place or at risk.

Sandie Okoro
Senior Vice President and General Counsel
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INTRODUCTION, DISCLAIMER AND LIMITATIONS

Sexual Harassment in the Workplace (SHWP) is a universal and widespread phenomenon that affects millions of women of all social strata worldwide. It is an endemic issue that has gained increased visibility and attention since the beginning of the “#MeToo” movement.

In this Compendium on International and National Legal Frameworks on Sexual Harassment in the Workplace (the “Compendium”), SHWP is understood as a gender-specific form of violence, commonly directed against women and occurring in employment or the workplace. It includes requests for sexual favors, unwelcome sexual advances or other sexual conduct, whether physical or verbal, which involves a “quid pro quo” aspect (e.g. request for sexual favors used to make employment decisions) and/or creates an intimidating, hostile, toxic, humiliating or offensive working environment¹. As one of the pervasive expressions of gender-based violence, it reflects discriminatory social norms, stereotypes, impunity and gender inequality.

SHWP is viewed as a development challenge and has high economic and social costs. Despite its serious implications for women, employers and society at large, the behavior is widely accepted and minimized.

For survivors, who are overwhelmingly women, it can cause or justify physical and mental health problems, career interruptions, lost productivity, lost or reduced professional advancement and opportunities, lower earnings and work performance, limited employment options, abandonment of careers, forced job changes, unemployment, and persistent gender wage differences. SHWP also interacts with other types of discrimination related to ethnicity, sexual orientation, age and disability and can be viewed as a form of employment discrimination.

For employers, the impact of SHWP includes security issues, absenteeism, high turnover, negative effects on staff morale and productivity due to intimidating, toxic, hostile, humiliating or offensive work conditions or due to the lack of a diverse and inclusive workforce. SHWP may also result in substantial legal costs for employers.

The Compendium provides a survey of the key international and regional instruments as well as national legislation as they relate to SHWP². A number of countries have adopted legislation on SHWP protecting women specifically while others have not defined the gender of the victim or survivor.

The Compendium is a working document intended to be a reference tool for anyone interested in the topic of SHWP, such as survivors, advocates, development practitioners, lawyers, policy makers, academics, labor unions or staff representatives, among others. It does not constitute an exhaustive treatment of the legal framework on SHWP and may be updated from time to time.

The Compendium consists of topical chapters with jump links to source documents, such as United Nations instruments, regional treaties, and national legislations. It is based on information

¹ Behaviors amounting to sexual harassment may include, but are not limited to, touching, hugging, kissing, sexual assault, sexual or “dirty” jokes, comments on physical attributes, distributing sexually explicit material. Unwanted sexual statements can be made in person, in writing, or electronically. Sexual harassment may be committed by an employer/superior, a co-worker or a client.

² Relevant provisions may be found in criminal, civil, labor codes, anti-discrimination legislation and/or laws to protect from gender-based violence. In some cases, general provisions on sexual harassment have also been included.

available online, offline or both, and relies on research conducted, verified and updated as of November 2019³. The hyperlinked references are not under the control of the World Bank, nor is the World Bank responsible for the accuracy of the content provided through these references. The content of the Compendium does not necessarily reflect the views of the World Bank, its Board of Executive Directors, or the governments they represent. Furthermore, the World Bank does not guarantee the accuracy of the data included in this work.

The research on country-level SHWP legislation builds on the Women Business and the Law database⁴ and includes additional legislation found during the course and time-frame for compiling the research. The Compendium is limited to countries that have adopted specific laws or provisions addressing SHWP and includes legislation from almost 150 countries; as such, the absence of a country's name may be due to the fact that no SHWP legislation has yet been enacted or that no information was available online⁵.

Ending all forms of gender-based violence, including SHWP, is a critical development objective and comprehensive legislation addressing SHWP is a key first step towards ensuring prevention and protection. It is also a sine qua non condition for any effective strategy to address the problem. Nonetheless, many countries worldwide have yet to adopt laws against SHWP, while many others have adopted legislation that fails to comprehensively offer protection for the different types of survivors and against the different forms of abuse.

We hope the Compendium will contribute to this urgent and important debate.

Isabella Micali Drossos
Maya Goldstein-Bolocan
Paula Tavares
World Bank Group

³ Because it was developed primarily based on information publicly available online, the Compendium includes references to more than several hundred URLs and links to available treaties, laws and electronically published documents. All referenced URLs and links were verified and active at the time they were inserted. There is no guarantee as to their future accessibility nor as to the continued accuracy of the information contained therein after the last date on which they were last accessed and verified.

⁴ See more at <http://wbl.worldbank.org/en/data/exploretopics/protecting-women-from-violence>.

⁵ When legislative information was not available online but was found by the team of authors, these have been attached as annexes to the Compendium.

VOLUME II

1 AFGHANISTAN

Law on Prohibiting of Harassment against Women and Children, 2016

Law on Elimination of Violence against Women, 2009⁶

Chapter One

General Provisions

Objectives

Article 2

This law has the following objectives:

1. Ensuring Sharia and legal rights and protecting the human dignity of women.
2. Maintaining family integrity and fighting against customs, traditions and practices which contradict Islamic Sharia and cause violence against women.
3. Protecting women who are victims or at risk of violence.
4. Preventing violence against women.
5. Providing public awareness and training on violence against women.
6. Prosecuting perpetrators of violence against women.

Terms

Article 3

The bellow terms in this law have the following meanings:

1. Woman: An adult or underage female person.
 2. Violence: committing those acts mentioned in article 5 of this law which cause damage to the personality, body, property, and spirit of a woman.
 3. Sexual Assault: committing fornication and pederasty act on adult women with force or committing such acts on underage woman, or assaulting to the chastity and honor of a woman.
- [...]
5. Humiliation: Using words or committing acts which result in degradation of personality of a woman.
 6. Intimidation: committing acts or using words which cause fear to a woman.
 7. Persecution: using words or committing acts by any means which causes damage to the personality, body and spirit of a woman.

[...]

Prevention of violence

Article 4

Violence is a crime; no one shall be entitled to commit violence at residential area, government or non-government institution, organizations, public places, transport or any other places. If committed, he/she shall be punished in accordance to the provisions of this law.

⁶ Law on Elimination of Violence against Women, Presidential Decree No: 91 (20 July 2009), available at <https://www.refworld.org/pdfid/5486d1a34.pdf> (last visited 15 November 2019) 15 November 2019) See also Regulation on Prohibition of Women Harassment of 2015, available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/102063/123256/F2064230249/AFG102063.pdf>

Instances of violence

Article 5

The commission of the following acts shall be deemed as violence against women:

[...]

13. Abusing, humiliating, intimidating;

14. Harassment/persecution; [...]

The Rights of Victim

Article 6

The victims of violence have the following rights:

1. Prosecuting the offenders of violence based on provisions of the law;
2. Having access to shelter or other safe place (s) with the consent of the victim;
3. Having free access to emergency health services;
4. Having advocate or legal aid provider;
5. Compensation to damage resulted from the act of violence;
6. Confidentiality of relevant matter; and
7. Other rights which have been stipulated in the legislative documents for the victim.

Referring to the Institutions

Article 7

1. The victim of violence, by herself or her relatives, may complain in written to police, Huqooq Department, courts and other relevant authorities.
2. The institutions mentioned in paragraph (1) of this Article are obliged to register the received complaints and address them in accordance with the provisions of the law, and shall inform, in written, the Ministry of Women Affairs.
3. The Ministry of Women Affairs shall, upon receiving written information or direct complaint by the victim or her relatives, take and implement necessary measures in order to contact the victim.
4. Prosecutors' office and court are obliged to take violence case as a priority and process it as expeditiously as possible.
5. The authorities mentioned in paragraph (1) of this article are obliged to consider the special code of conduct developed by the Elimination of Violence against Women Commission while addressing received complaints.

Chapter Two

Preventive and Protective Measures

Obligation of the Ministry of Women Affairs

Article 8

In order to prevent the violence, the Ministry of Women Affairs in cooperation with other Ministries, governmental and non governmental agencies and relevant organizations shall adopt the following preventive and protective measures:

1. Coordinating the activities of the governmental and non governmental agencies and organizations provide services regarding the prevention of violence;
2. To improve awareness of men and women regarding their legal and religious rights and obligations;
3. Providing protection for the victims of violence in protection centers (shelter), or if protection center is not available, other safe places, as well as monitoring and evaluating them;

4. To conduct seminars, workshops, conferences and other training programs for the staff of governmental and non governmental institutions, organizations and local residents in order to increase public awareness, identification of violence cases and their consequences, and find solutions;
 5. To explain factors of violence and their consequences based on provisions of Sharia and Law through relevant publications;
 6. To make sure the implementation of training programs and capacity of non governmental institutions and relevant organizations.
- [...]

Obligations of Ministry of Justice
Article 12

In order to prevent violence, the Ministry of Justice shall adopt the following preventive measures:

1. To increase the awareness level of men and women of their legal and Sharia rights and obligations.
2. To facilitate explanation and description of matters pertaining to the factors of violence and its consequences for men and women under detention and custody or imprisoned by the relevant authorities and other relevant social organizations.
3. To conduct seminars and workshops for the awareness of Hoquq and Legal Aid Departments staff regarding the provisions of this law and facilitating its better implementation.
4. To assign a legal aid provider if requested by the victim of violence.

Obligation of the Ministry of Interior Affairs
Article 13

In order to prevent the violence, the Ministry of Interior Affairs shall adopt and exercise special preventive and protective measures in all public locations and places.

[...]

Chapter three
Criminal Provisions

Sexual Assault
Article 17

[...]

(4) If a person commits assault on chastity of a woman but his act does not result to adultery or pederasty (Tafkhiz and Mosahiqah etc...) - rubbing together of sexual organs -, considering the circumstances he shall be sentenced to long term imprisonment not exceeding 7 years.

(5) If the victim mentioned in paragraph 4 of this Article has not attained the age of 18 or the perpetrator is a close relative up to degree 3, teacher, servant, doctor, or has influence and authority over the victim, considering the circumstances the perpetrator shall be sentenced to long term imprisonment not exceeding 10 years.

Abusing, humiliating, intimidating
Article 29

If a person curses, intimidates or degrades a woman, considering the circumstances he/she shall be sentenced to short term imprisonment of not less than 3 months.

Harassment/ persecution

Article 30

1. If a person harasses/persecutes a woman, considering the circumstances he/she shall be sentenced to short term imprisonment of not less than 3 months.
 2. If the crime mentioned in paragraph 1 of this Article has been committed by using authority and position, the offender considering the circumstances shall be sentenced to short term imprisonment of not less than 6 months.
- [...]

Prosecution

Article 39

1. Proceeding of relevant cases and prosecution of the perpetrators of crimes set forth in Articles 22 - 39 of this law shall be conducted based on the complaint filed by the victim or her representative.
2. In circumstances mentioned in paragraph 1 of this article the victim may withdraw her case at any stage of prosecution (detection, investigation, trial or conviction) which results in the stoppage of proceeding and imposition of punishment. Contribution in the commission of crimes Article 40 If a person accompanies another person to commit the crimes set forth in this chapter, considering the circumstances he/she shall be sentenced in accordance with the provisions of Articles 39 and 41 - 48 of Penal Code.

Compensation

Article 41

Perpetrators of crimes mentioned in this law shall, in addition to the prescribed punishments, taking into account the circumstances be convicted to compensation.

Chapter Four

Final Provisions

Non suspension, non exemption and non mitigation of punishments

Article 42

The punishments of persons convicted for violence crimes shall not be suspended, pardoned or mitigated.

Preference

Article 43

In case of any contradiction between provisions of this law and of other laws the provisions of this law shall prevail.

[...]

2 ALBANIA

Criminal Code, 1995 (as amended)⁷

⁷ Criminal Code, Law No. 7895 (27 January 1995, as amended by Laws No. 98/2014 and No. 176/2014), available at <http://rai-see.org/wp-content/uploads/2015/08/Criminal-Code-11-06-2015-EN.pdf> (last visited 15 November 2019).

Article 108/a

Sexual harassment

(Article 108/a is added by law no. 144, dated 02.05.2013, article 24)

Commitment of actions of a sexual nature which infringe the dignity of a person, by any means or form, by creating a threatening, hostile, degrading, humiliating or offensive environment, shall constitute a criminal offence and is punishable with one to five years of imprisonment. When this offence is committed in complicity, against several persons, more than once, or against children, it shall be punishable by three to seven years of imprisonment.”

Law on Gender Equality in Society, 2008⁸

Article 4

Definitions

In the understanding of this law, the following terms shall have the following meanings:

[...]

9. “Gender Based Harassment” is any kind of unwelcome conduct relating to the gender of one person and aiming and/or resulting in violating personal dignity or creating a threatening, hostile, humiliating, disparaging or insulting environment.

10. “Sexual Harassment” is any kind of unwelcome conduct, by means of words or actions, physical or symbolic, of a sexual character, which intends or leads to violating personal dignity, specifically when it creates a threatening, hostile, humiliating, disparaging or insulting environment.

[...]

Article 5

Law Implementation

This law shall protect from gender discrimination all persons living and residing in the territory of the Republic of Albania.

[...]

PART IV

EQUAL GENDER PROTECTION AND TREATMENT IN LABOR RELATIONS

Article 16

The obligations of the employer in labour relations

[...]

8. Take measures to stop discrimination, harassment and sexual harassment towards employees;

9. Not place in a disfavoured position or take disciplinary measures against an employee rejecting or complaining discrimination, harassment or sexual harassment or any employee witnessing discriminatory actions, harassment or sexual harassment done by the employer or other employees.

[...]

Article 17

Discriminatory actions of the employer

⁸ Law on Gender Equality in Society, No. 9970 (24 July 2008), available at <http://www.osce.org/albania/36682?download=true> (last visited 15 November 2019).

1. The actions of the employer in the public or private sector shall be discriminatory if based on gender the employer:

[...]

ç. Places the employee in a disfavoured position because of a complaint against the above actions of the employer.

Article 18

Responsibilities of the employer for protecting the employee from discrimination, harassment and sexual harassment

1. Any discrimination, harassment or sexual harassment in the working place by the employer and/or employee, shall be prohibited.

2. In order to protect the employee from discrimination and especially from sexual harassment, the employer shall be obliged to:

a) Take preventive measures and define disciplinary measures (sanctions) in the internal regulations concerning prevention of harassment and sexual harassment towards the employees, in compliance with this law;

b) In case the employer comes to know indirectly or in case he/she receives information or a complaint from an employee who claims to have been discriminated, harassed or sexually harassed by another employee, after being convinced about that, the employer should take the proper organizational measures to stop the continuation and prevent discrimination, harassment or sexual harassment and apply the disciplinary sanctions;

c) Inform all the employees on the prohibition of discrimination, harassment and sexual harassment in the working place.

3. The employer shall establish rules on preventing gender discrimination and on the way to resolve complaints filed by persons affected by such actions in the collective work contract.

4. Every individual agreements or collective contract which contradicts the provisions of this law shall be invalid.

5. The provisions of this law are applicable for the self-employed as well as the employees for work performed at home.

Article 19

The public authority responsible for gender equality in the field of employment

The public authority responsible for implementing and checking on the enforcement of this law in the field of labour and employment shall be the Minister who covers gender equality issues.

[...]

PART VII

RESOLUTION OF DISPUTES AND SANCTIONS

Article 27

Disciplinary measures

The violation of article 18 section 2, letter “b” of this law shall bring disciplinary measures. The disciplinary measures shall be released by the direct supervisor, pursuant to the legislation in force.

Article 28

Fines

1. The violation of the articles 16, 17, 18 section 2, letters “a” and “c” and article 20 section 3 of this law shall be punishable by fine from the State Labour Inspectorate.

[...]

3) Any person who has violated the provisions of this law shall be fined as follows:

(a) a natural person, from 30 000 up to 60 000 lekë;

(b) a legal person, from 60 000 up to 100 000 lekë;

(c) a natural person within a legal person being responsible for the violation from 30 000 up to 80 000 lekë;

(ç) a person exercising public functions responsible of violations of the provisions of this law, from 30 000 up to 80 000 lekë;

3. When the provisions of this law are violated and constitute a penal act, it will be treated according to the Penal Code provisions.

Article 29

Compensation of damage

The compensation for any damage, material or moral, caused by the violation of the provisions of this law, including the recovery of the violated rights, shall be made through judicial means based on the Civil Code.

[...]

Article 30

Procedures for the Resolution of Disputes

1. Any complaints on violation of gender equality according to this law shall be examined or tried by administrative bodies in compliance with the provisions of the Administrative Procedures Code. The administrative bodies shall decide based on the provisions of this law.

2. The parties, on their free choice, as the case may be, may carry out any mediation procedures or procedures for resolution with reconciliation provided in the legislation in force, for addressing the violations according to this law. The accomplishment of such procedures shall not take away from the appellant the right to follow the case at the administrative body or the competent court.

3. In case the violation has been done by public administration employees, the provisions of law no. 8510, dated 15.7.1999 ‘On the extra-contractual responsibility of the state administration bodies’ shall apply.

4. The non-for-profit organizations which are licensed for providing social services, may represent or provide support in legal proceedings on behalf of the appellant, in accordance with the provisions of this law.

[...]

Law on Protection from Discrimination, 2010⁹

Article 3

Definitions

1. “Discrimination” is every distinction, exclusion, limitation or preference because of any cause mentioned in article 1 of this law that has as a purpose or consequence the hindering or making impossible the exercise, in the same manner as with others, of the fundamental rights and freedoms recognised by the Constitution of the Republic of Albania, with international acts ratified by the Republic of Albania as well as with the laws in force.

[...]

⁹ Law on protection from Discrimination , No. 10 221 (4 February 2010), available at <https://www.equalrightstrust.org/ertdocumentbank/Microsoft%20Word%20-%20English%20NDL.pdf> (last visited 15 November 2019).

CHAPTER II PROTECTION FROM DISCRIMINATION IN EMPLOYMENT

Article 12

Prohibition of discrimination

1. Discrimination against a person in connection with his right to employment is prohibited. Discrimination includes every distinction, limitation or exclusion that is based on the causes mentioned in article 1 of this law and which, among other things, is related to:

[...]

c) the treatment of employees in the work place, including their treatment during the establishing or changing of working conditions, compensation, benefits and the work environment, treatment related to professional training or during the disciplinary process or related to dismissal from work or the dissolution of the labour contract;

[...]

2. Every kind of annoyance is prohibited, including sexual annoyance, by an employer against an employee or an applicant for work or between employees.

[...]

Article 13

Obligations of the employer

1. The employer is obliged:

a) to implement, protect and encourage the principle of equality and the prohibition of every kind of discrimination;

b) to take necessary measures, including disciplinary measures, for the protection of employees from discrimination and victimisation, within one month from receiving knowledge [of them];

c) to respond effectively and in compliance with this law to complaints received because of discrimination committed by his employees, within one month from receiving them.

2. The employer is obliged to raise consciousness about this law also by posting it in public premises of the work place as well as enabling a full understanding of it by his own means or with the assistance of specialised subjects.

Article 14

Duties of the Council of Ministers, the Minister of Labour, Social Issues and Equal Opportunities and the Interior Minister

The Council of Ministers, the Minister of Labour, Social Issues and Equal Opportunities and the Interior Minister are each responsible for taking measures of a positive nature in order to fight discrimination in connection with the right to employment. The measures that are taken, among others, are:

raising consciousness about this law with employees and employers, among other things, by supplying information about this law;

[...]

Article 15

The rights of the employee

1. Every employee has the right to complain to the employer, to the Commissioner for Protection from Discrimination or in court, if he believes that he has suffered discrimination. This provision does not limit the right to complain to special institutions created at various sectors of employment.

2. During the period of examination of the complaint, the employee has the right to continue work according to the conditions of the contract.

3. The employee has the right to receive information at any time in connection with the treatment of a complaint as well as to receive explanations about the decisions taken by the employer in response to his complaint immediately after it is examined.

4. If the employer does not take measures to investigate and resolve a complaint about discrimination, the employee who has made the complaint has the right to interrupt work, without losing the right to pay, for as long as necessary to be protected from discrimination. The employee returns the pay received according to this article if the claimed discrimination turns out not to be proven by a final decision.

Article 16

Implementation of the law for self-employed persons

The provisions of chapter II of this law are applicable in connection with the conditions for acceptance into a profession and the receipt of licenses to exercise a profession, especially in cases when the persons are self employed.

[...]

CHAPTER V

THE COMMISSIONER FOR PROTECTION FROM DISCRIMINATION

Article 21

The commissioner

1. The commissioner for Protection from Discrimination, below the commissioner, assures the effective protection from discrimination and from every other form of conduct that incites discrimination. The commissioner is a public legal person.

[...]

Article 32

Competences

1. The commissioner has the competence:

a) to examine complaints from persons or groups of persons who claim that they have been discriminated against as provided in this law;

b) to examine complaints from organisations that have a lawful interest to act in the name and with the written consent of individuals or groups of individuals who claim that discrimination has occurred;

c) to perform administrative investigations after the receipt of credible information about a violation of this law;

ç) to impose administrative sanctions according to the specification of this law;

d) to encourage the principle of equality and non discrimination, especially by sensitising and informing about those issues, also including the offering of

written information among other things about this law, in the Albanian language, in the languages of minorities, as well as in formats usable by persons of restricted ability;

dh) to monitor the implementation of this law;

e) to take polls in connection with discrimination

ë) to make recommendations to the competent authorities, especially by proposing the approval of new legislation or the amendment or reform of existing legislation;

f) to publish reports and make recommendations about any kind of issue related to discrimination;

g) to address public opinion directly about any kind of issue related to discrimination;

- gj) at the request of the court examining a case, to set out an opinion in writing on any kind of issue that is related to discrimination;
 - h) to contribute to reporting and, as the case may be, to submit reports to international and regional bodies;
 - i) to represent a complainant in the judicial organs in civil cases, with his approval in compliance with point 3 of article 34 of this law;
 - j) to inform about the right of protection from discrimination and the legal means available or this protection;
 - k) to hold a regular dialogue in connection with issues of discrimination with the respective social groups, including non-governmental organisations;
 - l) to conduct consciousness-raising and educational activities that aid in the implementation of this law.
2. All public institutions and private subjects are obliged to support the commissioner in the fulfilment of his duties, especially by supplying information needed by him.
[...]

Article 33

Procedures

1. A person or group of persons who claim that they have been discriminated against, or an organisation with legitimate interests that claims discrimination in the name of a person or group of persons, may submit a complaint together with available evidence to the commissioner, in writing or in exceptional cases orally, so that minutes can be taken.
2. An organisation with legitimate interests submits a special power of attorney to represent the person or group of persons.
3. The complaint contains at least:
 - a) the name of the complainant;
 - b) an explanation of how the complainant can be contacted;
 - c) the subject who is claimed to have committed the discrimination or an explanation about the impossibility of identifying him;
 - ç) an explanation of the claimed discrimination;
 - d) the measures requested of the commissioner;
 - dh) the date and signature of the complainant or his representative.
4. The complaint is not accepted if:
 - a) if it anonymous;
 - b) it constitutes abuse of the right of complaining to the commissioner, or is incompatible with the provisions of this law;
 - c) the same case is being examined in the framework of another complaint for a prior decision has been taken on it and there are no new data;
 - ç) it is openly without a basis or there is insufficient information to make an investigation possible;
 - d) all the facts that constitute the essence of the complaint happened before the entry of this law into force;
 - dh) it is submitted later than three years from the occurrence of the discrimination or later than one year from receipt of knowledge of this fact by the injured party.
5. The natural or legal persons against whom the complaint has been submitted are notified in writing by the commissioner within 15 days from the day of receipt of the complaint.
6. The commissioner does not charge the complainant with any tariff for examining the complaint.

7. On receipt of the complaint, the commissioner verifies the facts. For this purpose, the commissioner may ask the complainant and the person against whom the complaint has been made to submit written presentations within 30 days from the day the parties receive notice. When he considers it necessary, the commissioner also takes information from any other person or source.
8. When he considers it appropriate, the commissioner holds a public hearing session and invites the parties and every other interested person.
9. When he considers it appropriate, the commissioner seeks to reach a conciliation agreement between the complainant and the person against whom the complaint was submitted.
10. The commissioner expresses himself by a decision, which is made known to the parties within 90 days from the date of receipt of the complaint or, if a public hearing session has been held, within 90 days from the day of the session. The decision contains appropriate measures and regulations, also setting a time period for performing them.
11. If the commissioner orders regulations or measures, the person against whom the complaint was submitted reports within 30 days before the commissioner in connection with the actions undertaken for the implementation of the decision. If the person against whom the complaint was submitted does not inform the commissioner or does not implement the decision, the commissioner imposes a measure of a punishment by fine for the person against whom the complaint was submitted. The sanction by fine is repealed if the person against whom the complaint was submitted implements the decision within seven days after the sanction was imposed.
12. When he imposes a measure, the commissioner assures that it will be:
 - a) effective and preventative; and
 - b) proportionate with the situation that caused the imposition of the measure. If a fine is imposed, the commissioner determined the amount of the fine while taking into account:
 - i) the nature and field of action of the violation and the effect on the victim, and
 - ii) the personal and financial circumstances of the violator, especially taking into account all sources of income, and if the violation is committed by a private legal person, the balance sheet assets and profit are taken into account, as well as the total payroll;
 - c) if the same violation discriminates against several persons, only one fine is imposed, but taking into account the requirements of letter "b" of this article.
13. Every person who violates the provisions of this law is punished by a fine as follows:
 - a) a natural person, from 10,000 to 60,000 lek;
 - b) a legal person, from 60,000 to 600,000 lek;
 - c) a natural person within a legal person who is responsible for the violation, from 30,000 to 80,000 lek;
 - ç) a person who exercises a public function and is responsible for the violation on the basis of this law, from 30,000 to 80,000 lek.
14. The decision to impose a measure of punishment by fine also sets a reasonable time period within which the fine is paid.
15. As a final means, especially when the natural or legal subject does not comply with the decision of the commissioner or does not pay the fine within three months after the time period set by the commissioner and the sanction has not been objected to in court, the commissioner may ask the competent authorities to remove or suspend the license or authorisation of the violator to conduct his activity.
16. A natural or legal subject against whom a measure of punishment by fine is taken has the right to appeal to the competent court according to the Code of Civil Procedure.
17. The fine is deposited into the State Budget.

CHAPTER VI PROCEDURES BEFORE THE COURT

Article 34

Subjects who have the right to submit a lawsuit for discrimination

1. Every person or group of persons who claim that discrimination has been exercised against them for one of the causes mentioned in article 1 of this law may submit a lawsuit to the competent court according to the definitions of

the Code of Civil Procedure for indemnification according to law or, as the case may be, to make a criminal denunciation before the competent organs for criminal prosecution.

2. The submission of a complaint before the commissioner is not a condition to submitting a lawsuit and it does not constitute an impediment for the injured person to turn to the court or the organs of criminal prosecution.

3. An organisation with a lawful interest or the commissioner may submit a lawsuit in the name of a person or group of persons, provided that the commissioner or organisation shall have the consent by special power of attorney or by declaration before the court of the person or group of persons injured by the discrimination.

Article 35

Individual responsibility

Every person has responsibility on the basis of the provisions of this law, when by his actions or failures to act, he has committed a discriminatory act within the meaning of this law. Individual responsibility does not exclude the responsibility of the state or a private legal person.

Article 36

Procedure before the court

1. The lawsuit is submitted to the competent court by one of the subjects provided in article 34 of this law no later than five years from the day when the behaviour claimed to be discriminatory happened and no later than three years

from the day when the injured party receives knowledge of this behaviour.

2. The injured party has no obligation to notify the commissioner before submitting a lawsuit for discrimination in court.

3. The court notifies the commissioner of the submission of every lawsuit about discrimination.

4. The court may ask the commissioner, at any phase of the proceeding, to submit a written opinion, the results of his investigation if an investigation was made, or any other information that has importance for the case.

5. The plaintiff has the obligation to bring evidence in support of the lawsuit, using every kind of lawful evidence that may show discriminating behaviour.

6. After the plaintiff submits the evidence on which he bases his claim and on the basis of which the court may presume discriminating behaviour, the defendant is obligated to prove that the facts do not constitute discrimination according to this law.

Article 37

Decision of the court

1. The decision of the court sets the indemnification, if the court decides that there is a violation of this law, also including a time period for making the indemnification.

2. The decision of the court is communicated to all the interested parties, including the commissioner.

3. The imposition of measures according to this law does not exclude the imposition of measures according to other laws.

Article 38

Indemnification

Indemnification includes, among other things, the correction of the legal violations and their consequences through return to the prior situation, appropriate compensation for the property and non-property damages or through other appropriate measures.

Labour Code, 1995¹⁰

Article 32 (2)

EMPLOYER'S GENERAL OBLIGATIONS CHAPTER VII

PROTECTION OF PERSONALITY

Article 32

(1) The employer respects and protects the employee's personality while dealing with him/her within the framework of work relations.

(2) He/she must prevent any attitude that threatens the employee's dignity.

(3) The employer is forbidden to carry out any action of sexual harassment against the employee and prohibits the commitment of such actions by the other employees.

By sexual harassment is meant any nuisance that considerably harms the psychological state of the employee because of sex.

[...]

SANCTIONS

CHAPTER XIX

CIVIL SANCTIONS

Article 201

(1) If his/her rights are violated, the injured person has the right to demand to be paid the damages that he/she has suffered.

(2) The employer or the employee may not demand the payment of damages in kind, with the exception of the cases expressly defined by law.

FINE

Article 202

[...]

(2) The violation of Articles 21 (the third and the fourth Paragraph), 32 (the third Paragraph), [...] of this Code will be punished with a fine amounting to 30 times of the minimum monthly wage.

[...]

(4) Any violation will be punished with fine. When the violation is a repeated one and to the detriment of several employees, the total amount of fines given will not be greater than 50 times of the maximum fine.

(5) The employer, on solidarity basis, will be held liable to pay the fine, if the violation is done by a person that he/she has charged with special tasks to represent him/her in the enterprise.

¹⁰ Labour Code, Law No. 7961 (12 July 1995), available at <https://www.ilo.org/dyn/natlex/docs/SERIAL/41344/63433/F1167646799/ALB41344.PDF> (last visited 15 November 2019). Unofficial translation by the International Labour Organization.

(6) The violations of the provisions of this Code, if they are considered to be offences, will be punished in compliance with the provisions of the Penal Code.

[7?? WBL but not in English version, see if more updated English]

PRESCRIPTION

Article 203

(1) The duration of prescription concerning the rights of the employee toward the employer, and of the employer to the employee extends to three years. This duration begins on the date of the birth of the right. When the right is based on the violation of a provision of the Penal Code, the duration of prescription concerning the offence will apply to the civil offence as well.

[...]

(4) The investigation of the penal violations is prescribed within two years, starting from the day on which the offence has been committed, with the exception of the investigations defined the Penal Code.

3 ALGERIA

Law No. 15-19 amending and supplementing Ordinance No. 66-156 of 1966 carrying the Criminal code ¹¹

Art. 5.

The provisions of Order No. 66-156 of 8 June 1966, supra, are supplemented by Articles 333 bis 1 and 333 bis 2, as follows:

Art. 333. bis

Whoever harasses a woman, in a public place, by any act, gesture or word that harms her modesty shall be punished by imprisonment from two (2) to six (6) months and a fine from 20,000 to 100,000 DA, or one of those two penalties. The penalty is doubled if the victim is less than sixteen (16) years old.

Art. 6.

The provisions of Article 341 bis of Order No. 66-156 of 8 June 1966, referred to above, are modified, completed and written as follows:

Art. 341. bis

Whoever, by abusing the authority conferred on him by his function or profession, gives orders, makes threats, coerces or exerts pressure on another person for the purpose of obtaining favors of a sexual nature is guilty of committing the offense of sexual harassment and will be punished with imprisonment from one (1) year to three (3) years and a fine of 100,000 to 300,000 AD.

Whoever harasses others by any act, proposals, or innuendo of a sexual nature is also guilty of the offense referred to in the preceding paragraph and punished with the same sentence.

The penalty is imprisonment of two (2) to five (5) years and a fine of 200.000 to 500.000 DA, if the author is a close relative (mahrim) or if the victim is less than sixteen (16) years of age or if the act has been facilitated by the vulnerability, disease, disability, physical or psychological condition of the victim or by a state of pregnancy, and these circumstances are apparent or known to the author.

¹¹ Law No. 15-19 of 30 December 2015 amending and supplementing Ordinance No. 66-156 of 8 June 1966 carrying the Criminal code (Loi n° 15-19 du 30 décembre 2015 modifiant et complétant l'ordonnance n° 66-156 du 8 juin 1966 portant code pénal), available at <https://www.joradp.dz/FTP/JO-FRANCAIS/2015/F2015071.pdf> (last visited 15 November 2019). Unofficial translation by Compendium team.

In case of recidivism, the penalty is doubled.

4 ANDORRA

Law 18/2013 modifying the Criminal Code of Andorra, 2013¹²

Article 13

A new article 149 bis is created in Law 9/2005, dated February 21 on the Criminal Code, which reads as follows:

"Article 149 bis. Sexual harassment: Whosoever adopts a sexual, verbal, non-verbal or physical behavior towards a person, unwanted by that person, for the purpose or effect of violating his/her dignity, particularly when this behavior creates an environment that is intimidating, hostile, degrading, humiliating or offensive, should be punished with an prison sentence. "

Labor Code, 2018¹³

Article 91. Justified resignation by the salaried worker

1. The salaried worker can terminate unilaterally and without prior notice the contract, whatever its type, in the following cases: [...]

h) In general, any act of the employer or his representatives, which is troublesome to said worker, denies his/her dignity as a person, forces him/her to violate a legal obligation, constitutes a discrimination or a conduct of moral or sexual harassment. [...]

Article 160. Very serious offenses.

These are very serious infringements: [...]

3. Committing acts contrary to the respect for privacy and dignity of employees.[...]

Article 163. Penalties

Infringements typified in the previous chapter are punishable as follows:

3. Very serious infractions:

a) In a minimum degree, with a fine of 3,001 euros to 6,000 euros.

b) On average, with a fine of 6,001 euros to 12,000 euros.

c) To a maximum extent, with a fine of 12,001 euros to 24,000 euros

5 ARGENTINA

Law on the Comprehensive Protection of Women, 2009¹⁴

¹² Law No. 18/2013 modifying the Criminal Code of Andorra (*Llei 18/2013, del 10 d'octubre, qualificada de modificació del Codi pena*), No. 18 (10 October 2013), available at http://www.consellgeneral.ad/ca/arxiu/arxiu-de-lleis-i-textos-aprovats-en-legislatures-antiors/vi-legislatura-2011-2015/copy_of_lleis-aprovades/llei-17-2013-del-10-d2019octubre-sobre-la-introduccio-de-l2019euro-en-el-marc-de-l2019acord-monetari-signat-entre-el-principat-d2019andorra-i-la-unio-europea (last visited 15 November 2019) 15 November 2019). Unofficial translation by Compendium team.

¹³ Labor Code (*Llei 31/2018, del 6 de desembre, de relacions laborals*), Law No. 31/2018 (6 December 2018), available at <http://www.consellgeneral.ad/ca/fitxers/documents/lleis-2018/llei-31-2018-de-relacions-laborals> (last visited 15 November 2019). Unofficial translation by Compendium team.

¹⁴ Law on the Comprehensive Protection of Women, (*Ley de Proteccion integral a las mujeres*), Law No. 26.485 (11 March 2009) available at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/150000-154999/152155/norma.htm> (last visited 15 November 2019). Unofficial translation by Compendium team.

TITLE 1 GENERAL PROVISIONS

Article 4 - Definition. Violence against women is understood as any conduct, action or omission, which directly or indirectly, both in the public and private spheres, based on an unequal power relationship, affects their life, liberty, dignity, physical integrity, psychological, sexual, economic or patrimonial, as well as their personal security. Those perpetrated by the State or its agents are included. Indirect violence is considered, for the purposes of this law, any conduct, action, omission, disposition, criterion or discriminatory practice that puts women at a disadvantage with respect to men.

Article 5 - Types. In particular, the following types of violence against women are included in the definition contained in the preceding article:

[...]

2. Psychological: The type that causes emotional damage and diminishes self-esteem or harms and disturbs full personal development or that seeks to degrade or control their actions, behaviors, beliefs and decisions, through threats, harassment, stalking, restriction, humiliation, dishonor, discredit, isolation, and manipulation. It also includes guilt, constant surveillance, demand for obedience and submission, verbal coercion, persecution, insult, indifference, abandonment, excessive jealousy, blackmail, ridicule, exploitation and limitation of the right of circulation or any other means that cause harm to her psychological health and self-determination.

3. Sexual: Any action that implies the violation in all its forms, with or without genital access, of the right of the woman to decide voluntarily about her sexual or reproductive life through threats, coercion, use of force or intimidation, including rape within marriage or other related or kinship relationships, whether or not there is cohabitation, as well as forced prostitution, exploitation, slavery, harassment, sexual abuse and trafficking in women.

Article 6. Modalities. For the purposes of this law, modalities are understood as the ways in which the different types of violence against women are manifested in different areas, with the following in particular:

[...]

c) Labor violence against women: that which discriminates against women in public or private work areas and that hinders their access to employment, hiring, promotion, stability or permanence, demanding requirements on marital status, maternity, age, physical appearance or performing a pregnancy test. Violence against women in the workplace also violates the right to equal pay for the same task or function. It also includes psychological harassment in a systematic way about a particular worker in order to achieve her labor exclusion.

[...]

CHAPTER III BASIC GUIDELINES FOR STATE POLICIES

Article 11. Public policies. The national State will implement the development of the following priority actions, promoting its articulation and coordination with the different Ministries and Secretariats of the

national Executive Power, provincial and municipal jurisdictions, universities and civil society organizations with competencies in the matter:

1. Chief of Cabinet of Ministers - Secretariat of Cabinet and Public Management:

- a) Promote specific policies that implement current regulations on sexual harassment in the national public administration and guarantee the effective enforcement of the principles of non-discrimination and equal rights, opportunities and treatment in public employment;

6. Ministry of Labor, Employment and Social Security of the Nation:

[...]

- b) Promote, through specific programs the prevention of sexual harassment against women in the field of companies and unions.

[...]

[Law on Contract of Employment, 1976](#) ¹⁵

Art. 242. —Just cause.

One of the parties may denounce the employment contract in case of non-compliance by the other of the obligations resulting from it that constitute harm and that, due to its seriousness, does not allow the continuation of the relationship.

The evaluation must be done prudentially by the judges, taking into account the nature of the relationships resulting from an employment contract, as provided in this law, and the modalities and personal circumstances in each case.

[...]

6 ARMENIA

[Labour Code, 2004](#) ¹⁶

Article 221. Gross Violation of Labour Discipline

1. A gross violation of labour discipline is considered the violation involving big violation of the provisions of laws and other normative legal acts which directly regulate the employee's work, or any other gross transgression of work duties or the prescribed work regulations.

2. A gross violation of labor discipline may be considered :

[...]

4) violation of equal rights of men and women or sexual harassment of colleagues, subordinates or beneficiaries;

[...]

Article 222. Grounds of Disciplinary Liability

¹⁵ Law on Contract of Employment (Ley de Contrato de Trabajo), Law No. 20.744 (13 May 1976), available at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/25000-29999/25552/texact.htm> (last visited 15 November 2019). Unofficial translation by Compendium team.

¹⁶ Labour Code, Law No. 125 (9 November 2004), available at <https://www.ilo.org/dyn/travail/docs/961/Labour%20Code%20ENG.pdf> (last visited 15 November 2019). Unofficial translation.

Disciplinary sanctions may be applied only to the employer who has committed a violation of labor discipline.

Article 223. Disciplinary Sanctions

1. The following disciplinary sanctions may be imposed for violations of labor discipline:

1) reprimand

2) severe reprimand;

3) termination of employment contracts based on Articles 121- and 122 of this law.

2. Other discipline sanctions may be also defined for the employees of certain categories by the law.

3. Sanctions not envisaged by the law shall be prohibited.

Article 224. Selection of a Disciplinary Sanction

When imposing a disciplinary sanction it must be taken into account the gravity of the disciplinary violation and its consequences, the employee's guilt, the circumstances, under which the violation occurred and the previous performance of the employee at work.

Article 225. Prohibition to Impose Several Disciplinary Sanctions for One Violation of Discipline

Only one disciplinary sanction may be imposed for each violation of work discipline.

Article 226. Procedure of Imposing a Disciplinary Sanction

Before imposing a disciplinary sanction the employer must request the employee to provide an explanation in writing about the violation of labor discipline. If, within the period set by the employer, the employee fails to provide his explanation without a substantial reason, a disciplinary sanction may be imposed without an explanation.

Article 227. Term of Imposing a Disciplinary Sanction

1. A disciplinary sanction may be imposed within a month after a violation of discipline is disclosed, without taking into account the time when the employee was not available at work due to temporary inability to work, a business trip or on leave.

2. A disciplinary sanction may not be imposed after a lapse of six months from the date when the violation was committed. Where a violation of labor discipline was disclosed during an audit or when taking inventory of pecuniary or other assets, a disciplinary sanction may be imposed not later than within two years after the date of the commitment of the violation.

Article 228. Appeal against a Disciplinary Sanction

A disciplinary sanction may be appealed in legal form.

Article 229. Term of a Disciplinary Sanction

Where, during one year after the date when a disciplinary sanction was imposed, no new sanction was imposed upon the employee, it shall be regarded as cancelled

Article 230. Withdrawal of a Disciplinary Sanction

Where the employee has not committed any new disciplinary violations or keeps working diligently and conscientiously, the sanction imposed on him may be lifted before the completion of one year.

[...]

Law on Provision of Equal Rights and Equal Opportunities for Women and Men, 2013

Arts. 3 (21) and 6 (3)

7 AUSTRALIA

[Sex Discrimination Act, 1984 \(as amended\)](#) ¹⁷

[...]

Section 3 - Objects

The objects of this Act are:

(a) to give effect to certain provisions of the Convention on the Elimination of All Forms of Discrimination Against Women and to provisions of other relevant international instruments; and

[...]

(c) to eliminate, so far as is possible, discrimination involving sexual harassment in the workplace, in educational institutions and in other areas of public activity; and

[...]

Section 9 - Application of Act

(1) In this section:

Australia includes the external Territories.

prescribed provisions of Division 3 of Part II means the provisions of Division 3 of Part II other than sections 28D and 28L.

prescribed provisions of Part II means the provisions of Divisions 1 and 2 of Part II other than sections 19, 26 and 27.

(2) Subject to this section, this Act applies throughout Australia.

(3) This Act has effect in relation to acts done within a Territory.

(4) The prescribed provisions of Part II, and the prescribed provisions of Division 3 of Part II, have effect as provided by subsection (3) of this section and the following provisions of this section and not otherwise.

(5) Sections 14, 15, 16 and 28B have effect in relation to discrimination against, and sexual harassment of:

¹⁷ Sex Discrimination Act 1984, No. 4, 1984 (Compilation No. 41 of 9 December 2018; Includes amendments up to: Act No. 130, 2018; Registered 14 December 2018), available at <https://www.legislation.gov.au/Details/C2018C00499> (last visited 15 November 2019).

(a) Commonwealth employees in connection with their employment as Commonwealth employees; and

(b) persons seeking to become Commonwealth employees.

(6) Sections 18 and 28C has effect in relation to discrimination by an authority or body in the exercise of a power under a Commonwealth law to confer, renew, extend, revoke or withdraw an authorization or qualification.

(7) The prescribed provisions of Part II have effect in relation to acts done, by or on behalf of:

(a) the Commonwealth or the Administration of a Territory; or

(b) a body or authority established for a public purpose by a law of the Commonwealth or a law of a Territory;

in the exercise of a power conferred by a law of the Commonwealth or a law of a Territory.

(8) The prescribed provisions of Division 3 of Part II have effect in relation to acts done by a person exercising, by or on behalf of:

(a) the Commonwealth or the Administration of a Territory; or

(b) a body or authority established for a public purpose by a law of the Commonwealth or a law of a Territory;

a power conferred by a law of the Commonwealth or a law of a Territory, being acts done by the person in connection with the exercise of that power.

(9) The prescribed provisions of Division 3 of Part II have effect in relation to acts done by or in relation to a person who is a Commonwealth employee in connection with the person's duties as a Commonwealth employee or done by or in relation to a person who is a member of the staff of an educational institution established by a law of the Commonwealth or a law of a Territory in connection with the person's duties as a member of the staff of such an educational institution.

(10) The prescribed provisions of Part II, and the prescribed provisions of Division 3 of Part II, have effect to the extent that the provisions give effect to a relevant international instrument.

(11) The prescribed provisions of Part II have effect in relation to discrimination by a foreign corporation, or a trading or financial corporation formed within the limits of the Commonwealth, or by or in relation to a person in the course of the person's duties or purported duties as an officer or employee of such a corporation.

(12) The prescribed provisions of Division 3 of Part II have effect in relation to acts done, by or in relation to a person who is an officer or employee of a foreign corporation, or of a trading or financial corporation formed within the limits of the Commonwealth, in connection with the person's duties as such an officer or employee.

(13) Without prejudice to the effect of subsection (11), the prescribed provisions of Part II have effect in relation to discrimination by a trading or financial corporation formed within the limits of the Commonwealth, or by or in relation to a person in the course of the person's duties or purported duties as an officer or employee of such a corporation, to the extent that the discrimination takes place in the course of the trading activities of the trading corporation or the financial activities of the financial corporation, as the case may be.

(14) Without prejudice to the effect of subsection (12), the prescribed provisions of Division 3 of Part II have effect in relation to acts done, by or in relation to a person who is an officer or employee of a trading or financial corporation formed within the limits of the Commonwealth, in connection with any of the person's duties as such an officer or employee that relate to the trading activities of the trading corporation or the financial activities of the financial corporation, as the case may be.

(15) The prescribed provisions of Part II have effect in relation to discrimination in the course of, or in relation to, the carrying on of the business of:

(a) banking, other than State banking not extending beyond the limits of the State concerned;
or

(b) insurance, other than State insurance not extending beyond the limits of the State concerned.

(16) The prescribed provisions of Division 3 of Part II have effect in relation to acts done in the course of, or in relation to, the carrying on of the business of:

(a) banking, other than State banking not extending beyond the limits of the State concerned;
or

(b) insurance, other than State insurance not extending beyond the limits of the State concerned.

(17) The prescribed provisions of Part II have effect in relation to discrimination in the course of, or in relation to, trade or commerce:

(a) between Australia and a place outside Australia;

(b) among the States;

(c) between a State and a Territory; or

(d) between 2 Territories.

(18) The prescribed provisions of Division 3 of Part II have effect in relation to acts done in the course of, or in relation to, trade or commerce:

(a) between Australia and a place outside Australia;

- (b) among the States;
- (c) between a State and a Territory; or
- (d) between 2 Territories.

(19) The prescribed provisions of Part II have effect in relation to discrimination within Australia involving persons or things, or matters arising, outside Australia.

(20) The prescribed provisions of Division 3 of Part II have effect in relation to acts done within Australia involving persons or things, or matters arising, outside Australia.

(21) The prescribed provisions of Division 3 of Part II have effect in relation to acts done using a postal, telegraphic, telephonic or other like service (within the meaning of paragraph 51(v) of the Constitution).

Division 3—Sexual harassment

Section 28A - Meaning of sexual harassment

(1) For the purposes of this Division, a person sexually harasses another person (the *person harassed*) if:

(a) the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or

(b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed;

in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

(1A) For the purposes of subsection (1), the circumstances to be taken into account include, but are not limited to, the following:

(a) the sex, age, sexual orientation, gender identity, intersex status, marital or relationship status, religious belief, race, colour, or national or ethnic origin, of the person harassed;

(b) the relationship between the person harassed and the person who made the advance or request or who engaged in the conduct;

(c) any disability of the person harassed;

(d) any other relevant circumstance.

(2) In this section:

conduct of a sexual nature includes making a statement of a sexual nature to a person, or in the presence of a person, whether the statement is made orally or in writing.

Section 28B - Employment, partnerships etc.

- (1) It is unlawful for a person to sexually harass:
 - (a) an employee of the person; or
 - (b) a person who is seeking to become an employee of the person.
- (2) It is unlawful for an employee to sexually harass a fellow employee or a person who is seeking employment with the same employer.
- (3) It is unlawful for a person to sexually harass:
 - (a) a commission agent or contract worker of the person; or
 - (b) a person who is seeking to become a commission agent or contract worker of the person.
- (4) It is unlawful for a commission agent or contract worker to sexually harass a fellow commission agent or fellow contract worker.
- (5) It is unlawful for a partner in a partnership to sexually harass another partner, or a person who is seeking to become a partner, in the same partnership.
- (6) It is unlawful for a workplace participant to sexually harass another workplace participant at a place that is a workplace of either or both of those persons.
- (7) In this section:

place includes a ship, aircraft or vehicle.

workplace means a place at which a workplace participant works or otherwise carries out functions in connection with being a workplace participant.

workplace participant means any of the following:

- (a) an employer or employee;
- (b) a commission agent or contract worker;
- (c) a partner in a partnership.

Section 28C - Members of bodies with power to grant etc. occupational qualifications etc.

(1) It is unlawful for a member of an authority or body that has power to take action in connection with an occupational qualification to sexually harass a person seeking action in connection with an occupational qualification.

(2) In this section:

action in connection with an occupational qualification means conferring, renewing, extending, revoking or withdrawing an authorisation or qualification that is needed for, or facilitates:

- (a) practising a profession; or
- (b) carrying on a trade; or
- (c) engaging in an occupation.

Section 28D - Registered organisations

It is unlawful for:

- (a) a member of a registered organisation; or
- (b) a member of the staff of a registered organisation;

to sexually harass a member of the organisation, or a person who is seeking to become a member of the organisation.

Section 28E - Employment agencies

It is unlawful for:

- (a) a person who operates an employment agency; or
- (b) a member of the staff of an employment agency;

to sexually harass another person in the course of providing, or offering to provide, any of the agency's services to that other person.

Section 28F - Educational institutions

(1) It is unlawful for a member of the staff of an educational institution to sexually harass:

- (a) a person who is a student at the institution; or
- (b) a person who is seeking to become a student at the institution.

(2) It is unlawful for a person who is an adult student at an educational institution to sexually harass:

- (a) a person who is a student at the institution; or
- (b) a member of the staff of the institution.

(2A) It is unlawful for a person (the *first person*) who is a member of the staff of an educational institution (the *first educational institution*) to sexually harass a person who is a student at another educational institution if the sexual harassment occurs in connection with the first person being a member of staff of the first educational institution.

(2B) It is unlawful for a person (the *first person*) who is an adult student at an educational institution (the *first educational institution*) to sexually harass:

- (a) a person who is a student at another educational institution; or
- (b) a member of the staff of another educational institution;

if the sexual harassment occurs in connection with the first person being a student at the first educational institution.

(3) In this section:

adult student means a student who has attained the age of 16 years.

Section 28G - Goods, services and facilities

(1) It is unlawful for a person to sexually harass another person in the course of providing, or offering to provide, goods, services or facilities to that other person.

(2) It is unlawful for a person to sexually harass another person in the course of seeking, or receiving, goods, services or facilities from that other person.

Section 28H - Provision of accommodation

(1) It is unlawful for a person to sexually harass another person in the course of providing, or offering to provide, (whether as principal or agent) accommodation to that other person.

(2) This section does not apply to anything done by a person in the course of providing, or offering to provide, accommodation to a near relative.

Section 28J - Land

It is unlawful for a person to sexually harass another person in the course of dealing (whether as principal or agent) with that other person in connection with:

- (a) disposing of, or offering to dispose of, an estate or interest in land to the other person; or
- (b) acquiring, or offering to acquire, an estate or interest in land from the other person.

Section 28K - Clubs

It is unlawful for a member of the committee of management of a club to sexually harass a member of the club or a person seeking to become a member of the club.

Section 28L - Commonwealth laws and programs

It is unlawful for a person:

(a) in the course of performing any function, or exercising any power, under a Commonwealth law or for the purposes of a Commonwealth program; or

(b) in the course of carrying out any other responsibility for the administration of a Commonwealth law or the conduct of a Commonwealth program;

to sexually harass another person.

Part III—Functions of the Australian Human Rights Commission

Division 1—Preliminary

Section 48 - Functions of the Commission

- (1) The following functions are hereby conferred on the Commission:
 - (c) to exercise the powers conferred on it by section 44;
 - (d) to promote an understanding and acceptance of, and compliance with, this Act;
 - (e) to undertake research and educational programs, and other programs, on behalf of the Commonwealth for the purpose of promoting the objects of this Act;
 - (f) to examine enactments, and (when requested to do so by the Minister) proposed enactments, for the purpose of ascertaining whether the enactments or proposed enactments are, or would be, inconsistent with or contrary to the objects of this Act, and to report to the Minister the results of any such examination;
 - (g) on its own initiative or when requested by the Minister, to report to the Minister as to the laws that should be made by the Parliament, or action that should be taken by the Commonwealth, on matters relating to discrimination on the ground of sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, breastfeeding or family responsibilities or to discrimination involving sexual harassment;

(ga) to prepare, and to publish in such manner as the Commission considers appropriate, guidelines for the avoidance of discrimination on the ground of sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, breastfeeding or family responsibilities and discrimination involving sexual harassment;

(gb) where the Commission considers it appropriate to do so, with the leave of the court hearing the proceedings and subject to any conditions imposed by the court, to intervene in proceedings that involve issues of discrimination on the ground of sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy, breastfeeding or family responsibilities or discrimination involving sexual harassment;

(h) to do anything incidental or conducive to the performance of any of the preceding functions.

Note: For the provisions about inquiries into complaints of discrimination and conciliation of those complaints: see Part IIB of the *Australian Human Rights Commission Act 1986*.

(2) The Commission shall not regard an enactment or proposed enactment as being inconsistent with or contrary to the objects of this Act for the purposes of paragraph (1)(f) by reason of a provision of the enactment or proposed enactment that is included for the purpose referred to in subsection 7D(1).

Section 92 - Particulars of complaints not to be communicated

(1) Subject to subsection (2), where a complaint alleging that a person has done an act that is unlawful under Division 3 of Part II is lodged with the Commission under section 46P of the *Australian Human Rights Commission Act 1986*, a person shall not make a record of, or divulge or communicate to any other person, any particulars of that complaint until:

(a) the President has commenced to inquire into the act; or

(ab) the complaint is withdrawn under section 46PG of the *Australian Human Rights Commission Act 1986*; or

(b) the President terminates the complaint under section 46PE or 46PH of the *Australian Human Rights Commission Act 1986*.

Penalty: 10 penalty units.

(1A) Subsection (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(2) Nothing in subsection (1) prohibits:

(a) the President, a member of the Commission, a member of the staff assisting the Commission or a person acting under the direction or authority of the Commission or of the President or pursuant to a delegation under section 104 from making a record of, or divulging or communicating, any particulars of a complaint in the performance of a duty under or in connection with this Act or in the performance or exercise of a function or power under this Act; or

(b) a person from divulging or communicating any particulars of a complaint to any person in accordance with an arrangement in force under section 16 of the *Australian Human Rights Commission Act 1986*; or

(c) a person from divulging or communicating any particulars of a complaint to:

- (i) the complainant or a person on whose behalf the complaint was made; or
- (ii) the person alleged to have done the act to which the complaint relates; or
- (iii) the legal representative of a person referred to in subparagraph (i) or (ii); or
- (iv) the employer or principal of the person referred to in subparagraph (i) or (ii); or

(d) a person who has made a complaint in respect of a particular matter from divulging or communicating any particulars of the complaint to:

- (i) a person to whom, or an officer of a body to which, the complainant is making a complaint or application in respect of the same matter; or
- (ii) an officer of a tribunal in which the complainant is instituting proceedings, or to which the complainant is making an application, in respect of the same matter; or
- (iii) a near relative of the complainant; or
- (iv) a person from whom the complainant is seeking or receiving professional treatment, counselling or advice; or

(e) a person (in this paragraph referred to as the *relevant person*) on whose behalf a complaint has been made in respect of a particular matter from divulging or communicating any particulars of the complaint to:

- (i) a person to whom, or an officer of a body to which, the relevant person is making a complaint or application in respect of the same matter; or
- (ii) an officer of a tribunal in which the relevant person is instituting proceedings, or to which the relevant person is making an application, in respect of the same matter; or
- or
- (iii) a near relative of the relevant person; or
- (iv) a person from whom the relevant person is seeking or receiving professional treatment, counselling or advice; or

(f) a person to whom particulars of a complaint may be divulged or communicated under paragraph (b), (c), (d) or (e) from making a record of those particulars.

Section 106 - Vicarious liability etc.

(1) Subject to subsection (2), where an employee or agent of a person does, in connection with the employment of the employee or with the duties of the agent as an agent:

(a) an act that would, if it were done by the person, be unlawful under Division 1 or 2 of Part II (whether or not the act done by the employee or agent is unlawful under Division 1 or 2 of Part II); or

(b) an act that is unlawful under Division 3 of Part II;

this Act applies in relation to that person as if that person had also done the act.

(2) Subsection (1) does not apply in relation to an act of a kind referred to in paragraph (1)(a) or (b) done by an employee or agent of a person if it is established that the person took all reasonable steps to prevent the employee or agent from doing acts of the kind referred to in that paragraph.

[Anti-Discrimination Act, 1977 \(as amended\)](#) ¹⁸

Part 2A

Sec. 22A Meaning of "sexual harassment"

For the purposes of this Part, a person sexually harasses another person if:

(a) the person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person, or

(b) the person engages in other unwelcome conduct of a sexual nature in relation to the other person, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated.

Sec. 22B Harassment of employees, commission agents, contract workers, partners etc

(1) It is unlawful for an employer to sexually harass:

(a) an employee, or

(b) a person who is seeking employment with the employer.

(2) It is unlawful for an employee to sexually harass a fellow employee or a person who is seeking employment with the same employer.

(3) It is unlawful for a person to sexually harass:

(a) a commission agent or contract worker of the person, or

(b) a person who is seeking to become a commission agent or contract worker of the person.

(4) It is unlawful for a commission agent or contract worker to sexually harass a fellow commission agent or fellow contract worker.

(5) It is unlawful for a partner in a partnership to sexually harass another partner, or a person who is seeking to become a partner, in the same partnership.

(6) It is unlawful for a workplace participant to sexually harass another workplace participant at a place that is a workplace of both those persons.

(7) It is unlawful for a member of either House of Parliament to sexually harass:

(a) a workplace participant at a place that is a workplace of both the member and the workplace participant, or

¹⁸ Anti-Discrimination Act 1977, Act 48 of 1977. As at August 21, 2019. http://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/nsw/consol_act/aa1977204/ (last visited 15 November 2019).

(b) another member of Parliament at a place that is a workplace of both members.

(8) It is unlawful for a workplace participant to sexually harass a member of either House of Parliament at a place that is the workplace of both the member and the workplace participant.

(9) In this section:

"place" includes a ship, aircraft or vehicle.

"workplace" means a place at which a workplace participant works or otherwise attends in connection with being a workplace participant.

"workplace participant" means any of the following:

- (a) an employer or employee,
- (b) a commission agent or contract worker,
- (c) a partner in a partnership,
- (d) a person who is self-employed,
- (e) a volunteer or unpaid trainee.

(10) Without limiting the definition of "workplace", the workplace of a member of either House of Parliament

is taken to include the following:

- (a) the whole of Parliament House,
- (b) any ministerial office or electoral office of the member,
- (c) any other place that the member otherwise attends in connection with his or her Ministerial, parliamentary or electoral duties.

Sec. 22C Harassment by members of qualifying bodies

(1) It is unlawful for a member or an employee of an authority or body which is empowered to confer, renew or extend an authorization or a qualification that is needed for or facilitates the practice of a profession, the carrying on of a trade or the engaging in of an occupation to sexually harass a person seeking action in connection with an occupational qualification.

(2) In this section:

"action in connection with an occupational qualification" means conferring, renewing, extending, revoking or withdrawing an authorisation or qualification.

Sec. 22D Harassment in employment agencies

It is unlawful for:

- (a) a person who operates an employment agency, or
- (b) an employee of an employment agency, to sexually harass another person in the course of providing, or offering to provide, any of the agency's services to that other person.

Sec. 22E Harassment at educational institutions

(1) It is unlawful for a member of the staff of an educational institution to sexually harass:

- (a) a person who is a student at the institution, or
- (b) a person who is seeking to become a student at the institution.

(2) It is unlawful for a person who is an adult student at an educational institution to sexually harass:

- (a) a person who is a student at the institution, or
- (b) a member of the staff of the institution.

(3) If a complaint under subsection (2) is found to have been substantiated after an inquiry under Part 9, the Tribunal may make any order that it is empowered to make under section 113 (1) (b). However, if the

respondent student was over the age of 16, but under the age of 18, when the unlawful conduct occurred, the Tribunal may not make an order requiring the student to pay damages under section 113 (1) (b) (i).

(4) In this section:

"adult student" means a student who has attained the age of 16 years.

"educational institution" means a school, college, university or other institution at which education or training is provided.

Sec. 22F Provision of goods and services

It is unlawful for a person to sexually harass another person in the course of:

- (a) receiving, or seeking to receive, goods or services from that other person, or
- (b) providing, or offering to provide, goods or services to that other person.

Sec. 22G Provision of accommodation

(1) It is unlawful for a person to sexually harass another person in the course of providing, or offering to provide, (whether as principal or agent) accommodation to that other person.

(2) This section does not apply to anything done by a person in the course of providing, or offering to provide, accommodation in a private household.

Sec. 22H Land

It is unlawful for a person to sexually harass another person in the course of dealing (whether as principal or agent) with that other person in connection with:

- (a) disposing of, or offering to dispose of, an estate or interest in land to the other person, or
- (b) acquiring, or offering to acquire, an estate or interest in land from the other person.

Sec. 22I Sport

(1) It is unlawful for a person engaged in a sporting activity to sexually harass another person engaged in a sporting activity.

(2) For the purposes of this section, a person is engaged in a sporting activity if:

- (a) the person is involved in an organised sporting competition,
- (b) the person is coaching a person or team, or is being coached, for the purposes of an organised sporting competition,
- (c) the person is carrying out an activity relating to the administration of a sport or an organised sporting competition,
- (d) the person is officiating at an organised sporting competition or carrying out related duties or functions,
- (e) the person is officially involved in a function relating to a sport or an organised sporting competition.

Sec. 22J State laws and programs

(1) It is unlawful for a person to sexually harass another person:

- (a) in the course of performing any function under a State law or for the purposes of a State program, or
- (b) in the course of carrying out any other responsibility for the administration of a State law or the conduct of a State program.

(2) In this section:

"State law" means:

- (a) an Act, a statutory rule, or a determination made under or pursuant to an Act, or
- (b) an order or award made under or pursuant to such a law.

"State program" means a program conducted by or on behalf of the State Government.

Sec. 108 Order or other decision of Tribunal

- (1) In proceedings relating to a complaint, the Tribunal may:
 - (a) dismiss the complaint in whole or in part, or
 - (b) find the complaint substantiated in whole or in part.
- (2) If the Tribunal finds the complaint substantiated in whole or in part, it may do any one or more of the following:
 - (a) except in respect of a matter referred to the Tribunal under section 95 (2), order the respondent to pay the complainant damages not exceeding \$100,000 by way of compensation for any loss or damage suffered by reason of the respondent's conduct,
 - (b) make an order enjoining the respondent from continuing or repeating any conduct rendered unlawful by this Act or the regulations,
 - (c) except in respect of a representative complaint or a matter referred to the Tribunal under section 95 (2), order the respondent to perform any reasonable act or course of conduct to redress any loss or damage suffered by the complainant,
 - (d) order the respondent to publish an apology or a retraction (or both) in respect of the matter the subject of the complaint and, as part of the order, give directions concerning the time, form, extent and manner of publication of the apology or retraction (or both),
 - (e) in respect of a vilification complaint, order the respondent to develop and implement a program or policy aimed at eliminating unlawful discrimination,
 - (f) make an order declaring void in whole or in part and either ab initio or from such time as is specified in the order any contract or agreement made in contravention of this Act or the regulations,
 - (g) decline to take any further action in the matter.
- (3) An order of the Tribunal may extend to conduct of the respondent that affects persons other than the complainant or complainants if the Tribunal, having regard to the circumstances of the case, considers that such an extension is appropriate.
- (4) The power of the Tribunal to award damages to a complainant is taken, in the case of a complaint lodged by a representative body, to be a power to award damages to the person or persons on behalf of whom the complaint is made and not to include a power to award damages to the representative body.
- (5) In making an order for damages concerning a complaint made on behalf of a person or persons, the Tribunal may make such order as it thinks fit as to the application of those damages for the benefit of the person or persons.
- (6) If two or more vilification complaints are made in respect of the same public act of the respondent and those complaints are found to be substantiated in whole or in part, the Tribunal must not make an order or orders for damages that would cause the respondent to pay more than \$100,000 in the aggregate in respect of that public act.
- (7) If the Tribunal makes an order under subsection (2) (b), (c), (d) or (e), it may also order that, in default of compliance with the order within the time specified by the Tribunal, the respondent is to pay the complainant damages not exceeding \$100,000 by way of compensation for failure to comply with the order.

8 AUSTRIA

Federal Law on Equal Treatment, 2004¹⁹

16. (1) The provisions of Part II apply to the field of employment, including

¹⁹ Federal Law on Equal Treatment (Bundesgesetz über die Gleichbehandlung), Law NR: GP XXII RV 307 AB 499 S. 61, July 2004. Available at <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20003395> (last visited 15 November 2019). Unofficial translation by Compendium team.

1. Employment relationships of all kinds based on a private contract;
2. all forms and all levels of vocational guidance, vocational training, continuing vocational training and retraining, including practical work experience;
3. membership and participation in an employee or employer organization or organization whose members belong to a particular professional group, including the use of the services of such organizations;
4. the establishment, establishment or expansion of a business and the inclusion or expansion of any other type of self-employment;

insofar as this falls within the regulatory competence of the Confederation.

Sexual harassment

§ 6. (1) Discrimination based on gender also occurs when a person

1. is sexually harassed by the employer,
2. is discriminated against by the employer when he/she fails, in the case of sexual harassment by a third party, to remedy a situation as required on the basis of legal provisions, collective law or employment contract,
3. is harassed by a third party in connection with his / her employment relationship, or
4. is harassed by third parties outside an employment relationship (§ 4).

(2) Sexual harassment occurs when a sexual-related behavior is committed that harms or has the purpose of harming the dignity of a person, is undesirable, inappropriate or offensive to the person concerned, and

1. creates or intends to create an intimidating, hostile or humiliating work environment for the subject or
2. the fact that the subject rejects or condones a behavior that is a part of the sexual sphere on the part of the employer or of supervisors or colleagues, expressly or tacitly becoming the basis for a decision affecting that person's access to vocational training; employment, promotion or remuneration or as the basis for another decision in the workplace.
3. There is also discrimination in the case someone gives instructions to sexually harass a person.
4. Discrimination also occurs when a person is sexually harassed because of their close relationship with a person based on their gender or ethnicity.

Legal consequences of violation of the principle of equal treatment

§ 12. (1) If the employment relationship was not justified due to violation of the equal treatment requirement of § 3 subparagraph 1, the employer shall be liable to the recruitment agency for the compensation of the financial loss and compensation for the suffered personal impairment. The compensation claim is

[...]

(11) In the case of sexual harassment pursuant to § 6 or gender-related harassment pursuant to § 7, the person concerned shall also be liable towards the harasser and in the case of § 6 (1) 2 or § 7 (1) 2 / the

employer / claim for compensation for the damage suffered. Insofar as the disadvantage does not only consist of a loss of assets, the person concerned shall be entitled to appropriate compensation for the personal injury suffered, but at least to 1 000 euros in damages.

[...]

9 AZERBAIJAN

Labor Code, 1999 (as amended)²⁰

[...]

Article 12: Basic Employer Obligations and Responsibilities

1) An employer shall have the following basic obligations with respect to labor relations:

[...]

i) to create equal working conditions for the workers regardless of gender, engaged in the same work, to not apply to employees different administrative discipline measures for the same misconduct, to take the necessary measures to prevent discrimination based on gender and sexual harassment;

[...]

2) Employers who violate employees' rights, who do not fulfill their obligations under an employment contract, employing persons who have not attained the age of 15, involving children in activities that may endanger their life, health or morals and who violate the conditions of this Code shall be called to appropriate account in the manner established by legislation. (40, 53)

[...]

Article 16: Unacceptability of Discrimination in Labor Relations

1) During hiring or a change in or termination of employment no discrimination among employees shall be permitted on the basis of citizenship, sex, race, nationality, language, place of residence, economic standing, social origin, age, family circumstances, religion, political views, affiliation with trade unions or other public associations, professional standing, beliefs, or other factors unrelated to the professional qualifications, job performance, or professional skills of the employees, nor shall it be permitted to establish privileges and benefits or directly or indirectly limit rights on the basis of these factors.

2) Concessions, privileges and additional protection for women, the handicapped, minors, and others in need of social protection shall not be considered discrimination.

²⁰ Labor Code (Azərbaycan Respublikasının Əmək Məcəlləsi), (February 1, 1999). Official version in Azerbaijani available at <http://www.e-qanun.az/code/7> Unofficial English translation is available at: <http://ask.org.az/wp-content/uploads/2018/11/Labour-Code-of-the-Republic-of-Azerbaijan.pdf> (last visited 15 November 2019).

3) Employers or other physical persons that permit the discrimination indicated in Paragraph 1 of this Article shall bear the appropriate responsibility in the manner established by the Legislation.

4) A person subject to the discrimination stipulated in Clause 1 of this Article during his employment may seek recourse in a court of law.

[...]

Article 31: Content of a Collective Contract

1) The content of a collective contract shall be defined by the parties.

2) As a rule, a collective contract shall include the mutual obligations of the parties in relation to the following matters:

[...]

u) assistance in conducting explanatory work with regard to sexual harassment in office or in connection with the occupation as well as prevention of such harassment, applying all necessary and appropriate measures in order to protect the employees from such treatment;

[...]

Article 69: Termination of an Employment Contract at the Initiative of the Employee

1) An employee may terminate an employment contract by notifying the employer in writing one calendar month in advance.

2) At the end of one calendar month, the employee shall have the right not to go to work and to demand a final accounting. The employer shall be obliged to meet the employee's demands.

3) If there are specific, valid reasons, such as the employee's being of retirement age, his disability, admission to an educational institution, move to a new place of residence or entering into an employment contract with another employer, in cases of sexual harassment, or in other cases provided by law, the employee may terminate his employment contract on the date he has indicated in his application.

[...]

Article 195: Financial Liability of an Employer for Damage to an Employee

An employer shall bear full financial liability for damage to an employee during his employment under the circumstances shown below:

[...]

i) and in case of sexual harassment of the employee.

[...]

Article 292: Employee's Right to File a Claim for a Right Which Has Been Violated

1) With respect to the matters described in Article 288 hereof, if an employee proves that his rights or legal interests have been violated, he can appeal to the relevant bodies which deal with individual labor disputes by the procedure described herein and request that his rights be reinstated.

2) In order to regain his violated rights, an employee may appeal to the court or to the relevant agency handling labor disputes before appealing to the court, as stipulated in Article 294 hereof, or he may go on strike by himself in the manner established in Article 295 hereof.

3) In order to regain his violated rights, an employee may also appeal through his legal representative to the relevant body which handles labor disputes. In order for the representative to defend his rights the employee should give a power of attorney to his representative, in accordance with established procedure.

[...]

Civil Procedure Code, 1999 (as amended)²¹

[...]

Article 4: Right to appeal to court for protection

1) All physical persons and legal entities shall, in accordance with procedure specified by law, be entitled to exercise the right to appeal to court for protection of their rights and freedoms, as well as for protection of interests guaranteed by law.

2) Waiver of the right of appeal to court shall be null and void.

3) In the event the law provides, with respect to certain classes of economic disputes, for certain pre-court settlement or where such procedure has been stipulated by agreement between parties, such dispute shall be submitted for resolution to economic court upon compliance with the said procedure.

[...]

Code of Administrative Offences, 2000²²

[...]

²¹ Civil Procedure Code (Azərbaycan Respublikasının Mülki Prosessual Məcəlləsi Mündəricat), (December 28, 1999), Official version in Azerbaijani is available at http://www.uaipit.com/uploads/legislacion/files/1355918876_13_Civil_Procedure_Code_of_the_Republic_of_Azerbaijan_AZ.pdf English translation is available at <https://www.wipo.int/edocs/lexdocs/laws/en/az/az021en.pdf> (last visited 15 November 2019).

²² Code of Administrative Offences (Azərbaycan Respublikasının İnzibati Xətlər Məcəlləsi), (July 11, 2000) Original version is available in Azerbaijani and Russian at https://caa.gov.az/index.php?option=com_k2&view=item&id=124:code-of-administrative-offences-of-the-republic-of-azerbaijan&Itemid=173&lang=en (last visited 15 November 2019) 15 November 2019). English translation is available at <https://www.legislationline.org/documents/id/16465> (last visited 15 November 2019) 15 November 2019).

Article 60.1: Putting pressure on employees who have suffered the sexual harassment

Putting pressure on employees who have complaint against the employer or management for sexual harassment, or persecution of employee shall result in application of penalty against executive officers at the size of seventy to ninety manats.

[...]

Law on Gender Equality, 2006²³

[...]

Article 2: Definitions

2.0. The following definitions are used in the present law:

[...]

2.0.4. Gender Discrimination - sexual harassment, any distinction, exclusion or privilege curtailing or denying to exercise rights on the grounds of gender;

2.0.5. Sexual Harassment – immoral behavior humiliating and abusing a person of opposite gender comprising of physical acts (touching, hand touching), offensive remarks, gestures, threats, disgracing advances or offers in employment or service relations.

[...]

Article 4: Impermissibility of Sexual Harassment

Sexual harassment is prohibited.

[...]

Article 7: The Responsibilities of the Employer

7.1. The employer shall ensure equality of males and females in workplace.

7.2. The employer has the following responsibilities:

7.2.1. treating employees equally regardless of their gender in employing, promoting, enhancing professional training, mastering new specialty and training aimed to increase qualification, assessing the work performance quality and dismissing, and creating equal opportunities;

7.2.2. creating the same working conditions for employees performing the same jobs regardless of their gender;

²³ Law on Gender Equality (December 2006), English translation is available at <http://www.legislationline.org/documents/action/popup/id/16418> (last visited 15 November 2019).

7.2.3. not applying different disciplinary penalties for the same breaches committed by employees regardless of their gender;

7.2.4. observing requirements of Articles 9 and 10 of the Present Law;

7.2.5. taking necessary measures preventing gender discrimination and sexual harassment.

[...]

Article 11: Impermissibility of Any Pressure on Employees Exposed to Sexual Harassment

Employees complaining about employer or supervisor on sexual harassment shall not be exposed to any pressure and persecution.

Article 12: Termination of Labor Contract

Labor contract of an employee exposed to sexual harassment is terminated starting from the date he/she applied to annul the labor contract.

[...]

Article 17: The Right to Demand Recovery of Damage

[...]

17.2. Damage to employees exposed to sexual harassment shall be paid by an employer in compliance with the legislation of the Republic of Azerbaijan.

[...]

10 BAHAMAS

Sexual Offences Act ²⁴

[...]

Section 26 - Sexual harassment

(1) Any person who —

(a) being a prospective employer importunes or solicits sexual favours from another person —

(i) in the terms or conditions on which he offers, to that person or any other person, employment or admission into any institution; or

²⁴ Sexual Offences Act (Ch. 99) (August 2, 1991) http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1991/1991-0009/SexualOffencesAct_1.pdf (last visited 15 November 2019).

- (ii) under a threat of rejection (whether implied or otherwise) of any application made by that person or any other person for employment or for admission into any institution, or of causing such rejection;
 - (b) being in a position of authority over, or being a co-worker of, another person in any place of employment or any institution, importunes or solicits sexual favours from that other person under any holding out, promise or threat of the grant or imposition of any favour, benefit, advantage or disadvantage, as the case may be, at the place of employment or institution; or
 - (c) importunes or solicits from a person in a position of authority in any place of employment or any institution, any favour, benefit or advantage, or the forbearance from the exercise of any right, power or duty relating to that authority under any holding out or promise of sexual favours,
- is guilty of the offence of sexual harassment.
- (2) Any person who is guilty of the offence of sexual harassment is liable to a fine of five thousand dollars or to imprisonment for two years or to both such fine and imprisonment.
 - (3) In this section, “prospective employer” means any person who —
 - (a) is in a position of authority in any place of employment or any institution; or
 - (b) is authorised to act on behalf of a person mentioned in paragraph (a) for the purpose of employing personnel for a place of employment or admitting persons into an institution.
 - (4) No prosecution of a person under the age of twenty-one years shall be commenced for an offence under this section without the consent of the Attorney- General.

[...]

11 BAHRAIN

Penal Code, 1976 ²⁵

Arts. 350 and 351

12 BARBADOS

Employment Sexual Harassment (Prevention) Act, 2017 ²⁶

²⁵ Penal Code, Law Decree No. 15 of 1976 1976, available at <http://www.legalaffairs.gov.bh/AdvancedSearchDetails.aspx?id=4069#.XWICDJNKjBJ> (last visited 15 November 2019).

²⁶ Employment Sexual Harassment (Prevention) Act, Act 2017-21 (revised 18 October 2017), available at <https://barbadosemployers.com/Tools/Employment-Sexual-Harassment-Prevention-Act-2017.aspx> (last visited 15 November 2019).

13 BANGLADESH

[Penal Code, 1860](#) ²⁷

509. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

14 BELGIUM

Law on the Welfare of Workers in the Course of their Work, 1996 (as amended) ²⁸

[...]

CHAPTER I. - Scope and definitions

Art. 2.- § 1. This Act is applicable to employers and workers.

For the purposes of this Act, are equivalent to

1° the workers:

(a) persons who, otherwise than by contract of employment, perform work services under the authority of another person;

(b) persons undertaking vocational training which includes a form of work regardless of whether this is carried out, or not, in the training establishment;

(c) persons bound by an apprenticeship contract;

d) trainees;

e) students who are studying for a program which provides for a form of work that is done in the educational institution;

2° the employers: persons who employ persons referred to in section 1.

§ 2. The provisions of Chapter V are also applicable to persons concerned by activities related to temporary or mobile construction sites.

[...]

CHAPTER V bis.

Specific provisions concerning the prevention of psychosocial risks at work related to stress, violence and moral or sexual harassment at work

Section 1 – General provisions

Sub-section 1 – Definition of psychosocial risks at work

Art. 32 / 1.- For the purposes of this Act, psychosocial risks at work are: the probability that one or more workers will suffer psychological damage, which may also be accompanied by physical damage, as a result

²⁷ Penal Code, Act No. XLV of 6 October 1860, available at <http://www.oecd.org/site/adboecdanti-corruptioninitiative/46812525.pdf> (last visited 15 November 2019).

²⁸ Law on the Welfare of Workers in the Course of their Work, M.B. 5.2.2018, 4 August 1996 (last amended by law of 15 January 2018), available at <http://www.emploi.belgique.be/DownloadAsset.aspx?id=1896> (last visited 15 November 2019). Unofficial translation by Compendium team.

of [...] interpersonal relationships at work, on which the employer has an impact and who objectively present a danger.

Subsection 2. - Prevention measures

Art. 32 / 2.- § 1. The employer identifies situations that may lead to psychosocial risks at work and identifies and assesses the risks.

In particular, it takes into account situations that may lead to stress, violence and moral or sexual harassment at work.

§ 2. The employer takes, in application of the general principles of prevention referred to in Article 5 and to the extent that they have an impact on the risk, the necessary preventive measures to prevent situations and actions that may lead to psychosocial risks at work, and to prevent or limit harm.

The minimum prevention measures applied to psychosocial risks at work are defined in Article 32quater, paragraph 3. They shall be taken upon the opinion of the Committee, except for their procedures.

In the context of the measures referred to in paragraph 2, the employer shall put in place procedures directly accessible to the worker who claims that he is suffering harm within the meaning of Article 32/1, enabling him to request:

a) an informal psychosocial intervention from a person of trust or a prevention counselor referred to in Article 32sexies, which consists of seeking a solution informally through interviews, intervention by a third party or conciliation;

(b) a formal psychosocial intervention by the prevention counselor referred to in section 32sexies, § 1, which consists in asking the employer to take the appropriate collective and individual measures following the analysis of the specific work situation of the applicant and the proposals for measures made by this prevention advisor and included in a notice the content of which is specified by the King.

These procedures shall be established after the agreement of the Committee pursuant to Article 32quater, subparagraphs 4 to 6, and are, where appropriate, in accordance with the collective labor agreements made compulsory by Royal Decree.

These procedures are without prejudice to the possibility for workers to apply directly to the employer, to a member of the management team, to a member of the Committee or of the union delegation in order to obtain an intervention from these persons.

[...]

§ 4. The employer shall take appropriate preventive measures to eliminate the risk arising from a specific work situation or to prevent or limit the resulting damages to the extent that they have an impact on the risk.

[...]

Section 2. - Specific provisions concerning violence and moral or sexual harassment at the workplace

Subsection 1 – General definition and provisions

Article 32 bis:

Employers and workers as well as persons assimilated referred to in Article 2, § 1, and the persons, other than those referred to in Article 2, §1, who come into contact with the workers when carrying out their work, are required to refrain from any act of violence or moral or sexual harassment at work.

Persons, other than those referred to in Article 2 (1), who come into contact with workers when carrying out their work, shall apply for the purpose of their protection articles 32decies to 32duodecies.

The King determines the terms and conditions under which [this section (26)] applies to workers of outside firms who are permanently present in the establishment of the employer from whom the activities are performed. (14)]

Article 32 ter.

[...]

3°: Sexual harassment at work: any unwanted verbal, non-verbal or physical conduct, with a sexual connotation, whose object or effect is to impair the dignity of a person or create an intimidating, hostile, degrading, humiliating or offensive environment.

All professional names that are used in this chapter, such as prevention counselor or trusted person, regard both women and men.

To the extent that [harassment or workplace violence is linked] to religion or belief, disability, age, sexual orientation, sex, race or ethnic origin, the provisions of this Chapter imply the transposition into Belgian law of:

1 ° Directive 2000/78 / EC of 27 November 2000 establishing a general framework in favor of equal treatment in employment and occupation;

2 ° Directive 2000/43 / EC of 29 June 2000 on the implementation of the principle of equal treatment between persons irrespective of racial or ethnic origin;]

3 ° Directive 2006/54 / EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal treatment between men and women in employment and work.

Subsection 2. - Specific prevention measures

Art. 32quater.- In accordance with the general principles of prevention referred to in Article 5, the employer shall determine the measures to be taken to prevent violence and psychological or sexual harassment at work.

He determines these preventive measures based on a risk analysis and taking into account the nature of the activities and the size of the company.

The measures referred to in paragraph 2 shall be at least:

1 ° material and organizational measures by which violence and harassment at work can be prevented

2° enforcement procedures when facts are reported and which relate in particular to:

a) the reception and counseling of persons who report being subjected to violence or moral or sexual harassment at work;

b) the manner in which these persons may call on the prevention adviser [referred to in article 32sexies, § 1 and to the person of trust];

c) the prompt and completely impartial intervention of the person of trust and the prevention advisor;

d) the return to work of workers who have reported being subjected to violence, moral or sexual harassment at work and the accompaniment of these persons on the occasion of their return to work.

3° specific measures for the protection of workers who, when performing their work, come into contact with persons other than those referred to in Article 2, §1st;

4° the obligations of the management team regarding the prevention of acts of violence, moral or sexual harassment at work;

5° information and training of workers;

6° information of the Committee.

The measures referred to in paragraph 3 shall be taken after the opinion of the Committee, with the exception of the measures referred to in paragraph 2, which shall be taken with the agreement of the Committee.

When no agreement is reached, the employer shall seek the opinion of the official responsible for surveillance referred to in Article 80, on the conditions and in the manner determined by the King.

Without prejudice to the provisions organizing the relations between the public authorities and the agents' syndicates, the employer may take the measures where the agreement is still not reached following the notice referred to in paragraph 5 provided that at least two thirds of the members representing the workers on the committee have given their agreement.

[...]

Art. 32sexies.- § 1. The employer shall decide, in accordance with the provisions of Chapter VI, whether the tasks assigned to the prevention advisor by this chapter will be performed by the internal service for prevention and protection at work or by the external service for prevention and protection at work.

If he entrusts the missions to the internal service for prevention and protection at work, he shall, after having received the prior agreement of all the members representing the workers on the committee, appoint a prevention advisor specialized in the aspects psychosocial work including violence and moral or sexual harassment at work.

[Individuals on the executive staff may not serve as specialized prevention counselors. (26)]

If no agreement is reached, the employer shall seek the opinion of the supervisory officer referred to in Article 80 on the conditions and in the manner determined by the King.

If, following the notice referred to in paragraph 3, the agreement is still not obtained or if the employer employs less than 50 workers, the employer shall call on a prevention advisor specializing in the psychosocial aspects of work, including violence, moral or sexual harassment at work that belongs to an external service for prevention and protection at work.

The employer who has in his internal service for the prevention and protection at work a prevention advisor specialized in the psycho-social aspects of work such as violence, moral or sexual harassment at work may recur, in addition, to an external service for prevention and protection at work.

The prevention advisor referred to in this paragraph may not at the same time be the competent prevention advisor for occupational health.

§ 2. The employer designates, if necessary, one or more persons of trust, after the prior agreement of all the members representing the workers on the committee.

[...]

If the employer is only relying on an external prevention advisor for prevention and protection at work, [at least one of the trusted persons (26)] should be part of the employer's staff if the employer employs more than 20 workers.

Trusted persons perform their duties independently and shall not be harmed by their activities as a trusted person.

The person of trust cannot at the same time act as a competent prevention advisor for occupational medicine.

[...]

Individuals who are part the executive staff cannot also be persons of trust. (26)]

[...]

[§ 2/1. When all the members representing the workers on the Committee so request, the employer is obliged to appoint a person of trust in accordance with the conditions and procedure referred to in § 2.

§ 2/2. The tasks of the person of trust may also be exercised under the same conditions as those mentioned in § 2, paragraphs 4 to 9, by:

1 ° the prevention advisor referred to in § 1;

2 ° the prevention adviser of the internal service for prevention and protection at work referred to in Article 33, § 1, paragraph 2 under the conditions determined by the King, except in enterprises of less than 20

workers in which the employer performs the function of prevention advisor and except in case of disagreement of the interested party himself or the Committee.

[...]

§ 3. The King determines the missions and tasks of the prevention advisor and persons of trust, as well as the training necessary for the proper execution of their mission. (14)]

[Art. 32septies.- § 1. When acts of violence, moral or sexual harassment have been reported to the employer, this shall take the appropriate measures, in accordance with the provisions of this chapter.

Where the seriousness of the facts so requires, the employer shall take the necessary protective measures. If the worker has used the procedure referred to in Article 32/2 (2) (3) (b), the employer shall take such precautionary measures, if necessary, on the basis of the proposals made by the prevention advisor referred to in Article 32sexies, § 1, communicated pursuant to article 32quinquiesdecies, paragraph 2, 3 °, c, before the latter gives him the opinion referred to in article 32/2, § 2, paragraph 3, b.

§ 2. The prevention adviser shall refer the following to the supervisory officer:

(a) there is a serious and immediate danger to the worker;

(b) the person in question is the employer or is a member of the management staff as defined in Article 32sexies, § 2/3.

Subsection 3. - (26) The protection [of workers, employers and others at the workplace (14)] against violence, psychological or sexual harassment at work

Art. 32nonies.- [A worker who considers himself to be subjected to violence, psychological or sexual harassment at work may, under the conditions and in accordance with the procedure laid down in application of Article 32/2, § 5, apply to the prevention advisor or the person of trust referred to in Article 32sexies asking them for an informal psychosocial intervention or may apply to the prevention counselor referred to in Article 32sexies, § 1, to request a formal psycho-social intervention for acts of violence, psychological or sexual harassment at work. (26)]

The worker referred to in paragraph 1 may also apply to the supervisory officer referred to in Article 80 who, in accordance with [the Social Penal Code (20)], examines whether the employer complies with the provisions of the this chapter and its implementing decrees. (14)

Art. 32decies.- § 1. Without prejudice to the application of articles 1724 to 1737 of the Judicial Code relating to mediation, any person who proves an interest may institute proceedings before the competent court to enforce the provisions of this section. (27)

If the labor court finds that the employer has in place a procedure for the treatment of [a request for a formal psychosocial intervention for acts of violence or moral or sexual harassment at work (27)] in application of this Law and its implementing decrees and that this procedure may be applied legally, the court may, when the worker has addressed him directly, order the worker to apply the procedure referred to above. In this case, the examination of the case is [suspended (27)] until this procedure is completed.

§ 1/1. Anyone who proves an interest may bring proceedings in the Labor Court to claim damages.

In compensation for material and moral harm caused by violence, moral or sexual harassment at work, the perpetrator is liable for damages and interests according to the choice of the victim:

1 ° to the damage actually suffered, and whose extent has been proven by the victim;

Or 2 ° a lump sum payment equal to three months of gross remuneration. The amount is six months of gross pay in one of three ways:

(a) the conduct is linked to a criterion of discrimination referred to in the anti-discrimination laws;

(b) the author is in a position of authority vis-à-vis the victim;

(c) because of the seriousness of the facts.

The lump sum referred to in paragraph 2 (2) may not be granted to persons other than those referred to in Article 2 (1) who come into contact with the workers when carrying out their work when they act outside the scope of their professional activity.

The gross monthly salary of the self-employed is calculated by taking into account the gross taxable business income shown in the most recent income statement of the personal income tax divided by twelve.

The gross monthly remuneration on which the lump sum referred to in paragraph 2 (2) is based may not exceed the amount of wages referred to in Article 39 of the Act of 10 April 1971 on work, divided by twelve. (27)]

§ 2. At the request of the person who claims to be subjected to violence, psychological or sexual harassment at work, or the organizations and institutions referred to in Article 32duodecies, the presiding judge of the Labor Court shall establish the existence of these facts and order [the cessation to the author in (27)] the time which it indicates, even if these facts are punishable.

[The action referred to in the first paragraph is introduced by contradictory application and investigated according to the forms of interim relief. (27)]

It is decided notwithstanding any prosecution exercised for the same facts in any criminal jurisdiction.

Within five days after the order is made, the clerk shall send an unsigned copy of the order to each party and the labor auditor by letter.

The president of the labor court can order the lifting of the cessation as soon as it is proved that the violence or moral or sexual harassment at work has stopped.

The president of the labor court may prescribe the posting of his decision or of the summary he writes during the period he determines, as the case may be both outside and inside the place of employment and order that his judgment or his summary be circulated in the newspaper or otherwise. Everything is done at the expense of the author. Such publicity measures may be prescribed only if they are such as to contribute to the cessation of the offending act or its effects.

§ 3. Measures to enforce the provisions [of this section (27)] and its implementing orders may be imposed on the employer.

The measures referred to in paragraph 1 include:

1° the application of preventive measures;

2° measures that enable the acts of violence, psychological or sexual harassment at work to be effectively ended.

These measures may be provisional.

The action relating to these measures is subject to the same rules of procedure as those referred to in § 2, paragraphs 2 to 4.

Art. 32undecies.- Where a person who proves an interest establishes before the competent court facts which permit the presumption of the existence of violence, moral or sexual harassment at work, the burden of proof that there has been no violence, moral or sexual harassment at work is the responsibility of the defendant.

Paragraph 1 does not apply to criminal proceedings and does not affect other more favorable legal provisions on the burden of proof.

Art. 32duodecies.- For the defense of the rights of persons to whom [this section (27)] is applicable may sue in all disputes to which the application [of the this section (27)] could give rise to:

1° organizations representing workers and employers as defined in Article 3 of the Act of 5 December 1968 on collective labor agreements and joint committees;

2° the representative trade union organizations within the meaning of Article 7 of the Act of 19 December 1974 regulating the relations between the public authorities and the unions of employees of these authorities;

3° the representative trade union organizations within the trade union consultation body appointed for the administrations, services and institutions for which the law of 19 December 1974 regulating the relations between the public authorities and the unions of agents of these authorities is not applicable;

4 ° foundations and non-profit associations, referred to in the law of 27 June 1921 on non-profit associations, international non-profit associations and foundations (27), which have had legal personality for three years at least on the day of the action, in cases where the acts of violence or moral or sexual harassment have prejudiced the statutory purposes they have set themselves the task of pursuing;

[5 ° the Interfederal Center for Equal Opportunities and the Fight against Racism and Discrimination, established by the Cooperation Agreement of 12 June 2013; (24)]

[6 ° the Institute for the Equality of Women and Men established by the law of 16 December 2002 in disputes relating to sex. (14)]

[The power of the organizations referred to in paragraph 1 shall not affect the right of the person who claims to be the subject of violence, psychological or sexual harassment at work to act personally or to intervene in the workplace. (14)]

The power of the organizations referred to in paragraph 1 is nevertheless subject to the agreement of [the person who claims to be the victim of violence or psychological or sexual harassment at work (14)].

Art. 32tredecies.- [§ 1. The employer may not terminate the employment relationship of the workers referred to in § 1/1 or take any prejudicial measure after the termination of the employment relationship with respect to the same workers, except for reasons unrelated to the request for formal psychosocial intervention for acts of violence, moral or sexual harassment at work, complaints, legal action or testimony.

In addition, during the existence of the employment relationship, the employer cannot, vis-à-vis these same workers, take a prejudicial measure that is related to the request for formal psychosocial intervention for acts of violence, moral or sexual harassment at work, complaint, legal action or testimony. The measure taken in the context of the obligation of Article 32septies which is proportionate and reasonable is not a prejudicial measure. (26)]

§ 1/1. They benefit from the protection of paragraph 1:

1° the worker who has made a request for a formal psychosocial intervention for acts of violence, moral or sexual harassment at work at the level of the enterprise or institution in which he works, in accordance with the procedures in force;

2° the worker who has lodged a complaint with the official in charge of surveillance referred to in section 80 in which he requests the employee's intervention for one of the following reasons:

(a) the employer has not appointed a prevention counselor specializing in the psycho-social aspects of work;

(b) the employer has not put in place procedures in accordance with section 2 of this chapter;

(c) the request for a formal psychosocial intervention for acts of violence, moral or sexual harassment at work did not, according to the worker, result in an end to acts of violence, moral or sexual harassment at work;

(d) the procedures referred to in section 2 of this chapter have not, according to the worker, been lawfully applied;

3° a worker who has lodged a complaint with the police, the public prosecutor or the investigating judge, in which he requests their intervention for one of the following reasons:

- (a) the employer has not appointed a prevention counselor specializing in the psycho-social aspects of work;
 - (b) the employer has not put in place procedures in accordance with section 2 of this chapter;
 - (c) the request for a formal psychosocial intervention for acts of violence, moral or sexual harassment at work did not, according to the worker, result in an end to acts of violence, moral or sexual harassment at work;
 - (d) the procedures referred to in section 2 of this chapter have not, according to the worker, been lawfully applied;
 - (e) the internal procedure is not appropriate, given the seriousness of the facts of which it was the subject;
- 4° a worker who institutes or for which an action is instituted to comply with the provisions of Division 2 of this chapter;

5° the worker who acts as a witness because, in the context of the examination of the request for a formal psychosocial intervention for acts of violence, moral or sexual harassment at work, he or she becomes aware of prevention advisor referred to in Article 32sexies, § 1, in a dated and signed document, the facts which he himself has seen or heard and which relate to the situation which is the subject of the application or by being a witness in court.

§ 2. The burden of proof of the reasons and justifications referred to in § 1 shall be borne by the employer when the termination of the employment relationship or the measures take place within twelve months following the filing of the application to intervene, the filing of a complaint or the testimony of a witness. This burden is also incumbent on the employer when the break-up or the action occurred after a legal action was brought, up to three months after the judgment became final. (26)]

§ 3. When the employer terminates the employment relationship or unilaterally modifies the working conditions, in violation of the provisions of § 1, the worker or work organization to which he is affiliated may request his reinstatement in the enterprise or institution under the prevailing conditions [before the break or change (26)].

The request shall be made by registered letter, within thirty days of the date of the notification of the notice, the termination without notice or the unilateral modification of the conditions of work. The employer must take a position on this request within thirty days of its notification.

An employer who reinstates the worker or reinstates him in his previous position under the conditions prevailing [before the break or change (26)] is obliged to pay the lost wages due to the dismissal or the modification of the conditions of work and the payment of the employers 'and employees' contributions to that remuneration. (5)]

[§ 4. The employer must pay compensation to the worker in the following cases:

1° when the worker, following the request referred to in § 3, paragraph 1, is not reinstated or re-employed in the occupation under the prevailing conditions [before the break or change (26)] and the judge ruled that the dismissal or unilateral modification of working conditions was contrary to the provisions of § 1;

2° when the worker has not made the request referred to in § 3, paragraph 1 and that the judge has judged the dismissal or [the measure taken by the employer (26)] contrary to the provisions of § 1.

The allowance is equal, at the worker's choice, either to a lump sum corresponding to the gross wage for six months, or to the injury actually suffered by the worker. In the latter case, the worker must prove the extent of the damage. (14)]

[§ 5. repealed (14)]

[§ 6. [When a procedure is initiated on the basis of a request for formal psychosocial intervention for acts of violence or moral or sexual harassment at work at the level of the enterprise or institution, the counselor Article 32sexies, § 1, informs the employer, as soon as the application is accepted in accordance with the terms and conditions laid down by the King, that the worker who submitted the application or a testimony

is entitled to the protection referred to in this section from the time the application is received on condition that it has been accepted or from the time the testimony is filed.

The King specifies how to receive the request for a formal psychosocial intervention for acts of violence or moral or sexual harassment at work. (26)]

The witness in court must communicate to the employer that the protection referred to in this article is applicable to him because of the summon to testify in court. [...]

In other cases than those referred to [in paragraphs 1 and 3 (26)], the person who receives the complaint is obliged to inform the employer as soon as possible of the fact that a complaint has been lodged and that the persons concerned benefits from the protection referred to in this article from the moment the complaint [, answering the prescriptions of § 1/1, 2 ° and 3 °, is received by its addressee. (26)] (14)

[Where a worker or an organization referred to in Article 32duodecies, paragraph 1, institutes proceedings to enforce the provisions of this Section, the worker shall enjoy protection from service of the summons or filing of the application with the registry. It is up to the worker to warn his employer that he enjoys protection. (26)]

Section 3.- Disclosure of information and access to documents

Art. 32quaterdecies.- A worker who requests a formal psychosocial intervention, receives a copy of his application.

In the context of a formal psychosocial intervention for acts of violence, moral or sexual harassment at work, the defendant and the witnesses receive a copy of their statements.

Art. 32quinquiesdecies.- The prevention adviser referred to in Article 32sexies, § 1, and the persons in trust are bound by the professional secrecy referred to in Article 458 of the Penal Code.

By derogation from this obligation, the following provisions apply:

(1) as part of the informal psychosocial intervention, the prevention counselor and the person of trust shall provide the information they consider relevant for the proper conduct of the intervention to the persons participating in it;

(2) in the context of examining the request for formal psychosocial intervention of a worker:

(a) the prevention adviser shall communicate the identity of the applicant to the employer once the application has been accepted, except in the context of the information referred to in Article 32/2 (3) (2);

(b) the prevention advisor shall inform the employer in writing of the risks which are of a collective nature resulting from the application pursuant to Article 32/2 (3) (2) and, where appropriate, transmit in writing to the employer of proposals for individual measures pursuant to Article 32/2, § 3, paragraph 5;

(c) the prevention adviser shall send a written opinion on the results of the impartial examination of the application, the content of which is fixed by the King, to the employer and to the person of trust when he has intervened in the same situation in the context of an informal psychosocial intervention;

(d) the prevention adviser shall send in writing to the applicant and to the other person directly involved the proposals for preventive measures relating to the specific work situation contained in the notice referred to in point (c) and their justifications; to facilitate understanding of the situation and acceptance of the outcome of the proceedings;

(e) the prevention advisor who is part of an external service for prevention and protection at work shall forward in writing to the prevention advisor of the internal service for prevention and protection at work the proposals for preventive measures relating to the situation specific work and the proposals to prevent any repetition of the facts in other work situations, contained in the opinion referred to in point (c), and their justifications, the latter to enable it to exercise its coordination tasks;

3° without prejudice to the application of point 2 °, the prevention advisor shall, in the context of the examination of a worker's formal psychosocial intervention request for acts of violence, moral or sexual harassment at work , the following information:

(a) he communicates to the employer the identity of the witnesses referred to in Article 32tredecies, § 1/1, 5 °;

(b) he communicates to the person charged the facts with which he is charged;

(c) it transmits proposals for provisional measures to the employer before the delivery of its opinion referred to in point 2 ° c, if the gravity of the facts so requires;

(d) provide the person who can show an interest with a copy of the document that informs the employer that a request for a formal psychosocial intervention for acts of violence or psychological or sexual harassment at work has been filed as well as the copy of the request for action by the official in charge of the surveillance referred to in Article 32septies;

(e) communicate to the Center for Equal Opportunities and the fight against racism and to the Institute for Equality of Women and Men the opinion referred to in point 2 (c) the request in writing and provided that the worker has agreed in writing on the request, without, however, the Center and the Institute being able to transmit this notice to the worker;

4° the prevention advisor shall keep at the disposal of the officer in charge of surveillance the individual application file, including the documents containing the statements of the persons who were heard by the prevention advisor in the context of a request formal psychosocial intervention;

5° the prevention advisor shall keep at the disposal of the public prosecutor's office the individual application file, including the documents containing the statements of the persons who were heard by the prevention advisor in the context of a formal psychosocial intervention request provided that such persons have given their consent to this transmission in their declaration;

6° the prevention advisor and the person of trust may exchange the information they consider necessary with the prevention counselor-occupational physician so that appropriate measures may be taken with respect to a worker who considers that damage resulting from psychosocial risks at work provided that the worker has given written consent to this exchange;

7° the prevention advisor and the person of trust exchange information necessary for the performance of their duties.

Art. 32sexiesdecies.- The employer shall give a copy of the notice referred to in Article 32quinquiesdecies, paragraph 2, 2 °, c), only to the following persons:

1° the worker vis-à-vis to whom he envisages taking measures under this chapter, which may modify his working conditions;

2° to the person who has made the request for a formal psychosocial intervention for acts of violence, moral or sexual harassment at work or to the person implicated in the application, in the event that they intend to take legal action .

If it considers it necessary for the application of the preventive measures, it provides the members of management the elements of the opinion necessary to achieve this objective.

[...]

CHAPTER XI. - Surveillance and penal provisions

Article 80

The violations of the provisions of this law and of its implementing decrees are sought, established and sanctioned in accordance with the Social Penal Code. Social inspectors have the powers referred to in articles 23 to 39 [and 43 to 49] of the Social Penal Code when acting on their own initiative, or on request as part of their mission of information, advisory and supervisory duties related to the provisions of this law and its implementing decrees.

Penal Social Code, 2010 ²⁹

Article 101

The levels of sanctions

Offenses listed in Book 2 are punished with a Level 1, Level 2, Level 3 or Level 4 sanction.

The level 1 sanction consists of an administrative fine of 10 to 100 euros.

The level 2 sanction is either a criminal fine of 50 to 500 euros or an administrative fine of 25 to 250 euros.

The level 3 sanction is either a criminal fine of 100 to 1000 euros, or an administrative fine of 50 to 500 euros.

The level 4 sanction consists of either imprisonment for six months to three years and a fine of 600 to 6000 euros or one of these penalties, or an administrative fine of 300 to 3000 euros.

Article 119

Acts of violence, moral or sexual harassment at work

Any person who comes into contact with the workers during the performance of their work and who, in contravention of the Act of 4 August 1996 on the well-being of workers during the performance of their work, commits an act of violence, moral or sexual harassment at work, is punishable by a Level 4 sanction.

15 BELIZE

Protection Against Sexual Harassment Act, 1996³⁰

CHAPTER 107 PROTECTION AGAINST SEXUAL HARASSMENT

PART I

Preliminary

1. This Act may be cited as the Protection Against Sexual Harassment Act.

2.-(1) In this Act, unless the context otherwise requires:-

[...]

“employee” includes apprentices, persons on probation, full and part-time employees and commission agents;

“employer” includes the Government of Belize, statutory authorities, quasigovernment bodies and any other employer;

“employment” includes part-time and temporary employment and work under a contract of services;

[...]

“unwelcome sexual advances” means conduct of a sexual nature which is unwelcome, undesirable or offensive to the person to whom that conduct is directed.

²⁹ Penal Social Code, (6 JUIN 2010, as amended up to 24 May 2019), available at http://www.ejustice.iust.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&table_name=loi&cn=2010060607 (last visited 15 November 2019). Unofficial translation by Compendium team.

³⁰ Protection Against Sexual Harassment Act, 12th August, 1996, Revised Edition 2000, available at (last visited 15 November 2019) <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/46346/66275/F1024512278/BLZ46346.pdf>

(2) Any reference in this Act to conduct of a sexual nature in relation to a person includes a reference to the making, to or in the presence of, a person, of a statement of a sexual nature concerning that person, whether the statement is made orally or in writing.

PART II

Forms of Sexual Harassment

3.-(1) No employer or supervisor of an employee shall harass sexually an employee so as to make it appear to the employee that the prospects or working conditions of that employee are contingent upon the employee's acceptance of sexual advances or toleration of the sexual advances from the employer or supervisor.

(2) A prospective employer shall not harass sexually a person so as to make it appear to that person that –
(a) an offer of employment to that person; or
(b) the terms on which employment is offered, is or are contingent on that person's acceptance of sexual advances or toleration of the sexual suggestions or innuendos from the prospective employer.

(3) An employer or employee shall not harass sexually a fellow worker.

(4) For the purpose of this section, a person shall be taken to harass sexually another person if the first-mentioned person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person, or engages in other unwelcome conduct of a sexual nature to the other person, and-
(a) the other person suffers any form of disadvantage in connection with that other person's employment or work or possible employment or possible work; or
(b) the unwelcome request for sexual favours has the effect of interfering unreasonably with the other person's work performance or when it creates an intimidating, hostile or offensive working environment.

(5) In order to determine whether the alleged conduct constitutes sexual harassment in employment, all of the circumstances surrounding the facts that occurred shall be taken into consideration. The determination of the legality of an action shall be based on the findings of each particular case.

4. An employer shall take immediate and appropriate action to correct any act of sexual harassment towards employees in the work place, where the employer, his agents or his supervisors know or are informed of such conduct, and if the employer fails to take immediate and appropriate action to correct the situation, he shall be held responsible therefor, and the aggrieved person may lodge a complaint against him under section 10.

5. Where an employer grants employment opportunities or benefits as a result of a person's submission to sexual harassment and demands of the employer or his agents or his supervisors, the employer shall be held liable for sexual harassment in employment with regard to any other person who was denied such opportunity or benefit because of the refusal of that person to submit to sexual harassment:
Provided that the employer shall be liable for the acts of his agents or supervisors only if he knew or was informed of such acts.

6. No employer shall carry out any action which adversely affects the opportunities, terms and working conditions of an employee who has rejected the employer's practices that are in conflict with the provisions of this Act, or who has instituted proceedings, has given testimony, collaborated or participated in any investigation, procedure or hearing initiated under this Act.

7. No person who is a member of staff or in a position of authority at an institution shall harass sexually a person who is a student or an inmate or ward at that institution or is seeking admission to that institution as a student, ward or inmate.

8.-(1) It shall be the duty of every person in charge of an institution to keep that institution free from sexual harassment and intimidation and to clearly express a policy against sexual harassment to staff, students, inmates or wards of that institution.

(2) For the purpose of this section, sexual harassment constitutes unwelcome verbal or physical conduct of a sexual nature including, but not limited to, the deliberate making of unsolicited gestures or comments, unwelcome sexual advances or requests for sexual favours or the deliberate display of offensive sexually graphic material which is not necessary for institutional purposes.

9. No person shall make it reasonably appear to another person that –

- (a) the terms on which the first-mentioned person offers the other person accommodation;
- (b) the first-mentioned person's acceptance of the other person's application for accommodation;
- (c) the time of processing of the other person's application for accommodation, or the order of precedence of the other person on any list of applicants for that accommodation;
- (d) the other person's access or the extent of such access to any benefit connected with the accommodation; or
- (e) the failure to evict the other person or to subject that other person to any other determination in relation to the accommodation; is or are contingent on that other person's acceptance of sexual advances or toleration of sexual suggestions or innuendos from the first-mentioned person.

PART III

Hearing of Complaints

10. Any person who considers that he is or has been sexually harassed may apply to the Court in writing alleging that he has been sexually harassed within the meaning of section 3, 4, 7 or 9.

11.-(1) Where a complaint relating to an alleged unlawful act is lodged pursuant to section 10 above, the Court may, subject to subsection

(2) below, carry out investigations in relation to the act and endeavour by conciliation, to effect a settlement of the matter to which the act relates. (2) The Court may, for the purposes of investigation, obtain information from any person and make such inquiries as it thinks fit. (3) The Court –

- (a) may endeavour by such means as it considers reasonable to resolve a complaint which is the subject of an inquiry; or
- (b) shall take all steps as it considers reasonable to effect an amicable settlement of a complaint and for this purpose may adjourn an inquiry at any stage to enable the parties to negotiate with a view to settlement by amicable arrangements.

12.-(1) The Court may take evidence on oath, affirmation or affidavit and for that purpose the Court may administer an oath or affirmation.

(2) The Court may decide not to carry out any investigations or, as the case may be, may decide to discontinue any investigations where –

- (a) the Court reasonably believes that the complainant does not wish that the inquiry be made or continued;

(b) a period of more than twelve months has elapsed since the doing of the act and the complaint was not lodged before the expiration of a period of twelve months since the doing of the act; or

(c) the Court is of the opinion that the complaint is frivolous, vexatious, misconceived or lacking in substance.

(3) Where the Court decides not to carry out or decides to discontinue any investigations in relation to a complaint, it shall give notice in writing to the complainant of that decision and of the reasons therefor within two weeks of making that decision.

13.- (1) Where –

(a) any investigations are being conducted by the Court pursuant to section 11; and

(b) the Court has reason to believe that a person is capable of furnishing information (in this section referred to as “relevant documents”), relevant to such investigations, the Court may, by notice in writing served on that person, require the person, at such place and within such time as are specified in the notice, (c) to furnish to the Court, by writing signed by the person, such relevant information as is specified in the notice; or

(d) to produce to the Court such relevant documents as are specified in the notice.

(2) Where documents are produced to the Court in accordance with a requirement under subsection (1), the Court –

(a) may take possession of, and make copies of, or take extracts from, the documents;

(b) may retain possession of the documents for such period as is necessary for the purposes of the inquiry to which the documents relate; and

(c) during that period, shall permit a person who would be entitled to inspect any one or more of the documents if they were not in the possession of the Court, to inspect at all reasonable times such documents as that person would be entitled to inspect.

14.-(1) The Court may, for the purpose of any inquiry, by notice in writing, direct the person referred to in subsection (2) below, to attend at a time and place specified in the notice for the purposes of the inquiry.

(2) Directions under subsection (1) above shall be given to –

(a) the complainant;

(b) the respondent; and

(c) any other person who, in the opinion of the Court, is likely to be able to provide information relevant to the inquiry or whose presence is, in the opinion of the Court, likely to be conducive to the settlement of the matter to which the act relates.

(3) The Court may, in a notice under subsection (1), require the person notified to produce documents as are specified in the notice.

(4) The Court shall give each party to an inquiry a reasonable opportunity to call witnesses or give evidence, examine and cross-examine witnesses and make submissions to the Court.

15. A party to an inquiry may be represented by an attorney-at-law or other person and the Court shall have power to order a party to pay the attorney fees of the other party, where the Court believes that it is just and fair to do so.

16.-(1) After holding an inquiry the Court may –

(a) dismiss the complaint; or

(b) find in favour of the complainant and make any one or more of the orders set out in subsection (2) below.

(2) For the purpose of subsection (1) above, the Court may make any one or more of the following orders:

- (a) that the respondent has engaged in conduct amounting to sexual harassment and should not repeat or continue such conduct;
- (b) that the respondent should perform any reasonable act or course of conduct to redress any loss or damage suffered by the complainant;
- (c) that an order be made to bind-over the respondent for a period of time, and any repetition of the conduct during his bindingover period shall constitute contempt of the court;
- (d) that the respondent desist in continuing the act in question;
- (e) that the respondent should pay to the complainant, damages by way of compensation for any loss or damage suffered by reason of the conduct of the respondent;
- (f) where the complaint relates to sexual harassment by a fellow worker, that the employer concerned should take appropriate action to ensure that the harassment ceases and to report thereon to the Court;
- (g) that it would be inappropriate for any further action to be taken in the matter; or
- (h) make such order or declaration as may be appropriate in relation to the complaint.

(2) The Court may, in the making of a determination under subsection (2) (a) or (2) (f) and (g), also take into consideration injury to the complainant's feelings or humiliation suffered by the complainant.

(3) Where the Court makes a determination by way of a declaration for the payment of compensation to a complainant, the sum so payable may be recovered by the complainant in a court of competent jurisdiction as a civil debt.

(4) Any respondent who fails to comply with a determination for payment of compensation shall be liable to be proceeded against and punished in like manner as if he were found guilty of contempt of Court.

17. Subject to section 18 below, an inquiry shall be held in camera unless the Court otherwise directs.

18. The Court may direct that –

- (a) any evidence given before it;
- (b) the contents of any document produced to it; or
- (c) any information that might enable a person who has appeared before the Court to be identified, shall not be published or shall be published only in such manner, and to such person, as the Court may specify.

PART IV

Offences and Penalties

19.-(1) Any person directed, pursuant to section 13(l), to attend an inquiry and who fails without reasonable excuse to do so, commits an offence and is liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding one month, or to both such fine and term of imprisonment.

(2) Any person who, without reasonable excuse, fails or refuses to furnish information or produce documents pursuant to a requirement under section 13 or 14 commits an offence and is liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding one month, or to both such fine and term of imprisonment.

(3) Any person appearing before the Court as witness at an inquiry who-

- (a) refuses or fails to be sworn or to make an affirmation; or
- (b) refuses or fails to answer any question required to be answered by the Court, commits an offence and is liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding one month, or to both such fine and term of imprisonment.

(4) Any person who-

- (a) interrupts the proceedings at any inquiry; or

- (b) uses insulting language towards the Court when the Court is exercising any powers or performing any functions under this Act; or
- (c) publishes anything in contravention of section 18; or
- (d) furnishes to the Court any information or makes a statement at an inquiry knowing that the information or statement is false or misleading in a material particular; or
- (e) does any other act or thing that would constitute a contempt of the Court, commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months, or to both such fine and term of imprisonment.

20.-(1) Any person who commits an act of victimization against another person commits an offence and shall be liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months, or to both such fine and term of imprisonment.

(2) For the purpose of subsection (1), a person shall be taken to commit an act of victimization against another person where the first-mentioned person subjects, or threatens to subject, the other person to any detriment –

(a) on the ground that the other person-

- (i) has made, or proposes to make, a complaint under this Act;
 - (ii) has brought, or proposes to bring, proceedings under this Act against any person;
 - (iii) has furnished, or proposes to furnish, any information, or has produced, or proposes to produce, any documents to a person exercising or performing any power or function under this Act;
 - (iv) has attended, or proposes to attend, an inquiry under this Act or to appear thereat as a witness;
 - (v) has made an allegation that a person has done an act that is unlawful by virtue of section 3, 4, 7 or 9; or
- (b) on the ground that the first-mentioned person believes that the other person has done, or proposes to do, an act or thing referred to in any one of subparagraphs (i) to (v) of paragraph (a) above.

21. Any person who makes any false, vexatious or frivolous complaint against another person for an alleged contravention of any provision of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars, or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

22.-(1) Where a complaint has been lodged under section 10, no officer of the Court or any other person, having any official duty or being employed in the administration of this Act shall, unless the Court permits, divulge or communicate to any other person, any particulars of that complaint until-

(a) the Court has commenced an inquiry; or

(b) where the Court decides not to hold an inquiry, or where it discontinues an inquiry under section 12 (2).

(2) Nothing in subsection (1) shall prevent disclosure of the particulars of a complaint where such disclosure is required for the purpose of section 20.

23.-(1) No person shall publish any report of proceedings under this Act held in camera.

(2) Every person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months, or to both such fine and term of imprisonment.

(3) Nothing in this section limits-

- (a) the provisions of any other enactment relating to the prohibition or regulation of the publication of reports or particulars relating to judicial proceedings; or
- (b) the power of any summary jurisdiction court to punish any contempt to the Court.

24. The Minister may make Regulations for the better carrying out of the provisions of this Act.

25. This Act shall come into force on a day to be appointed by the Minister, by Order published in the Gazette.

Belize Public Service Regulations, 2014³¹

57. (1) For the purpose of this regulation, sexual harassment has the meaning assigned in section 3 of the Protection Against Sexual Harassment Act.

(2) A public officer who alleges sexual harassment shall make the application in accordance with section 10 of the Protection Against Sexual Harassment Act.

(3) A public officer shall not –

(a) undertake any action, or make a comment that demeans, belittles, embarrasses or personally humiliates another public officer;

(b) threaten or intimidate another public officer;

(c) engage in improper or offensive conduct; or

(d) discriminate against another public officer in any manner that would cause harm to that public officer's job security or well-being.

(4) A public officer who engages in behavior contrary to sub-regulation (3) is subject to the procedures specified in regulation 84.

16 BENIN

Law on the Prevention and Repression of Violence against Women, 2012³²

[...]

TITLE 1 GENERAL PROVISIONS

CHAPTER I PURPOSE AND DEFINITION OF CONCEPTS

Article 1 - The purpose of this Act is to combat all forms of violence against women and girls in the Republic of Benin. Through its criminal, civil and social components, it aims to provide a multidisciplinary response to violence against women and girls.

Article 2 – Violence against women is defined, in this Act, as any act of gender-based violence that causes or is likely to cause physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether in public or private life.

The infringements concern:

[...]

- Physical, moral, sexual or psychological violence within the community, including rape, sexual assault and abuse, sexual harassment as provided for in Act 2006- 19 of 5 September 2006 on the repression of sexual harassment and protection of victims in the Republic of Benin and intimidation at work, in educational institutions and other places, procuring, trafficking and forced prostitution.

³¹ Belize Public Service Regulations, (1 October 2014), available at http://www.oas.org/juridico/PDFs/mesicic5_blz_resp_annex7.pdf (last visited 15 November 2019).

³² Law on the Prevention and Repression of Violence against Women (Loi Portant prévention et répression des violences faites aux femmes), No. 2011- 26 (9 January 2012), available at <https://www.undp.org/content/dam/benin/docs/emancipationdesfemes/violences-faites-aux-femmes.pdf> (last visited 15 November 2019). Unofficial translation by Compendium team.

[...]

Article 3- In this Act, the following definitions apply:

[...]

- harassment: the act of repeatedly giving orders, using words, gestures, writings, messages, threats, coercion, pressure or any other means to obtain favours of any kind, including sexual favours from a person in a situation of vulnerability or subordination, for his benefit or for the benefit of a third party against the will of the woman being harassed;

[...]

- violence in the workplace: refusal, in violation of the law, to hire the victim by contract, to maintain her employment or to respect the general conditions of work; devaluation of work carried out, threats, intimidation, humiliations, exploitation and any type of distraction based on sex;

[...]

CHAPTER II RIGHTS IN THE EMPLOYMENT FIELD

Article 21:

An employee who has been the victim of violence in or outside the company will be entitled to a temporary reduction or reorganization of her working schedule, to a geographical change, upon her request and after obtaining the opinion of the occupational doctor, to an assignment in another establishment, the suspension of her employment contract, and the resignation without notice. At the end of the suspension of her employment contract, the employee returns to her previous job.

Article 22: Absences or non-observance of working hours justified by the physical or psychological situation of the employee related to violence against women can only give rise to sanction by decision of the social services, support services or health services. The employer must be informed within seventy-two (72) hours. The employee benefits from a guarantee of remuneration during these absences.

Article 23: The entrepreneur must take all necessary measures to prevent, terminate and/or punish any verbal or non-verbal words, acts or behavior with a sexual, or sexist connotation, or other behavior based on the actual or alleged sexuality, the object or effect of which is to undermine the rights and dignity of women or girls, or to create an intimidating, hostile, degrading, humiliating or offensive environment, in particular by informing employees, establishing investigating procedures and precautionary measures.

Article 24: The occupational doctor is empowered to propose individual measures such as changes of posts justified by considerations relating in particular to age, physical resilience, violence suffered by women in or outside of the enterprise, or the state of physical and mental health of the workers.

Article 25: The woman civil servant who is a victim of violence, who would be obliged to abandon her workstation in the locality where she was in service, in order to ensure the effectiveness of her protection or her right to integrated social assistance, will enjoy a preferential right to another work position of the same level and grade, with similar characteristics, which is vacant and available. The competent public administration shall be obliged to inform the woman who has been the victim of violence of the vacant posts to be filled in the same locality or in the localities which the person concerned would expressly request.

Article 26: Women victims of violence, who are civil servants, enjoy the same conditions provided for in articles 21, 22, 23, 24 and 25 of this law.

[...]

Law on punishing sexual harassment and protecting victims in the Republic of Benin, 2006 ³³

Chapter I

General provisions

Article 1: Constitute sexual harassment, under this law, the conduct of anyone who gives orders, uses words, gestures, writings, messages, and repeatedly utters threats, imposes coercion, exerts pressure or uses any other means for the purpose of obtaining from a person in a vulnerable situation or subordinate position, favors of a sexual nature for his own profit or that of a third person against the will of the harassed person.

Article 2: Any form of sexual harassment constitutes in the Republic of Benin an offense, regardless of the quality of the victim and regardless of the place of commission of the act.

Article 3: The vulnerable position of the victim may result from age, social or economic status, as well as the physical or mental condition or any related situations left to the discretion of the judge.

Chapter II

Specific provisions

Article 4 : No victim of sexual harassment can be sanctioned or dismissed for having been subjected or having refused to be subjected to acts of sexual harassment of an employer, her or his representative, an educator or any persons abusing of the authority conferred on him by his function or his profession.

Article 5: No person can be sanctioned or dismissed for having reported acts defined in article first or for having recounted them.

[...]

Article 8: No one can take into consideration that a person has been subjected or refused to be subjected to acts of sexual harassment defined in article 1, or has reported or recounted such conduct, in taking decisions particularly with regard to recruitment, payment of fees, training, assignment, qualification, reclassification, professional advancement, professional transfer, termination or renewal of the employment contract or disciplinary sanctions.

Article 9: Any sanctions imposed in violation of the articles 4, 5, 6, 7 and 8 of this law shall be null and void.

Article 10: Any company managers or any employees having committed the acts defined in article 1 are subject to disciplinary measures without prejudice to the court claims.

In any case, the disciplinary measure shall intervene within a period of six (6) months of the date of the referral to the proper authority.

Article 11: the company director shall take all necessary measures in order to prevent the acts referred to in article 4.

³³ Law on punishing sexual harassment and protecting victims in the Republic of Benin, 2006 (Loi no 2006-19 portant répression du harcèlement sexuel et protection des victimes en République du Bénin), Law No. 2006-19 (17 July 2006), available at <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/94850/111466/F-1905608255/BEN-94850.pdf> (last visited 15 November 2019). Unofficial translation by Compendium team.

Article 12: In case of sexual harassment, the victim informs directly, as the case may be:

- her or his employer;
- her or his staff representative;
- her or his trade union;
- her or his manager;
- the work inspection;
- the social promotion center;
- the public security forces;
- the judicial authorities;
- the associations of defense of interest of the school or any associations of defense of human rights provided with the legal personality.

They have to provide assistance to the victim or review the case.

Article 13: An employee is within the meaning of this law, irrespective of her or his sex or her or his nationality, anyone who has undertook to provide her or his professional activity, in exchange of remuneration, under the leadership and authority of a natural or legal, public or private person.

For the determination of the employee status, it shall not be taken into consideration the legal status of the employer nor that of the salaried person.

Article 14: The trade unions as well as any associations provided with legal personality and approved by the competent authority and aimed at the defense of the equality of men and women at work and the struggle for the dignity of men and women, can bring a civil proceeding before the criminal court ; even without justifying a material interest and even if the collective interest for which they act is confused with the social interest whose defense is ensured by the public prosecutor.

Article 15: For judicial actions referred to in the previous article brought in the interest of an employee, the trade unions need to receive a written agreement from the concerned party.

Article 16: Any acts of sexual harassment will be considered as serious infringement if the victim, even unemployed, has a relationship of subordination with the perpetrator or is in a vulnerable situation as defined in Article 3 above.

[...]

Chapter III

Penal sanctions

Article 22 : Any person who perpetrates sexual harassment shall be punished by a fine of one hundred thousand (100.000) francs CFA and a term of imprisonment from one (1) year to (2) years or only one of those penalty.

The accomplice is punished with the same punishment.

Article 23: The maximum penalty provided for in Article 22 shall be imposed if sexual harassment is committed:

- by a person having abused her or his authority conferred by her or his functions or her or his status with respect to the victim;

[...]

- against a minor;
 - against a particularly vulnerable person because of her pregnancy, her or his age, her or his disease, her or his disability or her or his physical or psychic impairment.
- In the event of a repeated infringement, the penalty shall be doubled.

Article 24: The person who had knowledge of facts of sexual harassment, while it was still possible to limit its effects, did not immediately inform the public authorities, trade unions and/or any organizations duly empowered in accordance with the article 12 of the law, shall be punished by a term of imprisonment from one (1) month to (1) year and a fine from fifty thousand (50.000) to five hundred thousand (500.000) francs CFA, or only one of those penalty.
[...]

17 BHUTAN

Labour and Employment Act, 2007³⁴

Prohibition against sexual harassment

16. An employer shall not sexually harass:

- (a) a person seeking employment with that employer; or
- (b) an employee of that employer.

17. An employee shall not sexually harass:

- (a) another person employed by his or her employer;
- (b) his or her employer; or
- (c) a person seeking employment with his or her employer.

18. For the purposes of sections 16, 17 and 19, sexual harassment includes:

- (a) making an unwelcome sexual advance or an unwelcome request for sexual favours to the other person; or
- (b) engaging in any other unwelcome conduct of a sexual nature in relation to the other person.

19. In sections 16 to 18 "conduct of a sexual nature" includes-

- (a) subjecting a person to any act of physical intimacy;
- (b) making any oral or written remark or statement with sexual connotations to a person or about a person in his or her presence; or
- (c) making any gesture, action or comment of a sexual nature in a person's presence.

20. A person who contravenes sections 16 to 19 shall be guilty of an offence which shall be a petty misdemeanour. In addition, the Court may impose fine at the rate of the Daily Minimum National Wage Rate to a maximum of 3000 days in accordance to the severity of the offence.

³⁴ Labour and Employment Act, (4 January 2007), available at https://www.nationalcouncil.bt/assets/uploads/docs/acts/2014/Labour_and_Employment_Act,_2007_Dzo.pdf (last visited 15 November 2019).

Penal Code, 2004³⁵

Sexual Harassment

205. A defendant shall be guilty of sexual harassment, if the defendant makes physical, verbal, non-verbal abuse of sexual nature.

Grading of sexual harassment

206. The offense of sexual harassment shall be a petty misdemeanour.

[...]

18 BOLÍVIA

Comprehensive Law to Guarantee Women a Life Free of Violence, 2013³⁶

Article 19 – Measures in the Educational Scope

- I. The Ministry of Education has the obligation and responsibility to adopt the following measures:

[...]

5. Formulate and implement a policy of prevention of sexual harassment in the education system.
6. Develop regulations and a unique protocol for the treatment of complaints about all forms of school violence and sexual harassment, protection mechanisms and specialized attention to girls, boys and adolescent victims.

Article 21 – Measures in the Labor Scope

- I. The Ministry of Labor, Employment and Social Security must adopt the following measures designed to guarantee respect for women:

[...]

4. Protection against all forms of sexual harassment or workplace harassment, and adoption of internal and administrative procedures for reporting, investigation, attention, prosecution and punishment.

Article 35 – Protective Measures

The protective measures that the competent authority may dictate are the following:

[...]

15. Provide for the removal of the aggressor that committed sexual harassment in the workplace.

[...]

17. Restrict, in case of sexual harassment, all contact between the aggressor and the woman, without affecting the labor rights of the woman.

³⁵ Penal Code, 11 August 2004, available at <https://www.oecd.org/site/adboecdanti-corruptioninitiative/46814108.pdf> (last visited 15 November 2019).

³⁶ Comprehensive Law to Guarantee Women a Life Free of Violence, (Ley Integral Para Garantizar a las Mujeres una Vida Libre de Violencia). Law n. 348 (9 March 2013) available in Spanish at https://www.comunicacion.gob.bo/sites/default/files/dale_vida_a_tus_derechos/archivos/LEY%20348%20ACTUALIZACION%2018%20WEB.pdf (last visited 15 November 2019). Unofficial translation by Compendium team.

Article 84 – New Criminal Types. Articles 154 bis, 252 bis, 271 bis, 272 bis, 312 bis, 312 are incorporated into the Criminal Code ter, 312c, under the following text:

"Article 312 fourth. (SEXUAL HARASSMENT).

I. The person who using a hierarchical position or power of any kind harass, pursue, demand, urge, threaten to produce any damage or injury, condition the obtaining of a benefit or force by any means another person to maintain a relationship or perform acts or conduct of sexual content that otherwise would not be consented, for their benefit or for the benefit of a third person, shall be punished with deprivation of liberty of four (4) to eight (8) years.

II. If the requirement, request or imposition is exercised by a public servant within the scope of the hierarchical relationship he/she holds, he/she will be dismissed from his/her position and the penalty will be aggravated by one third."

Regulation of Law n. 348 "Comprehensive Law to Guarantee Women a Life Free of Violence", 2014³⁷

Article 3 – Fouls and Contraventions

I. Acts of violence against women that do not constitute crimes must be reported, investigated and sanctioned by administrative channels, in accordance with the current legislation.

II. The following acts and omissions constitute fouls of violence against women:

(...)

c) Harassment and labor violence will be reported to the Ministry of Labor Employment and Social Welfare; likewise, discrimination through verbal aggressions or mistreatment and non-compliance with duties within the same institution where the incident occurred, all these contraventions shall be considered part of workplace violence;

19 BOSNIA HERZEGOVINA

Law on Gender Equality, 2010³⁸

Article 5

(1) Harassment shall be considered as any unwanted behaviour based on gender that aims to harm dignity of a person, group of persons and create intimidating, hostile, degrading, humiliating or insulting environment or achieves such effect.

(2) Sexual harassment shall be considered every unwanted form of verbal, non-verbal or physical behaviour of sexual nature that aims to harm dignity of a person or group of persons, or has such effect, especially when this behaviour creates intimidating, hostile, degrading, humiliating or offensive environment.

[...]

Article 6

(1) Violence on grounds of gender shall be prohibited.

³⁷ Supreme Decree n. 2145 – Regulation of Law n. 348 (14 October 2014). Available in Spanish at <http://leyesdecretosbolivia.blogspot.com/2014/10/descarga-ds-n-2145-reglamento-de-la-ley.html> (last visited 15 November 2019) 15 November 2019)..

³⁸ Law on Gender Equality, 2010 (consolidated version, Official Gazette No. 16/03 and 102/09), available at http://arsbih.gov.ba/wp-content/uploads/2014/02/GEL_32_10_E.pdf (last visited 15 November 2019).

(2) Violence on grounds of gender shall be considered every action that causes or may cause physical, mental, sexual or economic damage or suffering, as well as threat to such action which prevents this person or group of persons to enjoy their human rights and freedoms in public and private sphere of life.

(3) Violence on grounds of sex shall include but shall not be limited to:

[...]

b) Violence occurring in wider community;

c) Violence committed or tolerated by authorities and other authorised bodies and individuals;

[...]

(4) Competent authorities shall be obliged to take appropriate measures to eliminate and prevent gender based violence in public and private sphere of life, and ensure instruments to provide protection, assistance and compensation to victims.

(5) Competent authorities shall take appropriate measures, including, but not limiting to area of education in order to eliminate prejudices, customs and all other practices based on idea of inferiority or superiority of any gender, as well on stereotypical roles of male and female sex.

This shall include, but shall not be limited to education and raising awareness among civil servants, in public and other ways.

Article 13

[...]

(2) An employer is required to undertake effective measures to prevent harassment, sexual harassment and gender discrimination at work and in employment as set out in para. 1 of this Law, and may undertake no measures against an employee by reason that that employee has brought proceedings for harassment, sexual harassment or discrimination on the grounds of gender.

[...]

PART XIII OBLIGATIONS OF COMPETENT AUTHORITIES

Article 24

(1) Authorities at the state and entity level, cantonal bodies, local self- governance units, legal persons with public authorities, legal persons who are mainly in the state's property shall be obliged to take all appropriate and needed measures in order to implement provisions prescribed by this Law according to areas, but not limited to:

[...]

b) Adoption of new or changing and amending existing laws and other regulations in order to harmonize them with provisions of this Law and international standards for gender equality;

[...]

Article 29

A person who, on grounds of sex, commits violence, harassment or sexual harassment that endanger serenity, mental health or body integrity shall be punished with a fine or imprisonment for a term of six months up to five years.

PART XV – PENAL PROVISIONS

Article 30

(1) A fine of from 1,000 KM to 30,000 KM shall be imposed on a juristic person for the following misdemeanours:

a) failure to undertake appropriate steps and use effective protective mechanisms against discrimination on the grounds of gender, harassment and sexual harassment;

[...]

(2) A responsible person within a legal entity shall also be imposed a fine of from KM 100 to KM 1000 for a breach from the paragraph 1 of this Article, as well as individuals who work independently with resources belonging to citizens.

(3) No provision in this Article can be interpreted as limitation or reduction of the right to initiate criminal or civic proceedings, under conditions regulated by this Law.

[...]

Law on Prohibition of Discrimination 2009³⁹

Article 2

(Discrimination)

Discrimination, in terms of this Law, shall be every different treatment including every exclusion, limitation or preference based on real or assumed features towards any person or group of persons on grounds of their race, skin colour, [...] sex, sexual expression or sexual orientation, and every other circumstance with a purpose or a consequence to disable or endanger recognition, enjoyment or realization, of rights and freedoms in all areas of public life.

Prohibition of discrimination shall be applied to all public bodies, all natural and legal persons, in public and private sector, in all spheres, especially: employment, membership in professional organisations, education, training, housing, health, social protection, goods and services designated for public and public places together with performing economic activities and public services.

Article 4

(Other Forms of Discrimination)

Harassment shall be considered discrimination in every situation when behaviour is related to one of mentioned grounds from Article 2 that aims for or has an effect of harming person's dignity and creating intimidating, hostile, degrading, humiliating or offensive atmosphere.

Sexual harassment shall be considered every form of unwanted verbal, non-verbal or physical behaviour of sexual nature which aims for or has effect of harming the dignity of a person, especially when it creates fearful, hostile, degrading, humiliating or offensive environment.

[...]

20 BOTSWANA

Penal Code⁴⁰

146. Indecent assaults

(1) Any person who unlawfully and indecently assaults any person is guilty of an offence and is liable to imprisonment for a term not exceeding seven years, with or without corporal punishment.

[...]

³⁹ Law on Prohibition of Discrimination, 5 August 2009, available at: <https://www.refworld.org/docid/4d302a9f2.html> (last visited 15 November 2019).

⁴⁰ PenalCode, Ch. 08:01, Sec. 146, available at <http://www.elaws.gov.bw/display/rpage1.php?id=1457> (last visited 15 November 2019).

(3) Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture or exhibits any object intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman or intrudes upon the privacy of such woman, is guilty of an offence and is liable to imprisonment for a term not exceeding one year.

Public Service Act, 2010 ⁴¹

2. Interpretation (1) In this Act, unless the context otherwise requires-

[...]

"employee" means any person who has entered into a contract of employment for the hire of his or her labour in terms of this Act;

"employer" means the Government in respect of all of its officers except members of the Botswana Defence Force, the Botswana Police Service, the Local Police Service, and the Prison Service;

[...]

5. Composition

(1) The public service shall consist of persons who-

(a) hold posts on the fixed establishment in any Government Ministry or Department;

(b) immediately before the coming into force of this Act were employed in terms of the Public Service Act repealed by this Act;

(c) immediately before the commencement of this Act were part of the Teaching Service, including teachers in Government schools and persons who held Government aided posts in private schools;

(d) immediately before the commencement of this Act were part of the Unified Local Government Service or Land Board Service;

(e) are employed temporarily or under a special contract, within a Government Ministry or Department;

(f) immediately before the commencement of this Act, were industrial employees remunerated by Government.

[...]

38. Sexual harassment

(1) Notwithstanding the provisions of sections 36 and 37, the sexual harassment of one employee by another, or by a person in authority over another in the public service, shall constitute misconduct.

(2) For the purposes of this section, "sexual harassment" means any unwanted, unsolicited or repeated sexual advance, sexually derogatory statement or sexually discriminatory remark made by an employee to another, whether made in or outside the workplace, which is offensive, or objectionable to the recipient, which causes the recipient discomfort or humiliation, or which the recipient believes interferes with the performance of his or her job security or prospects, or creates a threatening or intimidating work environment.

39. Disciplinary proceedings for misconduct

(1) Disciplinary action against an employee who commits an act of misconduct shall be prompt and in accordance with the rules of natural justice.

⁴¹ Public Service Act, Ch;26:01 (1 May 2010), available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/80401/116881/F296599292/BWA80401.pdf> (last visited 15 November 2019).

(2) The procedure to be followed in respect of a disciplinary action shall be as agreed by collective bargaining.

40. Punishments for misconduct

The following are the punishments that may be imposed in disciplinary proceedings under this Act in respect of misconduct

- (a) a reprimand;
 - (b) stoppage of increment, that is non-payment for a specified period of an increment otherwise due;
 - (c) deferment of increment, that is a postponement of the date on which the next increment is due.
 - (d) with the written consent of the employee, reduction of salary, that is an immediate adjustment of salary to a lower point on the salary scale attached to the post in question;
 - (e) a demotion;
 - (f) suspension from duty, without pay for a period not exceeding one month; or
 - (g) dismissal.
- [...]

21 BRAZIL

[Decree N. 2.848 – Criminal Code, 1940](#)⁴²

Sexual Harassment (Included by Law N. 10,224 of 15 2001)

Article. 216-A. Embarrass someone with the intention of obtaining a sexual advantage or favor, by taking advantage of one's superior hierarchical status or that deriving from the exercise of a job, position or duty. (Included by Law N. 10,224 of 15 2001)

Penalty - imprisonment from 1 (one) to 2 (two) years. (Included by Law N. 10,224 of 15 2001)

[...]

Paragraph 2. The penalty is increased by up to one third if the victim is under eighteen (18) years old.

[Decree N. 3.689 – Code of Criminal Procedure, 1941](#)⁴³

Art. 387. The judge, in the criminal conviction:

[...]

IV - will set a minimum monetary amount to repair the damages caused by the crime, considering the damages suffered by the victim;

[...]

[Decree 5.452 – Consolidation of Labor Laws, 1943](#)⁴⁴

Article 483. The employee may consider terminated the contract and claim due compensation when:

⁴² Criminal Code, (Código Penal). Decree N. 2.848 (7 December 1940) available in Portuguese at http://www.planalto.gov.br/ccivil_03/decreto-lei/del2848compilado.htm, last visited, 15 November 2019. Unofficial translation by Compendium team.

⁴³ Code of Criminal Procedure, (Código de Processo Penal). Decree N. 3.689 3 October 1941) available in Portuguese at http://www.planalto.gov.br/ccivil_03/decreto-lei/del3689.htm, last visited 15 November 2019. Unofficial translation by Compendium team.

⁴⁴ Consolidation of Labor Laws, (Consolidação das Leis do Trabalho). Decree N. 5.452 (1 May 1943) available in Portuguese at <https://www.mitess.gov.mz/sites/default/files/Lei%20%2023%202007%20de%201%20de%20Agosto%20-%20Lei%20do%20Trabalho%20%281%29.pdf>, last visited, 15 November 2019. Unofficial translation by Compendium team.

[...]

d) the employer fails to meet the obligations under the contract;

e) the employer or his agents practice against the employee or his/her family members a harmful act to the honor and reputation;

[...]

Law N. 10.406 – Civil Code, 2002⁴⁵

Article 927. The person who, by unlawful act (arts. 186 and 187), causes harm to another, is obliged to repair it.

Sole paragraph. There will be an obligation to repair the damage, regardless of negligence, in the cases specified by law, or when the activity normally performed by the perpetrator of the damage entails, by its nature, a risk to the rights of others.

Article 932. The following are also responsible for civil reparation:

[...]

III - the employer or principal, by his/her employees, servants and agents, in the exercise of the work that is their responsibility, or by reason of it;

[...]

Article 933. The persons indicated in items I to V of the preceding article, even if there is no negligence on their part, shall be responsible for the acts performed by the third parties referred to therein.

22 BRUNEI DARUSSALAM

Penal Code, 2016⁴⁶

Word, gesture or act intended to insult modesty of woman

509. Whoever, intending to insult the modesty of any woman —

(a) utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman; or

(b) intrudes upon the privacy of such woman, shall be punished with imprisonment for a term not exceeding 3 years and fine.

23 BULGARIA

Law on Protection Against Discrimination, 2004⁴⁷

Art. 5. Harassment on the basis of grounds in art.4, para.1, sexual harassment, incitement to discrimination, persecution and racial segregation, as well as the construction and maintenance of an

⁴⁵ Civil Code, (Código Civil). Law N. 10.406 (10 January 2002) available in Portuguese at http://www.planalto.gov.br/ccivil_03/leis/2002/L10406compilada.htm , last visited 15 November 2019. Unofficial translation by Compendium team.

⁴⁶ Penal Code (revised edition 2016), available at http://www.agc.gov.bn/AGC%20Images/LAWS/ACT_PDF/Cap.22a.pdf (last visited 15 November 2019).

⁴⁷ Law on Protection Against Discrimination, 1 January 2004, available at <https://www.lex.bg/laws/ldoc/2135472223> (last visited 15 November 2019).

architectural environment that impedes access of persons with disabilities to public places shall be considered discrimination.

[...]

Art. 17. An employer who has received a complaint from an employee who is considered to have been harassed, including sexually abused, in the workplace is obliged to immediately carry out an inspection, take measures to end the harassment and to impose disciplinary liability, if the harassment was committed by another employee.

[...]

Art. 74. (1) In cases under section I, any person who has suffered a violation of rights under this or other laws governing equality of treatment may bring an action for damages in the general courts against the persons and / or bodies who caused the damage.

(2) In cases where the damage is caused to citizens by unlawful acts, acts or omissions of state bodies and officials, the claim for compensation shall be filed in accordance with the State Liability Act for damage caused to citizens.

[...]

24 BURKINA FASO

Law on Preventing, Punishing and Repairing Violence against Women and Girls and Caring for Victims, 2015

48

[...]

Article 11:

Is guilty of sexual harassment, whoever repeatedly imposes on a woman or a girl sexually oriented words or actions that are offensive to her dignity because of their degrading or humiliating nature or creates a daunting situation, hostile or offensive.

Is assimilated to sexual harassment, the act of using any form of serious pressure, for the real or apparent purpose of obtaining a favor of a sexual nature that is sought for the benefit of the perpetrator or for the benefit of a third party.

Sexual harassment is punishable by imprisonment from three months to one year and a fine of three hundred thousand (300,000) to five hundred thousand (500,000) CFA francs or one of these two penalties. The penalty is maximized when:

- the perpetrator has influence or authority over the victim;
- the perpetrator is an ascendant;
- the victim is in a vulnerable situation.

[...]

⁴⁸ Law on Preventing, Punishing and Repairing Violence Against Women and Girls and Caring For Victims, Law No. 061-2015 /CNT (6 September 2015), available in French at <https://www.refworld.org/docid/5d42bdfd.html> (last visited 15 November 2019). Unofficial translation by Compendium team.

Article 16:

Anyone who is aware that violence is being committed or has been committed against a woman or a girl must inform the police, the prosecutors of Burkina Faso, or any competent services or institutions.

Article 17:

Any woman or girl who is a victim of violence as defined in this law may seize by complaint or by any other means the competent authorities including the judicial or administrative authorities.

Any natural or legal person with knowledge of the same offenses may refer to the same authorities through a detailed report or by way of report or denunciation.

The respective authorities alerted through these means are obliged to follow up on the said referrals.

Article 18:

Any person who, during the performance of his/her duties, is aware of a case of violence against a woman or a girl is required to report it to the competent authorities.

Article 19:

Anyone who, by threats of retaliation, obstructs a denunciation by the aforementioned persons is liable to sanctions in accordance with the provisions of the Criminal Code relating to threats and the failure to provide assistance.

[...]

Article 21:

Before the competent courts, the victim, if he/she cannot afford a lawyer, is assisted by a public defender.

The victim may also be represented by a person of his/her choice or by a recognized non-governmental organization defending human rights, in case of incapacity or in case of extreme vulnerability certified by medical professionals.

[...]

Article 36:

All physical, sexual, moral and psychological, economic, patrimonial, or cultural violence, as defined in Article 5 of this Law, and all other forms of violence against women and girls which cannot receive an adequate qualification, still imply civil liability of their authors and victims are entitled to remedies by the civil courts and to the payment of damages whose amounts are fixed according to the damages caused.

Article 37:

Decisions on violence against women and girls may be subject to opposition, appeal, or cassation before

the competent ordinary courts in accordance with the civil and criminal provisions applicable in cases of violence against women and girls.

[...]

Labor Code, 2008 ⁴⁹

Article 1:

This Act applies to workers and employers carrying on their activities in Burkina Faso.

Article 2:

For the purposes of this Act, any person who is engaged to put his professional activity for remuneration, under the direction and the authority another person, physical or moral, public or private, called employer. In determining the status of worker, no account shall be taken of the legal status of the employer or the employee's.

[...]

Article 37:

Sexual harassment in the workplace is prohibited.

Sexual harassment between colleagues, suppliers or clients encountered in the context of work is also prohibited.

Sexual harassment consists in obtaining from others by order, word, intimidation, act, gesture, threat or constraint, favors of a sexual nature.

25 BURUNDI

Penal Code, 2009 ⁵⁰

Section 4

Sexual Harassment

Article 563:

It is an act of sexual harassment to use orders, threats, physical or psychological coercion, or severe pressure against others for the purpose of obtaining favors of a sexual nature and by abusing the authority conferred by one's functions.

Punishment is from a month to two years of penal servitude and from a hundred thousand to five hundred thousand francs fine.

If the victim of the harassment is a minor under the age of eighteen, the penalties are doubled.

Law on the Prevention, Protection of Victims and Punishment of Gender-based Violence, 2016 ⁵¹

⁴⁹ Labor Code, Law No. 028-2008 / AN (13 May 2008), available at <http://www.droit-afrique.com/upload/doc/burkina/Burkina-Code-travail-2008.pdf> (last visited 15 November 2019). Unofficial translation by Compendium team.

⁵⁰ Penal Code (Law No.1/05 of 22 April 2009 revising the Penal Code), available at [https://ihl-databases.icrc.org/ihl-nat/a24d1cf3344e99934125673e00508142/cb9d300d8db9fc37c125707300338af2/\\$FILE/Code%20Pénal%20du%20Burundi%20.pdf](https://ihl-databases.icrc.org/ihl-nat/a24d1cf3344e99934125673e00508142/cb9d300d8db9fc37c125707300338af2/$FILE/Code%20Pénal%20du%20Burundi%20.pdf) (last visited 15 November 2019). Unofficial translation by Compendium team.

⁵¹ Law on the Prevention, Protection of Victims and Punishment of Gender-Based Violence (Loi portant repression, protection des victimes, et repression des violences basees sur le genre), No. 1/13 (22 September 2016), available at

[...]

CHAPTER I - GENERAL PROVISIONS

SECTION I: SCOPE

Article 1. Without prejudice to the relevant provisions of the Penal Code and the Code of Criminal Procedure, the purpose of this law is the prevention, protection and punishment of gender-based violence.

SECTION II - DEFINITIONS

Article 2: For the purposes of this law, except where criminal law otherwise defines, the following definitions shall apply:

a) Gender-based violence: any act of violence directed against a person by reason of his or her sex by causing or being able of causing physical, sexual, economic, psychological or emotional harm or suffering, including the threat of such acts, forced or arbitrary deprivation of liberty, whether in public or private life;

[...]

e) Violence against women: any act of violence directed against the female sex causing or likely to cause physical, sexual or psychological harm or suffering to the woman including the threat of such acts, coercion or arbitrary deprivation of freedom, whether in public or private life;

[...]

n) sexual harassment: all forms of unwanted behavior, verbal, non verbal, or physical, of a sexual nature, between equals or those in a hierarchical relationship; directing orders, threats, physical or psychological coercion, or other forms of serious pressure against others with the aim of obtaining favors of a sexual nature and by abusing the authority conferred by one's functions.

CHAPTER II - PREVENTION OF GENDER-BASED VIOLENCE

Article 3: The Government formulates and implements a national gender policy.

Article 4: The Government presents to the National Assembly, during its first ordinary session, a report that describes the implementation of its national policy, especially with regard to the fight against gender-based violence.

Article 5: The Government shall take all necessary measures to raise awareness to change the patterns and models of sociocultural behavior of men and women, with the aim to eliminate practices, whether customary or not, which are based on the idea of the inferiority or superiority of one or the other sex or of a stereotyped role of the man or the woman.

Article 6: It is forbidden to threaten a person, to deprive him or her of any rights with a view to exerting on this person any act of violence based on gender.

[...]

Article 9: Ministries having education in their attributions adopt necessary measures and strategies to include specific training on gender in training programs.

[...]

<http://www.assemblee.bi/IMG/pdf/loi%20du%2022%20sept%202016.pdf> (last visited 15 November 2019). Unofficial translation by Compendium team.

Article 10: The Government and local authorities must provide comprehensive and continuous training program for professionals working on gender equality and in the fight against gender-based violence.

Article 11: A specialized unit or focal point of Gender-Based Violence is created within each police station, with the technical support of a psychologist and/or social worker subject to the approval from the Ministry of Public Security.

Article 12: The National Communication Council shall ensure that media programs do not contain any incitement to discrimination and gender-based violence, in particular by avoiding spurious and vexatious representations of gender relations.

CHAPTER III - PROTECTION OF VICTIMS OF GENDER-BASED VIOLENCE

Article 13: The Government promotes, through social, health, legal and educational structures, the early detection of cases of Gender-Based Violence and the integrated care of victims.

[...]

Article 14: An employee who is the victim of gender-based violence in or outside the company is entitled to a temporary reduction or reorganization of his/her working time, to a geographical transfer, upon request and after obtaining the physician's consent, to the assignment to another establishment, the suspension of his employment contract and his resignation without notice.

At the end of the suspension of his employment contract, the employee returns to his previous job.

Article 15: Leave of absence or non-observance of work schedules related to Gender Based Violence can only be justified by a medical decision.

The employer must be informed within seventy-two hours.

The employee benefits from a guarantee of remuneration during these leaves of absence.

[...]

Article 19: The State creates reception centers and shelters that take care of the victim from the first moments after the facts and protect him/her against the aggressor while waiting for the implementation of the adequate solution to the problem by the competent authority.

Article 20: As soon as they arrive at reception centers, victims of gender-based violence benefit from emergency social services. These structures are organized to respond to urgent needs and to provide lasting and multidisciplinary support through holistic responses to victims including medical, psychosocial, legal, judicial and social reintegration.

[...]

Article 21: The direct neighbors of a victim of gender-based violence and the administrative officials have the obligation to intervene as soon as they have the information and to take all the necessary measures to help and protect against the continuation of the act under penalty of being punished in accordance with the Criminal Code.

Article 22: Subject to other legal provisions relating thereto, evidence or testimony relating to gender-based violence shall be provided to the courts by any interested person who has the information.

[...]

Article 23: The amicable settlement of cases of gender-based violence is equal to complicity in the act of violence. It is punished by the same penalty as the one prescribed for that specific offense or fact.

Anyone who attempts to obstruct investigations for the prosecution of such offenses, acts or deeds shall be punished by the same penalty as that provided for that offense, act or fact.

If the author of this obstruction is an administrative agent, an administrative, judicial or police authority, the penalty is doubled.

For the facts, offenses or gender-based violence described in this Act, a second offense is punishable by twice the penalty for that offense.

CHAPTER IV - REPRESSION OF GENDER-BASED VIOLENCE [...]

Article 25: In the absence of any denunciation or complaint by the victim or any other person, as soon as the Prosecutor becomes aware of a gender-based offense, the principle of automatic referral is applicable and the Prosecutor can act on his own initiative.

When the Prosecutor files a case concerning gender-based violence, he shall notify the complainant, the victim and the accused in writing within two weeks.

[...]

Article 28: The prosecutor's offices of the Republic must integrate Magistrates specialized in gender-based violence.

A specialized chamber on gender-based violence is created within each district court.

As part of proceedings related to gender-based violence, the privacy of victims and witnesses is protected, in particular their personal data, that of their descendants and any other person who would be in their custody. The Public Ministry is required to take special measures for their physical protection.

Article 29: Any association regularly declared for two years at the date of the facts, that includes in its statutes the fight against Gender-Based Violence or any other deliberate attack on the life and integrity of the person or destruction, degradation repressed by the relevant provisions of the Code relating thereto, may join the victim of the crime or file a complaint in lieu of the latter.

Nevertheless, the association will be admitted to file a complaint only if it justifies having received the agreement of the victim or, if this one is minor or someone forbidden to participate in legal proceedings, that of the tutor or its curator.

Article 30: The State shall ensure that victims have the right to legal assistance and legal aid.

[...]

Article 47: Any act of intimidation aimed at the abandonment of legal proceedings concerning gender-based violence is punishable by deprivation of liberty for ten-year and a fine of fifty thousand to one hundred thousand Burundian francs.

[...]

Article 52:

The employer who violates the rights of an individual as conferred by the Labor Code or other secondary legislation on the grounds of sex shall be punished with a fine from 500,000 to 1,000, 000 Burundian francs, without prejudice to the possibility of compensation.

[...]

Article 54: The official status of an individual responsible for an offense of gender-based violence cannot exonerate from responsibility nor be invoked as a diminishing circumstance.

Article 55: The hierarchical status or the position of a legitimate civilian or military authority cannot exonerate from responsibility the author of an offense of gender-based violence.

Article 56: Anyone found guilty of falsely accusing another person of committing a gender-based violence offense under this law shall be punished in accordance with the criminal law provisions in force.

Article 57: All other acts of gender-based violence not specifically provided for in this law shall be punished in accordance with the legislation in force.

Article 58: The victim of gender-based violence and any other affected person has the right to apply to the competent courts for damages.

[...]

CHAPTER V - FINAL PROVISIONS

Article 61: The offenses provided for by this law are unamendable and imprescriptible with regard to both public prosecution and punishment. They cannot be pardoned.

[...]

26 CAMEROON

Penal Code, 2016 ⁵²

(1) Whomever, by abusing the authority conferred upon him by his position, harasses another person by giving orders, making threats, imposing restrictions or by exercising pressure with the aim of obtaining sexual favors, is punished with imprisonment from (6) six months to (1) year, and by a fine from 100,000 to 1,000,000 francs.

(2) The sentence is imprisonment from (1) one to (3) year if the victim is a minor.

[...]

27 CAMBODIA

Penal Code ⁵³

Article 250: Sexual Harassment

Sexual harassment is an act that a person abuses the power which was vested to him/her in his/her functions in order to put pressure again and again on other persons in exchange for sexual favour.

⁵² Penal Code, Law 2016/007 (12 July 2016), available at <http://www.droit-afrique.com/uploads/Cameroun-Code-2016-penal1.pdf> (last visited 15 November 2019). Unofficial translation by Compendium team.

⁵³ Penal Code, Law No. 001/PR/2017 (Loi n°001/PR/2017 du 8 mai 2017 portant Code Pénal), available at <http://sogi.sithi.org/admin/upload/media/125-rlhnfhw1371009220.pdf> (last visited 15 November 2019).

The sexual harassment is punishable by an imprisonment of between 6 (six) days to 3 (three) months and a fine of between 100,000 (one hundred thousand) Riels and 500,000 (five hundred thousand) Riels.

Article 251: Attempt

The attempt to commit misdemeanours specified in the present Chapter carries the same punishment as misdemeanours.

Article 252: Additional Penalties: Categories and Duration

For offences in the present Chapter, the following additional penalties may be pronounced:

[...]

2. prohibition against pursuing a profession during which time the crime was committed in course of or during the occasion of pursuing of this profession for a period of not more than 5 (five) years;

[...]

Labour Law, 1997⁵⁴

Section 8

Child labor - women labor

A. Joint Provisions

Article 172:

All employers and managers of establishments in which child laborers or apprentices less than eighteen years of age or women work, must watch over their good behavior and maintain their decency before the public. All form of sexual violation (harassment) is strictly forbidden.

CHAPTER VIII

HEALTH AND SAFETY OF WORKERS SCOPE OF APPLICATION

Section 1 General provisions

Article 229:

All establishments and work places must always be kept clean and must maintain standards of hygiene and sanitation or generally must maintain the working conditions necessary for the health of the workers.

[...]

28 CANADA

28.1 Federal

Canadian Human Rights Act, 1985 (as amended)⁵⁵

[...]

⁵⁴ Labour Law, 13 March 1997, available at <http://www.ilo.org/dyn/travail/docs/701/Labour%20Law.pdf> (last visited 15 November 2019).

⁵⁵ Canadian Human Rights Act, R.S.C., 1985, c. H-6 (consolidated to 20 June 2019), available at <https://laws-lois.justice.gc.ca/PDF/H-6.pdf> (last visited 15 November 2019).

Harassment

PART I

Proscribed Discrimination

[...]

14(1) It is a discriminatory practice

- (a) in the provision of goods, services, facilities or accommodation customarily available to the general public,
- (b) in the provision of commercial premises or residential accommodation, or
- (c) in matters related to employment, to harass an individual on a prohibited ground of discrimination.

Sexual harassment

(2) Without limiting the generality of subsection (1), sexual harassment shall, for the purposes of that subsection, be deemed to be harassment on a prohibited ground of discrimination.

[...]

Complaints

40 (1) Subject to subsections (5) and (7), any individual or group of individuals having reasonable grounds for believing that a person is engaging or has engaged in a discriminatory practice may file with the Commission a complaint in a form acceptable to the Commission.

[...]

Investigation commenced by Commission

(3) Where the Commission has reasonable grounds for believing that a person is engaging or has engaged in a discriminatory practice, the Commission may initiate a complaint.

[...]

Investigation

Designation of investigator

43 (1) The Commission may designate a person, in this Part referred to as an “investigator”, to investigate a complaint.

[...]

Conciliator

Appointment of conciliator

47 (1) Subject to subsection (2), the Commission may, on the filing of a complaint, or if the complaint has not been

- (a) settled in the course of investigation by an investigator,
 - (b) referred or dismissed under subsection 44(2) or (3) or paragraph 45(2)(a) or 46(2)(a), or
 - (c) settled after receipt by the parties of the notice referred to in subsection 44(4),
- appoint a person, in this Part referred to as a “conciliator”, for the purpose of attempting to bring about a settlement of the complaint.

[...]

Settlement

Referral of a settlement to Commission

48 (1) When, at any stage after the filing of a complaint and before the commencement of a hearing before a Human Rights Tribunal in respect thereof, a settlement is agreed on by the parties, the terms of the settlement shall be referred to the Commission for approval or rejection.

[...]

Inquiries into Complaints

Request for inquiry Instruction

49 (1) At any stage after the filing of a complaint, the Commission may request the Chairperson of the Tribunal to institute an inquiry into the complaint if the Commission is satisfied that, having regard to all the circumstances of the complaint, an inquiry is warranted.

[...]

Complaint substantiated

(2) If at the conclusion of the inquiry the member or panel finds that the complaint is substantiated, the member or panel may, subject to section 54, make an order against the person found to be engaging or to have engaged in the discriminatory practice and include in the order any of the following terms that the member or panel considers appropriate:

(a) that the person cease the discriminatory practice and take measures, in consultation with the Commission on the general purposes of the measures, to redress the practice or to prevent the same or a similar practice from occurring in future, including (i) the adoption of a special program, plan or arrangement referred to in subsection 16(1), or (ii) making an application for approval and implementing a plan under section 17;

(b) that the person make available to the victim of the discriminatory practice, on the first reasonable occasion, the rights, opportunities or privileges that are being or were denied the victim as a result of the practice;

(c) that the person compensate the victim for any or all of the wages that the victim was deprived of and for any expenses incurred by the victim as a result of the discriminatory practice;

(d) that the person compensate the victim for any or all additional costs of obtaining alternative goods, services, facilities or accommodation and for any expenses incurred by the victim as a result of the discriminatory practice; and

(e) that the person compensate the victim, by an amount not exceeding twenty thousand dollars, for any pain and suffering that the victim experienced as a result of the discriminatory practice.

[...]

Canada Labour Code, 1985 (as amended) ⁵⁶

DIVISION XV.1

SEXUAL HARASSMENT

Definition of *sexual harassment*

247.1 In this Division, *sexual harassment* means any conduct, comment, gesture or contact of a sexual nature

(a) that is likely to cause offence or humiliation to any employee; or

⁵⁶ Canada Labour Code, R.S.C., 1985, c. L-2 (current to 20 June 2019), available at: <https://laws-lois.justice.gc.ca/eng/acts/L-2/page-47.html#h-343247> (last visited 15 November 2019).

(b) that might, on reasonable grounds, be perceived by that employee as placing a condition of a sexual nature on employment or on any opportunity for training or promotion.

R.S., 1985, c. 9 (1st Supp.), s. 17

Right of employee

247.2 Every employee is entitled to employment free of sexual harassment.

R.S., 1985, c. 9 (1st Supp.), s. 17

Responsibility of employer

247.3 Every employer shall make every reasonable effort to ensure that no employee is subjected to sexual harassment.

R.S., 1985, c. 9 (1st Supp.), s. 17

Policy statement by employer

247.4 (1) Every employer shall, after consulting with the employees or their representatives, if any, issue a policy statement concerning sexual harassment.

Contents of policy statement

(2) The policy statement required by subsection (1) may contain any term consistent with the tenor of this Division the employer considers appropriate but must contain the following:

- (a) a definition of sexual harassment that is substantially the same as the definition in section 247.1;
- (b) a statement to the effect that every employee is entitled to employment free of sexual harassment;
- (c) a statement to the effect that the employer will make every reasonable effort to ensure that no employee is subjected to sexual harassment;
- (d) a statement to the effect that the employer will take such disciplinary measures as the employer deems appropriate against any person under the employer's direction who subjects any employee to sexual harassment;
- (e) a statement explaining how complaints of sexual harassment may be brought to the attention of the employer;
- (f) a statement to the effect that the employer will not disclose the name of a complainant or the circumstances related to the complaint to any person except where disclosure is necessary for the purposes of investigating the complaint or taking disciplinary measures in relation thereto; and
- (g) a statement informing employees of the discriminatory practices provisions of the *Canadian Human Rights Act* that pertain to rights of persons to seek redress under that Act in respect of sexual harassment.

Publicity

(3) Every employer shall make each person under the employer's direction aware of the policy statement required by subsection (1).

28.2 State

28.2.1 Ontario

Human Rights Code, 1962⁵⁷

Sexual harassment

7 [...]

Harassment because of sex in workplaces

(2) Every person who is an employee has a right to freedom from harassment in the workplace because of sex, sexual orientation, gender identity or gender expression by his or her employer or agent of the employer or by another employee.

Sexual solicitation by a person in position to confer benefit, etc.

(3) Every person has a right to be free from,

(a) a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or

(b) a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.

[...]

Infringement prohibited

9. No person shall infringe or do, directly or indirectly, anything that infringes a right under this Part.

[...]

Penalty

46.2 (1) Every person who contravenes section 9 or subsection 31 (14), 31.1 (8) or 44 (13) or an order of the Tribunal is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.

[...]

Occupational Health And Safety Act, 1990 (As Amended)⁵⁸

[...]

Definitions

1 (1) In this Act,

“workplace harassment” means,

(a) engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or

(b) workplace sexual harassment;

“workplace sexual harassment” means,

(a) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or

⁵⁷ Ontario Human Rights Code, R.S.O. 1990, c. H. 19, (15 June 1990, current to 26 March 2019), available at <https://www.ontario.ca/laws/statute/90h19#BK80> (last visited 15 November 2019).

⁵⁸ Occupational Health and Safety Act, R.S.O. 1990, c. O.1, available at <https://www.ontario.ca/laws/statute/90o01#BK113> (last visited 15 November 2019).

(b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome;

[...]

PART

III

DUTIES OF EMPLOYERS AND OTHER PERSONS

[...]

PART

III.0.1

VIOLENCE AND HARASSMENT

28.2.1.1 Policies, violence and harassment

32.0.1 (1) An employer shall,

(a) prepare a policy with respect to workplace violence;

(b) prepare a policy with respect to workplace harassment; and

(c) review the policies as often as is necessary, but at least annually.

Written form, posting

(2) The policies shall be in written form and shall be posted at a conspicuous place in the workplace.

Exception

(3) Subsection (2) does not apply if the number of workers regularly employed at the workplace is five or fewer, unless an inspector orders otherwise.

Program, violence

32.0.2 (1) An employer shall develop and maintain a program to implement the policy with respect to workplace violence required under clause 32.0.1 (1) (a).

Contents

(2) Without limiting the generality of subsection (1), the program shall,

(a) include measures and procedures to control the risks identified in the assessment required under subsection 32.0.3 (1) as likely to expose a worker to physical injury;

(b) include measures and procedures for summoning immediate assistance when workplace violence occurs or is likely to occur;

(c) include measures and procedures for workers to report incidents of workplace violence to the employer or supervisor;

(d) set out how the employer will investigate and deal with incidents or complaints of workplace violence; and

(e) include any prescribed elements.

Assessment of risks of violence

32.0.3 (1) An employer shall assess the risks of workplace violence that may arise from the nature of the workplace, the type of work or the conditions of work.

Considerations

(2) The assessment shall take into account,

(a) circumstances that would be common to similar workplaces;

(b) circumstances specific to the workplace; and

(c) any other prescribed elements.

Results

(3) An employer shall,

(a) advise the committee or a health and safety representative, if any, of the results of the assessment, and provide a copy if the assessment is in writing; and

(b) if there is no committee or health and safety representative, advise the workers of the results of the assessment and, if the assessment is in writing, provide copies on request or advise the workers how to obtain copies.

Reassessment

(4) An employer shall reassess the risks of workplace violence as often as is necessary to ensure that the related policy under clause 32.0.1 (1) (a) and the related program under subsection 32.0.2 (1) continue to protect workers from workplace violence.

Same

(5) Subsection (3) also applies with respect to the results of the reassessment.

Duties re violence

32.0.5 (1) For greater certainty, the employer duties set out in section 25, the supervisor duties set out in section 27, and the worker duties set out in section 28 apply, as appropriate, with respect to workplace violence.

Information

(2) An employer shall provide a worker with,

(a) information and instruction that is appropriate for the worker on the contents of the policy and program with respect to workplace violence; and

(b) any other prescribed information or instruction.

Provision of information

(3) An employer's duty to provide information to a worker under clause 25 (2) (a) and a supervisor's duty to advise a worker under clause 27 (2) (a) include the duty to provide information, including personal information, related to a risk of workplace violence from a person with a history of violent behaviour if,

(a) the worker can be expected to encounter that person in the course of his or her work; and

(b) the risk of workplace violence is likely to expose the worker to physical injury.

Limit on disclosure

(4) No employer or supervisor shall disclose more personal information in the circumstances described in subsection (3) than is reasonably necessary to protect the worker from physical injury.

Program, harassment

32.0.6 (1) An employer shall, in consultation with the committee or a health and safety representative, if any, develop and maintain a written program to implement the policy with respect to workplace harassment required under clause 32.0.1 (1) (b).

Contents

(2) Without limiting the generality of subsection (1), the program shall,

(a) include measures and procedures for workers to report incidents of workplace harassment to the employer or supervisor;

(b) include measures and procedures for workers to report incidents of workplace harassment to a person other than the employer or supervisor, if the employer or supervisor is the alleged harasser;

(c) set out how incidents or complaints of workplace harassment will be investigated and dealt with;

(d) set out how information obtained about an incident or complaint of workplace harassment, including identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or is otherwise required by law;

(e) set out how a worker who has allegedly experienced workplace harassment and the alleged harasser, if he or she is a worker of the employer, will be informed of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation; and

(f) include any prescribed elements.

Duties re harassment

32.0.7 (1) To protect a worker from workplace harassment, an employer shall ensure that,

(a) an investigation is conducted into incidents and complaints of workplace harassment that is appropriate in the circumstances;

- (b) the worker who has allegedly experienced workplace harassment and the alleged harasser, if he or she is a worker of the employer, are informed in writing of the results of the investigation and of any corrective action that has been taken or that will be taken as a result of the investigation;
- (c) the program developed under section 32.0.6 is reviewed as often as necessary, but at least annually, to ensure that it adequately implements the policy with respect to workplace harassment required under clause 32.0.1 (1) (b); and
- (d) such other duties as may be prescribed are carried out.

Results of investigation not a report

- (2) The results of an investigation under clause (1) (a), and any report created in the course of or for the purposes of the investigation, are not a report respecting occupational health and safety for the purposes of subsection 25 (2).

Information and instruction, harassment

32.0.8 An employer shall provide a worker with,

- (a) information and instruction that is appropriate for the worker on the contents of the policy and program with respect to workplace harassment; and
- (b) any other prescribed information.

PART

IX

OFFENCES AND PENALTIES

Penalties

66 (1) Every person who contravenes or fails to comply with,

- (a) a provision of this Act or the regulations;
- (b) an order or requirement of an inspector or a Director; or
- (c) an order of the Minister,

is guilty of an offence and on conviction is liable to a fine of not more than \$100,000 or to imprisonment for a term of not more than twelve months, or to both.

Idem

- (2) If a corporation is convicted of an offence under subsection (1), the maximum fine that may be imposed upon the corporation is \$1,500,000 and not as provided therein.

[...]

29 CAPE VERDE

Labor Code, 2007 (as amended) ⁵⁹

Art. 410

Sexual harassment

1. The employer, manager, supervisor or other agent of the employer, such as a teacher, instructor, coach, trainer or any other person who, having the authority, influence or moral authority over a worker, sexually harasses him or her, by making hiring, renewal, promotion, acquisition of privileges, as well as scholarships, allowances or other benefits dependent on obtaining sexual favors for him or others, is punished with a fine up to two years of the minimum salary within the public administration.

⁵⁹Labor Code, Legislative Decree No. 5/2007 (16 October 2007, as amended by Legislative Decree No. 1/2016), (Decreto-Legislativo nº 5/2007 de 16 de Outubro alterado pelo Decreto-Legislativo nº 1/2016, de 3 de Fevereiro), available at <https://www.ilo.org/dyn/travail/docs/1157/Labour%20Code.pdf> and <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/103699/126117/F-155397059/DECRETO%20LEGISLATIVO%201%202016%20CABO%20VERDE.pdf> (last visited 15 November 2019).

2. The same fine shall apply to the people referred to by the preceding paragraph who, in the event of the employee's refusal to grant such favors, discriminate against, obstruct or reduce their employment opportunities, intimidate or create a hostile workplace environment, in order to reduce their opportunities, in or outside the company.

3. The same fine applies to those who encourage others to practice the facts described by the preceding paragraphs.

Penal Code, 2003⁶⁰

Article 152

(Sexual harassment)

Anyone who, by abusing of the authority given by their work, sexually harasses another person with orders, threats or coercion for the purposes of obtaining sexual favors or benefits, shall be punished with imprisonment of up to 1 year or a fine of up to 100 days.

Special Law Against Gender-Based Violence, 2011⁶¹

[...]

Article 3

Definitions

For the purposes of this law:[...]

d) "Sexual harassment" means any conduct committed by any person who, having authority or influence over another, makes hiring, permanence in work, renewal of the contract, promotion or acquisition of any other privileges, as well as scholarship grants, subsidies or other relevant benefits for the person or their dependents, dependent on obtaining sexual favors for themselves or a third party.

Article 4

Fundamental objectives

The present law has as fundamental objectives:

- a) Ensure the exercise of special rights for victims of GBV, particularly in the social, labor and criminal spheres;
- b) Promote special obligations for the State and other public authorities in the adoption of public policies for the prevention, assistance and repression of gender-based violence;
- c) Create or strengthen the capacity of institutional structures to combat gender-based violence;
- d) Create conditions to ensure timely, specialized and effective responses to victims, both at the police and judicial assistance and social protection levels;
- e) Recognize that all the rights contained in this law are also guaranteed to foreigners who are in national territory, regardless of the situation in which they are.

[...]

⁶⁰ Penal Code, Legislative decree No. 4/2003 (18 November 2003), (Código Penal, aprovado pelo Decreto-legislativo nº 4/2003, de 18 de Novembro, alterado pelo Decreto-legislativo nº 4/2015), available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/105340/128800/F2009426981/CABO%20VERDE%202.pdf> (last visited 15 November 2019).

⁶¹ Special Law Against Gender-Based Violence, Law nº 84 / VII / 2011 (10 January 2011), (Lei nº 84 / VII / 2011, de 10 de janeiro – lei especial contra a violência baseada no género), available at <https://portondinosilhas.gov.cv/images/igrp-portal/img/documentos/1D1F38270D312D9FE053E600040AE293.pdf> (last visited 15 November 2019).

Article 12

Labor rights

1. The labor rights in all situations of gender-based violence are especially protected.
2. Victims, under the terms of this law, are guaranteed the right to:
 - a) Non-dismissal, on grounds of impossibility of working due to situations of gender-based violence;
 - b) Flexibility in working hours, regardless of the functions performed;
 - c) Facilitating mobility within the possibilities of the employer;
 - d) Granting of short, medium or long-term leave, without loss of work place, regardless of the duration of service already delivered;
 - e) Termination of the employment contract unilaterally and with justification.

Article 13

Access to justice

1. The right to access to justice, with urgency, is guaranteed in all cases directly or indirectly cause of GBV.
 2. Legal aid, right to representation or assistance by a lawyer must be ensured with priority and urgency to victims who demonstrate that they cannot afford legal support.
- [...]

TITLE III

Crimes and Special Procedures

CHAPTER I

Criminal custody

Section I

Gender-based violence

Article 23

Gender-based violence

1. Whoever, by reason of gender, in the circumstances and under the conditions referred to in paragraphs 2, 3 and 4 of article 2, commits, against others, acts of violence referred to in article 3 (c), in any form therein, shall be punished by sentence of imprisonment of 1 to 5 years.
 2. If the conduct of the agent results in damage described by articles 122, 129 of the Penal Code, the penalties provided for in articles 123 and 124 of that Code shall apply.
 3. If the perpetrator performs the acts described therein against the spouse, ex-spouse or person with a disability or a person who they cohabite with or are bound by affective relationship, whether or not there is cohabitation, he/she shall be subject to the penalties provided for in articles 142 and 144 of the Penal Code.
 4. The provisions of article 8 of the Penal Code apply to this crime.
- [...]

Article 25

Harassment

1. Whoever, having authority or influence over someone else makes hiring, staying in work, renewing the contract, promoting or acquiring any other privileges, as well as scholarships, subsidies or other relevant benefits dependent on obtaining sexual favors for himself or for a third party, shall be punished with a prison sentence of up to one year or with a penalty of a fine of 100 to 250 days.

2. Whoever, because of the refusal of the victim to grant favors, hinders or reduces his job opportunities or any other opportunity, intimidates or creates a hostile environment at their place of work or at any other location will incur in the penalties referred to in the preceding paragraph.

Article 26

Suspension of sentence

1. The penalty applicable for the commission of crimes under this law may only be suspended when it does not exceed two years' imprisonment, and the agent, at the discussion and trial hearing:

(a) Agrees to a follow-up and reinstallation program;

(b) Carries out service in favor of the community, as established in the Penal Code.

2. The obligation set forth in paragraph a) of the preceding paragraph may also be imposed on the agent, in the case of a crime under this law, regardless of the actual penalty applied.

[...]

Article 35

Form of proceedings

1. The trial of the crimes referred to by this law observes the proceedings of the simplified/short process, even if the conditions set forth by paragraph 1 of article 430 of the Code of Criminal Procedure are not fulfilled, with the specificities established in the following paragraphs.

2. The accusation is always preceded by instruction.

3. The decision of the judge shall be issued within 48 hours after the corresponding court proceedings have been filed.

4. When cases are referred to ordinary procedure, which is admissible only in the situations provided for in paragraphs 2 and 3 of article 23, the time limit for the hearing may not exceed 90 days.

30 CENTRAL AFRICAN REPUBLIC

Law Protecting Women against Violence in the Central African Republic, 2006⁶²

Art. 1: Violence specifically directed against women refers to all acts of violence directed against the female sex, and causing or potentially causing women physical, sexual or psychological harm or suffering, including the threat of such acts, arbitrary deprivation of freedom, whether in public life or in private life.

[...]

Art. 5: Harassment is the action of constantly attacking and tormenting with insistence another person

[...]

Art. 25: The harassment of a woman by means of orders, threats or restraints for the purpose of obtaining favors of a sexual nature by a person who abuses the authority conferred upon him by his duties or position is punishable by 6 months to 1 year imprisonment and a fine of 50,000 to 500,000 CFA francs.

31 CHAD

Penal Code, 2017⁶³

⁶² Law Protecting Women Against Violence In The Central African Republic, Law No. 06.032 (27 December 2006), available at <https://www.refworld.org/docid/54f821684.html> (last visited 15 November 2019). Unofficial translation by Compendium team.

⁶³ Penal Code, Law No. 001/PR/2017 (8 May 2017), available at <https://www.droit-afrique.com/uploads/Tchad-Code-penal-2017.pdf> (last visited 15 November 2019). Unofficial translation by Compendium team.

[...]

Article. 341 - Commits the offense of sexual harassment and is punished by imprisonment for six months to two years and a fine of 100,000 to 1,000,000 FCFA, whoever imposes on a person, repeatedly, sexual remarks or behaviors that, undermine his or her dignity because of their degrading or humiliating character, or create an intimidating, hostile or offensive situation. Sexual harassment refers to the fact, even if not repeated, of using any form of serious pressure for the real or apparent purpose of obtaining an act of a sexual nature, whether it is sought for the benefit of the perpetrator or for the benefit of a third party.

The penalties are imprisonment of one to three years and a fine of 200,000 to 2000,000 FCFA or only one of these two sentences, if the acts are committed:

- (a) by a person who abuses the authority conferred on him by his functions;
- (b) a person under the age of eighteen years;
- (c) a person who is particularly vulnerable because of illness, infirmity, physical or mental disability or pregnancy, where that situation is known or apparent to the perpetrator;
- (d) a person who is particularly vulnerable or dependent because of the precariousness of his economic or social situation, known to the perpetrator or apparent;
- (e) by several persons acting in collaboration or when one is the author and the other is an accomplice.

[...]

32 CHILE

Labor Code, 2002 (as amended) ⁶⁴

Art.2. The law hereby recognizes the social function of labor and the freedom of people to hire and dedicate their effort to the lawful work they choose.

Labor relations shall always be based on treatment compatible with the dignity of individuals. Sexual harassment, among other behaviors, are deemed contrary to such premise, namely understood as such in which a person improperly performs, by any means, behaviors of sexual nature which are not consented to by those who receive them, and which threaten or harm their employment status or their employment opportunities. Likewise, labor harassment is contrary to the dignity of the person, understood as any conduct that constitutes repeated aggression or harassment, exercised by the employer or by one or more workers, against another or other workers, by any means, and that has as a result for the affected person or its impairment, mistreatment or humiliation, or that threatens or damages their employment situation or their employment opportunities.

Acts of discrimination are contrary to the principles of labor laws.

Acts of discrimination are distinctions, exclusions or preferences based on race, color, sex, maternity, breastfeeding, age, marital status, syndication, religion, political opinion, nationality, national ancestry, socioeconomic status, language, beliefs, participation in trade organizations, sexual orientation, gender identity, affiliation, personal appearance, illness or disability or social origin, which are intended to nullify

⁶⁴ Labor Code (Codigo del Trabajo), (July 31st 2002, consolidated and amended up to July 2019), available at <https://www.leychile.cl/Navegar?idNorma=207436> (last visited 15 November 2019). Unofficial translated by Compendium team.

or alter equal opportunities or treatment in employment and occupation. However, distinctions, exclusions or preferences based on the qualifications required for a given job will not be considered discrimination.

Due to the foregoing and without prejudice to other provisions of this Code, job offers made by an employer, directly or through third parties and by any means, that indicate any of the conditions referred to in the fourth paragraph as a requirement to apply, shall be considered discriminatory.

No employer may condition the hiring of workers to the absence of obligations of an economic, financial, banking or commercial nature that, according to the law, may be communicated by those responsible for records or personal data banks; nor demand for that purpose any declaration or certificate. Only those workers who have the power to represent the employer, such as managers, assistant managers, agents or proxies, are excepted, provided that, in all these cases, they are endowed with at least general administrative powers; and the workers in charge of the collection, administration or custody of funds or securities of any nature.

The provisions of the third and fourth subsections of this article and the obligations that emanate from them for the employers, shall be understood as incorporated in employment contracts executed.

It is up to the State to protect workers in their rights to freely choose their work and ensure compliance with the rules that regulate the provision of services.

[...]

Art. 153. Companies, establishments, or economic units that occupy ten or more permanent workers, who provide services in the different factories or departments, even if they are in different locations, must prepare an internal regulation on order, hygiene and safety that contains the obligations and prohibitions of workers in relation to their work, stay and life in the premises of the respective company or establishment.

Especially, the standards that must be observed to ensure a decent working environment and mutual respect between workers.

A copy of the regulation should be sent to Ministry of Health and the Labor Directorate within five days after the effective date of the same.

[...]

Article 154: The internal regulations must contain at least the following provisions:

[...]

12.- The applicable procedures and the measures of protection and sanctions for complaints of sexual harassment. In the case of sexual harassment complaints, the employer who, in the case of a complaint by the affected worker, fully complies with the procedure established in Title IV of Book II, shall not be subject to the increase indicated in letter c) of the first paragraph of

Article 168.

[...]

Art. 160. The employment contract ends without any right to compensation when the employer terminates it by invoking one or more of the following causes:

1.- Any misconduct of a serious nature, if duly proven, such as indicated below:

a) Lack of worker probity in the performance of their duties;

b) Sexual harassment behaviors;

[...]

e) Immoral conduct of the worker that affects the company where he works, and

f) Work harassment behaviors.

[...]

5.- Acts, omissions or reckless behavior that affect the safety or operation of the establishment, the safety or activity of the workers, or their health.

[...]

Art. 168. The worker whose contract ends on account of one or more of the grounds established in articles 159, 160

and 161, and who considers such grounds to be unjustified, improper or inadmissible, or that there was no legal cause to invoke them, may resort to the competent court, within the period of sixty business days, counted from the break in contract, to request that it may as such be declared. In such case, the judge will order the payment of the compensation referred to in the fourth subsection of article 162 and that of the first or second subsections of article 163, as appropriate, and increased, regarding the latter, according to the following rules:

a) By thirty percent, if termination occurred based on the improper application of Article 161;

b) By fifty percent, if termination occurred based on an unjustified application on the grounds of article 159 or if no legal cause was invoked for said termination;

c) By eighty percent, if termination occurred based on an improper application on the grounds of Article 160.

If the employer had invoked the grounds indicated in numbers 1, 5 and 6 of article 160 and the dismissal was also declared devoid of plausible reason by the court, the compensation established in the first or second subsections of article 163, as appropriate, shall be increased by one hundred percent. In the case of complaints of sexual harassment, the employer who has fulfilled his obligation under the terms set forth in article 153, second paragraph, and Title IV of Book II, shall not be subject to the surcharge of compensation applicable, in case the dismissal is declared unfair, improper or inadmissible. "

If the judge establishes that the application of one or more of the grounds for termination of the contract established in articles 159 and 160 has not been verified, in accordance with the provisions of this article, it shall be understood that the term of the contract has been produced by any of the causes indicated in Article 161, on the date the cause was invoked, and the right to the corresponding legal increases shall be invoked in accordance with the provisions of the preceding paragraphs.

The period established in the first paragraph shall be suspended when, during the period, the worker files a claim for any of the causes set forth before the respective Labor Inspectorate. The term will continue to run once the process has been completed before said Inspection. Notwithstanding the foregoing, in no case may the court be appealed after ninety business days from the worker's severance.

[...]

Article 171: If the employer is responsible for any of the conducts indicated in numbers 1, 5 or 7 of article 160, the worker may terminate the contract and resort to the respective court within a period of sixty days, counted from the termination, so that it is ordered the payment of the compensation established in the fourth paragraph of article 162, and in the first or second subsections of article 163, as appropriate increased by fifty percent for the grounds under number 7. For grounds in numbers 1 and 5, the compensation may be increased up to eighty percent.

In the case of the complaints on the grounds of letters a) and b) of number 1 of article 160, the affected worker may claim from the employer, simultaneously with the claim for action granted in the preceding paragraph, the other compensation to which he/she is entitled.

When the employer has not observed the procedure established in Title IV of Book II, he/she shall respond in accordance with the first and second preceding paragraphs. "

The worker must give the notices referred to in article 162 in the manner and opportunity indicated therein.

If the Court rejects the worker's claim, it will be understood that the contract is terminated by resignation.

If the worker falsely invokes the grounds of letter b) of number 1 of article 160 or does so for the purpose of injuring the honor of the defendant and the court declares the claim void of plausible grounds, he/she shall be obligated to indemnify the damages caused to the affected party. If the cause is maliciously invoked, in addition to compensation for damages, he/she shall be subject to other legal actions that may proceed. "

[...]

"TITLE IV - ON THE INVESTIGATION AND SANCTION OF SEXUAL HARASSMENT

Article 211-A.- In the case of sexual harassment, the affected person must submit their complaint in writing to the address of the company, establishment or service or to the respective Labor Inspectorate.

Article 211-B.- Once the complaint is received, the employer must adopt the necessary protective measures with respect to those involved, such as the separation of physical spaces or the redistribution of working time, considering the seriousness of the alleged facts and the possibilities derived from working conditions. If the complaint is made before the Labor Inspectorate, it will promptly suggest the adoption of those measures to the employer.

Article 211-C.- The employer shall arrange for an internal investigation of the facts or, within five days, shall submit the information to the respective Labor Inspectorate.

In any case, the investigation must be completed within thirty days.

If an internal investigation is chosen, it must be recorded in writing, kept in strict confidentiality, guaranteeing that both parties are heard and can provide evidence for their claims, and the conclusions should be sent to the respective Labor Inspectorate.

Article 211-D.- The conclusions of the investigation carried out by the Labor Inspectorate or its observations to the investigation carried out internally, shall be brought to the attention of the employer, the complainant and the accused.

Article 211-E.- In accordance with the merit of the report, the employer must, within fifteen days counted from the date on which the report is received, arrange and apply the corresponding measures or sanctions.
"

[...]

Article 425

[...]

The labor causes in which an accusation of sexual harassment is invoked, must be kept in custody by the clerk of the court, and only the parties and their judicial proxies shall have access to them.

33 CHINA

Law on the Protection of Women's Rights and Interests, 1992 (as amended) ⁶⁵

[...]

Article 4

The protection of women's lawful rights and interests is a common responsibility of the whole society. State organs, public organizations, enterprises and institutions as well as urban and rural mass organizations of self-government at the grass-roots level shall, in accordance with the provisions of this Law and other relevant laws, protect women's rights and interests.

The State shall take effective measures to provide necessary conditions for women to exercise their rights according to law.

[...]

Chapter VI Rights Relating to the Person

[...]

Article 40

Sexual harassment against woman is prohibited. The victims have the right to lodge complaint to unit or organ concerned.

[...]

Chapter VIII Legal Responsibility

Article 52

When a woman's lawful rights and interests are infringed upon, she has the right to request the competent department concerned for a disposition or arbitration from arbitration agency according to the law or bring a lawsuit in a people's court. Local legal aid agencies or the People's Court should provide help and legal and judicial aids according to the law with women who are poor in financial situation and need legal or judicial aids.

Article 53

When a woman's lawful rights and interests are infringed upon, she may file a complaint with a women's organization, women's organization should maintain woman victim's rights and interests and has right to request and assist the department or unit concerned to investigate and deal with the case so as to protect the lawful rights and interests of the complainant. The department or unit concerned should conduct investigation and deal with and give reply.

Article 54

⁶⁵ Law on the Protection of Women's Rights and Interests, 3 April 1992 (as amended on 28 August 2005), available at <http://www.wcwonline.org/pdf/lawcompilation/TheRevisedLawProtection.pdf> (last visited 15 November 2019).

Whenever a woman victim needs help in litigation, women's organizations should support. Women's Federation or women's organizations concerned can expose and criticize the violations of women's rights through the mass media and also request the department concerned to investigate and address the violation according to the law.

[...]

Article 56

Where administrative punishments are prescribed by other laws or regulations for the infringement upon the lawful rights and interests of women in violation of the provisions of this Law, punishments prescribed in such laws or regulations shall apply. Where an infringement upon a woman's lawful rights and interests causes loss of property or other damage, the infringer shall make due compensation or bear other civil liabilities according to the law. If the circumstances are so serious as to constitute a crime, the offender shall be investigated for criminal responsibility.

[...]

Article 58 Any violation of a stipulation prescribed in this law, which results in sexual harassment to a woman, and constitutes a violation of public order or administration, the victim can ask the public security organs to impose administrative punishment, and also bring civil litigation to the People's Court.

[...]

Special Provisions on Labor Protection of Female Employees, 2012⁶⁶

Article 1 These Provisions are formulated in order to reduce and solve the special difficulties caused by female employees in their work due to their physiological characteristics and to protect the health of female employees.

Article 2 These Provisions apply to state organs, enterprises, institutions, social organizations, individual economic organizations, and other social organizations and other employers within the territory of the People's Republic of China.

Article 3 Employers shall strengthen the labor protection of female employees, take measures to improve the safety and health conditions of female employees, and train women workers in labor safety and health knowledge.

[...]

Article 11 In the workplace, the employer shall prevent and stop sexual harassment of female employees.

Article 12 The human resources and social security administrative departments and the production safety supervision and administration departments of the people's governments at or above the county level shall be responsible for supervising and inspecting the compliance of the employers with these regulations in accordance with their respective duties.

Trade unions and women's organizations shall supervise the compliance of employers with these regulations in accordance with the law.

[...]

Article 14 If an employer violates these Provisions and infringes upon the lawful rights and interests of female employees, female employees may complain, report or appeal according to law, apply for mediation and arbitration to the labor and personnel dispute mediation and arbitration institution according to law, and if they are dissatisfied with the arbitral award, they shall file a lawsuit with the people's court.

Article 15 If an employer violates these Provisions and infringes on the lawful rights and interests of female employees and causes damage to female employees, it shall be compensated according to law; if the employer and its directly responsible supervisors and other directly responsible personnel constitute a crime, criminal responsibility shall be investigated according to law.

⁶⁶ Special Provisions on Labor Protection of Female Employees, State Council Order No. 619 (28 April 2012), available at http://www.gov.cn/zwqk/2012-05/07/content_2131567.htm (last visited 15 November 2019).

34 COLOMBIA

Penal Code, 2000⁶⁷

ARTICLE 210-A. SEXUAL HARASSMENT. Who for their benefit or that of a third party and using their manifest superiority or relationships of authority or power, age, sex, employment, social, family or economic position, harasses, persecutes, provokes or physically or verbally assault, for sexual purposes not consented, another person, will be imprisoned for one (1) to three (3) years."

Law 1010, 2006⁶⁸

ARTICLE 1. OBJECT OF THE LAW AND ASSETS PROTECTED BY IT. The purpose of this law is to define, prevent, correct and sanction the various forms of aggression, abuse, humiliation, inconsiderate and offensive treatment and, in general, any outrage against the human dignity exercised on those who carry out their economic activities in the context of an private or public employment relationship.

The following are legal entitlements protected by this law: work in decent and fair conditions, freedom, privacy, honor and mental health of workers, employees, harmony between those who share the same work environment and the good environment in the company.

PARAGRAPH: This law shall not apply in the field of civil and / or commercial relations arising from contracts for the provision of services in which there is no hierarchy or subordination relationship. It also does not apply to administrative contracting.

ARTICLE 2. DEFINITION AND MODALITIES OF HARASSMENT IN THE WORKPLACE. For the purposes of this law, workplace harassment shall mean any persistent and demonstrable conduct, exercised on an employee, a worker by an employer, an immediate or intermediate head or superior, a co-worker or a subordinate, aimed at instilling fear, intimidation, terror and anguish, to cause work injury, generate demotivation at work , or induce their resignation.

In the context of the first paragraph of this article, workplace harassment can occur, among others, under the following general modalities:

(1) Labor abuse. Any act of violence against physical or moral integrity, physical or sexual freedom and the assets of those who work as employees or workers; any abusive or outrageous verbal expression that damages the moral integrity or the rights to privacy and the good name of those who participate in a work-type employment relationship or any behavior tending to undermine the self-esteem and dignity of those who participate in a work-type employment relationship.

[...]

ARTICLE 3. ATTENUATING BEHAVIORS. Are mitigating behaviors of workplace harassment:

- a) Previous good behavior.
- b) Work in a state of excitement or excusable passion, or intense fear, or in a state of anger and intense pain.
- c) Voluntarily seek, after the conduct has been carried out, to reduce or cancel its consequences.
- d) Repair, at its discretion, the damage caused, even if it not totally.

⁶⁷Penal Code, Law No. 599 (24 July 2000), available at http://www.secretariasenado.gov.co/senado/basedoc/ley_0599_2000.html (last visited 15 November 2019). Unofficial translation by Compendium team.

⁶⁸Law No. 1010 (23 January 2006), available at http://www.secretariasenado.gov.co/senado/basedoc/ley_1010_2006.html#10 (last visited 15 November 2019). Unofficial translation by Compendium team.

e) The psychic inferiority conditions determined by age or by organic circumstances that have influenced the conduct.

f) <revoked>

g) When there is manifest or veiled provocation or challenge on the part of the superior, partner or subordinate.

h) Any circumstance of analogous significance to the previous ones.

PARAGRAPH. The state of excitement or passion will not be taken into account in the case of violence against sexual freedom.

ARTICLE 4. AGGRAVATING CIRCUMSTANCES. Are aggravating circumstances:

a) Reiteration of the conduct;

b) When there is concurrence of grounds;

c) Perform despicable conduct, futile or by price, reward or promise of remuneration;

d) By concealment, or taking advantage of the conditions of time, mode and place, that hinder the defense of the offended party, or the identification of the participating author;

e) Deliberately and inhumanly increase the psychological and biological damage caused to the passive subject;

f) The predominant position that the author occupies in society, by his position, economic rank, intelligence, power, office or dignity;

g) Execute the conduct using a third party or an imputable one;

h) When the conduct displayed by the active subject causes damage to the physical or psychic health of the passive subject.

[...]

ARTICLE 6. SUBJECTS AND SCOPE OF THE LAW. Can be active subjects or perpetrators of workplace harassment:

- The natural person who serves as a manager, boss, director, supervisor or any other management and command position in a company or organization in which there are labor relations governed by the Labor Code;

- The natural person who serves as a superior or has the status of head of a state agency;

- The natural person who works as a worker or employee. They are passive subjects or victims of workplace harassment;

- Workers or employees linked to an employment relationship in the private sector;

- Public servants, both public employees and official workers and servants with a special regime who work in a public agency;

-The immediate bosses when the harassment comes from their subordinates. Are participants in workplace harassment:

- The natural person who, as an employer, promotes, induces or favors workplace harassment;

- The natural person who fails to comply with the requirements or reprimands issued by the Labor Inspectors under the terms of this law.

PARAGRAPH: The situations of workplace harassment that are corrected and sanctioned in this law are only those that occur in an area of labor dependency or subordination.

[...]

ARTICLE 7 BEHAVIORS THAT CONSTITUTE LABOR HARASSMENT. It will be presumed that there is workplace harassment in case of repeated and public occurrences of any of the following behaviors:

a) Acts of physical aggression, regardless of its consequences;

b) injurious or outrageous remarks about a person, by using obscene word or by referring to race, gender, family or national origin, political preference or social status;

[...]

g) mocking about physical appearance or dressing style, in public;

h) public reference to facts pertaining to a person's privacy;

[...]

n) sending anonymous telephone calls or virtual messages with injurious, offensive or intimidating content, or subjecting to a situation of social isolation.

In the other cases not listed in this article, the competent authority will assess, according to the circumstances of the case and the seriousness of the reported behaviors, the occurrence of workplace harassment described in article 2.

Exceptionally, a single hostile act will suffice to prove workplace harassment. The competent authority will appreciate such circumstance, depending on the seriousness of the denounced conduct and its ability to offend per se human dignity, life and physical integrity, sexual freedom and other fundamental rights.

When the behaviors described in this article occur in private, they must be demonstrated by the means of evidence recognized in the civil procedural law.

[...]

ARTICLE 9. PREVENTIVE AND CORRECTIVE MEASURES OF HARASSMENT IN THE WORKPLACE.

1. The labor regulations of companies and institutions must provide mechanisms for the prevention of harassment behaviors and establish an internal, confidential, conciliatory and effective procedure to overcome those that occur in the workplace. Bipartite company committees, where they exist, may assume duties related to workplace harassment in labor regulations.

2. The victim of workplace harassment may inform the Labor Inspector with jurisdiction at the scene, the Municipal Police Inspectors, the Municipal Personnel or the Office of the Ombudsman, to prevent the occurrence of a continued and ostensible situation of harassment in the workplace. The complaint must be addressed in writing detailing the facts denounced and to which summary evidence is attached. The authority receiving the complaint in such terms will preventively detain the employer to put in place the confidential procedures referred to in paragraph 1 of this article and schedule educational activities or group therapy to improve relations between those who share a work-type relationship within a company. To adopt this measure, the denounced party will be heard.

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3. Anyone considered a victim of conduct of workplace harassment under any of the modalities described in article 2 of this law may request the intervention of a legally authorized conciliation institution so that the situation of workplace harassment is amicably overcome.

PARAGRAPH 1. Employers must adapt the labor regulations to the requirements of this law, within three (3) months following its promulgation, and their breach will be sanctioned administratively by the Labor Code. The employer must open a meeting to listen to the opinions of the workers in the adaptation covered by this paragraph, without such opinions being mandatory and without eliminating the power of labor subordination.

PARAGRAPH 2. The omission in the adoption of preventive and corrective measures of the situation of workplace harassment by the employer or senior managers of the administration, shall be understood as tolerance of the same.

PARAGRAPH 3. The complaint referred to in section .2 of this article may be accompanied by the request for transfer to another agency of the same company, if there is a clear option in that regard, and will be suggested by the competent authority as a corrective measure when this is possible.

ARTICLE 10. SANCTIONING TREATMENT OF HARASSMENT IN THE WORKPLACE. Harassment in the workplace, when duly accredited, will be sanctioned as follows:

1. Serious disciplinary offense in the Unique Disciplinary Code, when its author is a public servant.
2. Termination of the employment contract without just cause, when it has resulted in the resignation or abandonment of work by the worker governed by the Substantive Labor Code. In this case, compensation is required under the terms of article 64 of the Substantive Labor Code.
3. A fine between two (2) and ten (10) minimum legal monthly salaries for the person who performs it and for the employer who tolerates it.
4. Obligation to pay to the Providers of Health and the Insurers of professional risks fifty percent (50%) of the cost of the treatment of professional illnesses, alterations of health and other consequences of labor harassment. This obligation is borne by the employer who has caused the harassment or has tolerated it, without prejudice to the timely and due care of the affected worker before the competent authority decides if his illness has been as a result of the harassment, and without prejudice of the other actions enshrined in social security standards for the management entities vis-à-vis the employers.
5. Presumption of just cause for termination of the employment contract by the worker, individual and exemption from the payment of notice in case of resignation or withdrawal from work.
6. Just cause for termination or non-renewal of the employment contract, depending on the seriousness of the facts, when the harassment is exercised by a co-worker or a subordinate.

Paragraph 1. The money coming from fines imposed by harassment in the workplace will be allocated to the budget of the public entity whose authority imposes it and may be collected through coercive jurisdiction with the proper value update.

Paragraph 2. During the disciplinary investigation or the prosecution for conduct constituting harassment, the official who is advancing may motivate the provisional suspension of the public servant, under the terms of article 157 of Law 734 of 2002, as long as they exist Serious indications of retaliatory attitudes against the possible victim.

ARTICLE 11. GUARANTEES AGAINST RETALIATING ATTITUDES. In order to avoid acts of reprisal against those who have made requests, petitions and complaints about workplace harassment or serve as witnesses in such procedures, the following guarantees will be established:

1. The unilateral termination of the employment contract or the removal of the victim of workplace harassment who has exercised the preventive, corrective and sanctioning procedures enshrined in this Law, shall be without effect when they are issued within the following six (6) months of the request or complaint, as long as the competent administrative, judicial or control authority verifies the occurrence of the facts reported.
2. The formulation of complains about workplace harassment in a state agency may cause the exercise of preferential power in favor of the Public Ministry. In such a case, disciplinary competence against the complainant may only be exercised by said control body while deciding the labor action in which such situation is discussed. This guarantee will not operate when the defendant is an official of the Judicial Branch.
3. The others are granted by the Constitution, the law and collective bargaining agreements and collective agreements.

The foregoing guarantees will also cover those who have served as witnesses in the disciplinary and administrative procedures referred to in this law.

PARAGRAPH. The guarantee referred to in section 1 of this article shall not apply to dismissals authorized by the Ministry of Social Protection in accordance with the laws, for disciplinary sanctions imposed by the Public Ministry or the Disciplinary Chambers of the Superior or Sectional Councils of the Judiciary, or for disciplinary sanctions that are issued as a result of proceedings initiated before the complaint or complaint of workplace harassment.

ARTICLE 12. COMPETENCE. It is up to the labor judges with jurisdiction in the place of the facts to adopt the sanctioning measures provided for in article 10 of this Law, when the victims of the harassment are private workers or employees.

When the victim of workplace harassment is a public servant, the competence to hear about the disciplinary offense corresponds to the Public Ministry or to the Disciplinary Jurisdictional Chambers of the Superior and Sectional Councils of the Judiciary, in accordance with the powers indicated by law.

ARTICLE 13. SANCTION PROCEDURE. For the imposition of the sanctions referred to in this Law, the following procedure will be followed:

When the competence for the sanction corresponds to the Public Prosecutor's Office, the procedure established in the single Disciplinary Code will be applied.

When the sanction falls within the competence of the Labor Judges, a hearing will be summoned, which will take place within thirty (30) days following the presentation of the request or complaint. Upon initiation of the procedure, the accused of workplace harassment and the employer who has tolerated it will be notified personally, within five (5) days following the receipt of the request or complaint. The evidence will be presented before or within the hearing. The decision will be made at the end of the hearing, which can only be attended by the parties and witnesses or experts. Against the sentence that ends this action will proceed the appeal, which will be decided within thirty (30) days following its filing. In everything not provided for in this article, the Labor Procedural Code will be applied.

ARTICLE 14. TEMPERITY OF THE COMPLAINT OF HARASSMENT IN THE WORKPLACE. When, in the judgment of the Public Prosecutor or the competent labor judge, the complaint of workplace harassment lacks any factual or reasonable basis, a penalty of fine between half and three minimum monthly salaries shall be imposed.

The same penalty will be imposed on those who make more than one complaint or complaint of workplace harassment based on the same facts.

The amount collected by such fines will go to the public entity to which the authority that imposed it belongs.
[...]

Law on the Awareness, Prevention and Sanctioning of Discrimination and Violence Against Women, 2008⁶⁹

CHAPTER I - GENERAL DISPOSITIONS

Article 1. Object of the law. The purpose of this law is to adopt norms that allow guaranteeing for all women a life free of violence, both in the public and private spheres, the exercise of the rights recognized in the domestic and international legal order, access to the administrative and judicial procedures for their protection and attention, and the adoption of the public policies necessary for their realization.

Article 2. Definition of violence against women. Violence against women means any act or omission, which causes death, physical, sexual, psychological, economic or patrimonial damage or suffering due to their condition of women, as well as threats of such acts, coercion or arbitrary deprivation of freedom, whether it occurs in the public or private sphere.

For the purposes of this law, and in accordance with the provisions of the Action Plans of the Vienna, Cairo and Beijing Conferences, any action or omission aimed at economic abuse, abusive control of finances, rewards or monetary punishments to women because of their social, economic or political condition are understood as economic violence. This form of violence can exist within a couple, a family and within work or economic relationships.

Article 3. Concept of damage against women. To interpret this law, the following definitions of damage are established:

- a) Psychological damage: Consequence coming from the action or omission destined to degrade or control the actions, behaviors, beliefs and decisions of other people, through intimidation, manipulation, threat, direct or indirect, humiliation, isolation or any other conduct that implies a damage to psychological health, self-determination or personal development.
- b) Physical damage or suffering: Risk or decrease in the bodily integrity of a person.
- c) Damage or sexual suffering: Consequences that come from the action consisting of forcing a person to maintain sexualized, physical or verbal contact, or to participate in other sexual interactions through the use of force, intimidation, coercion, blackmail, bribery, manipulation, threat or any other mechanism that cancels or limits the personal will. Likewise, it will be considered sexual damage or suffering the fact that the offender obliges the victim to perform some of these acts with third parties.
- d) Patrimonial damage: Loss, transformation, subtraction, destruction, retention or distraction of objects, work tools, personal documents, goods, values, rights or finances destined to satisfy the needs of a woman.

[...]

CHAPTER IV - SENSITIZATION AND PREVENTION MEASURES

Article 9. Sensitization and prevention measures. All the authorities responsible for formulating and implementing public policies must recognize the social and biological differences and inequalities in the relationships between people according to sex, age, ethnicity and the role they play in the family and in the social group.

[...]

4. Develop plans for prevention, detection and attention to situations of harassment, sexual assault or any other form of violence against women.

[...]

Article 12. Measures In The Labor Area.

The Ministry of Social Protection, in addition to those indicated in other laws, will have the following functions:

[...]

2. Develop campaigns to eradicate all acts of discrimination and violence against women in the workplace.

⁶⁹ Law 1257 on the Awareness, Prevention and Sanctioning of Forms of Discrimination and Violence Against Women (Ley 1257 de 2008 por la cual se dictan normas de sensibilización, prevención y sanción de formas de violencia y discriminación contra las mujeres), (4 December 2008), available at http://www.secretariassenado.gov.co/senado/basedoc/ley_1257_2008.html (last visited 15 November 2019). Unofficial translation by Compendium team.

[...]

Article 15. Obligations of the company. In compliance with the principle of co-responsibility, civil society organizations, associations, businesses, organized trade, economic associations and other legal and natural persons have the responsibility to take an active part in achieving the elimination of violence and discrimination against women. For these purposes they should:

1. Know, respect and promote the rights of recognized women indicated in this law.
2. Refrain from performing any act or conduct that involves physical, sexual, psychological or patrimonial abuse against women.
3. Refrain from performing any act or conduct that implies discrimination against women.
4. Report violations of women's rights and violence and discrimination against them.
5. Participate actively in the formulation, management, compliance, evaluation and control of public policies related to women's rights and the elimination of violence and discrimination against them.
6. Collaborate with the authorities in the application of the provisions of this law and in the execution of policies that promote the rights of women and the elimination of violence and discrimination against them.
7. Carry out all the necessary actions to ensure the exercise of women's rights and eliminate violence and discrimination against them.

[...]

ARTICLE 29. Add to the Second Chapter of Title IV of the Second Book of Law 599 of 2000, the following article:

“Article 210 A. Sexual harassment. Whoever, for the benefit of himself or a third party and by using his manifest superiority or relations of authority, or power, age, sex, employment, social, family or economic position, harasses, pursues, or assaults physically or verbally, for sexual purposes and without consent, another person, will be imprisoned for one (1) to three (3) years.”.

35 COMOROS

Law Repealing, Amending and Supplementing Certain Provisions of the Labor Code, 2012⁷⁰

TITLE I:

GENERAL PROVISIONS

Article 1.-

This Act applies to relations between employers and workers exercising their professional activity in the Comoros.

For the purposes of this Act, is considered a worker any person who undertakes to place his professional activity, for remuneration, under the direction and the authority of another person, physical or moral, public or private.

For the purpose of determining the status of worker, the worker's legal status or that of the employer shall not be taken into account.

Persons who have a permanent managerial position in the public administration are not subject to the provisions of this law.

Workers continue to enjoy the benefits they have been granted when these are superior to what is recognized by this Act.

[...]

Article 2.2: Sexual Harassment is strictly prohibited.

Any conduct of sexual nature which creates an intimidating, hostile work environment or humiliation for a person is considered sexual harassment.

⁷⁰ Law Repealing, amending and supplementing certain provisions of the law N ° 84-108 / PR on the Labor Code, Law No. 12 (28 June 2012), available at <http://comoresdroit.comores-droit.com/wp-content/dossier/code/codetravail.pdf> (last visited 15 November 2019). Unofficial translation by Compendium team.

All forms of behavior, verbal, non-verbal or of sexual nature that anyone is guilty of and which affects the dignity of workers in the workplace is considered to be sexual or moral harassment.

The employer shall take all necessary steps to prevent any act of sexual harassment.

No employee may be dismissed, sanctioned, or be subject to discrimination for having testified about sexual harassment or have reported them.

Article 2.3.- Anyone who believes that he or she is a victim of sexual harassment must indicate the facts that support the presumption of this discriminatory practice.

It is on the defendant to prove that its decision is justified by objective elements that do not entail harassment.

Article 44.- Any breach of contract may result in damages and interests. However, before pronouncing the award of damages, the Labor Court, in Council Chamber, must first propose the reinstatement of the worker.

Where reinstatement was not possible, the competent court finds the abuse upon investigation of the causes and circumstances of the breach of contract. The burden to prove that the breach has taken place for a legitimate reason lies with its author.

Dismissals made without legitimate reasons are unlawful. They do not constitute legitimate reasons for dismissal:

[...]

f) The fact of having reported or testified about the sexual or moral harassment of an employer or his representative

[...]

The judgment must expressly mention the reason alleged by the party who took the initiative to rescind the contract.

The amount of the damages is fixed taking into account, in general, all elements that can justify the existence and determine the extent of the harm caused, especially :

[...]

(2) Where the employer is responsible, for the uses, the nature of the services, the duration of the services, the age of the worker and the rights acquired in whatever capacity.

These damages are not to be confused with the compensation for non-observance of notice, or with the severance pay as provided by the contract, collective agreement, or by regulation.

[...]

TITLE VI

SPECIFIC PROVISIONS APPLICABLE TO FOREIGN WORKERS.

Article 149.- The provisions of this Code extend automatically to foreign workers.

[...]

TITLE VII

HYGIENE AND SAFETY - MEDICAL SERVICES

[...]

CHAPTER II

MEDICAL SERVICES

Article 158.- Every enterprise or establishment must provide a medical service to its workers.

These medical services have essentially a preventive role of avoiding any impairment to workers' health as a result of their work. For this purpose, they are responsible for:

- monitoring the conditions of safety and hygiene at the workplace, risk of contagion and the state of health of the workers;

- periodic medical examinations of workers.

- the medical examination upon hiring;

- give technical advice to employers, workers and committees for health and safety;

[...]

- identify and assess health risks in the workplace;

- promote the adaptation of work to workers;

- to collaborate in the dissemination, training and education in the field of health and hygiene at work;
In addition to the preventive role of the medical services mentioned above, they must provide treatment assistance to workers.
[...]

CHAPTER II OF LABOUR INSPECTORATE

Article 167.- The Inspectorate of Labor and Social Laws is in each of the islands of the archipelago charged with:

- (1) ensuring the application of the legislative and regulatory provisions and collective agreements relating to working conditions and the protection of workers in the exercise of their professions, in particular the provisions on hours of work, wages, safety, hygiene and well being, the employment of children and adolescents and other related matters;
- (2) to provide information, recommendations and advice to employers and workers on how to comply with the legal provisions;
- (3) to bring deficiencies and abuses which are not specifically covered by the legal provisions in force to the attention of the central administration.

The inspectorate of labor may not engage in any other professional activity.
[...]

36 CONGO, DEM. REP.

Law No. 06/018 amending and supplementing the Congolese Penal Code, 2006⁷¹

Article 3

"Section III of Title VI of the Penal Code Book II is thus" amended:

"Section III: Other offenses of sexual violence

[...]

Paragraph 4: Sexual harassment

"Article 174d

Anyone who has behaved in a persistent way towards others, through words, gestures either by giving him orders or threats, or by imposing constraints, by exerting serious pressure, or by abusing the authority conferred upon him by his functions, with a view to obtaining favors of a sexual nature, shall be punished with penal servitude from one to twelve years and/or a fine of fifty thousand to one hundred thousand Congolese francs. The prosecution will be subordinated to the victim's complaint.

[...]

Labor Code, 2002⁷²

Article 73 : The employer commits a gross fault that allows the worker to breach the contract when he seriously fails to fulfill the obligations of the contract, particularly in the following cases

⁷¹ Law No. 06/018 of 20 July 2006 amending and supplementing the Decree of 30 January 1940 on the Congolese Penal Code (Loi n° 06/018 du 20 juillet 2006 modifiant et complétant le « peine. Décret du 30 janvier 1940 portant Code pénal congolais), available at https://www.ecoi.net/en/file/local/1114158/2016_1322046923_4ec6221b2.pdf (last visited 15 November 2019). Unofficial translation by Compendium team.

⁷² Labor Code, Law No. 015/2002 (16 October 2002), (Loi n°015/2002 portant Code de Travail), available at <http://www.droit-afrique.com/upload/doc/rdc/RDC-Code-2002-du-travail.pdf> (last visited 15 November 2019). Unofficial translation by Compendium Team.

- a) the employer or his employee is guilty of an act of improbity, sexual or moral harassment, intimidation, assault, serious injury or tolerates similar acts of other workers;
[...]

Article 74 : The worker commits a gross fault that allows the employer to break the contract when he seriously fails to fulfill the obligations of the contract and in particular if he:

- a) is guilty of an act of improbity, sexual or moral harassment, intimidation, assault or serious injury to the employer or his staff;

Article 75:

If there is a breach of contract for one of the reasons under Article 73, the employer shall be sentenced to pay the worker damages which should be determined according to the method of assessment provided for in Article 63.

If there is a breach of contract under Article 74, the employer may claim worker's compensation for the damage directly caused by the gross fault of the worker.

37 COSTA RICA

Law against Sexual Harassment in Employment and Education, 1995 (as amended) ⁷³

Chapter I

Article 1. Overarching principles. This Law is based on the constitutional principles of respect for freedom and human life, the right to work and the principle of equality before the law, which oblige the State to condemn discrimination on the basis of sex and establish policies to eliminate discrimination against women, according to the United Nations Convention on the Elimination of all forms of Discrimination Against Women and the Inter-American Convention to Prevent, Punish and Eradicate Violence Against Women.

Chapter II - Objective and Definitions

Article 2. Objective. The objective of this Law is to prevent, prohibit and punish sexual harassment as a discriminatory practice on the basis of sex, against the dignity of women and men in the field of work and education, in the public sector and the private sector. (As amended by Article 1 of Law No. 8805 of April 28, 2010)

Article 3. Definitions. Sexual harassment or harassment is understood as any unwanted sexual conduct, which is repeated and that causes harmful effects in the following cases:

- a) Material conditions in employment or education
b) Work and educational performance and compliance.
c) General state of personal well-being.

⁷³ Law against Sexual Harassment in Employment and Education (Ley contra Hostigamiento o Acoso Sexual en el Empleo y la Docencia), Law No. 7476 of 3 February 1995, available at http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=22803 (last visited 15 November 2019). Unofficial translation by Compendium team.

Sexual harassment is also considered as serious behavior that, having occurred even once, harms the victim in any of the aspects indicated.

Article 4. Manifestations of sexual harassment. Sexual harassment can manifest itself through the following behaviors:

1. Requests for sexual favors that involve:

a) Promise of preferential treatment, whether implicit or expressed, with respect to the current or future situation of employment or education of whom receives the request.

b) Physical or moral threats, whether implicit or expressed, of damages or punishments referring to the current or future situation of employment or education of who receives them.

c) Request for conduct which is made an implicit or explicit condition for employment or education.

2. Use of written or oral words of sexual nature, which are hostile, humiliating or offensive to those who receive them.

3. Physical approaches or other physical behaviors of a sexual nature, which are unwanted and offensive to those who receive them.

Chapter III – Prevention of sexual harassment

Article 5. Prevention responsibilities. Every employer or superior shall have the responsibility of maintaining, in the workplace, conditions of respect for those who work there, through an internal policy that prevents, discourages, avoids and punishes sexual harassment behaviors. To that end, they must take express measures in the internal regulations, collective agreements, direct or other arrangements. These shall include, among others, the following:

1) Communicate, in written and oral form, to supervisors, representatives, officials and workers in general about the existence of an institutional or business policy against sexual harassment. Likewise, they will announce said prevention policy to third parties when it is convenient to comply with the purposes established in this law.

2) Establish an adequate and effective internal procedure that enables sexual harassment complaints, while guaranteeing the confidentiality of complaints and a sanctioning regime for harassers when there is cause. In no case may said procedure exceed the three-month statutory term, counted from the filing of the complaint for sexual harassment.

3) Maintain staff with experience in preventing sexual harassment. In addition, employers may sign agreements with public or private institutions or organizations in an effort to obtain knowledge about the scope of this Law. (As amended by Article 1 of Law No. 8805 of April 28, 2010)

Article 6. Disclosure of the Law. Every employer or supervisor will have the responsibility to disseminate the content of this Law. The Ombudsman's Office may contribute to this process.

Article 7. It shall be mandatory to inform the Ombudsman's Office of the Republic, which must ensure compliance with the provisions of Article 5 of this Law.

The higher authority or the competent authority that receives a complaint on sexual harassment in the workplace or in an educational institution of the public sector, shall be obliged to inform the Ombudsman's Office of the presentation of the complaint, in order to ensure formal knowledge of the case, access to the file and optional intervention in the procedure, so that it can exercise the advisory function and comptroller of legality. Likewise, that authority must send the final resolution of the case to the Ombudsman. (As amended by Article 1 of Law No. 8805 of April 28, 2010)

Article 8. Mandatory to inform the Ministry of Labor and Social Security. The National Directorate and Labor Inspectorate of the Ministry of Labor and Social Security shall ensure compliance with the provisions of Article 5 of this Law.

In any instance of the private sector, the higher authority or the competent authority to receive the report of sexual harassment in the workplace or educational institution is obliged to report it to the National Directorate and Labor Inspection, with the objective of that this instance exercises its powers and ensures compliance with the provisions of this Law. In the event that the harasser is the employer, the victim will inform the National Directorate and Labor Inspection to apply the internal procedure of compliance with current legal instruments. (As amended by Article 1 of Law No. 8805 of April 28, 2010)

Article 9. Duty of educational centers. In all educational centers, the provisions of articles 5, 6, 7 and 8 of this Law must be complied with. (As amended by Article 1 of Law No. 8805 of April 28, 2010)

Article 10. Penalty for non-compliance. Failure to comply with the provisions of the preceding articles constitutes a fault that will be sanctioned according to its seriousness, in accordance with the provisions of articles 608 and following of the Labor Code.

Article 11. Duty of professional associations. Professional associations must establish preventive policies and sanction procedures for members who commit sexual harassment or harassment.

Chapter IV – Responsibilities and Guarantees

Article 12. Responsibility of the employer. Every employer or hierarchical superior who engages in sexual harassment will be personally responsible for their actions. They will likewise be liable if, despite having received complaints of a person offended by harassment, do not comply with the provisions of article 5 of this Law.

Article 13. Guarantees in teacher-student relationships. In teacher-student relationships, a student who has proven to be subject to harassment shall have the right to request, from the teacher's employer or hierarchical superior, the application of the labor sanctions provided for in this Law. If damage is proven to have occurred in the student's educational status as result of the harassment, they shall have the right to be reinstated to the status existing prior to the harassment.

Article 14. Guarantees for the complainant and witnesses. No person who has reported being a victim of sexual harassment or who has appeared as a witness to the parties may hence be subject to any personal injury in their employment or in their studies.

Article 15. Causes for discharge of complainant. Anyone who has filed a complaint of sexual harassment may only be discharged based on justifiable grounds as result of serious violation of the duties arising from the employment contract, in accordance with the causes established in article 81 of the Labor Code. If one of these causes is presented, the superior authority or the competent authority will process the dismissal before the National Directorate and General Labor Inspection, where the existence of justifiable cause for the dismissal must be demonstrated. The Directorate may exceptionally and justifiably authorize the suspension of the worker while the dismissal case is resolved.

In the case of a domestic worker who files the complaint, they can request the National Directorate and General Labor Inspection to authorize the suspension of the employment relationship.

Failure to comply with these provisions will constitute, on the part of the worker, justified cause to terminate the employment contract pursuant to employer responsibility.

The provisions set forth in this article shall not apply to officials of the Judiciary, who are otherwise subject to the provisions of their organic law and related internal regulations. (As amended by Article 1 of Law No. 8805 of April 28, 2010)

Article 16. False complaints. Anyone who falsely reports a sexual harassment offense may incur, as the case may be, in liability for defamation, insult or slander, in accordance with provisions in the Criminal Code.

Article 17. Termination of the employment contract. If sexual harassment occurs, but the procedure indicated in Article 5 of this Law has not been established in the workplace, or has otherwise been breached, the worker may terminate the employment contract, pursuant to employer responsibility.

Chapter V – Workplace Procedure

(As included by Article 2 of Law No. 8805 of April 28, 2010)

Article 18. Principles that inform the procedure. The procedure for cases of sexual harassment shall follow the general principles of due process, proportionality and probatory freedom, as well as specific ones, understood as confidentiality, according to which the competent authority, agents, and persons who appear as witnesses, as well as the parties involved in the investigation and resolution, shall have duty to refrain from disclosing the identity of the complainant and accused, and the pro-victim principle, which implies that, in case of doubt, the interpretation shall be made in favor of the victim. (As added by Article 2 of Law No. 8805 of April 28, 2010)

Article 19. Receipt of the complaint. The highest authority of the public or private body will define the agency responsible for receiving the complaint. Once the complaint has been assigned, said authority must proceed accordingly, without resorting to the ratification of the complaint, or to any preliminary investigation of the facts.

Article 20. Integration of the Investigative Commission. In response to subsection 2 of article 5 of this law, complaints shall be heard, and their respective procedure carried out, through investigative commissions, which shall be integrated, preferably, by three people, in which both sexes are represented, with knowledge in matters of sexual harassment and disciplinary regime.

When in a company or place of work or private education facility there are no conditions to carry out the investigation, due to the small number of personnel or because the accused is a hierarchical superior, the complainant may resort to the Ministry of Labor or directly to the court.

When the place of work or study is a public institution or entity and the accused is an official or public employee, the procedure shall follow the provisions established in this Law, in addition to the regulations and supplementary rules of the General Law of Public Administration and its reforms. In all cases, the complainant may resort to the Ministry of Labor or directly to the judicial process.

Private work centers must have an internal regulation in order to form the investigative commissions, their duration, procedures and other reasons of due process, an instrument that must be recognized and supervised by the Ministry of Labor. (As added by Article 2 of Law No. 8805 of April 28, 2010)

Article 21. The parties. The complainant and the accused are considered parties to the procedure. (As added by Article 2 of Law No. 8805 of April 28, 2010)

Article 22. The evidence. The evidence will be assessed in accordance with the rules of sound criticism, logic and experience; In the absence of direct proof, the evidence and all other sources of common law shall be assessed, taking into account the special principles that govern sexual harassment. In case of doubt, the decision will be made as most beneficial to the complainant, with the express prohibition of considering the complainant's background, particularly in relation to the exercise of their sexual orientation. (As added by Article 2 of Law No. 8805 of April 28, 2010)

Article 23. Legal advice and emotional support. In the procedures contemplated in this law, the parties may be represented by legal counsel. They may also be accompanied by emotional or psychological support of their trust in the various phases of the procedure. (As added by Article 2 of Law No. 8805 of April 28, 2010)

Article 24. Precautionary measures. The Investigating Commission, upon request of the party and through a well-founded resolution, may request from the competent chief or employer to order:

- a) That the alleged harasser refrain from disturbing the complainant.
- b) That the alleged harasser refrain from interfering with the use and enjoyment of the work instruments of the harassed person.
- c) Labor relocation.
- d) The exchange of office.
- e) Exceptionally the temporary separation of the position with enjoyment of salary.

In the application of precautionary measures, the labor rights of those obliged to preventive provision must be respected, which can be applied to both parties of the procedural relationship, while the victim's safety must be fundamentally maintained. (As added by Article 2 of Law No. 8805 of April 28, 2010)

Article 25.-The precautionary measures must be resolved in a prevalent and urgent manner. Their validity will be determined by their instrumentality for the process.

The resolution of the superior will not have any further recourse, except that of addition or clarification. (Thus added by Article 2 of Law No. 8805 of April 28, 2010)

Article 26.- Sanctions for popularly elected people. The sanctions for popularly elected people will be:

a) For congressmen and congresswomen: When so agreed by the Legislative Plenary in accordance with paragraph 23) of article 121 of the Political Constitution and in accordance with the provisions of this Law, it is demonstrated that the act was committed by a congressman or congresswoman, the sanction will be that of a public ethical warning.

b) For the mayors and alternates: when, from the investigation carried out by the Investigative Commission in accordance with the provisions of this Law, it is demonstrated that the act was committed by a mayor, city council or alternates, the sanction will be the written reprimand, the suspension or the loss of office in accordance with subsection e) of article 18 of the Municipal Code, once the administrative procedure ordered by the municipal council has been instructed to impose the corresponding sanction.

c) For city councilors and alternates when, from the investigation carried out by the Investigative Commission in accordance with the provisions of this Law, it is demonstrated that the act was committed by a city councilor; The sanction will be the written reprimand, the suspension or the loss of office, in accordance with subsection e) of Article 24 of the Municipal Code, once the administrative procedure ordered by the municipal council has been instructed to impose the corresponding sanction.

d) For trustees, municipal authorities, substitutes and other persons chosen popularly at the level of local government: when, from the investigation carried out by the Investigative Commission in accordance with the provisions of this Law, it is demonstrated that the fact was committed by a trustee, or other sanction will be the written reprimand, suspension or loss of office, in accordance with the provisions of the Municipal Code, once the administrative procedure ordered by the municipal council has been instructed so that the corresponding sanction is imposed.

(Thus added by Article 2 of Law No. 8805 of April 28, 2010)

(By resolution of Constitutional Chamber No. 017833 of October 29, 2014, the action of unconstitutionality was declared inadmissible, provided that the administrative sanction of loss of office imposed by the Supreme Electoral Tribunal may be subject to inspection before the Contentious-Administrative Jurisdiction according to Article 49 of the Constitution)

CHAPTER VI

(Thus numbered by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from the former chapter V to VI)

JUDICIAL PROCEDURE FOR SANCTIONS

SEXUAL HARASSMENT

Article 27.- Jurisdiction of the courts of labor jurisdiction. Once the procedures established in the workplace are exhausted or if they are not complied with for reasons that cannot be imputed to the offended person, complaints of sexual harassment may be filed before the courts of the labor jurisdiction, which will be competent to hear them.

In teaching relationships, once the procedures established in the school have been exhausted or if they are not complied with for reasons that cannot be attributed to the offended person, the student may file a complaint with the labor courts so as to apply the sanctions established in this Law against the person accused of harassment and their employer, as appropriate.

(Thus numbered by article 2 of Law No. 8805 of April 28, 2010, which transferred it from the old article 18 to 27)

Article 28.- Presentation of the claim. Persons offended by sexual harassment may sue those who harass them or their employer or superior, in the cases provided for in this Law, before the corresponding judge, in accordance with the provisions of the Labor Code.

(Thus numbered by article 2 of Law No. 8805 of April 28, 2010, which transferred it from former article 19 to 28)

Article 29.- Demand for harassing minors. When the offended person is a minor, the parents, their legal representatives or the National Children's Board may file the lawsuit. However, if the person is older than fifteen but under eighteen, they will be entitled to file the claim directly.

(Thus numbered by article 2 of Law No. 8805 of April 28, 2010, which transferred it from the old article 20 to 29)

Article 30.- Legal framework of the claim. Once the lawsuit is filed, it will proceed in accordance with the provisions of articles 464 and 468 of the Labor Code, except in relation to the period of the hearing conferred by the judge on the defendant, which will be three to eight days.

(Thus numbered by article 2 of Law No. 8805 of April 28, 2010, which transferred it from the old article 21 to 30)

Article 31.- Appearance of the parties. Once the deadline for responding to the complaint has been met, the judge will summon the parties for the presentation of evidence. In the absence of direct evidence, indicative tests may be accepted. No conciliatory process shall proceed. In everything else, the procedure will be governed by the process of lower labor amount.

(Thus amended by Article 1 of Law No. 8805 of April 28, 2010)

(Thus numbered by article 2 of Law No. 8805 of April 28, 2010, which transferred it from the old article 22 to 31)

Article 32.- Privacy of the hearings. The hearings will be held privately.

(Thus amended by Article 1 of Law No. 8805 of April 28, 2010)

(Thus numbered by article 2 of Law No. 8805 of April 28, 2010, which transferred it from the old article 23 to 32).

Article 33.- Acting of the judge. To assess the evidence and determine whether the reported behavior constitutes sexual harassment, the judge must consider, in accordance with the rules of sound criticism, all the circumstances in which the events occurred, not including considerations regarding the background of the sexual behavior of the offended person

(Thus numbered by article 2 of Law No. 8805 of April 28, 2010, which transferred it from the old article 24 to 33)

CHAPTER VII

(Thus numbered by Article 2 of Law No. 8805 of April 28, 2010, which transferred the previous chapter from former Chapter VI to VII)

SANCTIONS

Article 34.- Types of sanctions. Penalties for sexual harassment will be applied according to the seriousness of the event and shall be the following: written warning, suspension and dismissal, notwithstanding that the corresponding route is taken, when the conduct also constitutes punishable acts, as established in the criminal code.

(Thus numbered by article 2 of Law No. 8805 of April 28, 2010, which passed it from the old article 25 to 34).

Article 35.- Rights of the unemployed person. When the harassed person has terminated the employment contract with employer responsibility or has been dismissed for that cause, they will have the right to:

- a) Payment of the corresponding benefits.
- b) Payment of lost wages and other losses determined by the judge.
- c) Return to the position, if expressly requested. If the person is a public employee, you can opt for a transfer.

(Thus numbered by article 2 of Law No. 8805 of April 28, 2010, which transferred it from the old article 26 to 35)

Article 36.- Dismissal of the harasser. Any person who is proven to have incurred in sexual harassment may be dismissed without employer responsibility.

(Thus numbered by article 2 of Law No. 8805 of April 28, 2010, which transferred it from the old article 27 to 36)

Article 37.- Compensation for moral damages. When, by means of sentencing, harassment is proven, the offended person will be entitled to compensation for moral damages, if so granted, which will also be made known to the Labor Judge.

(Thus numbered by article 2, of Law No. 8805 of April 28, 2010, which transferred it from the old article 28 to 37)

CHAPTER VIII

(Thus numbered by Article 2 of Law No. 8805 of April 28, 2010, which transferred it from former Chapter VII to VIII)

FINAL PROVISIONS

Article 38.- Deadline for filing the complaint and prescription. The deadline for filing the complaint shall be considered as two years and shall be calculated as of the last event resulting from sexual harassment or after the justified cause that prevented reporting has ceased. The statute of limitations shall be computed in accordance with article 603 of the Labor Code.

(Thus amended by Article 1 of Law No. 8805 of April 28, 2010)

(Thus numbered by article 2 of Law No. 8805 of April 28, 2010, which transferred it from the old article 29 to 38)

Article 39.- Supplementary rules. For everything that is not regulated in this Law, if not inconsistent with this text, the Labor Code and related labor laws will supplementary apply. The Civil Code will apply when there are no regulatory standards.

(Thus numbered by article 2 of Law No. 8805 of April 28, 2010, which transferred it from the old article 30 to 39)

Article 40.- Areas of application of this law. This law shall apply in hierarchical relations; relations between persons of the same hierarchical level, between persons of a hierarchical level inferior to a superior level, and relations between service providers and users in the field of work and education, of the public and private sectors.

(Thus amended by Article 1 of Law No. 8805 of April 28, 2010)

(Thus numbered by article 2 of Law No. 8805 of April 28, 2010, which transferred it from the old article 31 to 40)

Article 41.- Validity. This law is applicable as of the date of publication.

(Thus numbered by article 2 of Law No. 8805 of April 28, 2010, which transferred it from the old article 32 to 41)

TRANSITORY DISPOSITIONS

Sole transitory article. - The provisions of articles 5 and 7 above must be fulfilled within a period of three months, counted from the date this Law comes into force.

Established by the Presidency of the Republic. -San José, on the third day of the month of February of nineteen ninety-five.

38 COTE D'IVOIRE

Employment Code, 2015 ⁷⁴

Article 5

No employee, person in training or in internship may be punished or dismissed for refusing to undergo the acts of moral or sexual harassment of an employer, his representative or any person who, abusing the authority conferred on him by his duties, has given orders, made threats, imposed constraints or exerted pressure of any kind on this employee.

No employee, person in training or in internship may be sanctioned or dismissed for having testified to or reported the acts defined in the previous paragraph.

No one may take into consideration the fact that the person concerned has refused to undergo the harassment or that a witness has reported it, in deciding, in particular, on matters relating to recruitment, remuneration, training, assignment, qualification, classification, professional promotion, transfer, termination, renewal of employment contracts or disciplinary sanctions.

Sexual harassment includes abusive behaviour, threats, attacks, words, intimidation, writing, attitudes, repeated actions against an employee with a sexual connotation, the purpose of which is to obtain favours of a sexual nature for his benefit or for the benefit of a third party.

Psychological harassment includes abusive behaviour, threats, attacks, words, intimidation, writing, attitudes, repeated actions against an employee which have as their object or effect the deterioration of his working conditions and which as such are likely to affect his rights and dignity, to alter his physical or mental health or to compromise his professional future.

Harassment is proven by any means.

Penal Code, 1981 ⁷⁵

CHAPITRE 2 – Indecent assault

SECTION 2 – Indecent assault

Article 355

Anyone who commits an indecent assault consumed or attempted with violence on a person of either sex shall be punished by imprisonment for a term of two to five years and a fine of 100,000 to 1,000,000 francs. Imprisonment is five to ten years and a fine of 200,000 to 2,000,000,000 francs, if:

⁷⁴ Employment Code (Code du travail), Law No. 2015-532 (20 July 2015), available at <https://www.droitafrique.com/uploads/RCI-Code-2015-travail.pdf> (last visited 15 November 2019).

⁷⁵ Penal Code, 31 August 1981, available at https://www.apdhci.org/images/documents_pdf/instruments_ivoiriens_des_droits_de_homme/code_penal_ci.pdf (last visited 15 November 2019).

- 1) The perpetrator is one of the persons referred to in the second paragraph of the second subparagraph of article 354⁷⁶ or the mother of the victim;
- 2) The author was helped by one or more people;
- 3) The victim is under 15 years of age.

39 CROATIA

Criminal Code, 2011⁷⁷

Sexual Harassment

Article 156

- (1) Whoever sexually harasses another person who is his or her subordinate or who is in a situation of dependence with respect to him or /her or who is especially vulnerable due to age, illness, disability, addiction, pregnancy, a severe physical or mental disability, shall be punished by imprisonment not exceeding one year.
- (2) Sexual harassment shall mean any form of unwanted verbal, non-verbal or physical conduct of a sexual nature which aims at or effectively constitutes a violation of the dignity of a person, which creates an intimidating, hostile, degrading or offensive environment.
- (3) The criminal offence referred to in paragraph 1 of this Article shall be prosecuted upon request.

Anti-discrimination Act, 2009⁷⁸

[...]

Article 3

Harassment and sexual harassment

- (1) Harassment is any unwanted conduct caused by any of the grounds referred to in Article 1 paragraph 1 of this Act with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading or offensive environment.
- (2) Sexual harassment is any verbal, non-verbal or physical unwanted conduct of sexual nature with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading or offensive environment.
- (3) Provisions of this Act referring to discrimination shall apply accordingly to harassment and sexual harassment.

Article 4

Encouragement to discrimination and failure to make reasonable adaptation

- (1) Encouragement to discrimination, if conducted intentionally, shall be deemed to be discrimination within the meaning of Article 1 of this Act.
- (2) [...]

Article 6

⁷⁶ Among others, a person having authority over the victim, or responsible for her education, intellectual or professional development.

⁷⁷ Criminal Code, 26 October 2011, available at <https://www.legislationline.org/documents/section/criminal-codes/country/37/Croatia/show> (last visited 15 November 2019)...

⁷⁸ Anti-Discrimination Act, 1 January 2009, available at <http://prs.hr/attachments/article/2127/Croatian%20Anti-discrimination%20Act.pdf> (last visited 15 November 2019).

More serious forms of discrimination

(1) Discrimination against a certain person on more than one of the grounds referred to in Article 1 paragraph 1 of this Act (multiple discrimination), discrimination committed several times (repeated discrimination), discrimination which lasted a longer period of time (continued discrimination), or discrimination whose consequences are particularly harmful for the victim shall be deemed to be a more serious form of discrimination within the meaning of this Act.

(2) The court shall take into consideration the circumstances referred to in paragraph 1 of this Article when determining the amount of the compensation for non-proprietary damage and when deciding about the fine for misdemeanours defined by this Act.

Article 7

Protection from victimisation

No person shall be placed in a less favourable position because he/she has reported, in good faith, discrimination, witnessed discrimination, refused an instruction to discriminate or participated in any manner in proceedings based on discrimination in line with provisions of this Act.

Article 8

Scope

This Act shall apply to the conduct of all state bodies, bodies of local and regional self-government units, legal persons vested with public authority, and to the conduct of all legal and natural persons, especially in the following areas:

1. work and working conditions; access to self-employment and occupation, including selection criteria, recruiting and promotion conditions; access to all types of vocational guidance, vocational training, professional improvement and retraining;

[...]

Article 11

Right to damage compensation

- (1) Pursuant to provisions of this Act, a victim of discrimination shall be entitled to damage compensation pursuant to regulations from the area of obligatory relations.

[...]

IV INSTITUTIONAL FRAMEWORK

Article 12 Central body responsible for the suppression of discrimination

(1) Activities of the central body responsible for the suppression of discrimination shall be carried out by the Ombudsman.

(2) Within the scope of his/her work, the Ombudsman shall:

1. receive reports of all the natural and legal persons referred to in Article 10 of this Act;
2. provide necessary information to natural and legal persons that have filed a complaint on account of discrimination with regard to their rights and obligations and to possibilities of court and other protection;
3. if the court proceedings have not yet been initiated, examine individual reports and take actions falling within his/her competence required for elimination of discrimination and protection of rights of discriminated persons;
4. warn the public about the occurrence of discrimination;
5. with the parties' consent, conduct mediation with a possibility of reaching an out-of-court settlement;
6. file criminal charges related to discrimination cases to the competent state attorney's office;
7. collect and analyse statistical data on discrimination cases,

8. inform the Croatian Parliament on the occurrence of discrimination in his/her annual and, when required, extraordinary reports;
 9. conduct surveys concerning discrimination, give opinions and recommendations, and suggest appropriate legal and strategic solutions to the Government of the Republic of Croatia.
- [...]

V PROCEEDINGS BEFORE THE COURT

Article 16 Common provisions

- (1) Any person who considers that his/her right has been violated on account of discrimination may request protection of that right in the proceedings deciding upon that right as the main issue, and he/she may also request protection in special proceedings laid down in Article 17 of this Act. (2) Special proceedings for the purpose of protection against discrimination in the area of work and employment shall be deemed to be litigations arising from labour relations.
- (3) The court and other bodies conducting the proceedings shall urgently undertake actions within the proceedings, endeavouring to investigate discrimination-related statements as soon as possible.

Article 17 Special legal actions for the protection against discrimination

- (1) A person claiming to be a victim of discrimination pursuant to provisions of this Act shall be authorised to bring a legal action and request the following to be performed:
 1. to establish that the defendant has violated the plaintiff's right to equal treatment or that the action the defendant has undertaken or failed to undertake may directly result in the violation of the right to equal treatment (action for determination of discrimination);
 2. to prohibit the undertaking of activities which violate or may violate the plaintiff's right to equal treatment, or to carry out activities which eliminate discrimination or its consequences (action for prohibition or elimination of discrimination);
 3. to compensate for proprietary and non-proprietary damage caused by the violation of the rights protected by this Act (action for damages);
 4. to publish in the media the ruling establishing the violation of the right to equal treatment, at the defendant's cost.
- (2) The court shall decide on the claims referred to in paragraph 1 of this Article by applying provisions of the Civil Procedure Act, unless otherwise provided by this Act.
- (3) The claims referred to in paragraph 1 of this Article may be brought before the court together with claims for the protection of other rights to be decided upon in legal proceedings if all the claims are interrelated and if the same court has the subject-matter jurisdiction over them, irrespective of whether these claims are prescribed to be settled in regular or special legal proceedings, except in cases of trespass litigations. In such cases, regulations relevant for the type of litigation in question shall apply, unless otherwise provided by this Act.
- (4) The claim for publishing the ruling referred to in paragraph 1, item 4 of this Article shall be granted if the court establishes:
 1. that the violation of the right to equal treatment took place through the media, or
 2. that information on the conduct violating the right to equal treatment were published in the media, and that the publishing of the ruling is necessary for the purpose of complete damage compensation or protection against unequal treatment in future cases.
- (5) If the court grants the claim for publishing the ruling, it shall order that the ruling be published in its entirety. In exceptional cases, the court may decide that the ruling be published partially or that certain personal data be removed from the text of the ruling if this is necessary for the protection of privacy of the parties and other persons, and if it does not jeopardise the purpose of the provided legal protection.

(6) The ruling which imposes the publishing in the media shall oblige the publisher of the medium in which the ruling is to be published, regardless whether the publisher was a party to the procedure or not.
[...]

Article 19

Temporary measures

(1) Prior to the institution or in the course of proceedings based on the claims referred to in Article 17, paragraph 1 of this Act, the court may, at the request of the party, order temporary measures.
[...]

Article 20

Burden of proof

(1) If a party in court or other proceedings claims that his/her right to equal treatment pursuant to provisions of this Act has been violated, he/she shall make it plausible that discrimination has taken place. In this case, it shall be for the respondent to prove that there has been no discrimination.
(2) The provision of paragraph 1 of this Article shall not apply to misdemeanour and criminal proceedings.
[...]

V PENALTY PROVISIONS

Article 25

(1) Whoever, with the aim to intimidate another person or to create a hostile, degrading or offensive environment on the grounds of a difference in race, ethnic affiliation, colour, gender, language, religion, political or other belief, national or social origin, property, trade union membership, social status, marital or family status, age, health condition, disability, genetic origin, native identity or expression, and sexual orientation, hurts another person's dignity, shall be charged a fine for misdemeanour amounting from HRK 5,000.00 to HRK 30,000.00.
(2) The responsible person in a legal person, state body, legal person vested with public authority, and local and regional self-government unit shall be charged the fine for misdemeanour referred to in paragraph 1 of this Article.
(3) If a sole trader or a self-employed person performing any other independent activity commits themisdemeanour referred to in paragraph 1 of this Article in relation to his/her craft or activity, he/she shall be charged a fine of HRK 10,000 to HRK 200,000.00.
(4) A legal person shall be charged a fine of HRK 30,000.00 to HRK 300,000.00 for the misdemeanour referred to in paragraph 1 of this Article.

Article 26

(1) Whoever, with the aim to intimidate another person or to create a hostile, degrading or offensive environment, hurts another persons' dignity by performing an act of sexual nature, shall be charged a fine of HRK 5,000.00 to HRK 40,000.00.
(2) The responsible person in a legal person, state body, legal person vested with public authority, and local and regional self-government unit shall be charged the fine for misdemeanour referred to in paragraph 1 of this Article.
(3) A sole trader or a self-employed person performing any other independent activity shall be charged a fine of HRK 10,000 to HRK 250,000.00 for the misdemeanour referred to in paragraph 1 of this Article.
(4) A legal person shall be charged a fine of HRK 30,000.00 to HRK 350,000.00 for the misdemeanour referred to in paragraph 1 of this Article.

Article 27

(1) The responsible person in a state body or local and regional self-government unit who, at the request of the Ombudsman or a special ombudsman, does not submit declarations, data and documents related to discrimination and does not provide insight into them within 30 days from the day of the receipt of the request, shall be charged a fine of HRK 1,000.00 to HRK 5,000.00.

(2) The responsible person in a state body or local and regional self-government unit who, at the request of the Ombudsman or a special ombudsman, does not provide insight into the file within 30 days from the day of the receipt of the request, shall be charged the fine referred to in paragraph 1 of this Article.

Article 28

(1) Whoever intentionally places in a less favourable position a person who reported discrimination in good faith or who participated in any manner in proceedings based on discrimination in line with provisions of this Act, shall be charged a fine of HRK 1,000.00 to HRK 20,000.00.

(2) The fine referred to in paragraph 1 of this Article shall be charged to the person who intentionally places in a less favourable position a person who witnessed discrimination or who rejected an instruction to discriminate.

(3) The perpetrator shall be fined for the attempt referred to in paragraphs 1 and 2 of this Article.

(4) The responsible official in a legal person, state body, legal person vested with public authority, and local and regional self-government unit shall be charged the fine for misdemeanour referred to in paragraph 1 of this Article.

(5) A sole trader or a self-employed person performing any other independent activity shall be charged a fine of HRK 5,000 to HRK 150,000.00 for the misdemeanour referred to in paragraphs 1 and 2 of this Article.

(6) A legal person shall be charged a fine of HRK 20,000.00 to HRK 200,000.00 for the misdemeanour referred to in paragraphs 1 and 2 of this Article.

Article 29

A proposal for charges based on the misdemeanours laid down in this Act may be brought not only by authorised plaintiffs stipulated in Article 109, paragraph 1 of the Misdemeanour Act, but also by the Ombudsman or special ombudsmen.

[...]

40 CUBA

Penal Code, 1987 (as amended) ⁷⁹

ARTICLE 303. A punishment of deprivation of freedom for a period of from three months to one year or a fine of one hundred to three hundred quotas shall be imposed on whosoever: [...]

b) offends the decency or good habits with indecent exposure or with any other act of public scandal;
[...]

41 CYPRUS

Equal Treatment of Men and Women in Employment and Vocational Education Act, 2002 ⁸⁰

⁷⁹ Penal Code, Law N^o 62 (23 December 1987), available at <https://www.warnathgroup.com/wp-content/uploads/2015/03/Cuba-Penal-Code-Lawyers-Without-Borders-2009.pdf> (last visited 15 November 2019). Unofficial translation by Lawyers Without Borders UK.

⁸⁰ Equal Treatment of Men and Women in Employment and Vocational Education Act, 205 (I) / 2002 (last amended by 150 (I) / 2014), available at http://www.cylaw.org/nomoi/enop/non-ind/2002_1_205/full.html (last visited 15 November 2019).

Interpretation

2. For the purposes of this Law, unless the context otherwise implies;

[...]

'Employment' means the provision of work or services, remunerated on the basis of an individual contract or employment or apprenticeship or other individual contract or relationship, governed either by private or public law, in any sector or branch of activity, private or public, including Public Service, Judicial Service, Public Education Service, Local Government Authorities, public or private law entities or bodies, the Armed Forces and the Security Forces;

[...]

"Sex discrimination" means any direct or indirect discrimination, including sexual harassment and any less favorable treatment based on the rejection or submission to such behavior or harassment as well as any less favorable treatment of a woman related to the abuse, lactation, maternity or illness due to pregnancy or childbirth, but not including positive actions, while any instruction or command to discriminate against a person n because sex is sex discrimination;

[...]

"Employee" means any man or woman who works or apprentices full-time or part-time, for a fixed or indefinite, continuous or non-permanent time, irrespective of the place of employment, including home workers, but not including self-employed persons;

[...]

"Employer" means the Government of the Republic, the Principles of Local Government and any natural or legal person or body, public or private, in any public or private sector or sector of employment, employing or employing employees;

[...]

'Unilateral harmful alteration of working conditions' means any act or omission or conduct in general of the employer or other person who is responsible or responsible for the determination or modification of employment conditions, which causes direct or indirect, material or moral, damage the employee or in any way offends his personality or dignity;

[...]

"Sexual harassment" means any unwanted behavior by a recipient of a sexual nature, expressed by or for the purpose or effect of prejudice to the dignity of a person, in particular when it creates an intimidating, hostile, degrading, humiliating or offensive environment; employment or vocational education or training or access to employment or vocational education or training;

[...]

Purpose of the Law

3. The purpose of this Law is to apply the principle of equal treatment between men and women with regard to access to vocational guidance, vocational education and training and the terms and conditions of their provision, access to employment and self-employment, terms and conditions. employment, including

career advancement, terms and conditions of dismissal as well as membership and participation in workers 'or employers' organizations.

[...]

Harassment and sexual harassment

12.- (1) Any act, of any natural or legal person, whether isolated or repeated, which constitutes harassment or sexual harassment or constitutes direct or indirect discrimination as a result of, in any way, the repudiation or abuse of harassment or harassment, in relation to the matters referred to in Articles 7, 8, 9 and 10. The fact that a person rejects or obeys such an act or conduct may not be used as a basis for any decision affecting that person.

(2) Employers and representatives of the legal entities or organizations referred to in subparagraph (3) of Articles 7, 8 and 10 shall protect employees, trainees or trainees or candidates for employment, vocational training or training from any act of their supervisor or a person responsible or responsible for the matters referred to in Articles 7, 8, 9 and 10 or any other employee, trainee or trainee who constitutes discrimination on the grounds of sex and in particular harassment or sexual harassment, and of any Act as a direct or indirect adverse treatment due to, in any way, apokrouseos or complaint of harassment or sexual harassment.

(3) Employers and representatives of the legal entities or organizations referred to in paragraph (3) of Articles 7, 8 and 10 shall be liable to the person who has suffered harassment or sexual harassment and / or direct or indirect discrimination as a result of the repudiation or denunciation, harassment or sexual harassment of his supervisor or person responsible or responsible for the matters referred to in Articles 7, 8, 9 and 10 or any other employee, trained or trained, as soon as they become aware of sorry imeni harassment or sexual harassment, or their consequences, to take all measures for the cessation and non-repetition, and to eliminate their consequences.

(4) Employers and representatives of the legal entities or bodies referred to in paragraph (3) of Articles 7, 8 and 10 shall be required to take all appropriate and timely measures to prevent the acts referred to in paragraph (1) in general. and shall be deemed to take such a measure when introducing a code of conduct to deter the acts referred to in subparagraph (1) and shall take sufficient practical measures to implement those laid down in such a code. If this is not the case, and if committed by a supervisor or person responsible or responsible for the matters referred to in Articles 7, 8, 9 and 10 or any other employee, trained or trained, acts prohibited under subsection (1), are jointly and severally liable with these persons.

[...]

Judicial protection and burden of proof

14.- (1) Any person who considers himself or herself to be affected by an infringement of this Law shall have the right to assert his or her rights before a competent court, even if the relationship in which the alleged infringement is alleged to have ended has been exhausted, and shall take all appropriate measures. for the purposes of establishing the infringement and any damage suffered thereby.

(2) In any court proceeding other than criminal proceedings, if the party alleging infringement of the provisions of this Law establishes the facts likely to constitute an infringement, the Court shall order his party to prove that there has been no infringement of this law. of this Law.

[...]

Competent Courts and Sanctions

15 .— (1) Without prejudice to the exclusive jurisdiction of the Supreme Court pursuant to Article 146 of the Constitution, and unless this Law provides otherwise, jurisdiction to adjudicate labor and other private law disputes arising out of the application of this present law. The Labor Court has the law.

(2) In the event of an action before the District Court under paragraph 6 of Article 146 of the Constitution and provided that the conditions of the substantive right to a fair and just satisfaction are met, the competent District Court shall award the maximum two of the following: :

(a) the just and equitable remuneration under Article 146 (6); or

(b) all positive damage including late payment and financial compensation for any moral or physical harm caused to the claimant by a decision, act or omission which has been declared invalid, in accordance with paragraph 4 of Article 146 of the Constitution. In any event, legal interest shall be added to the amount claimed above from the date on which the above damage and / or damage occurred and up to the date on which the compensation was paid in full.

(3) The Labor Disputes Tribunal awards just and reasonable compensation, which covers at least all of the positive damage, including late payment, and also includes financial compensation for any non-material or physical damage caused by the applicant in any event. , to the amount claimed above, legal interest shall be added from the date of the infringement to the date on which the compensation is paid in full.

(4) In the event of dismissal in breach of the provisions of this Law, the Labor Court shall, except in its award pursuant to paragraph (3) of this Article, and without prejudice to the good or bad faith of the employer, order the Recruitment of the employee and obliges the employer to accept his services, if the employee has requested it as a treatment:

Provided that, in the event of re-employment, the employee, provided that the compensation provided for in (3) of this Article has been awarded to him, is not entitled to retirement wages or other benefits, but the period of dismissal shall be regarded as a service for all others.

(5) Notwithstanding the penalties provided for in subparagraphs (3) and (4) of this Article, the Labor Court shall, if it considers it necessary, issue a decree binding on the applicant's rights in respect of the alleged infringement.

(6) Without prejudice to the generality of subsection (1) of section 6 of the Termination of Employment Laws of 1967 to (No. 3) of 2002, which applies in cases of dismissals made in violation of the provisions of this Law in the course of proceedings. by the Labor Disputes Tribunal referred to in subsection (1) of this Article, subsection (1) of section 14 of this Law shall apply with respect to reversing the burden of proof.

Offender liability is not subject to certain conditions

16 .— (1) In the event of an infringement of this Law, the following provisions shall not apply, subject to the liability of the infringer and / or the right to compensation or other treatment for a minimum number of employees in the same employer or a minimum period of employment or a minimum number. working hours of the employee, nor provisions setting a maximum allowance. Any agreement between an employer and an employee providing for such a condition is void.

(2) The amount of compensation awarded in each case of infringement of this Law shall be paid in full by the employer or other person responsible for infringement of this Law.

Revenge against employees, trainees or candidates

17 .- (1) Without prejudice to the provisions of Article 15 of this Law on compensation, the dismissal shall be void and any harmful alteration of the conditions of employment of a worker who has complained or complained in order to respect the principle of equal treatment. , including allegations of infringement of this Law, or of an employee who has dismissed or denounced sexual harassment unless the employer demonstrates that the dismissal or harmful alteration is due to a complaint irrelevant to the complaint or the protest or repulsion of sexual harassment.

(2) There is an infringement of this Law, which entails the penalties provided for in Article 15 of this Law and when-

(a) A person who is a candidate for employment, vocational training or vocational education or training who has complained or complained of a violation of this Law, or refused or denounced sexual harassment, is not hired for employment, or is not hired for employment; education or training; or

(b) a trainee or trainee who has complained or complained of an infringement of this Law or has denounced or complained of sexual harassment shall be subjected to discrimination as referred to in paragraph (b) of Article (1); issues of this Law-

unless the employer or other natural or legal person or organization referred to in subparagraph (3) of Articles 7 or 8 of this Law, as the case may be, proves that under (a) or (b) of this Law Subtitle treatment is due to a reason irrelevant to the complaint, complaint or response to sexual harassment.

(3) The provisions of subparagraphs (1) and (2) of this Article shall apply wherever a complaint or complaint is made, in particular at or outside the undertaking or service, or at the level referred to in subparagraph (3). Articles 7 or 8 of this Law to a person or organization or to any natural person or legal entity or body or authority or any organization, professional or not, national or international, and whether the complaint or complaint was addressed and in any manner whatsoever and medium if done, including litigation before a court or arbitration body.

(4) The provisions of this Article shall apply mutatis mutandis to any person who has assisted the employee or any other person referred to in paragraph (a) or (b) of subparagraph (2) of this Article with respect to the exercise or in support of any complaint or protest under this article, in any manner, including judicial or extrajudicial testimony.

Out-of-court protection and burden of proof

17A .- (1) Any person who considers that he or she is affected by an infringement of this Law shall be entitled to protection by the Chief Inspector and the Inspectors and may file complaints under Article 27.

(2) Any person who considers that he or she is affected by an infringement of the provisions of this Law shall be entitled, even if the relationship in which he is alleged to have been discriminated against, to file a complaint with the Commissioner for Administration for that purpose. has all the powers and responsibilities provided by the Anti-Racial and Certain Discrimination (Commissioner) Act.

(3) In any of the proceedings referred to in subparagraph (2), if the person claiming to be affected by an infringement of the provisions of this Law invokes and substantiates the facts likely to constitute an infringement, the Commissioner shall direct the person against whom the infringement is directed. complaint to prove that there has been no violation of this Law.

[...]

42 CZECH REPUBLIC

Anti-Discrimination Act, 2009 (as amended)⁸¹

Title I: General Provisions

Section 1: Subject

1) This Act transposes the relevant regulations of the European Union and, in relation to the directly applicable regulation of the European Union and the Charter of Fundamental Rights and Basic Freedoms and the international agreements that are part of the legal order, defines more precisely the right to equal treatment and prohibition of discrimination [...]

Section 2: Definitions

1) For the purposes of this Act, the right to equal treatment shall mean the right not to be discriminated against on the grounds laid down in this Act or the directly applicable regulation of the European Union on freedom of movement for workers.

2) Direct and indirect discrimination exist. Harassment, sexual harassment, victimization, instruction to discriminate and inciting discrimination shall also be considered to be discrimination.

3) Direct discrimination shall mean an act, including omission, where one person is treated less favorably than another is, has been or would be treated in a comparable situation, on grounds of race, ethnic origin, nationality, sex, sexual orientation, age, disability, religion, belief or opinions and, in legal relationships

⁸¹ Act on Equal Treatment and Legal Remedies for Protection against Discrimination and on Amendment to Certain Laws (the Anti-Discrimination Act), Act No. 198/2009 Coll., as amended (Zákon č. 198/2009 Sb.). Original version in Czech is available at <https://www.zakonyprolidi.cz/cs/2009-198#cast1> ; English translation is available at https://www.ochrance.cz/fileadmin/user_upload/DISKRIMINACE/pravni_predpisy/Anti-discrimination-Act.pdf (last visited 15 November 2019).

governed by the directly applicable regulation of the European Union on freedom of movement for workers, also on grounds of nationality.

4) Discrimination on grounds of pregnancy, maternity and paternity and on grounds of sexual identification shall also be considered to be discrimination on grounds of sex.

5) An act where a person is treated less favorably on alleged grounds under paragraph 3 above shall also constitute discrimination.

[...]

Section 4:

1) Harassment shall mean any unwanted conduct associated with the grounds specified in Section 2 (3),

a) taking place with the purpose or effect of diminishing the dignity of a person and creating an intimidating, hostile, degrading, humiliating or offensive environment, or

b) which could be legitimately be perceived as a precondition for a decision affecting the exercise of rights and obligations following from legal relationships.

2) Sexual harassment shall mean any conduct of a sexual nature under paragraph 1 above.

3) Victimization shall be any adverse treatment, sanction or disadvantage that has occurred as a result of exercise of the rights under this Act.

4) Instruction to discriminate shall mean the conduct of a person who misuses the subordinate position of another to discriminate against a third party.

5) Inciting discrimination shall mean the conduct of a person who persuades, confirms or encourages another to discriminate against a third party.

[...]

Title II: Legal Means of Protection against Discrimination

Section 10:

1) In the event of a violation of the rights and obligations following from the right to equal treatment or of discrimination, the person affected by such act shall have the right to claim before the courts, in particular, that the discrimination be refrained from, that consequences of the discriminatory act be remedied and that (s)he be provided with appropriate compensation.

2) Should a remedy under paragraph 1 above not appear sufficient, particularly due to the fact that a person's reputation or dignity or respect in society has been harmed, the person shall also have the right to monetary compensation for non- material damage.

3) The amount of the compensation under paragraph 2 above shall be assessed by the court taking into account the seriousness of the damage and the circumstances under which the right was violated.

Section 11:

1) In matters of protection against discrimination, a legal person,

a) which was founded for the protection of the rights of victims of discrimination, or

b) whose objects of activities specified in the statutes or rules consist in protection against discrimination or the aforementioned fact follows from its activities or is stipulated in a law, may provide information on the possibilities of legal assistance and cooperation in the drafting or supplementing of proposals and applications to persons claiming protection against discrimination.

2) A legal person specified in paragraph 1 above shall be entitled to submit to administrative authorities monitoring compliance with legal regulations, including the right to equal treatment, instigation of inspection and, if applicable, instigation of commencement of administrative proceedings.

[...]

Labor Code, 2006 (as amended)⁸²

Chapter IV: Equal Treatment and Prohibition of Discrimination

Section 16:

1) Employers shall ensure equal treatment for all employees as regards employee working conditions, remuneration for work and other emoluments in cash and in kind (of monetary value), vocational (professional) training and opportunities for career advancement (promotion).

2) Any form of discrimination in labor relations is prohibited. The terms, such as direct discrimination, indirect discrimination, harassment, sexual harassment, persecution, an instruction to discriminate and/or incitement to discrimination, and the instances in which different treatment is permissible, are regulated in the Anti-Discrimination Act.

3) Different treatment arising from the nature of occupational activities where this different treatment is a substantial requirement necessary for work performance is not considered as discrimination; the purpose followed by this derogation must be legitimate and the requirement must be adequate. Measures which are justified and aimed at preventing, or levelling out, disadvantages arising from the fact that a certain individual belongs to a group in respect of which relevant reason is laid down in the Anti-Discrimination Act shall not be deemed as discrimination.

Section 17:

⁸² Act No. 262/2006 Coll. (Labor Code), (Zákon č. 262/2006 Sb.), (June 7, 2006). Original version in Czech is available at <https://www.zakonyprolidi.cz/cs/2006-262> ; English version is available at <http://www.legislationline.org/documents/id/20322> (last visited 15 November 2019).

Remedial measures relating to protection against discrimination in labor relations are regulated in the Anti-Discrimination Act.

[...]

43 DENMARK

Consolidation Act on Equal Treatment of Men and Women as regards Access to Employment, 2006 (as amended)⁸³

Chapter 1: Scope etc. of the Act

1) For the purpose of this Act, equal treatment of men and women means that there shall be no discrimination on ground of sex. This applies to both direct discrimination and indirect discrimination, in particular by reference to pregnancy or to marital or family status.

Stk.2. Direct discrimination shall be understood as taking place where one person is treated less favorably than another is, has been or would be treated in a comparable situation on ground of sex. Direct discrimination on ground of sex shall also be understood as taking place in connection with any form of discrimination in connection with pregnancy and during women's 14 weeks of leave after childbirth.

Stk.3. Indirect discrimination shall be understood as taking place where an apparently neutral provision, criterion or practice put persons of one gender at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means achieving that aim are appropriate and necessary.

Stk.4. Harassment, as defined in subsection (5), and sexual harassment, as defined in subsection (6), shall be deemed to be discrimination on the ground of sex and is consequently prohibited. Any person's rejection of or consent to that type of conduct must not be used as grounds for a decision concerning the person in question.

Stk.5. Harassment shall be understood as taking place when any form of unwanted verbal, non-verbal or physical conduct is exhibited in relation to one person's sex for the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

Stk.6. Sexual harassment shall be understood as taking place when any form of unwanted verbal, non-verbal or physical conduct with sexual undertones is exhibited for the purpose or effect of violating the dignity of a person, in particular by creating an intimidating, hostile, degrading, humiliating or offensive environment.

Stk.7. An instruction to discriminate against one person on ground of sex shall be deemed to be discrimination.

⁸³ Consolidation Act on Equal Treatment of Men and Women as regards Access to Employment etc. (Bekendtgørelse af lov om ligebehandling af mænd og kvinder med hensyn til beskæftigelse m.v.), Statutory Order No. 734 (28 June 2006, with amendments through Act No. 182 of 8 March 2011). Available in Danish at <https://www.retsinformation.dk/forms/r0710.aspx?id=137042> (last visited 15 November 2019).

[...]

Chapter 2: Equal treatment of men and women

[...]

2) Every employer must treat men and women equally through employment, transfers and promotions.

3) Every employer who employs men and women must treat them equally in terms of access to vocational guidance, vocational training, vocational training and retraining.

Stk.2. Obligation for equal treatment also applies to anyone conducting counseling and education activities as mentioned in subsection (2).

4) Every employer who employs men and women must treat them equally in terms of working conditions. This also applies in the case of dismissal.

5) The duty of equal treatment also applies to anyone who makes provisions and decides on the right to pursue an independent profession. This also applies to the creation, organization or expansion of a business and the commencement or expansion of any other independent business, including financing thereof.

Obligation for equal treatment applies to anyone who determines and decides on vocational training, etc. and on the conditions for pursuing such a profession.

5.a) The duty of equal treatment also applies to anyone who decides on membership in and participation in an employee or employer organization or in organizations whose members carry on a particular profession, including the benefits such organizations provide to members.

[...]

Chapter 6: Compensation, assessment of evidence, etc.

14) Persons whose rights have been violated by contravention of sections 2-5 may be awarded compensation.

15) An employee, including an employee representative who is dismissed or subjected to other unfavorable treatment or follow-up because a claim for equal treatment has been made under sections 2-4, must be awarded compensation from the employer.

Stk.2. Compensation pursuant to subsection (2).1, shall be determined taking into account the employee's term of employment and the circumstances of the case otherwise.

Stk.3. Paragraphs 1 and 2 shall apply mutatis mutandis where the duty of equal treatment derives from a collective agreement, but where the agreement does not grant the person concerned access to compensation for dismissal that is not reasonably justified by the employee's or the company's circumstances.

[...]

16.a) If a person who considers himself offended, cf. Sections 2-5, 9 and 15 (1). In accordance with paragraph 1, if facts prove that there is reason to believe that direct or indirect discrimination has been exercised, it is for the other party to prove that the principle of equal treatment has not been infringed.

[...]

Chapter 8: Penalties

19) Violation of sections 2-6 is punishable by fine.

Companies, etc. (legal persons) may be liable for criminal charges in accordance with the rules of Chapter 5 of the Criminal Code.

[...]

Equality Act for Women and Men, 2007 (as amended)⁸⁴

Chapter 1: Purpose and Scope of the Act

§ 1) The purpose of the Act is to promote equality between women and men, including equal integration, equal influence and equal opportunities in all functions of society based on the equal value of women and men. The purpose of the Act is also to discourage direct and indirect discrimination on the grounds of sex and to counteract harassment and sexual harassment.

§ 1. a) Chapter 2 applies to

1. any employer, authority and organization in the field of public administration and general business;
2. authorities and organizations and all persons providing goods and services available to the public in both the public and private sectors, including public bodies, offered outside private and family life, as well as transactions thereon.

Stk.2. The Equal Treatment Act for men and women in respect of employment, etc., the Maternity Act, the Equal Pay Act for Men and Women and the Equal Treatment Act for Men and Women in occupational social security schemes are applied in the areas covered by these laws.

Chapter 2: Prohibition of discrimination on grounds of sex (gender discrimination)

§ 2) No person shall subject another person to direct or indirect discrimination on grounds of sex. An instruction to discriminate against a person on the grounds of sex is considered discrimination.

[...]

⁸⁴ Equality Act for Women and Men, Statutory Order No. 1095 (19 September 2007, last amended by Act No. 1288 of 19 December 2012). Available at <https://www.retsinformation.dk/Forms/r0710.aspx?id=160578> (last visited 15 November 2019).

§ 2. a) Harassment is defined in subsection 2 and sexual harassment is defined in subsection 3. Paragraph 3 is considered discrimination on grounds of sex and is therefore prohibited. A person's refusal or acceptance of such conduct must not be used as a basis for a decision that concerns that person.

Stk.2. Harassment occurs when undesirable behavior is exhibited in relation to a person's gender for the purpose or effect of violating a person's dignity and creating a threatening, hostile, degrading, humiliating or unpleasant climate.

Stk.3. Sexual harassment exists when any form of unwanted verbal, nonverbal or physical behavior with sexual undertones is exhibited in relation to a person's gender for the purpose or effect of violating that person's dignity, in particular by creating a threatening, hostile, degrading, humiliating or unpleasant climate.

§ 2. b) No one shall be subjected to unfavorable treatment or adverse consequences in response to a complaint or any legal proceedings instituted for the purpose of ensuring compliance with the principle of equal treatment.

[...]

Invalidity

§ 3. b) Provisions that contravene Sections 2 and 2a and which are included in individual or collective contracts, companies' internal regulations and statutes for associations and foundations etc. are invalid.

Stk.2. The provisions of the Act may be waived by agreement, unless it will be to the disadvantage of the person subject to discrimination on grounds of sex.

Compensation

§ 3. c) Persons whose rights under Sections 2, 2a and 2b are violated may be granted compensation.

Complaints

§ 3. d) Complaints about a violation of the prohibition of discrimination on grounds of sex, cf. Sections 2 and 2 b, are dealt with by the Equal Treatment Board.

Chapter 3: Obligations of public authorities

§ 4) Public authorities must work for gender equality in their area and incorporate equality in all planning and management.

[...]

Chapter 5: Department of Human Rights - National Institute of Human Rights of Denmark

14) The Institute for Human Rights - The National Institute of Human Rights of Denmark is tasked with promoting, evaluating, monitoring, and supporting equal treatment of women and men without discrimination on grounds of gender, including by giving victims of discrimination impartial assistance in

dealing with their complaints of discrimination taking into account the rights of victims, associations, organizations and other legal persons, conducting impartial investigations into discrimination, publishing impartial reports, and making recommendations on any issue of discrimination.

[...]

Law on State Guarantees of Equal Rights for Women and Men, 2006⁸⁵

[...]

Chapter IV: Guarantees on Gender Equality in the Labor Relations

[...]

Article 17: Ban on sexual harassment

17.1. An employer may not subject an employee to harassment on the grounds that the employee has rejected the employer's sexual advances or has reported the employer for sex discrimination.

17.2. The employer is responsible for the harassment towards an employee based on the provision 19.1. of the current Law and in accordance with the legislation of the Republic of Azerbaijan.

Chapter V: Violation of Equal Rights on the Ground of Gender

Article 18: Discriminatory Acts of the Employer

18.0. The acts of the employer shall be deemed discriminatory if s/he:

[...]

18.0.5. repeats harassment of an employee, who reported the employer for sexual harassment or discrimination;

[...]

20. Investigation of Complaints on Gender-based Discrimination. In accordance with the Constitution of the Republic of Azerbaijan, the Special Representative on Human Rights of the Republic of Azerbaijan (Ombudsmen) shall investigate complaints relating to discrimination on the ground of gender.

Criminal Code, 2005 (as amended)⁸⁶

⁸⁵ Law of the Republic of Azerbaijan on State Guarantees of Equal Rights for Women and Men (10 October 2006), English translation available at https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_127414.pdf (last visited 15 November 2019).

⁸⁶ Criminal Code of Sept. 27, 2005, as amended by Act Nos. 1389 & 1400 of Dec. 21, 2005 (Bekendtgørelse af straffeloven), (September 27, 2005). English translation is available at: http://europam.eu/data/mechanisms/PF/PF%20Laws/Denmark/Criminal_Code_2005.pdf (last visited 15 November 2019). Danish version is available at https://sherloc.unodc.org/res/cld/document/criminal_code_of_denmark_as_of_2012_danish_version_html/Danish_Criminal_Code_as_of_2012.pdf (last visited 15 November 2019).

[...]

Article 232:

Any person who by obscene behavior violates public decency or gives public offence shall be liable to a fine or to imprisonment for any term not exceeding four years.

[...]

44 DOMINICAN REPUBLIC

Penal Code, 2007⁸⁷

Art. 333-2. Sexual harassment constitutes any order, threat, constraint or offer intended to obtain favors of a sexual nature, carried out by a person (man or woman) who abuses the authority conferred on him by his duties.

Sexual harassment is punishable by one year in prison and a fine of five thousand to ten thousand pesos.

Sexual harassment in the workplace results in justified resignation in accordance with the provisions of articles 96 and following of the Labor Code, without prejudice to other actions that the victim may attempt.

Labor Code, 1992⁸⁸

Art. 47.- Employers are prohibited:

[...]

9. Exercise actions against the worker that may be considered sexual harassment, or support or not intervene in the event that these actions are carried out by one of their representatives.

[...]

Art. 96.- Resignation is the termination of the employment contract by unilateral will of the worker.

It is justified when the worker proves the existence of a just cause provided for in this regard in this Code.

It is unjustified in the opposite case.

It is said to be non-existent and, consequently, will not extinguish the rights that the worker has acquired, when what has really been operated is a transfer, change or transfer of the worker to another company, entity or employer, for fraudulent purposes.

Fraud is always presumed to the detriment of the rights of the worker when the transfer, change or transfer of the worker has taken place to another company, entity or employer that is a subsidiary of the company with which the transfer or change operates, or that they maintain with it affinity or link in the development of its activities or businesses, or integrate with it a single economic set.

Art. 97.- The worker may terminate the employment contract, presenting his resignation, for any of the following causes:

⁸⁷Penal Code (24 January, 2007), available at <https://republica-dominicana.justia.com/nacionales/codigos/codigo-penal/gdoc/> (last visited 15 November 2019). Unofficial translation by Compendium team.

⁸⁸Labor Code, Law No. 16-92 (29 May 1992), available at https://www.mt.gob.do/images/docs/biblioteca/codigo_de_trabajo.pdf (last visited 15 November 2019). Unofficial translation by Compendium team.

[...]

13. For violating the employer any of the provisions contained in article 47;

[...]

Art. 101.- If, as a result of the resignation, contention arises between the parties and the worker proves the just cause invoked

by him, the court will declare the resignation justified and will condemn the employer to the same compensation prescribed by the article 95 in the case of unjustified dismissal.

[...]

45 ECUADOR

Penal Code, 2014⁸⁹

Article 166. Sexual harassment. The person requesting any act of sexual nature, for oneself or for a third party, taking advantage of a position of employment, education, religious or similar authority, whether tutor or guardian, curator, ministers of worship, education or health professional, personnel responsible for care and caring for the patient or maintaining family ties or any other form that implies subordination of the victim, with the threat of causing the victim or a third party, an evil related to the legitimate expectations that may have in the scope of said relationship, will be sanctioned with imprisonment of one to three years.

When the victim is under eighteen years of age or a person with a disability or when the person cannot understand the meaning of the act or for any reason cannot resist it, punishment will be imprisonment from three to five years.

The person who requests favors of a sexual nature that threatens the sexual integrity of another person, and that is not provided for in the first subsection of this article, will be punished with imprisonment from six months to two years.

46 EGYPT

Law No. 50 of 2014 amending the Penal Code⁹⁰

Art. 1 (replacing Art. 306 bis (a) of the Penal Code by introducing new paragraph (a))

- (a) individuals who carry out sexual or obscene gestures in any manner, including by modern means of communication, will be punished with a term of imprisonment of not less than six months or a fine of EGP 3000. It also states that if the act of sexual harassment is repeated by the same individual, the punishment of imprisonment will be increased to one year and the fine to EGP 5,000-10,000.

Art. 2 (introducing new Art. 306 bis (b) of the Penal Code

⁸⁹Penal Code (10 February 2014), available at <https://www.asambleanacional.gob.ec/es/system/files/document.pdf> (last visited 15 November 2019). Unofficial translation by Compendium team.

⁹⁰ Law No. 50 of 2014 amending the Penal Code (promulgated by Law No. 58 of 1937), available at https://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=99319 (last visited 15 November 2019).

- (b) if the harassment is done with the intent of receiving sexual gratification from the victim, the punishment will be a term of imprisonment of not less than one year and a fine of EGP 10,000-20,000. Moreover, any individual who uses duress to receive sexual gratification will be punished with a term of imprisonment of between two and five years and a fine of EGP 20,000-50,000.

47 EL SALVADOR

Penal Code, 1980⁹¹

Art. 165:

Whoever performs an unwelcome sexual behavior, including phrases, touching, signs or other acts of a sexual nature or content, which does not by itself constitute a more serious crime, will be sanctioned with five years of prison.

Sexual harassment conducted against children under fifteen years, will be sanctioned with the penalty of four to eight years of prison.

If sexual harassment is carried out by taking advantage of the superiority originated by any type of relationship, an additional fine between one hundred and two hundred days will be imposed.

General Law for the Prevention of Risks in the Workplace, 2010⁹²

Art. 7:

For the application of this law, the following definitions shall apply: [...]

Psychosocial risk: Those aspects of the design, organization and management of work as well as of their social and environmental context that have the potential to cause social or psychological damage to workers, such as [...], sexual harassment, violence against women, difficulty in making work compatible with family responsibilities, and all forms of discrimination in the negative sense.

Art. 8.- It will be the responsibility of the employer to formulate and execute the Occupational Risk Management and Prevention Program of the company, according to the activity and the allocated resources necessary for its execution. The employer must ensure the effective participation of workers and workers in training to the implementation and evaluation of the aforementioned program.

This program will have the following basic elements:

[...]

10. Formulation of preventive programs, and awareness of violence towards women, sexual harassment and other psychosocial risks.

This program must be updated every year and be available to the Ministry of Labor and Social Security.

Art. 9.- Workers hired on a temporary basis must enjoy the level of protection in occupational safety than the rest of the company's workers. No differences in treatment may be established due to contract duration.

⁹¹ Penal Code, Decree No. 1030 of 1980 (as amended), available at <https://www.asamblea.gob.sv/sites/default/files/documents/decretos/COAB56F8-AF37-4F25-AD90-08AE401COBA7.pdf> (last visited 15 November 2019). Unofficial translation by Compendium team.

⁹² General Law for the Prevention of Risks in the Workplace, Decree No. 254 (5 May 2010), available at https://www.asamblea.gob.sv/sites/default/files/documents/decretos/171117_072939163_archivo_documento_legislativo.pdf (last visited 15 November 2019). Unofficial translation by Compendium team.

48 ERITREA

Penal Code of Ethiopia (Eritrean Transitional Penal Code), 1957⁹³

Art. 593. — Taking advantage of the distress or dependence of a woman.

Whosoever, apart from the cases specified in the preceding article, procures from a woman sexual intercourse or any other indecent act by taking advantage of her material or mental distress or of the authority he exercises over her by virtue of his position, function or capacity as protector, teacher, master or employer, or by virtue of any other like relationship, is punishable, upon complaint, with simple imprisonment.

49 ESTONIA

Gender Equality Act, 2004⁹⁴

Chapter 1

GENERAL PROVISIONS

§ 1. Purpose and scope of Act

[RT I 2008, 56, 315 - entry into force 01.01.2009]

(1) The purpose of this Act is to ensure equal treatment of men and women as provided for in the Constitution of the Republic of Estonia and to promote equality of men and women as a fundamental human right and for the public good in all areas of social life.

(2) To achieve this purpose, this Act provides for:

- 1) the prohibition of discrimination on the grounds of sex in the private and public sectors;
- 2) the obligation of state and local government authorities, educational and research institutions and employers to promote equality between men and women;
- 3) the right to claim compensation for damage.

§ 2. Scope of application of Act

[RT I 2008, 56, 315 - entry into force 01.01.2009]

(1) This Act applies to all areas of social life.

[...]

§ 3. Definitions

(1) In this Act, the following definitions are used:

[...]

3) “direct discrimination based on sex” occurs where one person is treated less favourably on grounds of sex than another is, has been or would be treated in a comparable situation. Direct discrimination based on sex also means less favourable treatment of a person in connection with pregnancy and child-birth, parenting, performance of family obligations or other circumstances related to gender, as well as gender-based harassment and sexual harassment and less favourable treatment of a person due to rejection of or submission to harassment;

⁹³ *Penal Code of Ethiopia 1957 (Eritrean Transitional Penal Code)* [Ethiopia], Proclamation No. 158 (23 July 1957), available at <https://www.refworld.org/docid/49216a0a2.html> (last visited 15 November 2019).

⁹⁴ Gender Equality Act, RT I 2004, 27, 181 (7 April.2004), available at <https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/530102013038/consolide> (last visited 15 November 2019).

[RT I 2009, 48, 323 - entry into force 23.10.2009]

[...]

5) “sexual harassment” occurs where any form of unwanted verbal, non-verbal or physical conduct or activity of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating a disturbing, intimidating, hostile, degrading, humiliating or offensive environment;

[RT I 2009, 48, 323 - entry into force 23.10.2009]

6) “gender-based harassment” occurs where unwanted conduct or activity related to the sex of a person occurs with the purpose or effect of violating the dignity of a person and of creating a disturbing, intimidating, hostile, degrading, humiliating or offensive environment.

[RT I 2009, 48, 323 - entry into force 23.10.2009]

(2) For the purposes of this Act:

1) “employee” means a person employed under an employment contract or a contract for the provision of services, an official or any other person set out in § 2 of the Public Service Act. Persons applying for employment or service are also deemed to be employees;

[RT I, 06.07.2012, 1 - entry into force 01.04.2013]

2) “employer” means a natural or legal person who provides employment on the basis of an employment contract or a contract for the provision of services, or a state authority or a local government authority.

[RT I 2008, 56, 315 - entry into force 01.01.2009]

§ 4. Shared burden of proof

(1) An application of a person addressing a court, a labour dispute committee or the Gender Equality and Equal Treatment Commissioner shall set out the facts on the basis of which it can be presumed that discrimination based on sex has occurred.

[RT I 2009, 48, 323 - entry into force 23.10.2009]

(2) In the course of proceedings, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment. If the person refuses to provide proof, such refusal shall be deemed to be equal to acknowledgement of discrimination by the person.

[RT I 2008, 56, 315 - entry into force 01.01.2009]

(3) The shared burden of proof does not apply in administrative or criminal proceedings.

[RT I 2008, 56, 315 - entry into force 01.01.2009]

[...]

§ 6. Discrimination in professional life

[...]

(2) The activities of an employer shall also be deemed to be discriminatory if the employer:

[...]

5) harasses a person in relation to the sex of the person or sexually, or fails to perform the obligation provided for in clause 11 (1) 4) of this Act. An employer is responsible for failure to perform the duty of care if the employer was aware or should have been aware that gender-based harassment or sexual harassment occurred and failed to apply the necessary measures to terminate such harassment;

[RT I 2009, 48, 323 - entry into force 23.10.2009]

[...]

Chapter 3

PROMOTION OF GENDER EQUALITY

§ 9. State and local government authorities as promoters of gender equality

(1) State and local government authorities are required to promote gender equality systematically and purposefully. Their duty is to change the conditions and circumstances that hinder the achievement of gender equality.

(2) Upon planning, implementation and assessment of national, regional and institutional strategies, policies and action plans, the authorities specified in subsection (1) of this section shall take into account the different needs and social status of men and women and consider how the measures applied and to be applied will affect the situation of men and women in society.

(2¹) Upon planning the performance of the obligations imposed in subsections (1) and (2) of this section and upon performance of such obligations, the state and local government authorities shall, if necessary, consult the relevant interest groups and non-profit organisations that have a legitimate interest in helping to combat discrimination based on sex in order to support compliance with the principle of equal treatment.

[RT I 2009, 48, 323 - entry into force 23.10.2009]

§ 11. Employers as promoters of gender equality

(1) Upon promotion of equal treatment of men and women, an employer shall:

[...]

4) ensure that employees are protected from gender-based harassment and sexual harassment in the working environment;

[RT I 2009, 48, 323 - entry into force 23.10.2009]

5) inform employees of the rights ensured by this Act;

[...]

Chapter 4

RESOLUTION OF DISPUTES CONCERNING DISCRIMINATION BASED ON SEX

§ 12. Resolution of disputes concerning discrimination based on sex

Discrimination disputes shall be resolved by a court or a labour dispute committee. Discrimination disputes shall be resolved by the Chancellor of Justice by way of conciliation proceedings.

[RT I 2008, 56, 315 - entry into force 01.01.2009]

§ 13. Compensation for damage

(1) If the rights of a person have been violated due to discrimination, he or she may demand from the person who has violated the rights that the harmful activity be terminated and that the damage be compensated for on the bases of and pursuant to the procedure provided by law.

[RT I 2009, 48, 323 - entry into force 23.10.2009]

(2) An injured party may demand that, in addition to as provided for in subsection (1) of this section, a reasonable amount of money be paid to the party as compensation for non-patrimonial damage caused by the violation.

(3) Upon determination of the amount of compensation, a court or a labour dispute committee shall take into account, *inter alia*, the scope, duration and nature of the discrimination.

[RT I 2008, 56, 315 - entry into force 01.01.2009]

[...]

§ 14. Expiry of claim for compensation for damage

A claim provided for in § 13 of this Act expires in one year after the date when the injured party became aware or should have become aware of the damage caused.

Chapter 5

GENDER EQUALITY AND EQUAL TREATMENT COMMISSIONER

[RT I 2008, 56, 315 - entry into force 01.01.2009]

§ 15. Gender Equality and Equal Treatment Commissioner

(1) The Gender Equality and Equal Treatment Commissioner (hereinafter Commissioner) is an independent and impartial expert who acts independently, monitors compliance with the requirements of this Act and the Equal Treatment Act and performs other functions imposed by law.

[...]

50 ETHIOPIA

Criminal Code, 2004⁹⁵

Article 625.- Taking Advantage of the Distress or Dependence of a Woman.

Whoever, apart from the cases specified in the preceding Article, procures from a woman sexual intercourse or any other indecent act by taking advantage of her material or mental distress or of the authority he exercises over her by virtue of his position, function or capacity as protector, teacher, master or employer, or by virtue of any other similar relationship, is punishable, upon complaint, with simple imprisonment.

[...]

Article 846.- Immoral Soliciting and Debauchery.

Whoever in the street, or in a public place, or in a place accessible to the public:

(a) with an intent contrary to decency or morality molests a person who is not soliciting; or

(b) by improper soliciting incites another person to sexual intercourse or to committing an act contrary to decency, or acts of debauchery of any kind whatsoever; or

[...]

is punishable with fine or arrest not exceeding one month.

51 FIJI

Crimes Decree, 2009⁹⁶

Indecently insulting or annoying any person

213.—(1) A person commits a summary offence if he or she, intending to insult the modesty of any person—

(a) utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by the other person; or

(b) intrudes upon the privacy of another person by doing an act of a nature likely to offend his or her modesty.

Penalty — Imprisonment for one year.

Human Rights Commission Decree, 2009⁹⁷

⁹⁵Criminal Code, Proclamation No. 414/2004, available at <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/70993/75092/F1429731028/ETH70993.pdf> (last visited 15 November 2019).

⁹⁶ Crimes Decree, Decree No. 44 of 2009, available at <https://www.ilo.org/dyn/natlex/docs/SERIAL/86223/97166/F1417546453/FJI86223.pdf> (last visited 15 November 2019).

⁹⁷ Human Rights Commission Decree, Decree No. 11 of 2009, available at http://www.paclii.org/fj/promu/promu_dec/hrcd2009280/ (last visited 15 November 2019).

PART 1—PRELIMINARY

[...]

2. In this Decree, unless the context otherwise requires—

[...]

"employment" includes—

- (a) the employing of an independent contractor;
- (b) the relationship between a person for whom work is done by contract worker pursuant to a contract and the person who supplies that worker;
- (c) employment in the public service, including the Fiji Police Force, the Fiji Prisons Service and the Republic of Fiji Military Forces;
- (d) unpaid work;

[...]

"prohibited ground of discrimination" means—

- (a) actual or supposed personal characteristics or circumstances, including race, ethnic origin, colour, place of origin, gender, sexual orientation, birth, primary language, economic status, age or disability; or

[...]

PART 3—UNFAIR DISCRIMINATION

Areas where unfair discrimination prohibited

19.—(1) It is unfair discrimination for a person, while involved in any of the areas set out in subsection (3), directly or indirectly to differentiate adversely against or harass any other person by reason of a prohibited ground of discrimination.

(2) Without limiting subsection (1), sexual harassment, for the purposes of this section, constitutes harassment by reason of a prohibited ground of discrimination.

[...]

Victimisation

24. It is unfair discrimination for a person while involved in any of the areas set out in section 19(3) to victimise any other person on the ground that that person, or a relative or associate of that person—

- (a) intends to make use of his or her rights under this Decree or any other written law;
- (b) has made use of his or her rights, or promoted the rights of some other person, under this Decree or any other written law;
- (c) has given information or evidence in relation to any complaint, investigation or proceeding under this Decree or any other written law;
- (d) has declined to do any act which would contravene this Decree or any other written law; or
- (e) has otherwise done anything under or by reference to this Decree or any other written law.

[...]

PART 4—COMPLAINTS AND INVESTIGATIONS

Complaints about contravention of human rights

27.—(1) Any person may make a complaint to the Commission, including a representative complaint on behalf of other persons with a similar cause of complaint, about a contravention or alleged contravention of human rights.

(2) Notwithstanding anything contained in this Decree, the Commission shall not receive, nor shall it investigate on its own motion, any complaints questioning or challenging the legality or validity of the Fiji Constitution Amendment Act 1997 Revocation Decree 2009, or such other Decrees made or as may be made by the President.

Complaints about unlawful discrimination

28.—(1) Any person may make a complaint to the Commission, including a representative complaint on behalf of other persons with a similar cause of complaint, about unfair discrimination.

[...]

Discretion whether to investigate

29.—(1) The Commission must investigate any complaint received by it, unless before commencing or during the investigation it decides not to do so because—

- (a) the complaint is not within the jurisdiction of the Commission;
- (b) the complaint is trivial, frivolous, vexatious or not made in good faith
- (c) the complainant, or a person acting on his or her behalf, has brought proceedings relating to the same matter in a court or tribunal;
- (d) the complainant has available another remedy or channel of complaint that the complainant could reasonably be expected to use;
- (e) the complainant has not a sufficient interest in the complaint;
- (f) the person alleged to be aggrieved does not desire that the complaint be investigated;
- (g) the complaint has been delayed too long to justify an investigation;
- (h) the Commission has before it matters more worthy of its attention; or
- (i) the resources of the Commission are insufficient for adequate investigation, and may defer or discontinue an investigation for any of these reasons.

(2) No decision by the Commission to decline, defer or discontinue an investigation into a complaint affects the Commission's power to inquire generally into a matter of its own initiative.

Investigation of Commission's own motion

30. Subject to sections 27(2) and 28(2), the Commission may investigate of its own motion any act, omission, practice, requirement or condition which is or appears to be unfair discrimination or a contravention of human rights or which has been referred to it by the High Court.

[...]

Investigation procedure

32.—(1) Before investigating any matter within its jurisdiction, the Commission must inform—

- (a) the complainant (if any);
- (b) the person alleged to be aggrieved, if not the complainant;
- (c) the person to whom the investigation relates; and
- (d) in relation to an investigation relating to a department the person holding or performing the duties of the office of Secretary of the department,
of the Commission's intention to make the investigation.

(2) An investigation under this Decree must be conducted in private.

(3) The Commission may hear or obtain information from any person whom the Commission considers can assist in the investigation and may make whatever enquiries it thinks fit.

(4) Nothing in this Decree requires the Commission to hold any hearing and no person is entitled as of right to be heard by the Commission.

(5) The Commission must not in any report make any comment that is adverse to or derogatory of any person to whom a complaint relates without

- (a) providing the person with a reasonable opportunity of being heard; and
- (b) fairly setting out in the report the person's defence (if any).

(6) In conducting an investigation, the Commission is not bound by the strict rules of evidence or procedure, but must act fairly at all times.

Conciliation

33.—(1) The Commission may, before commencing an investigation, or during or after an investigation, call a conciliation conference of the parties to the conciliation by formally requesting, by post, telephone, facsimile, electronic mail or otherwise, the attendance of each party at a time and place specified.

(2) If a person fails to comply with a request made under subsection (1) the Commission may issue a summons requiring the person to attend a conciliation conference at a time and place specified in the summons.

(3) The objectives of a conciliation conference are to identify the matters at issue between the parties and to use the best endeavours of the Commission to secure a settlement between the parties on the matters at issue.

Power to require information to be provided

34.—(1) Subject to this section and to section 35, for the purposes of an investigation a Commissioner may, by notice in writing, require any person to furnish any information, or to produce any document, record or thing in the possession or under the control of that person that is in the opinion of the Commissioner relevant to the investigation.

(2) If a Commissioner has reason to believe that a person is able to give information relevant to an investigation, the Commissioner may, by notice in writing, require the person to attend before him or her, on a date and at the time and place specified in the notice, to answer questions relevant to the investigation.

(3) For the purposes of an investigation the Commission and a Commissioner have the same powers as a judge of the High Court in respect of the attendance and examination of witnesses and the production of documents.

[...]

Procedure after investigation

36.—(1) After completing an investigation, the Commission must inform the parties of the result of the investigation and whether, in its opinion—

- (a) the complaint does not have substance, or cannot be established to have substance or, in relation to an investigation of the Commission's own motion, that the matter ought not to be proceeded with; or
- (b) the complaint has substance or, in relation to an investigation of the Commission's own motion, that the matter ought to be proceeded with.

(2) If the Commission is of the opinion that a complaint does not have substance, or cannot be established to have substance, but considers nonetheless that it may be possible to reach a settlement between any of the parties concerned, the Commission may act as a conciliator and use its best endeavours to reach a settlement of the complaint.

(3) If the Commission is of the opinion that a complaint does not have substance, or cannot be established to have substance, or if the Commission pursuant to section 29(1) decides not to investigate, or investigate further, a complaint, it must inform the complainant of the complainant's right to bring civil proceedings before the High Court.

(4) If the Commission has investigated a complaint and is of the opinion that the complaint has substance, it must act as conciliator in relation to the complaint and use its best endeavours to effect a settlement in relation to the complaint.

(5) For the purposes of this section, "settlement" includes a satisfactory assurance by the person to whom a complaint or investigation relates against repetition of the conduct that was the subject-matter of the complaint or the investigation or against conduct of a similar kind.

(6) Whether or not it takes any of the actions referred to in subsections (2), (3) and (4), the Commission may—

- (a) advise the parties of their respective rights, including the complainant's right to bring proceedings in the High Court;
- (b) refer the complaint and, if it considers appropriate, the result of the investigation to another competent authority;
- (c) make recommendations to the competent authority, proposing amendments to or reform of any laws, regulations or administrative provisions or practices which have created the difficulties or hardship encountered by the complainant or the aggrieved person;

(d) recommend to the relevant authority, in respect of a person who in the opinion of the Commission has contravened human rights, either prosecution of the person or the taking of other action, and the authority must consider the recommendation, take such action as it deems appropriate and advise the Commission in due course of the action it has taken.

[...]

Proceedings

38.—(1) Civil proceedings in the High Court lie at the suit of the Proceedings Commissioner against a person referred to in paragraph (b) or (c) of section 37(1) for unfair discrimination or a contravention of human rights; Provided however that no proceeding which seeks to question or challenge the legality or validity of the Fiji Constitution Amendment Act 1997 Revocation Decree 2009, or such other Decrees made or as may be made by the President, shall be brought by the Proceedings Commissioner.

[...]

(3) If proceedings are commenced by the Proceedings Commissioner under subsection (1), neither the complainant (if any) nor the aggrieved person (if not the complainant) may be an original party to the proceedings, or, unless the High Court so orders, join or be joined in the proceedings.

(4) Notwithstanding subsection (1), the complainant (if any) or the aggrieved person (if not the complainant) may bring proceedings before the High Court if—

(a) the Commission is of the opinion that the complaint does not have substance or cannot be established to have substance or that the matter ought not to be proceeded with;

(b) the Commission pursuant to section 29(1) decides not to investigate, or to investigate further, a complaint; or

(c) the Proceedings Commissioner would be entitled to bring proceedings but—

(i) agrees to the complainant, in the case of a complaint, or an aggrieved person, in relation to an investigation of the Commission's own motion, bringing proceedings; or

(ii) decides not to take proceedings.

[...]

Right of Proceedings Commissioner to appear in High Court

39.—(1) The Proceedings Commissioner may appear and be heard in the High Court or the Court of Appeal in relation to any proceedings under section 38, whether or not the Proceedings Commissioner is or was a party to the proceedings.

(2) With leave of the court, tribunal or arbitrator, the Proceedings Commissioner may appear and be heard in relation to any proceedings before a court, tribunal or arbitrator in which human rights are in issue.

(3) If the Proceedings Commissioner appears before any court, tribunal or arbitrator he or she may, unless the rules of procedure of the court, tribunal or arbitrator otherwise provide—

(a) appear in person or by a legal practitioner;

(b) adduce evidence and cross-examine witnesses, unless the proceedings are by way of appeal,

Remedies

40.—(1) In any proceedings before the High Court brought under section 38 by the Proceedings Commissioner, a complainant or an aggrieved person, the plaintiff may seek any or all of the remedies described in subsection (2) of this section.

(2) If in any proceedings as mentioned in subsection (1) the High Court is satisfied on the balance of probabilities that the defendant has engaged in unfair discrimination or has contravened human rights, it may grant one or more of the following remedies—

- (a) a declaration that the defendant has engaged in unfair discrimination or has contravened human rights;
- (b) an order restraining the defendant from continuing or repeating the conduct complained of or causing or permitting others to engage in conduct of the same kind or of any similar kind specified in the order;
- (c) damages in accordance with section 41;
- (d) an order that the defendant perform any act specified in the order with a view to redressing any loss or damage suffered by the complainant or the aggrieved person or to preventing conduct of a similar kind in the future;
- (e) a declaration that a contract requiring performance of anything that constitutes unfair discrimination or contravenes human rights is void and unenforceable;
- (f) such other relief as the High Court thinks fit.

(3) It is not a defence to proceedings under this section that the unfair discrimination or contravention of human rights was unintentional or without negligence on the part of the defendant, but the High Court must take the conduct of the defendant into account in deciding what remedy, if any, to grant.

(4) In any proceedings under section 38, the High Court may make such award as to costs as it thinks fit, whether or not it grants any other remedy.

(5) If the Proceedings Commissioner is a party to proceedings, any costs in the proceedings awarded against the Commissioner under subsection (4) must be paid by the Commission and the Commission is not entitled to be indemnified by the complainant or, as the case may be, the aggrieved person for such costs.

[...]

Damages

41.—(1) In proceedings under section 38 for unfair discrimination or a contravention of human rights, the High Court may award damages against the defendant in respect of any one or more of the following—

- (a) pecuniary loss suffered or expense incurred by the complainant or the aggrieved person as a result of the conduct complained of;
- (b) expenses reasonably incurred by the complainant or the aggrieved person in seeking redress for the conduct complained of;
- (c) loss of any benefit, whether or not of a monetary kind which the complainant or the aggrieved person might reasonably have been expected to obtain but for the conduct complained of;
- (d) humiliation, loss of dignity and injury to feelings of the complainant or the aggrieved person.

(2) Subject to subsection (3), the Commission must pay any damages recovered by the Proceedings Commissioner under this section to the complainant or the aggrieved person on whose behalf the proceedings were brought.

(3) If the complainant or the aggrieved person is an unmarried minor or a person of unsound mind the Proceedings Commissioner may, in his or her discretion, pay the damages to the Public Trustee or to any person or trustee corporation acting as the trustee of the property of that person.

Power to make interim order

42.—(1) In respect of any matter which is the subject of an investigation by the Commission and in which the High Court has or may have jurisdiction, a judge may make an interim order if he or she is satisfied that it is necessary in the interests of justice to make the order to preserve the position of the parties pending the result of the investigation and the final determination of any proceedings resulting from the investigation.

(2) An application for an interim order under subsection (1) may be made by the Proceedings Commissioner or, in a case to which section 38(4) applies, the complainant or the aggrieved person.

(3) A copy of an application under subsection (3) must be served on the defendant who must be given an opportunity to be heard before a decision on the application is made

(4) If an interim order has been made, the defendant may appeal to the Court of Appeal to rescind or vary the order, unless the order was made with the defendant's consent.

[...]

Substantial merits, evidence and hearings

43. In any proceedings under this Decree before the High Court, the court—

(a) must act according to equity, good conscience and the substantial merits of the case, without regard to technicalities;

(b) may receive as evidence any statement, document, information or matter that will or might in the court's opinion assist it to deal effectively with the matters before it, whether or not it would be admissible but for this section;

(c) may, if it considers it desirable to do so—

(i) order that any hearing held by it be heard in private, either in whole or part;

(ii) make an order prohibiting the publication of any report or account of the evidence or other proceedings before it (whether heard in public or in private) either in whole or in part;

(iii) make an order prohibiting the publication of any book or document produced at the hearing.

[...]

Employment Relations Promulgation, 2007⁹⁸

[...]

⁹⁸Employment Relations Promulgation, Promulgation No. 36 of 2007, available at <http://www.employment.gov.fj/erp2008/ERP/A4.pdf> (last visited 15 November 2019).

PART 9 — EQUAL EMPLOYMENT OPPORTUNITIES

[...]

Sexual harassment 76.—

(1) An employer is liable under this section, together with a worker who sexually harasses another worker if the employer fails to take the reasonable steps necessary to prevent sexual harassment of the employer's worker.

(2) An employer must develop and maintain a policy to prevent sexual harassment in his or her workplace, consistent with any national policy guidelines under subsection (3).

(3) The Minister may direct the Board to develop a national policy guideline for preventing sexual harassment in workplaces.

(4) Where a complaint of sexual harassment has been made by a worker under this section, the worker's previous sexual experience or reputation must not be taken into account by the employer or a court or tribunal.

[...]

PART 13 — EMPLOYMENT GRIEVANCES

[...]

Inclusion of procedures in employment contracts

110.—(1) An employment contract must—

(a) contain procedures for settling an employment grievance, including confidentiality and natural justice; and

(b) where possible, in the case of sexual harassment complaints, the need for women to be represented on the grievance panel.

(2) The procedures required by subsection (1) must be—

(a) agreed by the parties and consistent with the requirements of this Part; or

(b) if there are no agreed procedures, the procedures set out in Schedule 4.

(3) All employment grievances must first be referred for mediation services set out in Division 1 of Part 20.

(4) Where an employment contract includes an internal appeal system it must not provide for appeal to the Tribunal or Employment Court, and the internal appeal system must first be exhausted before any grievance is referred for Mediation Services.

(5) Under these grievance procedures, where a grievance concerns discrimination or sexual harassment, a worker must elect whether he or she proceeds under this Promulgation or the Fiji Human Rights Commission Act 1999, but not both.

Right to use procedures

111.—(1) A worker who believes that he or she has an employment grievance may pursue the grievance procedure in person, and may be assisted by a representative.

(2) A worker who wishes to submit an employment grievance to that worker's employer in accordance with the applicable employment grievance must, subject to subsections (3) and (4), submit the grievance to that worker's employer within the period of 6 months from the date on which the action alleged occurred unless the employer consents to extend that period.

(3) If consent is not given under subsection (2), the Tribunal may, upon application extend the period, if it is satisfied that there are good reasons for the delay.

(4) Upon granting an application under subsection (3), the Tribunal may hear the grievance or refer the grievance to the Mediation Services.

[...]

Division 4—Other General Provisions

Employment grievance remedies

230.—(1) If the Tribunal or the Court determines that a worker has an employment grievance, it may, in settling the grievance, order one or more of the following remedies—

(a) reinstatement of the worker in the worker’s former position or a position no less advantageous to the worker;

(b) the reimbursement to the worker of a sum equal to the whole or any part of the wages or other money lost by the worker as a result of the grievance;

(c) the payment to the worker of compensation by the worker’s employer, including compensation for—

(i) humiliation, loss of dignity, and injury to the feelings of the worker;

(ii) loss of any benefit, whether or not of a monetary kind, which the worker might reasonably expect to obtain if the employment grievance had not occurred; or

(iii) loss of any personal property.

(2) If the Tribunal or Court determines that a worker has an employment grievance by reason of being unjustifiably or unfairly dismissed, the Tribunal or Court may—

(a) in deciding the nature and extent of the remedies to be provided in respect of the employment grievance, consider the extent to which the actions of the worker contributed towards the situation that gave rise to the employment grievance; and

(b) if those actions so require, reduce the remedies that would otherwise have been decided accordingly.

(3) If the remedy of reinstatement is provided by the Tribunal or the Court, the worker must be reinstated immediately or on such a date as is specified by the Tribunal or the Court and, notwithstanding an appeal against the determination of the Tribunal or the Court, the provisions for reinstatement must, unless the Tribunal or the Court otherwise orders, remain in force pending the determination of the appeal.

[...]

Public Service (Amendment) Decree, 2011

Parts 2 B, Art. 10 D (employer’s liability for sexual harassment)

52 FINLAND

[Act on Equality between Women and Men, 1987 \(as amended\)](#)⁹⁹

Sec. 7:

Prohibition of discrimination

Direct and indirect discrimination based on gender is prohibited.

For the purposes of this Act, direct sex discrimination shall mean:

1) treating women and men differently on the basis of gender;

2) different treatment for reasons of pregnancy or childbirth;

3) different treatment on the basis of gender identity or gender expression.

For the purposes of this Act, indirect sex discrimination shall mean:

⁹⁹ Act on Equality between Women and Men, 1 January 1987 (as amended to 2016), available at <http://www.finlex.fi/fi/laki/smur/1986/19860609> (last visited 15 November 2019).

1) different treatment on the basis of sex, gender identity or gender expression with respect to the active neutral by virtue of the provision, criterion or practice, if the effect of the person may actually be disadvantaged by gender;

2) different treatment on the basis of parenting or family responsibilities.

The procedure referred to in paragraph 3 shall not, however, constitute discrimination if it pursues an acceptable objective and the means chosen must be regarded as appropriate and necessary in relation to that objective.

Discrimination is prohibited, regardless of whether it is based on a fact or assumption concerning the individual or someone else.

Sexual harassment and harassment based on gender, as well as an instruction to discriminate on grounds of sex shall be deemed to be discrimination within the meaning of this Act.

For the purposes of this Act, sexual harassment shall mean any unwanted conduct, whether verbal, verbal or physical, of a sexual nature, which, intentionally or de facto, constitutes a violation of the mental or physical integrity of a person, in particular by creating an intimidating, hostile, degrading, humiliating or harassing atmosphere.

Harassment based on gender purposes of this Act, a person's sex, unwanted related to gender identity or gender expression, the use of which is not of a sexual nature with the purpose or effect of violating the mental or physical integrity and that of creating an intimidating, hostile, degrading, humiliating or oppressive atmosphere.

Sec. 8

Discrimination at work

The conduct of an employer shall be deemed to constitute discrimination prohibited by this Act if the employer:

1) in recruiting, choosing for a position or training, excludes a person of greater merit than the sex of the selected person, unless the employer's conduct is due to an acceptable cause other than sex, or unless there is a weighty and acceptable reason for the job;

2) when recruiting, choosing for a job or training, or deciding on the duration or continuation of employment, or on pay or other terms of employment, acts in such a way that the person is disadvantaged by reason of pregnancy, childbirth or any other gender;

3) apply to remuneration or other conditions of service, so that the worker or workers are in a less favorable position than one or more of the other employer in the same or of equal value work worker;

4) manages the work, distributes tasks or otherwise provided to the working conditions such that one or more of the other employee has a disadvantage as compared on the basis of gender;

5) terminates, disassembles, or otherwise discontinues an employment or transferred or laid off on the basis of sex one or more employees.

The procedure referred to in paragraph 1, paragraphs 2-5 above is prohibited by this Act, discrimination, even when it is based on gender identity or gender expression.

However, the procedure referred to in paragraph 1 (2) to (5) shall not constitute discrimination where the situation referred to in Article 7 (4) is present and for a valid reason within the meaning of that provision.

Sec. 11

Compensation

Anyone who has violated the prohibition of discrimination referred to in Articles 8 or 8a to 8e shall be liable to pay compensation to the offender.

The refund must be at least EUR 3 240. In the case of recruitment, the allowance shall be limited to a maximum of EUR 16 210 for an applicant for whom the employer can demonstrate that he or she would not have been selected for the post, even if the selection had been made on a non-discriminatory basis. In

determining the amount of compensation, account shall be taken of the nature and extent of the discrimination and its duration, and of the financial penalty imposed or payable for any infringement of the same act by another person.

Compensation may be reduced from the minimum amount provided for above or the obligation to pay full compensation waived, if it is considered reasonable having regard to the offender's financial position and efforts to prevent or eliminate the effects of the proceeding and other circumstances.

Payment of compensation shall not prevent the injured person from claiming financial compensation for any financial loss under the Compensation Act (412/1974) or any other law.

[Criminal Code, 1889 \(as amended\)](#) ¹⁰⁰

Ch. 20, Sec. 5a (Sexual harassment), Ch. 47, Sec. 3a (Work discrimination)

53 FRANCE

[Penal Code](#) ¹⁰¹

Book I

General provisions

Title II

Assaults against the human person

Chapter II

Assault against the physical and psychological integrity of the person

[...]

Art. 222-33

Sexual harassment is imposing on a person, repeatedly, remarks or conduct of a sexual or sexist nature that violate her dignity due to their degrading or humiliating character or which create an intimidating, hostile or offensive situation.

The offense also exists:

1° When these words or conducts are imposed on the same victim by several persons, in a concerted manner or at the instigation of one of them, even when each of them has not acted repeatedly.

2° When these words or conducts are imposed on the same victim, successively, by several persons who, even in the absence of consultation, know that these remarks or conducts characterize a repetition.

Sexual harassment refers to the fact, even if not repeated, of using any form of serious pressure for the real or apparent purpose of obtaining an act of a sexual nature, whether it is sought for the benefit of the perpetrator or of a third party.

III. The facts mentioned in I and II are punishable by two years' imprisonment and a fine of € 30.000.

These penalties are increased to three years' imprisonment and a fine of € 45,000 when the facts are committed:

1° By a person who abuses the authority conferred on him by his functions;

2° On a minor of fifteen years;

3° A person whose particular vulnerability, due to age, illness, infirmity, physical or mental disability or pregnancy, is apparent or known to the perpetrator;

¹⁰⁰ Criminal Code (19 December 1889, as amended up to 2019), available at <http://www.finlex.fi/fi/laki/ajantasa/1889/18890039001#L20> (last visited 15 November 2019).

¹⁰¹ Penal Code, (consolidated version up to 16 August, 2019), available at <https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070719> (last visited 15 November 2019). Unofficial translation by Compendium team.

- 4° On a person whose particular vulnerability or dependence resulting from the precariousness of his economic or social situation is apparent or known to the author;
 - 5° By several persons acting as authors or accomplices;
 - 6° By the use of a communication service to the public online or by means of a digital or electronic medium;
 - 7° While a minor was present and attended;
 - 8° By an ascendant or any other person having a de jure or de facto authority over the victim.
- [...]

Article 222-33-2

The harassment of others by repeated acts whose purpose or effect is a deterioration of working conditions which may affect their rights and dignity, impair their physical or mental health, or disrupt their professional future, is punished by two years' imprisonment and a fine of € 30.000.

[...]

Article 222-33-2-2

The harassment of a person by repeated words or behavior whose purpose or effect is a deterioration of his living conditions resulting in an impairment of his physical or mental health is punishable by one year's imprisonment and a € 15,000 fine where these facts caused a total incapacity to work of less than or equal to eight days, or caused no incapacity to work.

The offense also exists:

- (a) When these words or behaviors are imposed on the same victim by several persons, in concert or at the instigation of one of them, even though each of them has not acted repeatedly;
- b) When these words or behaviors are imposed on the same victim, successively, by several people who, even in the absence of consultation, know that these remarks or behaviors characterize a repetition.

The facts mentioned in the first to fourth paragraphs are punishable by two years' imprisonment and a fine of € 30,000:

- 1 ° when they caused a total incapacity to work exceeds eight days;
- 2 ° when they were committed on a minor of fifteen years;
- 3 ° when they have been committed against a person whose particular vulnerability, due to age, illness, infirmity, physical or mental disability or pregnancy, is apparent or known to the perpetrator;
- 4 ° when they have been committed through the use of a communication service to the public online, or through a digital or electronic medium;
- 5 ° When a minor was present and attended.

The facts mentioned in the first to fourth paragraphs are punishable by three years' imprisonment and a fine of 45,000 euros when they are committed in two of the circumstances mentioned in points 1 to 5.

[...]

Article 225-1-1

It constitutes discrimination any distinction made between persons because they have been subjected, or refused to be subjected, to sexual harassment as defined in Article 222-33 or have testified to such acts, including, in cases mentioned by the same article, if the remarks or behaviors were not repeated.

[...]

Book VI

Of Contraventions
Title II
Sexist outrage

Article 621-1

I.- A sexist outrage is, except in cases provided for in articles 222-13, 222-32, 222-33 and 222-33-2-2, imposing on a person any remark or conduct with a sexual or sexist connotation which violates the dignity because of its degrading or humiliating character, or creates an intimidating, hostile or offensive situation.

II.- The sexist outrage is punished by the fine provided for the 4th class contraventions. This contravention may be subject to the provisions of the Code of Criminal Procedure relating to the fixed fine, including those relating to the fixed fine reduced.

III.- The sexist outrage is punished by the fine provided for the contraventions of the 5th class when it is committed:

1° By a person who abuses the authority conferred by his functions;

2° On a minor of fifteen years;

3° On a person whose particular vulnerability, due to age, illness, infirmity, physical or mental disability or a state of pregnancy, is apparent or known to its author;

4° On a person whose particular vulnerability or dependence resulting from the precariousness of his economic or social situation is apparent or known to his author;

5° By several persons acting as author or accomplice;

6° In a vehicle used for the collective transport of passengers or in a place intended for access to a collective means of transport of passengers;

7° Due to the sexual orientation, true or supposed, of the victim.

The repetition of the contravention provided for in this III is punished in accordance with the first paragraph of section 132-11.

Persons guilty of contraventions provided for in II and III of this article also incur the following additional penalties:

1° The obligation to undertake, when appropriate at their own expense, an internship to fight against sexism and raise awareness of equality between women and men;

2° The obligation to undertake, when appropriate at their own expense, an internship on citizenship;

3° The obligation to undertake, when appropriate at their expense, an awareness-raising course on the fight against the solicitation of sexual acts;

[...]

5° In the case provided for in III, a community service for a period of twenty to one hundred and twenty hours.

Code of Criminal Procedure ¹⁰²

Article 2-2

Any association regularly declared for at least five years at the date of the events, whose statutory purpose includes the fight against sexual violence, sexual harassment or violence against a family member, may exercise the rights granted to the civil party, with regard to willful attacks on the life and integrity of the person, assaults and other sexual offenses [...] when the victim of these offenses was of a major age at the

¹⁰² Code of Criminal Procedure, (consolidated as of 1 August 2019), available at https://www.legifrance.gouv.fr/affichCode.do;jsessionid=2D61FB90EDAC26D759F540434B7E8F75.tplgfr29s_1?idSectionTA=LEGI_SCTA000024458641&cidTexte=LEGITEXT000006071154&dateTexte=20190816 (last visited 15 November 2019). Unofficial translation by Compendium team.

time of the crime. However, the association will be admissible in its action only upon the agreement of the victim. If the latter is a minor of age subject to guardianship, the agreement must be given by the legal representative.

Any recognized public utility foundation may exercise the rights of the civil party under the same conditions as the associations mentioned in this article.

[...]

Article 2-6

Any association regularly declared for at least five years at the date of the facts, proposing by its statutes to combat discrimination based on sex, morality, sexual orientation or gender identity, may exercise the rights recognized by the civil party in respect of the discriminations repressed by articles 225-2 and 432-7 of the penal code and articles L. 1146-1 and L. 1155-2 of the Labor Code, when they are committed because of the sex, the family situation, morals or sexual orientation or identity of the victim or as a result of sexual harassment.

However, in the case of discrimination as a result of sexual harassment, the association is admissible in its action only if it has received the written agreement of the person concerned, or, if it is minor and after the opinion of the latter, that of the holder of parental authority or the legal representative.

[...]

Labor Code ¹⁰³

[...]

Article 1153-1

No employee should suffer acts:

1° of sexual harassment, consisting of repeated sexual remarks or conducts that offend his or her dignity because of their degrading or humiliating nature, or create an intimidating, hostile or offensive situation;
2° assimilated to sexual harassment, consisting of any form of serious pressure, even if not repeated, exercised for the real or apparent purpose of obtaining an act of a sexual nature, whether it is sought for the benefit of the perpetrator or for the benefit of a third party.

Article 1153-2

No employee, person in training or internship, no candidate for recruitment, internship or training in a company can be sanctioned, dismissed or be the object of a discriminatory measure, direct or indirect, in particular in matters of remuneration, training, reclassification, assignment, qualification, classification, professional promotion, transfer or renewal of contract for having being subject or refused to be subject to sexual harassment as defined in Article L. 1153-1, including, in the case mentioned in 1 ° of the same article, if the remarks or conducts were not repeated.

¹⁰³ Labor Code, (Consolidated version as of 8 August 2019), available at https://www.legifrance.gouv.fr/affichCode.do;jsessionid=A8D00D4DDA6E00D249D9AD36AA118091.tplgfr29s_1?cidTexte=LEGITEXT000006072050&dateTexte=20190804 (last visited 15 November 2019). Unofficial translation by Compendium team.

Article 1153-3

No employee, person in training or internship can be sanctioned, dismissed or subjected to a discriminatory measure for having testified to facts of sexual harassment or for having reported them.

[...]

Article 1153-5

The employer shall make all necessary arrangements to prevent, stop and punish acts of sexual harassment. In workplaces and in the premises or at the door of the premises where the hiring is done, the persons mentioned in Article L. 1153-2 are informed by any means of the text of Article 222-33 of the Penal Code as well as of any ongoing civil and criminal litigation in the field of sexual harassment as well as of contact details of the competent authorities and services. The list of these services is defined by decree.

Article L1153-5-1

In any company employing at least 250 employees, a reference person is appointed to guide, inform and support employees in the fight against sexual harassment and sexist behavior.

Article 1153-6

Any employee who has committed acts of sexual harassment is liable to disciplinary action.

[...]

Chapter IV: Actions in court.

Article L1154-1

When a dispute arises concerning the application of Articles L. 1152-1 to L. 1152-3 and L. 1153-1 to L. 1153-4, the candidate for a job, an internship or a training period in company or the employee presents factual elements suggesting the existence of harassment.

In the light of these elements, it is incumbent on the defendant to prove that such conduct does not constitute such harassment and that its justified by objective factors unrelated to any harassment.

The judge forms his conviction after having ordered, if necessary, all the measures of instruction which he considers useful.

Article L1154-2

Trade unions representing the company may bring all actions resulting from Articles L. 1152-1 to L. 1152-3 and L. 1153-1 to L. 1153-4.

They may exercise these actions in favor of an employee of the company under the conditions provided for in Article L. 1154-1, subject to the written agreement of the person concerned.

The person concerned may still intervene in the proceedings initiated by the union and terminate it at any time.

[...]

Article L 1155-2

Are punishable by one year of imprisonment and a fine of € 3,750 the facts of discrimination committed as a result of moral or sexual harassment defined in Articles L. 1152-2, L. 1153-2 and L. 1153-3 of this Code.

The court may also order, by way of additional penalty, the posting of the judgment at the expense of the convicted person under the conditions provided for in Article 131-35 of the Penal Code and its insertion, in full or in extracts, in the newspapers which it designates. These costs may not exceed the maximum amount of the fine incurred.

[...]

Section 2: Functions of the Social and Economic Committee in companies with at least 11 employees and less than 50 employees

Article L2312-59

created by the ordinance of September the 22th 2017

If a member of the staff delegation to the social and economic committee finds, in particular through a worker, that there is an infringement of the rights of persons, their physical and mental health or individual liberties in the enterprise which would not be justified by the nature of the task to be performed, nor proportionate to the aim sought, he immediately seized the employer. This may be the result of acts of sexual or moral harassment or of any discriminatory measure with regard to hiring, remuneration, training, reclassification, assignment, classification, qualification, professional promotion, transfer, renewal of contract, sanction or dismissal.

The employer shall carry out an investigation without delay with the member of the staff delegation of the Committee and shall take the necessary measures to remedy this situation.

In the event of default by the employer or discrepancy as to the reality of this breach, and in the absence of a solution found with the employer, the employee, or the member of the staff delegation to the social and economic committee, if the employee concerned is informed in writing does not oppose it, seizes the office of judgment of the industrial tribunal which decides according to the form of the referred.

The judge may order any and all measures to stop the infringement and impose a penalty payment for the Treasury.

Article 2312-6

The duties of the staff delegation to the social and economic committee are exercised for the benefit of employees, as well as:

1 ° to workers within the meaning of Article L. 4111-5, in the matter of health, safety and working conditions;

(2) to employees of outside enterprises who, in the exercise of their activity, are not placed under the direct subordination of the user enterprise, for their individual and collective claims, concerning the conditions of performance of the work which fall within the head of a user establishment;

3 ° To temporary employees for their claims concerning the application of the provisions of the articles:

a) L. 1251-18 in the area of remuneration;

(b) L. 1251-21 to L. 1251-23 regarding working conditions;

c) L. 1251-24 regarding access to public transport and collective facilities.

Chapter I: Obligations of the employer.

Article L4121-1

The employer shall take the necessary measures to ensure the safety and protect the physical and mental health of the workers.

These measures include:

1 ° Actions to prevent occupational risks, including those mentioned in Article L. 4161-1;

2 ° Information and training activities;

3 ° The establishment of an organization and adequate means.

The employer ensures that these measures are adapted to reflect changing circumstances and to improve existing situations.

Article L 4121-2

The employer implements the measures provided for in Article L. 4121-1 on the basis of the following general prevention principles:

- 1° Avoid risks;
- 2° Evaluate risks that cannot be avoided;
- 3° Fight risks at the source;
- [...]
- 7° Plan prevention by integrating, in a coherent whole, the technique, the organization of work, the working conditions, the social relations and the influence of the environmental factors, in particular the risks related to moral and sexual harassment as defined in Articles L. 1152-1 and L. 1153-1;
- 8° Take collective protection measures giving them priority over personal protection measures;
- 9° Give the appropriate instructions to the workers.

Article L 4622-2

Occupational health services have the exclusive task of preventing any deterioration in the health of workers as a result of their work. To this end, they:

- 1° Undertakes health actions at work, with the aim of preserving the physical and mental health of workers throughout their professional career;
- 2° Advise employers, workers and their representatives on the necessary measures to prevent or reduce occupational hazards, to improve working conditions, to prevent the use of alcohol and drugs at the workplace; work to prevent sexual or moral harassment [...]
- 3° Ensure the monitoring of the health status of workers according to the risks concerning their health at work and their safety and that of third parties, the effects of exposure to the occupational risk factors mentioned in Article L. 4161-1 and their age;
- 4° Participate in monitoring and contribute to the traceability of occupational exposures and health surveillance.

Article L 4622-2

Occupational health services have the exclusive task of preventing any deterioration in the health of workers as a result of their work. To this end, they:

- 1 ° Conduct health actions at work, with the aim of preserving the physical and mental health of workers throughout their professional career;
- 2 ° advise employers, workers and their representatives on the necessary measures to prevent or reduce occupational hazards, to improve working conditions, to prevent the use of alcohol and drugs at the workplace, to prevent sexual or moral harassment at work, to prevent or reduce the effects of exposure to the occupational risk factors referred to in Article L. 4161-1 and the loss of employment and to contribute to the maintenance of employment of workers ; [...]

Law on the rights and obligations of employees, 1983 (as amended) ¹⁰⁴

Chapter I: General Provisions.

Article 2

Modified by Law No. 86-33 of 9 January 1986 - art. 135 (V) JORF January 11, 1986

¹⁰⁴ Law on the rights and obligations of employees (Loi n° 83-634 du 13 juillet 1983 portant droits et obligations des fonctionnaires), Law No. 83-634 of 13 July 1983 (consolidated as of 21 April 2016), available at https://www.legifrance.gouv.fr/affichTexte.do;jsessionid=90C679C271420F8F2F41465A39382FA5.tplgfr38s_3?cidTexte=JORFTEX00000504704&dateTexte=20160421 (last visited 15 November 2019). Unofficial translation by Compendium team.

This Act applies to civil servants of State administrations, regions, departments, municipalities and their public offices, including the offices mentioned in Article 2 of Title IV of the General Regulations for Officials of the European Communities. State and local authorities, excluding officials of parliamentary assemblies and magistrates of the judiciary. In the public offices services and of an industrial or commercial nature, it applies only to officials who are civil servants.

[...]

Chapter II - Guarantees

Article 6 ter

Modified by Law No. 2012-954 of 6 August 2012- art. 8

No official should be subject to acts:

- (a) of Sexual harassment, consisting of repeated sexual comments or conduct that offend his or her dignity due to their degrading or humiliating character or by create an intimidating, hostile or offensive situation;
- (b) assimilated to sexual harassment, consisting of all forms of serious pressure, even if not repeated, exercised for the real or apparent purpose of obtaining an act of a sexual nature, whether it is sought for the benefit of the perpetrator or for the benefit of a third party.

No measures concerning, in particular, recruitment, tenure, training, grading, discipline, promotion, assignment and transfer may be taken in respect of a public servant:

1 ° because he been subject or refused to be subject to the sexual harassment mentioned in the first three paragraphs, including, in the case mentioned in a, if the remarks or behaviors were not repeated;

2 ° because he has lodged an appeal with a supervisor or brought legal action to put an end to these facts;

3 ° or because he has testified to such facts or has reported them.

A disciplinary sanction is imposed on any officer who has carried out or attempted to carry out the sexual harassment mentioned in the first three paragraphs.

The provisions of this article shall apply to non-public agents of public law.

54 GABON

Law on the Fight against Harassment in the Workplace, 2016 ¹⁰⁵

[...]

TITLE I

GENERAL PROVISIONS

Article 1. This Law, taken in application of Articles 47 and 53 of the Constitution, deals with the principles and mechanisms for combating harassment in the workplace.

First Chapter

Definitions and scope

Article 2 .- For the purposes of this law, the following terms mean:

¹⁰⁵ Law on the fight against harassment in the workplace, Law No. 10/2016 (5 September 2016). See Annex 1. Unofficial translation by Compendium team.

- harassment: any repetitive behavior which has the effect of offending the dignity of a person and of creating an environment that is intimidating, hostile, degrading, humiliating or offensive in the workplace,

- moral harassment: the fact of subjecting an employee or civil servant, on the location of work or during work, to repeated acts whose object or effect is a deterioration of the working conditions of said employee or of the civil servant, and which may violate their rights, dignity, alter their physical and / or mental health, or jeopardize their professional future,

- sexual harassment: the fact to repeatedly impose on a person words or conducts of a sexual nature that either offend the person's dignity because of their degrading or humiliating character or create an intimidating, hostile or offensive situation against said person; the fact to use any form of pressure with the real or apparent intent of obtaining an act or favors of a sexual nature, either in the interest of the perpetrator or in the interest of third parties.

Article 3 .- Under the penalties provided for in this law and / or in the criminal code, no employee, civil servant or trainee shall be subjected, on the location of work or during work, to repeated acts constituting either moral or sexual harassment.

Article 4 .- Under the penalties provided for in this Law and / or in the criminal code, no employee, civil servant, nor any person in training or in internship may be sanctioned, dismissed or subject to a discriminatory measure, either direct or indirect, in particular in relation to remuneration, training, performance review, assignment, qualification, classification, professional promotion, transfer or renewal of contract for having suffered or refused to undergo repeated acts constituting moral or sexual harassment or for having given testimony or statements against such acts.

Article 5 .- Acts and attitudes constituting moral or sexual harassment apply to:

- relations between workers or civil servants or any person exercising power or occupying a hierarchical position,
- relations between workers or civil servants at the same hierarchical level.

Second Chapter

Management of Disputes or Conflicts

Article 6 .- The employee, the civil servant or the trainee who considers to be a victim of moral or sexual harassment may inform, under confidential cover, staff representatives, the employer, the general inspection services or the labor inspection services.

Article 7 .- The burden of proof of the facts constituting moral or sexual harassment lies with the victim. It is then up to the defendant to prove that these actions do not constitute harassment.

Article 8 .- Staff representatives and union delegates in a company as well as the trade union organizations in the public sector have a right to be whistleblowers.

Article 9 .- Any representative trade union organization or any legally declared association may, with the written agreement of the employee, bring any action on their behalf before the competent authorities or courts.

In case the harassment is not established by the authority or court seized, the employee and his agents are liable to prosecution for slanderous accusation.

Third Chapter

Sanctions

Article 10 .- Without prejudice to the criminal sanctions provided for by the applicable legislation, any perpetrator of moral or sexual harassment in the location of work or during work, incurs major disciplinary sanctions pursuant to applicable laws.

Article 11 .- Any dismissal due to the refusal of the employee or the civil servant to undergo or continue to undergo any act or any situation of moral or sexual harassment is null and void.

Article 12 .- Any discriminatory measure, either direct or indirect, particularly in terms of remunerations, training, performance review, assignment, qualification, classification, professional promotion, transfer, renewal is null and void.

[Penal Code, 2018](#)¹⁰⁶

Article 402:

Constitute offenses against morals:

[...]

3- any repeated behavior, attitude or assiduous or suggestive speech, directly or indirectly attributable to a person who, misusing the authority or influence conferred on him by his functions or his social rank, aims to obtain sexual favors sex from an individual of either sex;

[...]

Anyone who is guilty of sexual harassment referred to in point 3 of this article shall be punished by imprisonment for a term of not more than six months and a fine of up to 2,000,000 francs.

55 GAMBIA, THE

[Criminal Code, 1933](#)¹⁰⁷

Sec. 126 (3) Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, is guilty of a misdemeanor, and is liable to imprisonment for one year.

56 GEORGIA

[Law on Gender Equality, 2014](#)¹⁰⁸

Article 6 - Gender equality in labour relations

1. The following shall not be allowed in labour relations:

¹⁰⁶ Penal Code, Law No. 042/2018 (5 July 2019), (Loi n°042/2018 du 05 juillet 2019 portant Code Pénal), available at https://docs.wixstatic.com/ugd/33bbf3_674156ccf66c411dbbf6d1adae622e57.pdf (last visited 15 November 2019).

¹⁰⁷ Criminal Code, Act n. 25 of 1933, available in English at https://www.ilo.org/dyn/natlex/docs/SERIAL/75289/107490/F973061365/GMB75289%20pp%201284_1316.pdf (last visited 15 November 2019).

¹⁰⁸ Law of Georgia on Gender Equality, Law No. 2394 (2 May 2014), available at <https://matsne.gov.ge/en/document/download/91624/3/en/pdf> (last visited 15 November 2019).

- a) harassment and/or coercion of a person with the purpose or effect of creating an intimidating, hostile, humiliating, degrading, or offensive environment;
- b) any unwanted verbal, non-verbal or physical behaviour of sexual nature with the purpose or effect of violating the dignity of a person or creating an intimidating, hostile, or offensive environment.

[Labor Law, 2010 \(as amended\)](#) ¹⁰⁹

Amendments to the Organic Law of Georgia on Labor Code of Georgia

Article 1. The following amendments shall be introduced to the Organic Law of Georgia: "Labor Code of Georgia" (Legislative Herald of Georgia, No. 75, 27.12.2010, Art. 461):

1. Article 2:

A) Paragraph 4 shall be formulated as follows:

"4. Discrimination (including sexual harassment) is defined as the direct or indirect harassment of a person aimed at or causing harm to a person's dignity and to create a threatening, hostile, degrading, degrading or offensive environment, or to create conditions that directly or indirectly offend him or her. Analogous to the situation or conditions compared to other persons. ";

(B) the following paragraph 4 shall be added after paragraph 4:

"4. Sexual harassment is considered to be an unwanted sexual behavior against a person aimed at and / or causing harm to his / her dignity and creating an intimidating, hostile, degrading, degrading or abusive environment.

Note: For the purposes of this Act, sexually explicit phrases and / or references, genitalia, and / or any other inappropriate physical behavior of a sexual nature shall be deemed to be sexual behavior. "

2. In Article 13, paragraph 3 shall be added:

"31. The employer shall take measures to ensure the protection of the principle of equal treatment with regard to employees of the establishment, including the prohibition of discrimination in the internal regulations and other documents of the establishment and to ensure their implementation. "

Article 2. This Law shall enter into force upon promulgation.

57 GERMANY

[General Act on Equal Treatment, 2006 \(as amended\)](#) ¹¹⁰

Part 1 General Provisions

[...]

Section 1

Purpose

The purpose of this Act is to prevent or to stop discrimination on the grounds of race or ethnic origin, gender, religion or belief, disability, age or sexual orientation.

Section 2

¹⁰⁹ Amendments to the Labor Law, 2010, available at <https://matsne.gov.ge/ka/document/view/4548377?publication=0> (last visited 15 November 2019).

¹¹⁰ General Act on Equal Treatment (Antidiskriminierungsstelle), 14 August 2006 (last amended by Article 8 of the SEPA Accompanying Act of 3 April 2013), available at https://www.gesetze-im-internet.de/englisch_agg/englisch_agg.pdf (last visited 15 November 2019). Official translation by the German Federal Ministry of Health.

Scope

(1) For the purposes of this Act, any discrimination within the meaning of Section 1 shall be inadmissible in relation to:

1. conditions for access to dependent employment and self-employment, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of professional hierarchy, including promotion;
2. employment conditions and working conditions, including pay and reasons for dismissal, in particular in contracts between individuals, collective bargaining agreements and measures to implement and terminate an employment relationship, as well as for promotion;
3. access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience;

[...]

Section 3

Definitions

[...]

(3) Sexual harassment shall be deemed to be discrimination in relation to Section 2(1) Nos.1to 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.

[...]

Section 6

Persons Covered

(1) For the purposes of this Act, “employee” shall refer to 1. persons in dependent employment (salaried employees, workers); 2. persons employed for the purposes of their vocational training; 3. persons of similar status on account of their dependent economic status, including those engaged in home work and those equal in law to home workers. “Employee” shall here also refer to those applying for an employment relationship and persons whose employment relationship has ended.

(2) For the purposes of Part 2, “employer” shall refer to natural and legal persons as well as unincorporated firms with legal capacity employing persons referred to in Subsection (1). Where employees are transferred to a third party for the performance of work and services, the employer shall also be classified as such within the meaning of Part 2. The client or intermediary shall take the place of the employer in the case of employees engaged in home work and those equal in law to home workers.

(3) Insofar as the conditions for access to gainful employment and promotion are affected, the provisions under Part 2 shall apply, mutatis mutandis, to the self-employed and to members of an organ of an enterprise, in particular directors and board members.

Section 7

Prohibition of Discrimination

(1) Employees shall not be permitted to suffer discrimination on any of the grounds referred to under Section 1; this shall also apply where the person committing the act of discrimination only assumes the existence of any of the grounds referred to under Section 1.

[...]

Chapter 2

Employer Obligations

[...]

Section 12

Employer Action and Duties

(1) The employer has the duty to take measures necessary to ensure protection against discrimination on any of the grounds referred to under Section 1. This protection shall also cover preventive measures.

(2) The employer shall draw attention to the inadmissibility of such discrimination in a suitable manner, in particular within the context of training and further training, and shall use his or her influence to ensure that such discrimination does not occur. Where an employer has trained his or her employees in an appropriate manner for the purpose of preventing discrimination, he or she shall be deemed to have fulfilled his or her duties under Subsection (1).

(3) Where employees violate the prohibition of discrimination under Section 7(1), the employer shall take suitable, necessary and appropriate measures, chosen in a given case, to put a stop to the discrimination; this may include cautioning, moving, relocating or dismissing the employee in question.

(4) Where employees are discriminated against in the pursuance of their profession by third persons within the meaning of Section 7(1), the employer shall take suitable, necessary and appropriate measures, chosen in a given case, to protect the employee in question.

(5) This Act and Section 61b of the Labour Courts Act (Arbeitsgerichtsgesetz), as well as information concerning the departments competent to handle complaints pursuant to Section 13 shall be made known in the enterprise or public authority. This may be done by putting up a notice or displaying information leaflets in a suitable place or by using the information and communication channels normally used in the enterprise or authority.

Chapter 3 discrimination, he or she shall be deemed to have fulfilled his or her duties under Subsection (1).

(3) Where employees violate the prohibition of discrimination under Section 7(1), the employer shall take suitable, necessary and appropriate measures, chosen in a given case, to put a stop to the discrimination; this may include cautioning, moving, relocating or dismissing the employee in question. (4) Where employees are discriminated against in the pursuance of their profession by third persons within the meaning of Section 7(1), the employer shall take suitable, necessary and appropriate measures, chosen in a given case, to protect the employee in question. (5) This Act and Section 61b of the Labour Courts Act (Arbeitsgerichtsgesetz), as well as information concerning the departments competent to handle complaints pursuant to Section 13 shall be made known in the enterprise or public authority. This may be done by putting up a notice or displaying information leaflets in a suitable place or by using the information and communication channels normally used in the enterprise or authority.

Chapter 3

Employee Rights

Section 13

Right of Appeal

(1) Employees shall have the right to lodge a complaint with the competent department in the firm, company or authority when they feel discriminated against in connection with their employment relationship by their employer, superior, another employee or third party on any of the grounds referred to under Section 1. The complaint shall be examined and the complainant informed of the result of the examination.

(2) The rights of worker representatives shall remain unaffected.

Section 14

Right to Refuse Performance

Where the employer takes no or takes obviously unsuitable measures to stop the harassment or sexual harassment in the workplace, the affected employees shall have the right to refuse performance without loss of pay insofar as this is necessary for their protection. Section 273 of the German Civil Code (Bürgerliches Gesetzbuch) shall remain unaffected.

Section 15

Compensation and Damages

(1) In the event of a violation of the prohibition of discrimination, the employer shall be under the obligation to compensate the damage arising therefrom. This shall not apply where the employer is not responsible for the breach of duty.

(2) Where the damage arising does not constitute economic loss, the employee may demand appropriate compensation in money. This compensation shall not exceed three monthly salaries in the event of non-recruitment, if the employee would not have been recruited if the selection had been made without unequal treatment.

(3) The employer shall only be under the obligation to pay compensation where collective bargaining agreements have been entered into when he or she acted with intent or with gross negligence.

(4) Any claim resulting from Subsection (1) or (2) must be asserted in writing within a period of two months, unless the parties to a collective bargaining agreement have agreed otherwise. In the case of an application or promotion, the time limit shall commence on the date on which the rejection is received; in other cases of discrimination the time limit shall commence on the date on which the employee learns of the discrimination.

(5) This shall be without prejudice to other claims against the employer resulting from other legal provisions.

[...]

Section 16

Prohibition of Victimisation

(1) The employer shall not be permitted to discriminate against employees who assert their rights under Part 2 or on account of their refusal to carry out instructions that constitute a violation of the provisions of Part 2. The same shall apply to persons who support the employee in this or who testify as a witness.

(2) The rejection or toleration of discriminatory conduct by an affected employee may not be used as the basis for a decision affecting that employee. Subsection (1) second sentence shall apply mutatis mutandis.

(3) Section 22 shall apply mutatis mutandis.

[...]

58 GHANA

Labour Act, 2003¹¹¹

[...]

PART I—PRELIMINARY

Section 1—Scope of Application.

This Act applies to all workers and to all employers except the Armed Forces, the Police Service, the Prison Service and the Security and Intelligence Agencies specified under the Security and Intelligence Agencies Act 1996 (Act 526).

[...]

¹¹¹ Labour Act, No. 651 of 2003, available at <https://www.refworld.org/docid/44bf88234.html> (last visited 15 November 2019).

Section 9—Duties of Employers.

Without prejudice to the provisions of this Act and any other enactment for the time being in force, in any contract of employment or collective agreement, the duties of an employer include the duty to

[...]

(c) take all practicable steps to ensure that the worker is free from risk of personal injury or damage to his or her health during and in the course of the worker's employment or while lawfully on the employer's premises;

[...]

Section 10—Rights of a Worker.

The rights of a worker include the right to

(a) work under satisfactory, safe and healthy conditions;

[...]

PART VIII—FAIR AND UNFAIR TERMINATION OF EMPLOYMENT

[...]

Section 63—Unfair Termination of Employment.

[...]

(3) Without limiting the provisions of subsection (2), a worker's employment is deemed to be unfairly terminated if with or without notice to the employer, the worker terminates the contract of employment

[...]

(b) because the employer has failed to take action on repeated complaints of sexual harassment of the worker at the work place.

(4) A termination may be unfair if the employer fails to prove that,

(a) the reason for the termination is fair; or

(b) the termination was made in accordance with a fair procedure or this Act.

Section 64—Remedies for Unfair Termination.

(1) A worker who claims that the employment of the worker has been unfairly terminated by the worker's employer may present a complaint to the Commission.

(2) If upon investigation of the complaint the Commission finds that the termination of the employment is unfair, it may

(a) order the employer to re-instate the worker from the date of the termination of employment;

(b) order the employer to re-employ the worker, either in the work for which the worker was employed before the termination or in other reasonably suitable work on the same terms and conditions enjoyed by the

worker before the termination; or

(c) order the employer to pay compensation to the worker.

[...]

Section 175—Interpretation.

In this Act, unless the context otherwise requires,

[...]

"sexual harassment" means any unwelcome, offensive or importunate sexual advances or request made by an employer or superior officer or a co-worker to a worker, whether the worker is a man or woman;

[...]

59 GREECE

Application of Equal Opportunities and Treatment of Men and Women, 2010¹¹²

Article 1 – Purpose

(Article 1 of the Directive)

The purpose of this Act is to ensure the application of the principle of equal opportunities and equal treatment for men and women in matters of employment and occupation, with regard to: (a) access to employment, including vocational development, and vocational training, including education (b) working conditions and conditions, including remuneration, and (c) occupational social security schemes as provided for by the provisions of the C Directive 2006/54 / EC of the European Parliament and of the Council.

Article 2 – Definitions

(Article 2 (1) of the Directive)

For the purposes of this Act, the following definitions shall apply:

[...]

d. " sexual harassment ": when any form of unwanted verbal, non-verbal or physical behavior of a sexual nature, with the purpose or effect of offending a person's dignity, in particular by creating intimidating, hostile, degrading, humiliating, humiliating, or humiliating;

[...]

Article 3 - Principle of equal treatment - Prohibition of discrimination

(Article 2 (2) of the Directive)

1. All forms of direct or indirect discrimination on grounds of sex, in particular with regard to marital status, shall be prohibited in all areas falling within the scope of this Act as specified in the following provisions.

2. (a) Harassment, sexual harassment, and any less favorable treatment due to tolerance or rejection of such conduct constitute sex discrimination and are prohibited.

[...]

3. A mandate which discriminates against a person on the grounds of sex constitutes discrimination within the meaning of this Act.

¹¹² Application of Equal Opportunities and Treatment of Men and Women, Law 3896/2010 (6 December 2010), available at <https://edu.klimaka.gr/nomothesia/diaforoi-nomoi/1160-n3896-ises-eykairies-metacheirhsh-andrwn-gynaikvn-fek207-2010> (last visited 15 November 2019).

[...]

Article 22 - Legal protection

(Article 17 of the Directive)

1. Any person who considers that he or she has been harmed by non-compliance with the provisions of this Law, even if the relationship has ended, in which the alleged discrimination has been terminated, shall have the right to legal protection and the right to appeal to the competent administrative authorities, including mediation procedures by the body referred to in Article 25 of this Act. The exercise of these rights does not affect the time-limits laid down for judicial and administrative redress.

2. Legal persons and associations of persons who justify a legitimate interest in the matter may, with the consent of the offender affected by this Act, bring an action before the competent administrative or judicial authorities in his name. They may also intervene in his defense before the administrative or judicial authorities.

Article 23 - Civil, administrative and criminal penalties

(Articles 18 and 25 of the Directive)

1. Violation of the prohibition of sex discrimination under the present law gives rise, inter alia, to a claim for full compensation of the victim, which shall cover both positive and consequential damage as well as non-pecuniary damage. In Article 663 of the Code of Civil Procedure, point 6 is added as follows: "(6) all disputes between individuals infringing the principle of equal opportunities and equal treatment for men and women in matters of employment and occupation, as enshrined in the existing legislation; Directive 2006/54 / EC in the Greek legal order. "

2. Violation of the prohibition of sex discrimination under this Act by a person acting as an employer or by the person exercising the managerial right or a representative or added thereto, during the conclusion or refusal of employment relationship or during, operation, development or its solution constitutes a breach of labor law within the meaning of Article 16 of Law 2639/1998 (Government Gazette 205 A), for which the administrative penalties provided for in this article are imposed in accordance with the criteria of paragraph 3 thereof, such as has been modified and apply.

[...]

4. In Article 337 of the Criminal Code, paragraph 5 is added as follows: '5. Anyone who commits an act referred to in paragraph 1 of this article, taking advantage of the job position of a victim or a person who has been involved in a job search process, shall be prosecuted and sentenced to imprisonment of six (6) months to three (3) years, and with a fine of at least one thousand (1,000) euros. "

Article 24 - Burden of proof

(Article 19 of the Directive)

1. Where a person falling within the scope of this Act alleges that he or she is subject to discrimination based on sex, in accordance with the above provisions, and relies, in a court of law or other competent authority, on facts or evidence which may be directly or indirectly discriminated against sex, or that sexual or other harassment has occurred within the meaning of this Act, the defendant bears the burden of proving to the court or other competent authority that there has been no violation of the principle of equal treatment for men and women. KON. The above rule does not apply to criminal proceedings.

2. Paragraph 1 shall also apply where there is a question of unequal treatment of sex falling within the scope of Directive 92/85 / EEC, as incorporated in particular by Presidential Decrees 176/1997 (Government Gazette 50A) and 41/2003 (Government Gazette 44A), and Directive 96/34 / EC, as incorporated in particular by Articles 5 and 6 of Law 1483/1994 (Government Gazette 153A), 25 of Law 2639/1998 (Government Gazette 205A), 53 par. 2 of Law 3528/2007 (Government Gazette 26A), 6 of p. 193/1988 (Government Gazette 84A) and 8 of the National General Collective Labor Agreement of 2003.

[...]

Article 26 - Obligation to provide information and information

(Articles 26 and 30 of the Directive)

[...]

2. Employers, as well as those responsible for vocational training, must promote equality between men and women in the workplace in a systematic and systematic way. To this end, they shall take measures to prevent and address all forms of discrimination based on sex, in accordance with the provisions hereof, and in particular the prevention of harassment and sexual harassment, as well as access to employment, vocational training and employment. professional, salary and career development. Employers shall provide, at regular intervals, appropriate information to employees and their representatives, as well as to the competent bodies referred to in Articles 25 and 28 of this Act, when such information is requested.

[...]

Penal Code, 1951 (as amended) ¹¹³

¹¹³ Penal Code, 1951 (as amended), available at <https://www.lawspot.gr/nomikes-plirofories/nomothesia/pk/arthro-337-poinikos-kodikas-prosvoli-tis-genetisias-axioprepeias> (last visited 15 November 2019).

As of September 2019, a new draft Penal Code was being publicly discussed pending its final approval and adoption. A new version of Article 337 reads as follow:

Article 337

Infringement of sexual dignity

1. Anyone with sexual gestures, with proposals concerning sexual acts, sexual acts committed with another person or with the display of their genitals, brutally offends the honor of another, shall be punished by imprisonment of up to one year or a fine. Criminal prosecution requires conviction.

[...]

4. Anyone who makes sexual gestures or makes suggestions to perform sexual acts on a person who is dependent on him or her on the basis of the need for a person to work shall be punished with imprisonment of up to three years or with a fine. Criminal prosecution requires conviction. See draft Penal Code, 2019, available at <http://www.opengov.gr/ministryofjustice/?p=9834> (last visited 15 November 2019).

1. Anyone with inappropriate gestures or suggestions concerning inappropriate acts violates the dignity of another in the field of his or her sexual life shall be punishable by up to one year in prison or a fine.

[...]

5. Anyone who commits an act referred to in paragraph 1 of this article, taking advantage of the job position of a person or a person who has been involved in a job search process, shall be prosecuted with a fine and sentenced to imprisonment of six (6) months to three (3). years and a fine of at least one thousand (1,000) euros.

60 GUINEA, REP.

Penal Code, 2016 ¹¹⁴

Article 277:

Sexual harassment is the act of imposing on a person, repeatedly, conversations or behaviors of a sexual nature that either undermines that person's dignity because of their degrading or humiliating character, or that create a situation that is intimidating, hostile or offensive to said person.

Any form of serious pressure, even if it is not repeated, which aims, for a real or apparent purpose, at obtaining an act of a sexual nature, whether sought for the benefit of the perpetrator or for the benefit of a third party is assimilated to sexual harassment.

The facts mentioned in paragraphs 1 and 2 above are punishable by imprisonment from 3 months to 1 year and a fine of between 500,000 and 1,000,000 Guinean francs, or only one of these two penalties.

These penalties are increased to imprisonment of 2 years and to a fine of 2,000,000 Guinean francs when the facts are committed:

1. by a person who abuses the authority conferred upon him by his functions;
2. on a minor under the age of 18;
3. on a person whose particular vulnerability, due to age, illness, infirmity, physical or mental disability or pregnancy, is apparent or known to the perpetrator;
4. on a person whose particular vulnerability or dependence resulting from the fragility of his or her economic or social situation is apparent or known to the perpetrator;
5. by several persons acting as an author or accomplice

61 GUYANA

Prevention of Discrimination Act ¹¹⁵

Part I

Preliminary

¹¹⁴ Penal Code (Loi 201/59/AN Portant Code Pénal), Law 201/59/AN (26 October 2016), available at <https://www.refworld.org/docid/44a3eb9a4.html> (last visited 15 November 2019). Unofficial translation by Compendium team.

¹¹⁵ Prevention of Discrimination Act, Cap. 99:09, (October 13, 1997), available at <http://goinvest.gov.gy/wp-content/uploads/Prevention-of-Discrimination-cap9909.pdf> (last visited 15 November 2019).

[...]

2. In this Act -

[...]

“sexual harassment” means unwanted conduct of a sexual nature in the workplace or in connection with the performance or work which is threatened or imposed as a condition of employment on an employee or which creates a hostile working environment for the employee.

3. Application of Act

The provisions of this Act shall apply to employers and employee in the public and private sectors who are engaged in employment relationship.

4. Prohibited grounds of discrimination

(1) For the purpose of this Act, a person discriminate against another person if the first mentioned person makes, on any of the grounds listed in subsection (2), any distinction, exclusion or preference the intent or effect of which is to nullify or impair equality of opportunity or treatment in any employment or occupation.

(2) The grounds referred to in subsection (1) are -

- (a) race, sex, religion, color [...];
- (b) any characteristic which apparitions generally or is generally imputed to persons of a particular race, sex, religion [...];
- (c) Any act or omission or practice or policy that directly or indirectly results in discrimination against a person on the grounds referred to in subsection (2), is an act of discrimination regardless of whether the person responsible for the act, omission or the practice or policy intended to discriminate [...]

8. Sexual Harassment

Any act of sexual harassment against an employee committed by an employer, managerial employee or co-worker shall constitute unlawful discrimination based on sex within the meaning of section 4 of this ACT.

[...]

PART X PENALTIES AND REMEDIES

General penalty.

25. Any person who contravenes the provisions of this Act shall, unless a penalty is otherwise specifically provided, be guilty of an offence and shall be liable to a fine not exceeding twenty thousand dollars.

Supplemental remedies.

26. Without prejudice to any other remedy that may be available in any court, any person who is aggrieved by any act or Omission of an employer in contravention of the provisions at Part II or III, shall be entitled to apply to the court convicting such employer for any such contravention, for any of the following remedies-

- (a) damages from the employer, for any loss caused directly or indirectly as a result of the contravention;
- (b) an order directing the employer to redress the contravention including an order, if the employer and the aggrieved person agree, to reinstate such aggrieved person;
- (c) any other order the court may deem fair and just In the circumstances.

[...]

Procedure.

30. Any complaints under this Act may be heard and determined and all offences, penalties or other remedies may be prosecuted and enforced in the manner prescribed by the Summary Jurisdiction Acts;

COMPENDIUM OF INTERNATIONAL AND NATIONAL LEGAL FRAMEWORKS ON
SEXUAL HARASSMENT IN THE WORKPLACE

Provided that an order for the payment or recovery of damages or other compensation shall be enforced in the same manner as an order for the payment of compensation under the Summary Jurisdiction (Procedure) Act. [Cap. 10:02]



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