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PREVENTION AND INTERVENTION PROTOCOL AGAINST SEXUAL AND SEX-BASED HARASSMENT AT CSIC

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RESOLUTION OF THE GENERAL SECRETARIAT OF THE STATE AGENCY SPANISH NATIONAL RESEARCH COUNCIL (CSIC) APPROVING THE PREVENTION AND INTERVENTION PROTOCOL AGAINST SEXUAL AND SEX-BASED HARASSMENT

The State Agency Spanish National Research Council (hereinafter CSIC) is the largest public Institution dedicated to research in Spain and the third one in Europe. Assigned to the Ministry of Science and Innovation, through the General Secretariat for Scientific Policy Coordination, its main objective is to develop and promote research for the scientific and technological progress, for which it is open to collaboration with Spanish and foreign entities.

To achieve these goals, the CSIC believes in the importance of creating a safe and inclusive work environment, free from any type of harassment. For this reason, and inspired by the principle of equality and non-discrimination based on gender and sex, it claims that everyone has the right to be treated with dignity and respect to his/her privacy and physical and moral integrity. Sexual and sex-based harassment, either due to the person's own sexual condition, sexual orientation or gender identity and expression (hereinafter, the terms sexual and gender harassment shall be understood to include harassment based on sexual orientation and gender identity and expression), are phenomena that seriously undermine the aforementioned values, so they are totally unacceptable and should not be tolerated under any circumstances.

On December 2013 the CSIC approved the I Plan for the equality between women and men and the Action Protocol against sexual and sex-based harassment, as a result of the approval of Organic Law 3/2007, of March 22nd, for the effective Equality of women and men, and specifically of Chapter III (modified in turn, by the Royal Decree-Law 6/2019, of March 1st). This normative regulation meant for the effective equality of women and men a breakthrough in the elaboration of active policies on the equality principle.

For this purpose, the CSIC has created mechanisms to ensure effective equality between women and men by creating and applying the I Equality Plan - and successive ones -, as well as mechanisms that ensure protection and intervention against behaviors that involve any type of harassment in a guarantee and agile way.

This text includes a prevention and intervention Protocol for cases in which there are complaints of sexual or sex-based harassment. Its content has the consensus of those who are part of the Equality Delegate Commission of CSIC, and is a clear example of the desire of this Institution to prevent and detect this type of practices in the work environment, and to guarantee the right protection of the people who suffer them.

In view of all the above and in compliance with the Resolution of July 28th, 2011 of the State Secretariat of Public Service, which approves and publishes the Agreement of July 27th, 2011 of the General Negotiation Table of the State General Administration on the Protocol of action against sexual and sex-based harassment in the State General Administration, the updating of this Protocol within the scope of the CSIC is approved, on the basis of the one published in the aforementioned Resolution, respecting in any case its contents and approaches.

1. PROTOCOL OBJECTIVES

The main objective of the Protocol consists of avoiding possible situations of sexual or sex-based harassment, in any of their forms and modalities, in all the Institutes, Centers and Units (hereinafter ICU), and effectively face them in case they occur. In Annex II and IV it is established the term definitions included in this Protocol and the behaviors which may involve, as an example, sexual or sex-based harassment.

The following specific objectives are established:

- To inform, educate and raise the personnel awareness in matters of sexual or sex-based harassment providing guides to identify these situations and to prevent and avoid them from occurring.
- To provide the specific organization and the necessary steps to attend to and resolve the cases that occur.
- To guarantee the safety, integrity and dignity of the affected people, the application of the appropriate measures to protect the alleged victims in every moment, with the inclusion of the appropriate precautionary measures.
- To eradicate harassment, and when it applies, to make effective the corresponding sanctioning measures.

2. PRINCIPLES AND COMMITMENTS DECLARATION

1. All the people who carry out their activity at CSIC have the right to be treated with respect and honor, not being tolerable any sort of sexual or sex-based harassment. On this purpose, CSIC is committed to guarantee a healthy work environment, where harmful behaviors to the mentioned values are persecuted.
2. CSIC rejects all kinds of sexual or sex-based harassment, no matter who is the victim or the stalker, neither his/her position in the organization, in order to guarantee the right of the staff to receive a respectful and dignified treatment, as well as the right to the presumption of innocence of all the involved people.
3. CSIC will promote a culture of prevention against sexual or sex-based harassment by means of training and information awareness actions for all the staff.
4. It will be denounced, investigated, mediated and sanctioned, where appropriate, in accordance with the provisions of this Protocol and the consolidated text of the Law on the Basic Statute of Public Employees, approved by Real Legislative Decree 5/2015 of 30th October, any conduct that may constitute sexual or sex-based harassment, applying the specific procedure here established that responds to the principles of professionalism, objectivity, impartiality, promptness, respect to the person and reserved treatment of complaints, with the consequent stealth duty, without detriment to the established regulations about disciplinary regime.
5. CSIC will support and advise the alleged victims of sexual or sex-based harassment.

6. All the information referred to in this Protocol will be handled in a manner that protects the right to confidentiality of the processed information and the anonymity of all the involved people.
7. Union representation, within the scope of the CSIC Equality Delegate Commission, will be periodically informed about the number of reports of sexual or sex-based harassment, the results of the investigations (including closing reports) and the adopted measures according to the provisions of this Protocol. In the same way, it will be informed of any studies that are carried out on this subject, as long as they do not contain any personal data of people having intervened or intervening as part of the concerned procedures. In any case, the union representation shall have the duty of professional stealth regarding those facts of which they may have knowledge in the exercise of their representation.
8. CSIC makes this protocol available to staff for managing those work situations that may cause the sort of harassment object of this Protocol. Therefore, this Protocol will be applied without prejudice to any civil and / or criminal actions that the harassed person may execute. In this case, CSIC may appear, where appropriate, as private prosecution, without prejudice of the disciplinary actions that may be taken.

3. APPLICATION AREA

With general character, the current Protocol will be applied to all personnel who carry out their professional activity at CSIC regardless of the place where the services are provided and without distinction to the legal nature of the relationship with the institution (civil servants, interim officials, trainees, permanent and temporary workers with an employment contract, temporary staff performing positions of trust and advisory roles, fellows, personal of external services, etc.) as well as the duration of that relationship.

In those cases where any of the persons involved on the application of this Protocol maintains a legal relationship with another organization or institution, CSIC, in coordination with the affected organization or institution, will determine which Protocol should be applied.

4. RESPONSIBLE UNITS FOR HARASSMENT MATTERS

The Deputy Secretary General for Human Resources (hereinafter SGARH) is established to be the responsible unit for planning training and information related to the aspects addressed in this Protocol.

The CSIC Commission against Sexual Harassment will be the responsible unit for processing the procedures carried out within the scope of this Protocol. Its composition and operating regime are established in Annex II.

5. PREVENTIVE MEASURES AGAINST SEXUAL OR SEX-BASED HARASSMENT.

The prevention of inappropriate and unacceptable behaviors, such as sexual or sex-based harassment, should be considered in the context of a general and proactive prevention action, in

order to identify the factors that may contribute to create a work environment exempt from harassment. The different ways of organizing work and relationships between people can favor or, on the contrary, avoid inappropriate situations or behaviors such as the one treated here.

Whenever there are sufficient indications of the existence of the mentioned modalities of sexual harassment, the responsible units for processing, at any time of the procedure, will propose to the SGARH the adoption of those measures that prevent the situation of harassment from generating greater damage to the person allegedly harassed.

In order to prevent and avoid behaviors that constitute sexual or sex-based harassment at work, CSIC will give due communication, dissemination and publicity of the Protocol, using the Intranet and other means of dissemination, so that it becomes known by all those who work in the institution. Likewise, the CSIC will carry out the following actions:

- Regular information and awareness campaigns about the Protocol and, on general, about the zero tolerance policy to these situations at CSIC, intended to all CSIC personnel, as well as to all companies working at the facilities of the Institution.
- Mention to the web address of this Protocol at CSIC Welcome Manuals.
- Specific training for the persons who are going to participate in the procedure, and assist the alleged victims, about the procedure to be followed and the way in which each of the involved parties should act, and general training about the contents of the Protocol for all the personnel that provide services at CSIC.
- The CSIC will promote the realization and dissemination of general studies about the presence or the incidence of this type of conducts among the institution staff and their characteristics, as well as on perceptions and knowledge of situations of sexual or sexist harassment.
- Elaboration of statistics with numerical data, disaggregated by sex, on the number of interventions and cases of sexual and sex-based harassment, as well as periodic publication of these data within the framework of the Equality Plan, always maintaining the anonymity of the affected people.
- Convenience of carrying out a study of psychosocial risks, in order to find out on a scientific basis which groups or groups of workers are most susceptible to being harassed at each workplace.
- Evaluation and periodic revision of the operation and implementation of this Protocol, as well as of the Procedure of action regulated therein, with a maximum period of 3 years from its last revision.

6. ACTION PROCEDURE.

1. Initiation of the procedure.

The procedure begins with the presentation of the complaint model established in Annex I of this Protocol, provided by the allegedly harassed person, by his/her legal representative, by his/her representatives in the area where this person serves (always with the authorization of the affected person), or by any public employee who had knowledge of the possible sexual or sex-based harassment. When the person who reports is not the allegedly harassed person, the Organization will be obliged to corroborate the case and, once corroborated, it will initiate the actions established in this Protocol.

The presentation may also be made telematically by sending an email with the signed complaint to the following address: protocolo.acosos@csic.es

In any case, if the formulation of the complaint were made verbally, subsequent written ratification will be necessary.

Annex I includes a model-form of complaint that must be accessible at the CSIC Intranet.

The complaint letter must be addressed to the SGARH who, within a maximum period of 5 working days of receiving the complaint, will notify the Commission against sexual harassment who, after carrying out a first analysis of the objective and / or previously known data about the case, within a maximum period of 10 working days, can:

1. Admit the complaint and begin processing the case as specified by the Protocol.
2. Not to admit for processing the said complaint, either because it does not comply with the required conditions, or because it is evident that what has been raised does not belong to the scope of this Protocol.

In the latter case, the Commission may propose mediation through the mechanisms it deems appropriate - in those situations in which the Commission does not admit the complaint neither continues its processing as specified by this Protocol - in order to provide guidelines for action and proposals to put an end to the reported situation, as well as to prevent it from reoccurring in the future.

In order to guarantee the protection of the people involved in this process, and after hearing them, the Commission against sexual harassment may reasonably propose the possible mobility of the affected people, and any other precautionary measures it deems appropriate, in order to avoid further damages.

In those cases in which coordination with other institutions and organizations were necessary, or upon concurrence of motivated circumstances that make the normal development of the initiation process of the procedure impossible, it will be suspended until it is defined to which institution or organization corresponds to carry out the procedure, or until it is possible to continue with the development of the process.

2. Investigation.

Once the complaint is accepted for processing, the Commission against Sexual Harassment must designate, within a maximum period of 5 working days, the person in charge of the Confidential Case Advice.

To this end, the SGARH will have a list of people who are specifically trained on gender and sexual harassment issues, enabling to carry out the appropriate investigation. Following the recommendations of the Code of Conduct for the Members of the European Commission to combat sexual harassment of 27 November 27th 1991, a confidential advisor will be appointed (from now on, called Confidential Advice). The request of the alleged victim that the Confidential Advice is carried out by a person of the same sex will be guaranteed.

In general, and when the people involved maintain a service relationship with CSIC, the process of gathering information developed by the Confidential Advice must be carried out with the maximum promptness, confidentiality (reserved complaints treatment as the article 62 of the Organic Law 3/2007 established), stealth and participation of all the involved people (including witnesses and all those persons that, directly or indirectly, take part in this process); the affected persons must be interviewed (both the complainant and the respondent) and, possibly, some witnesses or other personnel of interest, if any. In any case, the inquiry about the complaint must be carried out with the most sensitivity and respect to the rights of each of the affected parties, witnesses and other personnel of interest.

The aforementioned process of gathering information must be conducted within a maximum period of 10 working days from the appointment of the Confidential Advice. In the event that coordination with another institution or organization exists, this period will be suspended until it is defined which institution or organization must assume the procedures. In addition, this period may be suspended in case it were necessary to carry out interviews to the involved persons and it were impossible to find them. In any case, the promptest process and resolution of the complaint must be attempted.

Throughout the entire procedure, both the complainant and the respondent may be accompanied by another person, if they expressly request it, either by a union representative or another person of their choice.

All personnel who provides service at CSIC will have the obligation to collaborate with the Confidential Advice, throughout the entire investigation process.

3. Preparation of proposals resulting from the investigation report.

Upon end of the inquiry, the Confidential Advice will release a report with the conclusions and proposals resulting from it, that will be sent to the Commission against Sexual Harassment for its resolution, together with the actions carried out.

This report must be submitted always following the indicated caution regarding the reserved treatment of complaints relative to actions that may constitute sexual or sex-based harassment.

Based on the Confidential Advice investigation report, the Commission against Sexual Harassment will propose one of the following alternatives within a maximum period of 10 working days:

1. Filing the procedure, motivated by any of the following assumptions:
 - Withdrawal of the complaining party (in any case, and *ex officio*, the investigation of the complaint will continue if evidences of harassment are detected).
 - Lack of object or insufficient evidence.
 - When the complaint is considered resolved as a result of the previously carried out actions, then reflecting the agreement reached between the parties.
2. Resolving the case by indicating another offence, different from sexual or sex-based harassment and typified in the existing regulations, has been detected. When appropriate, initiation of the corresponding disciplinary file will be promoted.
3. Clear signs of sexual or sex-based harassment. In the event that the existence of sexual or sex-based harassment is clearly inferred from the aforementioned Confidential Advice report, the SGARH will recommend the initiation of a disciplinary file due to a very serious harassment offense, and the corresponding corrective measures.

Once the corresponding resolution has been adopted, the Commission against sexual harassment will notify the parties involved and submit it to the CSIC General Secretariat through the SGARH.

A graph of the action procedure is provided in Annex V.

7. GENERAL CRITERIA APPLICABLE TO THE ACTION PROCEDURE.

1. Baseless or fake complaints.

In case the initial assessment report or that emitted by the Confidential Advice concludes that the complaint has been done in bad faith, or that the provided data or testimonies are fake, the Commission against harassment will inform the SGARH, that may propose to the competent body the initiation of the corresponding disciplinary procedure to the responsible persons.

2. Information.

In general, the involved parties will be informed about the adopted actions and resolutions. Besides, the corresponding statistical information will be sent to the Delegated Equality Commission, preserving the persons' privacy.

3. Tracing and Control.

Each year, CSIC will sent to the Civil Servants General Direction and to the institution Equality Commission a report of all activities performed during the year, including statistical information relative to sex-based or sexual harassment cases, where the present Procedure has been applied.

8. ACTION CRITERIA AND GUARANTEES OF THE PROCEDURE.

- All personnel have the obligation to inform their hierarchical superiors when they become aware of cases of possible sexual or sex-based harassment.
- Any public official is obliged to pay attention and to process, if that were the case, any complaints received about alleged cases of sexual or sex-based harassment, within the scope of his/her competence.
- All the persons involved in the procedure must seek in good faith the clarification of the denounced facts.
- Any person affected by a conduct that may constitute sexual or sex-based harassment can report it to CSIC and will have the right to obtain a response. Administration is obliged to keep written record of the complaint, even when the facts are reported verbally, and of all the measures adopted along the procedure.
- Victim protection measures: if the existence of sexual or sex-based harassment is established once the disciplinary procedure has been resolved, without the need the resolution to be final, the following measures will be immediately adopted with the aim to help in the recovery and protection of the victim, such as:
 - a) To examine with the required promptness all those requests related to his/her administrative situation, the granting of work-leaves or permits, and any other request he/she may file regarding professional rights.
 - b) To adopt whatever measures are deemed pertinent to guarantee the right to all-embracing protection of the physical and mental health of the victim until his/her complete recovery.
- The dignity of individuals and the right to privacy must be guaranteed throughout the entire procedure.
- Reserved treatment of all the information concerning situations that could constitute sexual or sex-based harassment will be guaranteed, without prejudice to the established provisions at the disciplinary regulations.
- The procedure investigation and resolution, including the imposition of precautionary measures and penalties where appropriate, will be carried out as prompt as possible.
- Application of this Protocol will in no case prevent the involved persons from starting the appropriate legal actions.

Within the context of this Protocol, the following requirements must be taken into account:

- Respect and protection of individuals: procedures should be implemented with the necessary discretion to protect the privacy and dignity of all those affected. The actions or procedures must be carried out with the greatest caution and with due respect to all the people involved, who in no case may receive unfavorable treatment for this reason. The affected persons may be assisted by a unit or union representative or any other accompanying person of their choice, at all times throughout the procedure, if they require so.
- Confidentiality: the persons who intervene in the procedure are obliged to maintain strict confidentiality and secrecy and must not transmit or disclose information about the content of the presented, resolved or in the process of investigation complaints of which they are aware of. Therefore, since the moment the complaint is presented, the person or persons responsible for its initiation and processing will assign identifying numerical codes to the witnesses, the allegedly harassed person, and the allegedly harasser, thus preserving their identity.
- Diligence and promptness: the investigation and resolution of the reported conduct must be carried out with due professionalism, diligence and without undue delay, so that the procedure can be completed in the shortest time possible while respecting the due guarantees.
- Impartiality and contradiction: the procedure must guarantee a fair hearing and fair treatment of all affected persons. All the persons who intervene in the procedure will act in good faith in the search for the truth and the clarification of the denounced facts.
- Protection of the dignity of affected individuals: the Organization shall adopt the pertinent measures to guarantee the right to the dignity protection of the affected persons, including those allegedly harassed and the allegedly harassers.
- Prohibition of retaliation: retaliation against people who make a complaint, appear as witnesses or participate in an investigation of sexual or sex-based harassment is expressly prohibited in the terms established by the applicable regulations.
- Safeguarding of rights in the development of work-related or academic activity. The complainant will be protected from the point of view of occupational or academic health and safety. Precautionary measures will be taken as deemed appropriate, in order to prevent the alleged situation of harassment from continuing, taking into account the possible consequences both physical as well as psychological arising from this situation and paying special attention to the work or academic circumstances of the complainant. Accordingly, CSIC will establish the appropriate measures to guarantee the safeguarding of the complainant rights and the appropriate development of his/her work or academic activity.
- Rights of abstention and recusal. Regarding the possible recusals or abstentions of the persons appointed to act throughout the procedure, the provisions of Law 40/2015, of October 1st, on the Public Sector Legal Regime, Articles 23 and 24, will be taken into account.

- Data Protection. The personal data generated in the application of this Protocol will be governed by Law 3/2018, of December 5th on the Protection of Personal Data and guarantee of digital rights.

ANNEXES

ANNEX I. COMPLAINT MODEL.

SEX-BASED OR SEXUAL HARASSMENT INTERVENTION REQUEST

APPLICANT

- Affected person Affected directive unit Others (specify):
 Workers representatives: Staff meeting / Work Council or Staff Delegates

TYPE OF HARASSMENT

- Sexual Sex-based Sexual orientation and/or gender expression

PERSONAL DATA

Name and surname _____ NIF _____ Sex M F NA
Contact telephone _____

PROFESSIONAL DATA OF THE AFFECTED PERSON

Institute/centre (ICU) _____ Directive unit _____

Employment relationship

- Civil servant Interim Permanent contract Temporary contract Other

DESCRIPTION OF THE EVENTS

ATTACHED DOCUMENTATION

- YES (specify) _____ NO

REQUEST

- I request the formal start of the *Prevention and intervention protocol against sexual and sex-based harassment at CSIC.*

I declare that I have read and understood the basic information about data protection described in the back of this application form.

Place and date

Signature of the interested person

DEPUTY SECRETARY GENERAL FOR HUMAN RESOURCES. SEGE. CSIC

BASIC INFORMATION ABOUT DATA PROTECTION

In accordance to the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), the following information is included regarding any operation or set of operations on personal data or sets of personal data, be it by automatized procedures or not, such as the compilation, registration, organization, structuration, preservation, adaptation or modification, extraction, query, usage, communication by transmission, diffusion or any other means intended to enable the access, comparison or interconnection, limitation, suppression or destruction.

Responsible	<ul style="list-style-type: none"> Consejo Superior de Investigaciones Científicas, CSIC C/. Serrano 117, 28006 Madrid Tel.: +34 91 568 14 00 Fax: + 34 91 411 30 77 Data Protection Delegate: delegadoprotecciondatos@csic.es
Purpose	<ul style="list-style-type: none"> Collected data will be exclusively used for specific, explicit and legitimate purposes, in order to investigate potential behaviours compatible with sexual or sex-based harassment at CSIC, being kept the strictly required time, and not being used later in any form incompatible with these purposes. The filed reports and documents will have restricted access. Only the interested person and the people in charge of their processing may have knowledge about them. No copies will be allowed, neither any document will be sent by any computer channels, except after specific request of the interested person.
Legitimation	<ul style="list-style-type: none"> The legal basis for data processing is the execution of the <i>PREVENTION AND INTERVENTION PROTOCOL AGAINST SEXUAL AND SEX-BASED HARASSMENT</i>, and signature of the present request implies the consent of the interested person to the Processing unit to confirm the case and, once it is confirmed, to make a first assessment in order to determine whether it is appropriate or not to initiate the processing of the request.
Recipients	<ul style="list-style-type: none"> All information contributed by the requesting person will be sent to the Processing unit and, if pertinent, to the Commission against sexual Harassment. Data transfer to third parties different from CSIC is not foreseen, unless legal obligation, except on cases where, in order to achieve the best result of the investigation, the Commission against sexual Harassment uses the services of an external consultancy.
Rights	<ul style="list-style-type: none"> The requesting person may in all cases use his/her rights of access, rectification, cancellation, objection, limit or portability, writing to the General Secretariat of CSIC, at c/ Serrano 117, 28006 Madrid (Spain), attaching a copy of the personal identity card (DNI/NIF) to the above address, or using CSIC electronic registration services, at CSIC electronic site, by a procedure that requires to hold an authorized electronic certificate. In case the requesting person uses his/her right to cancel the consent at any moment, this will not affect the legality of the processing based on the consent previous to this cancellation.
Origin	<ul style="list-style-type: none"> In addition to the data contributed by the requesting person, the Processing unit and/or the sexual Harassment Commission may rightfully collect information from all those parties they consider of interest for the purpose of the investigation of potential behaviours compatible with sexual or sex-based harassment, strictly forbidden at CSIC. The most adequate means to obtain additional data include postal mail, electronic mail and instant messaging. Phone information based on voice messages will not be considered adequate.
Additional information	<ul style="list-style-type: none"> All files regarding this Protocol will be guarded at the Deputy Secretary General for Human Resources, and will receive identical protection as any other file of administrative nature. Additional and detailed information about personal data protection at CSIC can be obtained at: https://intranet.csic.es/proteccion-de-datos

ANNEX II. COMMISSION AGAINST SEXUAL HARASSMENT.

1. Composition.

The Commission will be formed by the following persons:

- The head of the SGARH or person to whom s/he delegates, who will exercise the presidency.
- The head of the VICYT or person to whom s/he delegates.
- The head of the VORI or person to whom s/he delegates.
- A representative of the Commission for Women and Science.
- Three representatives of the unions.
- If justified, one or two experts designated for this purpose (Confidential Advice and / or expert in Prevention of occupational hazards).

In the appointment of the members of the aforementioned Commission, the principle of balanced representation, and the personal, emotional and organic distance between the members that comprise it and the people involved in the procedure will be guaranteed. Likewise, it will be guaranteed that the committee has a male-female balanced composition with a minimum 50% percentage of women. The Secretariat of the Commission will be held by the person assigned by the presidency.

The personal, emotional and organic distance between the members of the Commission and the people involved in the action procedure initiated with the complaint of sexual and sex-based harassment will be guaranteed. If any person from the Commission is aware (at any stage of the process) that he/she does not comply with this requirement, he/she must notify SGARH, withdrawing his/her action at the Commission for that specific case.

2. Operation regime.

Its operation will be governed by:

- The provisions of Law 40/2015, of October 1st, on the legal regime of the public sector..
- The applicable legislation and implementing regulations regarding sexual and sex-based harassment.
- The applicable European Union Directives on sexual and sex-based harassment.
- The provisions contained in this Protocol.
- The operating standards agreed by the Commission against sexual harassment.

3. Resolution.

The resolution ending the procedure must include, at least, the following information:

- Composition of the Commission against sexual harassment.
- Background of the case, complaint and circumstances.
- Initial assessment of the complaint.
- Actions (testimonies, evidence, summary of the main events).
- Conclusions.
- Proposed measures and periodic monitoring of them by the SGARH.

ANNEX III. DEFINITION OF TERMS INCLUDED IN THIS PROTOCOL.

Sexual harassment

Sexual harassment is any behavior, verbal or physical, of a sexual nature that has the purpose or has the effect of undermining the dignity of a person, in particular when an intimidating, degrading or offensive environment is created.

Sex-based harassment

In general, it will refer to any behavior carried out based on a person sex, with the purpose or the effect of undermining his/her dignity and creating an intimidating, degrading or offensive environment. Conditioning a right or the expectation of a right to the acceptance of a situation that constitutes sexual or sex-based harassment shall also be considered an act of sex-based discrimination.

Any unfavorable treatment related to pregnancy, maternity, paternity or assumption of other family cares will also be considered a situation protected by this Protocol, when the requirements defined in the previous section are met.

Harassment based on sexual orientation

Any conduct, or other actions, against a person because of his/her sexual orientation that may be considered offensive, humiliating, violent, intimidating, with the purpose or the effect of undermining his/her dignity and creating a discriminatory environment.

Sexual orientation is the capacity of a person, regardless of biological sex and gender identity, to be emotionally, sexually and affectively attracted by people of the same or a different gender.

Harassment based on gender identity and expression

Any behavior or conduct that for reasons of gender expression or gender identity is carried out with the purpose or the effect of undermining the dignity and creating an intimidating, hostile, degrading, offensive or segregated environment.

The UN defines gender identity as the internal and individual experience of gender as each person experiences it, which may or may not correspond to the sex assigned at birth, including the personal experience of the body and other gender expressions such as speech, dress, or manners.

Gender expression is understood as the way in which we express our gender: through clothing, behavior, interests and affinities. It depends on how it is perceived by society: as feminine, masculine and androgynous (the combination of both).

Indemnidad frente a represalias

Any adverse treatment or negative effect that occurs on a person as a result of his/her presentation of a grievance, claim, complaint, demand or appeal, of any kind, intended to prevent discrimination by sexual or sex-based harassment will be prohibited.

Crime of sexual harassment

Article 184 of Organic Law 10/1995, of November 23rd, of the Penal Code typifies the crime of sexual harassment, establishing that:

“1. Anyone who requests favors of a sexual nature, for him/herself or for a third party, within the scope of a continuous or habitual employment, educational or service provision relationship, and with such behavior provokes to the victim an objective and seriously intimidating, hostile or humiliating situation, will be punished with a three to five months prison sentence or a six to 10 months fine, as the author of sexual harassment.

2. If the sexual harassment guilty had committed the act taking advantage of a superior work, educational or hierarchy position, or with the express or tacit announcement of damaging the victim’s legitimate expectations in the field of the indicated relationship, the penalty will be imprisonment for five to seven months or a 10 to 14 months fine.

3. When the victim is especially vulnerable, due to age, illness or situation, the penalty will be imprisonment for five to seven months or a 10 to 14 months fine in the cases provided for at point 1, and imprisonment for six months to one year in the cases provided for at point 2 of this article.”

ANNEX IV. BEHAVIORS THAT MAY CONSTITUTE SEXUAL OR SEX-BASED HARASSMENT.

In the following, a reference list of constitutive behaviors of each types of conducts is listed below, merely as examples and, in no case, exhaustively:

A) Behaviors considered as sexual harassment:

- Deliberated unnecessary physical contact.
- Suggestive and unpleasant remarks, jokes or comments about appearance or aspect, and deliberated verbal abus.
- Shameless or compromising invitations.
- Use of pornographic images or posters in workplaces.
- Obscene gestures.
- Clandestine observation of people in reserved places.
- Demands of sexual favors.
- Sexually offensive phone calls, letters or messages.
- The repeated and offensive prosecution against sexual integrity.
- Questions and suggestions about the private life of the person, which affect his/her integrity and sexual indemnity.

B) Conducts considered as sex-based harassment:

- Derogatory comments about women or men or values considered feminine or masculine, and, in general, sexist comments based on gender prejudices.
- Demerit of professional worth as a consequence of maternity or paternity.
- Unfavorable treatment due to pregnancy and / or maternity.
- Hostile behavior towards those –men or women - who exercise rights to reconcile personal, familiar and professional life.
- Underestimation, contempt or isolation of those who do not behave in accordance with those roles socially assigned to their sex.
- To exercise discriminatory conduct based on the fact of being a woman or a man.
- To assign meaningless or impossible tasks (irrational deadlines) to a person based on his/her sex.
- To assign tasks or jobs below professional capacity or skills of the person based on his/her sex.
- To assign a person a position of responsibility under his/her capacity or professional level, solely because of his/her sex.
- Spreading rumors about people's sexual lives.
- Dissemination of images and / or videos with sexual content about any of the organization's workers.
- To evaluate the work of people with contempt, in an unfair way or in a biased way based on their sex.

C) Conducts considered as harassment based on sexual orientation:

- To have discriminatory behaviors based on the sexual orientation.
- Addressing the person in offensive ways because of his/her sexual orientation.

- To make fun of a person in relation to his/her sexual orientation.
- To use jokes in a derogatory way, disparaging any sexual orientation.
- To belittle the performed work because of the sexual orientation.
- To disregard contributions, comments or actions (excluding, not taking seriously) because of the sexual orientation.
- Unequal treatment to a person based on his/her sexual orientation (homosexuality, bisexuality, etc.) or his/her perception of it.
- To evaluate the work of people with contempt, in an unfair way or in a biased way based on their sex.
- To assign tasks or jobs to a person below his/her qualification or skills, based on his/her sexual orientation.

D) Behaviors considered harassment based on gender identity and expression.

- Unequal treatment based on gender identity and / or expression or the perception of these by the other person.
- To ignore or exclude contributions, comments or actions based on the gender identity or expression.
- To underestimate the capacities, abilities and intellectual potential of the person in relation to his/her gender identity or expression.
- Refusing to name a trans-sexual person as required or deliberately using articles or pronouns not corresponding to the gender with which this person identifies.
- To make comments or questions about the body and / or genitals of a trans-sexual person.
- To talk about trans-sexual people in a derogatory way just because they are trans-sexual people.
- To focus the conversation and / or debate with a trans-sexual person on the question of gender without the person in question having started and invited the conversation.
- To make jokes about trans-sexual people, whether they are present in the conversation or not.

ANNEX V. GRAPHICAL DISPLAY OF THE PROCEDURE.

