Aalborg University

Under-reported sexual harassment at work in Lithuania: What's the problem represented to be

Master thesis

Characters: 161,366

Skirmantas Matulis, student no. 20186126, card no. 174768
5-29-2020

Abstract

The actions of the state of Lithuania has formed an environment where sexual harassment is difficult to report. The conducted study has uncovered that the established legal framework to combat sexual harassment at work has its' limitations. The outcome of these limitations is the under-reported sexual harassment that causes the problem of sexual harassment to be silenced in Lithuania. The objective of this research is to scrutinise and explore possible causes and outcomes of such phenomenon. Therefore, to do so, the research question has been formed: What's the problem of under-reported sexual harassment is represented to be in Lithuanian labour code article 26?

To answer the mentioned research question, a qualitative content analysis method has been applied to scrutinise policy documents. Moreover, unstructured and experts' interviews have been conducted. Unstructured interview questions have been sent to the police representatives. Also, the expert interview has been conducted with a senior human rights specialist engaged in the combat against sexual harassment at work in Lithuania. The application of these methods has helped to uncover silences and problems of Lithuanian legal framework. Additionally, by application of Europeanisation and "What's the problem represented to be" theories, assisted to discover the results of the analysis.

One of such discoveries was that the Lithuanian legal framework does not recognise the problem of under-reported sexual harassment. Therefore, according to the legislation the employer is responsible to prevent sexual harassment from taking place at work. Additionally, it has been discovered that Lithuanian policymakers have fully adopted the European Union law guidelines. However, the scrutinised legislation can be recognised as rather vague, as there has been left space for interpretations. This has been recognised due to the fact that sexual harassment defining actions are not mentioned or defined in Lithuanian labour code or other legislation. Likewise, this makes sexual harassment very difficult to prove. Therefore, other problems such as public awareness, secondary victimisation, and other has been discovered. Finally, the scrutinised policy results have shown that neither of the authorities combating sexual harassment at work, nor the national policy recognises the problem of under-reported sexual harassment.

Abbreviation list

EP – European Parliament

EU – European Union

FRA – European Union Agency for Fundamental Rights

ILO – International Labour Organisation

NGO – non-governmental organisation

QCA – Qualitative content analysis

The Office – the Office of the Equal Opportunities Ombudsperson

WPR – What's the problem represented to be

Table of Contents

1.0. Introduction

Sexual harassment is recognised as a form of "discrimination on the grounds of sex" by the European Union (EU) law. Moreover, employers in the EU are supposed to take measures to prevent sexual harassment from taking place at a work environment (European Parliament and the Council 2006). Despite that sexual harassment at work is prohibited, a study conducted by the European Union Agency for Fundamental Rights (FRA) in 2015, has uncovered that between 26.5 and 32.6 million[1] of women living in EU have experienced sexual harassment in a work environment (European Union Agency for Fundamental Rights (FRA) 2015: 95). Also, the conducted survey has shown that sexual harassment manifestations are less common in Lithuania than in other EU countries (FRA 2015:99). However, the same study recognises, that the public awareness regarding sexual harassment depend on how the state recognises problem of sexual harassment (FRA 2015:101). Therefore, another study has revealed that sexual harassment as a problem in Lithuania is discussed due to isolated cases, there are extreme difficulties in proving that sexual harassment, and minor political determination is recognised (Jankauskaitė 2013:15-16). Moreover, a study performed by Eurofound in 2015 has recognised that Lithuanian policy and the law prohibiting sexual harassment has certain shortcomings. Therefore, these the outcome of these shortcomings is that persons are in fear of reporting their experience to authorities (Eurofound 2015:19-20).

Considering, the presented position of Lithuania regarding sexual harassment, one can assume that sexual harassment may be under-reported in this country. Therefore, to verify or deny this assumption, the overall number of complaints received by authorities of Lithuania has been investigated. The results have shown that since the year 2000 until the year 2020, authorities have received 77 complaints altogether (Informatikos ir ryšių departamentas n.d.; Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba 2001; Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba 2002; Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba 2003; Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba 2004; Lygių galimybių kontrolieriaus tarnyba 2005; Lygių galimybių kontrolieriaus tarnyba 2006; Lygių galimybių kontrolieriaus tarnyba 2007; Lygių galimybių kontrolieriaus tarnyba 2008; Lygių galimybių kontrolieriaus tarnyba 2009; Lygių galimybių kontrolieriaus tarnyba 2010; Lygių galimybių kontrolieriaus tarnyba 2011; Lygių galimybių kontrolieriaus tarnyba 2012; Lygių galimybių kontrolieriaus tarnyba 2013; Lygių galimybių kontrolieriaus tarnyba 2014; Lygių galimybių kontrolieriaus tarnyba 2015; Lygių galimybių kontrolieriaus tarnyba 2016; Lygių galimybių kontrolieriaus tarnyba 2017b; Lygių galimybių kontrolieriaus tarnyba 2018; Lygių galimybių kontrolieriaus tarnyba 2019; Lygių galimybių kontrolieriaus tarnyba 2020). Taking such a small

[1] These estimates are based on surveying 42000 interviewees living in the European Union in regard of sexual harassment (European Union Agency for Fundamental Rights 2015:3).

amount of received complaints by authorities into account, one can verify that sexual harassment is under-reported in Lithuania.

Therefore, sexual harassment is under-reported, and that Lithuanian policy and legislation has shortcomings. Taking this into account, this paper seeks to explore why sexual harassment at work is an under-reported problem in Lithuania. Also, the research aims to investigate the current Lithuanian labour code and interpret how current law may have impacted the phenomenon of under-reported sexual harassment. Additionally, by scrutinising recently established labour code of Lithuania, the following problem formulation will be attempted to be answered:

What's the problem of under-reported sexual harassment is represented to be in Lithuanian labour code article 26?

The labour code is selected as the main document to scrutinise due to the reason that it is the fundamental law establishing employer and employee relations. However, to uncover the policy prohibiting sexual harassment at work, other documents and legislation are going to be scrutinised. It means that the delimited period of time for documents to analyse is between 1998 and 2020.

To answer this question, a What's the problem represented to be theory by Carrol Bacchi is going to be acquired to scrutinise Lithuanian policy prohibiting sexual harassment at work (See more Bacchi 2009). Nonetheless, taking into consideration that sexual harassment at work is prohibited by the EU law and Lithuania is a member state of the EU, Europeanisation top-down approach is going to be acquired (see more Börzel & Panke 2016). This approach is going to be used to explain the influence that the EU has had on Lithuanian policy contest sexual harassment at work.

1.1. Literature review

It can be noticed that the topic of sexual harassment remains relevant among researchers. The following section presents a sample of researches that were conducted within the field of sexual harassment problem. These studies will be reviewed in order to understand the prevailing views and theories about sexual harassment. Finally, the reviewed literature will also be addressed in the discussion section, where the results of this analysis will be compared with the recognised ideas in the literature review.

In the research "Analysis of subjectively perceived sexual harassment experiences, responses to sexual harassment and sexual harassment consequences of young adults" scholars Monika Čeponytė and Kristina Žardeckaitė-Matulaitienė has attempted to scrutinise effects that persons have as identified post harassment events (Čeponytė & Žardeckaitė-Matulaitienė 2019:35-45). They have discovered that in most cases, victims can not identify their experience as sexual harassment due to the lack of knowledge about what it is. Victims could not identify harassers friendliness or unexpected presents, unwanted hugs or

touches as sexual harassment (Čeponytė & Žardeckaitė-Matulaitienė 2019:38-43). The other discovered disturbing factor for the identification of harassment was the social status of the perpetrator. Women shared that they have had problems realising that their superiors in the workplace, scholars in university could act in such misconduct (Čeponytė & Žardeckaitė-Matulaitienė 2019:38-43). However, after some time, they have realised that they have been victims of sexual harassment. The interviewees have shared that in the long-term perspective, they have developed a feeling of insecurity that would result in avoiding public places (Čeponytė & Žardeckaitė-Matulaitienė 2019:38-43). Another long-term consequence has been identified as a problem to sustain a close relationship due to lack of trust, fear of violence. The victims would change the way that they dress due to self-guilt and fear that it would provoke similar experiences again. However, the study concluded that most of the victims did not confront the perpetrators or have reported the behaviour to authorities or superiors (Čeponytė & Žardeckaitė-Matulaitienė 2019:38-43).

Anca Gheaus, in her article "Gender Justice" writes about the advantages of "gender-neutral" way of life for both genders and the different costs when seeking for gender justice. She writes that costs can be "material - for example financial, time or effort - psychological - self-respect, a good relationship with one's body and emotions - and social - such as reputation, social acceptance and valuable social relationships" (Gheaus 2012:1). The scholar introduces a principle of "gender justice" within the equality between men and women is presented in a wider way than protection by legislation or their rights (Gheaus 2012: 1-24). For example, going for childcare break or pursuing a career would have the same mentioned costs for both genders (Gheaus 2012:2-13). Anca summarises that the change to achieve gender justice can be achieved in the action of both institutions improving legislation, reorganising structures and by individuals acting decently concerning gender justice (Gheaus 2012:23-25).

Katrin Zippel in her study "The European Union 2002 Directive on sexual harassment: A feminist Success?" recognises the European integration process regarding gender equality development and the influence of the EU to its' member states in regard of the legislation development prohibiting sexual harassment (Zippel 2009:139-140). The scholar later questions the advantages and disadvantages of the 2002 Directive on sexual harassment, scrutinises its' advantages and disadvantages as she identifies that there is not enough of studies in "political, social and legal sciences", where the methods on prohibiting sexual harassment would be scrutinised (Zippel 2009:141-142). However, conducted study concluded, that often victims of sexual harassment risk of "losing jobs because they are fired when they complain about or do not go along with jokes, teasing or demands for sexual favours" as targets of sexual harassment tend to leave their jobs due to such behaviour (Zippel 2009:144). The scholar identifies that many countries have adopted EU uploaded guidelines. However, the member states implementation of the legislation differed considerably. Before the 2002 Directive some countries would ignore the problem, as other countries developed their strategies to combat sexual harassment (Zippel 2009: 144-145). As countries those accessed

the EU after Greece and Portugal, were required to recognise sexual harassment in its' law as (Zippel 2009:147):

"Any form of unwanted verbal, non-verbal or physical conduct of sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment".

From this the most important is the recognised "unwanted behaviour" description of sexual harassment that makes the position of the victim stronger (Zippel 2009:148). However, the Directive has its weaknesses, where it is not specified what form of harassment counts, "by whom and which situations", for example, sexual harassment be executed in "work-related settings" (Zippel 2009:149). Additionally, the member states decide how the employers have to prevent sexual harassment from occurring, as the victims are not protected that they will keep their job (Zippel 2009:150). The most crucial problem remaining is the lack of awareness in most countries in regard to sexual harassment, the effectiveness of law implementation channels, the lack of authorities' sensitivity to the victims of sexual harassment (Zippel 2009:150-151). Finally, the author concludes that Directive 2002 has had a significant influence on EU member states' domestic law systems. Nonetheless, she emphasises that the feminists, advocacy organisations and human rights activists including "attorneys, judges" endeavour is needed to push the development of gender equality (Zippel 2009:153-154).

In summary, it is evident that sexual harassment at work is recognised problem among scholars. Moreover, that the problem of sexual harassment is also under-reported due to other problems than the legislation. Therefore, these scholars' ideas ant the results of the analysis are going to be collided in the discussion section of the paper.

2.0. Methodological considerations

This paper will employ two social research paradigms that the research is going to be based on (Flick 2015:20-21). These are the interpretive and the social constructivism paradigms. The interpretivist paradigm usually includes a qualitative study and consist of three main "premises" (Blumer in Flick 2015:24):

"*The first premise is that human beings act toward things on the basis of the meanings that the things have for them ... The second premise is that the meaning of such things is derived from, or arises out of, the social interaction that one has with one's fellows. The third premise is that these meanings are handled in, and modified through, an interpretive process used by the person in dealing with the things he encounters*."

These premises provide the researcher with the starting point for the research as the different "subjects" produce different outputs based on their interpretation of the units of concern (Flick 2015:24). However, the researcher can not perceive these "subjects" to have the connotation to the mentioned units (Flick 2015:25). In this case, these subjects are going to be Lithuania and the European Union, as the units of concern are going to be the EU guidelines for the prevention of sexual harassment, domestic policies prohibiting sexual harassment. In other words, interpretive paradigm enhances to scrutinise different processes or outcomes produced by mentioned subjects in an interpretivist manner (Flick 2015:24).

The opening "premise" of social constructivism paradigm by Schütz declares (Schütz in Flick 2015:25):

"[a]ll our knowledge of the world, in common-sense as well as in scientific thinking, involves constructs, i.e. a set of abstractions, generali[s]ations, formali[s]ations and ideali[s]ations, specific to the relevant level of thought organi[s]ation".

It means that already produced "knowledge" shall not be perceived as a normative matter, rather it shall be seen as a "content of knowledge" that is created in time (Schütz in Flick 2015:25-26): "[s]trictly speaking there are no such things as facts pure and simple. All facts are from the outset selected from a universal context by the activities of our mind...". Furthermore, the "[s]cientific knowledge" within the paradigm is developed by scrutinising the contrasting procedures that are "reality construction" (Flick 2015:26). In this case, the interaction between certain actors in Lithuania constructs ones' reality, where the researcher scrutinises obstacles that create the social construct may affect decisions of actors. (Gregen in Flick 2015:26).

2.1. Theoretical framework

To answer the research questions this paper will employ two theories, the 'what the problem is represented to be' (WPR) by Carol Bacchii and the Europeanisation theory by Tanja A. Börzel and Diana Panke. The WPR approach is going to be applied as a theory to scrutinise the Lithuanian sexual harassment policy as to question what has been done to prevent the form of discrimination from occurring or eliminate it. Then this policy is going to be compared with the European Union law. The Europeanisation theory will be used to explain the EU influence in regard to sexual harassment prevention in both countries and how the countries have changed their policies according to it.

The WPR theory has been chosen over other policy analyses due to its' emphasis to the "problematisations" and the "representations" that lies within the policy rather the "problems" (Bacchi 2009:32; see more in Werner & Wegrich 2006:43-62). The theory is aimed to scrutinise governments' actions and their enacted policies to tackle certain problems and their representations, where the problems and their understanding can be only captured (Bacchi 2009:1).

Therefore, the theory calls to scrutinise the "problem representations" instead of "problems" developed by the enacted policies (Bacchi 2009:48). The WPR approach contains three core propositions for representations of problems (Bacchi 2009:25):

"[w]e are governed through problematisations", "[w]e need to study problematisations [through analysing the problem representations they contain], rather than 'problems'", and "[w]e need to problematise [interrogate] the problematisations on offer through scrutinising the premises and effects of the problem representations they contain".

The first proposition, in other words, entails that governments can be influenced by "experts" or other interested parties producing policies to tackle problems in their perception (Bacchi 2009:25-26). However, capturing and highlighting these governments' enacted policies and scrutinising its effects is one of the main tasks within WPR (Bacchi 2009:30). Problem representations as such can be captured by scrutinising these governments enacted documents such as legislation, "plan of action", and other documents (Bacchi 2009:30).

As the second proposition suggests to study problematisations instead of problems, it distinguishes the WPR approach from other policy analyses (Bacchi 2009:32). The mentioned problem representations in paper validity depend on the authors' "scrutiny" and objectivity. Additionally, the WPR approach employs the perception of experts to the problem representations (Bacchi 2009:39).

As the final proposition emphasis is about the credibility of the approach "WPR is critical rather than a descriptive form of analysis" (Bacchi 2009:39). However, there is no such evaluation as "cost-benefit

analysis, no balance sheet", the researchers are instead invited to "political conversation", where the short-term and long-term consequences, effects can be discussed (Bacchi 2009:43).

Furthermore, to build the credibility of the paper, the author is invited to develop additional questions within given WPR questions, where the answers are verified by using credible data to enhance the overall strength of writer interpretations. For example, why subject A is tackling the problem better than subject B, where the answer is followed by authors' conjectures of the possible reasons (Bacchi 2009:44). As just mentioned, WPR approach provides six research questions. Those must be addressed to nest[2] the questions with each other, where they properly put answers and help the researcher to correctly apply the theory (Bacchi 2009:2-20).

The first question "[w]hat is the 'problem' represented to be in a specific policy?" has a clarification exercise, where the "problem representations" within the policy are identified for further scrutiny (Bacchi 2009:2-3). The second WPR question "[w]hat presuppositions or assumptions underlie this representation of the problem?" is where the writer has to ensure the credibility of the problem since his claim has to be proven. In other words, the author has to scrutinise the cultural environment of the subject to "uncover the [assumed] thought that lies behind specific problem representation" (Bacchi 2009:4-5). Also, the third problem representation proposition is considered, as it seeks to capture the presuppositions and assumptions within the "problem representation" to identify the government practice within the scope of the problem (Bacchi 2009:39). Moreover, application of "dichotomies" like "mind/body" or "national/international" which is the case is suggested to "reveal the operation of conceptual logics" of the author claimed problem representation (Bacchi 2009:7).

The second question is also dedicated to identifying the "key concepts" such as "health … welfare" within problem representations in policies to uncover what is meant by government given concepts (Bacchi 2009:8). Additionally, the "categories" such as "gender, …, housewives, …, homeless people" within policies gives meaning to these problem representations that help to scrutinise given text and policies (Bacchi 2009:9).

The third question "[h]ow has this representation of the 'problem' come about?" has two primary purposes, first to echo upon the governments "non-discursive" actions that have influenced the development of captured " problem representations", second to prove that it exists (Bacchi 2009:10). Additionally, to uncover the powers that had an impact on government actions (Bacchi 2009:38).

[2] Each question is "embedded with each other", where an addressing "one off questions" in WPR approach is not the case (Bacchi 2009:20).

The fourth question "[w]hat is left unproblematic in this problem representation? Where are the silences? Can the 'problem' be thought about differently?" seeks to enhance the writers to explore "the silences" within the problem representations (Bacchi 2009:12; Bacchi 2009:40). The purpose of it is to enhance the discussion about the "perspectives silenced in identified problem representations" (Bacchi 2009:13).

With the fifth question "[w]hat effects are produced by this representation of the problem?" the writer is supposed to uncover the effects of different powers influencing the government actions (Bacchi 2009:15; Bacchi 2009:38). There are three different types of mentioned effects that need to be considered when answering this question: discursive effects; subjectification; lived effects (Bacchi 2009:15). The discursive effects are usually taking place in the cost of the welfare of others. In other words, if the policy considers partying A interest, it might lose party B interest within the policy formation (Bacchi 2009:16). The Subjectification effects can impact the lives of one by influencing his or her decision by having effects on the results of his or her decision [unemployment policy, parental leave policy]. Subjectification effects can shift ones' perception in regard to policymakers by them emphasising certain aspect [gender equality policy, where transgender people are not protected] (Bacchi 2009:16-17). The lived effects note the effects that are experienced by one in real life by financial or moral means (Bacchi 2009:18). The fifth question contains sub-questions that should be considered an integral part of it that strengthens the credibility of writers' claim (Bacchi 2009:18):

"*What is likely to change with this representation of the 'problem'?; [w]hat is likely to stay the same?; [w]ho is likely to benefit from this representation of the 'problem'?; [w]ho is likely to be harmed by this representation of the 'problem'?; [h]ow does the attribution of responsibility for the 'problem' affect those so targeted and the perceptions of the rest of the community about who is to 'blame'?*".

Finally, the sixth question "[h]ow / where is this representation of the 'problem' produced, disseminated and defended? How could it be questioned, disrupted and replaced?" is built on the answer to the third question, where it should be considered what groups and how have been affected by what powers in regards of the problem representation (Bacchi 2009:19).

Moreover, Europeanisation theory is going to be applied as a secondary theory in this paper to explain the process of European integration in regard to sexual harassment prevention in both countries. "Europeani[s]ation" as theory seeks to explain if and how the process of European integration took place in EU members and "issue areas" (Pollack 2015:38; Börzel & Panke 2016: 112). The theory claims that the EU might have a significant impact to domestic politics of its' member states by uploading norms, "reshaping national identities", limiting domestic decisions (Kelley 2004; Börzel and Risse 2007 in Pollack 2015:38). Complimentary by scholars concluding that countries after the accession to the EU have "not

fallen into recidivism" as the newly accessed countries have developed their "human rights" policies to meet the common EU values (Levitz and Pop-Eleches 2010; Sasse 2008; Pridham 2008; Vachudova 2008 in Pollack 2015:39). Furthermore, the theory contains two perspectives of how European integration can be looked at, the top-down and the bottom-up (Börzel & Panke 2016:111-112). The top-down prospect explores and captures the different ways of how EU institutions, law, and policies download its' norms and affect "domestic change" in its' members and its' neighbour countries (Börzel & Panke 2016:114). The bottom-up viewpoint helps to scrutinise "how states upload their domestic preferences to the EU level" (Börzel & Panke 2016:116). Such "upload" of members of the EU to the EU level takes places through EU organisations such as European Parliament, the Council of the European Union, where countries tend to advocate their preferences (Börzel & Panke 2016:116-117). However, the top-down perspective is going to be applied in this paper to explain the European integration to Lithuanian domestic legal system concerning sexual harassment prohibition. Further application of theories and its' questions are going to be reflected in the theoretical strategy section.

2.2. Case Study

To conduct a study about a certain topic or claim can include a need to select one or more cases (Seawright & Gerring 2008:294-295). Moreover, there are several different techniques to select different cases that vary depending on the subject, cases and their populations (See more in Seawright & Gerring 2008). The population can be understood as the subjects to be scrutinised within the cases. These subjects or data must be rather attainable and considerable, critically assessed (Seawright & Gerring 2008:296).

There are four different case study methods suitable for single case analysis presented by Seawright and Gerring in their work (Seawright & Gerring 2008:297-305). These methods include the "typical", "extreme", "deviant", and "influential". The typical case study is where the scientific puzzle is within the scrutinised object. In such a method, there is a problem or a situation that is questioned by one to uncover a puzzle (Seawright & Gerring 2008:299).

The extreme case study is where a case that is distinctive from other similar cases is called extreme. Such a case study has an "exploratory" assignment, where the results of the case are preferably maximised instead of minimised. This sort of case study is also suitable to begin to scrutinise new topics (Seawright & Gerring 2008:301-302).

Therefore, a deviant case study is the opposite of extreme case study, where specific "anomaly" within a population is scrutinised. Such a case study has an "exploratory" assignment with an attempt to raise the question about the "representativeness" of the case (Seawright & Gerring 2008:302-303).

Finally, the influential case purpose is to study other cases that might be influential. For example, where one countries action could be found influential in regard to other countries actions, then this country is scrutinised as a case (Seawright & Gerring 2008:303-304).

Taking into account the mentioned different types of case study, a typical case study is selected for this research. Such a decision is made due to the fact that the puzzling question of why the phenomenon of under-reported sexual harassment at work exists is scrutinised within the case of Lithuania.

2.3. Choice of Case

By the study conducted by FRA in 2015, Lithuanian policy has been ranked in the least advanced group to combat sexual harassment (European Parliament 2018:150). This can be found controversial due to the fact that in another research, it has been found as a country, where sexual harassment is less common than in others (FRA 2015: 99). Due to this gap in knowledge, Lithuania has been selected as the case for this research.

2.4. Qualitative research

Referring to Uwe Flick, qualitative research generates knowledge through three approaches (Flick 2015:11-12). First, the experience and ideas of involved people within situations are collected by questionnaires and surveys. Second, the existing reality is characterised and evaluated, scrutinised with an attempt to uncover silences, difficulties that are left unproblematised. Third, a person's life experiences and practices are defined and interpreted to uncover the situations' ramification (Flick 2015:11-12). This paper will employ the first and the second approaches to collect the information and to produce knowledge for the analysis. The first approach will be used by applying the expert interview method, to produce the information and "structure and to generate hypotheses" (Boger in Flick 2015:141). Second, the approach will be applied by interpreting and scrutinising the Lithuanian labour code in a theoretical sense.

2.5. Qualitative content analysis

Referring to Uwe Flick, the fundamental aspect of qualitative content analysis (QCA) is the way of how the system for categorising the information is established. It is followed by the necessity to select the appropriate information to scrutinise specific topics (Flick 2015:184). Moreover, a formula of QCA could be the following (Laswell in Flick 2015:184): "WHO (communicator) SAYS (writes, mentions in the form of signs) WHAT (message) in WHICH CHANNEL (medium) to WHOM (receiver) and WITH WHAT EFFECT?". Likewise, QCA will be used to scrutinise Lithuanian law towards sexual harassment.

Selected data will be characterised and interpreted in order to explore the reasons for under-reported sexual harassment and the representation of such a problem. The decision to use QCA was based on the aim to analyse the content of the documents and the meaning and consequences they produce. Therefore, the application of the mentioned QCA formula and categorisation of the information is going to be presented in the analytical strategy section.

2.6. Interviews

Two interviews will be performed. First, the unstructured interview will be conducted. Unstructured interviews can be performed in different ways. Such interviews usually lead to "insights" of the interviewee about a specific topic (Walliman 2006:92-93). Such an interview will be conducted with the Lithuanian police specialists. They will be asked about police responsibilities preventing sexual harassment and how sexual harassment is perceived in their organisation. For the results of the interview, see Appendix B.

Second, an expert interview will be performed with an expert and activist of human rights that have been engaged in combat against sexual harassment. For this work, "the systemi[s]ing" expert interview" will be performed. Such interview purpose is to get insights into specific topics within a particular environment, where both the "process knowledge and context knowledge" of the expert is used (Flick 2015:141). In this regard, the interviewee will be given questions during a call. More information about the results of the interview can be found in Appendix A.

2.7. Analytical strategy

In this section, the strategy of how the analysis is going to be designed is presented. Therefore, the application of selected WPR theory has a fundamental impact on the design of the analysis. This theory is going to be also applied to design the analysis. It is due to the fact that it contains six questions through which analysis is formed. Considering this, the QCA method and Europeanisation theory applied selectively within these questions. The application of the methods and the theory are explained within each question.

In the first question of the analysis, the problematisations of the legislation regarding under-reported sexual harassment will be attempted to be discovered. The QCA method is applied to uncover who has produced the legislation and how the problem of under-reported sexual harassment is represented in it.

Therefore, in the second question of the analysis, the presumptions provided by this legislation will be attempted to be found. Also, the QCA method is applied to scrutinise documents that help to discover these presumptions.

In the third question of the analysis, the overall development of policy towards sexual harassment prevention will be uncovered. In this, part of analysis QCA is also applied to categorise data. In this part, the possible reasons behind such representation of under-reported sexual harassment will be explored.

The fourth question of the analysis will seek to discover what has been left unproblematic by the labour code article 26. Also, the issues that are silenced in identified problem representation will be raised. Moreover, the top-down Europeanisation theory is applied to explain the EU influence on Lithuanian legal framework regarding sexual harassment prohibition at work.

As the fifth question of the analysis will seek to uncover what effects have been produced by the uncovered problem of under-reported sexual harassment representation. Therefore, discursive, subjectification, lived effects will be uncovered (See more at the Theoretical Framework section).

Finally, in the sixth question of the analysis QCA method is applied to categorise data. It will be done to answer the question of how the problem of sexual harassment has been produced, disseminated, and defended. Moreover, the actors involved in the formation of the policy against sexual harassment are overviewed (See more in the Theoretical Framework section).

2.8. Data section

In order to conduct qualitative research, scrutinising documents can help to answer the research question (Flick 2015:152). To scrutinise such documents, one has to collect the data relevant to such research (Walliman 2006:83). Taking this into account, relevant data is going to be gathered between the period of the year 1998 until the current date.

Therefore, to answer the research question, both primary and secondary data is going to be collected and acquired. Primary data being the information gathered by conducting interviews and questionnaires, documents that are not interpreted and produced by others (Walliman 2006:89-93). For this study, expert interviews are going to be conducted to improve credibility and validity. In addition, documents such as legislation are going to be scrutinised to uncover Lithuanian sexual harassment prevention policy. Such legislation will include the equal opportunities law, the labour code, and the criminal code of Lithuania (*Law of the Republic of Lithuania on Equal Opportunities 1998; Republic of Lithuania Law of the Approval and Entry to Force of the Criminal Code 2000; Lietuvos Respublikos Lygių Galimybių Įstatymas 2003; Republic of Lithuania Labour Code 2010; Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas 2016; Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour 2017;*).

Additionally, to uncover what kind of effects this scrutinised policy has produced, secondary data is going to be used such as “databases”, organisations and media publications. (Walliman 2006:86-88). In other words, already “existing datasets” (Flick 2015:152). In this work, the police database is going to be used to gather information about sexual harassment received complaimnts that could be found in https://www.ird.lt/lt/paslaugos/tvarkomu-valdomu-registru-ir-informaciniu-sistemu-paslaugos/nusikalstamu-veiku-zinybinio-registro-nvzr-atviri-duomenys-paslaugos/ataskaitos-1 (Informatikos ir ryšių departamentas n.d.).

Therefore, human rights activists' non-governmental organisations (NGO), media articles that are relevant to sexual harassment at work is going to be scrutinised to uncover the mentioned effects of the problem f under-reported sexual harassment representation (manoteises.lt 2018: Lrt 2017). Moreover, annual reports of the Office of the Equal Opportunities Ombudsperson and the police are going to be scrutinised in regard to sexual harassment (Lietuvos Policija 2012; Lietuvos Policija 2013; Lietuvos Policija 2014; Lietuvos Policija 2015; Lietuvos Policija 2016; Lietuvos Policija 2017; Lietuvos Policija 2018; Lietuvos Policija 2019; Lietuvos Policija 2020; Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba 2001; Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba 2002; Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba 2003; Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba 2004; Lygių galimybių kontrolieriaus tarnyba 2005; Lygių galimybių kontrolieriaus tarnyba 2006; Lygių galimybių kontrolieriaus tarnyba 2007; Lygių galimybių kontrolieriaus tarnyba 2008; Lygių galimybių kontrolieriaus tarnyba 2009; Lygių galimybių kontrolieriaus tarnyba 2010; Lygių galimybių kontrolieriaus tarnyba 2011; Lygių galimybių kontrolieriaus tarnyba 2012; Lygių galimybių kontrolieriaus tarnyba 2013; Lygių galimybių kontrolieriaus tarnyba 2014; Lygių galimybių kontrolieriaus tarnyba 2015; Lygių galimybių kontrolieriaus tarnyba 2016; Lygių galimybių kontrolieriaus tarnyba 2017b; Lygių galimybių kontrolieriaus tarnyba 2018; Lygių galimybių kontrolieriaus tarnyba 2019; Lygių galimybių kontrolieriaus tarnyba 2020).

Finally, the mentioned data was collected through such search engines as "*www.google.com*", "*www.eur-lex.europa.eu*", "*www.e-tar.lt*", "*www.en.aub.aau.dk*". Keywords such as "sexual harassment at work”, “sexual harassment”, “under-reported sexual harassment”, “sexual harassment prevention”, “representation of sexual harassment" were used to reach the relevant data.

3.0. Analysis

3.1. What's the problem of under-reported sexual harassment is represented to be in Lithuanian labour code article 26?

The first question of 'what's the problem is represented to be' theory has a clarification exercise (Bacchi 2009:2-3). Here the problem representations are uncovered within the scrutinised document. Such representations being set by policymakers developed a policy that has an effect on one's lives (Bacchi 2009:48). In this case, the Lithuanian labour code has been selected as an object for further scrutiny. Such a decision has been grounded on the fact that the mentioned document is the main document establishing the employee and the employer relations.

Moreover, this document recognises and prohibits sexual harassment. It was revised in the year 2016 and came into force in July 2017 (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code 2017)*. The document has been developed and enacted by Lithuanian policymakers. These policymakers are the government and the president that has executive power, and the parliament that has the statutory power (Lietuvos Respublikos Vyriausybė n.d.). It means that mentioned authorities of the state are the authors of legislation that is going to be scrutinised in the research.

Therefore, the problem of sexual harassment is recognised in the Article 26 that is called 'Employee Gender Equality and Non-Discrimination on Other Grounds' (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017):

"1. The employer must implement the principles of gender equality and non-discrimination on other grounds. This means that in an employer's relations with employees, any direct or indirect discrimination, harassment, sexual harassment or instruction to discriminate …"

Here, the prevention of sexual harassment is stated as the duty of the employer. Additionally, the employer must implement the principles of gender equality. However, one can recognise, that nor the prevention of sexual harassment, nor the principles of gender equality are explained or defined. Most importantly, it is not explained what sexual harassment is and what actions define sexual harassment. Therefore, from this, one can interpret, that the mentioned terminologies are left for interpretation of the employer to decide how the obligation to prevent sexual harassment shall be executed. Also, one can interpret that policymakers have empowered employers to determine what these principles are and how they shall prevent them.

Considering that the policymakers have anchored such duty in law, one can interpret, that the policymakers did recognise the problem of sexual harassment at work. Lastly, one can argue that the

problem is represented as a gender equality issue which should be prevented and solved by employers individually.

These interpretations are strengthened by the later section of the law declaring that employer is obliged to (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017):

"...5) take measures to ensure that at the workplace, the employee does not experience harassment or sexual harassment and no instructions are given to discriminate, and also that the employee is not subject to persecution and is protected from hostile treatment or adverse consequences if he or she files a complaint concerning discrimination or is involved in a case concerning discrimination;..."

This part of the legislation means that the employer has to take measures that the employees do not experience discrimination or sexual harassment. However, the instructions on how to do so are not given. Most importantly, the law declares that a person who has complained due to discrimination or sexual harassment shall be protected from prosecution or negative consequences. One can interpret that from this part of the law, that it was attempted to protect the employee from the mentioned. Moreover, it can be interpreted by one that this part of the legislation is important in respect of the persons' decision to report their experience or not. Such interpretation is based on the idea that individuals who experienced sexual harassment are afraid of prosecution, losing their jobs, and other (manoteises.lt 2018). It can be argued that it is a significant part of the legislation considering the human rights of the employee.

One can recognise that the mentioned section does not describe or demonstrate how employees shall be protected. Nor how or where the person shall report their experience. It is left for the employer to decide what kind of protection is needed for a person who has reported the case of sexual harassment. Also, it is left for the interpretations of the employer to decide what constitutes protection and negative consequences. One can interpret that the employee may be left without protection if the employer would interpret that he or she does not need the protection. Also, it could be argued that the employee does not have where, to whom the individual could complain about sexual harassment.

Thereinafter, the mentioned article of the labour code redirects to other legislation (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017):

"*...3. The specifics of the implementation of the principles of gender equality and non-discrimination on other grounds may be established by other laws and other labour law provisions…."*

It means that the principles of non-discrimination and gender equality shall be declared by other law, where specifics of the implementation shall be declared. As this paper is written after three years when the scrutinised labour code has entered into force, such legislation has not been adopted.

However, the Office of the Equal Opportunities Ombudsperson (the Office) has published recommendations of how employers could implement their equal treatment policies and equal opportunities principles (Lygių galimybių kontrolieriaus tarnyba 2017a). Therefore, these recommendations do not provide much more information about the specifics of these principles and how they should be implemented. Therefore, one can argue that such principles are not adopted regarding sexual harassment. It can be interpreted that the employer can not be indicated as not implementing such principles as they are not legitimised by law.

Therefore, the labour code states that (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017):

"5. In settling cases on gender equality and non-discrimination on other grounds related to labour relations, it shall be the duty of the employer to prove that there was no discrimination if the employee specifies circumstances from which it may be presumed that the employee experienced discrimination."

It means that the employer shall prove that the discrimination did not take place, and it is not the person that has experienced discrimination has to prove his experience. This section can be perceived as another critical factor in respect of the employee's human rights. Also, it can be seen as a support to the victim of discrimination as the employer has to prove that the discrimination did not take place. Likewise, one can argue that the employer has to prove that an employee did not experience sexual harassment if he or she declares he did. It is because sexual harassment is recognised as a form of discrimination.

However, it can be found quite confusing, as the part of the article states "if the employee specifies circumstances from which it may be presumed that the employee experienced discrimination" (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017). It means that in a way, the employee should present evidence or "circumstances" which proves experienced sexual harassment. Also, since sexual harassment is not defined or explained in the labour code, it could be complicated to outline the circumstances that can lead to sexual harassment. Additionally, sexual harassment itself is not easy to prove or capture since it usually takes place between four eyes (manoteises.lt 2019). One can recognise that labour code does not mention the aspect of objectivity, nor to whom the employee could specify that discrimination did take place.

It can be interpreted that the employee would have the right to complain about his or her experience to a certain body. However, such a body is not constituted by the labour code, neither the employer is required to establish one. The labour code does not oblige the employer to adopt authority or procedure to

complain (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017). It means that employee may not have the possibility to exercise the right to report sexual harassment within the organisation.

However, the legislation requires that (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017 Article 26 Section 6):

"26. An employer who has an average number of employees of more than 50 must adopt and publish, in the ways that are accustomed at the workplace, the measures for implementation of the principles for the supervision of the implementation and enforcement of the equal opportunities policies."

This section of the labour code means that the employer has to adopt and disseminate an equal opportunities policy within the organisation if it has more than fifty employees. This last section of Article 26 requires the employer to disseminate adopted policy within the organisation. It means that all employees in Lithuania who are working in organisations holding more than fifty employees are familiar with such adopted policies.

It is left for the employer to decide if such a policy should be renewed, re-distributed, should the new employees be introduced with it. One can also interpret that if the organisation would not have intentions to support such policy, it could be adopted as a declaratory document that no employee would know about. Therefore, if the employer shall not have the intention to combat sexual harassment in the workplace, it would be difficult to accuse the employer of not complying with the law. It is because all the duties of the employer are dependent on other legal provisions that have not been adopted.

Moreover, the Article 26 of the labour code is supplement by the Article 58 that is called "*Termination of an Employment Contract on the Initiative of the Employer Due to the Fault of the Employee*", declares the employers right to fire an employee regarding misconduct (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017):

"*...1. The employer has the right to terminate an employment contract without notice and without severance pay if the employee, through culpable act or omission, commits a violation of the duties established by labour law provisions or the employment contract. ... 2. The reason for termination of an employment contract may be:.. 4) harassment on the basis of gender or sexual harassment, acts of a discriminatory nature, or the violation of honour and dignity with respect to other employees or third parties during working hours or at the workplace;..."*

It means that if the employee sexually harassed or discriminated another employee, the employer has the right to fire that employee. It can be interpreted as sexual harassment as such is not tolerable in the work environment in Lithuania.

Finally, considering the content of the labour code, it can be concluded that prevention and resolution of sexual harassment are represented as a responsibility of the employer. It means that problem of under-reported sexual harassment may be interpreted as an issue that is under the responsibility of the employer. It is because sexual harassment and its prevention or process of reporting are not defined or explained. It is left for the interpretation of the employer to determine what constitutes actions of sexual harassment (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labor Code 2017*).

Also, one can argue that the issue of sexual harassment is represented as a matter of relations between employee and the employer, which could be resolved by adopting equal treatment policy. It means that the problem of sexual harassment at work is represented as an issue of inequality between genders in the workplace. However, the required equal treatment policy does not have any requirements to prevent sexual harassment from taking place. Instead, it has no requirements at all. The problem is represented to be a concern of organisations with more than fifty employees (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labor Code 2017*).

Most importantly, the problem of under-reported sexual harassment is not represented. The difficulties in reporting sexual harassment, prove perpetrator guilty, protect the victim are not recognised by law. This claim can be supported by the fact that the employer is not required to adopt a complaint procedure. Also, it can be supported by the fact that labour code does not mention who should be contacted if a person experiences sexual harassment at work (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labor Code 2017*).

3.2. What presuppositions or assumptions underlie the representation of the under-reported sexual harassment in Lithuanian labour code Article 26?

The mentioned and scrutinised labour code has been enacted to change the previously applied labour code that has been in force since 2002. The previously active labour code Article 235 recognises sexual harassment as major misconduct and breach of "work duties" (*Republic of Lithuania Labor Code 2010*): "*... 5) violation of equal rights for women and men or sexual harassment of colleagues, subordinates or customers;...".* It means that the previously active labour code has recognised sexual harassment as a problem that can occur in the work environment. Moreover, equal rights for women and men include the dimension of colleagues, subordinates, and customers. Supplementary, this piece of legislation recognises

sexual harassment as a risk of employees sexual harassing the other in the workplace. From this, one can interpret that sexual harassment has been recognised as a problem in the workplace. However, the employee has been held responsible for such misconduct, not the employer.

Contrary, the current labour code has recognised sexual harassment as a form of discrimination and that it is the responsibility of the employer to prevent it from taking place (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017). The presumption of this recognition of the responsibility shift can be that the policymakers have perceived the problem with new dimensions rather than sexuality. One can interpret that the policymakers have become aware of that sexual harassment can be used to belittle another subordinate in a discriminatory perspective. It could be interpreted that the representation of sexual harassment allows assuming that the problem is linked to discrimination against gender, as usual targets of sexual harassment are women (Eurofound 2015: 20; EP 2018: 24-26; FOA 2018:4; ILO 2015:4; Zippel 2009:144).

Moreover, the representation of the problem gives a presumption that employers are responsible for preventing it from taking place in the work environment. It is because the employee is obligated to ensure that discrimination does not take place (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code 2017*). Therefore, one can presume that the policymakers recognised the problem in the work environment and the need to combat sexual harassment in the work environment.

Therefore, some legal improvements can be captured in the new labour code. The law has provisions to protect the person who filed a complaint (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017). Therefore, one can interpret that presumption which arises from the representation of the problem is that victim of sexual harassment is in the exposure of being persecuted. Such interpretation can be based on provisions which state that the victim of sexual harassment has to be protected from persecution (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017). From this, one can interpret that the policymakers have recognised the problem of victims' safety. As that they have captured the risk that the person who complaint due to sexual harassment can be persecuted due to the filed complaint. However, it has been uncovered that it is left for interpretation of the employer to decide how a person is going to be protected. It means that the effective implementation of this requirement is not ensured.

Additionally, sexual harassment itself is not clarified, nor explained or detailed in the labour code much more than that is a form of discrimination (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017). According to the *International Labour Organization* (ILO) recommendations in 2015, sexual harassment is categorised in three main types "verbal", "non-verbal", and "physical". The verbal harassment, according to ILO, is "[c]omments and questions about the

appearance, lifestyle, sexual orientation, offensive phone calls". Therefore, non-verbal sexual harassment is "[w]histling, sexually suggestive gestures, display of sexual materials", and physical "[p]hysical violence, touching, unnecessary close proximity". Also, ILO proposes that the problem shall be fought against by enhanced "legal frameworks and enforcement" (ILO 2015). Considering the idea that sexual harassment has not been defined, one can recognise that the policymakers did not intend to include sexual harassment identifying factors in the legislation.

Additionally, the lack of awareness as a common international problem when referring to sexual harassment is captured in Lithuania (mantoteises.lt 2018; ILO 2015). From this, one could interpret, that currently enacted Lithuanian labour code is missing the mentioned definitions, that can impede victims of sexual harassment to report their experience as they lack common self-awareness of what sexual harassment is. In summary, the presumption of the issue that sexual harassment is not defined can be perceived as a problem of the policymakers attempted to combat the problem without identifying what it is and ignoring the problem of a society lacking awareness.

Furthermore, when considering the policymakers recognition of sexual harassment prevention responsibility for the employers and the freedom for the employer to decide upon how it is going to be prevented. The European Parliament has conducted a research in 2018, where the "essential" need for the training the management staff of how to deal with sexual harassment has been recognised (European Parliament 2018:54). It is noted that the complaint structure has to be relatively simple, and the person could file a complaint without a straightforward claim that they have experienced sexual harassment (European Parliament 2018). It is also mentioned that the management shall actively involve their staff in the discourse about stereotypes as to introduce new employees with internal policies preventing such discrimination from taking place (European Parliament 2018:54). Considering these recommendations from the EP and the above-scrutinised law of the Lithuanian labour code, it is evident that none of these principles is taken into consideration of the Lithuanian policymakers. Therefore, one can interpret that the mentioned policymakers have recognised the sexual harassment problem at work. They have identified who is responsible for preventing it from taking place. However, they left it for interpretation and knowledge of the employers to decide how to do this by law.

Supplementary, the same EP study recognises that the discourse about sexual harassment prevention took place first in Scandinavian countries, where sexual harassment prevention is more developed than in some countries (European Parliament 2018:54). Therefore, the Danish Working Environment Authority recommends including a third party to the investigation process within the organisation between the person who filed a complaint and the employer to sustain the objectivity (Lister 2017). From such international practice, one can interpret that Lithuanian policymakers did not consider the dimension of objectivity. Nor the requirement for the procedure to file a complaint when solving sexual

harassment cases. One can argue that such a gap in law practice can affect the willingness of a person experienced sexual harassment or discrimination to file a complaint or to seek help from authorities.

Moreover, a presumption of such gaps in the combat of sexual harassment can be that the Lithuanian policymakers have the trust of the employers to prevent sexual harassment. However, it can also be assumed that legislators have no knowledge about measures that are needed to combat sexual harassment and that they should be required. Moreover, one may interpret that current legislation is enacted in favour of employers and not in favour of employees or victims of sexual harassment.

Moreover, the requirement to adopt equal treatment policy for organisations with more than fifty employees could be recognised as a positive measure (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017). Out from this, one can interpret that policymakers have recognised the employers' duty to enhance equal opportunities, gender equality and prevent sexual harassment, discrimination. Despite the positive, one can discover the underlying presupposition that organisations with less than fifty employees have no issues with discrimination or sexual harassment. In other words, it is assumed that only moderate and bigger size businesses can suffer problems of inequality and sexual harassment or the need to report such occurrences.

Therefore, considering the key findings of how to combat sexual harassment discovered by the EP research, sexual harassment and bullying prevention policy creation is recognised as one of the most efficient measures to tackle the problem (European Parliament 2018:43). One can interpret such Lithuanian policymakers' action as an attempt to impede the problem. However, not entirely as the sexual harassment prevention policy is not required, just the equal treatment policy for organisations with more than fifty employees.

Moreover, in the mentioned study, another measure to combat sexual harassment is an efficient and simple complaint system (European Parliament 2018:43). When considering the Article 26 of the Lithuanian labour code, such complaint procedure is not mentioned or required (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017. From this, one can discover a presumption that the policymakers did not recognise the problem that sexual harassment is under-reported.

Given the mentioned considerations, one can summarise that Lithuanian lawmakers have recognised that the employer is responsible for preventing sexual harassment from taking place since the last enacted labour code. Therefore, it can mean that one of the assumptions recognised in the labour code suggests that the problem of sexual harassment is an internal organisational problem rather than a problem of the state.

Moreover, the following assumption can be recognised, that the problem of sexual harassment is attempted to be solved by the top-down approach by implementing and adopting equal treatment policies

(*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017 Article 26 Section 6). It means that the given assumption of the problem recognises sexual harassment as an equality issue rather than the issue of the protection of victim rights, persecution of perpetrators.

Also, the labour code did not exactly define what exact action may be held as sexual harassment. It can lead to the assumption that the mentioned policymakers did not consider sexual harassment as a difficult matter to capture.

Additionally, the requirement to adopt equal opportunities policy is in the same article that recognises sexual harassment (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017 Article 26 Section 6). It can be found questionable by one as it is left for the interpretation of the employer what equal opportunities are. This is due to the fact that there are no more requirements than to adopt such a policy. From this, one can argue that employer's duty to prevent sexual harassment, discrimination, to adopt equal opportunities principles are questionable.

Nonetheless, as there is no requirement to introduce new employees with such policy, nor there is a requirement to provide training in regard to sexual harassment. Considering this, one can interpret that presumption of such gap in legislation could be the problem, that policymakers have recognised the problem of sexual harassment at work but did not intend to contest the problem with the labour code provisions decisively.

Most importantly, the absence of a minimum standard to ensure a safe process of reporting sexual harassment may produce an assumption that the problem of under-reported cases of sexual harassment at work does not exist.

3.3. How has this representation of under-reported sexual harassment come about?

Sexual harassment is massively under-reported because of the difficulties for persons to address their experience to authorities. Many judiciary systems have problems proving the perpetrator guilty of sexual harassment, to protect the victim appropriately (FRA 2015:7). Taking this into account, one can interpret that persons who have experienced sexual harassment have to have trust in their domestic legislative systems. Considering this, it would be easier if the law prohibiting sexual harassment would be as explicit as possible. Such interpretation that the legislation shall be as exact as possible is due to the thought that there should be as little as possible space left for any interpretations.

The first time, when sexual harassment was recognised in Lithuanian law, was in 1998 with the adoption of Equal Opportunities for Women and Men law, wherein Article 2, where it was defined as **(***Law of the Republic of Lithuania on Equal Opportunities 1998*): *"offensive conduct of sexual nature, verbal or physical, towards a person with whom there are work, business or other relations of subordination."* It

means that sexual harassment is recognised as verbal or physical actions in sexual nature. Moreover, that sexual harassment is prohibited only in regard of work relations **(***Law of the Republic of Lithuania on Equal Opportunities 1998*). One can argue that a general sexual harassment definition is missing. Therefore, one can recognise that law prohibited verbal or physical offensive conduct but did not specify what such behaviour included in this or other law **(***Law of the Republic of Lithuania on Equal Opportunities 1998*). Recognising such gap, one can argue this article as not efficient to contest sexual harassment. One can interpret that if a person would have experienced sexual harassment, then it would be for the authorities to decide what actions constitute sexual harassment. As one can interpret that such principle of combating sexual harassment is not sensitive in respect of a person who has experienced sexual harassment. Moreover, that legislation is vague in regard of sexual harassment definition. Therefore, one can recognise that such legislation does not encourage one to report his or her experience to authorities.

Furthermore, the mentioned law article five called "The Employer's Duty to Implement Equal Rights for Women and Men at Workplace", section five indicates to "...take appropriate means to prevent sexual harassment of the employees..." (*Law of the Republic of Lithuania on Equal Opportunities 1998*).

It means that the employer is responsible for stopping sexual harassment between the employees at the workplace. Therefore, one can interpret that the employer is not suspended from sexual harassment by law. Moreover, there is a lot of space left for the interpretation of the employer as he is supposed to take "appropriate measures". One can recognise that the execution of the law is left for the interpretation of the employer.

Thereinafter, article nine called "The Rights of a Person Who is Being Discriminated Against" constitutes the employee right (*Law of the Republic of Lithuania on Equal Opportunities 1998*):

"A person who thinks that discriminatory acts specified in this Chapter have been directed against him or that he has become the subject of sexual harassment shall have the right to appeal to the Equal Opportunities Ombudsman.".

This mean that the person who has experienced harassment has the right to complain to the Office. Considering that, one can interpret that the person did not have the right to seek for help at other institutions before this law. This part of legislation declares "who thinks" can be interpreted to mean that it is left for the interpretation of the person to decide what sexual harassment is.

Moreover, article 12 called "Competence of the Equal Opportunities Ombudsman" declares: "The Equal Opportunities Ombudsman shall investigate complaints relating to discrimination and sexual harassment." (*Law of the Republic of Lithuania on Equal Opportunities 1998*). It indicates that the *Equal Opportunities Ombudsperson* is responsible for sexual harassment and discrimination cases investigation (*Law of the Republic of Lithuania on Equal Opportunities 1998*). Moreover, it can mean that the authority

can decide whether to investigate cases or not. Considering this article of the law, one can interpret that the Office is responsible for sexual harassment complaints investigation. Furthermore, one can argue that the mentioned authority has the power to investigate cases of sexual harassment or discrimination prior to the police. Thus, one can say that with the adoption of the mentioned law, a person could seek help and justice.

Furthermore, with the mentioned legislation, the Office has been established (see more in *Law of the Republic of Lithuania on Equal Opportunities 1998*). The Women and Men Equal Opportunities Ombudsman has been appointed to execute the mentioned responsibilities. After scrutinising the Office annual report of 2000, one can recognise that the importance of legislation has been emphasised. The Office has begun to execute its duties with the establishment of law. The merits of legislative enactment have been dedicated to the active work of women rights activists and NGO (Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba 2001:3-4). In the mentioned report, it has been mentioned, that, that time, policymakers did not recognise the need for such legislation, as persons have been protected by existing law. However, women discrimination has been evident regarding work-relations. Moreover, an increase of women parliamentarians [from 8 per cent to 18 per cent] has been an essential aspect concerning this law adoption. These parliamentarians have formed a working group that's' final result was the scrutinised law (Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba 2001:3-5).

Considering those mentioned above, one can interpret that Lithuanian policymakers have been holding a vague position in regard to equal opportunities for both men and women. Further on, as the Office annual report emphasises that the adoption of legislation has not been declaratory, one can partly disagree. Its' adoption was an important and decisive step forward to enhance human rights protection in regard to work relations. However, one can recognise that there was plenty of space left for the interpretation of what sexual harassment is and how it should be prevented. Also, such space for interpretations may be seen as a heritage from Law of the Republic of Lithuania on Equal Opportunities 1998 in which deciding what includes appropriate measures to combat sexual harassment is left to the employer (*Law of the Republic of Lithuania on Equal Opportunities 1998*).

Furthermore, sexual harassment has been anchored in the Lithuanian criminal code in 2003, where it is described as (*Republic of Lithuania Law of the Approval and Entry to Force of the Criminal Code 2000*):

"A person who, in seeking sexual contact or satisfaction, harasses a person subordinate to him in office or otherwise by vulgar or comparable actions or by making offers or hints shall be considered to have committed a misdemeanour and shall be punished by a fine or by restriction of liberty or by arrest.".

It means that sexual harassment at work environment is prohibited by criminal law. Therefore, sexual harassment is recognised as sexual contact, vulgar actions, making hints, harassment (*Republic of*

Lithuania Law of the Approval and Entry to Force of the Criminal Code 2000). A person who has breached this law can be convicted to pay a fine or to take time in prison (*Republic of Lithuania Law of the Approval and Entry to Force of the Criminal Code 2000*). However, nor in this legislation nor the previous legislation, sexual harassment actions are not explicitly defined. Considering this, one can interpret that Lithuanian policymakers have recognised sexual harassment as a crime but did not intend to capture its' definition in the law. Considering this, one can interpret that if it is difficult to capture or define sexual harassment, then it can be challenging to prove that it took place in case of a complaint.

Moreover, when scrutinising the development of the criminal code draft, it has been uncovered that Lithuanian academics have prepared it. Also, it was amended by the European Court of Human Rights experts, Constitutional Court of Republic of Lithuania, Lithuanian Government and Parliament (Švedas 2017:15; *Lietuvos Respublikos Baudžiamojo Kodekso Patvirtinimo ir Įsigaliojimo Įstatymas 2000*).

Moreover, the article prohibiting sexual harassment in the draft is the same as in the adopted legislation. It has not been reconsidered by the authorities or by the *European Court of Human Rights* experts since the preliminary project of the criminal code has been given for the mentioned authorities and the parliament to amend (Baudžiamojo Kodekso Projektas 2000; Lietuvos *Respublikos Baudžiamojo Kodekso Patvirtinimo ir Įsigaliojimo Įstatymas 2000*). Considering this, it can be interpreted that none of the mentioned authorities nor the scholars has recognised the problem of not defined sexual harassment. Moreover, one can recognise that the labour code has not been amended in terms of sexual harassment since it entered to force (*Lietuvos Respublikos Baudžiamojo Kodekso Patvirtinimo ir Įsigaliojimo Įstatymas 2000*). It can be interpreted as the legislation does not need to be changed or developed. Moreover, one can argue that the law has not decisively contested the problem of sexual harassment in the workplace. Nor the concern of sexual harassment being under-reported issue has been recognised.

Another piece of legislation that has recognised sexual harassment problem, was the *Equal Opportunities Act* adopted in 2003, came to force in 2005. This legislation has recognised sexual harassment in its' fifth article called "The duty of the employer to implement equal opportunities at work, and civil service" and recognised the responsibility of the employee to (*Lietuvos Respublikos Lygių Galimybių Įstatymas 2003*): "take measures to prevent sexual harassment of an employee or civil servant". It means that the employer is responsible for preventing sexual harassment from taking place at work. However, one can recognise that this piece of legislation does not define sexual harassment. Nor mentions sexual harassment much more than quoted in this paper. From this, one can interpret, that sexual harassment itself is prohibited, but how it shall prevent and what defines sexual harassment is left for the interpretation of the employer.

Therefore, sexual harassment has been not mentioned or prohibited in any other legislation until the amended *Republic of Lithuania Law on Equal Opportunities for Women and Men* in 2016, that enter to

force in 2017, wherein section six of article two it is defined as (*Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas 2016*):

"…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."

It means that sexual harassment has been given a new dimension. The law recognises that sexual harassment actions can be interpreted as unwanted verbal, written or physical actions of a sexual nature (*Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas 2016*). Moreover, it can violate the dignity of a person, create a hostile environment (*Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas 2016*). Recognition of these dimensions can be seen as a change as sexual harassment is perceived not only as a problem of sexual nature. However, one can recognise that sexual harassment actions or the behaviour that would define such behaviour is still not specified. As the "unwanted" behaviour is still left for the interpretation of the authorities, to decide what sexual harassment is.

Furthermore, article five titled "*Employer's or his representative's duty to implement equal rights for women and men in the workplace*" section four declares the responsibility of the employer to *"* (*Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas 2016*): *"take measures to prevent the worker from being harassed and sexually harassed."*.

It can be explicated that the employer is responsible for taking and implementing measures to prevent sexual harassment. However, one can recognise that these measures are not explained by the law. From this, one can argue that there is space left for the interpretation of the employer of how he shall do so. Nonetheless, section five of the same article anchors the responsibility of the employer to (*Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas 2016*):

"*take measures to protect the employee, a representative of an employee or an employee who testifies or provides explanations from hostile treatment, adverse consequences and any other type of persecution as a reaction to the complaint or another legal procedure concerning discrimination*"

It means that the person who has chosen to complain about experienced sexual harassment or a person that has decided to testify is protected from persecution by law. Moreover, it means that if the person who complained or testified may experience "adverse consequences" or other persecution, the employer would breach *Republic of Lithuania Law on Equal Opportunities for Women and Men.* It can be interpreted as an important factor considering that protecting the human rights of the employee or the witness.

However, one can recognise that as in the labour code, this protection is not defined and the mentioned "hostile treatment, adverse consequences, any other type other persecution" is not clearly defined (*Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas 2016*). Considering this, one can argue that there is space left for the interpretations of the authorities of what constitutes these factors.

Furthermore, article eleven of the law titled the "*Actions of the employer or his representative that violate equal rights for women and men*" section five declare that." (*Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas 2016*):

"*persecutes an employee, a representative of an employee or an employee who testifies or provides explanations in relation to the complaint or another legal procedure concerning discrimination*."

This statement in law can be explained as a legal commitment to combat sexual harassment, as the employer is supposed to protect a person who is engaged in the investigation of the sexual harassment case. Therefore, if such a person is not protected from the persecution, the employer breaches the law. This can be recognised to be rather similar to the other attempt to protect the person who has filed a complaint due to sexual harassment or discrimination or is a witness of such a case from persecution. However, one can recognise that the legislation does not provide any requirements or criteria of how the person should be protected from the persecution. Taking this into consideration, one can argue that this protection is as declaratory as the previously uncovered attempts to protect individuals from persecution in regard to sexual harassment cases.

Additionally, section six of the same article constitutes the employer breaches *the Republic of Lithuania Law on Equal Opportunities for Women and Men* if (*Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas 2016)*: "*does not take measures to prevent the employee from being harassed and sexually harassed*".

This can be explained, that if sexual harassment takes place in the workplace, the employer breaches the R*epublic of Lithuania Law on Equal Opportunities for Women and Men.* Also, it can be interpreted by one as a given responsibility for the employer to take appropriate measures to prevent sexual harassment. Again, this can be viewed as a commitment to impede the problem of sexual harassment at work. However, one can recognise that such opaque behaviour has to be recognised and identified by the victim of such an act. Then it shall be reported to the authorities for the employers' behaviour to be identified and captured. Otherwise, there is no proof or grant that sexual harassment happened. According to the mentioned problem of the legislation, and the primary mentioned principles that have to be in place to identify sexual harassment, this section of the article can be seen as rather declaratory as it is difficult to prove that sexual harassment took place. Taking this into consideration that it is difficult to prove that sexual

harassment took place, it is rather difficult to find the employer guilty of breaching the *Republic of Lithuania Law on Equal Opportunities for Women and Men* due to sexual harassment.

Finally, the article eighteen of the mentioned legislation defines what sort of reparation does the victim of the misconduct receive (*Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas 2016*):

"A person who has suffered discrimination, sexual harassment or harassment on grounds of sex shall have the right to claim compensation for the material and non-material damage from the persons guilty thereof in accordance with the procedure laid down by law."

It means that the person could seek material and non-material compensation from the perpetrator. The most significant change here since the legislation enacted in 1998 interpretably is the emphasised rule of law. It is the claim that the person has the right for the compensation when the person is found guilty by the law. Considering that sexual harassment is prohibited in current labour code (See the answer to the first question), one can interpret that there have been amendments in the legislation that has strengthened the combat against sexual harassment. One can recognise that Lithuanian policymakers have captured the problem of sexual harassment at work. However, one can argue that there is plenty of space left for the interpretation of the employer and the authorities in regard of what constitutes sexual harassment actions. There have been no amendments to existing law that would exactly define sexual harassment actions to eliminate such space left for interpretations.

Taking into account the current representation of the problem of sexual harassment at work in Article 26 of the Lithuanian Labour Code, it can be argued that the former Labour Code and Law on Equal Opportunities for Women and Men directly influenced it. Such a statement is grounded on the fact that the current representation of the problem does not differ from scrutinised laws (*Republic of Lithuania Law of the Approval and Entry to Force of the Criminal Code 2000; Lietuvos Respublikos Lygių Galimybių Įstatymas 2003; Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas 2016; Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code 2017*). It is because it is left to authorities to which person is reporting the crime to decide if that was sexual harassment. Most importantly, it can be recognised that the representation of the issue of under-reported sexual harassment could be caused by a failure to recognise this problem in the past.

3.4. What is left unproblematic in this problem representation? Where are the silences? Can the under-reported sexual harassment in Lithuania be thought about differently?

In respect of the first part of the question, one can argue that the problem of under-reported sexual harassment is not recognised, and not problematised in Lithuanian policy prohibiting sexual harassment. Such a claim is made since no action has been taken to ensure that all cases sexual harassment are reported. Also, the employer is not required to adopt a complaint procedure at the workplace (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code 2017)*. Moreover, the Office has recognised that sexual harassment is difficult to prove in Lithuania (Lygių galimybių kontrolieriaus tarnyba 2017b:20).

Therefore, one can recognise that even though it has been identified that the problem is difficult to prove, it has not been contested by law. Furthermore, neither of the enacted legislation prohibiting sexual harassment at work precisely defines what actions could be held as sexual harassment (*Republic of Lithuania Law of the Approval and Entry to Force of the Criminal Code 2000; Lietuvos Respublikos Lygių Galimybių Įstatymas 2003; Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas 2016; Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code 2017*).

Further, with the attempt to answer the second part of the question about the silences, the silences of problematisation of reporting sexual harassment in Lithuania are scrutinised. Therefore, the EU law influence to Lithuanian legal combat against sexual harassment is going to be overviewed.

The EU has its fundamental values, where one of them is to protect the dignity of the person (European Commission n.d.). Considering this, the EU has employed its' legislative powers to combat sexual harassment in the workplace with the enactment of the Directive 2006/54/EC that contains the duty for the EU countries to adopt legislation prohibiting sexual harassment at work. Therefore, sexual harassment is recognised as a form of discrimination and a violation of persons' dignity. Moreover, both mentioned Directives defines sexual harassment as (European Parliament and the Council 2002; European Parliament and the Council 2006):

"...where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment;".

This quote means that sexual harassment is recognised as "unwanted verbal, non-verbal or physical conduct of sexual nature" and it is prohibited in the EU law. Moreover, it means that all the EU member states have to adopt such legislation.

As the Lithuanian law defines sexual harassment as (*Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas 2016*):

"*...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.*"

Therefore, one can recognise the uniformity between the Lithuanian definition enacted in 2015 in the *Republic of Lithuania Law on Equal Opportunities for Women and Men* and the mentioned EU Directives to combat sexual harassment. As one can identify that the only text difference in the law is the "non-verbal", and "written" actions defining sexual harassment (European Parliament and the Council 2002; European Parliament and the Council 2006, *Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas 2016; Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code 2017)*.

Moreover, one can interpret that the "non-verbal" action in the EU law has a broader perspective, where it can include winks, gestures, and other actions. On the other hand, "written" can indicate letters, phone messages, e-mails. (European Parliament and the Council 2002; European Parliament and the Council 2006). From this, one can argue that the definition of sexual harassment is rather narrowed in Lithuanian law. Such differences between Lithuania and EU law implies that the definition of sexual harassment is silenced in the Lithuanian labour code. From this, one can argue that the problem of underreported sexual harassment may be caused by how sexual harassment is interpreted, which means, that one of the reasons for under-reported sexual harassment can be a lack of proper harassment recognition.

Furthermore, it can be argued that neither of the legislation recognises that the representation of reporting sexual harassment shall be contested. Nor is it challenged by the mentioned legislation. Consequently, one can interpret that the EU policymakers and Lithuanian policymakers have left the problem of under-reported sexual harassment unrecognised.

Furthermore, from the Europeanisation theory perspective, one can recognise the top-down approach. In such a perspective, the EU uploads certain norms to its' member states (Börzel & Panke 2016:111-112). It can be interpreted as a form of top-down Europeanisation as the definitions of sexual harassment in the EU Directives, and the Lithuanian law are almost alike and do not contradicts each other. Supplementary to this recognised idea, the Equal Institute for Gender Equality states that Lithuania has completely transposed sexual harassment definitions stated in the EU Directives to its' national law (European Institute for Gender Equality n.d.). This statement by the mentioned organisation justifies the process of the top-down Europeanisation process. In such a process, the EU has uploaded certain norms to the Lithuanian legal structure to combat sexual harassment in this case.

Furthermore, another Directive 2004/113/EC recognises that sexual harassment has a negative direct effect on persons' ability to integrate economically and socially (Council of the European Union 2004. It has the same as before mentioned definition, but also includes the dimension of one's dignity and sexual harassment is recognised as a form of equal treatment violation (Council of the European Union 2004). One can argue that both mentioned EU Directives recognises sexual harassment as a threat to one's dignity, a risk to overall damage to persons ability to integrate to society. Such recognition of sexual harassment by the EU law can be interpreted as an EU declaration to combat the problem in all its' member states.

However, when considering the principles of the EU law, the directives are "binding", their implementation and adoption are left for the member states to decide on how they should do so (Chalmers et al. 2010:98). It means that all the member states are supposed to implement such directives provisions in their national law. It also means that the methods and the ways of how the member states shall implement these provisions are left for the member states policymakers to decide.

From those above, one can argue that it is up for the member states policymakers to decide on how they should combat problems recognised by the EU directives domestically by identifying occurring internal challenges. Therefore, taking into account a problem of reporting sexual harassment in Lithuania, one can argue that Lithuanian policymakers have adopted sexual harassment definitions declared in the EU Directives combating sexual harassment. Considering this, one can interpret that the Lithuanian policymaker's decision to copy sexual harassment definitions from the EU law to its' national law as a process of top-down Europeanisation, since the legal definitions match.

However, one can foresee that EU directives are supposed to set certain norms for the union and recognise problems that are common in all its member states. Therefore, Directives are established by the Council of the European Union, the European Commission, and the European Parliament (Chalmers et al. 2010:94). It means that governments of the member states, their representatives, leaders and the EU authorities together established this law for it to be able to be adopted in all the union and this is one of the reasons why silences are produced.

Taking into consideration that all countries are supposed to transpose Directives, one can recognise that the Directives' content can not be applied as-is to combat the issue or solve it entirely and possibly is determined to be silenced in some ways. It is due to the problematised legislation production that has to take place in all the member states. Considering such a complex production process of international law, it can be interpreted by one that supplementary measures are supposed to be taken by the country's policymakers according to the domestic situation.

Moreover, countries' application of law can differ due to many different reasons. One of such could be the historical differences. Therefore, Lithuania compared to the senior EU member states is a relatively

new country that has restored its independence only thirty years ago (Office of the Chief Archivist of Lithuania n.d.). Taking into that account, one can interpret that the public administration of such a country can have difficulties with when combating and recognising specific problems such as under-reported sexual harassment. Therefore, public administration and law enforcement can be affected by the different models of collaboration between the public servants and politicians (see more in Peters 2019; Page 2012). Complementing this idea, scholar Peters, B. Guy has attempted to explain the real world of bureaucracy and political processes by introducing five different models of bureaucracy. Within these models, scholar aimed to show how policy is affected by the interaction between politicians and bureaucrats (Peters 1987:156-167). From this, one can interpret that Lithuanian bureaucracy model can be different from the other member states of the EU.

However, considering that Lithuania directly applied EU law without recognising unique domestic problems related to sexual harassment, one can argue that under-reported sexual harassment in Lithuania should be thought about differently. It should be done because of possible different history and bureaucracy models between member states that may impact the existence of problems which may not be acknowledged in EU law. In other words, under-reported sexual harassment could be recognised and contested not only by prohibiting sexual harassment itself but identifying the difficulties for persons to report sexual harassment.

Additionally, during the analysis, a few questions have been sent to the police of Lithuania. These have been quite general questions about the responsibility of the law regarding sexual harassment prevention (See more in Appendix B). The received answers have been unexpected. It because police representatives celebrated that according to the low numbers of received sexual harassment complaints, sexual harassment is not a common phenomenon in Lithuania (Appendix B). Moreover, the organisation has not given any emphasis or training to combat sexual harassment due to the reason that sexual harassment is not a common phenomenon (Appendix B).

Furthermore, after scrutinising accessible police activity reports within the period of 2011-2019, it has been uncovered verified, that sexual harassment has not even been mentioned (Lietuvos Policija 2012; Lietuvos Policija 2013; Lietuvos Policija 2014; Lietuvos Policija 2015; Lietuvos Policija 2016; Lietuvos Policija 2017; Lietuvos Policija 2018; Lietuvos Policija 2019; Lietuvos Policija 2020).

One can interpret that one of the silences is that the primary Lithuanian law executing authority has had no strategic measures to combat sexual harassment. Also, it has not recognised the difficulties for the victims to report their experience to them, which may cause a problem of under-reported sexual harassment.

Therefore, the organisation does not have any document preventing sexual harassment (Appendix B). From this, one can interpret that the police do not recognise sexual harassment as an important problem. Moreover, the representation of the problem of reporting sexual harassment has not been recognised by the

police. As one can recognise, the organisation representatives do are not aware of the equal opportunities policy or the mentioned policy does not include sexual harassment prevention in the organisation of Lithuanian police. Taking this into account, one can interpret that one of the authorities combating sexual harassment does not have a sexual harassment complaint procedure. Furthermore, such interpretation can be understood as a silence where the Lithuanian police do not recognise that the problem of under-reported sexual harassment is not questioned by law.

Other silences have been uncovered during an interview with a human rights activist actively engaged in policy formation prohibiting sexual harassment in Lithuania, Birutė Sabatauskaitė (See more in Appendix A). She has helped to uncover that certain actors challenge the principle of gender equality. These actors being some of the parliament members who have sought to minimise the legal provisions on sexual harassment, especially in respect of religion communities (Appendix A Q1). Therefore, in the mentioned labour code article 26 excretes (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017):

"except for cases concerning a person's professed religion, faith or convictions for those working in religious communities, societies or centres, provided that the requirement for the employee regarding his or her professed religion, faith or convictions, in view of the ethos of the religious community, society or centre, is normal, lawful and justifiable."

It means that the forms of discrimination or sexual harassment anchored in the labour code does not incorporate religion communities to follow this piece of legislation. In other words, the existence of sexual harassment in work within religious communities, or the need to report it is left that may be silenced. This assumption can be grounded on the fact that exception to the labour code has not been questioned further (Appendix A Q1).

Furthermore, taking into consideration the mentioned different bureaucratic models, the interviewee has celebrated that church organisations have begun to participate in parliament meetings and public debates officially. Before, these organisations would have unofficial meetings with parliamentarians to make them reconsider their decisions (Appendix A Q1). Considering the bureaucracy models perspective, where the interaction of politicians and the bureaucrats influences policy formation, one can interpret that policy formation in Lithuania is affected not only by the politicians and bureaucrats, but also the representatives of the catholic church. Such discovery can also be held as silence within a representation of the problem.

Correspondingly, another issue that is left unproblematic that was uncovered is that the Office has prepared a legislation draft of Equal Opportunity Law, that prohibits sexual harassment in the fields of consumer and service dimension (Appendix A Q1). It means that currently a person that is working in a

restaurant and is sexually harassed by his client is not protected by law. Moreover, one can recognise that sexual harassment is only prohibited regarding work relations (Appendix A Q1). Thereinafter, the interviewee acknowledged, that more ambitious than the current legislation is not attempted to be adopted. Instead, the legal gaps are attempted to be fixed (Appendix A Q1). It can be interpreted by one that any other legislation prohibiting sexual harassment is not adopted and not planned to be adopted than the mentioned *Equal Opportunities law* draft.

Therefore, in regard to questioning if any other authorities are combating, investigating sexual harassment. An example could be Denmark, where labour unions have an active role in advocating employees regarding sexual harassment (FOA 2018). Moreover, during the interview, the human rights activist has also recognised that in the southern countries labour unions combat sexual harassment by providing training for the employees, employers. However, according to an interview conducted by the expert in 2012 with labour unions representatives in Lithuania, it was acknowledged that labour unions are far away from being leaders regarding this problem.

Moreover, it was recognised that their expertise in regard to equal opportunities has been insufficient in general (Appendix A Q4). Referring to this, one can interpret that labour unions in Lithuania are not active in the combat against sexual harassment, nor they do recognise the problems to report sexual harassment to authorities. Also, one can argue that labour unions should be included in recognition of the issues related to reporting sexual harassment since the current labour code does not designate any authority that could represent the employee which is experiencing sexual harassment.

However, only ten per cent of Lithuanian employees belong to labour unions, as this number tends to fall (Lietuvos Profesinių Sąjungų Konfederacija 2018). Considering this, one can interpret that labour unions are not popular in Lithuania. It means that employees' rights are anchored by law and executed by the police and the Office.

One can summarise, that Lithuanian policy preventing sexual harassment has been vividly influenced by the top-down Europeanisation process. However, taking into account the problem to report sexual harassment nor that it is under-reported is not recognised by Lithuanian law nor in the EU. Taking this into consideration, one can argue that the problem of sexual harassment being under-reported is left unproblematic by the Lithuanian policymakers. Moreover, it can be argued that if the problem that sexual harassment is under-reported is not recognised, it is not contested by law.

Additionally, a difference that was recognised between the Lithuanian and the EU law suggests that the definition of sexual harassment is silenced in the Lithuanian labour code (European Parliament and the Council 2002; European Parliament and the Council 2006; *Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017 Article 26). From this, one can argue that the problem of underreported sexual harassment may be caused by how sexual harassment is defined, which

means, that one of the reasons for underreported sexual harassment can be a lack of proper harassment recognition. Likewise, individual application of EU law could help to better identify and represent the problem of under-reported sexual harassment in Lithuania. Also, it was discovered that problems regarding sexual harassment in the service sector where a customer may commit an offence are left unproblematic. It means that regarding reporting sexual harassment within service work, a victim may not even have the opportunity to report it as the Labour Code does not regulate it (Appendix A Q1; *Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017).

Moreover, public awareness about sexual harassment cause the problem being under-reported (Latcheva & Goodey 2017:1825). If the person has little awareness about his legal rights, his or her ability to identify sexual harassment is in question. Also, if a person decides not to report his or her experienced sexual harassment, social awareness about sexual harassment decreases (Latcheva & Goodey 2017:1825).

Reflecting on the ideas above, one can interpret that problems that are recognised and tackled in legislation have a direct impact on whether the problem of under-reported or not. This is due to the fact that the scrutinised labour code does not contain any information of where should be sexual harassment reported, or that sexual harassment should be reported to the employer that is responsible for its' prevention (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017 Article 26). It can, therefore, be argued that it makes the labour code rather vague in regard to the perspective of reporting sexual harassment.

Finally, considering how could the problem of under-reported sexual harassment be thought about differently. One can recognise that the problem of under-reported sexual harassment could be recognised by the policymakers and contested by establishing specific and defined requirements for the employers of how to prevent sexual harassment. The number of received complaints may increase, and the society may become more aware of the problem of sexual harassment at work.

3.5. What effects are produced by this representation of under-reported sexual harassment?

In order to answer the fifth WPR question, this section will aim to answer the three parts that constitute this question: discursive effects; subjectification and lived effects (Bacchi 2009:15-18).

First, the discursive effects of the current policy are sought to be uncovered. These effects are the outcomes where someone benefits from a specific produced policy and where others are suffering consequences of such (Bacchi 2009:15-16). From before answered questions, one can argue that the main uncovered issue of representation of the problem of under-reported sexual harassment in Lithuanian policy towards sexual harassment is that the law does not recognise it *(Republic of Lithuania Law of the Approval and Entry to Force of the Criminal Code 2000; Lietuvos Respublikos Lygių Galimybių Įstatymas 2003;*

Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas 2016; Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code 2017). It can be interpreted as a problem of protecting the human rights of the employee.

This claim can be supplemented by the fact that the labour code does not require the employer to adopt a complaint procedure (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code 2017*). Also, referring to the legislation scrutinised in other questions, one can recognise that a person could seek help at the Office or the police (*Republic of Lithuania Law of the Approval and Entry to Force of the Criminal Code 2000 Article 152*; *Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas 2016 Article 18*). However, this is not declared in the mentioned labour code (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code 2017*). Taking this into account, one can argue that the labour code is then vague in regard of reporting sexual harassment. Such an argument can be justified, as the employer is not supposed to adopt complaint procedures, and the responsible authorities supposed to investigate sexual harassment cases are not mentioned in the legislation.

Another discovered effect produced by such representation of the problem was the requirement for more than fifty employees having organisations to adopt equal opportunities policy (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code 2017*). Likewise, the interviewed expert has shared her experience concerning this matter. She has shared that a senior human resources expert of a big organisation that is engaged in good practice sharing conferences has shared her insights (Appendix A Q2): "just mention that our organisation is working according to the principle of equal opportunities and non-discrimination, put it to your drawer and forget about it". It means that the current representation of the problem and the way to solve it by obligating the employers to have a gender equality policy may be ineffective. In other words, it is a result produced by the sexual harassment prevention policy. A current labour code not only does not recognise the problem of under-reported harassment, but it also does not solve the problem of harassment itself.

Moreover, the expert has shared that this policy implementation, adoption, and effectiveness depend on the organisation's willingness to implement the principles of equal opportunities (Appendix A Q2). It means that the support for the victim of sexual harassment depends on the goodwill of the employer. Also, such information strengthens discovery that employer is trusted to decide on how to handle sexual harassment and its prevention, and the state does not ensure assistance for a victim of sexual harassment.

The result of this can be that the employer may not inform a person who has experienced sexual harassment of his legal rights. Thereinafter, the person would not know where she or he shall seek for help. Considering this, one can argue that in this situation, the employer is benefiting as he is not found responsible regarding reporting sexual harassment.

Furthermore, the fact that sexual harassment exact actions are not defined in either of a law prohibiting sexual harassment may be the cause of the problem of under-reported sexual harassment (*Republic of Lithuania Law of the Approval and Entry to Force of the Criminal Code 2000; Lietuvos Respublikos Lygių Galimybių Įstatymas 2003; Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas 2016; Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code 2017).* The difficulties in proving sexual harassment can also be held as an effect of current problem representation that contributes to the issue of under-reported sexual harassment (Lygių galimybių kontrolieriaus tarnyba 2017b:20).

Therefore, one can argue that anchoring clear definitions of actions that constitute sexual harassment would ease the burden of identifying sexual harassment. Thus, in such a situation, it is the authorities and the employers benefiting. Such a claim is made because they are the ones that decide what constitutes sexual harassment as it is not clearly defined in the legislation. It means that the employee is affected by the consequences of such a situation, as his claims can be believed, or rejected by one's interpretation.

In summary, one can recognise that the produced policy by the Lithuanian policymakers has discursive effects because it is insufficiently clear who is responsible for the investigation of sexual harassment cases. The current representation of the problem is in favour of the employers and the authorities, such as police or the Office, as they are the one who can decide what sexual harassment is, and how it should be controlled.

Secondly, to answer the second part of the fifth question, the subjectification effects are sought to be uncovered. Subjectification effects occur when specific policies make an influence on one's decisions (Bacchi 2009:16-17). In this case, subjectification effects may be seen in the way of how decisions to report sexual harassment are impacted by the representation of the problem of under-reported sexual harassment.

Moreover, a conducted interview has uncovered certain effects that were produced by this problem representation (See more in Appendix A). There have been cases where evident sexual harassment in work has not been found essential to be investigated by one of the police prosecutors (Appendix A Q2). Another problem is that during the investigation, the victim is more questioned than the perpetrator (Appendix A Q2). It means that there is a lack of sensitivity from authorities regarding the victims. The mentioned facts can be interpreted by one as extremely unfavourable considering a person who decided to report his experience to the police.

Moreover, the interviewed expert has recognised the problem of victim-blaming of the person who has experienced sexual harassment which takes place during the process when the person is seeking legal justice (Appendix A Q2). Considering such effects that are produced by the representation of the problem

of underreported sexual harassment, has a negative influence on individuals' decision to report his or her experience to authorities.

It can be argued that the existing representation of the problem of under-reported sexual harassment affects how victims are seen in society or identify themselves. According to the WPR theory, policies determine "social relationships" and the position of individuals in them (Bacchi 2009:16-17). It means that the lack of sexual harassment identification may cause that victims of sexual harassment will not identify themselves. Also, the non-existing requirement to ensure a safe and efficient reporting process may affect the unfavourable attitude of the public and the responsible authorities towards assisting victims of sexual harassment.

Third, the following section attempts to uncover the lived effects that have been produced by the scrutinised problem representation. These can be understood as the real-life consequences that have been produced by the policy (Bacchi 2009:18). In this paper, this question is perceived in regard, where the scrutinised policy has formed certain consequences for persons who have reported sexual harassment.

Therefore, the first consequence that can be recognised is the risk of victim-blaming that is mentioned above (Appendix A Q2). Such secondary victimisation takes place within the process when legal justice is sought. It is recognised in the way of how and in what form the authority's specialists address questions (Appendix A Q2). Also, one can interpret that such secondary victimisation uncovers the perception of how authorities' specialists perceive the person who has experienced sexual harassment. Moreover, the interviewed expert shared her opinion that reporting sexual harassment has moral consequences as the authorities tend to blame the victim of sexual harassment (Appendix A Q2). From this one can interpret that in the actual problem of sexual harassment the current legislation prohibiting sexual harassment at work is not in the favour of the employee.

Furthermore, it was discovered that a person who has decided to report sexual harassment to authorities is at risk of losing his or her job (Eurofound 2015:19-20; manoteises.lt 2018). It can be interpreted as a direct financial consequence formed by the policy, where the victim is not properly protected from persecution.

Moreover, a high risk of being blamed by society was discovered (manoteises.lt 2018; Appendix A Q2). One can interpret such risks to be produced by the policy because the representation of problems under-reported sexual harassment which not recognised nor contested by law.

Additionally, it was discovered that the person who has decided to seek legal justice for himself or herself, and others have to be really morally committed to doing so (see more in Appendix A Q2). This knowledge that was provided by ant interviewed expert can be interpreted as a challenging factor to report his or her experience. Moreover, one can recognise that seeking such justice would have moral consequences due to the effects produced by the scrutinised policy that is prohibiting sexual harassment.

Considering these uncovered effects, one can summarise that it might not be worth reporting sexual harassment at work in Lithuania. Such a claim is made due to the recognised victim-blaming, the risk of one losing a job, unclear legal provisions, and the approach of the authorities involved in the justice system. One can interpret that these effects can be directly linked to the problem of sexual harassment being under-reported in Lithuania.

Therefore, the first research about the sexual harassment has been conducted by human right activists NGOs uncovered, that Lithuanian citizens tend to blame sexual harassment victims of being guilty themselves. Even though eighty per cent of respondents have answered that the perpetrators shall be punished, and authorities shall take actions in case of sexual harassment, same eighty per cent of questioned people still think that the victim should draw the behaviour boundaries with the perpetrator (manoteises.lt 2018). Above sixty per cent of research, participants think that the victims of sexual harassment have behaved, dressed, or acted in a way that provoked sexual harassment. Forty per cent of the people would confuse sexual harassment with flirt (manoteises.lt 2018). From the mentioned research, one can argue that the awareness of sexual harassment in Lithuania is low. Perpetrators are not held guilty as the victims are blamed for provoking such behaviour. From this one can interpret, that the current legislation, where sexual harassment is not defined more than the EU definitions, social norms defending perpetrators and moving the blame to the victims are the main impeding factors for persons to report their experienced sexual harassment.

Most importantly, it has been uncovered that authorities and specialists of police lack of sensitivity towards the victims of sexual harassment. For example, there has been a case where the prosecutor would not find it essential to begin the pre-trial process, despite evident sexual harassment. After the media stepped in, another higher prosecutor would start the investigation (Appendix A, Q2). Moreover, there are law practice problems as, there has been a case, where a father of a minor daughter has been accused of sexual harassment (Appendix A, Q2). During the court, the victims' characteristics have been discussed. It was questioned if the girl has clearly shown that she does not consent her fatter actions (Appendix A, Q2). It can be interpreted by one as a problem of authorities' perception of the problem of sexual harassment. As it can be recognised as another link to the cause of why sexual harassment is under-reported. Moreover, one can recognise the lack of ability to identify, inappropriate acts in respect of the victim. Supplementing to the before the uncovered perception of the police to combat sexual harassment, one can argue that specialists of this authority need training about how to deal with sexual harassment cases.

Neither of these problematisations are found in the legislation that would enhance the combat against sexual harassment at work. In summary, nor the society, nor the law enforcing authorities, nor the policymakers have shown any significant emphasis to combat sexual harassment problematisations such as the problem being under-reported. Considering this, one can interpret that the situation has a low probability

to change if the problem is not going to be captured. The currently produced situation is that none of the authorities, policymakers, society would recognise what the problematisations of sexual harassment are and would not tend to solve it.

3.6. How / where is this representation of the problem of the under-reported sexual harassment produced, disseminated and defended? How could it be questioned, disrupted and replaced?"

To begin with, a "new and more liberal" labour code, has entered into force in the year 2017. By the conducted analysis, only ten per cent of respondents have welcomed, and forty-five per cent has reacted negatively to the newly adopted labour code (Baltic News Agency 2017). One can interpret that the cause of such a reaction was that the labour code has been considered not to be in favour of the employees.

After the analysis, it was discovered that the problem representation of under-reported sexual harassment is not recognised or disseminated in Lithuanian media. It is recognised that authorities shall take action to impede and prevent it from taking place (15min.lt n.d.; manoteises.lt 2018; Milkanskytė 2018; Švaraitė 2017; Pakšytė 2019; Lrt.lt 2017). One can argue that its important aspect as public discourse about the problem may increase public awareness about the under-reported sexual harassment. However, it was uncovered that the problem is recognised rather as sexual harassment itself, and the problem representation in labour code is not questioned or reviewed (Pakšytė 2019).

Furthermore, after looking at official publications of authorities that are investigating cases of sexual harassment [the Office and the police] it was noticed that none of the authorities preventing sexual harassment did suggested or took supplementary measures to combat under-reported sexual harrasment (Lietuvos Policija 2012; Lietuvos Policija 2013; Lietuvos Policija 2014; Lietuvos Policija 2015; Lietuvos Policija 2016; Lietuvos Policija 2017; Lietuvos Policija 2018; Lietuvos Policija 2019; Lietuvos Policija 2020; Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba 2001; Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba 2002; Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba 2003; Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba 2004; Lygių galimybių kontrolieriaus tarnyba 2005; Lygių galimybių kontrolieriaus tarnyba 2006; Lygių galimybių kontrolieriaus tarnyba 2007; Lygių galimybių kontrolieriaus tarnyba 2008; Lygių galimybių kontrolieriaus tarnyba 2009; Lygių galimybių kontrolieriaus tarnyba 2010; Lygių galimybių kontrolieriaus tarnyba 2011; Lygių galimybių kontrolieriaus tarnyba 2012; Lygių galimybių kontrolieriaus tarnyba 2013; Lygių galimybių kontrolieriaus tarnyba 2014; Lygių galimybių kontrolieriaus tarnyba 2015; Lygių galimybių kontrolieriaus tarnyba 2016; Lygių galimybių kontrolieriaus tarnyba 2017b; Lygių galimybių kontrolieriaus tarnyba 2018; Lygių galimybių kontrolieriaus tarnyba 2019; Lygių galimybių kontrolieriaus tarnyba 2020). From this, one can interpret that these

authorities jointly accepted current problem representation, where under-reported sexual harassment or the need to solve it is not recognised.

Moreover, it was discovered that the NGO and the media receive problem of under-reported sexual harassment as more of a social problem, where the society is found lacking awareness and tends to blame the victim of sexual harassment (manoteises.lt 2018; Pakšytė 2019). It can be interpreted by one as a form of a double standard, where the problem of blaming repeats. It can also mean that the mentioned NGO tend to blame society for blaming the victim. In other words, there was no evidence that NGO do not agree with current problem representation and are likely to blame the society for under-reported sexual harassment and effects caused by the representation of the problem.

Supplementing to the idea above, problem representation is defended by human rights activist NGOs and the EU authorities. That is done by the claim that the legislation to combat sexual harassment in Lithuania is in place, because it fully transposes the definitions of the EU Directives combating sexual harassment (European Institute for Gender Equality n.d.; Pakšytė 2019). Taking this into consideration, one can interpret that neither the Office of the Equal Opportunities Ombudsperson, nor the police specialists have recognised issues with current problem representation. Moreover, one can recognise that legislation or its enforcement is not questioned. One can argue that neither of the authorities recognises the need to suit a legal framework to contest domestic problematisations. It may be interpreted that Lithuanian human right activists and the authorities have high trust in the EU law and its efficiency but do not intend to contest problematisations to challenge the problem itself.

Furthermore, current problem representation could be disrupted and replaced by recognising the problems of sexual harassment being under-reported, a society lacking awareness, and legislation being insufficient to contest sexual harassment at work. Therefore, with the recognition that sexual harassment is underreported, the actual volume of the problem could be uncovered. Also, considering that society is lacking awareness, legislation could be revised in a sense, where sexual harassment would be defined precisely, so there would be less space for interpretations. In order to contest the problem of under-reported sexual harassment, the labour code could provide detailed requirements for the employers on how to prevent sexual harassment and how to ensure an efficient practice of reporting cases of sexual harassment.

Therefore, taking into consideration whether or not the problem can be thought about differently, one can foresee the reluctant or the opposing side in Lithuania combating against the international treaties adoption. Recognising that Lithuania has signed but not yet ratified The Council of Europe Convention on preventing and combating violence against women and domestic violence that recognises sexual harassment as violence against women and contains the definition of sexual harassment as stated in the previously mentioned EU Directives and Lithuanian legislation (*Council of Europe Convention on preventing and combating violence against women and domestic violence 2011*; European Parliament

2019). From the mentioned one can interpret that Lithuanian decision-makers are willing to adopt the EU law and have a reluctant standpoint when considering international treaties protecting women from violence. Furthermore, according to Lithuanian human rights activists, there is direct catholic church organisations influence to law decision making in Lithuania that keeps a reluctant standpoint when considering the change of currently encouraged norms of gender and family (Švaraitė 2017; Laisvos Visuomenės Institutas n.d.; Appendix A Q1). Such a situation can be perceived by one that patriarchal norms are supported between Lithuanian policymakers and the opposing party of international treaties combating for human rights. With the recognition of the problems of adopting international treaties, one can argue that the Lithuanian policy-making authorities would tend to adopt the EU law and hold a reluctant standpoint against international treaties such as the Istanbul Convention. Considering the visible top-down Europeanisation process, one can identify the potential of EU law. As if it would include specific sexual harassment actions defining definition to its' law and a requirement for claim procedures at work that would also declare combat against the under-reported sexual harassment, it would probably be enacted in Lithuanian law. If not, it would mean that Lithuanian policy-making authorities are reluctant to combat sexual harassment as to recognise the problematisations around the problem.

Furthermore, in one of the articles a legal expert specialised in sexual harassment recommends a person to follow the Office recommendations. These recommendations provide a suggestion to record sound or to capture a video of the actual event of sexual harassment (Pakšytė 2019). This can be found excessive when considering the recommendations produced by FRA research mentioned in answer to the second question. These recommendations would advise to trust the victim of sexual harassment and accept a complaint without evidence. From this, one can foresee that currently, the authorities are incapable of capturing sexual harassment and the Office. Taking this into account, one can recognise that the authorities should have more trust for the victims of sexual harassment for them to be able to report their cases with less evidence.

Moreover, there could be a direct communication network between the employers, the Office, and the police. As now the person who has experienced sexual harassment can discover difficulties in deciding where to seek for help.

Finally, the problem of sexual harassment being under-reported could be replaced by enforcing decisive legislation that would not only meet the EU uploaded norms to combat sexual harassment but also that could contest the domestic problems that were uncovered.

Moreover, when considering that the bureaucratic models differ in the whole EU, one can recognise that the EU law has norms setting agenda, rather than concrete measures to thoroughly tackle the identified problems in all its' member states. It means that countries shall adopt suited solutions to challenge and combat problems according to their situation.

Therefore, one could recognise that the enacted legal provisions could be revised in such a way, where more clarified sexual harassment definitions involving all its' actions could be enacted in it. Such a situation could help the courts and authorities to punish the perpetrators as to protect victims. Moreover, more decisive requirements for employers to adopt clarified guidelines and directions of how sexual harassment shall be prevented, including procedures with reference to the Office or other responsible authorities for consultation. In such order, the domestic system would be synergised with the legal framework which could contest the problem of sexual harassment in a way, where Lithuanian policymakers would dictate certain norms to tackle perpetrators by legal means. In summary, the uncovered cause of the problem of under-reported sexual harassment is not recognised and not contested by the Lithuanian legal framework. Moreover, the current problem causes structural problems for the persons who decide to report their experience to authorities. This is resulting in moral and other consequences.

3.7. Discussion

In this section of the paper, the results and findings of the analysis are going to be introduced and explained in relation to the research question. Further, these results are going to be discussed and compared with the previous studies that were presented in the literature review section. Then the evaluation and critique of the theoretical application and methodological choices will be presented.

First, with the attempt to answer the problem formulation: ***What's the problem of under-reported sexual harassment is represented to be in Lithuanian labour code Article 26***, the conducted analysis has discovered that problem of reporting sexual harassment is represented as the issue of gender equality and relations between employee and employer. Also, analysis has uncovered that the Lithuanian legal framework does not introduce any guidelines or requirements for the employers to adopt a sexual harassment claim procedure internally. There are no specific guidelines for the employers of how they should prevent sexual harassment from taking place. Likewise, the issues regarding reporting sexual harassment are represented as the responsibility of the employer. Most importantly, it was uncovered that the problem of under-reported cases of sexual harassment is not represented.

Moreover, it was discovered that current representation of under-reported sexual harassment underlies the assumptions that only moderate size businesses can face problems of inequality between genders and sexual harassment or the need to report such occurrences since the development of equal treatment policy it is mandatory only to business with more than fifty employees. Also, the fact that the prevention of sexual harassment is left for interpretation of the employer suggests that employers are held as reliable and capable of preventing it. Additionally, the absence of a minimum standard for the process

of reporting sexual harassment may produce an assumption that the problem with reporting cases of sexual harassment at work does not exist.

Nonetheless, it was identified that the protection of victims is represented as the responsibility of the employer. It is expected that the employer will determine the implementation methods himself. One can argue, that these findings lead to the conclusion that non-recognition of the problem of under-reported sexual harassment, non-existing minimum requirements for the possibility to report the crime of sexual harassment may be the reason of underreported sexual harassment in Lithuania. Sexual harassment is under-reported because it is unclear where to report. Also, it is not clear what exact actions can be considered sexual harassment.

Analysis shown that victim is forced to identify background that may led to experiencing sexual violence (*Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code* 2017). Likewise, it was recognised that a victim of sexual harassment might often not be blamed and receive support (Appendix A). These discoveries can be held as one of the reasons why sexual harassment is under-reported.

Furthermore, it was found that Lithuanian policy towards the prevention of sexual harassment at work does not differ from the EU Directives definitions and provided guidelines to impede sexual harassment. From the perspective of Europeanisation theory, it could be seen as a direct top-down influence of the EU. Since mentioned harassment has not been more defined than mentioned in the EU law, the definition of different forms of sexual harassment is also left to the interpretation of the Office of the Equal Opportunities Ombudsperson and the Police. Taking into consideration, that the EU Directives only set certain norms and its' implementation is left for the countries to decide on how to do so, one can argue that the problem of under-reported sexual harassment was not intended to be solved by implementing the directives, rather the EU Directives were implemented to the extent that was required. One can argue that this is an evident top-down process of Europeanisation. Such a claim can be argued since the norms established by the EU law combating sexual harassment at work has been downloaded by the state of Lithuania (Börzel & Panke 2016:111-112). Moreover, this can mean that Lithuanian policymakers did conform to the EU uploaded norms in regard to combat against sexual harassment but did not intend to contest this problem more than the EU law requires.

Moreover, such representation may create an environment where sexual harassment experienced persons would instead remain silent rather than report their experience to authorities. This is due to the fact that according to the current legal framework it is difficult to prove perpetrator guilty and prove that sexual harassment took place (Jankauskaitė 2013:15-16; manoteises.lt 2018; Pakšytė 2019). Moreover, it has been uncovered that due to existing representation, it is difficult for citizens to identify and recognise sexual

harassment since most individuals lack awareness of what sexual harassment is (EC 2013:32; Milkanskytė 2018; Čeponytė & Žardeckaitė-Matulaitienė 2019:41).

Furthermore, in regard of the scholars' ideas and discoveries presented in the literature review, scholars Monika Čeponytė and Kristina Žardeckaitė-Matulaitienė in their work "Analysis of subjectively perceived sexual harassment experiences, responses to sexual harassment and sexual harassment consequences of young adults" has identified, that persons in Lithuania that have experienced sexual harassment did not manage to identify their experience as sexual harassment due to lack of knowledge about what constitutes sexual harassment itself (Čeponytė & Žardeckaitė-Matulaitienė 2019:35-45). Such claim was confirmed by analysis results were not recognised forms of sexual harassment in the representation of the problem in Lithuania may be seen as a result of a lack of sexual harassment identification. The mentioned scholars have also uncovered that most of the victims did not confront the perpetrators or report their experiences to authorities or superiors (Čeponytė & Žardeckaitė-Matulaitienė 2019:38-43). This discovery compliments to the findings of the analysis, where the Office of the Equal Opportunities Ombudsperson recommend individuals to record a video or sound of perpetrator engaging in sexual harassment (Pakšytė 2019). Therefore, one can argue that such a recommendation is excessive and uncovers the incapability of the legal system to contest sexual harassment and perpetrators.

Additionally, scholar Anca Gheaus has scrutinised different costs for both genders to seek gender justice, where seeking gender justice can cost financial stability, time, self-respect, self-relations, social reputation and acceptance (Gheaus 2012:1). This academic work is vital when considering that the current legal system in Lithuania does not protect the victim of sexual harassment from risking the mentioned "costs". Most of the decision-making is left for police or the employer, rather than the victim of sexual harassment. Scholar summarises that change in gender justice can be achieved by improving the legal frameworks and by individuals acting in respect to gender justice (Gheaus 2012:23-25). This idea of the scholar is verified in the research as the legal framework needs to be improved. Such a claim can be made since the problem of under-reported sexual harassment is not recognised as it is not contested by law. Combining the social factor with the discoveries found in this paper could impede sexual harassment at work and decrease blaming the victim of sexual harassment. However, based on an analysis of how the representation of the problem is disseminated, the legislation is found to be criticized as it meets the EU Directives' stated definitions. Also, it was recognised that as the current legislation is not questioned, social norms are recognised as the main problem with sexual harassment (manoteises.lt 2018).

Another relative to the paper study "The European Union 2002 Directive on sexual harassment: A feminist Success?" conducted by Katrin Zippel questions the EU law effectiveness and its influence on the EU member states (Zippel 2009:139-140). The scholar employs Europeanisation theory where it explains the EU law influence on Lithuanian legal framework to combat sexual harassment. Therefore, it has been

discovered that sexual harassment definitions are fully applied, where the process of top-down Europeanisation is evident. However, Zippel writes that most of the countries have their strategies to combat sexual harassment that fits' their domestic problematisations (Zippel 2009:144-145). Lithuanian legal framework can not be found similar to this idea as it is the same as defined in the EU law.

Moreover, the same scholar criticises the Directive that text that prohibits sexual harassment for being too vague in respect to victim's protection to keep their job (Zippel 2009:150). This claim is relatively similar to the discovery of this paper, where the current labour code does not provide any guidelines on how the victim shall be protected from the prosecution, does not state that the victim shall be able to keep his or her job. Moreover, such criticism of Zippel complements the discovery of the paper that full application of the EU law does not contest the sexual harassment as it does not protect the victim of sexual harassment. Since the victim of such harassment is not protected by law, it affects his or her decision to report sexual harassment. In summary, one can argue the problem of sexual harassment actual volume not being represented to the authorities and the society. Moreover, a problem is left to be undiscovered as a big issue.

Finally, one can argue that the main object of the paper to explore the reasons of why sexual harassment is under-reported has been achieved. However, the results of the analysis raised additional questions of why the actual volume of sexual harassment is not attempted to be uncovered. Hence, this question could be a starting point for further study. Moreover, a more insightful analysis of the Lithuanian law practice could be performed to uncover further effects of the current policy. Thereinafter, the Office could have been involved more as a subject of the analysis to uncover their perception about the problem of sexual harassment being under-reported.

Furthermore, the WPR theory was successfully applied to structure the analysis, but in order to obtain a most comprehensive answer to the problem formulation, cultural premises could have been analysed more (Bacchi 2009:6-8). Also, taking into account the use of QCA and WPR as methods, coding and categorisation could have been used in order to see how given classification gives particular meaning to the representation of the problem (Bacchi 2009:8-9; Flick 2015:179-184).

4.0. Conclusion

This research has been conducted in regard to a puzzling perspective, where the possible cause of the issue of the under-reported sexual harassment is explored. To scrutinise this phenomenon, a qualitative analysis of Lithuanian labour code Article 26 has been conducted. To uncover what causes under-reported sexual harassment at work, analysis investigated a problem representation and possible assumptions, silences, effects that may be produced by it. The analysis has been executed by employing 'what the problem is represented to be' theory presented by Carrol Bacchi and the Europeanisation theory (See more in Bacchi 2009; Börzel & Panke 2016). These theories were used to explain the results of the analysis. Also, the 'what's the problem is represented to be' theory has also been applied as a method to frame and structure the analysis section.

Furthermore, with the attempt to answer the research question ***What's the problem of under-reported harassment is represented to be in Lithuanian labour code Article 26?***, one can recognise that prevention problem of sexual harassment in the work environment is represented to be an issue of equal gender rights and work relations that is the responsibility of the employer. It is because the problem of sexual harassment is attempted to be dealt with by authorising employers to have equal treatment policy.

Also, one can argue that problems with reporting sexual harassment is not adequately represented or recognised. It is because the employer is not required to adopt a sexual harassment complaint procedure. Also, sexual harassment prevention is not obliged in equal treatment policy. Additionally, since the equal treatment policy is not required for more than fifty employees holding organisations, one can claim that the problem of under-reported sexual harassment or even sexual harassment is represented as an issue of only organisations with more than fifty employees.

Moreover, one can claim Lithuanian labour code Article 26, does not represent problem reporting sexual harassment. This claim is made on the basis that it does not define how to protect the person from possible negative consequences of reporting case of sexual harassment. It means that the current representation of the problem does not recognise disadvantageous situations and consequences that person might encounter if he or she is willing to report the sexual harassment case in the workplace.

Finally, after answering the research question, it is possible to answer *why sexual harassment is an under-reported in Lithuania.* It was discovered that the current legislative framework that is preventing such form of discrimination is rather vague. It is because the current legal framework does not protect the victim of sexual harassment from the consequences that he or she might experience after reporting his or her experience. It means that in the absence of clear and safe procedures, can be one of the causes of under-reported sexual harassment. Such a situation comes from the labour code that does not require employers to adopt claim procedures, nor is directing to certain authorities if one has experienced sexual harassment.

Overall, the enacted legislation does not contain an exact definition constituting sexual harassment actions. Instead, sexual harassment definitions are copied from the European Union directives that are enacted to combat sexual harassment. Moreover, the analysis uncovered that directives in EU law have the role of setting certain norms. The way of how they are implemented is left for the member states to decide. Considering this, copying definitions of the EU directives to national legal framework can silence domestic problems such as under-reported sexual harassment. Taking this into consideration, one can argue that the EU directives provide conceptual guidelines rather than concrete measures to combat issues. Based on the results of the analysis, one can argue that these circumstances contribute to the problem of under-reported sexual harassment in Lithuania.

Bibliography

15min.lt (n.d.) “Konstitucinis Teismas: seksualinis priekabiavimas neatleistinas niekam” in *www.15min.lt* website, n.d. [Online] Available at: bit.ly/3gBAIF9 [Accessed 07 May 2020].

Bacchi, C. (2009) *Analysing policy: what's the problem represented to be?*, Frenchs Forest: N.S.W.: Pearson.

Baltic News Agency (2017) “Įsigalioja naujasis Darbo kodeksas: svarbiausios naujovės”, in *www.15min.lt* website, 1 of July 2017 [Online] Available at: bit.ly/3c8SA6O [Accessed 04 March 2020].

Baudžiamojo Kodekso Projektas (2000) reg. Nr. P-2143(2) [Online] Available at: bit.ly/2Xzs4y0 [Accessed at 07 April 2020].

Börzel, T. A., & Panke, D. (2016) “Europeanization” in M. Cini, & N.P.S., Borragan, *European Union Politics,* 5th ed., pp. 110-125, Oxford University Press: Oxford.

Čeponytė, M., Žardeckaitė-Matulaitienė, K. (2019) “Analysis of subjectively perceived sexual harassment experiences, responses to sexual harassment and sexual harassment consequences of young adults”, in *Visuomenės sveikata,* Vol. 2(85), Higienos institutas: Vilnius, pp. 35-45.

Chalmers, D., Davis, G., & Monti, G. (2010). *European Union Law* (2nd ed.). Cambridge, UK: Cambridge University Press.

Council of Europe Convention on preventing and combating violence against women and domestic violence (2011) Istanbul.V.2011 [Online] Available at: bit.ly/36DY34j [Accessed 05 of February 2020].

Council of the European Union (2004) COUNCIL DIRECTIVE 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services, in *www.eur-lex.europa.eu* website, 13 of December 2004 [Online] Available at: bit.ly/3eseh30 [Accessed 02 February 2020]

Eurofound (2015) *Violence and harassment in European workplaces: Causes, impacts and policies*, European Foundation for the Improvement of Living and Working Conditions: Dublin, pp. 5-85 [Online] Available at: bit.ly/36Ejuly [Accessed 08 March 2020].

European Commission (2013) *Harassment related to Sex and Sexual Harassment Law in 33 European Countries: Discrimination vs Dignity*, Publication Office of the European Union: Luxembourg, pp. 1-295 [Online] Available at: bit.ly/2M6U9aA [Accessed 19 January 2020].

European Commission (n.d.) “The EU Values” in w*ww.europa.eu* website [Online] Available at: bit.ly/2ZIMirL [Accessed 06 March 2020].

European Institute for Gender Equality (n.d.) “Lithuania - Sexual Harassment”, in *www.eige.europa.eu* website, n.d. [Online] Available at: bit.ly/2ZGiFYh [Accessed 05 March 2020].

European Parliament (2018) *Bullying and sexual harassment at the workplace, in public spaces, and in political life in the EU*, Policy Department for Citizens Rights and Constitutional Affairs*:* Brussels, pp. 6-84 [Online] Available at: bit.ly/2X8PoUp [Accessed 07 February 2020].

European Parliament (2019) *Istanbul Convention: all countries must ratify it without delay, says MEPS, in europarl.europa.eu website, 28 of November 2019* [Online] Available at: bit.ly/2zsr0UN [Accessed 16 of March 2020].

European Parliament and the Council (2002) Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, in *www.eur-lex.europa.eu* website, 23 of September 2002 [Online] Available at: bit.ly/2M7vSBa [Accessed at 02 February 2020].

European Parliament and the Council (2006) Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), in *www.eur-lex.europa.eu* website, 26 of July 2006 [Online] Available at: bit.ly/2M7w4Ao [Accessed 02 February 2020].

European Union Agency for Fundamental Rights (2015) *Violence Against Women: an EU wide survey*, Publcations Ofice of the European Union: Luxembourg, pp. 3-193 [Online] Available at: bit.ly/2yIuke0 [Accessed 25 January].

Flick, U. (2015) *Introducing Research Methodology: A beginner's guide to doing a research project*, 2nd ed., London, UK: SAGE Publications ltd.

FOA (2018) *Seksuel chikane på arbejdspladsen*, FOA Politik og Analyse: Copenhagen, pp. 2-15 [Online] Available at: bit.ly/3eu5HRg [Accessed 15 February 2020].

Genocide and Research Centre of Lithuania (n.d.) *The sovietization of Lithuania in 1940-1941 and 1944-1988* [Online] Available at: bit.ly/3db4caE [Accessed 16 March 2020].

Gheaus, A. (2011) "Gender Justice" in *Journal of ethics & philosophy*, Vol, 6(1), pp 1-24 [Online] Available at: bit.ly/2M2G5z3 [Accessed 25 January 2020].

Human Rights Committee (2018) "Human Rights Committee considers the report of Lithuania: meeting summary" in *www.ohcr.org* website, 11th July 2018 [Online] Available at: bit.ly/2M7yWgQ [Accessed 1 March 2020].

Human Rights Monitoring Institute (2018) "Lithuanian Court: Sexual Harassment Violates the Constitution" in *www.liberties.eu* website, 2 of January 2018 [Online] Available at: bit.ly/2zGwGdE [Accessed 07 May 2020].

Informatikos ir ryšių departamentas (n.d.) *Nusikalstamumo ir ikiteisminių tyrimų statistika* [Online database] Available at: bit.ly/2X959ur [Accessed 03 May 2020].

International Labour Organization (2015) *Eliminating sexual harassment in workplaces in the Pacific: Policy brief*, ILO Cataloguing - Geneva, pp. 1-11 [Online] Available at: bit.ly/3d8qDxe [Accessed 23 February, 2020].

Jankauskaitė, M. (2013) *The Policy on Gender Equality in Lithuania*, Brussels: European Parliament [Online] Available at: bit.ly/2M7z4Na [Accessed 3 March 2020].

Kantola, J. (2010) "The History of Gender in the European Union" in *Gender and the European Union*, pp. 26-45, Basingstoke: Palgrave Macmillan.

Keplinger, K., et al. (2019) "Women at work: Changes in sexual harassment between September 2016 and September 2018", Edited by Valerio Capraro in *PLoS ONE 14(7)* [Online] Available at: bit.ly/3c9O2Nh [Accessed 25 February, 2020].

Keukeleire, S., Delreux, T. (2014) *The Foreign Policy of the European Union*, 2nd edition, PALGRAVE MACMILLAN: London.

Laisvos Visuomenės Institutas (n.d.) "Laisvos visuomenės koncepcija" in *www.laisvavisuomene.lt* website [Online] Available at: bit.ly/2X7UKz1 [Accessed 15 of April 2020].

Latcheva, R. & Goodey, J. (2017) "Sexual Harassment in the European Union: A pervasive but Still Hidden Form of Gender-Based Violence", in *Journal of Interpersonal Violence*, Vol. 32 (12), pp. 1821-1852. [Online] Available at: bit.ly/2ztEX4U [Accessed 24 January 2020].

Lavenex, S. (2015) "Justice and Home Affairs" in Hellen Wallace, Mark A. Pollack, Alasdair R. Young, *Policy-Making in the European Union*, 7th edition, Oxford University Press: Oxford.

Law of the Republic of Lithuania on Equal Opportunities (1998) reg. nr . VIII-947 [Online] Available at: bit.ly/3c8WfBv [Accessed 3 March 2020].

Law of the Republic of Lithuania on Equal Opportunities (2017) reg. nr . VIII-947 [Online] Available at: bit.ly/2M6YtXm [Accessed 3 March 2020].

Lietuvos Policija (2012) "2011 METŲ VEIKLOS ATASKAITA", in *www.policija.lrv.lt* website, 17 of february 2012 [Online] Available at: bit.ly/2XzyBZy [Accessed 15 March 2020].

Lietuvos Policija (2013) "2012 METŲ VEIKLOS ATASKAITA", in *www.policija.lrv.lt* website, 19 of february 2013 [Online] Available at: bit.ly/2ZIlFTN [Accessed 15 March 2020].

Lietuvos Policija (2014) "2013 METŲ VEIKLOS ATASKAITA", in *www.policija.lrv.lt* website, 19 of february 2014 [Online] Available at: bit.ly/2M7RZHH [Accessed 15 March 2020].

Lietuvos Policija (2015) "2014 METŲ VEIKLOS ATASKAITA", in *www.policija.lrv.lt* website, 17 of february 2015 [Online] Available at: bit.ly/2X6ZPb2 [Accessed 15 March 2020].

Lietuvos Policija (2016) "2015 M. POLICIJOS VEIKLOS APŽVALGA", in *www.policija.lrv.lt* website, n.d. [Online] Available at: bit.ly/3gprsDT [Accessed 15 March 2020].

Lietuvos Policija (2017) "2016 M. POLICIJOS VEIKLOS APŽVALGA", in *www.policija.lrv.lt* website, n.d. [Online] Available at: bit.ly/2TJhraY [Accessed 15 March 2020].

Lietuvos Policija (2018) "2017 METŲ VEIKLOS ATASKAITA", in *www.policija.lrv.lt* website, 28 of March 2018 [Online] Available at: bit.ly/2TMTuPY [Accessed 15 March 2020].

Lietuvos Policija (2019) "2018 M. POLICIJOS VEIKLOS APŽVALGA", in *www.policija.lrv.lt* website, n.d. [Online] Available at: bit.ly/3dckLTv [Accessed 15 March 2020].

Lietuvos Policija (2020) "2019 M. POLICIJOS VEIKLOS APŽVALGA", in *www.policija.lrv.lt* website, n.d. [Online] Available at: bit.ly/2AdnfCw [Accessed 15 March 2020].

Lietuvos Profesinių Sąjungų Konfederacija (2018) "I.Petraitienė: stiprios profesinės sąjungos - sveikesnė demokatija", in *www.lpsk.lt* website, 13 of June 2018 [Online] Available at: bit.ly/2TK1hhk [Accessed 12 of March 2020].

Lietuvos Respublikos Baudžiamojo Kodekso Patvirtinimo ir Įsigaliojimo Įstatymas (2000) reg. Nr. VIII-1968 [Online] Available at: bit.ly/3gxTIE6 [Accessed at 07 April 2020].

Lietuvos Respublikos Lygių Galimybių Įstatymas (2003) reg. nr. VIII-947 [Online] Available at: bit.ly/3gt0o6B [Accessed 09 April 2020].

Lietuvos Respublikos Moterų ir Vyrų Lygių Galimybių Įstatymo Nr. VIII-947 Pakeitimo Įstatymas (2016) reg. nr. XII-2767 [Online] Available at: bit.ly/2M7UqKl [Accessed 30 February 2020].

Lietuvos Respublikos Seimas (n.d.) "The Constitution of the Republic of Lithuania" in *www.lrs.lt* website [Online] Available at: bit.ly/3ddz8XC [Accessed 6 April].

Lietuvos Respublikos Vyriausybė (n.d.) "KAS YRA KAS?", in *www.lrv.lt* website, 4 of September 2018 [Online] Available at: bit.ly/3grm6bj [Accessed 09 February 2020].

Lister, R. (2017) "How employers in European countries should deal with workplace sexual harassment", in *www.theword.iuslaboris.com* website, 13 of December 2017 [Online] Available at: bit.ly/2X8lGP8 [Accessed in 05 February 2020].

Lrt.lt (2017) "Seksualinis priekabiavimas darbe: kokios to pasekmės, darbdavio pareigos ir atsakomybė?" in *www.lrt.lt* website, 8 of May 2017 [Online] Available at: bit.ly/2ZLcxy0 [Accessed 08 May 2020].

Lygių galimybių kontrolieriaus tarnyba (2005) "Lygių galimybių kontrolieriaus tarnybos ataskaita", in *www.lgkt* website, n.d. [Online] Available at: bit.ly/2zD3btm [Accessed 05 February 2020].

Lygių galimybių kontrolieriaus tarnyba (2006) "Lygių galimybių kontrolieriaus tarnybos ataskaita", in *www.lgkt* website, n.d. [Online] Available at: bit.ly/2B42Zne [Accessed 05 February 2020].

Lygių galimybių kontrolieriaus tarnyba (2007) "Lygių galimybių kontrolieriaus tarnybos ataskaita", in *www.lgkt* website, n.d. [Online] Available at: bit.ly/2yJtOwm[Accessed 05 February 2020].

Lygių galimybių kontrolieriaus tarnyba (2008) "Lygių galimybių kontrolieriaus tarnybos ataskaita", in *www.lgkt* website, n.d. [Online] Available at: bit.ly/2yFj6a9 [Accessed 05 February 2020].

Lygių galimybių kontrolieriaus tarnyba (2009) "Lygių galimybių kontrolieriaus tarnybos ataskaita", in *www.lgkt* website, n.d. [Online] Available at: bit.ly/2M59h8r [Accessed 05 February 2020].

Lygių galimybių kontrolieriaus tarnyba (2010) "Lygių galimybių kontrolieriaus tarnybos 2009 m. ataskaita", in *www.lgkt* website, n.d. [Online] Available at: bit.ly/36BmEGU [Accessed 05 February 2020].

Lygių galimybių kontrolieriaus tarnyba (2011) "Lygių galimybių kontrolieriaus tarnybos 2010 m. ataskaita", in *www.lgkt* website, n.d. [Online] Available at: bit.ly/36ARxLL [Accessed 05 February 2020].

Lygių galimybių kontrolieriaus tarnyba (2012) “Lygių galimybių kontrolieriaus tarnybos 2011 m. ataskaita”, in *www.lgkt* website, n.d. [Online] Available at: bit.ly/2M7aIn2 [Accessed 05 February 2020].

Lygių galimybių kontrolieriaus tarnyba (2013) “Lygių galimybių kontrolieriaus tarnybos 2012 m. ataskaita”, in *www.lgkt* website, n.d. [Online] Available at: bit.ly/2Bbg6mP [Accessed 05 February 2020].

Lygių galimybių kontrolieriaus tarnyba (2014) “Lygių galimybių kontrolieriaus tarnybos 2013 m. ataskaita”, in *www.lgkt* website, n.d. [Online] Available at: bit.ly/36Em9fq [Accessed 05 February 2020].

Lygių galimybių kontrolieriaus tarnyba (2015) “Lygių galimybių kontrolieriaus tarnybos 2014 m. ataskaita”, in *www.lgkt* website, n.d. [Online] Available at: bit.ly/2Al2PYb [Accessed 05 February 2020].

Lygių galimybių kontrolieriaus tarnyba (2016) “Lygių galimybių kontrolieriaus tarnybos 2015 m. ataskaita”, in *www.lgkt* website, n.d. [Online] Available at: bit.ly/2Al3bxZ [Accessed 05 February 2020].

Lygių galimybių kontrolieriaus tarnyba (2017a) “Lygių galimybių politikos priemonių rekomendacijos” in *www.lygybe.lt* website, 11 of August 2017 [Online] Available at: bit.ly/3eui13Y [Accessd 15 March 2020].

Lygių galimybių kontrolieriaus tarnyba (2017b) “Lygių galimybių kontrolieriaus tarnybos 2016 m. ataskaita”, in *www.lgkt* website, n.d. [Online] Available at: bit.ly/3gvcM6g [Accessed 05 February 2020].

Lygių galimybių kontrolieriaus tarnyba (2018) “Lygių galimybių kontrolieriaus tarnybos 2017 m. ataskaita”, in *www.lgkt* website, n.d. [Online] Available at: bit.ly/3gvdXCI [Accessed 05 February 2020].

Lygių galimybių kontrolieriaus tarnyba (2019) “2018 METŲ VEIKLOS ATASKAITA”, in *www.lgkt* website, 15 of March 2019 [Online] Available at: bit.ly/2yIGuna [Accessed 05 February 2020].

Lygių galimybių kontrolieriaus tarnyba (2020) “2019 METŲ VEIKLOS ATASKAITA”, in *www.lgkt* website, 13 of March 2020 [Online] Available at: bit.ly/2TO2BzN [Accessed 05 February 2020].

Lygių galimybių plėtros centras (2013) “Profsajungų Gidas”, in *www.gap.lt* websiste, November 2013 [Online] Available at: bit.ly/2XA8Vfy[Accessed 09 March 2020].

Manoteises.lt (2018) “Pirmasis tyrimas apie seksualinį priekabiavimą Lietuvoje: visuomenė smerkia priekabiavimą, bet kaltę permeta aukoms” in *Manoteises.lt* website, 5th of December 2018 [Online] available at: bit.ly/2TN2PHn [Accessed 5 March 2020].

Manoteises.lt (n.d.) “Pilietinės teisės” in *ManoTeises.lt website* [Online] Available at: bit.ly/36zOtPZ [Accessed 25 February 2020].

Milkanskytė, M. (2018) Dėmesio Centre: “Seksualinis priekabiavimas – vieša paslaptis. Kodėl žino daug kas, bet kalba retas?” in *www.manoteises.lt* website, 2 of February [Online]. Available at: bit.ly/2ZHQ196 [Accessed 25 February].

Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba (2001) “MOTERŲ IR VYRŲ LYGIŲ GALIMYBIŲ KONTROLIERIAUS TARNYBOS VEIKLOS ATASKAITA”, in *www.lgkt.lt* website, 14 of March 2000 [Online] Available at: bit.ly/3c7DU7F [Accessed 05 February 2020].

Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba (2002) “MOTERŲ IR VYRŲ LYGIŲ GALIMYBIŲ KONTROLIERIAUS TARNYBOS VEIKLOS ATASKAITA”, in *www.lgkt.lt* website, 14 of March 2001 [Online] Available at: bit.ly/2B2qVY6 [Accessed 05 February 2020].

Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba (2003) “Apie 2001-2002 m. ataskaitą”, in *www.lgkt* website, n.d. [Online] Available at: bit.ly/2zDeeCS [Accessed 05 February 2020].

Moterų ir vyrų lygių galimybių kontrolieriaus tarnyba (2004) “2002-2003 m. veiklos ataskaita”, in *www.lgkt* website, n.d. [Online] Available at: bit.ly/3gv3lDJ [Accessed 05 February 2020].

National Academies of Sciences, Engineering, and Medicine (2018*) Sexual Harassment of Women: Climate, Culture and Consequences in Academic Sciences, Engineering, and Medicine*, The National Academies Press: Washington DC [Online] Available at: bit.ly/3epM50Q [Accessed 14 January 2020].

Office of the Chief Archivist of Lithuania (n.d.) *LIETUVOS NEPRIKLAUSOMYBĖS ATKŪRIMAS 1990 M. KOVO 11 D*. [Online] Available at: bit.ly/2Bbkbr9 [Accessed 01 May 2020].

Page, E. C. (2012) *Policy Without Politicians: Bureaucratic Influence in Comparative Perspective*, Published to Oxford Scholarship Online, pp. 8-17 [Online] Available at: bit.ly/3gyrGsb [Accessed 02 April 2020].

Pakšytė, A. (2019) “Ekspertė: Tinkamas advokatų pasirengimas galėtų „atrakinti“ daugiau seksualinio priekabiavimo bylų” in *www.manoteises.lt* website, 24 of September 2019 [Online] Available at: bit.ly/3esvVE2 [Accessed 24 April 2020].

Peters, B. G. (1987) “Politicians and Bureaucrats in the Politics of Policy-Making”, in Stephen P. Osborne (ed.) *PUBLIC MANAGEMENT - CRITICAL PERSPECIVES*, pp. 156-167, London: Routledge [Online] Available at: bit.ly/2X96KAn [Accessed 02 May 2020].

Peters, B. G., (2019) “The Politics of Bureaucracy after 40 years” in *the British Journal of Politics and International Relations*, Vol. 21 (3), pp. 468-479 [Online] Available at: bit.ly/3dbOJHp [Accessed 02 May 2020].

Pollack, A. M. (2015) “Theorizing EU policy-making” in Hellen Wallace, Mark A. Pollack, Alasdair R. Young, *Policy-Making in the European Union*, 7th edition, Oxford University Press: Oxford.

Republic of Lithuania Labour Code (2010) reg. Nr. IX-926 [Online] Available online at: bit.ly/2X9Gki0 [Accessed 03 March 2020] .

Republic of Lithuania Law of the Approval and Entry to Force of the Criminal Code (2000) reg. nr. VIII-1968 [Online] Available at: bit.ly/3eq1dLv [Accessed 5 March 2020].

Republic of Lithuania Law on Equal Opportunities for Women and Men (2015) reg. nr. VIII-947 [Online] Available at: bit.ly/3gt0o6B [Accessed 5 March 2020].

Republic of Lithuania Law on the Approval, Entry into Force and Implementation of the Labour Code (2017) reg. nr. XII-2603 [Online] Available at: bit.ly/2TKsjFx [Accessed 28 February 2020].

Seawright, J., & Gerring, J. (2008) “Case Selection Techniques in Case Study Research: A Menu of Qualitative and Quantitative Options” in *Political Research Quarterly*, 61(2), pp. 294-308 [Online] Available at: bit.ly/2TOprXY [Accessed 06 February 2020].

Švaraitė, I. (2017) “Stambulo konvencija: baimės ir kaip yra iš tiesų” in *www.manoteises.lt* website, 23 of June 2017 [Online] Available at: bit.ly/2zFQSfL [Accessed 17 of April 2020].

Švedas, G., et al. (2017) *LIETUVOS RESPUBLIKOS BAUDŽIAMOJO KODEKSO BENDROSIOS DALIES VIENTISUMO IR NAUJOVIŲ (SU)DERINIMO IŠŠŪKIAI*, Vilnius University Press: Vilnius, pp. 9-307 [Online] Available at: bit.ly/2X6Pvj8 [Accessed 07 March 2020].

Walliman, N. (2006) “Data collection methods” in *Social research methods*, London: SAGE Course Companions, SAGE Publications, Ltd, pp. 83-100 [Online] Available at: bit.ly/3gvhVv6 [Accessed 19 May 2020].

Werner, J., Wegrich K. *(2006)* “Theories of the Policy Cycle” in In Frank *Fiche*r, Gerald J. Miller, Mara S. Sidney (ed.) *Handbook of Public Policy Analysis,* Boca Raton: CRC Press, pp. 43-62 [Online] Available at: bit.ly/2Xa9DAV [Accessed 16 May 2020].

Zippel, K. (2009) “The European Union 2002 Directive on sexual harassment: A feminist Success” in *Comparative European Politics*, Vol. 7(1), Palgrave Macmillan: Boston, pp. 139-157 [Online] Availablet at: bit.ly/2M3biSA [Accessed 26 January 2020].

Appendix A
Questions & Answers

Expert interview has been conducted with an active human rights activist Birutė Sabatauskaitė. That is also a director of Lithuanian Centre for Human Rights. This person is actively engaged in combat against sexual harassment at work and has agreed to participate this research. Therefore, interview has been conducted in a Lithuanian language. Due to this reason, both questions and answers are translated from Lithuanian to English. Both languages will be presented in this paper. Moreover, the person whom has answered the questions has agreed that the received answers are going to be used in this research that is the property of Aalborg University. These agreements can be found with the attachments of this research. This interview has been conducted on 20th of May 2020.

Interview transcript in English

Skirmantas [S], Birutė [B]

Question 1 [Q1]:

S: Thanks for taking the time to give the interview. So, let us start with the questions I sent during the declaration of consent and by e-mail. Have Lithuanian decision-makers ever planned or is planning to release more ambitious laws in the fight against sexual harassment? If so, who was/is the opposition to these laws?

B: Yes, it has been considered in the past, not to strengthen, but to extend the scope of sexual harassment prevention. As you know, the prevention of sexual harassment is currently regulated by both the Equal Opportunities Act for Women and Men and the Equal Opportunities Act, and also in the Penal Code. It would be essential to distinguish between these three different areas, as they impose different responsibilities. Also, sexual harassment is mentioned in the Labor Code as a gross violation of work. Given the development of the legal framework, a critical moment was in 2017 when the labour code was issued. It could be said in the light of the Supreme Court's interpretation of the Kęstutis Pūkas case. Where under this law he was found guilty of sexually harassing his assistant. But he was acquitted of three applicants seeking employment. Such a decision of the Supreme Court was upheld on the basis that there was no employment relationship, subordination between these persons. Although such a solution could not even be entirely accepted, as the same labour code provides for a ban on sexual harassment by a service or other dependent, therefore, under this provision, Pūkas could also be found guilty of harassing these

girls. This is a direct question of case law where one should ask whether a job interview should be treated as an otherwise dependent person. This ruling is important because the Supreme Court had ruled that because the relationship that existed before the adoption of the current labour Code, that is exactly the assessment of this court. Also, those currently being harassed would be treated differently, as from 2017 onwards. Under the labour code, those seeking employment should also be protected from sexual harassment. Therefore, I would like to interpret that the Supreme Court in such speeches sent a message to everyone that no matter what the interpretation of this case. In the future, situations in which sexual harassment will be treated differently. It would be a criminal offence against a person seeking employment. Therefore, I would like to believe that this is good news given the whole wave of public accusations that the public has blamed since the MeToo movement. There was a lot of public victim-blaming, how and where they went, how they dressed, behaved, etc. Also, since the trial court was generally justified Pūkas, I would like to see in this case positively. However, it must be acknowledged that the Supreme Court did not recognise that a specific imbalance of power had formed during the job interview, which would allow the actions of this person to be viewed differently.

For example, the question was raised in relation to another member of the Lithuanian Parliament, whether a working relationship had not been formed while he was the student's mentor. Based on this interpretation, in my opinion, the case of Pūkas a working relationship was formed with regard to three girls seeking employment. However, it is clear that the interpretation was different.

Also, it is important to mention that this conclusion of the Constitutional Court is important because, after its decision, this person can continue to participate in the Seimas elections. In any event, the violation was recorded in the light of the Equal Opportunities Act for Women and Men in both the Equal Opportunities Ombudsman's certificate, which reached the Supreme Court. Also, this certificate was confirmed by the Supreme Administrative Court that sexual harassment was.

S: Thank you very much for such a comprehensive answer, but I would like to ask you more about the opposition regarding the prevention of sexual harassment?

B: Yes, much earlier, especially in the field of education, it was the Conservative Party - Vilija Alėknaitė- Abramikienė - she had not been in the Seimas for some time, now she has returned to the Homeland Union and the Lithuanian Christian Democratic Party. It would also be important to mention that a draft law on equal opportunities has been drafted to include a dimension of

prevention and prohibition of sexual harassment in the area of goods and services/consumer rights. Also, the absence of such a dimension can be deplorable, as it means that a person who provides services and has been harassed would not even have the opportunity to seek justice. With this said, Abramikienė commented on the exceptions applicable to religious communities. Also, the bishop's confederation is always present when issues of gender equality or non-discrimination are discussed. However, it is to be welcomed that this organisation has officially started participating. Previously, this participating organisation unofficially sought to influence members of the Seimas and government representatives. For example, call the Prime Minister, members of the Seimas, to explain that they should not vote for one thing or another. Especially considering that Lithuania is a secular state and its governance is separated from religion, at least according to the constitution.

Also, the Free Society Institute, which can be called a subsidiary of the Episcopal Conference, but they did not make any comments on the issue of sexual harassment.

But going back to the question of the progressiveness of sexual harassment prevention laws, loopholes are now being fixed. There are no more ambitious or progressive bills. In France, for example, fines have been imposed for catcalling in public places, and so on.

Question 2 [Q2]:

S: Thank you very much for your answers to the question. Move on to the next question: Based on your knowledge and research, do victims of sexual harassment trust Lithuanian institutions that fight sexual harassment? (Police and Office of the Equal Opportunities Ombudsman). Are there any factors that determine this trust?

B: Undoubtedly, this issue is broad enough. Trust in institutions is directly related to public perceptions of sexual harassment. Because the reporting person expects sexual harassment to be viewed negatively in society, however, this is not always the case. In our country, the situation is currently quite complicated, although it has improved, the recognition of sexual harassment is problematic. According to a study carried out by the Fundamental Rights Agency in 2014, this was recognised by 35% of correspondents. In Sweden, meanwhile, 81% of them has recognised sexual harassment. The study noted that the phenomenon of sexual harassment is not more common; however, such recognition is determined by public awareness.

But going back to the question of trust, a person's trust depends on whether someone will take action after his or her message or whether his or her story will be believed. Undoubtedly, most cases of sexual harassment occur between the four eyes, which means that a person does not necessarily have evidence of such an act. With this in mind, I think it should be mentioned that in practice, which could also mention sexual abuse offences too much attention is paid to the characteristics of the victim. This phenomenon is simply awful.

The trial focused on whether the underage girl expressed resistance during the violence or harassment. I will not mention specific cases. However, one shocked me, particularly. I don't remember if it was the stepfather, or it was the dad who was found guilty. The court analysed whether the minor clearly expressed resistance. Such case law could be linked to a person's trust in the institutions, whether the institutions to which they will turn will trust their history, and whether or not they will be victim-blamed. Admittedly, there is not enough good knowledge in this area, and in most cases, the aforementioned secondary victimisation occurs. It manifests itself in how questions are formed, how they are asked, with what intonation. All these aspects are extremely important in such a situation. If, in general, victims of sexual harassment experience self-blame, anxiety, long-term consequences, etc. Therefore, it must be acknowledged that a person who has experienced sexual harassment really needs an infinite determination to seek justice in a legal way.

Unfortunately, the cases that have arisen in Lithuania after the MeToo movement are not positive either. For example, in one specific case, which clearly described all the actions [when an attempt was made to put your hands behind your pants and grab your buttocks] towards employees. In that case, the prosecutor did not even consider it important to initiate a pre-trial investigation. Following media intervention, the investigation was reopened by a senior prosecutor. From this situation, it can be said that there is a complicated situation enough, and a person should really decide if he really wants to go through this whole process. One should have a strong moral determination to seek justice not only for oneself but also for others.

S: I would like to thank you for your response, which is unconditionally important in my analysis. Also, I would like to mention that I did not find your mentioned sensitivity in the Lithuanian legal framework or when analysing the institution. Therefore, your answers are very important in revealing Lithuania's policy on the prevention of sexual harassment.

B: Yes, while you were speaking, I remembered that I did not mention an important aspect that was included in the 2017 labour code. This labour code has begun to require organisations with more than 50 individuals to implement equal opportunities policies. Nevertheless, we are communicating with people implementing this policy, which is usually the human resources department. They say there is a certain secret behind their professionals.

"You just mention that our organisation operates on the principle of equal opportunities and non-discrimination, and put that policy in a drawer and forget it."

From this, it could be concluded that most organisations have a declarative view of the implementation of the principles of equal opportunities. However, we can be glad that we also work with organisations that do not want to forget these principles.

To sum up, I would like to mention that personally, I hoped that after the MeToo movement and the scandals that had arisen, Lithuanian government organisations would review their equal opportunities policies. By setting an example for other organisations. Unfortunately, we know that this did not happen; this phenomenon only occurred in certain organisations. It can also be mentioned that there was a case of sexual harassment in the Supreme Court. After this happened, I heard no change. Also, in the Academy of Arts, for example, after the events, the changes took place, but I have to admit that they were forced. However, the Rectors' Conference, which expressed its determination to tackle this problem in the academic environment, could be welcomed. Cooperation has begun with the Office of the Equal Opportunities Ombudsman to achieve this equality. However, there are no tools to assess whether or not this equality exists.

Question 3 [Q3]:

S: Thank you, we also missed one question, so I would like to ask: What behaviour is most often recognised as sexual harassment in Lithuanian court practice?

B: In this case, I should really praise the Lithuanian courts taking into account the poor practice of Lithuanian courts. I should mention the conclusion made of the Supreme Court's that the assessment should be based on the testimony of the person being harassed. Or the practice formed by the Constitutional Court, which states that if a person is accused of harassment indicates that he has not been harassed, it does not mean that he has not been sexually harassed. These principles would be important enough for further decisions. However, it is worth mentioning that it would be

useful to enshrine certain actions in the law. This definition of action should be universal, not limit a definition of sexual harassment. It could help to identify it.

It is also worth mentioning that for Lithuanian people, certain touches in the work environment are a completely natural practise that prevents individuals from identifying sexual harassment in the work environment.

Question 4 [Q4]:

S: Thank you, can we move on to the next short question, do the trade unions operating in Lithuania contribute to the fight against sexual harassment at work?

B: Some do. But I have not done a detailed analysis in this area. Therefore, I would not like to draw strict conclusions. Back in 2012, I conducted interviews with trade union representatives to explore their practice on equal opportunities. At the time, this practice was very poor. I want to believe that this practice has changed. But I don't see these organisations as some kind of leaders in this area. Also, there is a more complex issue here, because it also has to do with the status of trade unions in society, which I, too, cannot assess.

But if we look at the practice in the Nordic countries, trade unions are one of the leaders in equal opportunities in these countries, and people willingly belong to them. This is done through training for both employers and employees, and so on

Question 5 [Q5]:

S: Thanks! We managed to reach the last question, do you think that the current legal framework is sufficient to ensure a reliable and effective reporting system for sexual harassment at work?

B: I think that's not sufficient enough, and there's really room for improvement. With regard to discrimination and sexual harassment, it could be described in more detail what and how the employer should implement, ensure and perform. I don't know. This should be described in the law. For example, a policy is effective not so much because of its formal approval, but as far as it is directly applicable. When it becomes a natural work practice, it becomes part of the habitat. This means that this policy should be clearly written so that everyone understands its content. How important is it for the organisation not only to implement policies but also to assess the current

situation at work. How much effort is put into introducing and educating employees about equal opportunities. Also, it is important to mention that when we talk about this topic in relation to different groups, we are talking not only about the acquaintance to be signed but also about the change of attitudes. Changing attitudes include creating a more respectful working relation, creating a safer work environment. These aspects do not change with the signing of regulations or policies, although it is definitely a good start.

If employees were introduced to what is intolerable in the work environment and what behaviour is punishable by law, describing the specific actions that define sexual harassment, mobbing, etc. This would be a good start. Also, these procedures help to change the situation both when they are prepared together with the employees and when they are lowered from the top down. This is an important part of development. However, such a policy should consider not only how to complain, but also what assistance or protection should be provided to the victim. What preventive actions could be taken, etc. In the event of such an incident, send a message to employees that such an incident has occurred in our organisation and remind them that it is not tolerated.

Going back to changing the law, sexual harassment is not currently prohibited by law in public space. There is really a lot of sexual harassment in this space. Perhaps unless through breaches of public order. An example might be when the individual actively grabbed another person at a nightclub and thus created an unsafe space for him. I don't think there are many such cases. In this context, it can be argued that the legal framework is not clear enough for the authorities to take action or prioritise the fight against sexual harassment.

I don't think for the police sexual harassment seems to be a huge problem like hate crimes. However, one could look at it from the other side as well where everything should not be forbidden by law, through punishment. I also think that creating an unfavourable environment for sexual harassment plays a big part. This is one of the connecting factors that could help stop this problem. Such an environment can also be created by specifying in law what institutions or employers must do to ensure that it is not conducive to such behaviour. I want to restate that I am not proposing to list everything in detail as a new piece of legislation, but I am proposing to make some changes and remarks.

S: Since you answered all the questions and you have to run, I wanted to thank you very much for your answers to the questions! I would like to wish you strength and success in your future work.

B: Thank you, good luck completing the job. Goodbye.

S: Thanks, until the next time!

Transcript in Lithuanian

Skirmantas [S], Birutė [B]

Question 1 [Q1]:

S: Dar kartelį ačiū už Jūsų laiką skirtą interviu. Tad pradėkime nuo, klausimų, kuriuos siunčiau ir sutikimo deklaracijos metu bei elektroniniu paštu. Ar Lietuvoje buvo / yra siekiama įteisinti ambicingesnius įstatymus kovojant prieš seksualinį priekabiavimą? Jeigu taip, kas buvo/yra šių įstatymų opozicija?

B: Taip, ankščiau buvo svarstyta įgyvendinti ne kiek griežtesnius, bet praplečiant seksualinio priekabiavimo prevencijos taikymo sritis. Kaip žinia, šiuo metu seksualinio priekabiavimo prevencija yra reglamentuojama tiek moterų ir vyrų lygių galimybių įstatyme, lygių galimybių įstatyme ir taip pat baudžiamajame kodekse. Tai būtų svarbu atskirti šias tris skirtingas srities, nes pagal jas yra taikoma skirtinga atsakomybė. Taip pat, seksualinis priekabiavimas yra minimas darbo kodekse kaip šiurkštus darbo pažeidimas. Atsižvelgiant į įstatyminės bazės vystymąsi, svarbus momentas buvo 2017 m. išleistas darbo kodeksas. Taip būtų galima teigti, atsižvelgiant į aukščiausiojo teismo interpretacija Kęstučio Pūko byloje. Kur taikant šį įstatymą jis buvo pripažintas kaltu seksualiai priekabiaujant prie savo padėjėjos. Bet buvo išteisintas trijų siekusių įsidarbinti trijų pareiškėjų atžvilgiu. Toks aukščiausiojo teismo sprendimas buvo remtas pagrindu, kad nebuvo jokių darbo santykių, pavaldumo tarp šių asmenų. Nors su tokiu sprendimu būtų galima net nevisai sutikti, nes tame pačiame darbo kodekse yra nurodyta seksualinio priekabiavimo draudimas pagal tarnybą arba kitaip priklausomo asmens. Todėl, pagal šią nuostatą buvo galima pripažinti Pūką kaltu ir dėl priekabiavimo prie šių merginu. Tai yra tiesioginis teismų praktikos taikymo klausimas, kuriame reiktų klausti ar darbo pokalbis turėtų būti traktuojamas kaip kitaip priklausomas asmuo. Ši nutartis yra svarbi, kadangi aukščiausiasis teismas pasisakė, kad kadangi buvo vertinami santykiai kurie įvyko iki šio kodekso priėmimo būtent toks ir buvo šio teismo vertinimas. Taip pat, kad šiuo metu asmenys prie kurių būtų priekabiaujama, būtų vertinama kitaip, kadangi nuo 2017 m. pagal darbo kodeksą asmenys siekiantys įsidarbinti taip pat, turėtų būti apsaugomi nuo seksualinio priekabiavimo. Todėl, norėčiau interpretuoti, kad aukščiausiasis teismas tokiu pasisakymų visiems nusiuntė žinutę, kad nepriklausomai nuo to kokia

yra interpretacija šios bylos atžvilgiu. Ateityje tokios bylos, kuriose būtų patvirtinami seksualinio priekabiavimo veiksmai situacijos bus vertinamos kitaip. Būtų fiksuojama nusikalstama veika siekiančio įsidarbinti asmens atžvilgiu. Todėl, norėčiau tikėti, kad tai yra geros naujienos atsižvelgiant į visą viešai prabilusių aukų, visuomenės kaltinimo bangą kilusią po MeToo judėjimo. Buvo daug svaičiojimų, kaip ir kur jos ėjo, kaip rengėsi, elgėsi ir t.t. Taip pat, atsižvelgiant į tai, kad pirmos instancijos teismas apskritai buvo Pūką išteisinęs, norėčiau žiūrėti į šią bylą pozityviai. Tačiau, tenka pripažinti, kad aukščiausiasis teismas neatpažino, kad darbo pokalbio metu buvo susiformavęs tam tikras jėgos disbalansas pagal kurį būtų galima vertinti šio žmogaus veiksmus kitaip.

Pavyzdžiui buvo keliamas klausimas kito seimo nario atžvilgiu ar jam būnant moksleivės mentoriumi nebuvo susiformavę darbiniai santykiai. Remiantis šia interpretacija, mano nuomone, Pūko atvejis atsižvelgiant į tris merginas siekusias įsidarbinti – santykiai buvo susiformavę. Tačiau, akivaizdu, kad interpretuota buvo kitaip.

Taip pat, svarbu paminėti, kad ši konstitucinio teismo išvada yra svarbi kadangi jam priėmus tokį sprendimą, šis asmuo gali toliau dalyvauti seimo rinkimuose. Bet kuriuo atveju, pažeidimas buvo fiksuojamas atsižvelgiant į moterų ir vyrų lygių galimybių įstatymą tiek Lygių galimybių kontrolieriaus pažymoje, kuri pasiekė aukščiausiąjį teismą. Taip pat, ši pažyma buvo patvirtinta vyriausiojo administracinio teismo, kad seksualinis priekabiavimas buvo.

S: Labai dėkui, Jums už tokį išsamų atsakymą, tačiau, norėčiau dar Jūsų pasiteirauti apie opoziciją seksualinio priekabiavimo prevencijos atžvilgiu?

B: Taip, gerokai ankščiau konkrečiai švietimo srityje, buvo pasipriešinusi būtent konservatorių partija – Vilija Alėknaitė-Abramikienė, kuri kurį laiką nebuvo seime, dabar vėlgi sugrįžo su Tėvynes sąjunga ir Lietuvos krikščionių demokratų partijomis. Taip pat, būtų svarbu paminėti, kad yra parengtas lygių galimybių įstatymo projektas, kuriame įtraukiama seksualinio priekabiavimo prevencijos ir draudimo dimensija prekių ir paslaugų srityje / vartotojų teisių srityje. Taip pat, tokios dimensijos nebūvima galima vertinti apgailėtinai, kadangi tai reiškia, kad žmogus teikiantis paslaugas ir prie kurio buvo priekabiaujama net neturėtų galimybės ieškoti teisingumo. Tai, minėta Abramikienė teikė pastabas dėl išimčių taikomų religinėms bendruomenėms. Taip pat, vyskupų konferencija, kuri visada dalyvauja kai yra svarstomi lyčių lygybės ar ne diskriminacijos klausimai. Tačiau, reikia pasidžiaugti, kad ši organizacija pradėjo dalyvauti oficialiai. Ankščiau ši

dalyvaudavo organizacija neoficialiai siekdavo padaryti įtaka seimo nariams bei vyriausybės atstovams. Pavyzdžiui paskambinti ministrui pirmininkui, seimo nariams, paaiškinti, kad jie neturėtų balsuoti už vieną ar kitą dalyką. Ypatingai, atsižvelgiant į tai, kad Lietuva yra sekuliari valstybė ir jos valdymas yra atskirtas nuo religijos, bent jau pagal konstitucija.

Taip pat, Laisvos visuomenės institutas, kurį galima vadinti vyskupų konferencijos dukterine organizacija, bet ties seksualinio priekabiavimo klausimu, nebuvo teikiamos kažkokios pastabos. Bet grįžtant prie klausimo apie seksualinio priekabiavimo prevencijos įstatymų progresyvumą, dabar yra vykdomas spragų taisymas. Nėra teikiami ambicingesni ar progresyvesni įstatymo projektai. Kaip pavyzdžiui Prancūzijoje pradėta skirti baudas už ”catcalling” viešoje erdvėje ir t.t.
Question 2 [Q2]:

S: Dar kartelį ačiū Jums labai už Jūsų atsakymus į klausimą. Judame prie sekančio klausimo: Remiantis Jūsų žiniomis bei atliktais tyrimais, ar seksualinio priekabiavimo aukos pasitiki Lietuvos institucijomis, kurios kovoja prieš seksualinį priekabiavimą? (Policija ir lygių galimybių kontrolieriaus tarnyba). Ar yra žinomi tai lemiantys faktoriai?

B: Tenka pripažinti, kad šis klausimas yra pakankamai platus. Pasitikėjimas institucijomis yra tiesiogiai susijęs su visuomenės seksualinio priekabiavimo supratimu. Kadangi pranešantis žmogus tikisi, kad seksualinis priekabiavimas visuomenėje būtų vertinamas neigiamai, tačiau, taip yra ne visada. Mūsų šalyje šiuo metu situacija yra pakankamai sudėtinga, nors ir yra pagerėjusi, seksualinio priekabiavimo atpažinimas yra problematiškas. Pagal pagrindinių teisių agentūros atliktą tyrimą atliktą 2014 m., tokį veiksmą atpažįstą 35 proc. apklaustųjų, tuo tarpu Švedijoje seksualinį priekabiavimą atpažįsta 81 proc. apklaustųjų. Minėtame tyrime buvo pažymėta, kad seksualinio priekabiavimo reiškinys nėra dažnesnis, tačiau, tokį atpažįstamumą lemia visuomenės sąmoningumas.

Tačiau, grįžtant prie pasitikėjimo klausimo, žmogaus pasitikėjimas priklauso nuo to ar kažkas imsis veiksmų po jo pranešimo, ar jo istorija patikės. Tenka pripažinti, kad dažniausiai seksualinio priekabiavimo atvejai įvyksta tarp keturių akių, o tai reiškia, kad žmogus nebūtinai turi įrodymų apie tokį veiksmą. Atsižvelgiant į šį klausimą, manau, kad galima paminėti praktikoje, kurioje būtų galima paminėti ir seksualinės prievartos nusikaltimus. Tokiose bylose yra pernelyg daug dėmesio skiriama aukos charakteristikai. Šis reiškinys yra tiesiog pasibaisėtinas.

Teismo proceso metu buvo skiriamas dėmesys į tai ar prievartos ar priekabiavimo metu nepilnametė mergina išreiškė pasipriešinimą. Konkrečių bylų neminėsiu, tačiau, viena mane ypatingai šokiravo. Nepamenu ar tai buvo patėvis, ar tai tėtis, kuris buvo pripažintas kaltu. Tyrimo metu buvo analizuojama ar nepilnametė aiškiai išreiškė pasipriešinimą. Tokią teismų praktiką galima būtų susieti su žmogaus pasitikėjimu institucijomis, ar institucijos į kurias jie kreipsis patikės jų istorija ir ar nereikės patirti antrinės viktimizacijos. Tenka pripažinti, kad šioje srityje nėra pakankamai gerų žinių, daugumoje atveju pasireiškia minėta antrinė viktimizacija. Tai pasireiškia nuo to kaip yra formuojami klausimai, kaip jie yra užduodami, su kokia intonacija. Visi šie aspektai tokios situacijos metu yra be galo svarbus. Jeigu vertinant apskritai ką patyrė seksualinio priekabiavimo aukos, pasireiškia savęs kaltinimas, nerimas, ilgalaikiai padariniai ir t.t. Todėl, tenka pripažinti, kad žmogui patyrusiam seksualinį priekabiavimą išties reikia begalinio pasiryžimo siekti teisingumo teisiniu būdu.

Deja, bet Lietuvoje po MeToo judėjimo iškilę atvejai teigiamai, taip pat, nenuteikia. Pavyzdžiui vieno konkretaus atvejo atžvilgiu, kuriame buvo aiškiai aprašyti visi veiksmai [kai buvo bandoma užkišti rankas už kelnių ir pagriebti už sėdmenų] darbuotojoms vadovas. Tuo atveju prokurorė net nemanė, kad yra svarbu pradėti ikiteisminį tyrimą. Po žiniasklaidos įsikišimą, tyrimą atnaujino aukštesnis prokuroras. Iš šios situacijos galima teigti, kad yra pakankamai sudėtinga situacija, ir žmogus turėtų tikrai nuspręsti ar jis tikrai nori eiti per visą šitą procesą. Žmogus turėtų turėti didelį moralinį pasiryžimą siekti teisingumo ne vien dėl savęs, bet ir dėl kitų.

S: Norėčiau, Jums padėkoti už Jūsų atsakymą, kuris yra besąlygiškai svarbus mano analizėje. Taip pat, norėčiau paminėti, kad Jūsų minėto jautrumo Lietuvos įstatyminėje bazėje ar analizuodamas instituciją, neradau. Todėl, Jūsų atsakymai labai svarbūs atskleidžiant Lietuvos politiką ties seksualinio priekabiavimo prevencija.

B: Taip, Jums bešnekant, prisiminiau, kad nepaminėjau svarbaus aspekto, kuris buvo įtrauktas į 2017 m. įsigaliojusį darbo kodeksą. Šiame darbo kodekse pradėta reikalauti organizacijoms turinčioms virš 50 asmenų įsidiegti lygių galimybių politiką. Vis dėl to, kai mes bendraujame su žmonėmis įgyvendinančiais šią politiką, kas yra dažniausiai žmogiškųjų išteklių skyriaus specialistai. Jie sako, kad tarp jų specialistų yra tam tikra paslaptis.

„Tai tu paminėk, kad mūsų organizacija veikia pagal lygių galimybių principą ir nediskriminavimą ir padėk tą politiką į stalčių ir užmiršk“.

Iš to galima būtų spręsti, kad dauguma organizacijų deklaratyviai žiūri į lygių galimybių principų įgyvendinimą. Tačiau, galima pasidžiaugti, kad mums tenka dirbti ir su tokiomis organizacijomis, kurios užmiršti nenori.

Tai apibendrinant, norėčiau paminėti, kad asmeniškai aš tikėjausi, kad po MeToo judėjimo ir iškilusių skandalų, Lietuvos vyriausybinės organizacijos peržvelgs savo lygių galimybių politikas. Taip parodydamos pavyzdį kitoms organizacijoms. Deja, žinome, kad tai neįvyko, šis reiškinys pasireiškė tik tam tikrose organizacijose. Taip pat, galima paminėti, kad ir aukščiausiame teisme įvyko seksualinio priekabiavimo atvejis. Po šio įvyko neteko girdėti kažkokių pokyčių. Taip pat, pavyzdžiui dailės akademijoje po įvykių, pokyčiai įvyko, bet tenka pripažinti, kad jie buvo priverstiniai. Teigiamai galima būtų vertinti rektorių konferenciją, kurios metu buvo išreikštas pasiryžimas kovoti su šia problema akademinėje aplinkoje. Buvo pradėta bendradarbiauti su lygių galimybių kontrolieriaus tarnyba kaip siekti šios lygybės. Įsivertinti ar ši lygybė yra ar nėra.

Question 3 [Q3]:

S: Labai, Jums, dėkui, taip pat, praleidome vieną klausimą, todėl norėčiau pasiklausti: Koks elgesys dažniausiai atpažįstamas kaip seksualinis priekabiavimas Lietuvos teismų praktikoje?

Reiktų paminėti aukščiausiojo teismo išvada, kurioje buvo paminėta, kad vertinti reiktų pagal asmens parodymus prie kurio buvo priekabiaujama. Arba konstitucinio teismo suformuota praktika, kurioje nurodoma, kad jeigu asmuo kaltinamas priekabiavimu nurodo, kad jis nepriekabiavo tai nereiškia, kad jis seksualiai nepriekabiavo. Tai šie principai būtų pakankamai svarbūs tolimesniems sprendimams. Tačiau vertėtų paminėti, kad būtų pravartu įrašyti tam tikrus veiksmus į įstatymą. Šis veiksmų apibrėžimas turėtų būti universalus, neapribojantis seksualinio priekabiavimo, bet padedantis jį identifikuoti.

Taip pat, vertėtų paminėti, kad Lietuvos žmonėms tam tikri prisilietimai darbo aplinkoje yra visiškai natūrali praktika, kuri stabdo asmenis nuo galimybės identifikuoti seksualinį priekabiavimą darbo aplinkoje.

Question 4 [Q4]:

S: Ačiū, galime judėti prie kito trumpo klausimo, ar Lietuvoje veikiančios profsąjungos prisideda prie kovos prieš seksualinį priekabiavimą darbe?

B: Kai kurios taip. Bet nesu atlikusi detalios analizės šioje srityje, todėl, nenorėčiau teigti griežtų išvadų. Dar 2012 m. atlikinėjau interviu su profsąjungų atstovais, kurio metu aiškinausi jų taikomą praktika lygių galimybių klausimais. Tuo metu ši praktika buvo labai skurdi. Noriu tikėti, kad ši praktika yra pasikeitusi. Bet nematau šių organizacijų kaip kažkokių lyderių šioje srityje. Taip pat, čia yra ir sudėtingesnis klausimas, kadangi tai yra susiję ir su profsąjungų statusu visuomenėje, ko aš taip pat, negaliu vertinti.

Bet, jeigu žvelgtume į šiaurės šalių praktiką, šiose šalyse profsąjungos yra vienos iš vedančiųjų lygių galimybių klausimais, žmonės noriai joms priklauso. Tai vykdoma atliekant mokymus tiek darbdaviams tiek darbuotojams ir t.t.

Question 5 [Q5]:

S: Ačiū! Spėjome pasiekti paskutinį klausimą ar Jūsų nuomone, ar šiuo metu galiojanti įstatyminė bazė yra pakankama užtikrinti patikimą ir efektyvią pranešimų sistemą apie seksualinį smurtą darbe?

B: Aš manau, kad nepakankama ir yra tikrai tobulintina. Būtų galima konkrečiau aprašyti ties diskriminacijos tiek seksualinio priekabiavimo atžvilgiu ką ir kaip darbdavys turėtų įgyvendinti, užtikrinti, atlikti. Nežinau, tai turėtų būti aprašyta įstatyme. Pavyzdžiui politika yra veiksminga ne tiek dėl jos formalaus patvirtinimo, bet kiek ji yra tiesiogiai taikoma. Kai ji patampa natūrali darbo praktika, habitat dalis. Tai reiškia, kad ši politika turėtų būti aiškiai parašyta, kad visi suprastų jos turinį. Kiek yra svarbu, kad organizacija ne tik įsidiegtų politiką, bet ir įsivertintų esančią situaciją darbe. Kiek įdedama pastangų supažindinti darbuotojus ir šviesti lygių galimybių klausimu. Taip pat, svarbu paminėti, kad kai šnekame šia tema įvairių grupių atžvilgiu, mes šnekame ne tik apie pasirašytiną susipažinimą, bet ir apie nuostatų keitimą. Nuostatų keitimą sudaro pagarbesnis darbo santykio kūrimas, saugesnės darbo aplinkos kūrimą. Šie aspektai nesikeičia pasirašius nuostatus ar politiką. Nors neabejotinai tai yra gera pradžia.

Jeigu darbuotojai būtų supažindinami, kas yra netoleruotina darbo aplinkoje ir kokį elgesį baudžia įstatymine tvarka, aprašant konkrečius veiksmus, kurie apibrėžia seksualinį priekabiavimą, mobingą, ir t.t. Tai būtų gera pradžia. Taip pat, šios tvarkos padeda keisti situaciją tiek kai jos yra parengiamos kartu su darbuotojais tiek, kai jos nuleidžiamos iš viršaus į apačią. Tai yra svarbi vystymosi dalis. Tačiau, tokia politika turėtų atsižvelgti ne tik kaip apskųsti, bet ir kokia pagalba

ar apsauga turėtų būti suteikiama nukentėjusiajam. Kokie prevenciniai veiksmai galėtų būti atliekami ir t.t. Tokiam atvejui įvykus, išsiųsti žinutę darbuotojams, kad mūsų organizacijoje įvyko toks atvejis bei priminti, kad jis nėra toleruojamas.

Grįžtant prie įstatymų keitimo, šiuo metu seksualinis priekabiavimas nėra uždraustas įstatymu viešojoje erdvėje. Šioje erdvėje yra tikrai nemažai seksualinio priekabiavimo. Galbūt, nebent per viešosios tvarkos pažeidimus. Pavyzdys galėtų būti, kad aktyviai grabinėjo naktiniame klube asmenį ir taip sukūrė, jam nesaugią erdvę, nemanau, kad tokių atvejų yra daug. Atsižvelgiant į tai, galima teigti, kad teisinė bazė nėra pakankamai aiški, kad institucijos imtųsi veiksmų arba nusimatytų prioritetą kovoti su seksualiniu priekabiavimu.

Nemanau, kad šiuo metu policijai, atrodo, kad seksualinis priekabiavimas yra didžiulė problema kaip ir neapykantos nusikaltimai, tačiau, būtų galima žiūrėti ir iš kitos pusės. Kur viskas neturėtų būti draudžiama įstatymu, per baudimą. Manau, kad didelę dalį turi ir nepalankios aplinkos seksualiniam priekabiavimui kūrimas. Tai yra vienas iš jungiamųjų dalykų, kuris galėtų prisidėti prie šios problemos sustabdymo. Tokia aplinką taip pat, galima sukurti ir įstatymuose nurodant, ką institucijos ar darbdaviai turi padaryti, kad ji nebūtų palanki tokiam elgesiui. Noriu pasikartoti, kad nesiūlau visko išvardinti kaip įstatyminio akto detaliai, bet būtų galima įdėti tam tikras pastangas ir pastabas.

S: Kadangi atsakėte į visus klausimus ir turite bėgti, norėjau Jums labai padėkoti už Jūsų atsakymus į klausimus! Norėčiau Jums palinkėti stiprybės ir sėkmės tolimesniuose darbuose.

B: Ačiū, sėkmės užbaigiant darbą, viso.

S: Ačiū, iki!

Appendix B
Questions & Answers

In regard of unstructured interview, few questions have been sent to police representatives in regard of sexual harassment. Therefore, questions have been sent in Lithuanian language. Due to this reason, both questions and answers are translated from Lithuanian to English. Both languages will be presented in this paper. Moreover, the person whom has answered the questions has agreed that the received answers are going to be used in this research that is the property of Aalborg University. These agreements can be found with the attachments of this research. The questions have been sent in 29 of April of 2020 and the answers received by 14 of May 2020.

Addressed Questions

English:

1. Does the Lithuanian Police receive an application for sexual harassment in the work environment? (Of course, this issue should be addressed by the Office of the Equal Opportunities Ombudsman, but from the available sources I cannot be sure whether the Lithuanian police do not have to deal with such cases.)
2. Has the Lithuanian Police set a goal to combat sexual harassment since the entry into force of the Criminal Code? (After reading the annual reports, such an objective could not be found, training or projects may have been carried out to strengthen qualifications, etc.)
3. Does the Lithuanian Police have a sexual harassment prevention policy or a similar document in place in its work environment? If so, what does this document call sexual harassment?

Lithuanian:

1. Ar Lietuvos Policija susilaukia kreipimosi dėl seksualinio priekabiavimo darbo aplinkoje? (Žinoma, kad šis klausimas turėtų būti sprendžiamas lygių galimybių kontrolieriaus tarnybos, tačiau, iš pasiekiamų šaltinių negaliu būti tikras ar Lietuvos policijai netenka susidurti su tokiais atvejais.)
2. Ar Lietuvos Policija nuo įsigaliojusio baudžiamojo kodekso buvo išsikėlusi tikslą kovoti su seksualinio priekabiavimo apraiškomis? (perskaičius metines ataskaitas tokio išsikelto tikslo nepavyko rasti, galbūt buvo vykdomi mokymai ar projektai siekiant sustiprinti kvalifikacija ir t.t.)
3. Ar Lietuvos Policija savo darbo aplinkoje turi įsidiegusi seksualinio priekabiavimo prevencijos politiką ar panašų dokumentą? Jeigu taip, kaip šis dokumentas įvardina seksualinį priekabiavimą?

Provided Answers

English

In answer to your questions about sexual harassment, we can be glad that this is not an everyday phenomenon. The police, in their turn, assess the actions corresponding to sexual harassment, considering

the mass and danger of the illegal act, through the prism of criminal law - it is a criminal offence for which Article 152 of the Criminal Code of the Republic of Lithuania is responsible. And the actions of the prosecuted person must comply with the requirements of the law - the actions must be vulgar, their purpose - sexual intercourse or satisfaction, and the person against whom they are committed - must be dependent or bound by official ties.

The statistics on criminal offenses registered under this article probably tell a lot about this phenomenon: https://www.ird.lt/lt/paslaugos/tvarkomu-valdomu-registru-ir-informaciniu-sistemu-paslaugos/nusikalstamu-veiku-zinybinio-registro-nvzr-atviri-duomenys-paslaugos/ataskaitos-1/nusikalstamumo- and-pre-trial-statistics-1-view_item_datasource? id = 8166 & datasource = 40851

According to statistics, considering even the possible latency of this phenomenon, it is quite rare in society.

We do not systematize or collect cases of sexual harassment in the police. Therefore, we cannot provide you with data on possible cases of sexual harassment in the police. The police have not set a separate goal to combat this phenomenon, but like all prohibited acts, sexual harassment is responded to and strictly assessed in accordance with the law. Therefore, there is no separate document regulating how the police should react to such a phenomenon.

High moral and value standards are set for officers, both in society and in the personal environment, as well as in the police community itself. Any conduct of an officer that does not comply with the ethical requirements shall be considered and evaluated in accordance with the Code of Ethics for Police Officers approved by order of the Commissioner-General, and gross violations or criminal acts shall be considered in accordance with the laws of the Republic of Lithuania.

Lithuanian

atsakydami į Jūsų pateiktus klausimus dėl seksualinio priekabiavimo, galime pasidžiaugti, kad vis tik tai nėra kasdienis reiškinys. Policija, savo ruožtu seksualinį priekabiavimą atitinkančius veiksmus, atsižvelgdama į daromos neteisėtos veikos masiškumą bei pavojingumą, vertina per baudžiamojo įstatymo prizmę – tai yra baudžiamasis nusižengimas, už kurio padarymą atsakomybė numatyta Lietuvos Respublikos baudžiamojo kodekso 152 straipsnyje. Ir traukiamo baudžiamojon atsakomybėn asmens veiksmai turi atitikti įstatyme numatytus reikalavimus – veiksmai turi būti vulgarūs, jų tikslas – seksualinis bendravimas ar pasitenkinimas bei asmuo, kurio atžvilgiu jie atliekami – turi būti priklausomas arba susaistytas tarnybiniais ryšiais.

Greičiausiai nemažai apie šį reiškinį pasako statistiniai duomenys apie registruotas pagal šį straipsnį nusikalstamas veikas: https://www.ird.lt/lt/paslaugos/tvarkomu-valdomu-registru-ir-informaciniu-sistemu-paslaugos/nusikalstamu-veiku-zinybinio-registro-nvzr-atviri-duomenys-paslaugos/ataskaitos-1/nusikalstamumo-ir-ikiteisminiu-tyrimu-statistika-1/view_item_datasource?id=8166&datasource=40851

Atsižvelgiant į statistiką, įvertinus netgi galimą šio reiškinio latentiškumą, jis visuomenėje gan retas.

Nesisteminame ir nekaupiame, todėl ir negalime Jums pateikti, duomenų apie galimus seksualinio priekabiavimo atvejus policijoje. Atskiras tikslas kovoti su šiuo reiškiniu policijoje iškeltas nebuvo, tačiau kaip ir į visus draudžiamus veiksmus, į seksualinį priekabiavimą reaguojama ir jis griežtai vertinamas įstatymų nustatyta tvarka. Tad ir atskiro dokumento, reglamentuojančio, kaip turėtų būti reaguojama į tokį reiškinį policijoje nėra.

Pareigūnams yra keliami aukšti moraliniai ir vertybiniai standartai tiek visuomenėje, tiek asmeninėje aplinkoje, tiek pačioje policijos bendruomenėje. Bet koks pareigūno elgesys, neatitinkantis etinių reikalavimų, yra svarstomas ir vertinamas pagal Generalinio komisaro įsakymu patvirtintą Policijos darbuotojų etikos kodeksą, o grubūs pažeidimai arba nusikalstami veiksmai atitinkamai ir pagal atsakomybę už juos numatančius Lietuvos Respublikos įstatymus.
