



Фондация за
достъп до права

Foundation for
Access to Rights

Approved on 10 December 2019
By Valeria Ilareva, Chairperson of FAR
Signature and stamp:

POLICY ON PREVENTION AND RESPONSE TO SEXUAL HARASSMENT AND SEXUAL EXPLOITATION AND ABUSE (SEA)

This Policy is in alignment with the Code of Conduct of UNHCR and the Secretary General's Bulletin, 9 October 2003 on "Special measures for protection from sexual exploitation and sexual abuse" (ST/SGB/2003/13).

Section 1

Definitions

For the purposes of the present policy, the term "*sexual exploitation*" means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Similarly, the term "*sexual abuse*" means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

Harassment may be present in the form of words, gestures, electronic communication or other actions that annoy, alarm, abuse, demean, intimidate, belittle, or cause personal humiliation or embarrassment to another, or cause an intimidating, hostile or offensive work environment. It includes but is not limited to harassment based on any grounds, such as race, religion, colour, creed, ethnic origin, physical attributes, gender identity, or sexual orientation. Harassment will often consist of a series of incidents, but it may be brought about by a single incident only.

Section 2

Scope of application



Фондация за
достъп до права

Foundation for
Access to Rights

The present policy shall apply to all personnel of the Foundation for Access to Rights – FAR, including volunteers. The prohibition against harassment, sexual harassment, discrimination, and abuse of authority extends to conduct which occurs at the workplace, during or outside working hours.

Section 3

Prohibition of sexual exploitation and sexual abuse

3.1 Sexual exploitation and sexual abuse violate universally recognized international legal norms and standards and have always been unacceptable behaviour and prohibited conduct for FAR staff members.

3.2 In order to further protect the most vulnerable populations, especially women and children, the following specific standards are promulgated:

(a) Sexual exploitation and sexual abuse constitute acts of serious misconduct and are therefore grounds for disciplinary measures, including summary dismissal;

(b) Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent in Bulgaria. Mistaken belief in the age of a child is not a defence;

(c) Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, is prohibited. This includes any exchange of assistance that is due to beneficiaries of assistance;

(d) Sexual relationships between FAR staff members and beneficiaries of legal assistance, since they are based on inherently unequal power dynamics, undermine the credibility and integrity of the work of FAR and are strongly discouraged;

(e) Where a FAR staff member develops concerns or suspicions regarding sexual exploitation or sexual abuse by a fellow worker, he or she must report such concerns via established reporting mechanisms;

(f) FAR staff are obliged to create and maintain an environment that prevents sexual exploitation and sexual abuse. The Chairperson of FAR has a particular responsibility to support and develop systems that maintain this environment.

3.3 The standards set out above are not intended to be an exhaustive list. Other types of sexually exploitive or sexually abusive behaviour may be grounds for administrative action or disciplinary measures, including summary dismissal.



Фондация за
достъп до права

Foundation for
Access to Rights

Section 4

Duties of the Foundation for Access to Rights

4.1 The Governing Body and the Chairperson of FAR, as appropriate, shall be responsible for creating and maintaining an environment that prevents sexual exploitation and sexual abuse, and shall take appropriate measures for this purpose. In particular, the Chairperson of FAR shall inform the staff of the content of this Policy by providing easy access to it through publication, notification and circulation of the same. The Chairperson shall inform the staff members and beneficiaries for available reporting mechanisms. Clear information outlining the “No Excuses” approach of the UN rules and prohibitions related to sexual exploitation and abuse shall be also made available to all FAR personnel.

4.2. The Chairperson of FAR shall be responsible to sensitize staff members about sexual harassment issues and shall encourage them to participate in the UN SEA online training and other respective trainings, organised by the UNHCR office in Bulgaria. These trainings stress the standards of conduct expected of all personnel, the consequences of breaching them, and the impact of sexual harassment, exploitation and abuse on those affected and their families.

4.3 FAR shall conduct pre-employment checks of personnel to prevent the rehiring of known offenders.

4.4 The Chairperson of FAR shall be responsible for taking appropriate action in cases where there is reason to believe that any of the standards listed in section 3.2 above have been violated or any behaviour referred to in section 3.3 above has occurred. This action shall be taken in accordance with established rules and procedures for dealing with cases of staff misconduct aligned with the Code of Conduct United Nations High Commissioner for Refugees and the Secretary General’s Bulletin, 9 October 2003 on “Special measures for protection from sexual exploitation and sexual abuse” (ST/SGB/2003/13).

4.5 All reports of sexual exploitation and sexual abuse shall be handled in a confidential manner in order to protect the rights of all involved. However, such reports may be used, where necessary, for action taken pursuant to section 4.4 above.

4.6 The Chairperson of FAR may use his or her discretion in applying the standard prescribed in section 3.2 (d), where beneficiaries of assistance are over the age of 18 and the circumstances of the case justify an exception.

4.7 The Chairperson of FAR shall promptly inform the UNHCR focal point of its investigations into cases of sexual exploitation and sexual abuse when they are connected to activities in the scope of the Partnership Agreement of FAR and UNHCR ((BGR01/2020/0000000076/000) and the actions it has taken as a result of such investigations.



Фондация за
достъп до права

Foundation for
Access to Rights

Section 5

Responsibilities of FAR personnel

FAR personnel must:

- a) Be respectful to others and maintain the highest standards of conduct;
- b) Maintain a harmonious working environment by behaving in a manner that is free of intimidation, hostility, offence and any form of prohibited conduct;
- c) Familiarize themselves with FAR's policies, including an understanding of what constitutes prohibited conduct. In addition, FAR personnel must take mandatory courses related to prohibited conduct, as determined by the FAR.
- d) Be aware of the various options and internal channels available to them for reporting and/or otherwise addressing such behaviours; and
- e) Respect confidentiality and fully cooperate with those responsible for investigating reports of prohibited conduct under this policy.

Section 6

Reporting of misconduct and referral of cases

6.1. When staff of the Foundation for access to Rights - FAR learns about possible misconduct on the part of one of its co-workers, this allegation must be immediately and confidentially referred to the Chairperson of FAR in either a formal (see Annex 1) or informal way through phone, orally. Such referral might also be made by a beneficiary.

6.2 In case the sexual misconduct is connected to activities of FAR's Project Agreement with UNHCR (BGR01/2020/0000000076/000), the Chairperson of FAR shall transmit the allegation to the IGO Investigation Service through the UNHCR Representation in Bulgaria. The IGO, in cooperation with FAR will determine the most appropriate course of action to take. Where FAR does not have the capacity, it has the option: to request the IGO to conduct or provide guidance on the investigation; or to suggest a joint investigation with the IGO. When FAR does have the capacity, it should conduct the investigation itself and report results to the UNHCR IGO.

6.3 When UNHCR staff, or staff of FAR, learn about possible misconduct on the part of the FAR, but not directly related to activities of the Project Agreement it must immediately and confidentially be made known to the Chairperson of FAR and the IGO Investigation Service. Possible misconduct in this instance may be those related to the well-being of refugees or persons of concern to UNHCR, or may have broader implications for the work of UNHCR and/or FAR (for example, in operations, human resources, or reputation). UNHCR and FAR



Фондация за
достъп до права

Foundation for
Access to Rights

should consult together on the most appropriate course of action to take. All other cases would be handled by FAR.

6.4 If a staff member of FAR learns that a UNHCR staff member is suspected of possible misconduct, the case must be confidentially referred to the IGO Investigation Service. The IGO will then take applicable investigative action in accordance with UNHCR rules and procedures.

6.5. The person making the complaint shall specify to the Chairperson of FAR what happened, who committed the alleged wrongdoing (name, organisation, position if possible), whether anyone else was involved when and where did the incident(s) occur, indicate dates and times, if available.

6.5. Retaliation by any member of FAR's personnel against another member of FAR's personnel or a beneficiary for having, in good faith, properly reported allegations of misconduct, or for having cooperated with a duly authorized audit or investigation, is strictly prohibited.

Section 7

Proceedings of the Complaints Evaluation

The following is the redressal process, which will be adopted to address any complaints lodged by a staff member or beneficiary only in the cases that do not fall under point 6.2, 6.4, 6.4. mentioned above:

7.1. Upon receiving the complaint the Chairperson of FAR shall set up an *ad hoc* Complaints Committee of three members (two from the Governing Body of FAR and one external member) within seven working days. The Committee will address the cases/complaints of alleged sexual harassment submitted by the staff member(s) to FAR, to prevent and deal with sexual harassment. This Committee would be formed only in case the need arises, after the Chairperson has talked to both the parties involved (Complainant and Accused) and ensured that the implications of filling a complaint (or not doing so) has been discussed in detail with them.

7.2. A person shall be disqualified for being appointed, elected, nominated or designated, or for continuing as a member of the Complaints Committee, if there is any complaint concerning sexual harassment pending against him/her or is found guilty of sexual harassment. FAR shall ensure that the Complaint is not being evaluated by the Accused.

7.3. Upon receiving the complaint within three working days, the Committee will share the statement of allegation with the Accused.



Фондация за
достъп до права

Foundation for
Access to Rights

7.4. If the Accused desires to tender any written explanation to the statement of allegation, he/she shall submit the same to the Complaints Committee within seven days.

7.5. The Complaints Committee will give ample opportunity to the Complainant and the Accused, for putting forward and defending their respective case by presenting witnesses and evidence, which may establish their claims.

7.6. The Complainant and the Accused will have the right to submit supporting evidence.

7.7. The complaints Committee will complete the enquiry/ investigation and prepare a report of its findings on the charges against the Accused and its decision to the Chairperson of FAR within a period of thirty days from the date of filing of the Complaint by the Complainant. The report of the Complaints Committee will also include recommendations to the Chairperson of FAR for imposition of punishment along with reasons for such recommendations, as applicable.

7.8. The Chairperson of FAR will consider the recommendations and findings of the complaints Committee and will be required to arrive at a decision with respect to the proposed corrective action against the accused within fourteen days of the submission of the report by the Complaints Committee.

7.9. The Chairperson of FAR has the right to issue a decision as it deems fit. The Chairperson of FAR shall also endorse a copy of its decision to the Complainant, Accused and to the Complaints Committee.

7.10. In the event, the Complaints Committee after investigation of a Complaint in accordance with the procedure prescribed herein, concludes that the Complaint was false and made with mala fide intention by the Complainant, then the Complaints Committee shall take such appropriate measures, in consultation with the Chairperson, against the complaint, as it may deem necessary.

Section 8

Punishment for Sexual Harassment

8.1. FAR can impose the following punishments, which are indicative and not exhaustive on a staff member who is found guilty of sexual harassment:

- Written warning in cases of minor violations



Фондация за
достъп до права

Foundation for
Access to Rights

- Dismissal in cases of major violations

8.2. The employee will also be required to give a written apology to the Accused and upon his/her failure to do so, the punishment can be enhanced.

Section 9

Referral to national authorities

In case the act under sexual harassment amounts to a specific offence under the applicable law (the Criminal Code of the Republic of Bulgaria), the Chairperson of FAR shall initiate appropriate actions, in accordance with the law, by making a complaint with the appropriate authority for criminal prosecution.

FAR contact information:

Chairperson of FAR:

Email: valeria.ilareva@arbg.eu

Telephone: +359 88 840 1489

Mail: 130 Prof. Tsvetan Lazarov Blvd, office 9

1582 Sofia

Bulgaria

UNHCR PSEA focal point information:

Shoira Razybaeva

Email: ruzybaev@unhcr.org

Office: 2 Pozitano Square

1000 Sofia

Bulgaria

UNHCR IGO Investigation Service contact information:

The IGO can receive reports in a confidential manner in the following ways:



Фондация за
достъп до права

Foundation for
Access to Rights

Email: inspector@unhcr.org

UNHCR website: www.unhcr.org/php/complaints.php

Telephone: +41 22 739 8844

Facsimile: +41 22 739 7380

Mail: Head of Investigation Service
 Inspector General's Office
 UNHCR
 94, rue de Montbrillant
 1202 Geneva
 Switzerland

Directly to an IGO staff member

ANNEX 1

EN

REFERRAL OF CASES OF POSSIBLE MISCONDUCT MODEL REFERRAL FORM

Organisation making the referral:	Date referred:
Referral made to (name of organization):	Date received:

Name of person reporting the alleged incident:	Nationality:	
Address/Contact details:	Age:	Sex:

Name of victim (if different from person reporting the alleged incident):
Nationality:



Фондация за
достъп до права

Foundation for
Access to Rights

Address/Contact details:

Age:

Sex:

Name of person accused of the alleged incident:

Nationality:

Job title:

Organisation:

Address/Contact details:

Age:

Sex:

Brief description of incident(s)/allegation(s) (attach extra pages if necessary):

Date of Incident(s):

Location of Incident(s):

Summary:

Witnesses' names and Contact Information:

Action(s) taken by the organization (if any) since the incident:



Фондация за
достъп до права

Foundation for
Access to Rights

Have the police/local authorities been contacted regarding this incident/allegation

YES

NO

If yes, what happened?

If no, does the victim want police assistance, and if not, why?

Are there any immediate medical or security concerns to take into account?

Reason for referral of this case:

Name of person making the referral: _____

Position: _____

Organisation: _____

Date: _____



Фондация за
достъп до права

Foundation for
Access to Rights

BG

ФОРМУЛЯР ЗА ДОКЛАДВАНЕ НА СЛУЧАИ НА ВЪЗМОЖНИ ПРОВИНЕНИЯ

Докладваща организация:

Дата на докладване:

**Докладването е отправено до
(име на организацията):**

Дата на получаване:

Име на лицето, съобщаващо за преподългаемия инцидент:

Националност:

Адрес/Контакти:

Възраст:

Пол:

Име на жертвата (в случай че е различно от това на лицето, което съобщава за предполагаемия инцидент):

Националност:

Адрес/Контакти:

Възраст:

Пол:

Име на лицето обвинено в извършване на предполагаемия инцидент:

Националност:

Заемана позиция:

Организация:

Адрес/Контакти:

Възраст:

Пол:



Фондация за
достъп до права

Foundation for
Access to Rights

Кратко описание на инцидента(тите)/твърдението(нията) (прикачете допълнителни страници ако е необходимо):

Дата на инцидента(тите):

Място на инцидента(тите):

Обобщение:

Имена на свидетели и техните контакти за връзка:

Предприети действия от страна на организацията (ако има такива) след инцидента:

Уведомена ли е полицията/ местните власти за инцидента?

ДА

НЕ

Ако да, какво се случи?

Ако не, жертвата иска ли помощ от полицията и ако не - защо?



Фондация за
достъп до права

Foundation for
Access to Rights

Следва ли да се вземат под внимание проблеми, свързани с незабавни медицински нужди или такива свързани със сигурността?

Причина за докладване на този случай:

Име на докладващото лице: _____

Заемана позиция: _____

Организация: _____

Дата: _____