



Instituto
de las
Mujeres

KNOW YOUR RIGHTS!

when it comes to sexual harassment, gender-based harassment
and sexual violence in the workplace

You HAVE a right



Not be sexually harassed or harassed based on your gender.

Not be subjected to sexual violence.

Not have your sexual freedom or moral integrity violated.

To receive comprehensive protection against sexual violence, including that
which occurs in the digital sphere.

For your company to guarantee a safe working environment free from violence
and to have a protocol in place for the prevention of, and response to, sexual
harassment, gender-based harassment, and other forms of conduct that violate
sexual freedom and moral integrity.

Not be discriminated against for being a woman when accessing employment
or after being hired, including unfavourable treatment for exercising your
work-life balance rights.

For sexual violence to be included in workplace risk assessment and for
you to be trained and informed about it.



Which
BEHAVIOURS
constitute
sexual
harassment or
sexual
violence?



Sexual harassment

It constitutes any behaviour, be it verbal or physical, of a sexual nature, that has the purpose or produces the effect of undermining a person's dignity, particularly when it creates an intimidating, degrading or offensive environment. The main victims of sexual harassment are women, and the perpetrators are predominantly men.

It constitutes **sexual harassment** when:

They make sexual innuendos, propositions, apply pressure or engage in sexual blackmail, or offensive flirting.

They make insinuations, innuendos or obscene comments to you.

They make jokes or comments about your sexual appearance.

They show you photos, objects or written materials of a sexual or pornographic nature.

They make telephone calls to you, send you letters, emails, or messages on social media that are offensive and clearly sexual in content.

They give you unwanted hugs or kisses; there is deliberate and uninvited physical contact, or excessive and unnecessary closeness.

They make you choose between complying with sexual demands or losing certain benefits or having your working conditions adversely affected.

They create an intimidating, hostile, degrading, humiliating and offensive environment for you as a result of unwanted attitudes and behaviours of a sexual nature.



Gender-based harassment

This constitutes any behaviour carried out on the grounds of a person's gender, with the purpose or effect of undermining their dignity and creating an intimidating, degrading or offensive environment.

It is **gender-based harassment** when:

This happens repeatedly because you are a woman, due to circumstances surrounding your pregnancy or motherhood or because you are breastfeeding, or because you are a man who performs care-related tasks traditionally associated with women:

They judge your performance in an offensive manner, downplay your efforts and skills, question you and undermine your decisions.

You are not assigned tasks or are given work that is above or below your level, or that is pointless or degrading.

You are given contradictory instructions or instructions that are impossible to follow; you are denied or deprived of the means to carry out the work, or you are provided with incorrect information.

They steal your belongings, documents and work tools, delete files from your computer, tamper with your work tools, calls, messages, etc., causing you distress.

You are arbitrarily denied access to leave, training courses, activities, etc.

They seek to isolate you, ignore you or prevent you from communicating, or others from communicating with you.

They threaten you, attack you, shout at you or insult you; you receive frightening phone calls.

You are required to carry out work that is dangerous or harmful to your health.

They manipulate your personal or professional reputation through rumours, denigration and ridicule.

They imply that you have psychological problems, attempting to make you undergo a psychiatric examination or diagnosis.

They routinely make sexist remarks, jokes or sexist criticisms about you.



Sexual violence

It constitutes any act of a sexual nature that is not consensual or that restricts the freedom to develop a sexual life in any sphere, whether public, private or digital, including sexual assault, sexual harassment, and the exploitation of prostitution, as well as other conduct that may constitute offences set out in the Criminal Code.

It is **sexual violence** when:

They infringe upon your sexual freedom without your consent.

You are sexually assaulted using violence, intimidation or the abuse of a position of superiority.

They request sexual favours from you in the context of the employment relationship, putting you in an intimidating, hostile or humiliating situation.

You are sexually harassed in your company or workplace by someone in a position of occupational superiority.



Violence in the digital environment

This constitutes any behaviour amounting to sexual harassment, gender-based harassment, or sexual violence that occurs through the use of information and communication technologies, such as the Internet, telephone or social media. This can occur without there being any physical contact between the perpetrator and the victim.

It is **digital violence** when:

They share, or threaten to share, images or videos of you with sexual content without your consent (revenge porn).

They track you or collect private information through a spyware programme (spyware).

They send you unsolicited sexual images via dating or messaging apps, text messages or using AirDrop or Bluetooth technologies (cyberflashing)

They spread rumours about you that damage your reputation, reveal your sexual orientation (outing), personal information or your identity (doxing).

They produce digitally altered images in which a person's face or body is superimposed ("fake pornography") using artificial intelligence.

They capture intimate images or videos of you without your consent. It includes acts of upskirting (or under the skirt) and creepshots (a stolen and sexualised photo).

Sexual harassment and sexual violence may amount to a criminal offence under the provisions of the Criminal Code and may carry associated penalties of imprisonment or a fine.

WHERE and by WHOM can you be subjected to sexual harassment or sexual violence in the workplace?

You may experience sexual harassment, gender-based harassment or sexual violence in your **workplace or on your company's premises**, such as in the toilets, changing rooms, rest areas, during meals, etc. As well as in:

Travel, trips, events, social or training activities related to work.

The accommodation provided by the company.

The commute between your home and your workplace.

Work-related communications, including those carried out through information and communication technologies (digital, virtual or cyber harassment).

Harassing behaviour or sexual violence may come from people who are at the same or a different level within the company hierarchy.

It may also stem from individuals who are not directly employed by your company but who provide services or collaborate with it, such as people supplied by a temporary employment agency, people in training, those undertaking non-work placements, or those who volunteer.

What can I DO if I am experiencing sexual harassment or sexual violence at work?

Seek information and advice from the Instituto de las Mujeres (Institute of Women) information and advisory service by calling 900 191 010 or 016.

Lodge a complaint with your company through the reporting channel set out in the protocol for the prevention of sexual harassment and gender-based harassment.

Ask your trade union representatives to advise you and, where appropriate, to file the complaint.

Report it to the Inspección de Trabajo y Seguridad Social (Labour and Social Security Inspectorate) by downloading the complaint form from its website <https://www.mites.gob.es/itss/web/index.html>

Report it at a police station or a duty court.

File a lawsuit with the Employment Tribunal. The Servicio de Orientación Jurídica (Legal Advice Service) of your provincial Colegio de Abogacía (Bar Association) will advise you on your legal claim.

Go to a medical centre and, if necessary, request sick leave if the situation is affecting your health.

Gather evidence (emails, WhatsApp messages, voice recordings, calls, videos, etc.), share the situation you are experiencing with people close to you, and keep a record (date and time) of the incidents and any potential witnesses in order to report it.

What
**EMPLOYMENT
RIGHTS** do I
have if I am a
victim of sexual
harassment or
sexual violence?

If you have been subjected to sexual harassment or sexual violence and **your status as a victim has been confirmed**, you are entitled to the comprehensive protection set out in law.

The [Guía de derechos para la protección de las víctimas de violencia de género y violencias sexuales](#) (Guide to rights for the protection of victims of gender-based violence and sexual violence), produced by the Delegación del Gobierno contra la Violencia de Género (Government Delegation against Gender-based Violence), contains information on how **to prove that you have been a victim of violence, as well as details of your rights**. These include: access to specialised forensic services, comprehensive support, free assistance, employment and Social Security rights, rights relating to employment and social integration, rights for public officials, and financial rights.

Specifically, **if you are a worker who has been a victim of sexual violence and this has been recognised, you have the right to:**

Reduce your working hours, with a proportional reduction in pay.

Reorganise your working time by adapting working hours, applying flexible working hours or other forms of organising working time used in the company.

Carry out your work, wholly or partially, remotely or cease doing so, if this is the established system, provided in both cases that this mode of service provision is compatible with the position and the functions performed.

Geographical mobility, which allows you to leave your job in your current location and take up another vacant post in the same professional group or an equivalent category at another company workplace. The company will keep your job open for you.

The change of workplace will initially last between 6 and 12 months and, once this period has elapsed, you may choose between returning to your previous position, continuing in the new one, or terminating the contract with entitlement to compensation.

Choose to temporarily suspend your employment contract for a period of 6 months, extendable up to 18 months, with this being regarded as an effective contribution for the purposes of Social Security benefits.

Choose to terminate your employment contract voluntarily, with entitlement to compensation.

That the termination of your contract be considered null and void, in the event of an objective or disciplinary dismissal.

That **absences from work or instances of lateness** caused by your physical or psychological condition be deemed justified and paid for, where so determined by social care or health services, as appropriate. This does not affect your obligation to notify the company of such absences as soon as possible.

If you are self-employed and have had to cease your activity in order to exercise your right to comprehensive social assistance, you will be considered to be in a situation of temporary cessation of activity. Your obligation to pay contributions will be suspended for a period of 6 months, and these will be considered effective contributions for Social Security benefits purposes. Furthermore, your situation will be treated as equivalent to being registered as an active contributor.

More INFORMATION

900 191 010

Free information and advice service of the Instituto de las Mujeres (Institute of Women)

016

The 016 service provides information, legal advice and immediate psychosocial support for all forms of violence against women.

Servicio Telesor
(Telesor Service)

Support for people with hearing and/or speech disabilities via <http://www.telesor.es/>

Servicios de Orientación
Jurídica del Colegio de
Abogacía (Legal Advice
Services of the Bar Association)

You can obtain information about the LEGAL AID BENEFIT from the Colegio de Abogacía (Bar Association) in your province and through the [Ministerio de Justicia \(Ministry of Justice\) website](#).