



The Project is funded
by the European Union

THE PREVALENCE OF SEXUAL VIOLENCE AND HARASSMENT IN LITHUANIA

EIGE expert

Prof. Virginija Šidlauskienė

Gender Studies and Research Centre of Šiauliai University

2017, January

This report is dedicated to JUST/2015/ACTION GRANTS project ***Ending Sexual Harassment and Violence*** in Third Level Education (ESHTE).

This paper overviews the sexual harassment and violence in higher education institutions in Lithuania. The aim of paper is to inform ESHTE Consortium on this issue. Additionally, it aims to support the debate in focus group whether the sexual harassment and violence is problem and how we should to respond.

Encountering problematic issues of the sexual harassment and violence in higher education in Lithuania I will review legal background, Code of Ethics of Higher education institution, research cases and media coverage on related issue.

1. Legal background

The legal assessment of sexual harassment and harassment on the ground of sex is one of the current social problems that is ignored and not treated effectively enough. Public opinion is driven by the stereotype that sexual harassment cannot exist because the relationship between a woman and a man is always based on mutual recognition and respect. Unwanted intimacies and physical contacts are regarded either as innocent jokes or provoked by the victim her/himself. However, studies show that the problem is widespread, especially in the workplace. There are not many surveys, but one of the surveys¹ presented by the **Equal Opportunities Ombudsperson** indicates that sexual harassment is experienced at least once in their lifetime by 21 % of women and 15 % of men in Lithuania. 30 % of all harassment was engaged in by employers and 70 % by colleagues at work. The survey indicates that half of the respondents could not even recognise actions of the harasser as sexual harassment. Occasional and intentional physical actions were reported by 70.5 % of these respondents, offensive verbal remarks by 18 %, pornographic pictures by 8 %, and psychological pressure and sexual suggestions by 17 % of the respondents. Most of the harassers were men (80 %). The survey has shown that the majority of all respondents (55 %) believe that it may generally be the victim's fault in the event of sexual harassment and 5 % hold that the victim is always to blame for the action of harassment. There is not much debate on the issue in public.

Society is generally keen to ignore the problem, leaving the victims to fight this battle on their own. Victims are reluctant to go public with their cases not only because the harassers in

¹ This is not a representative survey, and was made by a student of the Faculty of Communications based on information available in Lithuanian libraries. Paper in author's possession. LITHUANIA. Tomas Davulis. Ann Numhauser-Henning and Sylvaine Laulom (2011). *Harassment related to Sex and Sexual Harassment Law in 33 European Countries. Discrimination versus Dignity*. European Commission Directorate-General for Justice Unit JUST/D1 Equal Treatment Legislation.

most cases are their employers, but also because society lacks any supportive attitude. Legal remedies are not sufficient.

Lithuania, is a relatively quickly developing post-Soviet country which soon after re-gaining its independence adopted the **Law on Equal Opportunities between Women and Men**² and also the **Equal Opportunities Act**,³ and later introduced sexual harassment in its new **Criminal code** which came into force in 2003. Even though after joining the EU Lithuania was implementing EU laws in respect to sexual harassment, the provision in the Criminal code remained ineffective in practice for numerous reasons. One of the obstacles is proof as an element of the crime which is necessary in criminal cases of sexual harassment, as "*Lithuanian law requires proving the sexual nature of the purpose.*"⁴ Moreover, the aforementioned Acts, regulating equal opportunities, might cause the issue of double coverage.⁵

Lithuania established the Office of the Equal Opportunities Ombudsperson in 1999, whose legal basis stems from the Law on Equal Opportunities between Women and Men passed in 1998 and which came into force in 1999. It directly prohibited sexual harassment for the first time. Subsequently, the Equal Opportunities Act was adopted in 2003. These two statutes on equal opportunities are the main laws which define sexual harassment (directly by the former Act and indirectly but as one of the grounds of discrimination in the former) and consider it as a form of discrimination.

There are also other national laws in Lithuania regulating sexual harassment either establishing a direct provision on sexual harassment (**Criminal Code**,⁶ **Labor Code**,⁷ **Military**

² Law on Equal Opportunities of Women and Men, State Gazette No. 112-3100, 1998, http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=478625.

³ Equal Opportunities Act, State Gazette No. 114-5115, 2003, http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=454179.

⁴ European Commission Directorate-General for Justice Unit, Harassment related to Sex and Sexual Harassment Law in 33 European Countries. Discrimination versus Dignity, Equal Treatment Legislation, European Network of Legal Experts in the Field Of Gender Equality, European Council, 2012.

⁵ Ibid., p. 175.

⁶ Criminal Code of the Republic of Lithuania [Lietuvos Respublikos Baudžiamasis kodeksas], 2000, No. 89-2741, http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=493995.

⁶ Labor Code of the Republic of Lithuania [Lietuvos Respublikos Darbo kodeksas], 2002, No. 64-2569, http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=493843.

⁷ Military Discipline Statute of the Republic of Lithuania, [Lietuvos Respublikos Kariuomenės drausmės statutas], 1999, No. 51-1635, <https://www.e-tar.lt/portal/lt/legalAct/TAR.2690D2FE2A35>.

⁸ Civil Code of the Republic of Lithuania (Lietuvos Respublikos Civilinis Kodeksas), State Gazette, 2000, No. 74-2262, http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=493999.

⁹ Code of Administrative Offences of the Republic of Lithuania [Lietuvos Respublikos Administracinių teisės pažeidimų kodeksas], Government Gazette, 1985, No. 1-1, i. k. 0841010KODE00X-4449, Latest Editing Bulletin of 1 January 2015 http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=493978.

¹⁰ Law on Equal Opportunities of Women and Men, State Gazette No. 112-3100, 1998, http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=478625.

Discipline Statute (art. 88)⁸) or leaving it as a form of discrimination on the grounds of sex (**Civil Code**,⁹ **Code of Administrative Offenses**¹⁰).

The Lithuanian Labor Code neither defines sexual harassment, elaborates the acts which constitute sexual harassment, nor does it explicitly provide how the employer is responsible if an employee was sexually harassed in the workplace. Under art. 235 of the Lithuanian Labor Code, sexual harassment is considered to be a grave breach of Rules of Procedure. The Law on Equal Opportunities between Women and Men and Equal Opportunities Ombudsperson recommendations provide **some guidelines** how an employer should guarantee equal working conditions for men and women without sexual harassment. Lithuanian Law on Equal Opportunities between Women and Men defines:

Sexual harassment means any form of unwanted and insulting verbal, written or physical conduct of a sexual nature with a person, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, humiliating or offensive environment.

Harassment means unwanted conduct related to the sex of a person that occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, humiliating or offensive environment.¹¹

Sexual harassment is discrimination on the grounds of sex with the aftermath of the violation of a person's dignity.¹² Based on the Lithuanian approach and definition of sexual harassment, the sexual conduct by the perpetrator has to be unwanted. The Criminal Code defines sexual harassment as "1. A person who pursues sexual contact or satisfaction by vulgar or similar conduct, suggestions or hints and this way sexually harassed a person who is by employment or otherwise subordinate, shall be considered to have committed a misdemeanor and shall be punished by a fine or by restriction of liberty or arrest. 2. The liability for the conduct described in the first part for the person shall occur only when there is a complaint lodged by the victim or a statement by the victim's legally authorized representative or at the request of a prosecutor."¹³ While the Lithuanian equal opportunities laws do not require the victim of sexual harassment be anyhow subordinate or dependent, i.e. the abuse of authority is not one of the

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¹² Laima Vengalė-Dits, Methodical recommendations on sexual harassment and sex-based indication to discriminate prevention [Metodinės rekomendacijos dėl seksualinio priekabiavimo dėl lyties bei nurodymo diskriminuoti prevencijos], Ombudsperson's Office Publication Supporting the State Women and Men Equal Opportunities Program of 2010-2014, 2012.

¹³ Criminal Code of the Republic of Lithuania [Lietuvos Respublikos Baudžiamasis kodeksas], Government Gazette, 2000, No. 89-2741, http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=494077.

constituent elements; the Criminal Code requires this element in order to amount to this misdemeanor. However, only legally binding subordination or dependency has the legal value on the purpose of this article.¹⁴

Duty of educational establishments and research and higher education institutions to implement equal rights for women and men (Article 4). Educational and research establishments must:

5) take measures to prevent sexual harassment of pupils, students and employees of educational establishments and research and higher education institutions;

6) take measures to ensure that pupils, students or employees of educational establishments and research and higher education institutions who testify or provide explanations would be protected from hostile treatment, adverse consequences and any other type of persecution as a reaction to the complaint or another legal procedure concerning discrimination

Rights of a person discriminated against and of the persons representing him (Article 9):

A person who considers that he has been subject to discriminatory actions specified in this Chapter or that he has become the subject of sexual or any other harassment shall have **the right to apply to the Equal Opportunities Ombudsperson for objective and unbiased assistance.**

Acceptance of complaints (Article 18):

1. Each natural and legal person shall have the right to file a complaint with the Equal Opportunities Ombudsperson concerning a violation of equal rights.
2. The complaints shall be submitted in writing...

Each university is engaged to approve the Code of Ethics of Higher Education Institutions', for example, in Šiauliai University Ethics Code¹⁵ is stated:

Academic ethics is violated (Article 2.5):

- discrimination by language, actions, academic or other formal or informal assessment based on age, gender or sexual orientation, disability, appearance, race or ethnic background, religion or beliefs, in addition to tolerance to such discrimination (2.5.1);
- harassment – when a person's dignity is offended based on age, gender or sexual orientation, disability, appearance, race or ethnic background, religion or beliefs or an intimidating, hostile, or humiliating environment is created. In addition, when actions humiliating dignity or violating human rights are tolerated (2.5.2);
- humiliating a person by employing superiority (2.5.4).

¹⁴ Paulius Veršekys, Some Regulation Problems of Criminal Amenability of Sexual Harassment in the Republic of Lithuania [Baudžiamosios atsakomybės už seksualinį priekabiavimą reglamentavimo Lietuvoje problemos], Teisė, 2008, No.68, p. 190.

¹⁵ Approved on 16 th December 2015 by Šiauliai University Senate (protokolo Nr. SP-09) nutarimu Nr. 4.

2. Research

Two research studies were carried out:

V. Šidlauskienė (2008). Gendered and Sexual Harassment and Coercion at the University: Case study // *Inter-study Humanitatis*. Vol. 5, 2008, 146-159 p. [in Lithuanian].

Recommendation of the study:

According to the survey, the following recommendations for the development of non-discrimination policy in institutions of higher education can be provided: The concept of the quality of education is an integral part of the general environment in institutions of higher education and could enhance or disrupt the personal growth, activity, and initiative important for the success of the entire academic community. It is therefore important to develop the ethos of openness and respect for diversity in universities and colleges and ensure a safe and supportive environment for realising the intellectual and creative potential of each member of the community. Our society's intolerance with respect to various groups is one of the strongest in the European Union. There is no doubt that such attitudes also penetrate the classrooms of institutions of higher education, manifesting both in the behaviour of students and lecturers. The dominant discourse of degrading and belittling 'other' people in our culture must therefore be juxtaposed with long-term institutional strategies and consistency in their implementation (e.g., continuous monitoring and analysis of the situation, education of the community of institutions of higher education about non-discrimination, and implementation of a code of ethics of respect for diversity and ensuring sanctions for its violations). All discriminatory attitudes are based on opposing the norm and otherness and rejecting and/or stigmatising the difference. An effective prevention policy should be implemented comprehensively, without identifying individual grounds for discrimination and avoiding their competition and hierarchy. A person experiences the negative affect of discrimination personally, but the causes of discrimination have deep structural roots. It is therefore necessary to ensure the prevention of discrimination and bullying, assistance to victims, and the application of efficiency measures at the institutional level. The formation of attitudes of respect for diversity and openness is a complex process embracing the effect of the content of lectures, rhetoric and actions of specific persons, visual information on the newsstands of institutions of higher education, digital displays, websites, and presentations by teachers or students. However, in order to form attitudes towards different social groups, it is important both what is said (shown) and what is kept silent. The information (verbal, written, and visual) used for the presentation of the communities of the institutions of higher education and the material used in teaching should therefore reflect the entire spectrum of social diversity, thereby reducing exclusion and the threat of marginalisation and stigmatisation. The formation of the ethos of institutions of higher education based on attitudes of

non-discrimination is affected not only by discourse that emphasises diversity, but also by practice. Therefore, in order to create a work culture at universities and colleges based on the principles of equal opportunities, it is necessary to ensure a proportional representation of all social groups in all governing levels of the community of the institutions of higher education—by forming bodies representing lecturers and decision-making and representative bodies. The values of respect for diversity are not inherited. Every generation must build its own path to democracy. Organisations representing the interests of vulnerable groups (student representations, trade unions, groups formed on the basis of an identity) should therefore take an active role in monitoring discrimination in institutions of higher education and initiate preventive measures.

Jankauskaitė, M., Aleksejūnė, V., Pilinkaitė-Sotirovič, V., Valentinavičius, V. (2011). *Multiple Discrimination in Higher Education Institutions*. Vilnius, 76 p. [in Lithuanian]

The study revealed that: The practice of telling derogatory jokes and making humiliating remarks in institutions of higher education in Lithuania is widespread. This is noted by between 39.4% and 76.8% of the respondents, who stated that their peers were engaged in this practice; between 3.7% and 35.9% of the respondents stated that they themselves tell such jokes. Particularly abundant offensive jokes are told about the gender and sexual orientation of people, which suggests the presence of rooted stereotypes among the community of institutions of higher education and discrimination associated with gender, i.e. sexism and homophobic attitudes.

The following homophobic attitudes are prevalent among Lithuanian students: the closer the imaginary homosexual person is, the stronger these attitudes are. A third of the students who participated in the study (28.9%) would be disturbed to communicate with a homosexual person and sharing a room with a homosexual person would cause negative emotions for 45.7% of the respondents. Of all respondents, 41.4% would not like to share a room with a roommate who has special needs, although this condition would encourage communication or would not have a negative impact on communication for 84.9% of the students participating in the survey. The survey also revealed the xenophobic attitudes of students. These views are more common among male than female students. The behaviour of lecturers reinforces the practice of bullying and humiliation prevalent among students. Between 12.9% and 49.9% of respondents said they had heard lecturers tell insulting jokes. Most derisive remarks are made about women (49.9%). There are statistically significant differences between the responses of female and male respondents. Female respondents make fun of the representatives of various social groups far less frequently, are more frequently opposed to humiliating jokes, and are in favour of implementing systematic preventive measures. There are no statistically significant differences in the replies of the students studying for a bachelor's or master's degree. This suggests that studies in institutions of higher education in Lithuania do not have a major affect on the formation of students' values associated

with respect for diversity. Students notice various forms of bullying but do not consider them discriminatory and do not denounce the widespread harmful practice. Participants in the survey poorly perceive the structural character of discrimination and its causes and are inclined to consider prevention a private matter for each student.

The structural discrimination of students with special needs is not recognised or noticed. The most effective means for ensuring equal opportunities is considered to be the education of the community of institutions of higher education, public campaigns, and situation analysis. The students least support the consolidation of the activities of organisations that defend the interests of excluded groups, but they believe that it is necessary to establish committees that deal with complaints regarding (possible) discrimination. Six out of ten students surveyed (59.2%) positively assess the psychological study environment in their institution (as a safe, creative, and acceptable environment). The remaining 40.8% face certain problems, however. One in four (26.5%) respondents indicated that the physical environment of their educational institution was safe but limited personal self-expression. Almost every tenth student (9.3%) does not feel like a fully-fledged part of the community of their institution, 1.3% said they experienced isolation and rejection, and 1.1% of respondents do not feel safe. The students participating in the survey were inclined to think about the effectiveness of measures that ensure equal opportunities in an abstract manner rather than on the basis of actual experiences; the vast majority of respondents (71.9%) simply did not know whether the mechanisms for preventing discrimination were sufficiently developed in their institution of higher education. Students in a master's degree programme assessed opportunities for their creative potential more critically than the students in a bachelor's degree programme. A statistically significant connection related with attitudes towards various social groups was noted; this highlights the necessity to use a complex approach in addressing problems of discrimination.

3. Media coverage

A number of sexual violence and harassment cases from across the case studies highlighted effect of media on the sexual harassment and violence in higher education institutions, for example:

1. Seksualinis priekabiavimas: nekaltas flirtas ar žmogaus teisių pažeidimas / Sexual harassment: innocent flirt or human rights violation?
<http://gyvenimas.delfi.lt/archive/article.php?id=68715854> [in Lithuanian].
2. An artist painted nude women colleagues of College without their permission – painter from Kaunas appealed to the Ombusperson Office [in Lithuanian].

<http://www.15min.lt/naujiena/aktualu/lietuva/nuogas-pavaldines-be-ju-sutikimo-pavaizdaves-kauno-menininkas-apskustas-del-priekabiavimo-56-495566>

<http://www.delfi.lt/news/daily/lithuania/pavaldines-pavaizdavo-be-ju-sutikimo-nuogas.d?id=67647144>

<https://www.youtube.com/watch?v=sbyjpC04Cc4>

4. Student Union and NGO initiatives (a few)

5. Violence statistics

According data of Statistics Lithuania in 2015, 5.2 thousand women and 319 men were recorded as victims of domestic violence, i.e. family members – a spouse, a cohabitant. 201 women and 25 men were recorded as victims of sexual abuse, 9 women and 336 men suffered serious bodily injuries.

Persons as victims of sexual abuse (Criminal Code of the Republic of Lithuania, articles 149–153)¹⁶:

2014 - 84 women and 5 men (adults); 111 - girls and 19 boys (children).

2015 - 82 women and 1 man (adults); 119 - girls and 24 boys (children).

Persons as victims of sexual abuse in urban and rural areas (Criminal Code of the Republic of Lithuania, articles 149–153)¹⁷:

2014 - 106 women and 17 men in urban areas.

2015 - 120 women and 18 men in urban areas.

2014 - 89 women and 7 men in rural areas.

2015 - 81 women and 7 men in rural areas.

According to the Annual Equal Opportunities Ombudsperson Report, in 2015 **two** complaints regarding sexual harassment in workplace were made¹⁸.

Conclusion

The social dialogue in Lithuania is usually restricted to the discussion on wages and

¹⁶ Data provided by the IT and Communications Department under the Ministry of the Interior of the Republic of Lithuania

¹⁷ Data provided by the IT and Communications Department under the Ministry of the Interior of the Republic of Lithuania

¹⁸ Annual Equal Opportunities Ombudsperson Report/Lygių galimybių kontrolieriaus tarnybos 2015 m. ataskaita, p. 13 <http://lygybe.lt/data/public/uploads/2016/04/lygiu-galimybiu-kontrolieriaus-tarnybos-2015-m.-ataskaita.pdf>

social benefits, but no debates on SVH in higher education institutions with exception of a few scandal cases VU (Vilnius) and VDA (Kaunas). Policy measures, such as, for instance, preventive measures against discrimination, is not a subject of debate of social partners or a subject of any collective agreements. There are national collective agreements in Lithuania and only very few sectoral agreements. They definitely include no provisions on sexual harassment or harassment in the workplace. Not even informal discussions on the implementation of the Framework Agreement on harassment and violence at work 2007 have taken place in Lithuania, since the majority of leaders do not consider this a priority.

No specific complaints procedures are available for individuals in the event of alleged harassment or sexual harassment. They may lodge their complaint with the Equal Opportunities Ombudsperson, initiate a civil case or lodge their complaint with the state prosecutor asking for a criminal investigation.

There is no implementation at national level of the differences between harassment on the ground of sex and sexual harassment, including their different applications. Only sexual harassment is publicly known, but its precise definition has not been analysed so far. The European definitions are beneficial because their formulation is broader than the national ones (e.g. the first national definition of sexual harassment required a vertical relationship between the harasser and the victim). However, at the national level they are not supported by additional instruments such as clear obligations for employers, rules on the collection of evidence, administrative sanctions etc. Adding sexual harassment and harassment to the field of discrimination extends the scope of possible options for defence of the victim, including active participation of the Equal Opportunities Ombudsperson. In Lithuania, this institution has won certain trust among the victims of harassment and is often regarded as the primary institution for the defence of infringed rights.

Against the Lithuanian background, where the fight against harassment and sexual harassment is underdeveloped. However, the problem of harassment currently receives more attention when it is combined with discrimination.

Equality legislation at least provides for a certain legal framework for the courts to take decisions. Solving the problem of sexual harassment and harassment in the working environment using the tools of traditional labour law (health and safety, breach of contract, tort) has been found ineffective.

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