

Protocol to prevent and act againsts
workplace, sexual and/or gender-based
harassment within the Long Distance
Advisory Council (LDAC)

Date: October 2024

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1- INTRODUCTION:

All companies included in Article 1.2 of the Spanish Statute of Workers' Rights, regardless of the number of workers on their staff, in accordance with the provisions set forth in Article 45. 1 and 48 of Spanish Organic Law 3/2007, of 22 March, are obliged to respect equal treatment and opportunities in the workplace and, to this end, must adopt measures aimed at avoiding any type of labour discrimination, as well as promote working conditions that avoid sexual harassment and gender-based harassment and establish specific procedures for its prevention and to provide a channel for complaints or claims that may be filed by those who have been subjected to it¹.

This protocol to prevent and act against workplace, sexual or gender-based harassment aims to create a working environment that respects the diversity of people and promotes egalitarian relations by establishing mechanisms to prevent and deal with situations of workplace, sexual or gender-based harassment.

The protocol defines specific procedures for the prevention of these events and establishes possible routes for dealing with complaints or claims filed by the victim(s) of the event(s).

2- POLICY STATEMENT

In carrying out its activities, the basic principle of the LDAC is respect for the dignity of its workers and protection of the inviolable rights inherent to them. As a result, people working in the LDAC are entitled to enjoy equal opportunities and to be treated in a respectful and decent way. Therefore, the LDAC does not consent that situations of workplace, sexual and/or gender-based harassment may occur within its organisation and in its working environment, adopting in this respect both the necessary preventive and legal measures that, where appropriate, may be required.

3- SCOPE

This protocol shall apply to all persons working in the LDAC. All persons working in the LDAC include everyone having an employment relationship with this Advisory Council and being under its management.

Should workplace harassment occur between persons working in this Advisory Council and in an external company who share the workplace, action shall be taken in a coordinated manner between the companies concerned, in accordance with Art. 24 of Spanish Law 31/1995, of 8 November on Occupational Risk Prevention.

¹ The obligation to have a protocol against workplace, sexual or gender-based harassment is mainly included in the following (Spanish) regulations: Law 3/2007 (Art. 48), Royal Decree 901/2020 (Art. 10.2) and Law 31/1995 (Art. 14).

4- REGULATIONS

This protocol is in line with current laws and regulations that promote equal opportunities for women and men in the workplace, as well as the eradication of gender inequality, and includes legislation at international, EU and national levels as outlined below.

At international level:

- International Labour Organisation (ILO) R111, Discrimination (Employment and Occupation) Recommendation
- ILO R206, Violence and Harassment Recommendation, 2019.
- ILO C190, Violence and Harassment Convention, 2019.
- ILO C155, Occupational Health and Safety Convention, 1981.
- ILO C187, Promotional Framework for Occupational Safety and Health Convention, 2006.

At EU level:

- Commission Recommendation 92/131/EEC, of 27 November, on the protection of the dignity of women and men at work, including a "Code of practice on measures to combat sexual harassment".
- Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 defines sexual harassment and classifies the various forms of conduct and requires them to be investigated.
- 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 contains definitions of harassment and sexual harassment and establishes that such situations shall be considered discriminatory, and therefore prohibited and sanctioned in an appropriate, proportionate and dissuasive manner.
- EU Code of practice to combat sexual harassment of 27 November 1991 is the European standard developed in preventive terms.

At national (Spanish) level:

- Organic Law 3/2007, of 22 March, for effective equality between women and men expressly prohibits sexual harassment and gender-based harassment and defines these behaviours (Articles 7, 8, 48 y 62)
- Law 31/1995, of 8 November, on occupational risk prevention.

5. CONCEPT FRAMEWORK

5.1- Workplace harassment

Workplace harassment² consists of offensive or humiliating actions against a worker on a continuous basis in the workplace.

² The generic **offence of harassment** falls under the so-called offences against liberty. It is committed when one or more persons are persistently and repeatedly pursued or harassed, without legitimate authorisation, in such a way as to cause serious disruption to the victim's daily life.

Convention no. 190 of the International Labour Organisation (ILO) defines violence and harassment in general terms as follows: *"The term 'violence and harassment' in the world of work refers to a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment"*. This definition covers all forms of harassment (verbal, physical, social or psychological), that includes gender-based violence and harassment, regardless of its intent and origin. It focuses on the unacceptability of conduct, practices or threats, and their impact on victims, occurring at any work-related time, place or in any work-related circumstances.

Discrimination-based harassment is any action or behaviour directed at persons because of their particular personal attributes, such as race, national origin, disability, sex or gender, age or health status.

Violence and harassment in the world of work cover a broad range of unacceptable and unwelcomed actions and behaviours that aim at, result in, or are likely to bring harm to an individual and create a hostile environment.

The offending conduct or behaviour can be any of the following:

- physical, psychological or sexual;
- verbal, written or online (electronic means or social media);
- one-off or repeated incidents;
- conduct ranging from minor cases of disrespect to serious acts of physical, psychological or sexual assault, which may constitute a criminal offence;
- conduct occurring among colleagues, between superiors and subordinates or by/against third parties.

5.2- Sexual harassment

Sexual harassment in the working environment is any form of unwanted conduct by the person receiving it. It is not mutual. It is up to the individual to determine what kind of behaviour is acceptable to him or her and from whom it originates. This leads to the sustained position that harassment should be judged according to the perception of the person who suffers it, it is a subjective criterion.

It is often linked to problems of discrimination and although it is not exclusively related to the employment position of the person facing it, it can have direct or indirect repercussions on their work productivity, their image as a professional can be affected and they may leave their job.

Sexual harassment can take the form of blackmail, being a type of harassment where the acceptance or rejection of not requested sexual conduct directly influences the access to employment or the working conditions, salary, promotions, transfers, training, etc. of those suffering it. The individuals who exercise it are in a hierarchically superior position or are related to the decision making regarding the person being harassed.

In addition, gender-based blackmail is any gestural or verbal conduct, behaviour or attitude by superiors or decision-makers, occurring within an organisation or in relation to or as a consequence of an employment relationship, which jeopardises the employment or the professional or occupational development of the person facing it.

It is emphasised that sexual harassment has the effect of creating a hostile, offensive and intimidating working environment. The environment generated by such a situation causes risks to the health of the person concerned and thus indirectly has effects on his/her work. It takes the form of jokes, comments, derogatory expressions about the person, hostile actions, etc. This type of sexual harassment can be carried out by any colleague, superior, subordinate or third party related to the company.

5.3- Gender-based harassment

Gender-based harassment is any behaviour carried out on the basis of gender with the purpose or effect of violating the dignity of a person and of creating an intimidating, degrading or offensive environment.

On the other hand, Spanish Law 3/2007 in turn makes the distinction of discrimination on the grounds of pregnancy or maternity in its Articles 7 and 8.

Discrimination on the grounds of pregnancy or maternity is considered to be any unfavourable treatment of women related to pregnancy or maternity and it also constitutes direct gender-based discrimination.

5.4- Examples of harassment behaviours

The following behaviours can be considered examples of harassment, among other:

- Repeatedly defaming a person, their work and their involvement in public.
- Repeatedly insulting a person because of their physical appearance, ideology, sexual orientation or gender identity.
- Giving contradictory and therefore impossible orders to carry out at the same time.
- Giving insulting orders.
- Attitudes involving extraordinary and uninterrupted surveillance.
- Orders to isolate and cut off a person.
- Verbal attack.
- Physical attack.
- Etc.

Some examples of gender-based blackmail:

- Request for sexual favours, which are directly or indirectly related to career advancement, working conditions or job retention.
- Unpleasant suggestions.
- Jokes or comments on the appearance or image of the person.
- Intentional verbal abuse, with lustful content.
- Lustful or compromising invitations.

- Exhibition or display of sexually explicit cartoons, drawings, photographs or images.
- Intentional, physical touching without the other person asking for it.
- Getting too close physically or unnecessarily close.
- Insulting phone calls, letters or electronic messages.
- Persecution.
- Repeatedly inviting people to participate in social activities, even if the person in question has made it clear that they are out of place.
- Sexually explicit jokes or propositions.
- Etc.

5.5- Classification of the types of harassment: minor, serious and very serious

Types of harassment are classified as minor, serious and very serious, according to the following criteria:

Minor harassment:

- Suggestive and unpleasant remarks, jokes or comments about appearance or looks, and deliberate verbal abuse of libidinous content.
- Use of pornographic images in the workplace and working tools.
- Obscene gestures.
- Insinuating gestures and glances.

Serious harassment:

- Immodest or compromising invitations.
- Unnecessary physical contact, rubbing.
- Public and repeated disparaging comments about the person, their work and their involvement in it, which are made against a person on the grounds of gender.
- Continuous and vexatious comments on physical appearance, ideology or sexual orientation.
- Giving orders that are contradictory and therefore impossible to carry out simultaneously to a person on the grounds of gender.
- Attitudes involving extreme and continuous surveillance, carried out on a person on the grounds of gender.
- Questions about sex life.
- Sexual innuendo.
- Open request for sexual relations.
- Pressure following a break-up.
- Sending letters, images, messages, photos, emails with sexual content proposing, inciting or pressuring to have sexual relations.

Very serious harassment:

- Demands for sexual favours, when these are directly or indirectly related to career advancement, improvement of working conditions or job retention.
- Clandestine observation of persons in reserved places such as toilets.
- Giving vexatious orders to a person on the grounds of gender.
- Ordering a person to be isolated and cut-off on the grounds of gender.
- Physical aggression on the grounds of gender.
- Retaliation against persons who report, witness, etc.

- Unwanted hugging, kissing, touching, pinching.
- Cornering, sexual assaults.
- Pressure to obtain sex in exchange for improvements or threats.

5.6- Aggravating and extenuating circumstances

The following shall be considered aggravating circumstances:

- Abuse of hierarchical superiority.
- Repetition of offensive behaviour after the victim has made use of the settlement procedures.
- The person reported had already been reported in another case of sexual harassment or gender-based harassment.
- Alleged premeditation.
- The complaint has been filed by several persons who have suffered harassment simultaneously.
- The existence of intimidating, retaliatory or coercive behaviour by the perpetrator towards the victim, witnesses, Investigation Committee, etc. throughout the procedure.
- The victim suffers from a physical or mental disability.
- If the harassers are more than one and act in a group.

The following shall be considered extenuating circumstances:

- Having acknowledged the fact, having proceeded to diminish the effects of the offence or having accepted the arguments of the offended person.
- Having accepted the informal resolution.

6. PREVENTIVE MEASURES AGAINST HARASSMENT

Adequate prevention of harassment in the working environment requires a good understanding of the problem in order to make such behaviour unviable and, if it does occur, to ensure that it is detected early and/or sanctioned in time.

For this reason, this protocol will be disseminated to all LDAC employees by means of an internal communication sent via email. In addition, it will always be available to anyone who requests it.

7. PROCEDURE

The LDAC shall make available the necessary means for the procedures to take place and shall ensure access to information that may be relevant to the case.

The LDAC shall ensure:

- Respect for the fundamental rights of the persons involved and for the right to privacy.
- Protection of the health and safety of persons.
- Intervention, if necessary, to prevent the continuation of the alleged harassment situations, proposing precautionary measures for this purpose. Under no circumstances may these measures entail any harm or detriment to the victim's working conditions, nor any substantial modification of these.
- Confidentiality regarding the persons and acts investigated. The persons involved in the procedure, as well as the parties concerned (the complainant, the alleged victim, the person

reported and the witnesses) are obliged to maintain strict confidentiality and reserve and must not transmit or disseminate information on the content of the complaints filed. Breaches of confidentiality may result in disciplinary liability.

- Diligence and speed. The procedures must be swift and expeditious in their development. Therefore, a maximum time limit for their resolution shall be established. In this sense, an attempt shall be made to gather all the information through a single explanation of the facts by the victim, unless it is essential to set up subsequent interviews for the resolution of the case.
- Impartiality. The guarantors shall focus exclusively on the facts reported in the development of the procedures contemplated, without interfering in the personal relationships and background of the persons involved.
- Ensuring that there are no reprisals against persons who report, testify, assist or participate in harassment investigations.
- Guarantors: throughout the procedure, both the person reported and the complainant may request having another person present at meetings as guarantor.
- Information: In general, the parties involved shall be informed of the proceedings and the resolutions adopted.
- Complaints, pleadings or statements, which are proven to be intentionally fraudulent or wilful, and made with the aim of harming the person reported shall be sanctioned. A complaint made in good faith shall not be considered false or slanderous, even if its veracity cannot be ascertained.
- The application of this protocol shall under no circumstances prevent the parallel or subsequent use of the appropriate legal actions by the persons involved.

7.1. Bodies and their composition: Confidential Counselling Service and Investigation Committee

The **Confidential Counselling Service** is tasked with providing advice, informing people of their rights and obligations, as well as of the procedural methods set out in this protocol and receiving complaints or claims of any type of harassment.

Their functions are as follows:

- To confirm the truthfulness of the complaint or claim through a confidential, simple and rapid investigation.
- To identify the seriousness of the harassment, offering the victim the possibility of going for an informal procedure in minor cases and a formal procedure in serious or very serious cases.
- To develop the informal procedure in minor situations and provided that the complainant agrees to it.
- To inform the person reported about the existing complaint, and give him/her a hearing.
- To investigate and assess the situation reported.
- To draw up an assessment report with the conclusions of the investigation, which shall include the evidence and means of proof of the case, possible aggravating or extenuating circumstances, and proposals for action.
- To deal with any pleadings that may be made in relation to the assessment report.

The Confidential Counselling Service is made up of the General Secretary and the Policies and Communications Technical Officer at the LDAC.

Name of the General Secretary: Alexandre Rodríguez
Contact details: alexandre.rodriguez@ldac.eu

Name of the Policies and Communications Technical Officer: Manuela Iglesias
Contact details: manuela.iglesias@ldac.eu

The **Investigation Committee** is the body that develops the formal procedure for resolving complaints of any type of harassment (workplace, sexual, gender-based).

The Investigation Committee is composed of the LDAC Chair, the First Vice Chair and the Second Vice Chair.

Name of the LDAC Chair: Iván López
Contact details: ivan.lopez@pesqueraancora.com

Name of the LDAC First Vice Chair: Vanya Vulperhorst
Contact details: vvulperhost@oceana.org

Name of the LDAC Second Vice Chair: Julio Morón
Contact details: julio.moron@opagac.org

Any person who is a member of these bodies and is involved in sexual harassment or gender-based harassment, or affected by a relationship of friendship or manifest enmity, or of immediate hierarchical superiority or subordination with respect to the complainant or the person reported, shall be automatically disqualified from taking part in the processing and investigation of such proceedings, whether it is the complainant or the person reported who turns to him/her.

If the person reported is one of these guarantors, he /she shall be disqualified from any procedure until the resolution of his/her case.

In any of these situations or when, for reasons of force majeure, a person cannot take part in this process, a substitute shall be appointed for that specific case, in order to re-establish representativeness. The substitute must accredit sufficient knowledge or receive the necessary training regarding harassment, as well as on the application of this protocol.

7.2. Filing a complaint/claim

Any worker included in the scope of this protocol, who considers him/herself to be a victim of harassment, or any other person who has knowledge of this type of situation, may submit a complaint, whether verbally or in writing³, with sufficient evidence in both cases, to the General Secretary or the Policies and Communications Technical Officer at the LDAC.

If the complaint is filed by a third party, the alleged victim shall be informed and shall confirm the existence or not of the situation as reported.

In the case of a verbal complaint, it shall be collected in writing and be signed by the complainant for the procedure to be initiated.

In order to preserve the identity of the parties involved, the Confidential Counselling Service will assign an identifying code number to the complaint, which will appear on all documentation generated from this point onwards.

7.3. Initial analysis by the Confidential Counselling Service.

It shall be carried out within 3 working days of receipt of the transmission of the facts. The Confidential Counselling Service shall carry out a brief analysis of the objective facts of the case in order to confirm the veracity of the complaint by observing, for example, the congruence of the facts reported or the existence of inaccuracies and contradictions, or confirming the existence of a witness to the facts.

After this first analysis, the Confidential Counselling Service may:

- (a) Not admit such a complaint for processing, if it is considered that the situation expressed does not fall within the scope of this protocol. In this case, the complainant shall be informed of the reasons why the complaint will not be processed.
- b) Identify the situation expressed as minor harassment, and initiate the informal procedure.
- c) Identify the situation expressed as serious or very serious harassment and propose the initiation of the formal procedure.

If an informal or a formal procedure is initiated and if deemed appropriate (with the aim of preventing the continuity of the alleged harassment situations and preserving the safety and health of the complainant), the Confidential Counselling Service will propose the necessary precautionary measures, with special attention to the separation of the alleged victim and the person reported.

- On admitting the complaint for processing, the Confidential Counselling Service will inform the complainant, the person reported and the Investigation Committee of the conclusions of

³ Including the possibility to file a complaint through the *internal communication channel* on the LDAC website on this link: <https://ldac.eu/es/reporting-a-case>

the analysis and, if a formal procedure is initiated or if precautionary measures are necessary, will also inform them of these matters.

7.4- Informal procedure (*ten working days from receipt of the complaint/claim*).

In those cases where harassment actions are classified as minor, and the complainant agrees to the development of an informal procedure, the Confidential Counselling Service shall initiate it.

To this end, it will contact the person reported, alone or together with the complainant or representative appointed at the latter's choice, to inform them of the existence of a complaint about their conduct, the need for it to cease, to explain to them the disciplinary responsibilities that the repetition of the conduct reported would entail and to listen to their explanations.

The aim of this informal procedure will be to solve the problem without the need to initiate the formal sanctioning procedure and to carry out a mediation procedure. This informal or mediation procedure can last from 1 to 3 sessions, depending on each case.

In these sessions, the Confidential Counselling Service meets with the persons involved (person reported, complainant or representative). As a result, the following situations may arise:

- a) The complainant and the person reported identify and analyse the situation and there is a commitment not to repeat it.
- b) The Confidential Counselling Service proposes certain actions to solve the problem and both parties show their agreement and conformity.
- c) No agreement is reached and the formal procedure is initiated.

The Confidential Counselling Service shall inform the Investigation Committee of the outcome of the informal procedure. The formal procedure shall be initiated at any time if the person reported repeats the conduct reported, thereby making the situation worse.

The informal procedure shall last a maximum of ten working days from the filing of the complaint.

7.5- Formal procedure (*1 month from the beginning of the informal procedure*)

When the activities reported are considered by the Confidential Counselling Service as serious or very serious, or no agreement is reached by means of the informal procedure, or the conduct reported is repeated by the person reported, or in the event that the complainant does not deem appropriate to initiate an informal procedure, the formal procedure shall be initiated.

These cases will be transferred to the Investigation Committee, which will receive the report of the informal procedure, if any, as well as the written complaint/claim. The Investigation Committee shall notify the person reported the filing of the complaint as soon as possible and shall summon him/her in writing, with a date and time, within the next 5 working days, in the presence or not of the complainant, at the latter's choice. In this written communication, the person reported shall be informed of the existence of the complaint and warned that his/her failure to appear may be considered an act of obstruction of the investigation of the facts.

The Investigation Committee shall use the investigation procedures available to it, interviewing the parties, as well as the witnesses and third parties involved, if any.

In cases where it is considered necessary, either due to the characteristics of the situation investigated or to corroborate the analysis carried out, external advice will be sought from persons or organisations with expertise in the field of prevention and action against harassment.

The Investigation Committee will draw up a report assessing the action investigated, indicating the conclusions reached, the aggravating or extenuating circumstances observed and the subsequent resolution, which may include the following alternatives:

- a) Closure of the complaint, for any of the following reasons:
 - Withdrawal by the complainant (unless, ex officio, the investigation of the complaint continues if indications of harassment are detected).
 - Lack of purpose or insufficient evidence.
 - When the content of the complaint can be considered to have been resolved from the previous actions carried out, reflecting, where appropriate, the agreement reached between the parties.
- b) If the analysis of the case reveals that any misconduct other than harassment, as defined in the existing regulations, has been carried out a proposal will be made to initiate the corresponding disciplinary proceedings.
- c) If there are clear indications of harassment: When the existence of harassment is clearly deduced from the aforementioned report, the Investigation Committee shall urge the opening of disciplinary proceedings and the corresponding corrective measures. In this case, to all intents and purposes, the assessment report shall have the status of an informative file.

The resolution adopted here will be notified to the person reported and to the alleged victim, who may present new evidence or arguments within a maximum period of ten working days. The result of the investigation will also be sent to the alleged harasser and to the complainant if he/she is not the victim.

The formal procedure, until the assessment report is drawn up and communicated, will last a maximum of 1 month, counting from the start of the formal procedure. Only in exceptional cases and in cases of urgent need may the time limit be extended by 15 days.

7.6- Resolution and pleadings (*five working days from receipt of pleadings*)

The Investigation Committee shall assess the pleading made by the complainant and/or the person reported, and shall agree to reject the pleading or continue with the procedure in view of the new evidence or arguments presented.

If the evidence or arguments are solid, it shall complete the investigation, taking into account any additional information that may exist in order to determine whether or not there is sufficient evidence of harassment.

As a result of this process it may:

- a) Reject the pleading and accept the previously adopted resolution as valid.
- b) Modify the previously adopted resolution, if it finds clear indications of harassment. In this case, the Investigation Committee shall call for the opening of disciplinary proceedings and the corresponding corrective measures.

The parties to the proceedings shall be informed of the decision taken.

The period for gathering new information and adopting a final decision shall not exceed five working days from receipt of the pleading. Only in exceptional cases and in cases of urgent need may the time limit be extended by 5 days.

7.7- Binding nature:

Decisions taken after the implementation of the protocol shall be binding.

7.8- Follow-up and assessment

The LDAC shall monitor and record the complaints/claims filed and the resolution of the cases (results of informal procedures, assessment reports of formal procedures, pleadings, etc.) in order to follow up on the application of this protocol.

In addition, the protocol itself needs to be assessed as a tool for prevention and action against harassment, after the first two complaints have been processed and whenever there are legal changes or improvements in technical knowledge in this respect.

8- Annex: Model written submission form

Form for the submission of a written communication, complaint or claim of harassment

Subject matter (include brief reference to the subject of your communication/complaint/claim)
(Required)

Confidential identification data:

Full name:

E-mail or telephone number:

Your identity will only be known to those who process your communication/complaint/claim, in accordance with the provisions of the Procedure for the management and processing of information received through the LDAC Internal Information Channel (attached as Annex 1 to the LDAC Internal Information Systems (SII) Policy), who will do so with due confidentiality and respect for the applicable data protection regulations.

Select the categories associated with the communication/complaint/claim (Required)

- Workplace harassment
- Sexual harassment
- Gender-based harassment
- Other

Description of the potential infringement reported (Required)

Files/Annexes you wish to include (OPTIONAL)