

ANALYSIS OF A GOOD PRACTICE CASE – SPAIN

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The advantage of Spanish regulation is that provisions regulating women's rights and gender issues are not fragmented but gathered in one basic act. Specific issues (like gender violence) are covered separately.

Organic Act for effective equality between women and men (3/2007)

The purpose of this Act is to ensure equal treatment and opportunities for women and men, in particular via the elimination of discrimination against women of whatsoever circumstances or background and in all areas of life, specifically in the political, civil, occupational, economic, social and cultural domains, so as to build a more democratic, fair and solidary society. Obligations shall be applied to all natural and corporate persons present or acting on Spanish soil, regardless of their nationality, registered address or residence. Balanced presence or membership means the presence of women and men in the context in question in a manner such that neither sex accounts for more than sixty nor less than forty per cent of the total.

- **The principle of equal treatment for women and men** (Article 3): means the absence of all direct or indirect discrimination on the grounds of sex, in particular as regards maternity, the assumption of family obligations or marital status.
- **Direct and indirect discrimination** (Article 6): direct discrimination is a situation where one person is treated less favourably on the grounds of sex than another is, has been or would be treated in a comparable situation; indirect discrimination is a situation where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary. Instructions to directly or indirectly discriminate on the grounds of sex are regarded to be discriminatory.
- **Sexual harassment and harassment on the grounds of sex** (Article 7): both are considered to constitute discrimination under any and all circumstances. Sexual harassment is any form of verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, degrading, or offensive environment; harassment on the grounds of sex is any behaviour prompted by a person's sex with the purpose or effect of violating his or her dignity, creating an intimidating, degrading or offensive environment.
- **Discrimination on the grounds of pregnancy or maternity** (Article 8): is any less favourable treatment of women relating to pregnancy or maternity.
- **Indemnity to reprisal** (Article 9): discrimination on the grounds of sex is also regarded to exist in the event of any adverse treatment of or negative effect suffered by persons owing to the lodging of a complaint, claim, accusation, suit or appeal of any nature intended to prevent their discrimination or demand effective compliance with the principle of equal treatment for women and men.
- **Legal consequences of discriminatory conduct** (Article 10): any act or clause in legal transactions constituting or causing discrimination on the grounds of sex is considered to be null and void and shall give rise to liability both through a system of redress or indemnity that is real, effective and proportional to the injury suffered and, as appropriate, through an effective system of deterrents consisting in penalties to prevent discriminatory conduct.
- **Burden of proof** (Article 13): it is upon the defendant to prove the absence of discrimination in the measures adopted and their proportionality.
- **Gender mainstreaming** (Article 15): all levels of government are required to mainstream the principle of equal treatment and opportunities between women and men in the definition and budgeting of public policies in all spheres.

- **Strategic Plan for Equal Opportunities** (Articles 17 and 18): it is approved by the Central Government. It includes measures to attain equality between women and men and eliminate discrimination on the grounds of sex. Government also drafts a periodic report on all the actions taken and submits it to national Parliament.
- **Gender impact reports** (Article 19): bills of a general nature and plans with particular economic, social, cultural and artistic relevance submitted to the Council of Ministers for approval must include a report on their gender impact.
- **Government action for equality** (Articles 23 - 35):
 - the education system shall include among its aims the teaching of equal rights and opportunities for women and men;
 - the education authorities shall guarantee equal rights to education for women and men (through the active integration, in educational objectives and practice, of the principle of equal treatment, preventing the generation of inequalities between women and men due to sexist behaviour or its associated social stereotypes);
 - in the domain of higher education all governmental levels shall further teaching and research on the significance and scope of equality between women and men;
 - the public authorities shall endeavour to secure the effectiveness of the principle of equal treatment and opportunities for women and men in everything that concerns artistic and intellectual creation and production and dissemination thereof;
 - health policies, strategies and programmes shall integrate women's and men's differing needs and the measures required to suitably meet them;
 - all public programmes for development of the information society and all public sports programmes shall include the principle of effective equal opportunities for women and men;
 - responsible ministry (-ies) shall develop a legal device known as shared ownership to ensure effective equality between women and men in agriculture, affording women the full exercise of their rights in that sector, and social security coverage and recognition for their work;
 - all governmental policies and plans respecting access to housing shall include measures designed to ensure the effectiveness of the principle of equality between women and men; urban and land management policies shall take account of the needs of the different social groups and varying family structures, favouring equal access to all urban services and infrastructure;
 - all the sectoral and geographic policies, plans, documents on strategic planning and operational programming tools involved in Spanish development cooperation shall include the principle of equality between women and men as a primary element in their agenda of priorities.
- **Equality and the media, and advertising** (Articles 36 - 41): state-owned media are obliged to take care to portray an egalitarian, plural and non-stereotyped image of women and men in society, and shall further the understanding of and propagate the principle of equality between women and men. Regarding equality in privately owned media the Act says that all communications media shall respect equality between women and men and avoid any manner of discrimination. Advertising that involves discriminatory conduct is regarded to be illegal.
- **Labour market** (Articles 42 – 68): increase of women's participation in the labour market and progress toward effective equality between women and men are goals.
 - **Programmes for enhancing women's employability:** women's employability and continued employment will be improved by enhancing their training and adaptability to labour market requirements (active employability programmes will cover the needs of women of all educational backgrounds and ages and include vocational training,

workshop schools and trade apprenticeship centres. Geared to the unemployed, they may be designed primarily for specific communities or certain proportions of women);

- **Furtherance of equality in collective bargaining:** positive action measures may be established through collective bargaining to favour women's access to employment and the effective implementation of the principle of equal treatment for women and men and non-discriminatory working conditions;
- **Equality and reconciliation:** the right to reconcile personal, family and working life is acknowledged to workers in ways that foster the balanced sharing of family responsibilities; the exercise of such right must not occasion any form of discrimination whatsoever. To contribute to a more balanced distribution of family responsibilities, fathers are entitled to paternity leave and benefits;
- **Corporate equality plans and other measures for furthering equality:** employers are obliged to honour equal treatment and opportunities principles and to this end must adopt measures geared to preventing any manner of occupational discrimination between women and men; such measures must be negotiated, and as appropriate agreed to, with workers' legal representatives. In companies with over two hundred fifty employees, the equality measures must lead to the formulation and implementation of an equality plan. Without prejudice employers must draw up and implement an equality plan when mandated in the applicable collective bargaining agreement. Employers have to formulate and implement an equality plan, subject to prior negotiation or consultation with the workers' legal representatives, as appropriate, when the labour authorities agree to substitute the formulation and implementation of such a plan for accessory penalties resulting from penalty proceedings. The formulation and implementation of equality plans is voluntary in all other companies, subject to consultation with the workers' legal representatives.
- **Specific measures to prevent sexual harassment and harassment on the grounds of sex:** employers must foster working conditions that prevent sexual harassment and harassment on the grounds of sex and institute specific procedures to prevent such conduct and for handling accusations or claims formulated by the persons affected. The measures that may be established for this purpose, which should be negotiated with workers' representatives, include the formulation and circulation of codes of good practice, information campaigns and specific training. Workers' representatives must contribute to preventing sexual harassment and harassment on the grounds of sex at the workplace by sensitizing workers to this issue and reporting to company management any conduct or behaviour coming to their attention that might favour harassment.
- **Corporate equality mark:** the Ministry of Labour and Social Affairs shall create a mark to distinguish employers for outstanding achievement in the implementation of equal treatment and opportunities policies for their workers, which may be used in the company's commercial dealings and for advertising purposes.
- **The principle of equality in public employment:** all governments must remove the obstacles that entail the subsistence of any manner of discrimination; facilitate the reconciliation of personal, family and working life, without jeopardizing career promotion, further training on an equal footing both for accessing public employment and throughout employees' careers; foster the balanced presence of women and men in selection and evaluation bodies; establish effective protection measures against sexual

harassment and harassment on the grounds of sex; establish effective measures to eliminate any manner of direct or indirect gender wage discrimination; periodically evaluate the effectiveness of the principle of equality in their respective scopes of action.

- **The principle of balanced presence in the Central Government and its associated or subordinate public bodies:** where appointment is incumbent upon the government, the principle of the balanced presence of women and men has to be implemented; all staff selection juries and bodies in the government and its associated or subordinate public bodies shall abide by the same principle, barring duly reasoned, justified and objective arguments to the contrary; the delegation representing the government and its associated or subordinate public bodies on the merit evaluation committees for post nominations shall conform to the principle of the balanced presence of the two sexes.
- **Designation of Central Government representatives:** the Central Government and its associated or subordinate public bodies shall designate their representatives on professional bodies and national or international expert or advisory boards in accordance with the principle of the balanced presence of women and men, barring duly reasoned, justified and objective arguments to the contrary. They shall also observe the same principle in their appointments to boards of directors of companies in which the State has a holding.
- **Equality measures in Central Government and associated or subordinate public body employment:** the approval of the announcement of selective tests for access to public employment shall be subject to submission of a gender impact report, except where coverage of positions is urgent and in any event without prejudice to the prohibition of discrimination on the grounds of sex; without prejudice to improvements that may derive from agreements concluded between the government or its associated or subordinate public bodies with government employees' representatives, the legislation applicable to public employees shall establish a system of leaves of absence, shorter working hours, leaves or other benefits to protect maternity and facilitate reconciliation of personal, family and working life; for the intents and purposes of evaluating work performance and respective merits, the competitive conditions established for post nominations shall take account of the time candidates have spent in such situations; when a public official eligible for governmental mutual benefits is stationed at a workplace whose conditions may have an adverse effect on her or the baby's health, she may be granted leave to prevent risks during pregnancy. In such cases, the official's financial rights are guaranteed in full throughout her leave. The same is applicable while women are breastfeeding; when a person's holidays concur with the temporary disability deriving from pregnancy, childbirth or breastfeeding, or with maternity leave or extension thereof for breastfeeding, the public employee concerned is entitled to her holidays on a different date, even if the respective calendar year has lapsed. Employees on paternity leave are entitled to the same right; for one year after returning to active service from maternity or paternity leave or from leave of absence for reasons of legal guardianship or care for dependent seniors or persons with disabilities, employees are given preference in the award of places to participate in training courses designed to update public employees' skills. At least 40 % of the places for training courses shall be reserved to women employees qualifying for such courses according to the respective announcement to facilitate female public employee promotion and access to management positions in the government and its associated or subordinate public bodies; all examinations for accessing public employment shall include items on the study and implementation of the principle of equality between women and men in the various areas of civil service. The Central Government and its associated or subordinate

public bodies shall deliver training courses on equal treatment and opportunities for women and men and on the prevention of gender violence for all their personnel; the central, regional and local governments and workers' legal representatives shall negotiate a protocol to prevent sexual harassment and harassment on the grounds of sex; all ministries and public bodies shall submit information to the responsible ministries at least yearly on their effective implementation of the principle of equality between women and men (staff distribution, occupational category, position bonuses and average remuneration, all disaggregated by sex); at the beginning of each legislature, the government shall approve an equality plan for women and men in the Central Government and its associated or subordinate public bodies.

- **Armed forces:** the rules on armed forces personnel shall secure the effectiveness of the principle of equality between women and men, in particular with respect to access, training, promotion, stationing and administrative status. The rules on equality, prevention of gender violence and reconciliation of personal, family and working life applicable to government employees are likewise applicable to the armed forces, with the necessary adaptations.
 - **National law enforcement agencies:** the rules governing the national law enforcement agencies shall further effective equality between women and men and impede any manner of occupational discrimination, particularly with regard to access, training, promotion, stationing and administrative status. The rules on equality, prevention of gender violence and reconciliation of personal, family and working life applicable to Government employees are likewise applicable to the national law enforcement agencies, with the necessary adaptations.
- **Equal treatment in the access to and supply of goods and services** (Articles 69 - 72): all natural or corporate persons in the public or private sector supplying goods or services to the public outside the scope of private and family life must honour the principle of equal treatment for women and men in their business transactions, avoiding any direct or indirect discrimination on the grounds of sex (unless justified by a legitimate aim and the means to achieve that aim are appropriate and necessary). No contracting party providing goods or services may inquire whether a woman seeking such goods or services is pregnant, except for reasons of health. Contracts using sex as a factor in the calculation of insurance and related financial services premiums and benefits are prohibited where such calculations generate differences in individuals' premiums and benefits (the regulations may define instances in which the determination of proportionate differences in individuals' premiums and benefits is accepted, providing the use of sex as a determining factor in the assessment of risk is based on relevant and accurate actuarial and statistical data); pregnancy- and maternity-related costs may not result in differences in individuals' premiums and benefits, nor may differences be authorized in this regard.
- **Equality and corporate social responsibility** (Articles 73 – 74): **corporate social responsibility action in connection with equality:** companies may voluntarily undertake such action consisting in economic, commercial, labour, health care or other measures designed to further equality between women and men within the company or its social environment. **Women's participation in mercantile companies' boards of directors:** companies obliged to present unabridged financial statements of income shall endeavour to include a sufficient number of women on their boards of directors to reach a balanced presence of women and men within eight years of the entry into effect of this Act.
- **Institutional mechanisms for gender equality** (Articles 76 - 77):

- **Inter-ministerial Committee on Equality between Women and Men:** is the professional body responsible for coordinating the policies and measures adopted by ministries to guarantee the right to and further the effectiveness of equality between women and men;
- **Equality units:** all ministries entrust one of its management bodies with the duties relating to the principle of equality between women and men (in particular: securing the statistical information, conducting surveys, advising on the formulation of the gender impact report, furthering ministry personnel's understanding of the scope and significance of the principle of equality, putting forward training proposals, overseeing compliance of this Act and the effective implementation of the principle of equality);
- **Women's Participation Council:** is created as a professional counselling and advisory body, essentially to provide a channel for women's participation in the effective achievement of the principle of equal treatment and opportunities for women and men and in the struggle against discrimination on the grounds of sex.

Constitutional Act on the General Electoral System (5/1985), amended by Organic Act for effective equality between women and men (3/2007)

- **Lists of candidates** (Article 44 bis): the lists of candidates for Congressional, municipal, island council and Canary Island Council elections, as well as for European Parliament and regional legislative assembly elections, must have a balanced presence of women and men. When the number of positions to be filled is under five, the number of women and men will be as close as possible to numeric balance. The regional laws governing the electoral systems for regional legislative assembly elections may establish measures favouring a greater presence of women in the lists of candidates submitted for such elections. There are some exceptions for lists of candidates presented in towns with a small population (3,000 or less).

Constitutional Act on the Judiciary (6/1985) – amended by Organic Act for effective equality between women and men (3/2007) and by Organic Act on Integrated Protection Measures against Gender Violence (1/2004)

- **Enrolment and promotion in the judiciary and state prosecution** (Article 310): all examinations for enrolment and promotion in the judiciary and state prosecution shall include the study of the principle of equality between women and men, including measures against gender violence, and the cross-sectional application thereof in the scope of the judicial function.

- **A leave of absence for violence against women** (Article 360 bis): female judges and justices who are victims of gender violence are entitled to request a leave of absence for violence against women, subject to no minimum period of prior service. They may maintain such administrative status for a maximum of three years. They are entitled to reserve their position for the first six months, which period is computed for the intents and purposes of promotion, three-year bonuses and other passive benefits. Such periods may be extended for three-month intervals up to a maximum of eighteen months. Female judges and justices on leave of absence for violence against women receive their remuneration in full for the first two months, along with family benefits for each dependent child. Female judges and justices returning to active service after no longer than a six-month leave of absence for violence against women are appointed to the same judicial body in which they reserved their position and where they served prior to their leave; when the duration of the leave of absence is longer than six months, return to active service is subject to participation in all competitive proceedings announced to fill positions in their

category until they are awarded a post. If they fail to participate they will be declared to be on voluntary leave of absence for reasons of personal interest.

- **Violence against Women Courts** (Article 87 *bis*, 87 *ter*): there shall be one or more Violence against Women Courts in each judicial district, with its seat in the capital of the same and jurisdiction over all its territory. These courts shall deal with the following cases under a) criminal law: the investigation of cases involving the crimes listed in the Criminal Code relative to murder, injury, injury to the foetus, crimes against a person's freedom, against a person's moral integrity, against a person's sexual freedom and inviolability, and any other crime involving violence or intimidation, when it is committed against a person who is or has been his wife or shares or has shared an analogous affective relationship, with or without cohabitation, and those committed against his descendents or those of his spouse or cohabiting partner, or against minors or incapacitated persons living with him or under the parental authority, guardianship, custody or foster care of his spouse or cohabiting partner, when an act of gender violence has also occurred; the investigation of cases involving crimes against family rights and duties, when the victim is among the persons specified above; adoption of the corresponding victim protection orders; and b) under civil law: cases of filiation, maternity and paternity, matrimonial annulment, separation and divorce, those involving parent-child relations, those whose purpose is the adoption or modification of important measures affecting the family, those exclusively concerning the guardianship and custody of minors or alimony claims by one parent against the other on behalf of minors etc.
- The law approved **extraterritorial prosecution of female genital mutilation** ^{*}.

Act on National Health System Cohesion and Quality (16/2003) - amended by Organic Act for effective equality between women and men (3/2007)

- **Breastfeeding workers** (Article 37): workers breastfeeding babies under nine months of age are entitled to one hour of absence from work, which may be divided into two fractions. The duration of the absence is increased proportionally in the event of multiple births. Women may exchange this right for a thirty-minute shorter working day, for the same purpose, or take the accumulated time as full working days under the terms laid down in the collective bargaining agreement or the agreement reached with the employer.
- **Leave of absence** (Article 46): workers are entitled to a leave of absence of no more than three years to attend to each child, whether their own or received in adoption or pre-adoptive or permanent fosterage, even if provisional. They are entitled to a leave of no more than two years, unless a longer duration is established in the respective collective bargaining agreement, to care for dependent family members up to the second degree of kinship who for reasons of age, accident or illness are unable to manage on their own and have no paid employment. The leave may be divided into shorter intervals.
- **Suspension** (Article 48): in the event of childbirth, suspension is for sixteen uninterrupted weeks, which may be extended by two weeks for each additional child in the event of multiple births. The suspension period is distributed at the worker's discretion, providing that at least six weeks are taken immediately after childbirth. At the beginning of the maternity leave the mother may opt for the other parent to take a certain uninterrupted part of the rest period after childbirth, either concurrent with or subsequent to her own. The other parent may continue to take the maternity leave initially transferred, even if the mother incurs in temporary disability when the time comes for her to return to work.

- **Suspension of employment for paternity** (Article, 48 bis): in the event of childbirth, adoption or fosterage workers are entitled to suspension for thirteen uninterrupted days, which may be extended by two days for each additional child. This suspension is independent of the shared maternity rest period. In the event of childbirth, only the other parent is eligible for this suspension. In the event of adoption or fosterage, only one parent, at the discretion of the parties concerned, is eligible. The suspension may be taken as full working days or part, (no less than 50 %), it is a subject to agreement between the employer and worker. Workers must give their employers sufficient advance notice of the exercise of this right under the terms laid down, as appropriate, in the respective collective bargaining agreements.
- **Employer's decision on dismissal** (Article 53): when the employer's decision on dismissal is owing to one of the instances of discrimination prohibited by the Constitution or by law, or if dismissal entails the violation of the worker's fundamental rights or public freedoms, such decision is null and void and declared by the judicial authority as such *ex officio*. Dismissals are likewise be null and void when they affect workers during suspension of employment for maternity, risk during pregnancy, risk during breastfeeding, illness caused by pregnancy, childbirth or breastfeeding, adoption or fosterage, or paternity, pregnant workers (from the date of initiation of pregnancy until the beginning of the suspension period), workers after returning to work on finalization of suspension of employment for maternity, adoption or fosterage or paternity, providing more than nine months have not lapsed from the date of birth, adoption or fosterage.

Act on Prevention of Occupational hazards (31/1995) - amended by Organic Act for effective equality between women and men (3/2007)

- **Working conditions** (Article 26): when working conditions or time cannot be adapted or where, despite such adaptation, the conditions of a given position may have an adverse effect on a pregnant worker's or the foetus's health; and where this is certified by the National Social Security Institute or the respective mutual insurance medical services (depending on the institution with which the employer has contracted cover for occupational hazards) on the grounds of the report issued by the National Health Service physician assigned to the case, the worker must occupy a different position or perform different functions compatible with her condition. The same applies during breastfeeding if working conditions may have an adverse effect on the worker's or the child's health. The worker in question may also be granted suspension of employment for risk to breastfed children under the age of nine months.

The Rules of Labour Law Procedure (2/1995) - amended by Organic Act for effective equality between women and men (3/2007)

- **Dismissals** (Article 108): dismissals whose motive is any of the instances of discrimination laid down in the Constitution or the law, or which involve a violation of a worker's fundamental rights or public freedoms are null and void. They are also null and void when they affect workers during suspension of employment for maternity, risk during pregnancy, risk during breastfeeding, illness caused by pregnancy, childbirth or breastfeeding, adoption or fosterage, or paternity or dismissal notified on a date such that the advance notice served finalizes during such period, pregnant workers, from the date of initiation of pregnancy until the beginning of the suspension period, workers on parental leaves, workers who are victims of gender violence (for exercising their right to shorten or reorganize their working hours, or to geographic mobility, change of workplace or suspension of labour relations), workers after returning to work on finalization of suspension of employment for maternity, adoption or fosterage or paternity, providing more than nine months have not lapsed from the date of birth, adoption or fosterage.

Employment Act (56/2003) - amended by Organic Act for effective equality between women and men (3/2007)

- **Discrimination in employability** (Article 22 *bis*): the public employment services, their partnering institutions and non-profit placement agencies shall specifically endeavour to avoid discrimination in employability when conducting employment intermediation. When discrimination is observed in employment offers, the employment intermediation managers shall notify the party making the offer. In particular, offers referring to one of the sexes are considered discriminatory unless it is an essential and determining occupational requirement for the tasks to be performed. In any event, offers referring to only one of the sexes based on requirements relating to physical exertion will be considered discriminatory.

Law on State-owned radio and television (17/2006) *

The law declares that it must protect and safeguard equality between men and women, and avoid any discrimination between them. The law requires that parity between women and men must be sought in its Board of Directors, and that a person representing the Women's Institute must be a member of its Advisory Council.

For the State-owned media, there are specific rules requiring that the presence of women in social life must be adequately reflected, that non-sexist language be used, and that these media cooperate in fostering equality between women and men (essentially through selfregulation) and in eradicating gender violence. As well, the State-owned media must promote the incorporation of women into positions of executive and professional responsibility, and work with women's associations and groups to identify their needs and interests in the communications area.

Royal Decree (2393/2004) approving the regulations to Organic Law (4/2000) on the rights, freedoms and social integration of foreigners in Spain and The Integral Plan to Combat Human Trafficking for Purposes of Sexual Exploitation *

- **Human trafficking:** the Decree allows for waiving liability and expulsion for foreigners in Spain if they collaborate with the authorities, provide essential data, or give testimony as victim, injured party or witness in legal proceedings involving the crime of human trafficking. Persons may also be granted temporary residence permits and work permits under exceptional circumstances, or they may be helped to return to their home country.
- **Residency for victims of gender violence:** the decree allows victims of gender violence to request temporary residence if they have a protection order. As well, in case of nullification of marriage, divorce, legal separation or cancellation of registration as a partner of a national of the European Union or the European Economic Space with a national of a State outside those perimeters, the latter person retains the right to residency if he or she can demonstrate especially severe circumstances, such as having been the victim of violence during the marriage or partnership.
- **The Integral Plan to Combat Human Trafficking for Purposes of Sexual Exploitation** contains five areas of action, among which are awareness, prevention and investigation, education and training, assistance and protection for victims. legislative and procedural measures, and coordination and cooperation. The General Directorate for the Integration of Immigrants

subsidizes programmes to promote knowledge, implement measures, and create networks of social support for the victims of xenophobic violence, sexual exploitation or trafficking, especially women in situations of vulnerability. The office has financed a system of temporary shelter for persons in situations of economic risk, victims of prostitution rings, and persons lacking social support networks. The purpose of the shelter programme is to offer women decent living conditions, and to encourage them to design their own path to personal autonomy.

Organic Law on Education (2/2006)*

The Law declares the purposes of education to be the full development of the personality and the affective capacities of the student body, the respect of fundamental rights and freedoms, and effective equality of opportunities between men and women, recognition of the diversity of sexual orientation, as well as the critical appreciation of inequalities, so as to overcome sexist behaviour. The principles enshrined in that law include quality education for all students, regardless of their conditions and circumstances; equity, which guarantees equal opportunity, educational inclusion and non-discrimination, and transmission of values that favour personal freedom, responsibility, democratic citizenship, solidarity, tolerance, equality, respect and justice; joint efforts by the student body, families, teachers, centres, administrations, institutions and society as a whole; education in conflict prevention and peaceful settlement of disputes, as well as non-violence in all spheres of personal, family and social life; development of equal rights and opportunities, and effective equality between men and women.

Royal Decrees 205/2005 and 393/2006 governed the 2005 and 2006 provisions of the Minimum income*

Minimum income is a programme for unemployed persons with special economic needs and difficulties in finding employment, which provides a stipend to unemployed persons who promise to look actively for a job, to work and to participate in activities sponsored by the public employment services. The programme, originally targeted at juveniles who encounter special difficulty in finding work, has been extended to persons over 45 years of age who have been unemployed for more than 12 months, even if they had not previously received benefits, or to anyone of any age who is handicapped, a returning emigrant or a victim of gender violence.

Law on the promotion of growth and employment through social dialogue (43/2006)*

The law establishes new incentives for permanent, full-time work contracts, with special encouragement for hiring women, as well as women with disabilities or victims of gender violence.

The Independent Work Statute (20/2007)*

The law establishes the following measures: reduction in Social Security premiums (30% during 30 months) for young men up to 30 years and women up to 35 years who start their own business; encouragement of an entrepreneurial culture; support in the financing of investment projects; assistance with technological and organizational innovation; access to vocational training; tax adjustments to promote independent work.

Act on Civil Guard Corps Staff (42/1999) - amended by Organic Act for effective equality between women and men (3/2007)

- **Special protection** (Articles 60, 75): women are afforded special protection during pregnancy, delivery and postnatal periods to enable them to comply with the requirements for promotion to all Civil Guard Corps positions. During pregnancy and subject to the respective medical report, Civil Guards may be assigned to a position or task other than their present occupation, better suited to their condition. Birth or adoption generate the right to the respective maternity and paternity leave in accordance with the existing legislation governing central, regional and local government personnel. Application of the foregoing will not entail loss of station.

The Agreement on Vocational Training for Employment (2006)*

The Agreement focuses on improving the real employability of people, especially women, young people, immigrants, and persons with disabilities, in order to meet the requirements of the labour market.

Law 35/2007*

Law establishes the tax credit and a one-time social security payment for the birth or adoption of a child. The one-time tax credit for birth or adoption may be applied for by persons employed or working for their own account at the time of birth or adoption, or persons who during the previous tax year have earned income or capital gains subject to withholding tax or prepayment, or income from economic activities in respect of which instalment payments have been made. This tax credit is compatible with the maternity tax credit. A one-time non-contributory benefit applies for the birth or adoption of each child, for persons who do not work or receive the income cited above.

General Act on Social Security (1/1994) - amended by Organic Act for effective equality between women and men (3/2007)

The Act recognizes paternity and breast-feeding risk benefits, the maternity or paternity leave subsisting on the date on which an employment contract ends or beginning while unemployment benefits are being drawn are considered to be effective contribution time, and the period during which a person must have contributed for 180 days to be eligible for the maternity allowance is extended to seven years (this right also applies to a person who has contributed for one year over his or her entire working life). Workers under 21 years of age do not have to prove any previous period of contribution (although they must be registered in the social security system) to be eligible for the maternity benefit; workers between 21 and 26 years must only demonstrate a contribution period of 90 days to be eligible; a maternity grant for employed women who do not have the minimum contribution period for eligibility for the maternity allowance; social security contributions made for working days that are reduced in order to care for a child (during the first two years) or relative (during the first year) are deemed as contributions for a full day's work; when leaves of absence to care for children or family members are preceded by a period of shortened working hours, social security contributions made during that time are treated as full-time contributions; the benefit for risk during pregnancy is increased up to 100%; maternity and paternity leave are not deducted for purposes of the unemployment benefit, and protection of paternity is included in training contracts; independent workers are eligible for the maternity benefit and for paternity leave, and contributions paid to social security* .

Law on the integration of independent workers into the special agrarian regime of the Social Security system (18/2007)*

The law allows a 30% reduction in contributions for five years for persons enrolled in that regime as of 1 January 2008, who were 40 years of age or less at the time of their enrolment and who are spouses or descendents of farm owners registered in the system.

Law on the status of independent workers (20/2007)*

The law establishes a series of measures to enhance social protection, including: extension to all independent persons of protection in case of illness, establishment of an allowance for independent persons who cease their activity for reasons beyond their control, the possibility of paternity leave, and improved protection for maternity and risk during pregnancy or breast-feeding.

Royal Decree on the Alimony Payment Guarantee Fund (1618/2007)*

The Decree provides for the payment of minimum amounts for court-ordered child support in case of default by the obligated person. These benefits apply to children who are minors as well as to adult children who are more than 65% disabled. The amounts granted are treated as repayable advances, and are limited to 18 months with a ceiling of €100 for each child.

Law on social security measures (40/2007)*

The widow's pension applies to *de facto* couples who have lived together for five years, and where the person is economically dependent. The law creates a temporary (two years) widow's allowance for exceptional circumstances in which the person dies of a common disease, there are no children in common, and one year of cohabitation cannot be proven. In case of concurrent beneficiaries with pension rights, 40% of the regulatory base of the pension is paid to the surviving spouse or person who, while not a spouse, was living with the recipient, and meets the established requirements.

Royal Decree approving the plan for restructuring the dairy industry (620/2005)*

The Decree gives priority to women working on a dairy farm, whether or not they own it. In farms where ownership falls to one person but the two spouses do the work, the quota is divided between the two in determining the dimension needed for qualification as a preferred operation. As well, female-owned farms are awarded an additional point on the scale.

Law on sustainable rural development (45/2007)*

The law puts priority social attention to various population groups, designed to foster socially fair and viable rural development, especially for women and young people. It opens the way to affirmative action in favour of rural women, to address and overcome situations of *de facto* discrimination on grounds of sex.

Law 15/2005 amending the Civil Code and the Civil Judgments Law*

Amandements with respect to separation and divorce, are intended to ensure that freedom is adequately reflected in marriage. Accordingly, the law eliminates the causes legitimizing separation or divorce; provides direct access to divorce without the need to go through a judicial or *de facto*

separation; encourages mutual agreement among the parties in these cases, and reinforces the freedom of the parties in exercising their family responsibilities, bearing in mind in all cases the interest of the child, and regulating shared custody specifically for these purposes.

Law 39/2006 on promoting personal autonomy and care for dependent persons*

The law creates the right of persons who cannot look after themselves, in particular the elderly and persons with disabilities, to receive the necessary care from the public authorities. It constitutes the System of Autonomy and Dependency Care (SAAD), to promote personal autonomy and to guarantee care and protection for dependent persons throughout Spain, with the collaboration and participation of all levels of government within their area of responsibility. The system is established as a public, diversified network that provides for the coordinated integration of duly accredited public and private centres and services. One of features is the introduction of a financial allowance that people can use to pay for private services; its amount depends on the degree of dependency and the financial capacity of the beneficiary, and an economic compensation for care provided at home.

The Royal Decree 870/2007*

The Decree regulates the assisted employment programme as a means of promoting employment for disabled persons in the regular labour market. This consists of individualized guidance and coaching for disabled persons who have special difficulties in joining the labour market, and must also serve as an instrument to encourage the transition to regular employment.

[Organic Act 1/2004 on measures of integral protection against gender violence](#)

- **Gender violence** (Article 1): are all acts of physical and psychological violence, including assaults on sexual freedom, threats, coercion or arbitrary detention, committed by men against women who are or have been their spouse or partner of similar standing, even if they were not cohabiting.
- **Guiding principles** (Article 2): strengthening awareness in the fields of education, assistance, health, and advertising in the media; recognition of a series of personal rights guaranteeing prompt, transparent and effective access to social services; strengthening and coordination of social services relating to information, care, crisis support, and integral recovery of the victims; establishment of a series of rights that allow female workers and civil servants to reconcile their occupational needs with their personal circumstances; recognition of economic rights to facilitate women's social integration; creation of a Special Government Delegation on Violence against Women and the State Observatory on Violence against Women to coordinate and promote public policies, and creation of the Special Prosecutor's Office for Violence against Women and the Gender Violence Courts; strengthening the criminal and procedural framework; promoting collaboration and involvement of civil entities, associations and organizations; encouraging the specialization of professional groups providing information, care and protection to victims; and uphold the principle of across-the-board application, so the specific needs and demands of all women suffering gender violence are taken into account.
- **The rights of female victims of gender violence** (Articles 17 – 28): all women suffering gender violence, regardless of their origin, religion or any other personal or social condition or particular, are guaranteed the following rights: the right to information, integrated social assistance, free legal assistance (for women who prove they have insufficient means to initiate legal action); reduction or reorganisation of working hours, geographical mobility, change of workplace, suspension of employment with their position reserved, termination of their employment contract with unemployment rights, with the period of suspension counted as contribution time

for social benefits; priority access to subsidized housing (considered as priority group for access to subsidised housing and residences for the elderly); social aids (when the income of a victim of domestic violence, on a monthly basis, is no more than 75 percent of the minimum interprofessional wage, excluding the part corresponding to two extra payroll payments, she may receive a single, lump-sum benefit if the presumption is that her age, lack of general or specialist skills and social circumstances will make it particularly hard for her to find employment, meaning she will not participate in the professional insertion programmes provided).

- **Judicial measures of victim protection and security** (Articles 61 - 69) in all proceedings to do with gender violence, the competent Judge shall, of his or her own motion or upon the petition of the victims, the children, the persons sharing their abode or under their guardianship or custody, the Public Prosecutor's Office or the Authority responsible for providing assistance or refuge to the victims, rule on the advisability of adopting the interim and precautionary measures. The Judge may order a person accused of gender violence to leave the abode he shared with the victim or where the family unit has its residence, and prohibit his return to the same. The Judge may place the accused under a restraining order, such that he may not approach the protected person at any place, or go near her home, her workplace or any other place that she frequents. Technological means may be used in order to immediately alert to non compliance with such orders. The Judge may prohibit the accused from entering into any kind of contact with the person or persons specified, with the warning that he will otherwise incur criminal liability. The Judge may suspend the alleged perpetrator of acts of gender violence from exercising parental authority, custody or guardianship with regard to the minors he or she specifies. The Judge may order the suspension of the child visiting rights in the case of persons accused of gender violence.
- **The Public Prosecutor for cases of Violence against Women** (Articles 70 - 71): the Head of the Public Prosecutor's Office, after consultation with the Prosecutors' Council, shall appoint, as attorney, a Public Prosecutor for cases of Violence against Women with the status of Divisional Prosecutor.
- **Penalties and programmes** ^{*}: the law defines the penalties for threats and coercion and establishes specific programmes of re-education and psychological therapy for persons convicted of such crimes. As well, a person convicted of homicide in any of its forms, where the victim was a spouse or former spouse, is ineligible for the widowhood pension and the orphans' pension for any children, unless there is subsequent reconciliation.
- **A 24-hour toll-free national hotline advised battered** ^{**}: women on finding shelter and other local assistance. As of October the hotline took calls in Spanish, French, German, Arabic, Bulgarian, Chinese, Portuguese, Romanian, and Russian.

Royal Decree 253/2006 regulating The State Observatory on Violence against Women ^{*}

The State Observatory on Violence against Women is a professional inter-ministerial body reporting to the Ministry of Labour and Social Affairs through the Special Delegation of Government on Violence against Women, and is responsible for advice, evaluation, institutional collaboration, preparation of reports and studies and proposals for dealing with gender violence.

Royal Decree 255/2006 amending the General Regulations governing the terms and conditions of employment in the central government, approved by Royal Decree 365/1995 ^{*}

The Decree accords a preferential right to a female employee who is the victim of gender violence to obtain another position within her rank or pay scale, with analogous characteristics, if such position

is vacant and must be filled, in order to give her effective protection or to fulfill her right to integral social assistance.

Royal Decree 1369/2006 regulating the minimum income programme for the unemployed*

Among beneficiaries are the victims of gender violence and the victims of domestic violence. The programme covers affirmative action measures to enhance women's opportunities for employment, and it provides economic support in the form of a minimum income, in combination with affirmative action measures for employment that do not involve paid compensation.

Law 40/2006 on the status of Spanish citizens abroad*

The Law requires the authorities to take steps to facilitate the protection and return of Spanish women residing abroad, and their children if any, who are victims of gender violence, if the country of residence does not provide sufficient protection for them.

Criminal Code – Articles regarding gender violence

- **Protection against injury** (Article 148): the injuries shall receive a custodial sentence of two to five years depending on the sequels or the risk engendered: if the aggression involved the use of weapons, instruments, objects, means, methods or forms specifically constituting a danger to the life or the physical and mental health of the injured party; if there was cruelty or malice aforethought; if the victim was aged under 12 or incapacitated; if the victims was or had been the wife of the aggressor or shared an analogous affective relationship, with or without cohabitation; if the victim was an especially vulnerable person living with the aggressor.
- **Protection against abuse** (Article 153): whoever causes another any mental damage or injury not defined as a crime in this Code, by whatever means or process, or strikes or mistreats another when that person is or has been his wife or shares or has shared an analogous affective relationship, with or without cohabitation, or a specially vulnerable person living with the aggressor, shall receive a custodial sentence of six months to one year or else complete thirty-one to eighty days of community service and will, in any case, be deprived of the right to have or carry weapons for one year and a day to three years and, when the Judge or Court deems it to be in the interest of the minor or incapacitated person, disqualified from the exercise of parental authority, guardianship, custody or foster care for a period of up to five years. The sentences envisaged shall be imposed in the upper half of their range when the offence was perpetrated in the presence of minors, or using weapons or took place in the shared home or the home of the victim, or under some other conditions.
- **Protection against threats** (Article 171): whoever issues minor threats to someone who is or has been his wife or shares or has shared an analogous affective relationship, with or without cohabitation shall receive a prison sentence of six months to one year or else complete thirty-one to eighty days of community service and will, in any case, be deprived of the right to have or carry weapons for one year and a day to three years and, when the Judge or Court deems it to be in the interest of the minor or incapacitated person, disqualified from the exercise of parental authority, guardianship, custody or foster care for a period of up to five years. The same sentence shall be imposed on whoever issues mild threats to another, especially vulnerable person sharing his abode. The sentences envisaged shall be imposed in the upper half of their range when the offence was perpetrated in the presence of minors, or took place in the shared home or the home of the victim...
- **Protection against coercion** (Article 172): whoever uses minor coercion against someone who is or has been his wife or shares or has shared an analogous affective relationship, with or without cohabitation shall receive a prison sentence of six months to one year or else complete thirty-

one to eighty days of community service and will, in any case, be deprived of the right to have or carry weapons for one year and a day to three years and, when the Judge or Court deems it to be in the interest of the minor or incapacitated person, disqualified from the exercise of parental authority, guardianship, custody or foster care for a period of up to five years. The same sentence shall be imposed on whoever so coerces another, specially vulnerable person sharing his abode. The sentences envisaged shall be imposed in the upper half of their range when the offence was perpetrated in the presence of minors, or took place in the shared home or the home of the victim...

- **Violation of sentence** (Article 468): those who violate their sentence, security measure, imprisonment, interim measure, removal or custody shall receive a prison sentence of six months to one year, if they were under a custodial sentence, and a fine of twelve to twenty-four months in all other cases.
- **Protection against minor abuses** (Article 620): sentences of ten- to twenty-day fines will be imposed on those who issue minor threats to another with weapons or dangerous instruments, or engage them in a fight, for reasons other than justified defence, unless the act constitutes a criminal offence; those who threaten, coerce, harm or mistreat another, in a minor degree, unless the deed constitutes a criminal offence.

Other measures

- **Female genital mutilation** (FGM) is prohibited. In Catalonia the law requires that a doctor examines immigrants considered to be in danger of FGM when they travel to and from their countries of origin. Parents whose children were determined to have been subjected to FGM risked losing custody. Catalan regional police had procedures to prevent FGM through the early detection of potential victims, immediate reporting of possible cases to appropriate authorities, and, when possible, preventing the travel of potential victims.**
- **Women with disabilities:** Spain adopted a First Plan of Action for Women with Disabilities in 2006. The Plan established a strategy and methodology for correcting the inequalities between men and women with disabilities. The Third Plan of Action for persons with disabilities 2009 - 2012 incorporated the principles and measures of the earlier plan with the aim of addressing disability along gender-analysis lines. Its aim is to promote personal autonomy through recognition of disability as a component of human diversity, and the formulation and implementation of public policies in such a way that persons with disabilities receive the same benefits as other citizens, thus guaranteeing them the exercise and enjoyment of their civil, political and social rights in a society cohesive in its complexity. The plan incorporated the gender perspective with the aim of correcting the inequalities between men and women with disabilities. Other similar plans specifically targeting women with disabilities, and mental health plans, have also been adopted in Spain. **Part V (Abuses and Violence) of the Plan provides for a number of measures designed to prevent abuses and acts of violence committed against persons with disabilities, particularly minors and women, and to facilitate their detection. The measures include investigations, awareness-raising campaigns, manuals for professional workers and other training activities.** With the aim of proposing uniform standards for the use of non-sexist language in dealings with women with disabilities the Institute for the Elderly and Social Services in 2010 introduced the Guide on non-discriminatory use of language vis-à-vis persons with disabilities. In the field of labour, Royal Decree-Law No. 1/1995, approving the consolidated text of the Act on the status of workers, establishes the principle of equality of treatment and non-discrimination in labour relations covered by that law. It states that, in accordance with the Act No. 51/2003 on equality of opportunity, non-discrimination and universal accessibility for persons with disabilities, all non-nationals are eligible to benefit from the provisions of the Act.

* Spain's Sixth Periodic Report on the Convention on the Elimination of All Forms of Discrimination against Women (to be found at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/320/24/PDF/N0832024.pdf?OpenElement>)

** 2010 Country Reports on Human Rights Practices – Spain (to be found at: <http://www.state.gov/g/drl/rls/hrrpt/2010/eur/154452.htm>)

*** Implementation of the Convention on the Rights of Persons with Disabilities - Initial report submitted by Spain on May 3, 2010 (to be found at: <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Session6.aspx>)