



COMBATING SEXUAL HARASSMENT THROUGH THE MANDATES OF NHRIS AND EBS

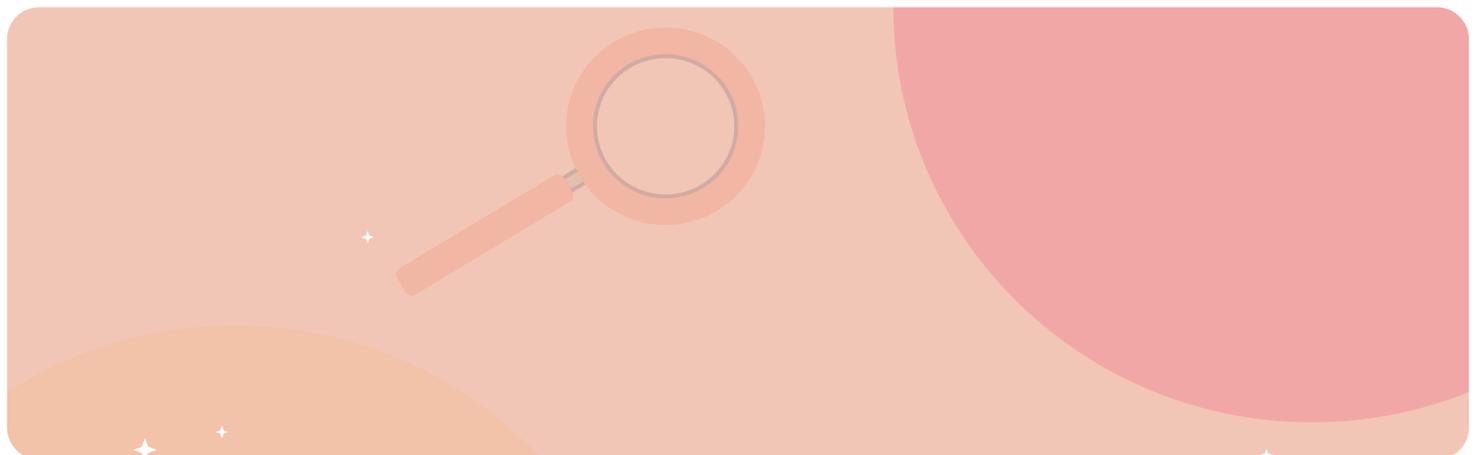
From data collection and reporting to legal counselling and training

Mandates of National Human Rights Institutions (NHRIs) and Equality Bodies (EBs) are often interconnected, focusing on the same social issues from different angles and in the framework of specific legislation and protection mechanisms. Sexual harassment belongs among such pressing issues –not only is it a form of discrimination and a form of gender-based violence, prohibited under the EU Directives, protection against sexual harassment is also granted by human rights treaties on European and Global levels.

Sexual harassment is entangled in gender stereotypes and still persistent in many areas of life, therefore, it is more than vital that NHRIs and EBs join their efforts and use complementarity of their mandates in combating sexual harassment. Moreover, oftentimes both mandates are housed under one roof. Reflecting complexity of sexual harassment and the above-mentioned complementarity, this guiding note aims to assist in effective data collection and data-based action applicable in practice of NHRIs and/or EBs. Recommendations and lessons learned are drawn from the recent research conducted by [the Slovak National Center for Human Rights \(SNCHR\)](#) expanded by reflection of needs and challenges during peer-learning webinar organized in cooperation with [the European Network of National Human Rights Organizations \(ENNHRI\)](#)¹.

RESEARCH

In 2023, SNCHR conducted a research of sexual harassment at workplaces in public health-care sector in the Slovak Republic. This section focuses on selected steps from the developing research design, through preparation of the research tool to organisation of data collection. Recommendations and reflection are not meant to cover complex questions of research methodology, rather it aims to highlight particular issues to encourage NHRIs and/or EBs in their effort to collect data and provide suggestions how to use data for execution of their mandates. When useful, employed approach and decisions taken by the research team are exemplified at research findings and national legislation. Executive research report in English and Slovak language can be found on [SNCHR website](#).



¹ The Research and all related activities including the peer-learning webinar were organized in the framework of the project SGA-CERV-2023-07 – Collecting data about sexual harassment for advocacy and reporting to regional mechanism by NHRIs with co-financing of European Union.



STEP 1: DEFINITION

What is sexual harassment, sexism, or harassment and how to define the scope of research?

One of the challenges for data collection and data use are different concepts of sexual harassment which does not often strictly mirror legal definitions under the national legal framework. Social concepts of sexual harassment aim to reflect social reality which is broader and more complex than legal understanding of the term. This inconsistency might result in weak applicability of collected data in NHRIs' and EBs' practice.

How to define the scope of the research?

- ✓ Start with defining your goal – what do you want to use your data for? Do you need it for national or international context?
- ✓ You can use theoretical frameworks which are **broader** than legal definition, however, **operationalization should be specific enough to distinguish among particular situations** and whether these can be interpreted as sexual harassment, other forms of discrimination or violence.
- ✓ Consider **experience from practice or previous research** to cover relevant context for sexual harassment in the studied environment (e.g. particular behaviour typical for interactions in hospital, school or in traffic).



Example of SNCHR

The primary subject matter of our research was sexual harassment in employment in health-care sector. Previous research of sexual harassment in different settings suggests that this phenomenon is rarely isolated from other forms of (non-sexualized) harassment and it is related to gender stereotypes and gender-based discrimination. Classification of sexual harassment by Fitzgerald L. F. (Fitzgerald, 1990²) distinguishes between three types of sexualized aggressive behaviour:

- 1. gender motivated harassment** which includes verbal and nonverbal behaviour reproducing gender stereotypes with an aim to hurt or harass somebody (e.g. sexist jokes, comments about appearance, Fig. 1);
- 2. unsolicited sexual attention** which includes sexualized behaviour addressed towards an individual (e.g. entering into intimate space, touching, Fig. 1); and
- 3. sexual coercion** including psychological manipulation or physical sexualized violence (e.g. threats conditioned by sexual contact, following after work, sexual attack).

This concept allowed us to measure sexual harassment as it is recognized by legal definition and to include behaviour which goes beyond this definition: gender motivated harassment (consistent with legal definition of harassment) and sexualized coercion (falls within legal definition of sexual violence, stalking, rape). This construct has been applied in the Slovak context before in the research of sexual harassment at universities (Valkovičová et al., 2021). Therefore, SNCHR could have built on findings of this research and adapt the items of the questionnaire to better reflect context of healthcare.

² Fitzgerald, L. F. (1990). Sexual harassment: The definition and measurement of a construct. *Ivory Power: Sexual Harassment on Campus*, 21 (22), 21-44. [Sexual harassment: Violence against women in the workplace. \(apa.org\)](#)

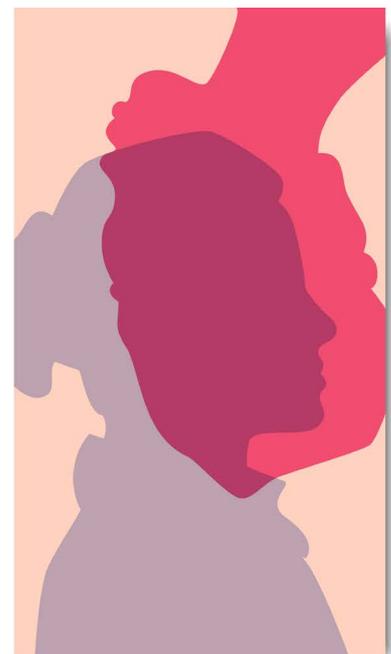
The Act No. 365/2004 Coll. on Equal Treatment in Certain Areas and Protection against Discrimination, amending and supplementing certain other laws (the Anti-discrimination Act) regulates the application of the principle of equal treatment and establishes means of legal protection if this principle is violated. The Antidiscrimination Act applies only in certain areas as specified under Section 3, para. 1:

- employment and similar legal relationships,
- social security,
- health care,
- provision of goods and services,
- education.

Harassment as a form of gender discrimination is a conduct based on sex/gender of a person which occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment.³

Direct discrimination based on sex/gender shall mean any action or omission where one person is treated less favourably than another person is, has been or would be treated in a comparable situation, because of sex/gender.⁴

Sexual harassment as a form of discrimination is verbal, non-verbal or physical conduct of a sexual nature, the purpose or consequence of which is or may be violating the dignity of a person, and which creates an intimidating, hostile, degrading, humiliating or offensive environment.⁵The definition of sexual harassment was included in the Antidiscrimination Act by transposition of the EU gender equality directives.⁶



3 § 2a sec. 4 Antidiscrimination Act

4 § 2a sec. 2 Antidiscrimination Act

5 § 2a sec. 5 Antidiscrimination Act

6 Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation

Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services

Directive 2010/41/EU on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity

Violence against women is defined under the Council of Europe, Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) as a violation of human rights and a form of discrimination against women. It shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

Gender-based violence against women shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately.⁷

Violence against women may constitute one or more criminal offences specified in the Act No. 300/2005 Coll. Criminal Code e.g.:

- **Rape** - whoever, through violence or the threat of imminent violence, forces a woman to have intercourse or whoever abuses her vulnerability for such an act shall be punished by a prison sentence of five to ten years.
- **Sexual violence** - whoever, through violence or the threat of imminent violence, forces another person to have oral sex, anal sex or another sexual practice or whoever abuses their vulnerability for such an act, shall be punished by a prison sentence of five to ten years.
- **Stalking** - whoever follows another person over an extended period of time in a way giving possible rise to a reasonable fear for life or health, or life or health of a person close to that person or giving rise to the substantial impairment of the quality of life shall be punished by a prison sentence of up to one year.

Prevalence of specific behaviour of sexual harassment

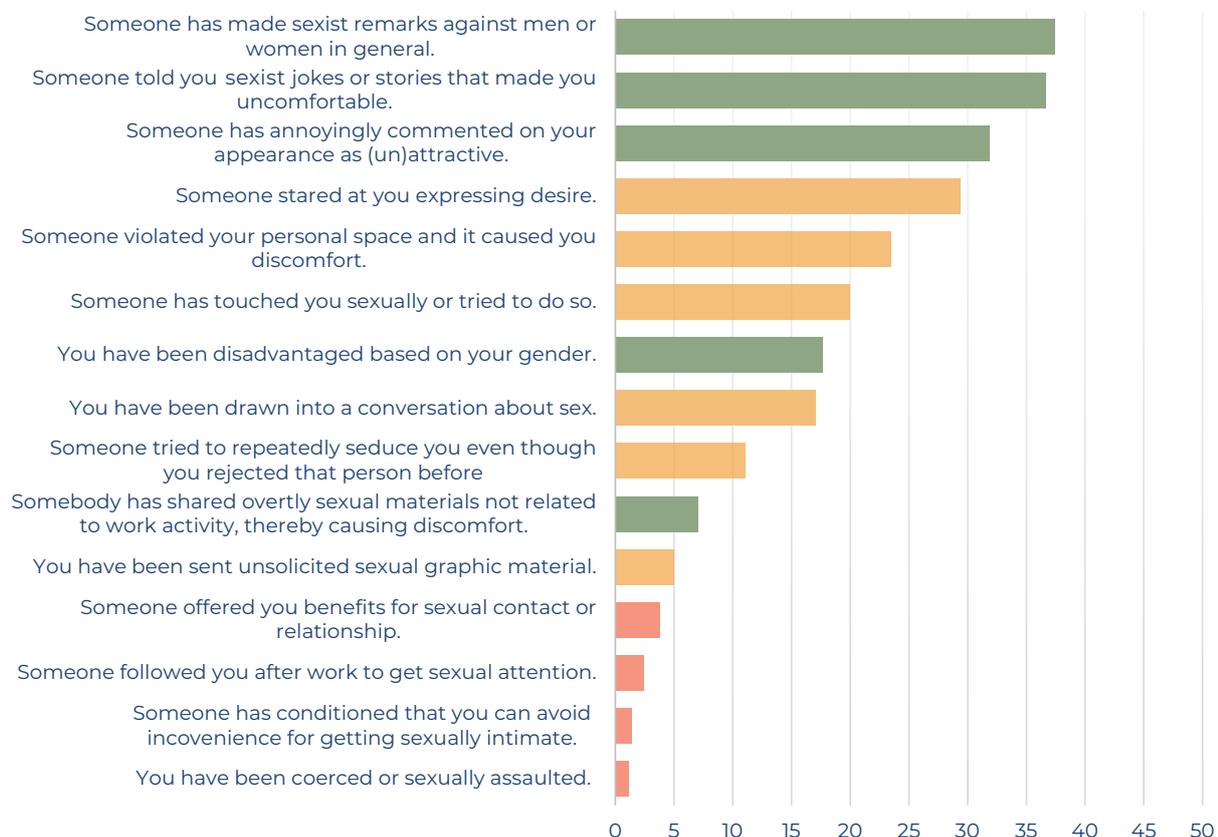


Fig. 1: Prevalence of sexism (gender motivated harassment, green), sexual harassment (yellow) and sexualized coercion (orange))

⁷ Art. 3 (d) Istanbul Convention

Definition of target population sample

Research aimed at examining occurrence of sexual harassment in employment relationships in healthcare sector. The SNCHR research team decided to include personnel working under all types of employment relationships including part time work, **self-employment**, and **student practice**. Principle of equal treatment in **employment relationships** applies mainly in:

- a) access to employment; including recruitment requirements and selection criteria,
- b) conditions of work including remuneration, promotion and dismissal,
- c) access to vocational training and professional development,
- d) membership and activity in employees/employers' organisations.

Self-employment is not directly mentioned under the scope of the Antidiscrimination Act. However, according to Directive 2010/41/EU on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity the prohibition of sexual harassment applies also for self-employed workers.

The **student practice** doesn't fall under the field of employment relations as the students conducting student practices mostly have agreements with universities. However, the students on student practice conduct similar tasks as employees in the healthcare facilities.

Definition of actors of sexual harassment

The focus of the research regarding potential perpetrators was on the behaviour of coworkers and superiors as relationship between patient and employee of the healthcare facility is not employment relationship. However, sexual harassment may occur also from the patient as perpetrator towards the employee of the healthcare facility as power imbalance between some of the professions in healthcare (e. g. nurses, support workers) and patients exists. Harassment exercised from the side of patients has been also raised as an existing problem during our consultations with healthcare community. As employers have obligation to protect the employees against sexual harassment, SNCHR included occurrence of sexual harassment from patients towards employees in healthcare facilities in the research. Our findings confirm (Fig. 2) that excluding it from the research would have resulted in incomplete picture of employees' experience.

Perpetrator by professional hierarchy



Fig. 2: Perpetrators of sexism or sexual harassment by professional hierarchy or role.



STEP 2: DESIGN OF THE RESEARCH TOOL

Developing design of the research and the questionnaire always brings about dilemma of the limited length and a long list of aspects related to prevalence of sexual harassment. It requires a considerable amount of financial and personal capacity to conduct research at workplaces, which needs to be exploited wisely keeping in mind consistency of the research tool.

What to consider in development of the questionnaire:

- ✓ How to include broader gender perspective?
- ✓ What are the risk factors specific for the research population (e.g. in particular sector of industry) and how these can be measured?
- ✓ How to include intersectional perspective into analysis of data?
- ✓ What data and findings might be relevant for recommendations to stakeholders?
- ✓ What aspects are the most relevant for execution of NHRI and EB mandate? (e.g.: What aspects might be relevant for reporting on international level, litigation and legal services or advocacy on national level).
- ✓ Average length of time necessary to fill in the questionnaire should be up to 20 minutes (ideally around 15 minutes).
- ✓ Cooperation between research team and legal team is specifically important to achieve common goal for adequate use of the collected data.



Example of SNCHR

1. First part measured prevalence of behaviour in the following clusters: a) gender-based harassment; b) unsolicited sexual attention; c) sexual coercion/assault. (see above in STEP 1)
 - Inclusion of all types of profession (doctors, nurses, other healthcare, non-healthcare) allows to compare the risk factors related to working environment.
 - Mapping non-heteronormative categories among demographic questions allows to consider broader gender perspective.
2. Second section included questions mapping patterns of protection mechanisms at the workplace and reporting, e.g.:
 - Mapping level of awareness about preventive mechanisms at the workplace.
 - Measuring level of trust towards superiors or other personnel with the role of a confident person for cases of sexual harassment.
 - Mapping decisions to (not) report cases of sexual harassment.
3. Third section included items measuring sensitivity towards behaviour listed in the first section
 - To find out whether the situations described are considered as sexual harassment or not and analyse the data from gender and intersectional perspective including age, health disabilities and social status.
4. The last part of the survey included a question mapping awareness of legal means of protection including:
 - Understanding of sexual harassment as form of discrimination under the antidiscrimination legislation.
 - Awareness of institutions with mandate to monitor and protect employees from sexual harassment.
5. Demographic question and other variables: to apply intersectional approach in analyses, survey reflected not only standard demographic questions but also self-identification with group(s) which face social and economic challenges or are often disadvantaged: national minority, foreign language, non-heteronormative identity, health disability. Our preliminary analyses suggests that persons with non-heteronormative self-identification (e.g., transgender and/or other than heterosexual orientation) have significantly higher risk of experiencing some form of sexual coercion than persons with heteronormative identity.



STEP 3: ACCESS TO WORKPLACES

Employers are generally reluctant to collaborate at the research of sexual harassment. They might be afraid of negative medialization or even of legal measures taken against them. NHRIs and EBs are in a unique position to use their mandates and authority to monitor and advise employers how to better respond to their duties to prevent discrimination at their workplaces. Although the mandate to monitor (in most countries) do not allow NHRIs and EBs to enforce the cooperation of employers, it might serve as a resource to motivate employers or other authorities to provide cooperation. Before taking a decision to cooperate with any authority or employers directly, research team should make sure to apply safeguards to avoid negative effects on integrity of the research.

Checklist for cooperation with official authorities and employers:

- ✓ Keep control over data in all phases to ensure anonymity of participants of the research.
- ✓ Communicate clearly what the subject matter of the research is and what type of findings can you provide to collaborators.
- ✓ Formulate agreement with official authorities that findings of the research won't be used against participating employers/workplaces.
- ✓ Use the established cooperation for targeted action resulting from the research (e.g., consultations for management, training for employees).
- ✓ Be ready for increased risk in time management, especially in cooperation with official authorities.
- ✓ Be ready for increased risk of losing control over communication as a result to include more actors (steps) in communication flow. Risk is even higher if you cooperate with official authority with strict internal hierarchy.
- ✓ Assess potential risks that cooperation with authority/employers might affect voluntary participation and employ safeguards to ensure that participation of employees is not enforced by authority.
- ✓ Assess potential risks that cooperation with authority/employers might affect anonymity of participation and employ safeguards to ensure that there are no records (e.g., list of names of participants) created.
- ✓ Ensure to clearly communicate that your organisation is independent from the authority and what are the rights of the authority in relation to the research findings.





Example of SNCHR

1. First option how to enter the workplaces to collect data was to approach the management of hospitals and other healthcare facilities directly and rely on reference to our NHRI and EB mandates. However, legal definition of our mandate when it comes to research purposes is limited. Also, SNCHR was aware that several other attempts to conduct research directly at workplaces were not successful due to reluctance of employers to cooperate.
2. Therefore, we have decided to initiate cooperation with the Ministry of Health of the Slovak Republic (the Ministry). The Ministry agreed with the aim of the research and sent a letter to facilities under their supervision on behalf of the minister. In the letter, the Minister of Health recommended management of facilities to provide us with cooperation (e.g., nominate a contact person, provide us with information about the fees for ethical commissions and coordinate meeting of ethical commission).
3. Conditions under which SNCHR and the Ministry agreed to cooperate were discussed and clarified in the memorandum of cooperation including the following:
 - the limitations of the Ministry to access the collected data,
 - responsibility of SNCHR to oversee the ethics of the research,
 - and expected follow-up activities including trainings, consultations, and recommendations on preventive mechanisms.
4. The cooperation with the Ministry also allowed us to **consult the logistical questions**, selection of sample and formulation of items without losing autonomy. It showed to be crucial especially in relation to logistics – e.g., information about the processes of ethical commissions or the role of head nurses. The most important added value was high response rate – from 40 hospitals, only two refused to participate. **SNCHR has visited 38 organisations in public health care:** hospitals, specialized health institutes, administrative bodies, scientific/analytical institutes, health care services and collected **1.800 responses**.
5. Apart from the Ministry as an authority, an important role was played by allied hospitals which were open to pilot the data collection, during which it was possible to test the process of data collection in friendly environment.
6. One of the negative aspects is, that NHRI or EB as organiser might not be in full control over timeline (due to other priorities of authorities) or communication (due to decisions by authority). Research team has managed to balance these negative aspects by **flexibility in our timeline and adaptation to changed conditions**.
7. The second issue to be dealt with was tendency of management to employ internal hierarchies and control regardless of ethical principles, such as anonymity or voluntary participation. Therefore, the research team had to pay special attention to questions of voluntary participation and explicitly require that no lists or registrations of participants should be developed. Management was asked to do following steps instead:
 - Inform all employees that SNCHR guarantees anonymity and that employees can report any suspicion of the breach of their right to anonymity to SNCHR contact.
 - Guarantee participants that they can take part during their worktime.
 - Allow field workers to collect data in private conditions when filling out the questionnaire.
 - Allow field workers to spend enough time to collect required number of responses (rather than pre-register participants ahead of our arrival).



STEP 4: TEAM MANAGEMENT AND CARE

One of the challenges for NHRIs and EBs which do not have enough experience with coordinating data collection in the field is to assess personal and financial capacities required. Benefits of coordinating data collection by NHRIs or EBs might be not only in lowering the costs in comparison with contracting external services but also in opportunities to expand knowledge about the reality at the workplaces and build new relationships with stakeholders.

Checklist for the team management and care:

- ✓ Selection of the team:
 - interest in research subject matter and interest in research methods might be powerful motivators to increase quality of data collection.
 - the process of data collection might be long and include challenging situations – you might expect drop out throughout the process.
- ✓ You might need support in coordination and communication to allow your staff to focus on quality of research rather than on logistics.
- ✓ Clear division of roles in the team helps to react in critical situations.
- ✓ Training of field workers and other members of the staff (including coordinators and communication officers) might include: basic knowledge about sexual harassment (definition, legislation, the role of EB, the role of other stakeholders), the aim of research and planned outputs or dissemination events, partners in the research and their role, guidelines to prevent re-traumatization, guidelines for resilience and protection of field workers in difficult situations, structure of the questionnaire and individual items, human rights based approach in research, manual with FAQ and critical situations.
- ✓ Regular team meetings and supervisions are useful for increasing safety of fieldworkers and to monitor potential problems (e.g., miscommunication, technical issues with questionnaire).



Example of SNCHR

Research team decided to apply semi-controlled collection of data using online form of the questionnaire (SURVIO) which has been shared directly during team’s presence at the workplaces. This approach allowed to manage regional distribution, variability of workplaces, and structure of the sample (all professions). Visiting workplaces allowed us to establish contacts with management of the hospitals, to inform about SNCHR’s services and monitor work climate.

Structure of the research team, roles, and safety rules

CORE RESEARCH TEAM

HEAD RESEARCHER AND COORDINATOR

- communicated with the Ministry of Health,
- first contact for hospitals and other facilities,
- after the first contact further communication was delegated to field coordinator,
- emergency contact in case of problems directly at facilities,
- visited hospitals and facilities if they required special attention (e.g., meetings with management, consultations),
- monitored quality of data and research sample requirements.

EXTERNAL EXPERT CONSULTANT

STATISTICIAN

DATA COLLECTION TEAM:

1 FIELD COORDINATOR

- responsible for management of database of hospitals and other facilities,
- scheduled data collections,
- communication with contact person at workplace, dealt with specific requests or conditions from facilities and consulted response with research coordinator,
- responsible for managing team of field workers (their availability, accommodation, travel) in communication with contact person, responsible for information flow to/from data collection.

7 FIELD WORKERS

- trained during preparation phase of the research,
- familiar with the questionnaire and the mandate of SNCHR,
- planned their work with field coordinator,
- confirmed their visit and time of arrival to contact person at the hospital,
- confirmed understanding of data collection process, reported any potential problems to field coordinator,
- visited workplaces and administer data collection (equipped with tablet, smartphone, information materials and contacts), always in pair or higher number at one workplace (never alone),
- during data collection communicated with head researcher about collected research sample – confirmation with the database,
- reported any emergency issues to head research (e.g., reluctance of contact persons, lack of time, etc.),
- filled in data collection report after the visit.

External partners and their roles

The Ministry of Health SR: initial information about research and recommendation to participate in it was disseminated to the selected facilities.

Contact person in the facility: nominated by executive directors of hospitals and other facilities to coordinate data collection, usually in the position of assistant secretary general. They have also facilitated our communication with ethical commissions if their approval was necessary.

Head nurses: coordinated by contact person and assisted directly at the workplace in individual hospital departments. Usually, field workers informed all head nurses about the research. Head nurses then informed personnel at the departments, introduced our field workers to staff and oversaw that our visit doesn't disturb patients and effective health care at departments.





STEP 5: HUMAN RIGHTS BASED APPROACH IN RESEARCH

Human Rights Based Approach (HRBA) should assist NHRIs and EBs in ensuring that research and related follow-up action will lead towards increasing protection of human rights. HRBA provides list of principles which encompass standard ethics of research broaden by human rights aspect. There are resources with deeper HRBA assessment methodology to be consulted. Below, you can find a list of aspects to be considered when planning and implementing research on sexual harassment.

Checklist for implementation of HRBA in research of sexual harassment:

- ✓ **Human rights obligations** are at the centre of research in all phases.
- ✓ Communication to all stakeholders and participants on all levels is **transparent**.
- ✓ All stakeholders are consulted and invited to participate actively and meaningfully. **Participation** at the research is voluntary in all phases of the research.
- ✓ Main coordinator and partners are aware of their role and **accountability** is enforced through effective mechanisms.
- ✓ Non-discrimination and equality is ensured for all participants and stakeholders. Anonymity of participants is ensured to avoid any negative effects after research.
- ✓ Implementation of research and dissemination of findings should aim to achieve **empowerment** of community participating at the research.
- ✓ Coordinator of the research should carefully assess **unintended negative effects** and ensure effective prevention.
- ✓ Findings and anonymised data will be **accessible** for public and experts.



Example of SNCHR

1. **Human rights obligations** including the Antidiscrimination Act were considered from the early stages of research development, findings will be used for reporting to international human rights mechanisms and for advocacy at the national level.
2. **Transparent communication towards all stakeholders** from the level of the Ministry to participants was ensured through several guidelines.
 - All stakeholders involved had full information about the aim of the research, intended use of the findings and what follow-up activities are planned.
 - Participants had transparent information about their rights (that their participation is voluntary, they can leave anytime, their participation is anonymous and that their names should not be list in any kind of evidence.
 - Findings in the form of executive report and complex final research report will be distributed to all facilities and contact persons will be asked to distribute it to all employees.
 - Participants were informed that participating at the research will not lead to any assistance or change at their workplace and information about steps they might decide to take were distributed.
3. **Accountability** of SNCHR for keeping the data protected and for ethics in research was stated in the memorandum of cooperation with the Ministry and information for participants together with contact on research coordinator in case of any malpractice to be reported.
4. **No information collected were used against any stakeholders.** Even though our team was trusted with particular information about harassment, this information was treated as confidential and not shared with anyone. Also, we have divided our monitoring mandate from mandate to investigate and provide legal counselling. In specific cases, the participants were informed that, if they wished so, SNCHR would provide them with counselling and that they could do that on a separate occasion.
5. **Protection of participants was ensured in the field by application of safeguards** (e.g., offering privacy to fill out the questionnaire, option to fill out the questionnaire using their own phones or at home via link).
6. **Collect only data to be used for analyses and use it for the benefit of community:** results will be reported to all engaged hospitals, all stakeholders will be invited to a round table to discuss recommendations and SNHCR will offer consultations and staff trainings.
7. **Avoid re-traumatization** - data collectors were trained to avoid re-traumatization and given guidelines to protect potential survivors.

PREVENTION AND ADVOCACY

When researching social phenomena related to gender-based violence or unequal treatment, we tend to focus on representative data; therefore, we tend to opt for quantitative research. Nevertheless, **qualitative research can also demonstrate the specifics of the studied phenomena**, e.g., how organizations and their members respond to unequal treatment, how individuals cope with the experiences, etc. Qualitative studies allow us to look at experiences of unequal treatment, such as sexual harassment, as complex situations, not only single acts detached from the organizational settings.

- ✓ Research on unequal treatment **gives voice to those who have had experience with discrimination in form of a sexual harassment**, thus focusing on the key audience of EBs and/or NHRIs. The research agenda should focus on the various experiences and perspectives of this key demographic.
- ✓ EBs and/or NHRIs should not only focus on the victims of unequal treatment but should also **create incentives and knowledge for the employers**. Research on the conditions of handling unequal treatment can help them understand the complexity of the situation and identify gaps in their preventive measures.
- ✓ **The cost of unequal treatment** is a key topic not only at the EU level, but individual employers could benefit from knowledge on how, for example, sexual harassment impacts their individual employees or whole collectives. Therefore, research of sexual harassment, or unequal treatment in general, should also focus on the various impacts of such behavior.
- ✓ Such a body of **knowledge allows addressees to navigate the country-specific environment with regards to cultural and legal aspects**. Oftentimes, knowledge on organizational responses to unequal treatment is available only with regards to the countries of the Global North. This may cause problems for individual organizations when they want to devise prevention policies in the context of Southeast Europe.
- ✓ **Handbooks and guidebooks for the addressees** of equal treatment acts should be **evidence-based**, as it provides legitimacy for further action.
- ✓ Organizational research on sexual harassment in specific organizations can address **five key aspects of prevention and elimination of such unequal treatment**: education, organizational values and norms, reporting and investigation, sanctions and restoration, and monitoring.
- ✓ Research can also be a great **depository of useful case studies and good practices**, which would allow addressees of unequal treatment acts to draw from other experiences.



REPORTING THE FINDINGS TO INITIATE LEGISLATIVE AND POLICY CHANGES

Reporting on sexual harassment, using available data to highlight the scale of the issue and provide evidence-based argumentation, is a useful tool to achieve legislative and policy changes and achieve more effective system of prevention and combating sexual harassment by including or informing targeted recommendations. NHRIs and EBs report on sexual harassment mainly through their national annual or multi-annual reports on human rights or equality. Their experience with reporting to international monitoring mechanisms at the regional or global level is more limited.

In general, NHRIs and EBs report on shortcomings of national legislation and policy measures and use data from different sources, including e.g., statistical data, criminal records data, qualitative data produced by research institutes, academia, or civil society organisations. Across Europe, data are lacking on impacts of sexual harassment on different groups and communities, for example migrant women, Roma women, LGBTI+ people, people with disabilities etc., underlying the need for intersectional approach to data collection.

Based on the scope of relevant provisions, NHRIs and EBs can address the issue of sexual harassment in their shadow reports to the following international and regional monitoring mechanism:

- ✦ **UN Committee on the Elimination of Discrimination against Women** (see Article 1 of the Convention on the Elimination of All Forms of Discrimination Against Women & General recommendations no. 12, 19 and 35)
- ✦ **UN Committee on Economic, Social and Cultural Rights** (see Article 2.2 of International Covenant on Economic, Social and Cultural Rights in conjunction with other articles – sexual harassment as form of discrimination against women)
- ✦ **UN Human Rights Council** (see Article 26 of International Covenant on Civil and Political Rights – sexual harassment as form of discrimination against women)
- ✦ **UN Human Rights Council** through the Universal Periodic Review mechanism
- ✦ **UN Special Rapporteur on violence against women and girls**
- ✦ European Committee of Social Rights (see Article 26.1 of the European Social Charter (revised))
- ✦ Council of Europe's **Group of Experts on Action against Violence against Women and Domestic Violence – GREVIO** (see Article 40 of the Istanbul Convention)
- ✦ **European Commission** (in relation to transposition of the antidiscrimination directives, e.g., Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast))



Example of SNCHR

In 2022, SNCHR submitted its [individual submission](#) to the European Committee of Social Rights on the implementation of the selected provisions of the European Social Charter (revised), including Article 26.1 concerning prevention and protection from sexual harassment at workplace. SNCHR reported on the national legislative framework and the role of labour inspectorates in cases of sexual harassment in workplace. Using available qualitative data of the Institute for Labour and Family Research, SNCHR underlined main barriers and challenges in accessing justice in cases of sexual harassment. In its conclusions from 2023, the European Committee of Social Rights recognised comments submitted by SNCHR and concluded that the Slovak Republic was not in conformity with Article 26.1 of the European Social Charter (revised) since victims of sexual harassment at workplace are not guaranteed sufficient and effective remedies.

USE OF THE RESEARCH DATA FOR LEGAL PURPOSES

To comply with the Antidiscrimination Act, the employers are obliged to take measures for protection against discrimination. SNCHR as NHRI and EB may help employers to establish mechanisms for prevention and protection against sexual harassment in the workplace. SNCHR will use the research data for consultations with employers and offer them counseling concerning the following:

- provision of trainings on sexual harassment (for new employees, repeatedly for all employees, for people involved in sexual harassment resolution system),
- establishment of explicit prohibition of sexual harassment in internal norms of employers (Ethical Code of employees, sexual harassment as serious violation of work discipline),
- introducing internal system of reporting and solving cases of sexual harassment.

Strategic litigation

SNCHR may represent parties in antidiscrimination disputes. The research data may be widely used by EBs as evidence in the court proceeding. For building *actio popularis* cases, research data is crucial evidence.⁸ NHRIs and EBs have limited experiences with the use of research data concerning sexual harassment for litigation. For the future, there is a significant potential for NHRIs and EBs to conduct research concerning sexual harassment in different fields to litigate either individual cases or *actio popularis* cases.

Main goal of SNCHR in using the collected data is to cooperate with healthcare facilities to support them in taking preventive and protective measures against sexual harassment at workplace. The purpose of conducting this research wasn't to litigate individual cases as the collected data constitutes representative data. On the other hand, even representative data may be used in future as support evidence in cases of sexual harassment at workplace.

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⁸ The application of research data is widely used in litigation of different forms of discrimination like school segregation (Judgment of ECHR X and others v. Albania from 31. May 2022, application no.: 73548/17 and 45521/19; Judgment of District Court of Prešov in Slovakia from 28. February 2023, ref. no.: 20Co/21/2022.