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Tackling sexual harassment

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Tackling sexual harassment and cyber-harassment: the Slovak perspective

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1. National context addressing sexual harassment and cyber-harassment

1.1. National legal framework on sexual harassment

Within Slovak legal framework, the **Act no. 365/2004 Coll. on Equal Treatment in Certain Areas and Protection against Discrimination, amending and supplementing certain other laws (Anti-Discrimination Act)** as adopted in 2004, establishes the general framework for the application of the principle of equal treatment and the respective remedies. The principle of equal treatment was established in the areas of social security, health care, provision of goods, services and education, and in the area of employment and similar legal relations. Critical amendments to the Act were passed in 2008 with the transposition of a number of directives¹. The protection of individuals from harassment was reframed, including the extension of the notion of 'sexual harassment', which had not previously been covered within the national law. The 2008 amendment to the Anti-Discrimination Act defines sexual harassment as: "verbal, non-verbal, or physical behaviour of sexual nature, the intent and consequence of which is or may be the violation of a person, and which creates intimidating, degrading, dissuasive or offensive environment". The second amendment to the act also redefined the competences of the **Slovak National Centre for Human Rights**, which holds specific agenda in relation to sexual harassment².

Furthermore, with respect to harassment and specifically cyber-harassment, the Slovak Criminal Code³ includes provisions related to the **acts of sexual violence and sexual abuse**, which are defined in Sections 200 and 201⁴. The provisions related to harassment and stalking were extended by the 2011 amendment. The current legal framework of the Criminal Code includes Sections 360 and 360a which incorporate a constituent element of the offence of '**dangerous harassment**'

¹ Including the Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services; Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions; and the consecutive Directive 2002/73/EC.

² The Slovak National Human Rights Institution and National Equality Body is now mandated to launch educational projects, carry out independent surveys on discrimination, provide legal assistance to victims of discrimination, issue consultations on demand and by its own agenda, and draft reports and recommendations on issues related to discrimination.

³ Act No. 262/2011 Coll. amending Act No. 301/2005 Coll. the Criminal Code, as amended, and amending certain acts.

⁴ Sexual violence is hereby understood as the act of violence or threat which forces an individual to oral sex, anal sex, or other sexual practices, or exploits the vulnerability of a person for these practices (Section 200). Sexual abuse is defined as the act of sexual intercourse or other sexual misuse of a person younger than 15 years (Section 201).

and ‘**stalking**’. This amendment has been in effect since 1 September 2011 and defines long-term harassment of another person that is sufficient to give the harassed person grounds to fear for his/her life or health or the life or health of a close person or that significantly impairs the quality of his/her life. The act of harassment is punishable by imprisonment for up to one year. The act of stalking⁵ is punishable by 6 months up to 3 years in cases of a specific motive, publicity of the act, special severity of the act, or if acted upon / or if committed upon a close person.

Cyber-harassment specifically addressing children can also fall under the scope of the Criminal Code provisions on child pornography. Section 132 of the **Slovak Criminal Code** defines **child pornography** as the depiction of intercourse or other sexual acts, including the depiction of naked body parts of a child, which aim to induce sexual arousal of another person. The Criminal Code defines the production and dissemination of child pornography to be a form of trafficking in persons (Sections 179, 368, 369, and 370). The dissemination of pornographic content of children is punishable by 1 to 12 years of imprisonment depending on the circumstances, while production itself is punishable by up to 20 years. For this purpose, dissemination is defined as: “copying, transmitting, obtaining, providing access to, or disseminating in other ways.” Who possesses child pornography, or acts in order to obtain child pornography via the means of electronic communication, is punishable by up to 2 years of imprisonment. Nevertheless, Section 201a of the Criminal Code states explicitly, that persons who solicit children younger than 15 by the means of electronic communication in order to produce or disseminate child pornography, but are children themselves, are exempt from the criminal liability.

1.2. National data on sexual harassment and the public opinion of sexual harassment

The **EU-wide survey on violence against women** published by the EU Agency for Fundamental Rights in 2014 shows considerable experience of Slovak women with sexual harassment and cyber-harassment. As many as 38% of the respondents declared experience with verbal forms of sexual harassment since the age of 15. One in three respondents experienced non-verbal forms of sexual harassment past this age, and 17% experienced cyber-harassment. Victims of sexual harassment declared feelings of vulnerability, anxiety and loss of confidence as the most common results of their experience. While 61% of the victims did talk to someone about their experience, the victims who did not share their experience stated in the majority of the cases that they were either able to deal with the issue themselves or they did not consider the matter to be serious. This needs to be understood in the context of the knowledge the respondents hold of the institutions and services for victims of violence. As many as 41% of the respondents declared that they were not aware of any of the three provided names of organisations, while 27% were able to identify only one of them⁶⁷.

The soon-to-be published results of the **Coordinating-Methodical Centre for Gender-Based and Domestic Violence (CMC) representative survey** show that most respondents who have experienced sexual harassment (including harassment

⁵ The act of stalking, as defined here, frames such forms of long-term stalking which may cause concern for one’s life and health, or the life or death of a close person. This also takes into consideration acts of stalking which may significantly affect the wellbeing of an individual.

⁶ FRA Violence Against Women Survey 2014. Retrieved from: <http://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-violence-against-women-survey>

⁷ These included Aliancia žien, FENESTRA, and the Institute for Labour and Family Research.

via phone calls, text messages or e-mails) experienced this as one of different, often co-occurring, forms of violence in an intimate relationship, or they experienced this from an ex-partner.

In relation to the Slovak public opinion on sexual violence, a recent **Eurobarometer survey on gender-based violence** shows some alarming data. While 76% of women and 65% of men perceive sexual harassment towards women to be 'common', their opinions towards outlawing some particular practices tend to be reserved⁸. When asked about 'sexual harassment between colleagues', only 24% of all respondents declared this to be against the law despite the existing Slovak legislation on sexual harassment at workplace. When asked about 'unwanted e-mails or messages', 43% of the respondents declared this to be 'wrong and should be against the law', while only 24% of the respondents thought this action is already outlawed by the national legislation.

1.3. Institutions and policies

The current framework of Slovak national policies tackling gender-based violence and violence against women is set out in the **National Gender Equality Strategy** and the **Gender Equality Action Plan 2014 – 2019**, as well as the **National Action Plan on the Prevention and Elimination of Violence Against Women 2014 - 2019**⁹. Chapter 4 of the National Gender Equality Strategy identifies dignity and protection from gender-based violence as a crucial area. The authors of the strategy identified the need to create a more systematic and secure system for the victims of violence as a crucial goal.

The aforementioned **National Action Plan on the Prevention and Elimination of Violence Against Women 2014 – 2019** whose implementation is coordinated by the Ministry of Labour, Social Affairs and Family of the Slovak Republic, denounces the sanctioning of sexual harassment at workplace as insufficient. The document sets out **two explicit goals** in this area: execution of a nation-wide survey (mapping the extent of harassment at workplace, experiences of victims, and the public opinion); and improvement of legal literacy and awareness of the existing legislation addressing sexual harassment.

In accordance with the Article 10 of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention), the **Coordinating Methodical Centre for Prevention and Elimination of Violence against Women and Domestic Violence (CMC)** was set up and launched its operations in April 2015¹⁰. The primary aim of the CMC is to create, implement and coordinate a comprehensive national policy in the given area. A team of experts has been set up within the CMC responsible for the scientific coordination and supervision of the implementation of the system of prevention and intervention, victim support and services in the field of violence against women and domestic violence.

The Ministry of Labour, Social Affairs and Family also established a free **non-stop helpline**, which aims to function as a first-contact service for women experiencing

⁸ Special Eurobarometer 449: Gender-Based Violence. Retrieved from: https://data.europa.eu/euodp/en/data/dataset/S2115_85_3_449_ENG

⁹ The monitoring of the implementation of the aforementioned strategic documents is conducted by the Slovak Ministry of Labour, Social Affairs and Family, which is also the guarantee of the policy tackling sexual violence, as it falls under the competency of the Department of Gender Equality and Equal Opportunities.

¹⁰ The project is financed by the Norwegian Financial Mechanism and co-financed by the state budget.

violence and seeking support. Detailed statistics are collected in order to monitor the effectiveness of the helpline. On average, the helpline receives 600 calls a month and retains 350 long-term clients. Furthermore, the **Office of General Prosecutor** established a free helpline and an e-mail address where a specific motion to investigate a case may be reported.

The Slovak non-governmental sector has also been particularly active in the field of violence against women – fostering programmes of awareness raising, training, as well as programmes aimed at providing support and services to victims of violence. This is apparent from the publication published in 2015 by the **Institute for Labour and Family Research – Database of Good Practices and Tools of Specialised Support and Protection of Women Experiencing Violence**¹¹. This database lists 81 tools/practices, some of them applied in effect since as early as 1998, which contain projects dedicated to sexual and sexualised violence. It is clear from the outline of the 81 aforementioned tools/practices that the inclusion of education and trainings aimed at addressing gender stereotypes, which lead to the spread of gender-based violence, are a common and desired feature of these projects.

1.3.1. Good practices on awareness raising, training and service provision

Drawing on to the objectives of the National Action Plan on the Prevention and Elimination of Violence Against Women 2014 – 2019, the **Slovak National Centre for Human Rights** conducts a variety of educational trainings related to harassment and sexual harassment at workplace. In 2015, the Centre focused primarily on providing training to the representatives of the unions in relation to the national anti-discrimination law¹². In 2016, the Centre organised 27 trainings on legal framework and 17 trainings specifically on mobbing, bossing and bullying at workplace.

In April 2017, the Ministry of Labour, Social Affairs and Family launched a **public awareness raising campaign titled ‘PRETOŽE HOVORÍM NIE’ (‘BECAUSE I SAY NO’)** aimed to increase awareness, sensitize and inform about sexual violence.

The primary target group is young people between the age of 15 and 25. The campaign aims to decrease the public’s tolerance of sexualised violence, considering the results of the 2016 Eurobarometer survey, which showed that almost half of the Slovak respondents deemed sex without consent in some cases justifiable. TV spot aimed at women and girls¹³ communicates the importance and strong value of (not) given consent, whether verbal or non-verbal, for any type of sexual activity, under any circumstances and in any stage of a relationship. The goal is to encourage girls and women to be aware of their right to say ‘NO’ anytime, anywhere and that their “NO” must be respected. TV spot aimed at boys and men¹⁴ warns boys and young men that by using force and pressure on involuntary sexual activities they not only humiliate the other person and behave unacceptably, but they also commit a criminal act, while also creatively working with the concept of ‘bystander effect’ through encouraging young people to intervene in case they witness some forms of violence. Primary platforms for the campaign were social media, cinemas, Spotify and online advertising, taking into consideration the target group preferences. The website www.zastavmenasilie.sk, features a counselling section providing information on the national non-stop helpline, advice sections for

¹¹ Inštitút pre výskum práce a rodiny: Databáza postupov a nástrojov špecializovanej podpory a ochrany žien zažívajúcich násilie, 2015.

¹² Trainings conducted in 2015 were, in the majority of cases, organised for various organisations of the unions (7 trainings), as well as other professional organisation (3 trainings).

¹³ Available at: <https://www.youtube.com/watch?v=mjwgkujkdro>

¹⁴ Available at: <https://www.youtube.com/watch?v=kOyMYdlAirM>

victims of violence, and contact details for the regional services for victims of violence. The campaign is still ongoing since famous people, known to young people joined the campaign and expressed their support publically which highlights the fact that everyone can reject violence in any form – whether privately on a regular day or as a part of their profession. Audio-visual lectures for students at high schools addressing gender equality and violence against women were part of the campaign. These lectures were adjusted to reflect the needs of university students and they take place in autumn 2017. The aim of the lectures is to encourage young people to be more sensitive towards gender inequalities, stereotypes, violence against women and to provide information on how to proceed when one witnesses violence against women, including sexualized violence.

Within the non-governmental sector, the **online counselling portal IPčko.sk** was founded in 2012. The portal offers psychological help and counselling to young people. The main idea of IPčko is to approach the clients online in a safe and anonymous environment. The help provided to them can be considered a **peer to peer help**, since the counsellors are young people who continuously undergo trainings on how to approach the new and emerging problems the youth face in their lives and on the internet.¹⁵ As many as 50 young professionals (psychologists and social workers) work as volunteers online to help young people aged usually between 12 – 25 years to deal with difficult situations. The IPčko portal is available daily from 7AM to 12PM for online chatting. In 2016, IPčko dealt with exactly **438 cases of their clients¹⁶ related to sexual harassment online** (this predominantly includes cases of stalking and unwanted messaging). Nevertheless, only a few of these cases were later forwarded to the authorities, this is simply because young people do not wish to proceed with further charges, as they fear the stigmatisation or other negative reactions from their peers and family.

1.4. Challenges of the national framework tackling sexual harassment and cyber-harassment

Issues related to financing of the governmental and non-governmental activities aimed at violence against women are currently discussed at the national level. The total financial allocation for national activities concerning combating violence against women and domestic violence amounted to 12 million euros in total for the years 2013-2015. A significant contribution in this area was made through the Norwegian Financial Mechanism (EEA Grants) which amounts to 7 million euros and the state budget. Most of the financial resources awarded through the Norwegian Financial Mechanism, as well as the European Social Fund, were allocated to support services – counselling centres or shelters for victims of domestic and gender-based violence. This, however, also points to the need **of service providers to draw their attention primarily to these mechanisms, which often provide support for only short-termed projects.** This can create a rather unstable and unpredictable environment. Non-governmental and governmental organisations often struggle to foster inter-institutional cooperation and long-lasting services. This hampers the possibility of creating sustainable support for victims, awareness-raising programmes and mechanisms measuring the impact of the activities.

Recent setbacks of the national legislation have been linked to the ratification of the **Istanbul Convention** which explicitly addresses sexual harassment in its Article 40.

¹⁵ Slovak Presidency of the Council of the European Union: New Approaches in Youth Work to Uncover and Develop Potential of Young People, 2016, p. 84.

¹⁶ Of these 438 individuals, 61 were young men, and 377 were young women.

Nevertheless, while Slovakia was among the first countries to sign the Convention, its ratification has been, as of this day, postponed. This stalemate is being extensively addressed by the Slovak media and it is often explained as a result of the lobbying potential of conservative political actors and the so-called 'anti-gender ideology' groups within the Slovak National Council or the non-governmental sector¹⁷. In this political environment of strong opposition towards establishing the legal framework for violence against women, the implementation of sustainable specific programmes, services or campaigns proves particularly problematic.

As it is clear from the aforementioned Eurobarometer survey on gender-based violence, the attitudes accepting and legitimising sexual harassment and cyber-harassment are not the only hurdle of the policies aimed at tackling this form of gender-based violence. It is also the **lack of legal literacy and the lack of knowledge of specific services for victims** which is problematic. More clarity on the complexity of public opinion on sexual harassment should be provided in the future by surveys on both the experiences and opinions of sexual harassment and violence against women (as set out in the National Action Plan on the Prevention and Elimination of Violence Against Women 2014 - 2019). For example, more data on the experience of victims of harassment with special services, including data on the extent of sexual harassment within higher education, could be beneficial to the policymakers and any potential future campaigns.

2. Challenges of the Danish and French initiatives tackling sexual harassment

The **examples of the Danish and French initiatives addressing sexual harassment** point to two considerable necessities. In the Danish case it is the requirement of a stable inter-institutional cooperation with direct frameworks of accountability and responsibility. In the French case, it is the necessity of a clear legal framework, which was established in 2012 and which provides the basis for future projects aimed at awareness raising, prevention, and the support for victims. Furthermore, the two preconditions of awareness raising and inter-institutional cooperation also prove especially challenging in the Slovak context, which can benefit from an already established and clear legal framework addressing harassment and stalking.

The example of the Danish good practice stems from a similar issue of down-playing of the seriousness of sexual harassment, which is also visible in the Slovak context. Considering the Danish 'Stepping up Initiatives', it is especially the involvement of the headmasters which looms large within the context of institutional accountability. A headmaster, as the highest authority in schooling settings, provides legitimacy to any initiative aimed at protecting victims of both bullying and harassment. Nevertheless, within the Slovak educational environment, it could be argued that while the headmaster bears the ultimate authority to promote the initiative, it is the **teachers and the school counsellors** who need to be involved more, as they are in direct contact with students and also have the direct responsibility for a student's well-being. The inter-institutional approach of the programme involving three ministries is also much appreciated as it conveys the sense of inter-institutional cooperation, as well as a sense of urgency and prioritisation.

¹⁷ Ria Gehrerová: Konzervatívci sa boja, že muži budú tehotní – dohovor o násilí na ženách opät odložili. Retrieved from: <https://dennikn.sk/815384/konzervativci-sa-boja-ze-muzi-budu-tehotni-dohovor-o-nasili-na-zenach-opat-odlozili/>

The French initiative addressing cases of harassment in national transport duly acknowledges that the **legal framework protecting the rights of victims of harassment** is a crucial foundation of any awareness-raising initiative. Simply pointing to the harmfulness and toxicity of the practices of sexual harassment is not enough. The 2012 amendment of the Act on sexual harassment has established a broad definition of sexual harassment and created a direct related framework. Nevertheless, the project entails a number of challenges, including the need to provide sufficient training to the employees of the national transport companies. This can prove particularly challenging vis-à-vis the fluctuation and precariousness this employment entails. Furthermore, the project may also encounter obstacles in the context of commercial transport run by private companies, which may not hold the objective of safe travelling as one of the highest on the agenda. In this case, the initiatives of 'naming and shaming' of the lagging private companies may prove particularly promising.