

GUIDE TO THE RIGHTS of female victims of gen- der-based violence



MINISTERIO
DE IGUALDAD

SECRETARÍA DE ESTADO
DE IGUALDAD
Y CONTRA LA VIOLENCIA DE GÉNERO

DELEGACIÓN DEL GOBIERNO
CONTRA LA VIOLENCIA DE GÉNERO



Web page of the Government Office for Gender-based Violence

Updated on December 2021

Nipo online: 048-21-176-3

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SPECIFIC RIGHTS OF WOMEN VICTIMS OF GENDER-BASED VIOLENCE **1**

Organic Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender Violence (B.O.E number 313, of 29 December 2004), enshrines and guarantees a series of rights for all women who are or have been victims of gender-based violence aimed at helping them to put an end to the violent relationship and resume their life plan.

These rights are universal, in the sense that they are guaranteed to all women who have suffered acts of gender-based violence, regardless of their origin, religion or any other personal or social status or circumstance.

1.1. Who is a victim of gender-based violence?

Article 1 of Organic Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender-based Violence

Under Organic Law 1/2004, any **woman subjected to any act of physical or psychological violence**, including **crimes against sexual freedom, threats, coercion or arbitrary privation of freedom**, perpetrated **by her spouse or ex-spouse or by the person with whom she holds or held a similar relationship of affectivity**, even without cohabitation, is a victim of gender-based violence.

This type of **violence against women is an offence against human rights** and a manifestation of the discrimination, the **unequal position** and the **power relationship of men over women**.

Furthermore, the minors who are children and/or in guardianship or custody are also victims of this violence and Organic Law 1/2004 recognises a series of their rights, established in articles 5, 7, 14, 19.5, 61.2, 63, 65, 66 and the 17th Additional Provision.

Gender-based violence also includes (according to the modification made by Organic Law 8/2021, of 4 June, on the comprehensive protection of children and adolescents against violence) violence that, with the aim of causing harm or damage to women, are exercised against their underage relatives by whoever is or has been their spouse or whoever is or has been linked to her by similar emotional relationships, even without cohabiting.

1.2. How is a situation of gender-based violence accredited?

Articles 23, 26 and 27.3 of Organic Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender-based Violence

In general, the situation of gender violence that activates the rights regulated in this chapter shall be accredited by a **sentence condemning a crime of gender violence**, a **protection order** or any **other judicial verdict that imposes a precautionary measure** in the victim's favour, or a **report from the Public Prosecutor** that indicates that there is evidence that the claimant is the victim of gender violence.

The situation of gender violence can also be demonstrated through **reports from social services, specialist services, support services** for victims of gender violence of the competent Public Administration; or any other form of accreditation that may be included in the regulatory provisions of the sector that covers access to each of these resources and rights.

For the accreditation of the situation of gender violence for the purposes of article 23 of Organic Law 1/2004, at the Sectorial Conference on Equality, held on 3 April 2019, a list of social services, specialised services, or shelter services for victims of gender violence that have the capacity to accredit the status of victim of gender violence was approved, as well as a common accreditation model for the different autonomous administrations to proceed, in a homogeneous manner, with the administrative accreditation of the status of victim of gender violence. The Sectorial Conference on Equality, held on 11 November 2021, has adopted an Agreement approving the basic procedures that enable the implementation of accreditation systems for situations of gender violence and has updated the Report model and an update of the bodies that issue administrative accreditations in each Autonomous Community. This accreditation allows victims of gender-based violence access to the rights regulated in Chapter II "Employment rights and Social Security benefits" of Organic Law 1/2004 and to all the rights, resources and services recognised in the state regulations applicable to them, whose sectoral regulations contemplate and regulate access to each of them, including, among the requirements demanded, accreditation of the situation of gender-based violence by means of a report from the social services, specialised services or shelter services for victims of gender-based violence of the competent Public Administration.

The information on this accreditation is available on the [website of the Government Delegation against Gender](#).

1.3. Right to information

Article 18 of Organic Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender-based Violence

The right to receive information through the following channels is guaranteed:

1.3.1. 016 helpline for information and legal advice

- **Free and confidential** service that offers **information, legal advice and immediate psychosocial care** in **all forms of violence against women included in the Istanbul Convention**, including, therefore, gender violence under Organic Law 1/2004, of 28 December.
- The service can be reached through three channels:
 - By short telephone number: **016**.
 - By email: **016-online@igualdad.gob.es**.
 - By **WhatsApp**: number **600 000 016**, exclusively for WhatsApp because it does not support phone calls.
- **Information** and immediate **psychosocial care** are available **24 hours** a day, **365 days** a year; **legal advice** is available from **8 am to 10 pm**, Monday to Sunday.
- **Accessible** for persons with **hearing and/or speech disabilities** through various media: calling **900 116 016**; Telesor Service through the **Telesor web page**, which requires an Internet connection; by mobile phone or **PDA** with the installation of a free app; **SVIsual** video interpretation service through the web page. 600 000 016; Email: 016-online@igualdad.gob.es.
- **Accessible to foreigners** through attention, in addition to Spanish and the co-official languages, in the following languages:
 - Telephone, 24 hours a day, 7 days a week, in 53 languages: Spanish, Catalan, Galician, Basque, Valencian, English, French, German, Portuguese, Mandarin Chinese, Russian, Arabic, Romanian, Bulgarian, Afghan, Albanian, Armenian, Bambara, Berber, Bosnian, Brazilian Portuguese, Cantonese, Czech, Korean, Danish, Slovenian, Slovak, Farsi, Finnish, Georgian, Greek, Hindi, Dutch, Hungarian, Italian, Japanese, Lithuanian, Mandinca, Norwegian, Persian, Polish, Poular, Serbo-Croatian, Syrian, Soninké, Swedish, Thai, Taiwanese, Tamazight, Turkish, Ukrainian, Urdu, Wolof.
 - Email and WhatsApp, 24 hours a day, 7 days a week: Spanish, Catalan, Basque, Galician, Valencian, English, French, German, Portuguese, Chinese, Mandarin, Russian, Arabic, Romanian, Bulgarian, Italian.
- **Call diversion** in the following instances:
 - When calls relate to emergency situations, they are forwarded to the telephone number **112**.
 - When calls are for general information on issues of women's equality, they are forwarded to the **Institute for Women's Affairs and Equal Opportunities**.
 - When calls require specific information related to an autonomous region, they are forwarded to the service of the relevant **autonomous community**.
 - Calls made by minors are forwarded to the **ANAR** helpline for Children and Adolescents at Risk.

1.3.2. Website for support and prevention resources in gender-based violence cases

It is available on the website of the Ministry of Equality, in the [Department of the Government Delegation against Gender-based Violence](#).

Enables the location on **active maps of the different resources** (police, legal, information, assistance and advice) made available to the general public and victims of gender-based violence by the public administrations and social institutions.

1.4. Right to comprehensive social assistance

Article 19 of Organic Law 1/2004, of 28 December, on Comprehensive Protection Measures against Gender-based Violence
 Article 156 of the Civil Code in the drafting of Law 8/2021, of 2 June, which reforms civil and procedural legislation to support people with disabilities in the exercise of their legal capacity

The victims of gender-based violence are entitled to comprehensive social assistance, including **assistance and emergency care, help and support and full recovery**, corresponding to the principle of permanent availability, urgent intervention, specialist services and professional multi-disciplinary support. The objective of these services is to cover the needs derived from situations of violence, re-establish the situation the victim was in before suffering violence or, at least, mitigate the effects.

Through these services, women can:

- Receive advice on the legal action they can take and on their rights.
- Find out about the services they can turn to receive material, medical, psychological and social assistance.
- Gain access to the different accommodation resources (emergency, temporary shelter, protected centres, etc.) where their safety is ensured and their basic needs covered.
- Recover their physical and/or psychological health.
- Complete their training, achieve insertion or reinsertion in the labour market and receive psychosocial support over the entire length of their full recovery itinerary with the aim of avoiding double victimisation.

The right to comprehensive social assistance is also recognised for **minors** living in family environments where there is gender-based violence. The social services must have a sufficient number of places available to minors and specifically trained staff to care for them for the purpose of effectively preventing and avoiding situations that may pose psychological or physical harm for them.

To the attention and psychological assistance of underage children, a conviction has been handed down and as long as the criminal liability is not extinguished or a criminal proceeding has been initiated against one of the parents for attempting against the life, physical integrity, liberty, moral integrity or sexual freedom and indemnity of the common underage sons or daughters, or for attacking the other parent, the consent of the latter will suffice for the care and psychological assistance of the underage sons and daughters, the former having to be previously informed. This will be equally applicable, even if no prior complaint has been filed, when the woman is receiving assistance in a specialised gender-based violence service, provided that there is a report issued by said service that proves said situation. In all cases where support is to be provided for children aged over sixteen, their explicit consent must be obtained.

The organization of the services to make this right effective is the duty of the Autonomous Communities and Cities of Ceuta and Melilla, and the Local Corporations.

To these effects, the Protocol for referrals between Autonomous Communities for coordination of their sheltered accommodation networks for women victims of gender violence and their children (2014) shall facilitate the mobility of women victims of gender violence and their children between the shelters provided by the different Autonomous Communities, either for the safety of the women and their children or to foster their social recovery.

1.5. Right to immediate and specialised legal assistance

Article 20 of Organic Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender-based Violence
 Law 1/1996 of 10 January, on Legal Aid
 Royal Decree 141/2021 of 9 July, approving the Regulations on Legal Aid

The right of immediate access to **free legal aid is acknowledged, regardless of the resources** available for litigation, for victims of gender violence in those judicial proceedings and administrative procedures that have a direct or indirect

cause in the violence suffered.

This right is extensive to the successors in interest in the event that a victim dies, on condition that they were not participants in the acts.

The right to free legal aid is available to victims of gender violence, a condition acquired by presenting an accusation or a legal action, or by starting criminal proceedings and sustained as long as the criminal action is ongoing or when, after its end, a guilty verdict has been handed down. The right to free legal aid is lost when an irrevocable not guilty verdict is passed or when criminal proceedings are irrevocably shelved, although there is no obligation to pay the cost of the services provided free up to this point.

In the different processes that may be initiated as a consequence of being a gender-based violence victim, it must be the same professional person from the Legal Profession who assists them, provided that their right of defence is duly guaranteed.

The professional person of the Legal Profession designated for the victim will also have legal authorisation to represent the victim until the appointment of the professional person of the Attorney General, as long as the victim has not appeared as an accusation. Until then, the professional person of the Legal Profession shall comply with the duty of indicating the address for the purposes of notifications and transfers of documents.

Victims of gender violence may initiate a private prosecution at any point in the proceedings although this will not enable the withdrawal or repetition of steps already taken prior to their action, nor shall it impair the accused's right of defence.

The respective Bar Associations shall ensure that there is a specialist permanently available to provide prior legal advice and assistance for victims of gender violence.

The right to free legal aid includes, among other aspects, the following services:

- **Free assistance and guidance** before legal action and especially in the period prior to bringing charges.
- **Free defence and representation** by a Lawyer or Court Representative in all administrative processes and proceedings.
- **Free inclusion of announcements and edicts** in official publications in the course of the proceedings.
- **Dispensation from paying court fees** or paying in the deposit required for submitting an appeal.
- **Free expert assistance** in the procedure from technical personnel attached to the jurisdictional bodies or, in their absence, civil servants, technical services and bodies that depend on the public administration.
- **Free or 80% discount on notarial document duties.**

1.6. Employment rights

Article 21 of Organic Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender-based Violence

The reason for the recognition of the employment rights of women victims of gender-based violence is to avoid their expulsion from the labour market as a result of the violence they suffer. To this end, women victims of gender-based violence are recognised rights conducive to **reconciling** their jobs with the situation of gender-based violence, guaranteeing their **protection if they are forced to give up their jobs** temporarily or permanently, and, if unemployed, ensuring their **insertion in the labour market**.

1.6.1. Rights of female employees¹

Articles 37.8, 40.4, 45.1.n), 48.10, 49.1.m), 52.d), 53.4, 55.5 of the Consolidated Text of the Workers' Statute, approved by Legislative Royal Decree 2/2015, of 23 October
Law 10/2021, of 9 July, on remote working

¹Collective bargaining agreements and company agreements can include improvements to these rights.

- The **right to a reduction of the working day** with a proportional reduction in salary or the reorganisation of working time by rescheduling the hours, working flexi-time or through other forms of organising the working time used in the respective company, so that women can effectively enforce their protection and their right to integral social assistance. These rights may be exercised in the terms that for these specific cases are established in the collective agreements or in the agreements between the company and the legal representatives of the workers, or in accordance with the agreement between the company and the workers affected.
- **Right to geographic mobility:** women who are forced to leave their place of work where they have been employed in order to ensure their protection of the right to integral social assistance shall have preferential rights to occupy another position in the same or equivalent professional group or category that the company has at any of its premises. The company shall retain their jobs during the first 6 months.
- The **right to the suspension of the employment contract** at the demand of the employee who has to leave their place of work as a consequence of suffering gender-based violence, with the retention of the position.
- The **right to termination of the employment contract** at the demand of the employee who has to leave their place of work for ever as a consequence of suffering gender-based violence.
- **Right to carry out their work** totally or partially remotely or to stop doing it if this is the established system, always in both cases that this modality of provision of services is compatible with the position and functions performed by the person. These rights may be exercised in the terms that for these specific cases are established in the collective agreements or in the agreements between the company and the legal representatives of the workers, or in accordance with the agreement between the company and the workers affected.
- **Work absences or lack of punctuality** due to the physical or psychological situation caused by gender-based violence will be considered justified when so determined by the social services or healthcare services.
- **Nullity of contract termination** of female employees victims of gender-based violence who wish to exercise their right to a reduction or reorganization of their working hours, geographical mobility, change of their place of work or suspension of the contract under the terms and conditions recognised under the Workers' Statute.
- **Nullity of disciplinary dismissal** in the case of female employees for exercising their right to a reduction or reorganization of their working hours, geographical mobility, change of their place of work or suspension of the contract under the terms and conditions recognised under the Worker's Statute.

1.6.2. Rights of economically dependent self-employed female workers

Law 20/2007 of 20 July, regulating the Self-Employment Statute

- Right to **adapt the business hours of the activity**.
- Right to **extinguish the contractual relationship**.
- The situation of gender-based violence is considered to be a justified reason for the **interruption of the activity** by the female self-employed worker.
- **Benefits in the Social Security contributions** for victims of gender-based violence who register for the first time, or without being registered in the 2 preceding years, starting from the effective start date, in the Special Social Security Regime for Self-Employed Workers; and for victims of gender-based violence who set up as self-employed workers included in the Special System for Self-Employed Agricultural Workers.

1.7. Rights in the area of Social Security

1.7.1. Rights in the area of Social Security contributions

- The period for the suspension of an employment contract while retaining the position for employees, shall be considered a period with effective contributions with regard to the Social Security provisions for pensions, permanent

disability, death and survival, maternity, unemployment and care of minors affected by cancer or another severe illness.

Article 165.5 of the Revised Text of the Social Security Act approved by Legislative Royal Decree 8/2015 of 30 October
Sole additional provision of Royal Decree 1335/2005 of 11 November, which regulates Social Security family benefits

- Suspension of the obligation to contribute to Social Security for a period of six months for female employees or self-employed workers who cease their activity in order to assure their protections or their right to full social assistance.

Article 21.5 of Organic Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender-based Violence
Art 329 of the Revised Text of the Social Security Act approved by Legislative Royal Decree 8/2015 of 30 October

- Female workers victims of gender-based violence who have reduced their working hours and taken a proportional cut in their salaries are entitled to sign the special agreement with the Social Security.

Order TAS/2865/2003 of 13 October, which regulates the special agreement with the Social Security system

1.7.2. Rights in the area of Social Security benefits

- For purposes of maternity or paternity benefits, the periods considered to be effective contribution periods are recognised as equivalent to registration periods in the Social Security for female employees and self-employed female workers who are victims of gender-based violence.

Royal Decree 295/2009 of 6 March, which regulates the economic benefits granted by the Social Security system for maternity, paternity, risk during pregnancy and risk during breastfeeding

- Right to the **early retirement pension** for women who, for causes not attributable to the worker, give up their jobs because they are victims of gender-based violence and meet the applicable requirements.

Article 207 of the Revised Text of the Social Security Act, approved by Legislative Royal Decree 8/2015 of 30 June

- Right to receive a **widow's pension** in cases of separation, divorce or annulment of marriage by women victims of gender-based violence who meet the applicable requirements, even if they are not entitled to the corresponding alimony.

Article 220 of the Revised Text of the Social Security Act, approved by Legislative Royal Decree 8/2015 of 30 October

- Loss of the widower's pension by men found guilty through a final judgement beyond appeal of committing any type of intentional crime of homicide or of causing injuries, when the victim of the crime is his spouse or ex-spouse or common-law partner or ex-partner.

Sole additional provision of Organic Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender-based Violence
Art 231 of the Revised Text of the Social Security Act approved by Legislative Royal Decree 8/2015 of 30 October

- Impediment to be a beneficiary of the right to the contributory pension supplement to reduce the gender gap to the father who has been convicted of violence against women, in the terms defined by law or by international instruments ratified by Spain, exercised on the mother or on the father who has been convicted of violence against his sons or daughters. In addition, the right to the economic supplement will not be recognised for the father who has been deprived of parental authority by judgement based on the breach of the duties inherent to it or issued in a criminal or matrimonial case.

Royal Decree-Law 3/2021, of 2 February, which adopts measures to reduce the gender gap and other matters in the areas of Social and Economic Security

- Rights in the area of orphanhood:
 - **Orphan pension:** the children of women killed by gender-based violence have this right, regardless of the nature of the parent-child relationship, on condition that they are under 21 years of age or incapacitated for employment at the time of death, or under 25 years of age and are neither gainfully employed or self-employed, or if so, earning annual income that is lower than the current minimum wage, and that the woman was registered or in a state assimilated to that of registration.

The children shall have the right to the increase due to cases of full orphanhood, which is 70 percent of the regulated base when the annual income of the family unit is less than 75 percent of the Minimum Wage applied at the time.

- Orphan pension: the children of the deceased woman are entitled to this benefit as a result of the violence against women, in the terms established by the law or the international regulations approved by Spain, on condition that they are comparable with those of full orphanhood and do not meet the specified requirements to be eligible for an orphan pension. They are entitled to this payment if they are under 25 years of age at the time of death, and are neither gainfully employed or self-employed, or if so, earning annual income that is lower than the current annual minimum wage.

The amount of the orphan's pension shall be 70 percent of the regulated base when the earnings of the family unit is below 75 percent of the Minimum Wage applied at the time.

Article 233 of the Revised Text of the Social Security Act, approved by Legislative Royal Decree 8/2015 of 30 October Law 3/2019 of 1 March, improving the situation of orphanhood for the children of victims of gender-based violence and other forms of violence against women

- Entitlement to unemployment benefit requires that, besides meeting the relevant requirements, female employees are considered to be legally unemployed when they voluntarily extinguish or suspend their employment contracts as a result of being victims of gender-based violence.

Article 21.2 of Organic Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender-based Violence Art 267 of the Revised Text of the Social Security Act approved by Legislative Royal Decree 8/2015 of 30 October

- Entitlement to protection for cessation of the activity requires that, besides meeting the relevant requirements, self-employed female workers are considered to have legally ceased activity when they temporarily or permanently cease their activity due to gender-based violence.

Articles 331 and 332 of the Revised Text of the Social Security Act, approved by Legislative Royal Decree 8/2015 of 30 October

- Entitlement to protection for cessation of the activity requires that, besides meeting the relevant requirements, female partners of cooperative associations are considered to have legally ceased activity when they temporarily or permanently cease to provide their labour due to gender-based violence.

Article 334 of the Revised Text of the Social Security Act, approved by Legislative Royal Decree 8/2015 of 30 October

1.8. Rights in the area of employment and insertion in the labour-market

1.8.1. Specific employment programme

Article 22 of Organic Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender-based Violence Royal Decree 1917/2008 of 21 November, which approves the social and labour insertion programme for women victims of gender-based violence

The social and labour insertion programme for women victims of gender-based violence who are registered in the Public Employment Services as job seekers includes the following measures:

- A **personalised social and labour insertion itinerary** designed by specialised personnel.
- A **specific training programme** to facilitate social and labour insertion on an employee-basis.
- **Incentives** to encourage the **start of new activity** on a self-employed basis.
- **Incentives to companies** hiring women victims of gender-based violence.
- **Incentives** to facilitate **geographical mobility**.
- Incentives to **compensate salary differences**.
- **Agreements with companies** to facilitate the employment of women victims of gender violence and geographical mobility.

1.8.2. Intern contracts to replace female workers victims of gender-based violence

Article 21.3 of Organic Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender-based Violence

Companies signing temporary employment contracts to substitute female employees victims of gender-based violence who have suspended their employment contracts or exercised their right to geographic mobility or to changing their work centre are entitled to a discount in the company's contribution to the Social Security.

1.8.3. Incentives to companies hiring women victims of gender-based violence

Law 43/2006, of 29 December to improve growth and employment
First final provision of Royal Decree 1917/2008 of 21 November

Companies hiring women victims of gender-based violence are entitled to receive discounts on the company's Social Security contributions. The amount of these discounts depends on whether the employment contract in question is permanent or temporary.

1.9. Rights of female civil servants

Articles 24 to 26 of Organic Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender-based Violence
Legislative Royal Decree 5/2015 of 30 October, approving the revised text of the Civil Service Basic Statute Act

Female civil servants working in the following Public Bodies: Government Administration, Administrations of Autonomous Communities and the cities of Ceuta and Melilla, Administration of local entities, public bodies, agencies and other public entities with their own legal character, linked or dependent on any of the Public Administrations, and Public Universities, have the following rights:

- **Leave of absence due to gender-based violence directed against female civil servants:** total or partial absences by female civil servants victims of gender-based violence shall be considered justified during the period and in the terms determined by the social or healthcare services.
- To make their protection or right to full social assistance effective, female civil servants have the **right to a reduction of the working day** with a proportional reduction in salary or the reorganisation of working time by rescheduling their hours, working flexi-time or through other applicable forms of organising the working time, in the terms established by the relevant Public Administrations for each situation.
- **Mobility due to gender-based violence:** women victims of gender-based violence who are forced to leave their place of work where they have been employed in order to ensure their protection or the right to integral social assistance shall have the right to occupy another position in the same or equivalent professional group or category of the administration, regardless of the existence of a vacancy that needs filling.

The procedure for mobility is regulated under the resolution of 25 November 2015 by the Secretary of State for the Public Administrations, establishing the procedure for mobility of civil servants victims of gender violence in the Public Administration and the Public Agencies, Bodies and Entities attached or dependent upon these.

The resolution of 16 November 2018 by the Secretary of State for the Civil Service, published the Agreement of the Sectoral Conference of the Public Administration, approving the Agreement to encourage movement between administrations of civil servants victims of gender violence.

- **Voluntary leave of absence due to gender-based violence:** to ensure effective protection of their right to full social assistance, female civil servants who are victims of gender-based violence have the right to request voluntary leave of absence regardless of whether they have completed a minimum service period or whether permanent occupancy of the post is demanded.

The rights of other types of personnel shall be established in the relevant specific legislation for, among others, education staff, statutory personnel in the Health Service or civil servants working for the Department of Justice.

1.10. Economic rights

1.10.1. Specific economic aid to women victims of gender- based violence with special employment difficulties

Article 27 of Organic Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender-based Violence and Royal Decree 1452/2005 of 2 December. The specific regulations on the procedure for applying for this economic aid are those approved by the autonomous region or autonomous city where the aid is applied for

This economic aid is aimed at women victims of gender-based violence who meet the following requirements:

- Receive a monthly income of less than 75 per cent of the national minimum wage in force, excluding the proportional part of two extra pays.
- Have special difficulties in finding employment due to age, lack of general or specialised training or social circumstances. This circumstance must be accredited in a report issued by the respective Public Employment Service.

This economic aid is a one-off payment whose amount, calculated on the basis of a number of monthly pays of the respective non-contributory unemployment benefit, depends on whether the woman has family members under her care, and whether she and/or the family members under her care have a recognised degree of disability.

This aid is compatible with that established in Law 35/1995 of 11 December, on Aid and Assistance to Victims of Violent Crimes and Crimes against Sexual Freedom, as well as any other financial aid granted by autonomous communities or local bodies in cases of gender-based violence.

However, it is incompatible with other aid sharing the same objective, as well as with the woman's participation in the Active Insertion Income programme.

This aid is not recognised as earnings or income and does not count as income for purposes of receiving a non-contributory pension.

1.10.2. Active insertion income

Royal Decree 1369/2006 of 24 November, which regulates the Active Insertion Income programme for the unemployed with special economic needs and employment difficulties

This **economic aid** is recognised to **unemployed persons** who are in the so-called “**active insertion income programme**”, under which initiatives are carried to **increase their opportunities of insertion in the labour market**.

To be included in the active insertion income programme and receive this economic aid, women victims of gender-based violence must meet the following requirements:

- Accredited the status of victim of gender-based violence.
- Be a registered jobseeker, although jobseeker registration during an uninterrupted period of 12 months is not required.
- Not live with the aggressor.
- Be under 65 years of age, but beneficiaries do not have to be aged 45 or over.
- Not receive a monthly income of any nature of more than 75 per cent of the national minimum wage in force, excluding the proportional part of two extra pays.
- Entitlement to be included in a new active insertion income programme, even if the victim was included in another programme in the 365 days prior to the application date.

The active insertion income amount is 80% of the monthly Public Indicator of Multiple Effects Income (IPREM) in force at each moment in time.

It also includes a one-off supplementary aid payment of an amount equivalent to three months' active insertion income if the woman has been forced to change address due to her circumstances of gender-based violence in the 12 months prior to the programme admission application or during her time on the programme.

1.10.3. Advances on unpaid child support

Royal Decree 1618/2007 of 7 December, on the Organization and Operation of the Guarantee Fund for Food Payments

The **Child Support Guarantee Fund** guarantees the payment, in the form of advances, of recognised and unpaid child support which has been established in court-approved settlements or court decisions in the course of separation, divorce or declarations of nullity of marriage, filiation or child support proceedings.

The beneficiaries of these advances are generally children who are entitled to but are not receiving a child support allowance recognised by a court and are part of a family unit whose economic means and income, calculated on a yearly basis and all inclusive, do not exceed the amount resulting from multiplying the annual Public Indicator of Multiple Effects Income (IPREM) in force at the time of applying for the advance, by the corresponding coefficient based on the number of minor children in the family unit.

The beneficiaries are entitled to receive an advance on the monthly amount of the child support established by a court, with a limit of 100 Euros per month, during a maximum period of eighteen months.

When the legal custodian of the minor (the applicant and receiver of the advance) is a victim of gender-based violence, the situation is considered to be of urgent need and the application is processed urgently by the Fund, which means that the decision is made and notified to the applicant within a period of two months.

1.10.4. Minimum Vital Income

Royal Decree-Law 20/2020, of 29 May, which establishes the minimum vital income

Women victims of gender-based violence may be beneficiaries of the minimum vital income the purpose of which is to **prevent the risk of poverty and social exclusion** of people who live alone or are integrated in a cohabiting unit and lack the basic economic resources to cover their basic needs, when they meet the required requirements, although:

- The age requirement will not be required (in general, the MVI is for people at least 23 years old), they will only be required to be of legal age.
- They are not required to be united by marriage or domestic partnership.
- They are not required to be part of another cohabiting unit. In addition, a cohabiting unit will be considered to be that constituted by a person who is a victim of gender-based violence who has left their habitual residence accompanied by their children or minors under guardianship for the purpose of adoption or permanent foster care, and their relatives until the second degree by consanguinity, affinity or adoption.
- They will not be required to have residence in Spain when they prove the situation of gender-based violence by any of the means established in article 23 of Organic Law 1/2004, of 28 December.

1.10.5. Priority access to subsidised housing and public nursing homes for the elderly

Article 28 of Organic Law 1/2004, of 28 December, on Comprehensive Protection Measures against Gender-based Violence Law 1/2013, of 14 May, on measures to strengthen the protection of mortgage debtors, restructuring of debt and social rent Royal Decree 106/2018, of 9 March, which regulates the State Housing Plan 2018-2021

Order TMA/336/2020, of 9 April, by which both aid programmes of the State Housing Plan 2018-2021 are incorporated, replaced and modified, in compliance with the provisions of articles 10, 11 and 12 of Royal Decree-Law 11/2020, of 31 March, by which urgent complementary measures are adopted in the social and economic sphere to tackle COVID-19

Women victims of gender-based violence are a group with the right to preferential protection for access to housing:

- Option to request the **suspension of eviction orders over primary residences**, agreed as part of a judicial or extra-judicial process or mortgage foreclosure.
- Option of access to the **Social Housing Scheme of the Institute for Older Persons and Social Services**.

- They are considered a “**preferential sector**” in relation with the **aid** available in the **State Housing Plan** (among others, Subsidy Programme for agreed loans, Support programme for home tenancy, Support programme for persons at risk of eviction from their primary residence) the following:
 - Cohabitation units where an accredited victim of gender-based violence lives;
 - Cohabitation units in which a person assumes paternal authority, custody or permanent fostering of a minor orphan due to gender-based violence.
- **Assistance programme for victims of gender-based violence**, to provide them with an **immediate housing solution**. The Autonomous Communities and the cities of Ceuta and Melilla will make available to the beneficiary a publicly owned home, or which has been transferred for use to a public administration, although it maintains private ownership, appropriate to their circumstances in terms of size, services and location, to be occupied on a rental basis, assignment of use, or in any temporary occupation regime admitted by law. When this type of housing is not available, the aid may be applied to a suitable, privately-owned dwelling or to any accommodation or residential provision capable of being occupied by the beneficiaries, under the same regimes.

1.11. Right to immediate schooling

Article 5 and 17th additional provision of Organic Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender-based Violence

The children of victims of gender-based violence affected by changes of address due to acts of gender-based violence are entitled to **immediate schooling** in their new place of residence.

1.12. Study grants and scholarships

Royal Decree 688/2018 of 21 July, establishing the family income and property thresholds and the amount of study grants and scholarships for the academic year 2018-2021, modifying Royal Decree 1721/2007 of 21 December, which establishes the system of personalized study grants and scholarships

Specific treatment is offered for grant applicants who prove their status as victims of gender-based violence, from 30 June 2019 to 30 June 2021, and/or their sons and daughters under the age of twenty-three and request said grants and study aid, provided they meet all the other conditions set forth in current regulations, the basic grant, or tuition scholarship as appropriate, the fixed amount linked to income, the fixed amount linked to residence and the variable amount that results of the application of the formula, without applying the requirements established in relation to the academic load exceeded in the 2019-2020 academic year or the limit of the number of years with grant status, nor the requirement to exceed a certain percentage of credits, subjects, modules or their equivalent in hours in the 2020-2021 academic year for which the grant was awarded.

1.13. Particularities of registration for security reasons

Resolution of 2 December 2020, of the Presidency of the National Institute of Statistics and of the General Directorate of Autonomous and Local Cooperation, which modifies the Resolution of 17 February 2020, of the Presidency of the National Institute of Statistics and of the General Directorate of Autonomous and Local Cooperation by which technical instructions are issued to the City Councils on the management of the Municipal Register

Victims of gender-based violence who reside or are under the protection of the network of comprehensive social assistance resources, such as sheltered flats, shelters or other resources of the aforementioned network, and when it is not possible to register in their real address for security reasons, this may be carried out in the place determined by the Social Services

of the municipality in which they actually reside (which may be the headquarters of a social institution or the Social Services of any Public Administration domiciled in their municipal district, or any other address that they may indicate, always within the aforementioned municipality) after the corresponding technical assessment, the following conditions needing to be met:

- That the Social Services and the reference social institution are integrated into the organic structure of any Public Administration or under its coordination and supervision.
- That those responsible for these Social Services report on the habitualness of residence in the municipality of the people who are intended to be registered.
- That the Social Services indicate the address that must appear in the register with reference to the municipal street map and undertake to try to notify when a communication from a Public Administration is received at that address.

1.14. Right to change surnames or identity

Law 20/2011, of 21 July, of the Civil Registry, modified by Law 6/2021, of 28 April

For victims of gender-based violence or their descendants who are or have been integrated into the family nucleus under cohabitation, the Manager of the Civil Registry may authorise the change of surnames without the need for them to meet the general requirements (that is to say, without the need for them to comply with the requirements consisting in the fact that the surname in the proposed form constitutes a factual situation, being habitually used by the person concerned; that the surname or surnames that are being linked or modified belong legitimately to the petitioning person; that the surnames that result from the change do not come from the same line), in accordance with the procedure determined by regulation.

In these cases, the total change of identity may be authorised for reasons of urgency or security without the need to comply with the general requirements provided, in accordance with the procedure determined by regulation.

RIGHTS OF FOREIGN WOMEN VICTIMS OF GENDER-BASED VIOLENCE **2**

2.1. Residence status of foreign women victims of gender-based violence in Spain

Article 17.1 of Organic Law 1/2004, of 28 December, on Comprehensive Protection Measures against Gender-based Violence; Organic Law 4/2000, of 11 January, on the rights and freedoms of foreigners in Spain and their integration social; Regulation of Organic Law 4/2000, approved by Royal Decree 557/2011, of 20 April; Royal Decree 240/2007, of 16 February, on entry, free movement and residence in Spain of citizens of the Member States of the European Union and other States party to the Agreement on the European Economic Area

The residence status of foreign women victims of gender-based violence in Spain includes the following possibilities:

2.1.1. Foreign women who hold the status of family member of a citizen of an EU Member State or a State party to the Agreement on the European Economic Area

Article 9.4 of Royal Decree 240/2007 of 16 February, on the entry, free movement and residence in Spain of citizens of EU Member States and other States party to the Agreement on the European Economic Area

To preserve the right of residence in cases of annulment of marriage, divorce or cancellation of the registered couple registration, women who are non-nationals of an EU Member State or a State party to the Agreement on the European Economic Area must accredit that they were victims of gender-based violence during the marriage or the situation of registered couple. This circumstance is considered accredited, on a provisional basis, when there is a court protection order in favour of the woman or a report from the Public Prosecutor's Office pointing to existing evidence of gender-based violence, and, on a permanent basis, when a court decision has been reached upholding that the alleged circumstances did in fact take place.

2.1.2. Non-Community foreign women: may be entitled to one of the following two specific types of residence and work authorisations on grounds of gender-based violence:

- Residence and work authorisation, irrespective of foreign women **reunited with their spouse or partner**:

Article 19.2 of Organic Law 4/2000 of 11 January, on the rights, freedoms and social integration of foreigners in Spain
Article of the Regulations of Organic Law 4/2000, approved by Royal Decree 557/2011 of 20 April

- This authorisation is granted once a court protection order is issued in favour of the woman, or otherwise a report from the Public Prosecutor's Office pointing to existing evidence of gender-based violence.
- Duration of the authorisation. 5 years.

- Temporary residence and work authorisation to **undocumented foreign women** on grounds of **exceptional circumstances**:

Article 31a of Organic Law 4/2000 of 11 January, on the rights, freedoms and social integration of foreigners in Spain
Articles 131 to 134 of the Regulations of Organic Law 4/2000, approved by Royal Decree 557/2011 of 20 April

- The application for this authorisation may be filed as soon as a court protection order is issued in favour of the woman or a report from the Public Prosecutor's Office pointing to existing evidence of gender-based violence.
- The authorisation is granted when the criminal procedure ends with a judgement finding the accused guilty as charged or with a court decision confirming that the woman has been a victim of gender-based violence, including a stay of proceedings due to the defendant's whereabouts being unknown or a temporary stay of proceedings due to the accused's deportation.
- Duration of the authorisation. 5 years. However, during those five years, the woman may apply for the status of long-term resident, for whose purpose the time during which she held a provisional temporary residence and work authorisation is taken into account.
- Residence authorisation on grounds of exceptional circumstances to her minor children or disabled children who are objectively unable to provide for themselves, or residence and work authorisation to her children over the age of 16 who were in Spain when the complaint was filed. This application is filed by the foreign woman at the

time of applying for her own temporary residence and work authorisation on grounds of exceptional circumstances, or at any other time during the criminal proceedings. The granting and length of this authorisation is the same as for the temporary residence and work authorisation granted on grounds of exceptional circumstances to undocumented foreign women.

- The administrative authority with competence to grant this authorisation on grounds of exceptional circumstances will grant a provisional residence and work authorisation to the foreign woman and, where appropriate, a provisional residence and work authorisation to her minor children or disabled children who are objectively unable to provide for themselves, who were in Spain when the complaint was filed. These provisional authorisations will expire the moment the authorisation on grounds of exceptional circumstances is either granted or refused.
- Once these provisional authorisations of residence and work are granted, foreign women shall obtain rights such as the following:
 - The **active insertion income**, which is available for foreign women residing legally in Spain who meet the other requirements demanded.
 - The **financial support** of article 27 of Organic Law 1/2004, which is available for foreign women who are victims of gender-based violence who possess a residence and work permit in Spain and who meet the other requirements demanded.

2.1.3. Temporary residence and employee-basis work authorisations held by foreign women are renewed on expiration in cases where the employment contract is extinguished or the labour relationship suspended due to the woman's situation of gender-based violence

Article 38.6 of Organic Law 4/2000 of 11 January, on the rights, freedoms and social integration of foreigners in Spain

2.2. Protection to undocumented foreign women victims of gender-based violence

Article 31a of Organic Law 4/2000 of 11 January, on the rights, freedoms and social integration of foreigners in Spain; Articles 131 to 134 of the Regulations of Organic Law 4/2000, approved by Royal Decree 557/2011 of 20 April

- If when a situation of gender-based violence is reported, the undocumented status of a foreign woman comes to light:
 - The administrative sanctioning procedure for residing in Spain without documentation (a serious offence) is not initiated.
 - If the aforementioned administrative sanctioning procedure was initiated prior to filing the complaint of gender-based violence, the procedure, as well as the enforcement of possible deportation or repatriation orders, will be suspended.
- If the criminal procedure ends:
 - With a judgement finding the accused guilty as charged or a court decision confirming that the woman has been a victim of gender-based violence, including a stay of proceedings due to the defendant's whereabouts being unknown or a temporary stay of proceedings due to the accused's deportation, a temporary residence and work authorisation is granted to the foreign woman on grounds of exceptional circumstances and, where appropriate, the authorisations requested for her minor children or disabled children who are objectively unable to provide for themselves.
 - With a judgement finding the accused not guilty as charged or a court decision which does not confirm the situation of gender-based violence, the foreign woman will be refused the temporary residence and work authorisation on grounds of exceptional circumstances and, where appropriate, the authorisations requested for her minor children or disabled children who are objectively unable to provide for themselves. Furthermore, the provisional residence and work authorisation granted to the foreign woman and, where appropriate, the provisional authorisations granted to her minor children or disabled children who are objectively unable to provide for themselves will cease to be in effect. The administrative sanctioning procedure for residing in Spain without documentation shall begin or resume.

2.3. Right to international protection

Law 12/2009 of 30 October, regulating the right to asylum and subsidiary protection

- **Right of asylum.** Refugee status is accorded to women who, due to well-founded fears of being persecuted for reasons of gender, find themselves outside the country of their nationality and, because of those fears, cannot or don't want to seek the protection of that country, or to stateless women who, lacking a nationality and finding themselves outside their country of habitual residence, for the same reasons, cannot or, because of those fears, don't want to return to it: In this sense, the motivation for persecution may be based on gender-related violence committed by the partner or ex-partner or other forms of violence against women, such as genital mutilation, forced marriage, sexual assault or the trafficking of women and girls for sexual exploitation, on condition that the other requirements demanded for recognition of the right to asylum are also present in all cases.
 - For the right of asylum to be recognised, the women's founded fears of being subject to persecution must be based on serious acts of persecution in the form of acts of physical or psychological violence, including acts of sexual violence.
 - To assess the reasons for persecution, the circumstances prevailing in the country of origin must be assessed in relation with the situation of the specific social group, women in this case.
- **Subsidiary protection.** Subsidiary protection shall be granted to foreign or stateless women who, without meeting the requirements demanded to obtain asylum, are subject to a real risk of suffering serious harm if they return to their country of origin or previous residence in the case of statelessness. The serious harm that justifies subsidiary protection shall include some of the following:
 - Death penalty.
 - Torture, inhuman or degrading treatment.
 - Serious threat to life or physical integrity for civilians in conflict situations.

RIGHTS OF SPANISH WOMEN VICTIMS OF GENDER-BASED VIOLENCE ABROAD

3

Spanish women who live overseas may find themselves in situations of **special vulnerability** when they suffer gender-based violence due to **cultural and language barriers**, the absence of social supports or lack of knowledge about the resources available in the country. The duty of public authorities with regard to information, assistance and protection of women victims of gender-based violence also includes the general **duty to protect Spanish citizens abroad**.

The protocol signed on 8 October 2015 by the Ministry of Foreign Affairs, European Union and Cooperation, Work, Migration and Social Security and that of the Presidency, Relations with Parliament and Equality, to establish a **common framework for collaboration to organize the performance of functions related with gender-based violence**, anticipating and addressing situations of gender violence through **information about the resources available in the country of residence, ensuring the protection and repatriation** of women victims of gender-based violence and, where applicable and in accordance with the situation, their children, within the current legal framework.

Spanish **Embassies** and **Consulates** and the **Offices**

of Work and Social Security shall provide Spanish women with information to contact the specialist resources for victims of gender-based violence available in the country of residence, and guidance for the medical, educational and legal resources that the local authorities make available to them in situations of gender-based violence.

For its part, in cases where women are repatriated, the Government Delegation for Gender-Based Violence shall engage with **Autonomous Communities** to guarantee their rights under Spanish law and to facilitate their social reinsertion.

The protection of the interests of **minors** of Spanish nationality who are abroad corresponds to the Embassies and Consular Offices of Spain abroad and, in case of their return to Spain, the Ministry of Foreign Affairs, European Union and Cooperation, through the General Directorate of Consular and Spanish Affairs Abroad, and the Ministry of Social Rights and the 2030 Agenda, through the General Directorate of the Rights of Children and Adolescents, will coordinate their actions, according to the Organic Law 8/2021, of 4 June, on comprehensive protection for children and adolescents against violence.

RIGHTS OF VICTIMS OF CRIME ALSO HELD BY VICTIMS OF GENDER-BASED VIOLENCE **4**

As well as the specific rights recognised in Organic Law 1/2004 for women who suffer or have suffered gender-based violence, these women also hold the rights recognised in the legislation to victims of crime, among which the following are worth highlighting:

4.1. Rights from the Statute of Victims of Crime

Law 4/2015 of 27 April, on the Statute of Victims of Crime

The victims of gender-based violence have access to the general **catalogue of judicial and extra-judicial rights** included in the **Statute of victims of crime**. The spouse of the direct victim of the crime or the person bound to her by a similar emotional relationship shall not be considered an indirect victim of the crime when this person is responsible for committing said crime.

These rights shall include:

- The **right to information** prior to the first contact with the competent authorities, extending to the time immediately prior to making the accusation.
- The **right**, at the time of making the accusation, **to obtain a duly certified copy of the accusation** and, where relevant, a written translation of this copy.
- The **notification of certain resolutions** without the need for their request, so that they are informed of the imprisoned situation of the investigated, accused or convicted person: the resolutions that agree to the imprisonment or the subsequent release of the offender, as well as the possible escape of said person; the resolutions that agree to the adoption of personal precautionary measures or which modify those already agreed upon, when they had the objective of guaranteeing the victim's safety.
- The **right to free and confidential access to support services** offered by public administrations as well as those provided by the Victim Support Offices. These Offices shall perform the following functions, among others:
 - **Emotional support** for the victims and therapeutic assistance for victims that require this, guaranteeing suitable psychological treatment to overcome the traumatic consequences of the crime.
 - **Assessment and guidance in relation with the victim's needs** and the way to prevent and **avoid** the consequences of primary, repeated and secondary **victimisation, intimidation and reprisals**.
Preparation of a **psychological support plan** for vulnerable victims and in cases where a protection order applies.
 - **Information about the specialist services** available to offer support to the victim, considering her personal circumstances and the nature of the crime that she may have suffered.
 - **Accompaniment** for the victim throughout the process.
 - Receive **notification of the decisions** referred to in article 7.1 of the Statute of the victim of crime (the verdict, decisions to adopt cautionary measures, etc.) and carry out any information and assistance that may be required in the case.
- Right to start criminal proceedings and civil actions in accordance with the Law of Criminal Proceedings.
- They may take part in sentencing, by raising appeals against certain judicial decisions, although they were not party to the prosecution:
 - The order in which the Penitentiary Oversight Judge authorizes the possible classification of the offender in a less severe regime before completing half of the sentence.
 - The order in which the Penitentiary Oversight Judge agrees that all privileges for prisoners such as day release, modification of the regime or the calculation of time served towards parole are adjusted to the limit of the sentence served and not the total punishment imposed.
 - The order granting the convicted felon parole.

4.2. Right to lodge a complaint

Articles 259 and following of the Law of Criminal Proceedings

Women have the **right to report situations of gender-based violence suffered**.

By lodging the complaint, it is brought to the attention of the competent authorities that an act has been committed

which may constitute a criminal offence.

After the complaint has been lodged and referred to the court authority, the corresponding criminal procedures are initiated if it is held that there is existing evidence that a criminal act has been committed.

4.3. Right to request a court protection order

Article 62 of Organic Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender-based Violence;
Article 544 third of the Law of Criminal Proceedings

The court protection order is a court decision issued by the competent court in cases where, with founded evidence that a crime has been committed, it considers that there is an objective situation of risk to the victim which requires adopting protection measures during the course of the criminal proceedings.

The court protection order is a single document that establishes **precautionary measures** of a criminal or civil nature in favour of the woman victim of gender-based violence and, where appropriate, her children. At the same time, it sets in motion the **social protection mechanisms** in favour of the victim established by the different Public Administrations. The court protection order **accredits the situation of gender-based violence** which gives rise to the recognition of the rights established in Organic Law 1/2004.

The precautionary **criminal measures** may include one or more of the following:

- The **aggressor's eviction from the family home**.
- The aggressor's **prohibition from living in a certain town/city**.
- The aggressor's **prohibition from coming within a certain distance** of the victim and/or her family members or other persons.
- The aggressor's **prohibition from contacting the victim** and/or her family members or other persons by any means: letter, telephone, etc.
- The aggressor's **prohibition from going to certain places**: the victim's place of work, children's schools, etc.
- The **omission of data** relating to the victim's address.
- The **court protection** of the victim in court liaison offices.
- The **confiscation of weapons** and prohibition to hold them.

The measures that may be adopted under **civil law** are the following:

- The **use and enjoyment of the family home**.
- The granting of **wardship and custody** of minor children.
- Establishment of **visiting rights**, communication and contact with minors.
- The establishment of **child support**.
- Any other necessary measures to remove minors from danger or save them from harm.

The application may be filed by the victim, her close relatives, her lawyer or the Public Prosecutor's Office. Regardless of the duty to lodge the complaint, the social services which are aware of the situation are required to make it known to the court authority or to the Public Prosecutor's Office so that the court protection order procedure can be initiated. When minors are involved, the Judge must rule, including ex officio, on the appropriateness of adopting measures under civil law.

It is advisable to apply for the court protection order at the time of lodging the complaint, although it can also be done afterwards.

If a complaint has not been lodged, the actual application for the court protection order is considered the same as the

complaint with respect to the events and situations of violence described in the court protection order.

The court must issue the court protection order within 72 hours of filing the application, and following the victim's and the aggressor's appearance in court. The Law establishes that this appearance must be made separately so as to avoid a confrontation between victim and aggressor.

4.4. Right to request a European protection order

Law 23/2014, of 20 November on Mutual Recognition of Criminal Sentencing in the European Union

A victim of gender-based violence who is going to move to another state member of the European Union to stay or to live there, and who is the beneficiary of a protection measure, precautionary measure or custodial sentence under a protection order, court order of precautionary measures or verdict, may request the application of the European protection order from the relevant judicial authority.

The European protection order issued by the court shall take the form of a certificate transmitted to the relevant judicial authority of the member state where it must be applied.

4.5. Right to be a party to the criminal procedure: informing the victim of her rights and legal options

Articles 109 and following of the Law of Criminal Proceedings

In the same act when the judge accepts the victim's declaration, the Court Secretary shall inform the victim of her right to be a party to the criminal proceedings and to waive or not her right of restitution of property, reparation of the loss and compensation for the damages caused by the wrongful act.

The exercise of this right, which involves the **active intervention of the victim of gender-based violence in the court procedure** which follows the lodging of the complaint, and the exercise of criminal action and, where appropriate, civil action, entails the victim's presence in the criminal procedures as "private prosecutor", for which she needs to appoint a lawyer to defend her interests and a court solicitor to represent her.

Victims who have not waived this right may start criminal proceedings at any time before the classification of the crime.

These professionals may be appointed freely by the victim herself or through the legal-aid roster of specialists in gender-based violence (benefit of legal aid).

The victim's presence and consequent status of "party" to the criminal process means that the woman, through her lawyer, can propose procedural devices to obtain preliminary evidence and information for use in the trial, intervene in the examination of evidence, and be informed of all the decisions issued in the course of the proceedings, as well as lodge the pertinent appeals if she so wishes.

Furthermore, as private prosecutor, the victim can request the sentence for the aggressor and an indemnity for the injuries, damage and harm that she has suffered.

The Public Prosecutor's Office is responsible for defending the interests of victims and injured parties in criminal proceedings. If it concludes that a crime has been committed, it will lead the prosecution against whoever it considers to be responsible, regardless of whether or not the victim is party to the criminal procedure. If it does not come to that conclusion, it will not prefer the charge or may request a stay of proceedings if, for example, it considers that there is insufficient evidence of the events.

4.6. Right to restitution of property, reparation of the loss and compensation for damages

Articles 100 and following of the Law of Criminal Proceedings

The commission of a crime requires that the **damage and the harm caused be repaired**. This civil liability includes the restitution of property, the reparation of the loss and compensation for material and moral damage.

If the victim has taken civil action in the criminal proceedings (to demand this civil liability) and the judgement finds the accused guilty as charged, apart from the punishment imposed, the judgement will also establish the civil liability to be paid to the victim for the physical, psychological or moral damage caused.

However, the victim may reserve the right to take civil action in different proceedings in a civil court, in which case civil action will not be taken in the criminal proceedings. The victim may also waive her right to any claim which, in this context, she may be entitled to make.

4.7. Right to receive information on the court procedures

Even if she does not exercise her right to be party to the criminal proceedings, **the victim must be informed of her role** in the proceedings, as well as the **scope, development and progress** of the procedure.

The responsibility of informing the victim of her rights lies with the law enforcement agencies, the court and the Assistance to Victims Offices.

This information must include:

- Her right to be a party to the criminal proceedings and to waive or not her right of restitution of property, reparation of the loss and compensation for the damages caused by the wrongful act.
- The possibility of and the procedure for applying for the aid that she may be entitled to under the legislation in force.
- Information on the status of the court procedures, her right to examine them and to be issued copies and trial statements (Article 234 of Organic Law on the Judiciary).
- She must be informed of any court decision that may affect her safety, the court protection order, the adoption or amendment of other precautionary measures, court orders agreeing the imprisonment or release on remand of the accused and of the details of the prison sentence handed down to the aggressor (Articles 109, 506.3, 544a and b of the Law of Criminal Proceedings).
- She must be informed of the place and date of the oral proceedings (Articles 785.3, 962 and 966 of the Law of Criminal Proceedings).
- She must be notified of the judgements handed down in all proceedings, including, where appropriate, in the appeal. (Articles 270 of the Organic Law on the Judiciary; articles 789.4, 792.2, 973.2 and 976.3 of the Law of Criminal Proceedings).
- She must be notified of the dismissal of proceedings.

4.8. Right to protection of the dignity and privacy of the victim in the framework of proceedings related to gender-based violence

Article 63 of Organic Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender-based Violence
 Article 232.2 of Organic Law on the Judiciary
 Articles 19 and following of Law 4/2015 of 27 April, on the Statute of Victims of Crime
 Article 15.5 of Law 35/1995, on Aid and Assistance to Victims of Violent Crimes and Crimes against Sexual Freedom
 Arts. 2.a) and of Organic Law 19/1994, on the Protection of Witnesses and Experts in Criminal Cases

Organic Law 1/2004 establishes specific measures to protect the dignity and privacy of the victim.

On the one hand, it establishes the confidential nature of the **personal details** of the victim, her descendants and the persons in her custody.

The confidential nature of her new address, her workplace or the schools of her children not only protects the privacy of the victim, but it is also an important instrument for ensuring her safety, as it prevents the disclosure of the information to the accused.

To this end, the application form for the court protection order indicates that the victim may give the address or telephone number of a third party to whom the law enforcement agencies or the judicial bodies may send the communications and notifications.

On the other hand, the Law on the Statute of victims of crime acknowledges the victims' right to **protection of their privacy in criminal proceedings**, obliging, in this context, judges, prosecutors and civil servants engaged in the investigation and other persons who are involved or participate in any way in the process, to adopt the measures necessary to protect the privacy of the victims and their families, in accordance with the law. Measures must be taken specially to protect minors or disabled victims who require special protection to prevent the publication of any kind of information that may enable them to be identified.

In this sense, in accordance with the Law of Criminal Proceedings, the Judge may decide, ex officio or at the request of the Public Prosecutor's Office or the victim, the adoption of any of the following measures that may be necessary to protect the privacy of the victim or the respect due to her or her family.

- **Prohibit the broadcasting or publication of information about the victim's identity**, of details that may enable identification directly or indirectly, or personal circumstances that have been taken into account to reach a decision about the need for protection.
- **Prohibit the obtaining, broadcasting or publication of images** of the victim or members of her family.

Furthermore, the court may decide, on its own initiative or on request of the victim or the Public Prosecutor's Office, that the court procedures should not be made public and that the trial should be held behind closed doors.

4.9. Aid to victims of crimes classed as gender-based violence

Law 35/1995 of 11 December, on Aid and Assistance to Victims of Violent Crimes and Crimes against Sexual Freedom: Regulations on aid to victims of violent crimes and crimes against sexual freedom, approved by Royal Decree 738/1997 of 23 May

This **public aid is granted to direct or indirect victims of intentional and violent crimes** committed in Spain and resulting in death, serious body injuries or serious damage to physical or mental health, and to victims of crimes **against sexual freedom**, even if they were committed without violence.

Women victims of gender-based violence may be entitled to this aid as victims of a crime with the following characteristics:

- This aid is generally available to those persons who, at the time of the offence being committed, are Spanish or belong to a member State of the European Union, or others who reside normally in Spain or are nationals of another State that offers similar measures to Spaniards in its territory.

When the victim of the crime is considered to be a victim of gender violence, and the crimes result from an act of violence committed against women, women of any other nation who are in Spain can access this aid, regardless of their administrative status.

- The application period for this aid is three years, commencing on the date of the wrongful act. However, this period is interrupted when the criminal proceedings commence and is resumed on the date the final judgement beyond appeal is handed down.
- The amount of this aid can under no circumstances exceed the compensation stated in the verdict and is calculated through the application of criteria related with the type of aid. In the case of victims of gender-based violence, the amount of aid calculated thereby shall be increased by twenty-five percent. In the event of death, the aid shall be increased by twenty-five percent for beneficiaries who are minors or disabled adults.
- In addition, provisional aid may be granted before the final judgement beyond appeal which puts an end to the criminal proceedings is handed down, provided that the precarious economic situation of the victim or the beneficiaries is accredited. When the victim of the crime is considered a victim of gender-based violence, provisional aid may be granted, regardless of the financial situation of the victim or her beneficiaries.

INFORMATION TELEPHONE NUMBERS

At State-level	016 Persons with hearing disabilities: 900 116 016
Andalusia	900 200 999
Aragon	900 504 405
Canary Islands	112
Cantabria	942 214 141
Castile-La Mancha	900 100 114
Castile and Leon	012
Catalonia	900 900 120
Extremadura	
Galicia	900 400 273
Balearic Islands	971 178 989
La Rioja	900 711 010
Madrid	012
Navarre	
Basque Country	900 840 111
Principality of Asturias	985 962 010
Region of Murcia	112
Community of Valencia	900 580 888
Ceuta	900 700 099
Melilla	

Further information: can be obtained from Equality Bodies of the Autonomous Communities, local and autonomous region Women's Centres, Assistance to Crime Victims Offices, Legal Advice Services of the Bar Associations and the different women's and foreigners' organisations.

Web page of the Government Office for Gender-based Violence: <https://violenciagenero.igualdad.gob.es/instituciones/home.htm>