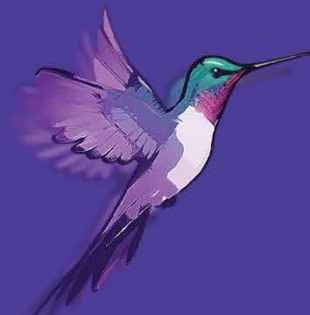


# A GUIDE TO RIGHTS

for victims of  
gender-based violence  
and sexual violence



MINISTERIO  
DE IGUALDAD

SECRETARÍA DE ESTADO  
DE IGUALDAD  
Y PARA LA ERRADICACIÓN  
DE LA VIOLENCIA CONTRA LAS MUJERES

DELEGACIÓN DEL GOBIERNO  
CONTRA LA VIOLENCIA DE GÉNERO



<https://violenciagenero.igualdad.gob.es/informacion-3/derechos/>



**Web page of the Government Office For Gender-Based Violence.**

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# BLOCK 1

## Rights of victims of gender-based violence

**O**rganic Law 1/2004, of 28 December, on Comprehensive Protection Measures against Gender Violence (B.O.E.

Official State Gazette no. 313, of 29 December 2004), enshrines and guarantees women who are or have been victims of gender violence a series of rights, with the aim of enabling them to put an end to the violent relationship and recover their life plan.

These rights are universal, in the sense that all women who suffer or have suffered any act of gender-based violence are guaranteed the same rights, regardless of their origin, religion or any other personal or social condition or circumstance.

# 1. Specific rights of victims of gender-based violence

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

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

For the purposes of Organic Law 1/2004, a victim of gender-based violence is **a woman who is the object of any act of physical and psychological violence**, including **aggression against sexual freedom, threats, coercion or arbitrary deprivation of liberty**, perpetrated against her **by whoever is or has been her spouse or by whoever is or has been linked to her by a similar intimate relationship**, even if they do not live together.

This form of violence against women is a **violation of human rights** and an expression of discrimination, **inequality and power relations of men over women**.

In addition, **their minor sons and daughters and minors under their guardianship or custody are victims of this violence** and Organic Law 1/2004 recognises a full series of rights for them, as set out in articles 5, 7, 14, 19.5, 61.2, 63, 65, 66 and in Additional Provision 17.

Gender-based violence also includes (as per the amendment 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, is perpetrated against their family members or close minors** by a person who is or has been their spouse or who has been linked to them in a similar intimate relationship, even if they do not live together.

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

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

In general, a situation of gender-based violence that gives rise to the recognition of the corresponding rights is proven by **a conviction for a crime of gender-based violence, a protection order or any other court decision that orders a precautionary measure in favour of the victim**, or by the report of the Public Prosecutor's Office that indicates there are indications that the complainant is a victim of gender-based violence.

A situation of gender-based violence may also be proven by means of a **report from the social services, specialised services, or shelter services** for victims of gender-based violence of the relevant Public Administration Agency; or on any other basis, provided that this is set forth in the sectoral regulatory provisions that regulate access to each of the rights and appeals.

To prove a situation of gender violence for the purposes of article 23 of Organic Law 1/2004, at the Sectoral 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 confirm the status of victim of gender **violence** was approved, as well as a common evidentiary model so that the administrations of the autonomous communities can, in a homogeneous manner, officially confirm the status of victim of gender violence. The Sectoral Conference on Equality, held on 11 November 2021, passed a resolution



approving the basic procedures that enable the implementation of evidentiary systems for situations of gender violence and updated the Report model and the bodies that issue official confirmations in each Autonomous Community. This confirmation 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 also to all the rights, resources and services recognised in the regulations of the Spanish state applicable to them, whose sectoral regulations provide for and regulate access to each one of them, including, among the requirements demanded, confirmation of the situation of gender violence by means of a report from the social services, specialised services or shelter services for victims of gender violence of the relevant Public Administration agency.

In the case of victims who are minors, confirmation may also be provided by official health documents for communication to the Public Prosecutor's Office or to the judicial body.

Information on this official confirmation is available on the [website of the Government Office for Gender Violence](#).

## 1.3. Right to information

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

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

#### 1.3.1 Information and legal advice service

- **Free and confidential** service offering **information, legal advice and immediate psychosocial care in all forms of violence against women included in the Istanbul Convention**, including, therefore, gender-based violence in the terms of Organic Law 1/2004, of 28 December.
- The service is accessible through four channels:
  - By the short telephone number: **016**.
  - By email: [016-online@igualdad.gob.es](mailto:016-online@igualdad.gob.es).
  - By WhatsApp: number **600 000 016**, exclusively for WhatsApp because it does not support phone calls.
  - By chat: through the website of the Government Delegation for Gender Violence <https://violenciagenero.igualdad.gob.es/home.htm>
- Information and immediate psychosocial care is available **24 hours** a day, **365 days** a year. **Legal advice** is available from **8 am to 10 pm**, Monday to Sunday.
- **Accessible to people with hearing and/or speech disabilities** by various by calling the telephone number **900 116 016**; **Telesor Service** through [Telesor's own website](#), in which case an Internet connection is required; by means of a mobile phone or PDA with the installation of a free application; via the [SVIsual](#) video-interpretation service; via WhatsApp: 600 000 016; or by email: [016-online@igualdad.gob.es](mailto:016-online@igualdad.gob.es).
- **Accessible to foreigners** through the following languages in addition to Spanish and the co-official 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, Cantonese, Czech, Korean, Danish, Slovenian, Farsi, Finnish, Georgian, Greek, Hindi, Dutch, Hungarian, Italian, Japanese, Lithuanian, Mandinka, Norwegian, Persian, Polish, Poular, Serbo-Croatian, Syrian, Soninke, Slovak, Slovenian, 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.
- Referral of calls in the following cases:
  - In the case of calls concerning emergencies, calls shall be transferred to **112**.
  - In the case of general information calls on women's equality issues, callers will be referred to the **Women's Institute**.
  - In the case of calls requiring specific information related to **an Autonomous Community**, they will be referred to the relevant Autonomous Community telephone number.
  - Calls made by minors will be referred to the **ANAR** Helpline for Children and Adolescents.

The 016 service has the status of an essential service and, therefore, in the event of any situation hindering access to or the provision of such services, the relevant public administration agencies shall take the necessary measures to guarantee its normal operation and adaptation.

### 1.3.2 Website offering support and prevention resources in cases of gender violence

It is available on the [website of the Government Office for Gender Violence](#).

It allows the location on active maps of the different resources (police, judicial, information, care, advice, etc.) that the public administration agencies and social entities have made available to citizens and victims of gender-based violence etc.) that public administration agencies and social entities have made available to citizens and victims of gender-based violence.

## 1.4. Right to comprehensive social assistance

Article 19 of Organic Law 1/2004, of 28 December, on Measures for Comprehensive Protection against Gender Violence

Article 156 of the Civil Code

Victims of gender-based violence have the right to comprehensive social assistance that includes **social services for care, emergency, support and shelter and comprehensive recovery**, which must comply with the principles of permanent care, urgent action, specialisation of services and professional multidisciplinary. The purpose of these services is to meet the needs arising from the situation of violence and to restore the victim to the situation she was in before the violence or, at least, to alleviate its effects.

Through them, women can:

- Receive advice on what action they can take and their rights.

- Be aware of the services to which they can turn for material, medical, psychological and social assistance.
- Have access to the accommodation resources (emergency, temporary shelter, sheltered centres, etc.) where their safety is guaranteed and their basic needs are met.
- Recover their physical and/or psychological health.
- Achieve their training, integration or reintegration into the labour market, and receive psycho-social support throughout the entire road to recovery with the aim of avoiding doubly victimised.

Shelter services and comprehensive social assistance, consisting of legal, psychological and social counselling for victims of violence against women shall have the status of essential services. Therefore, in the event of any circumstance hindering access to or the provision of such services, the relevant public administration agencies shall take the necessary measures to ensure their normal operation and adaptation.

The right to comprehensive social assistance is also recognised for **minors** living in family environments where gender-based violence is present. Social services must have a sufficient number of places available for minors, with staff specifically trained in their care and child psychology professionals, in order to effectively prevent and avoid situations that could cause psychological and physical harm to minors.

For the psychological care and assistance of minor children, when a conviction has been issued and for such time as the criminal responsibility has not been extinguished; or when criminal proceedings have been initiated against one of the parents for an attempt against the life, physical integrity, freedom, moral integrity or sexual freedom and inviolability of the common minor children; or for an attempt against the other parent; the victim's consent shall be sufficient; the perpetrator must be informed beforehand. If the assistance is to be provided to children over the age of sixteen, their express consent shall in any case be required.

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

To this end, the Protocol for referral among the Autonomous Communities for the coordination of their networks of shelters for women victims of gender-based violence and their children, adopted in 2014, facilitates the mobility of women victims of gender-based violence and their children between shelters in different Autonomous Communities, either for reasons of safety of the woman or the minors in their care, or to promote their social recovery.

## 1.5. Right to health care

Article 19 bis of Organic Law 1/2004, of 28 December, on Comprehensive Protection Measures against Gender Violence, introduced by the Ninth Final Provision of Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual freedom.

Women victims of gender-based violence, as well as their children, have **the right to health care**, including psychological and psychiatric care, **and to the monitoring of the evolution of their state of health until their full recovery**, with regard to the mental and physical symptoms or after-effects arising from the violence they have suffered.

Child psychologists shall be available in the health services for the care of children who are victims of vicarious violence.

These services shall be provided in such a way that it guarantees **women's privacy and intimacy** and respects **the choices they make in their health care**. Specific measures will also be established for the detection, intervention and assistance in situations of violence against women with disabilities, women with mental health problems, addictions or other problems or cases of addictions arising from or in addition to violence.

## 1.6. Right to free, immediate and specialised legal aid

Article 20 of Organic Law 1/2004, of 28 December, on Measures for Comprehensive Protection against Gender Violence  
Law 1/1996, of 10 January 1996, on Free Legal Aid

Women victims of gender-based violence have the right to **free legal aid, regardless of the existence of resources for litigation, which will be provided immediately**, in those court proceedings and administrative proceedings that are directly or indirectly caused by the violence suffered.

This right shall also apply to the heirs and successors in title in the event of the death of the victim, provided that they were not involved in the acts.

For the purposes of granting legal aid, **the status of victim shall apply when the complaint is filed or the criminal proceedings are initiated, and shall be maintained for as long as the criminal proceedings remain in force or when, after their conclusion, a conviction has been handed down**. The benefit of free legal aid shall be lost in the event of a final judgement of acquittal or final closure of the criminal proceedings, there shall be no obligation to pay the cost of the benefits enjoyed free of charge up to that time.

In the various proceedings that may be initiated as a consequence of being a victim of gender violence, the same professional lawyer shall assist the victim, provided that this duly guarantees her/his right to defence.

The lawyer appointed for the victim shall also be legally entitled to represent the victim in the proceedings until the appointment of the *Procurador(a)*, as long as the victim has not opted to bring charges personally. Until then, the legal practitioner shall comply with the obligation to provide an address for service of process and service of documents.

Victims of gender violence **may file criminal charges as a private citizen at any time during the proceedings**, although this will not allow the proceedings already carried out prior to their appearance to be withdrawn or reiterated, nor may it entail any reduction of the accused's right to defence.

The respective Bar Associations shall have **a specialised permanent duty rota** for the provision of prior counselling and legal aid services for victims of gender-based violence.

The right to free legal aid includes, among others, the following benefits:

- **Free pre-procedural advice and guidance**, in particular in the period immediately prior to filing a complaint.
- **Free defence and representation by lawyer and *procurador(a)*** in all administrative processes and proceedings.

- **Free publication of notices or edicts**, in the course of the proceedings, in official periodicals.
- **Exemption from the payment of court fees**, as well as from the payment of deposits required for the lodging of appeals.
- **Free expert assistance** in the process by technical staff assigned to the courts or, failing that, by civil servants, bodies or technical services attached to public administration agencies.
- **Obtaining free of charge or a reduction of 80% of the notary fees** for notarised documents.

## 1.7. Labour rights

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

The recognition of labour rights for women victims of gender-based violence aims to prevent them from leaving the labour market because of the violence they undergo. To this end, they are granted rights aimed at **balancing work** with the situation of gender-based violence, **their protection** is guaranteed **if they are forced to leave their jobs**, either temporarily or permanently, and **their integration into the labour market** is ensured if they are not already employed.

### 1.7.1 Rights of women in employment<sup>1</sup>

Articles 37.8, 40.4, 45.1.n), 48.10, 49.1.m), 53.4 and 55.5 of the Consolidated Text of the Workers' Statute enacted by Royal Legislative Decree 2/2015, of 23 October.

Royal Legislative Decree 28/2020 of 22 September on teleworking

- **The right to a reduction in the working day** with a proportional reduction in pay or to **the reorganisation of working time**, through the adaptation of working hours, the application of flexible working hours or other forms of working time organisation used in the company, so that the woman can make her protection or her right to comprehensive social assistance effective.
- **Right to geographical mobility**: women who are forced to leave their job in the locality where they have been providing their services, in order to make their protection or their right to comprehensive social assistance effective, will have the preferential right to occupy another job, in the same professional group or equivalent category, that the company has vacant in any other of its work places. The company will reserve the woman's previous job for her for the first 6 months.
- **Right to suspension of the employment contract** by decision of the worker who is forced to leave her job as a result of being a victim of gender-based violence, with reservation of the position. When the reinstatement takes place, it shall be carried out under the same conditions existing at the time of the suspension of the employment contract, guaranteeing the reasonable adjustments that may be required due to the disability.
- **Right to termination of the employment contract** by decision of a worker who is forced to leave her job permanently as a result of being a victim of gender-based violence.

<sup>1</sup> Collective bargaining agreements and company agreements may provide for improvements to these rights

- The right to perform all or part of their work remotely or to cease to do so if this is the established system, provided in both cases that this mode of service provision is compatible with the post and functions performed.
- Absences or non-punctuality work due to the physical or psychological situation resulting from gender-based violence, evidenced by the social services or health services, as appropriate, shall be considered **justified**.
- Nullity of the decision to terminate the contract in the case of female workers who are victims of gender violence due to the exercise of their rights to reduce or reorganise their working time, geographical mobility, change of work place or suspension of the employment relationship, under the terms and conditions recognised in the Workers' Statute.
- Nullity of disciplinary dismissal in the case of female workers who are victims of gender violence due to the exercise of their rights to reduce or rearrange their working time, geographical mobility, change of work place or suspension of the employment relationship, under the terms and conditions recognised in the Workers' Statute.

## 1.7.2 Rights of economically dependent self-employed workers

Law 20/2007, of 11 July, on the Statute of Self-Employment

Art. 21 of Organic Law 1/2004, of 28 December, on Comprehensive Protection Measures against Gender Violence

- The right to **adapt working hours**.
- Right to **termination of the contractual relationship**.
- The situation of gender-based violence shall be considered justified grounds **for the worker to interrupt her work**.
- Self-employed female workers who are victims of gender violence and cease their activity in order to make their protection or their right to comprehensive social assistance effective, will be considered to be in **a situation of temporary cessation of activity**, in the terms set forth in the revised text of the General Social Security Act, approved by Royal Legislative Decree 8/2015, of 30 October.
- **Reductions in Social Insurance contributions** for victims of gender-based violence who are initially registered or who have not been registered in the Special Social Security Scheme for Self-Employed or Self-Employed Workers in the 2 immediately preceding years, counting from the effective date of registration.

## 1.8. Social security rights

### 1.8.1 Social insurance contribution rights

Article 165.5 of the Consolidated Text of the General Social Security Act, approved by Royal Legislative Decree 8/2015, of 30 October

Sole additional provision of Royal Decree 1335/2005, of 11 November, regulating Social Security family benefits

- The period of suspension of the employment contract with reservation of the job provided for employed women shall be considered a **period of effective contribution**, for the purposes of the relevant Social Security benefits for

retirement, permanent disability, death and survival, maternity, unemployment and care of children affected by cancer or other serious illnesses

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

- **Suspension of the obligation to pay** social insurance **contributions** for a period of six months for self-employed workers who cease their activity in order to give effect to their protection or entitlement to comprehensive social assistance.

Order TAS/2865/2003 of 13 October 2003, regulating the special agreement in the Social Security system

- Signing of a special agreement with the Social Security agency for female workers who are victims of gender-based violence and who have reduced their working hours with a proportional reduction in salary.

## 1.8.2 Social security benefit entitlements

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

- For the purposes of maternity and paternity benefits, periods deemed to be equivalent to effective contribution in respect of employed and self-employed female workers who are victims of gender-based violence shall be considered to be **situations equivalent to registration as employed**.

Article 207 of the Consolidated Text of the General Social Security Act, approved by Royal Legislative Decree 8/2015, of 30 October

- Right to **early retirement pension** for reasons not attributable to the worker for women who terminate their employment contract as a result of being victims of gender-based violence, and who meet the requirements.

Article 207 of the Consolidated Text of the General Social Security Act, approved by Royal Legislative Decree 8/2015, of 30 October

- The right to a **widow's pension** in the event of separation, divorce, marriage annulment or termination of the partnership of women victims of gender violence who, although not entitled to maintenance can prove that they meet the necessary requirements.

First additional provision of Organic Law 1/2004 of 28 December on Comprehensive Protection Measures against Gender Violence

Article 231 of the Consolidated Text of the General Social Security Act, approved by Royal Legislative Decree 8/2015, of 30 October

- **Disqualification from receiving a widow's pension for anyone who has been convicted by a final judgement** for the commission of an intentional crime of homicide in any of its forms or injury when the victim is their spouse or ex-spouse, or partner or ex-partner.

- Furthermore, a parent who has been deprived of parental authority by a judgement based on a breach of parental authority or a judgement in a criminal or matrimonial case shall not be entitled to a financial allowance.

**Royal Legislative Decree 3/2021 of 2 February adopting measures to reduce the gender gap and other matters in the social security and economic spheres**

- **Any** father who has been convicted of violence against women, as defined by law or by international instruments ratified by Spain, against the mother; and any father who has been convicted of violence against the children, **shall be ineligible to receive the supplement to** contributory pensions for the reduction of the gender gap.
- Furthermore, a parent who has been deprived of parental authority by a judgement based on a breach of parental authority or a judgement in a criminal or matrimonial case shall not be entitled to a financial allowance.

**Articles 224 and 233 of the Consolidated Text of the General Social Security Act, approved by Royal Legislative Act 8/2015, of 30 October**

**Law 3/2019 of 1 March 2019 on improving the situation as orphans of children of victims of gender violence and other forms of violence against women**

- **Orphan's rights:**

**Orphan's pension:** the sons and daughters of the deceased woman, whatever the nature of their kinship, are entitled to it, provided that, at the time of death, they are under the age of twenty-one or are unable to work, or are under the age of twenty-five and are not gainfully employed or self-employed, or when, when carrying out such work, the income obtained is less, on an annual basis, than the amount in force for the minimum inter-professional wage (SMI), also on an annual basis, and that the woman was registered or in a situation similar to being registered as employed, or outside.

The children will be entitled to the increase provided for cases of absolute orphanhood, which will amount to 70 per cent of the regulatory base when the family unit's income does not exceed 75 per cent of the minimum wage in force at any given time.

**Orphan's benefit:** the children of a woman who has died as a result of violence against women, as defined by law or by international instruments ratified by Spain, are entitled to this benefit, provided that they are in circumstances comparable to absolute orphanhood and do not meet the requirements for an orphan's pension. He/she may be the beneficiary of orphan benefit, provided that on the date of death he/she was under 25 years of age, is not gainfully employed or self-employed, or when, if he/she is gainfully employed, the income he/she earns is less, on an annual basis, than the amount in force for the SMI, also on an annual basis.

The amount of the orphan benefit shall be 70% of the regulatory base, provided that the family unit's income does not exceed, on an annual basis, 75% of the minimum wage in force at any given time.

The right to orphan pension or benefit shall not be suspended in the event of adoption of the children of the deceased as a result of violence against women, provided that the income of the cohabitation unit of which they form part, divided by the number of members of the unit, including the adopted orphans, does not exceed, on an



annual basis, 75 per cent of the minimum wage in force at any given time, excluding the proportional part of the supplementary payments.

In addition, if the death was caused by an aggressor other than the parent of the deceased's children, the right to the orphan pension may also be recognised, if applicable, to orphan benefit, when the requirements are met.

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

- In order to be entitled to unemployment benefit, in addition to meeting the requirements, a female employee is considered to be legally unemployed when she terminates or suspends her employment contract voluntarily as a result of being a victim of gender-based violence.

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

- In order to be entitled to protection due to cessation of activity, in addition to meeting the requirements, a self-employed woman is considered to be in a legal situation of cessation of activity when she ceases her activity, temporarily or definitively, due to gender violence.

**Article 335 of the Consolidated Text of the General Social Security Act, approved by Royal Legislative Decree 8/2015, of 30 October**

- In order to be entitled to protection due to cessation of activity, in addition to meeting the requirements, worker-members of worker cooperatives are considered to be in a legal situation of cessation of activity when they definitively or temporarily stop work due to gender-based violence.

## 1.9. Employment rights for labour market integration

### 1.9.1 Specific employment programme

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

The socio-occupational integration programme for women victims of gender violence, registered as job seekers in the Public Employment Services, includes the following measures:

- **Road map of socio-occupational insertion**, individualised and carried out by specialised staff.
- **Specific training programme** to promote social and labour integration as an employee.
- **Incentives** to encourage **the start of a new self-employed activity** .
- **Incentives for companies** that hire victims of gender-based violence.
- **Incentives** to facilitate **geographical mobility**.
- **Incentives** to compensate for **wage differentials**.

- **Agreements with companies** to facilitate the recruitment of women victims of gender-based violence and their geographical mobility.

## 1.9.2 Interim contract for the replacement of female workers who are victims of gender violence

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

Companies that formalise interim contracts to replace female workers who are victims of gender violence, who have suspended their employment contract or exercised their right to geographical mobility or change of work place, are entitled to a rebate on the employer's social security contributions.

## 1.9.3 Incentives for companies that hire victims of gender violence

Law 43/2006 of 29 December 2006 for the improvement of growth and employment

First final provision of Royal Decree 1917/2008 of 21 November 2008

Companies that hire women who are victims of gender violence are entitled to reductions in the employer's social security contributions, depending on whether the contract is permanent or temporary.

## 1.10. Rights of women civil servants

Articles 24 to 26 of Organic Law 1/2004, of 28 December, on Comprehensive Protection Measures against Gender Violence

Royal Legislative Decree 5/2015, of 30 October, approving the revised text of the Law on the Basic Statute for Public Employees

Female civil servants in the service of the following public administration agencies: General State Administration, Administrations of the Autonomous Communities and of the cities of Ceuta and Melilla, Administrations of Local Entities, public bodies, agencies and other public law entities with their own legal personality, linked or attached to any of the Public Administrations, and State-funded Universities, have the following rights:

- **Leave due to gender-based violence against female civil servants:** absences from work by female civil servants who are victims of gender-based violence, whether total or partial, shall be considered as justified for the time and under the conditions determined by the social care or health services, as appropriate.

Female civil servants who are victims of violence, in order to make their protection or their right to comprehensive social assistance effective, shall have **the right to a reduction in working hours** with a proportional reduction in pay, or the reorganisation of working time, through the adaptation of working hours, the application of flexible working hours or other forms of working time organisation that are applicable, in the terms established for these cases in the applicable equality plan or, failing this, by the relevant Public Administration agency in each case. A civil servant shall retain her full remuneration when she reduces her working hours by one third or less.

- **Mobility due to gender-based violence:** women victims of gender-based violence who are forced to leave the job in the locality where they have been providing their services, in order to make their protection or right to comprehensive social assistance effective, will have the right to transfer to another job within their unit, scale or professional category, with similar characteristics, without the need for it to be a vacancy that needs to be filled. Even so, in such cases, the relevant Public Administration agency will be obliged to inform her of vacancies located in the same locality/ies that the interested party expressly requests.

This transfer shall be regarded as an enforced transfer.

The mobility procedure is regulated in the Resolution of 25 November 2015, of the Secretary of State for Public Administration agencies, which establishes the reassignment procedure for public employees who are victims of gender-based violence in the General State Administration, as well as in the Bodies, Agencies and other Public Entities attached to or dependent on it.

The Resolution of 16 November 2018, of the Secretary of State for Public Function, publishes the Agreement of the Sectoral Conference of Public Administration, which approves the Agreement to favour the inter-administrative movement of public employees who are victims of gender-based violence.

- **Leave of absence due to gender-based violence:** female civil servants who are victims of gender-based violence, in order to make their protection or their right to comprehensive social assistance effective, shall be entitled to request leave of absence without having to have served a minimum period of previous service and without having to serve a certain period of time.

The rights of other types of staff are established in their own specific legislation, as is the case, among others, of teaching staff, statutory staff in the health services or civil servants working in the administration of justice.

## 1.11. Financial rights

### 1.11.1 Specific financial support for women victims of gender-based violence with special difficulties in finding employment

Article 27 of Organic Law 1/2004, of 28 December, on Comprehensive Protection Measures against Gender Violence

Royal Decree 1452/2005 of 2 December 2005. The regulations relating to the processing procedure are those approved by the Autonomous Community or Autonomous City in which the aid is applied for

This is **financial aid intended for women victims of gender-based violence** who meet the following requirements:

- Not have an income that, on a monthly basis, exceeds 75 per cent of the current minimum wage, excluding the proportional part of two extra payments.
- Have special difficulties in obtaining employment, given their age, lack of general or specialised training or their social circumstances, which is evidenced by a report issued by the relevant Public Employment Service.

This financial aid is paid in a single payment, and its amount, calculated on the basis of a number of monthly payments of the relevant unemployment benefit, depends on whether or not the woman has dependants, and whether or not the woman and/or her dependants have a recognised degree of disability.

This aid is compatible with those provided for in Law 35/1995, of 11 December, on Aid and Assistance to Victims of Violent Crimes and Crimes against Sexual Freedom, as well as with any other regional or local economic aid granted due to the situation of gender violence.

On the other hand, it is incompatible with other aid that fulfils the same purpose, as well as with participation in the non contributory job seeker allowance scheme.

In no case is it considered income or computable income for the purpose of receiving non-contributory pensions.

## 1.11.2 Jobseeker Allowance

Royal Decree 1369/2006, of 24 November, which regulates the non contributory job seeker allowance scheme for the unemployed with special financial needs and difficulty in finding employment

Royal Legislative Decree 2/2024 of 21 May adopting urgent measures to simplify and improve the level of protection against unemployment and to complete the transposition of Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work/life balance for parents and carers and repealing Council Directive 2010/18/EU

It is **financial support** that is recognised for **unemployed people** included in the “**non-contributory Job Seeker Allowance scheme**”, whereby actions are carried out aimed at **increasing the opportunities for integration in the labour market**.

To be included in the Job Seeker Allowance scheme and be a beneficiary of this financial assistance, a woman victim of gender-based violence must meet the following requirements:

- Proof that she is a victim of gender-based violence.
- Be registered as a jobseeker, but is not required to have been registered as a jobseeker for 12 months without interruption.
- Not be living with their aggressor.
- Be under 65 years of age, but not required to be 45 years of age or older.
- Have no income of their own, of any kind, higher than 75% of the current Minimum Inter-professional Wage, excluding the proportional part of two extra payments.
- A woman can be a beneficiary of a new Job Seeker Allowance scheme even if she has been a beneficiary of another scheme within 365 days prior to the date of application.

The amount of the Job Seeker Allowance is 80% of the monthly Multi-Purpose Public Indicator of Income (IPREM) in force at any given time.

It also includes a supplementary one-off payment if the woman has been forced to move house due to her circumstances of gender violence in the 12 months prior to the application for acceptance for the scheme or during her stay in the scheme, for an amount equivalent to three months of the Job Seeker Allowance.

This financial aid may be applied for until 1 November 2024, at which point the regulations governing it will cease to apply. However, victims of violence against women may apply for financial assistance under the following section.

### 1.11.3 Access to unemployment benefits for victims of gender-based violence

Fifty-eighth additional provision of Royal Legislative Decree 8/2015, of 30 October, approving the revised text of the General Social Security Act

Royal Legislative Decree 2/2024, of 21 May adopting urgent measures to simplify and improve the level of unemployment protection and to complete the transposition of Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work/life balance of parents and carers and repealing Council Directive 2010/18/EU.

Proven victims of gender violence will be able to claim this unemployment benefit, introduced by Royal Legislative Decree 2/2024 of 21 May, which replaces Job Seeker Allowance.

To do so, they must meet a number of requirements, including the following:

not be entitled to contributions-based unemployment benefit

not having been beneficiaries of 3 entitlements to the Job Seeker Allowance scheme (unless more than three years have elapsed since the first entitlement was generated until this benefit was applied for)

be registered as job seekers or have no income of their own (income during the previous calendar month that does not exceed 75% of the minimum wage, excluding the proportional part of 2 extra payments)

The amount of the benefit will be equal to 95% of the IPREM for the first 180 days; 90% from day 181 to 360; and 80% from day 361.

The maximum duration of the benefit will be 30 months, unless the person has previously received one or two entitlements to the Job Seeker Allowance scheme, in which case, the maximum duration will be 20 and 10 months, respectively.

### 1.11.4 Advances for non-payment of maintenance payments

Royal Decree 1618/2007 of 7 December 2007 on the Organisation and Functioning of the Maintenance Payment Guarantee Fund

The **Maintenance Payment Guarantee Fund** guarantees the payment of recognised and unpaid maintenance established in a court-approved agreement or in a court decision in separation, divorce, declaration of marriage annulment, parenthood or maintenance proceedings, by means of the payment of an amount that will have the status of an advance payment.

The beneficiaries of the advances are, in general, children with a court-recognised and unpaid maintenance claim, who form part of a family unit whose resources and income, calculated annually and for all items, do not exceed the amount resulting from multiplying the annual amount of the IPREM, in force at the time of the application for the advance, by the relevant coefficient according to the number of minor children in the family unit.

The beneficiaries are entitled to an advance payment of the monthly amount determined by the court as maintenance payments, with a limit of 100 euros per month, which can be received for a maximum period of eighteen months.

In the event that the person who has custody of the children (who is the one requesting and receiving the advance) is a victim of gender violence, it is understood that there is a situation of **urgent need** to recognise the advances from the Fund,

so the urgent procedure will be implemented, which means that the period for issuing a decision and giving notice in response to the request will be two months.

### 1.11.5 Minimum Living Income

#### Royal Legislative Decree 20/2020 of 29 May establishing the minimum living income

Women victims of gender violence may be beneficiaries of the Minimum Living Income, which aims to **prevent the risk of poverty and social exclusion** of people who live alone or are members of a cohabitation unit and lack basic economic resources to meet their basic needs, when they meet the required conditions, although it is important to note that:

- There is no age requirement (in general, MLI is for persons of at least 23 years of age), only that they are of legal age.
- They need not be married or in a civil partnership.
- They are not required to be part of another cohabitation unit. In addition, a cohabitation unit will be considered to be one that comprises a victim of gender-based violence who has left her/his habitual residence accompanied by her/his children or minors in foster care for the purpose of adoption or permanent family foster care, and her/his relatives up to the second degree by blood, affinity or adoption.
- They are not required to have started separation or divorce proceedings.
- They will not be required to be resident in Spain when they can prove the situation of gender violence by any of the means established in article 23 of Organic Law 1/2004, of 28 December.

### 1.11.6 Priority access to subsidised housing and public homes for the elderly

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

Law 1/2013 of 14 May on measures to reinforce the protection of mortgage debtors, debt restructuring and rented social housing.

Royal Decree 42/2022, of 18 January, regulating the Youth Rental Allowance and the 2022-2025 National Plan for access to housing

Women victims of gender-based violence are a group **entitled to preferential protection in access to housing**:

- Possibility of benefiting from the suspension of evictions from habitual dwellings, agreed in a foreclosure proceeding in or out of court.
- Possibility of eligibility for the Social Housing Fund.
- They are recognised as beneficiaries of the aid provided for in the State Housing Plan (BOE):
  - **Programme to help victims of gender-based violence**, people who have been evicted from their homes, homeless people and other particularly vulnerable people:
    - Eligible beneficiaries are victims of gender-based violence, victims of trafficking for the purpose of sexual exploitation, and victims of sexual violence.
    - Those persons who have a dwelling in ownership or in usufruct, which they can occupy after it has been confirmed that they are of have been victims of gender violence, of trafficking for the purpose of sexual exploitation, or of sexual violence, cannot be beneficiaries.

- Beneficiaries may be public administration agencies, trading companies in which public administration agencies have a majority shareholding, public utility entities, public companies and charitable, collaborative economy or similar entities, which must always be non-profit-making, whose purpose is to provide a housing solution for victims of gender-based violence, victims of trafficking for the purpose of sexual exploitation or victims of sexual violence.
- **Programme to help young people and to contribute to the demographic challenge:** provides for more beneficial conditions for people who are sons or daughters of victims of gender-based violence.
- **Programme to make housing owned by SAREB and public entities available for rent as social housing.** The housing provided by SAREB or the public entity in question must be used as a priority to provide housing solutions for victims of gender-based violence, victims of trafficking for sexual exploitation, victims of sexual violence.

## 1.12. Right to reparation

Article 28 bis and ter of Organic Law 1/2004, of 28 December, on Comprehensive Protection Measures against Gender Violence, introduced by the Ninth Final Provision of Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual freedom.

Victims of gender-based violence have a **right to reparation**. This right includes financial compensation for the harm and damage caused by the violence, the measures necessary for their full physical, psychological and social recovery, symbolic reparation actions and guarantees of non-repetition.

Public administration agencies shall ensure that victims have effective access to the relevant compensation for damages, which must be paid by the person or persons civilly liable or criminally responsible, in accordance with the regulations in force, and must guarantee the financially assessable compensation for at least the following items:

- physical and psychological harm, including moral injury and harm to dignity
- loss of opportunities, including opportunities for education, employment and social benefits
- property damage and loss of income, including loss of earnings
- social damage, understood as damage to one's life plan
- therapeutic, social and sexual and reproductive health treatment

Likewise, public administration agencies will guarantee victims' complete physical, psychological and social recovery through the network of comprehensive care resources included in this Guide. Likewise, public administrations may establish complementary aid for victims who, due to the specific nature or seriousness of the after-effects of violence, do not find an adequate or sufficient response in the network of care and recovery resources. In particular, such victims may receive additional support to pay for appropriate health treatment, including female genital reconstruction treatment, if necessary.

Likewise, with the aim of ensuring symbolic recovery, they will promote the restoration of their dignity and reputation, the overcoming of any situation of stigmatisation and the right of deletion applied to Internet search engines and public media. The public administration agencies, within the framework of their respective competences, shall take the necessary measures to ensure that victims have effective protection against reprisals or threats and shall promote, through tributes and public information actions, the collective commitment against violence against women and respect for victims.

## 1.13. Right to immediate schooling

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

Children of victims of gender-based violence who are affected by a change of residence as a result of gender-based violence are entitled to **immediate schooling in their new place of residence**.

## 1.14. Scholarships and study grants

Royal Decree 201/2024, of 27 February, establishing the income and family wealth thresholds and the amounts of grants and study funding for the academic year 2024-2025

Specific treatment is offered to grant applicants who prove their status as victims of gender violence, from 30 June 2023 to 30 June 2025, their sons and daughters under the age of twenty-five and minors under their guardianship or custody who apply for these grants and study funding, provided that they meet all the other conditions set out in the regulations in force. These are the basic grant, or course fee grant as appropriate, the means-tested fixed amount, the fixed amount linked to residence and the variable amount resulting from the application of the formula; the requirements established in relation to the course load completed in the academic year 2023-2024 will not apply to them, nor will the limit on the number of years as a beneficiary of scholarships, nor the requirement to pass a certain percentage of credits, subjects, modules or their equivalent in hours in the academic year 2024-2025 for which they have been beneficiaries of the scholarship.

## 1.15 Particular aspects of municipal residence registration for security reasons

Resolution of 2 December 2020, of the Presidency of the National Statistics Institute and of the General Directorate for Autonomous Community and Local Cooperation, amending the Resolution of 17 February 2020, of the Presidency of the National Statistics Institute and of the General Directorate for Autonomous Community and Local Cooperation, issuing technical instructions to local councils on the management of the Municipal Register



Victims of gender violence who reside in or are under the protection of the network of comprehensive social assistance resources, such as supervised flats, sheltered homes or other resources of the aforementioned network, and when it is not possible to register at the actual address for security reasons, registration, may register in the place determined by the Social Services of the municipality in which they actually reside after the relevant technical assessment. This place may be the headquarters of a social institution or of the Social Services of any Public Administration agency with its address in the municipality, or any other address indicated by them, always within the aforementioned municipality. To this end, the following conditions must be met:

- That the Social Services and the social institution in question are integrated in the organisational structure of a Public Administration agency or under its coordination and supervision.
- That those responsible for these Social Services report on the habitual residence in the municipality of the people they intend to register.
- That the Social Services indicate the address that should appear in the census registration with a reference in the municipal street directory and undertake to endeavour to serve notice when a communication from a Public Administration agency is received at that address.

## 1.16. Right to a change of surname or change of identity

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

For victims of gender violence or their descendants who are or have been members of a cohabiting family group, the Civil Registrar may authorise the change of surnames without the need for them to meet the requirements provided for in general, in accordance with the procedure determined by regulation. That is to say, without the need to meet the requirements that the surname in the proposed form constitutes a de facto situation, being habitually used by the person concerned; or that the surname or surnames that are to be joined or modified legitimately belong to the requester; or that the surnames resulting from the change do not come from the same line of descent

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

## 2. Rights of foreign women who are victims of gender-based violence

### 2.1. Residence status in Spain of foreign women who are victims of gender violence

Article 17.1 of Organic Law 1/2004, of 28 December, on Comprehensive Protection Measures against Gender Violence

Organic Law 4/2000, of 11 January, on the rights and freedoms of foreign nationals in Spain and their social integration Regulation of Organic Law 4/2000, approved by Royal Decree 557/2011, of 20 April

Royal Decree 240/2007, of 16 February, on the 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 in Spain of foreign nationals who are women victims of gender-based violence includes the following possibilities:

#### 2.1.1 Female foreign nationals who have the status of family members of a citizen of a Member State of the European Union or of 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 the Member States of the European Union and other States party to the Agreement on the European Economic Area

In order to retain the right of residence in the case of marriage annulment, divorce or cancellation of registration as a registered partner, a woman who is not a national of a Member State of the European Union or of a State party to the Agreement on the European Economic Area must prove that she has been a victim of gender-based violence during the marriage or registered partnership situation, this circumstance will be deemed to be proven provisionally when there is **a protection order in her favour or a report from the Public Prosecutor's Office** indicating that there are signs of gender violence, and definitively when a **decision of a court of law** has been handed down from which it can be deduced that the alleged circumstances have arisen.

#### 2.1.2 Non-EU female foreign nationals: they may be holders of one of the following two specific types of residence and work authorisations on the basis of gender-based violence:

Article 19.2 of Organic Law 4/2000, of 11 January, on the rights and freedoms of foreign nationals in Spain and their social integration

Article 59.2 of the Regulation of Organic Law 4/2000, approved by Royal Decree 557/2011, of 20 April

- Authorisation for residence and independent work for foreign women **reunited with their spouse or partner**:

- Authorisation shall be obtained once a protection order has been issued in favour of the woman or, failing this, when there is a report from the Public Prosecutor's Office indicating that there are signs of gender-based violence.
- Duration of the authorisation: 5 years.

**Article 31 bis of Organic Law 4/2000 of 11 January on the rights and freedoms of foreign nationals in Spain and their social integration**

**Articles 131 to 134 of the Regulation of the Organic Law 4/2000, approved by Royal Decree 557/2011 of 20 April**

- Authorisation for temporary residence and work due to **exceptional circumstances** for foreign women **in an irregular situation**:
  - Authorisation may be requested as soon as a protection order has been issued in favour of the woman or a report has been issued by the Public Prosecutor's Office in which signs of gender-based violence have been detected.
  - Authorisation shall be granted when the criminal proceedings end with a conviction or with a court decision concluding that the woman has been a victim of gender-based violence, including the case being closed on the grounds that the accused is missing or the case being provisionally dismissed due to the deportation of the accused.
  - Duration of the authorisation: 5 years. However, in the course of these 5 years, the woman may, upon application, be granted long-term residence status, for which purpose the time during which she was the holder of a temporary residence and work permit will be taken into account.
  - They may also apply for a residence permit for exceptional circumstances in favour of their children who are minors or who have a disability and are objectively unable to provide for their own needs; or for a residence and work permit in the event that they are over 16 years of age and are in Spain at the time of the complaint. In these cases, the application must be made by the female foreign national, herself or through a representative, at the time she applies for the temporary residence and work permit for exceptional circumstances, or at any other subsequent time during the criminal proceedings. It will be granted and its duration will be on the same terms as the temporary residence and work permit for exceptional circumstances for female foreign nationals in an irregular situation.
  - The administrative authority with the power to grant this authorisation for exceptional circumstances **shall grant a provisional residence and work permit to the female foreign national** and, where appropriate, provisional residence or residence and work permits to her children who are minors or who have a disability and are objectively unable to provide for their needs, or residence and work permits if they are over the age of sixteen, and who are in Spain at the time of the complaint. These provisional authorisations shall be terminated when the authorisation is definitively granted or refused due to exceptional circumstances.
  - Once the provisional residence and work permit has been granted, the foreign woman can access rights such as the following:
    - **Job Seeker Allowance**, to which foreign women who are legally resident in Spain and meet the other requirements are entitled.

- Unemployment benefit, to which foreign women who are legally resident in Spain and meet the other requirements are entitled.
- The **financial aid under article 27 of Organic Law 1/2004**, to which foreign women who are victims of gender violence and who hold a residence and work permit in Spain and meet the rest of the requirements are entitled.

### 2.1.3 A temporary residence and paid work permit held by a foreign woman shall be renewed on expiry in the event of termination of the employment contract or suspension of the employment relationship as a result of being a victim of gender-based violence

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

Article 38.6 of Organic Law 4/2000, of 11 January, on the rights and freedoms of foreign nationals in Spain and their social integration, stipulates that the residence and work permit shall be renewed upon expiry, when other circumstances provided for in the regulations apply, in particular, in cases of termination of the work contract or suspension of the employment relationship as a result of being a victim of gender-based violence.

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

Article 31 bis of Organic Law 4/2000, of 11 January, on the rights and freedoms of foreign nationals in Spain and the protection of their rights and freedoms

social integration

Articles 131 to 134 of the Regulation of the Organic Law 4/2000, approved by Royal Decree 557/2011 of 20 April

- If, when a situation of gender-based violence is reported, the **irregular situation** of the foreign woman becomes apparent:
  - An infringement proceeding by a government agency shall not be initiated on the grounds that the person is in Spanish territory illegally.
  - An infringement proceeding by a government agency initiated for the commission of such an offence prior to the complaint or, where appropriate, the execution of any expulsion or return orders that may have been issued, shall be suspended.
- Criminal proceedings concluded:
  - With a conviction or with a court decision from which it is deduced that the woman has been a victim of gender-based violence, including the case being closed due to the accused being unaccounted for or the provisional dismissal due to the expulsion of the accused, a female foreign national shall be granted **the temporary residence and work permit for exceptional circumstances** and, if applicable, the permits

requested in favour of her minor children or people who are disabled and are objectively unable to provide for their own needs.

- o If the court dismisses the case or issues a decision from which the situation of gender violence cannot be deduced, the female foreign national will be denied the temporary residence and work permit for exceptional circumstances and, if applicable, the authorisations requested in favour of her minor children or those who have a disability and are objectively incapable of providing for their own needs. In addition, the provisional residence and work authorisation granted to the female foreign national and, where applicable, the provisional authorisations granted to her minor children or children with a disability who are objectively incapable of providing for their own needs, will be rendered null and void. Furthermore, the official proceeding for illegal presence in Spanish territory will be initiated or continued.

## 2.3. Right to international protection

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

- **The right to asylum.** Refugee status shall be granted to a woman who, owing to a well-founded fear of being persecuted for reasons of gender, is outside the country of her nationality and is unable or, owing to such fear, unwilling to avail herself of the protection of that country, and to a stateless woman who, not having a nationality and being outside the country of her former habitual residence, for the same reasons is unable or, owing to such fear, unwilling to return to it.

In this regard, gender-based persecution may include intimate partner violence and other forms of violence against women, such as female genital mutilation, forced marriage, sexual violence or trafficking in women and girls for the purpose of sexual exploitation, provided that, in any case, the other requirements for the recognition of the right to asylum are met.

- o For the right to asylum to be recognised, the women's well-founded fear of persecution must be based on acts of persecution that are serious and take the form of physical or mental violence, including acts of sexual violence.
- o In order to assess the grounds for persecution, the circumstances prevailing in the country of origin must be assessed in relation to the situation of the particular social group, in this case women.
- **Subsidiary protection.** Subsidiary protection shall be granted to foreign or stateless women who, not being eligible for asylum, face a real risk of serious harm if they return to their country of origin, or to the country of former residence in the case of stateless women. Serious harm giving rise to subsidiary protection consists of any of the following:
  - o Death Penalty
  - o Torture, inhuman or degrading treatment or punishment
  - o Serious threats to the life or integrity of civilians in conflict situations.

### 3. Rights of Spanish women victims of gender-based violence outside the national territory

When Spanish women living abroad suffer gender-based violence, they may find themselves in a particularly vulnerable situation due to language and cultural barriers, lack of social networks or lack of knowledge of the resources available in the country. Thus, in addition to the obligation of the public authorities to provide information, assistance and protection to women victims of gender-based violence, there is a general obligation to protect Spanish citizens abroad.

The Protocol signed on 8 October 2015 by the then Ministries of Foreign Affairs, European Union and Cooperation, of Labour, Migration and Social Security, and of the Presidency, Relations with Parliament and Equality, aims to establish a common framework of collaboration to implement functions in the area of gender-based violence, preventing and addressing situations of gender violence by providing information on available resources in the country of residence, and facilitating the protection and return of women victims of gender violence and, where appropriate, their children when the situation so requires, within the current regulatory framework. Spanish Embassies and Consulates and the Ministries of Labour, Migration and Social Security will provide Spanish women with information on how to contact the specialised resources for victims of gender-based violence available in the country where they reside, as well as guidance on the medical, educational and legal resources that the local authorities make available to them in situations of gender-based violence.

For its part, the Government Office for Gender Violence, in the event of a woman's return, will coordinate with the Autonomous Communities in order to guarantee women the rights recognised to them under Spanish law and to facilitate their social integration.

# BLOCK 2

## Rights of victims of sexual violence

# 1. Specific rights of victims of sexual violence

## 1.1. Who is a victim of sexual violence?

Articles 1 and 3 of Organic Law 10/2022, of 6 September, on the comprehensive protection of sexual freedom

For the purposes of Organic Law 10/2022, **women, children and adolescents who have been victims of sexual violence in Spain, regardless of their nationality and official situation**, or abroad, provided that they are of Spanish nationality, shall be considered victims.

Sexual violence is defined as **any act of a sexual nature that is not consensual or that infringes the free realisation of sexual life in any public or private sphere, including the digital sphere**. Sexual femicide, understood as homicide or murder of women and girls associated with conduct defined in the following paragraph as sexual violence, is considered to be included in the scope of application for statistical and compensation purposes. Female genital mutilation, forced marriage, sexual harassment and trafficking for sexual exploitation are considered sexual violence.

Thus, the aim is to guarantee the right to sexual freedom and the eradication of all sexual violence through the adoption of measures that guarantee awareness-raising, prevention, detection and punishment of sexual violence, and immediate comprehensive care and recovery in all areas in which women, girls, boys and adolescents who are victims of sexual violence lead their lives.

## 1.2. How is sexual violence proven?

Article 37 of Organic Law 10/2022 of 6 September on the comprehensive guarantee of sexual freedom

Fifth final provision of Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual freedom. Amendment of Law 35/1995 of 11 December 1995 on aid and assistance to victims of violent crimes and crimes against sexual freedom.

In general, the situation of sexual violence that gives rise to the recognition of the corresponding rights is proven by a **conviction for** a crime against sexual freedom or any other **judicial decision** that grants an interim measure in favour of the victim, or by the **report of the Public Prosecutor's Office** indicating that there is evidence to show that the claimant is a victim of sexual violence.

Situations of sexual violence **may also be proven** by means of:

- a report from the social services, from the services that specialise in equality and against gender violence, from the shelter services for victims of sexual violence of the relevant public administration agency, or from the Labour and Social Security Inspectorate, in cases subject to inspection action
- by a judgement in the courts with jurisdiction in employment matters
- by any other means, provided that this is provided for in the sectoral regulatory provisions governing access to each of the rights and remedies

In the case of **victims who are minors**, and for the same purposes, proof may also be provided by official health documents to be communicated to the Public Prosecutor's Office or to the court or other judicial body.



## 1.3. Right to information

### Article 34 of Organic Law 10/2022 of 6 September on the comprehensive guarantee of sexual freedom

Victims of sexual violence have the right to **full information and counselling** as befits their personal situation. This right is guaranteed through the following services:

#### 1.3.1 016 legal information and advice service

- **Free and confidential** service offering **information, legal advice and immediate psychosocial care in all forms of violence against women, children and adolescents.**
- The service is accessible through four channels:
  - By the short telephone number: **016.**
  - By email: [016-online@igualdad.gob.es](mailto:016-online@igualdad.gob.es).
  - By WhatsApp: number **600 000 016**, exclusively for WhatsApp because it does not support phone calls.
  - By chat: through the website of the Government Delegation for Gender Violence <https://violenciagenero.igualdad.gob.es/home.htm>
- Information and immediate psychosocial care is available **24 hours** a day, **365 days** a year. **Legal advice** is available from **8 am to 10 pm**, Monday to Sunday.
- **Accessible to people with hearing and/or speech disabilities** by various means: through the telephone number **900 116 016**; through the **Telesor Service** via [Telesor's own website](#), in which case an Internet connection is required; through a mobile phone or PDA with the installation of a free application; through the [SVIsual](#) video-interpretation service; through WhatsApp: 600 000 016; or by email: [016-online@igualdad.gob.es](mailto:016-online@igualdad.gob.es).
- **Accessible to foreigners** through the following languages in addition to Spanish and the co-official 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, Cantonese, Czech, Korean, Danish, Slovenian, Farsi, Finnish, Georgian, Greek, Hindi, Dutch, Hungarian, Italian, Japanese, Lithuanian, Mandinka, Norwegian, Persian, Polish, Poular, Serbo-Croatian, Syrian, Soninke, Slovak, Slovenian, 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.
- Referral of calls in the following cases:
  - In the case of calls concerning emergencies, calls shall be transferred to **112.**
  - In the case of general information calls on women's equality issues, callers will be referred to the **Women's Institute.**
  - In the case of calls requiring specific information related to **an Autonomous Community**, they will be referred to the relevant Autonomous Community telephone number.
  - Calls made by minors will be referred to the **ANAR** Helpline for Children and Adolescents.

The 016 service has the status of an essential service and, therefore, in the event of any situation hindering access to or the provision of such services, the relevant public administration agencies shall take the necessary measures to guarantee its normal operation and adaptation.

### 1.3.2 Website with resources for support and prevention of sexual violence

It is available on the [website of the Government Office for Gender Violence](#).

It allows the location on active maps of the various resources (police, courts, information, care, counselling, etc.) that public administration agencies and social entities have made available to citizens and victims of sexual violence.

### 1.3.3 Crisis centres

Crisis Centres are services provided by the Autonomous Communities that provide psychological, legal and social care. They are intended to provide support and assistance in **crisis situations** for victims, family members and people close to them. These centres include **support and information** by telephone and in person **24 hours a day, every day of the year**.

### 1.3.4 ATENPRO

The **Telephone Attention and Protection Service for victims of violence against women (ATENPRO)** is a type of service that, with the appropriate technology, offers victims of violence against women immediate attention, 24 hours a day, 365 days a year and wherever they may be.

The service is based on the use of mobile telephone communication and remote location technologies. It allows women **victims** of violence against women to **contact** a centre whose staff are specifically trained to provide a suitable response to their needs **at any time**. In addition, in **emergency situations**, the Centre's staff are prepared to provide a suitable response to the crisis, either on their own or by deploying other human and material resources.

Victims of violence against women who meet the following requirements can apply for the service:

- They must not be living with the person or persons who have abused them.
- They participate in the specialised care programmes for victims of violence against women that exist in their autonomous territory.

## 1.4. Right to available, accessible and specialised forensic investigation

### Article 48 of Organic Law 10/2022 of 6 September on the comprehensive guarantee of sexual freedom

Victims of sexual violence have the right to prompt forensic medical examination and legal proceedings. These shall be carried out in conjunction with the mandatory gynaecological or medical examination in order to avoid repeated medical examinations.

In addition, victims of sexual violence have the right to the collection of biological samples and other evidence that may contribute to proving there has been sexual violence. This collection of samples and other evidence, which will be carried out with informed consent, is not contingent on the filing of a complaint or bringing criminal charges.

When biological samples and evidence are collected by the health centre, they shall be duly preserved for forwarding, ensuring the chain of custody and as immediately as possible, to the Institute of Forensic Medicine.

## 1.5. Right to comprehensive, specialised and accessible care

Articles 33 and 35 of Organic Law 10/2022, of 6 September, on the comprehensive protection of sexual freedom

All women, children and adolescents who have been victims of sexual violence in Spain, regardless of their nationality and official situation, or abroad, provided they are of Spanish nationality, have the right to **comprehensive specialised assistance**. This assistance shall be aimed at helping them overcome the physical, psychological, social or other consequences of sexual violence.

This right will make it possible for victims of sexual violence to:

- receive **information and advice** about their rights and available support resources.
- Be aware of the services to which they can turn for material, medical, psychological and social assistance.
- have access to **specialised medical care** in health centres, and psychological **care** , both immediate and emergency and crisis, in 24-hour centres, as well as in long-term support and comprehensive recovery centres.
- receive prior **legal advice** and free legal aid in proceedings arising from violence.
- Recover their physical and/or psychological health.
- Achieve their training, integration or reintegration into the labour market, and receive psycho-social support throughout the entire road to recovery with the aim of avoiding being doubly victimised.

The right to comprehensive, specialised and accessible care shall be guaranteed by the availability of the following services:

- **24-hour crisis centres:** These are services that provide psychological, legal and social care. They are intended to provide support and assistance in crisis situations for victims, their families and people around them. These centres include support and information by telephone and in person 24 hours a day, every day of the year.
- **Comprehensive recovery services:** consist of interdisciplinary psychological recovery services and social, educational, labour and legal support that work to support the recovery and psychological support of victims in the long term and during their recovery process.
- **Services for victims of trafficking and sexual exploitation:** these services include psychological, legal and social counselling for victims in their own language.

- **Specialised care services for child victims of sexual violence:** these are services adapted and suited to their needs, which provide psychological, educational and legal assistance, and which constitute a place of reference for the victims, to which all the professionals involved in the assistance and legal processes travel.

## 1.6. Right to free legal aid.

Article 33.1 of Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual liberty

Victims of sexual violence have the right to **prior legal advice and free legal assistance** in proceedings arising from sexual violence, under the terms provided for in the Free Legal Aid legislation.

The right to free legal aid includes, among others, the following benefits:

- **Free pre-procedural advice and guidance**, in particular in the period immediately prior to filing a complaint.
- **Free defence and representation** by a lawyer and *procurador(a)* in all administrative processes and proceedings.
- **Free publication of notices or edicts**, in the course of the proceedings, in official periodicals.
- **Exemption from the payment of court fees**, as well as from the payment of deposits required for the lodging of appeals.
- **Free expert assistance** in the process by technical staff assigned to the courts or, failing that, by civil servants, bodies or technical services attached to public administration agencies.
- **Obtaining free of charge or a reduction of 80% of the notary fees** for notarised documents.

## 1.7. Labour rights

Articles 38 and 39 of Organic Law 10/2022, of 6 September, on the comprehensive protection of sexual freedom

The recognition of labour rights for victims of sexual violence aims to prevent them from leaving the labour market because of the violence they suffer or have suffered. To this end, they are granted rights aimed at balancing work with the situation of violence, their protection is guaranteed if they are forced to leave their jobs, either temporarily or permanently, and their integration into the labour market is ensured if they are not employed.

### 1.7.1 Rights of women in employment

Article 38 of Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual liberty

Articles 37.8, 40.4, 45.1.n), 48.8, 49.1.m), 53.4 and 55.5 of the Consolidated Text of the Workers' Statute enacted by Royal Legislative Decree 2/2015, of 23 October.

- **The right to a reduction in the working day** with a proportional reduction in pay or to the reorganisation of working time, through the adaptation of working hours, the application of flexible working hours or other forms of working time organisation used in the company, so that the woman can make her protection or her right to comprehensive social assistance effective.
- **Right to geographical mobility:** women who are forced to leave their job in the locality where they have been providing their services, in order to make their protection or their right to comprehensive social assistance effective, will have the preferential right to occupy another job, in the same professional group or equivalent category, that the company has vacant in any other of its work places. The company will reserve her previous job for her for the first 6 months.
- **Right to suspension of the employment contract** by decision of the worker who is forced to leave her job as a result of being a victim of sexual violence, with reservation of her employment. The suspension period shall have an initial duration that may not exceed six months, unless it appears from the judicial protection proceedings that the effectiveness of the victim's right to protection requires the continuation of the suspension.
- **The right to termination of the employment contract** by decision of the worker who is forced to leave her job permanently as a result of being a victim of sexual violence.
- **The right to perform all or part of their work remotely or to cease to do so** if this is the established system, provided in both cases that this mode of service provision is compatible with the post and functions performed.
- **Absences from work or lack of punctuality** due to the physical or psychological situation resulting from sexual violence, confirmed by the social services or health services, as appropriate, shall be considered **justified**.
- **Nullity of the decision to terminate the contract** in the case of female workers who are victims of sexual violence due to the exercise of their rights to reduce or reorganise their working time, geographical mobility, change of work place or suspension of the employment relationship under the terms and conditions recognised in the Workers' Statute.
- **Nullity of disciplinary dismissal** in the case of female workers who are victims of sexual violence due to the exercise of their rights to reduce or rearrange their working time, geographical mobility, change of work place or suspension of the employment relationship under the terms and conditions recognised in the Workers' Statute.

## 1.7.2 Rights of economically dependent self-employed workers

Article 38 of Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual liberty

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

Self-employed women victims of sexual violence who cease their activity in order to make their protection or their right to comprehensive social assistance effective will be considered to be in **a situation of temporary cessation of activity**, in the

terms provided in the revised text of the General Law on Social Security, approved by Royal Legislative Decree 8/2015, of 30 October, and **their obligation to pay social insurance contributions will be suspended** for a period of six months, which will be considered as effective contribution for the purposes of social security benefits. Likewise, **their situation will be considered to be equivalent to that of being registered as employed**.

For the purposes of the preceding paragraph, the basis for calculating the social insurance contribution shall be taken as the average of the amounts on which contributions were paid during the six months prior to the suspension of the obligation to pay contributions.

They have the following rights:

- o The right to adapt working hours.
- o Right to termination of the contractual relationship.
- o The situation of gender-based violence shall be considered justified grounds for the worker to interrupt her work .

## 1.8. Social security rights

Article 38 of Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual liberty

### 1.8.1 Social insurance contribution rights

Article 165.5 of the Consolidated Text of the General Social Security Act, approved by Royal Legislative Decree 8/2015, of 30 October

- The period of suspension of the employment contract with reservation of the job provided for employed women shall be considered a **period of effective contribution**, for the purposes of the relevant Social Security benefits for retirement, permanent disability, death and survival, maternity, unemployment and care of children affected by cancer or other serious illnesses.

Article 329 of the Consolidated Text of the General Social Security Act, approved by Royal Legislative Decree 8/2015, of 30 October

- **Suspension of the obligation to pay** social insurance **contributions** for a period of six months for self-employed workers who cease their activity in order to give effect to their protection or entitlement to comprehensive social assistance.

Order TAS/2865/2003 of 13 October 2003, regulating the special agreement in the Social Security system

- Signing of a special agreement with the Social Security agency for female workers who are victims of sexual violence and who have reduced their working hours with a proportional reduction in salary.

## 1.8.2 Social security benefit entitlements

Article 207 of the Consolidated Text of the General Social Security Act, approved by Royal Legislative Decree 8/2015, of 30 October

- Right to early retirement pension for reasons not attributable to the worker for victims of violence who terminate their employment contract as a result of being victims of sexual violence, and who meet the requirements.

Article 224 of the Consolidated Text of the General Social Security Act, approved by Royal Legislative Decree 8/2015, of 30 October

- **Orphan's rights:**

**Orphan's pension:** the children of a deceased woman, whatever the nature of their kinship, are entitled to it, provided that, at the time of death, they are under the age of twenty-one or are unable to work, or are under the age of twenty-five and are not gainfully employed or self-employed, or when, when carrying out such work, the income obtained is less, on an annual basis, than the amount in force for the minimum inter-professional wage (SMI), also on an annual basis, and that the woman was registered or in a situation similar to being registered as employed, or outside.

The children will be entitled to the increase provided for cases where the orphan has lost both parents ("absolute orphanhood"), which will reach 70 percent of the regulatory base when the family unit's income does not exceed 75 percent of the Minimum Inter-professional Wage in force at any given time.

**Orphan's benefit:** the children of a deceased woman are entitled to this benefit when it is due to the commission of any of the cases of sexual violence, provided that they are in circumstances comparable to absolute orphanhood and do not meet the necessary requirements to receive an orphan's pension. An orphan may be the beneficiary of orphan's benefit, provided that on the date of death he/she was under 25 years of age, is not gainfully employed or self-employed, or when, if he/she is gainfully employed, the income obtained is less, on an annual basis, than the amount in force for the minimum inter professional wage, also on an annual basis.

The amount of the orphan's benefit shall be 70% of the regulatory base, provided that the family unit's income does not exceed, on an annual basis, 75% of the Minimum Inter professional Wage in force at any given time.

The right to orphan pension or benefit shall not be suspended in the event of adoption of the children of the deceased as a result of violence against women, provided that the income of the cohabitation unit of which they form part, divided by the number of members of the unit, including the adopted orphans, does not exceed, on an annual basis, 75 per cent of the minimum wage in force at any given time, excluding the proportional part of the supplementary payments.

In addition, if the death was caused by an aggressor other than the parent of the deceased's children, the right to the orphan pension may also be recognised, if applicable, to orphan benefit, when the requirements are met.

Article 267 of the Consolidated Text of the General Social Security Act, approved by Royal Legislative Decree 8/2015, of 30 October

- In order to be **entitled to unemployment benefit**, in addition to meeting the requirements, a female employee is considered to be legally unemployed when she voluntarily terminates or suspends her employment contract as a result of being a victim of sexual violence.

Art. 38.5 of Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual freedom

Articles 330 and 331 of the Consolidated Text of the General Social Security Act, approved by Royal Legislative Act 8/2015, of 30 October

- In order to be entitled to protection due to cessation of activity, in addition to meeting the requirements, a self-employed worker is considered to be in a legal situation of cessation of activity when she ceases her activity, temporarily or definitively, due to sexual violence

Article 335 of the Consolidated Text of the General Social Security Act, approved by Royal Legislative Decree 8/2015, of 30 October

- In order to be **entitled to protection due to cessation of activity**, in addition to meeting the requirements, worker-members of worker cooperatives are considered to be in a legal situation of cessation of activity when they definitively or temporarily stop working due to sexual violence.

## 1.9. Employment and social inclusion rights

### 1.9.1 Specific employment programme

Article 39 of Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual liberty

- **Specific employment programme:** this is a specific programme that victims of sexual violence who are registered as job seekers are eligible to claim. This programme will include measures to encourage the take-up of new self-employment. The programme includes the following:
  - **Road map of socio-occupational insertion**, individualised and carried out by specialised staff.
  - **Specific training programme** to promote social and labour integration as an employee.
  - **Incentives** to encourage the start of a new self-employed activity .
  - **Incentives for companies** that hire victims of sexual violence.
  - **Incentives** to facilitate geographical mobility.
  - Incentives to compensate for wage differentials.
  - **Agreements with companies** to facilitate the recruitment of women victims of sexual violence and their geographical mobility.
- Unemployed women workers who have suffered sexual violence, as well as self-employed women who have stopped working because they have been victims of sexual violence, will have the right, when applying for a job, to



receive the financial assistance provided for in Article 41 ([see section 1.11 Economic Rights](#)), as well as to participate in specific programmes for labour market integration.

## 1.9.2 Interim contract for the replacement of female workers who are victims of sexual violence

Article 38.3 of Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual liberty

- Companies that enter into **interim contracts** (provided that the contract is with an unemployed person) to replace female workers who are victims of sexual violence and who have suspended their employment contract or exercised their right to geographical mobility or change of workplace will be entitled to a 100% rebate on employer social security contributions for common contingencies during the entire period of suspension of the worker being replaced or for six months in the case of geographical mobility or change of workplace.
- When the **reinstatement** takes place, it shall be carried out under the same conditions existing at the time of the suspension of the employment contract, guaranteeing reasonable adjustments that may be required due to the disability.

## 1.10. Rights of women civil servants

Article 40 of Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual liberty

Royal Legislative Decree 5/2015, of 30 October, approving the revised text of the Law on the Basic Statute for Public Employees

Female civil servants in the service of the following public administration agencies: General State Administration, Administrations of the Autonomous Communities and of the cities of Ceuta and Melilla, Administrations of Local Entities, public bodies, agencies and other public law entities with their own legal personality, linked or attached to any of the Public Administrations, and State-funded Universities, have the following rights:

- **Leave for reasons of sexual violence against female civil servants:** absence from work of female civil servants who are victims of sexual violence, in whole or in part, shall be considered as justified for the time and under the conditions determined by the social care or health services, as appropriate.
- Female civil servants who are victims of violence, in order to make their protection or their right to comprehensive social assistance effective, shall have **the right to a reduction in working hours** with a proportional reduction in pay, or the reorganisation of working time, through the adaptation of working hours, the application of flexible working hours or other forms of working time organisation that are applicable, in the terms established for these cases in the applicable equality plan or, failing this, by the relevant Public Administration agency in each case. A civil servant shall retain her full remuneration when she reduces her working hours by one third or less.
- **Mobility due to sexual violence:** women victims of sexual violence who are forced to leave the job in the locality where they have been providing their services, in order to make their protection or right to

comprehensive social assistance effective, will have the right to transfer to another job within their own branch, scale or professional category, with similar characteristics, without the need for it to be a vacancy that needs to be filled. Even so, in such cases, the relevant Public Administration agency will be obliged to inform her of vacancies located in the same locality/ies that the interested party expressly requests.

This transfer shall be regarded as an enforced transfer:

- **Leave of absence due to sexual violence:** female civil servants who are victims of sexual violence, in order to make their protection or their right to comprehensive social assistance effective, shall have the right to request leave of absence without having to have served a minimum period and without having occupied the position for a certain period of time.

The rights of other types of staff are established in their own specific legislation, as is the case, among others, of teaching staff, statutory staff in the health services or civil servants working in the administration of justice.

## 1.11. Financial rights

Articles 37 and 41 of Organic Law 10/2022, of 6 September, on the comprehensive protection of sexual freedom

### 1.11.1 Financial assistance to victims of sexual violence

Royal Decree 664/2024, of 9 July, which regulates financial assistance to victims of sexual violence, amending Royal Decree 1452/2005, of 2 December, which regulates the financial assistance established in article 27 of Organic Law 1/2004, of 28 December, on comprehensive protection measures against gender violence.

This is financial assistance aimed at victims of sexual violence and entails the following requirements:

- Not having an income higher, on a monthly basis, than the Minimum Inter-professional Wage, excluding the proportional part of two extra payments.
- In the case of victims of sexual violence who are financially dependent on the family unit, the assistance will be granted when the family unit does not have an income (excluding the proportional part of two extra payments) of more than twice the minimum inter-professional wage or three times the minimum inter-professional wage excluding the proportional part of two extra payments in the case of families with four or more members, or who are recognised as large families in accordance with the regulations in force.

Other important aspects of assistance:

- The amount of assistance may be paid (at the victim's choice) in a lump sum or in six monthly instalments.
- This assistance may be extended once only, provided that the financial thresholds described in the above paragraphs are still not exceeded.

- When a victim of sexual violence has an officially recognised **disability of 33% or more**, the amount will be equivalent to twelve months of unemployment benefit, which may be extended once, provided that the conditions that gave rise to the initial granting of the assistance are maintained.
- If **the victim has dependants**, the amount may be equivalent to eighteen months of benefit, or twenty-four months if the victim or any of the family members living with the victim is/are officially recognised as having a disability of 33% or more, under the terms established by the implementing provisions of this Organic Law. This assistance may also be extended once, under the same terms as above, provided that the conditions that gave rise to the initial grant are maintained.

Eligibility for assistance and compatibilities:

- The basis for eligibility for this assistance is by means of **proof and confirmation that the person is a victim of sexual violence** as set out in article 37 of Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual freedom([see section 1.2](#)).
- This assistance shall be **compatible** with the receipt of **compensation agreed by a judgement of a court of law**, or, alternatively, with **any of the assistance provided for in Law 35/1995, of 11 December, on aid and assistance to victims of violent crimes and crimes against sexual freedom**. It shall also be compatible with the assistance provided for in Royal Decree 1369/2006, of 24 November, which regulates the **Job Seeker Allowance scheme** for the unemployed with special economic needs and difficulty in finding employment; with the **unemployment benefit** under Royal Legislative Decree 2/2024 of 21 May, adopting urgent measures to simplify and improve the level of unemployment protection and to complete the transposition of Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on the balancing of family and working life for parents and carers and repealing Council Directive 2010/18/EU; with the assistance established in Law 19/2021, of 20 December, which establishes the **Minimum Living Income**, and with the receipt of the assistance established by the Autonomous Communities in this material area.

### 1.11.2 Jobseeker Allowance

Article 41 of Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual liberty

Royal Decree 1369/2006, of 24 November, which regulates the non contributory job seeker allowance scheme for the unemployed with special financial needs and difficulty in finding employment

**Jobseeker Allowance** is financial assistance granted to unemployed people included in the "Jobseeker Allowance Scheme", whereby actions are carried out to increase the opportunities for integration in the labour market.

In order to be included in the Jobseeker Allowance programme and be a beneficiary of this financial assistance, the victim of sexual violence must meet the following requirements:

- Proof of their status as a victim of sexual violence.

- Be registered as a jobseeker, but is not required to have been registered as a jobseeker for 12 months without interruption.
- Not be living with their aggressor.
- Be under 65 years of age, but not required to be 45 years of age or older.
- Have no income of their own, of any kind, higher than 75% of the current Minimum Inter-professional Wage, excluding the proportional part of two extra payments.
- A woman can be a beneficiary of a new Job Seeker Allowance scheme even if she has been a beneficiary of another scheme within 365 days prior to the date of application.

The amount of the Job Seeker Allowance is 80% of the monthly Multi-Purpose Public Indicator of Income (IPREM) in force at any given time.

It also includes a one-off supplementary payment if the woman has been forced to change residence due to sexual violence in the 12 months prior to the application to be accepted for the scheme or the time she has been in the scheme, equivalent to the amount of three months of the Jobseeker Allowance.

This financial aid may be applied for until 1 November 2024, at which point the regulations governing it will cease to apply. However, victims of violence against women may apply for financial assistance under the following section.

### 1.11.3 Access to unemployment benefits for victims of sexual violence

Fifty-eighth additional provision of Royal Legislative Decree 8/2015, of 30 October, approving the revised text of the General Social Security Act

Royal Legislative Decree 2/2024 of 21 May adopting urgent measures to simplify and improve the level of protection against unemployment and to complete the transposition of Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work/life balance for parents and carers and repealing Council Directive 2010/18/EU

Confirmed victims of sexual violence will be able to claim this unemployment benefit, introduced by Royal Legislative Decree 2/2024 of 21 May, which replaces the Jobseeker Allowance.

To do so, they must meet a number of requirements, including the following:

- not be entitled to contributions-based unemployment benefit
- not having been beneficiaries of 3 entitlements to the Job Seeker Allowance scheme (unless more than three years have elapsed since the first entitlement was generated until this benefit was applied for)
- be registered as job seekers or have no income of their own (income during the previous calendar month that does not exceed 75% of the minimum wage, excluding the proportional part of 2 extra payments)

The amount of the benefit will be equal to 95% of the IPREM for the first 180 days; 90% from day 181 to 360; and 80% from day 361.

The maximum duration of the benefit will be 30 months, unless the person has previously received one or two entitlements to the Job Seeker Allowance scheme, in which case, the maximum duration will be 20 and 10 months, respectively.

### 1.11.4 Minimum Living Income

Royal Legislative Decree 20/2020 of 29 May establishing the minimum living income

Royal Decree 1369/2006, of 24 November, which regulates the non contributory job seeker allowance scheme for the unemployed with special financial needs and difficulty in finding employment

Women **victims of human trafficking and sexual exploitation** may be beneficiaries of the Minimum Living Income, whose purpose is to prevent the risk of poverty and social exclusion of people who live alone or are in a cohabitation unit and lack basic economic resources to meet their basic needs, when they meet the requirements, although they may be beneficiaries of the Minimum Living Income:

- There is no age requirement (in general, MLI is for persons of at least 23 years of age), only that they are of legal age.
- They need not be married or in a civil partnership.
- They are not required to be part of another cohabitation unit.
- The period of one year of legal and effective residence in Spain in a continuous and uninterrupted manner immediately prior to the date of submission of the application will not be required when they can prove the situation of sexual violence by any of the means established in article 37 of the Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual freedom.

### 1.11.5 Priority access to subsidised housing and public homes for the elderly

Article 42 of Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual liberty

Royal Decree 42/2022, of 18 January, regulating the Youth Rental Allowance and the 2022-2025 National Plan for access to housing

Royal Decree 1369/2006, of 24 November, which regulates the non contributory job seeker allowance scheme for the unemployed with special financial needs and difficulty in finding employment

Article 42 of Organic Law 10/2022 of 6 September on the comprehensive guarantee of sexual freedom provides that public administration agencies shall prioritise access for victims of sexual violence to public housing and housing assistance programmes.

In this regard, victims of sexual violence constitute a group entitled to preferential protection in access to housing and are included in the following schemes of the [National Housing Plan\(BOE\)](#):

- Scheme to help victims of gender-based violence, people who have been evicted from their homes, homeless people and other particularly vulnerable people.

- This scheme includes as beneficiaries victims of gender-based violence, victims of trafficking for sexual exploitation, and victims of sexual violence.
  - Those persons who have a dwelling in ownership or in usufruct, which they can occupy after it has been confirmed that they are or have been victims of gender violence, of trafficking for the purpose of sexual exploitation, or of sexual violence, cannot be beneficiaries.
  - Beneficiaries may be public administration agencies, trading companies in which public administration agencies have a majority shareholding, public utility entities, public companies and charitable, collaborative economy or similar entities, which must always be non-profit-making, whose purpose is to provide a housing solution for victims of gender-based violence, victims of trafficking for the purpose of sexual exploitation or victims of sexual violence.
- Programme to make housing owned by SAREB and public entities available for rent as social housing. Housing provided by SAREB or the public entity in question must be used as a priority to provide housing solutions for victims of gender-based violence, victims of trafficking for sexual exploitation, victims of sexual violence.

## 1.12. Right to reparation

Articles 52, 53, 54, 55, 56, 57 of Organic Law 10/2022 of 6 September 2022, on the comprehensive guarantee of sexual freedom

Victims of sexual violence have a **right to compensation**. This right includes financial compensation for material and moral damages, the measures necessary for their full physical, psychological and social recovery, as well as symbolic reparation actions and guarantees of non-repetition.

With regard to **financial compensation for material and moral damages** for victims of sexual violence, in accordance with the criminal laws on civil liability, the following shall apply

- loss of opportunities, including opportunities for education, employment and social benefits
- property damage and loss of income, including loss of earnings
- social damage, understood as damage to one's life plan
- therapeutic, social and sexual and reproductive health treatment

The compensation shall be paid by the person or persons civilly or criminally **liable**, in accordance with the regulations in force.

In cases of death of the victim of any of the conducts provided for as [sexual violence](#), their children, whatever the nature of their kinship, by nature or by adoption, may receive a **pension**, or, where appropriate, **orphan's benefit**, in accordance with the provisions of the revised text of the General Social Security Act, approved by Royal Legislative Decree 8/2015, of 30 October.

## 1.13. Scholarships and study grants

Royal Decree 201/2024, of 27 February, establishing the income and family wealth thresholds and the amounts of grants and study funding for the academic year 2024-2025, and partially amending Royal Decree 1721/2007, of 21 December, establishing the system of personalised grants and study funding

Specific treatment is offered to grant applicants who prove their status as victims of gender violence, from 30 June 2023 to 30 June 2025, their children under the age of twenty-five and minors under their guardianship or custody who apply for these grants and study funding, provided that they meet all the other conditions set out in the regulations in force. These are the basic grant, or course fee grant as appropriate, the means-tested fixed amount, the fixed amount linked to residence and the variable amount resulting from the application of the formula; the requirements established in relation to the course load completed in the academic year 2023-2024 will not apply to them, nor will the limit on the number of years as a beneficiary of scholarships, nor the requirement to pass a certain percentage of credits, subjects, modules or their equivalent in hours in the academic year 2024-2025 for which they have been beneficiaries of the scholarship.

Scholarships resulting from the status of victims of sexual violence are compatible with the financial support for victims of sexual violence regulated in Royal Decree 664/2024.

## 2. Rights of foreign victims of sexual violence

### 2.1. Protecting undocumented foreign victims of sexual violence

Article 31 bis of Organic Law 4/2000 of 11 January on the rights and freedoms of foreign nationals in Spain and their social integration

Article 3.1 and 36 of Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual freedom

Organic Law 10/2022 of 6 September on the comprehensive guarantee of sexual freedom applies to women and children who have been victims of sexual violence in Spain, regardless of their nationality and official situation. In turn, it is established that victims of sexual violence who are in an irregular official situation **will enjoy the rights recognised in the Organic Law under the same conditions** as other victims.

Accordingly:

- If, when a case of sexual violence is reported, the irregular status of the female foreign national is revealed:
  - An infringement proceeding by a government agency shall not be initiated on the grounds that the person is in Spanish territory illegally.
  - An infringement proceeding by a government agency initiated for the commission of such an offence prior to the complaint or, where appropriate, the execution of any expulsion or return orders that may have been issued, shall be suspended.

- o Criminal proceedings concluded:
  - **With a conviction** or with a court decision from which it is deduced that the woman has been a victim of sexual violence, including the closing of the case due to the unknown whereabouts of the accused or the provisional dismissal due to the deportation of the accused, **the female foreign national will be granted a temporary residence and work permit for exceptional circumstances** and, where appropriate, the authorisations requested in favour of her minor children or those who have a disability and are objectively unable to provide for their own needs.
  - If the court dismisses the case or issues a decision from which the situation of gender violence cannot be deduced, the female foreign national will be denied the temporary residence and work permit for exceptional circumstances and, if applicable, the authorisations requested in favour of her minor children or those who have a disability and are objectively incapable of providing for their own needs. In addition, the provisional residence and work authorisation granted to the female foreign national and, where applicable, the provisional authorisations granted to her minor children or children with a disability who are objectively incapable of providing for their own needs, will be rendered null and void. Furthermore, the official proceeding for illegal presence in Spanish territory will be initiated or continued.
  - If sexual violence cannot be deduced from the concluded criminal proceedings, the case for illegal stay in Spanish territory will be opened or will continue, in the event that it was initially suspended.

## 2.2. Right to international protection

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

- **The right to asylum.** Refugee status shall be granted to any woman, child or adolescent who, owing to a well-founded fear of being persecuted for **reasons of** race, religion, nationality, political opinion, membership of a particular social group, **gender**, sexual orientation or sexual identity, is outside the country of her nationality and is unable or, owing to such fear, unwilling to avail herself of the protection of that country, as well as stateless women, children and adolescents who, not having a nationality and being outside the country of their former habitual residence, for the same reasons are unable or, owing to such fear, unwilling to return to it.

In this sense, multiple forms of violence against women, such as female genital mutilation, forced marriage, sexual violence or trafficking in women and girls for the purpose of sexual exploitation, may be grounds for gender-based persecution, provided that, in any case, the other requirements for the recognition of the right to asylum are met.

- o For the right to asylum to be recognised, the well-founded fear of persecution of women, children and adolescents must be based on acts of persecution that are serious and take the form of acts of physical or mental violence, including acts of sexual violence.



- In assessing the grounds for persecution, the circumstances prevailing in the country of origin should be assessed in relation to the situation of the particular social group.
- **Subsidiary protection.** Subsidiary protection shall be granted to foreign or stateless women, girls, boys and adolescents who, while not being eligible for asylum, face a real risk of suffering serious harm if they return to their country of origin, or to the country of former residence in the case of stateless women. Serious harm giving rise to subsidiary protection consists of any of the following:
  - Death penalty
  - Torture, inhuman or degrading treatment or punishment
  - Serious threats to the life or integrity of civilians in conflict situations.

### 3. Rights of Spanish victims of sexual violence outside national territory

Spanish women who are victims of sexual violence living abroad often find themselves in a situation of particular vulnerability due to language and cultural barriers, lack of social support or lack of knowledge of existing resources in the country. For this reason, the law provides that Spanish Embassies and Consular Offices abroad, as part of their general duties to protect Spaniards abroad, assist victims of sexual violence, providing them with guidance and support as a matter of priority within their capacities.

The Protocol signed on 8 October 2015 by the then Ministries of Foreign Affairs, European Union and Cooperation, of Labour, Migration and Social Security, and of the Presidency, Relations with Parliament and Equality, which aims to establish a common framework of collaboration for the performance of functions in this area, also protects victims of sexual violence, preventing and addressing situations of sexual violence by providing information on available resources in the country of residence, and facilitating the protection and return of victims and, where appropriate, their children when the situation so requires, within the current regulatory framework.

Spanish Embassies and Consulates and the Ministries of Labour, Migration and Social Security will provide Spanish victims with contact information for specialised resources for victims of sexual violence available in the country in which they reside, as well as guidance on the medical, educational and legal resources that local authorities make available to them in situations of sexual violence. Likewise, the Embassies and Consular Offices, in coordination with the Government Office for Gender Violence, will facilitate, where appropriate, the repatriation of the victims to Spain.

For its part, the Government Office for Gender Violence, in the event of the victim's return, will coordinate with the Autonomous Communities in order to guarantee victims' rights recognised by Spanish law and to facilitate their social integration.

## BLOCK 3

### Rights of victims of crime that also apply to victims of gender-based violence and victims of sexual violence

In addition to the specific rights that Organic Law 1/2004 recognises for women who suffer or have suffered gender violence, and the rights that Organic Law 10/2022 recognises for victims of sexual violence, they are beneficiaries of the rights that the laws recognise for victims of crime, among which the following should be noted:

# 1. Rights under the Victims of Crime Statute

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

Victims of gender-based violence and victims of sexual violence can claim the general catalogue of procedural and extra-procedural rights contained in the **Victims of Crime Statute**. In the event of the death or disappearance of the direct victim of gender-based or sexual violence, the victim's children, a spouse who is not legally separated or de facto separated, a person who has been united to the victim by an analogous relationship of affection and the children of the latter who live with the victim shall be considered indirect victims. The person responsible for the criminal acts shall not be considered a victim.

Some of these rights are:

- **The right to information** from the first contact with the relevant authorities, including prior to filing the complaint.
- **The right**, at the time of filing the complaint, **to obtain a copy of the complaint**, duly certified and, where appropriate, a written translation of the copy of the complaint.
- **The notification of certain decisions** without the need for them to request it, so that they are informed of the penitentiary situation of the person under investigation, accused or convicted: decisions whereby to initiate criminal proceedings, decisions to imprison or subsequent release the offender, as well as the possible escape of the offender; decisions to order personal interim measures or that change those already ordered, when they had been aimed at guaranteeing the victim's safety.
- **The right, free of charge and confidentially, to assistance and support services** provided by public administration agencies, as well as those provided by the Victims' Assistance Offices. These Offices shall perform the following functions, among others:
  - **Provide emotional support** for victims and therapeutic assistance for victims who need it, guaranteeing suitable psychological assistance to overcome the traumatic consequences of the crime.
  - **Advice and counselling on the needs of the victim** and how to prevent and avoid the consequences of primary, repeat and secondary victimisation, bullying and retaliation.
  - The development of a **psychological support plan** for vulnerable victims and in cases where a protection order is applied.
  - **Information on available specialised services** that can provide assistance to the victim, in view of their personal circumstances and the nature of the crime to which they may have been subjected.
  - **Supporting** the victim throughout the process.
- Receive **notification of the decisions** referred to in Article 7.1 of the Crime Victims' Statute (the judgement or decisions ordering interim measures, among others) and carry out the information and assistance actions that may be necessary.

- **The right to bring criminal and civil proceedings** in accordance with the provisions of the Criminal Procedure Act. They may participate in enforcement by lodging an appeal against certain judgements, even if they were not a party to the case:
  - The order by which the Prison Supervision Judge **authorises the possible classification of the prisoner in the third degree** before half of the sentence has expired.
  - An order whereby the Prison Supervision Judge agrees that the prison benefits, **leave of absence, classification in the third degree** and the calculation of time for conditional release refer to the limit for serving the sentence, and not to the sum of the sentences imposed.
  - An order granting **parole** to the convict.

## 2. Right to file a complaint

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

Victims have the right to report situations of gender-based violence and sexual violence they have experienced.

The report brings to the attention of the relevant authorities the commission of an act that may constitute a crime.

After the complaint has been filed and forwarded to the judicial authority, if it considers that there are indications that a criminal offence has been committed, it will initiate the relevant criminal proceedings.

## 3. Victims' right to protection during the judicial proceeding

### 3.1. In the sphere of gender-based violence

The protection order is a court decision issued by the competent judicial body in cases in which, given the existence of well-founded indications of the commission of a crime of **gender-based violence**, it finds that there is an objective situation of risk for the victim that requires the adoption of protective measures during the criminal proceedings.

The protection order provides in a single resolution for interim measures of a criminal and civil nature in favour of the woman who is a victim of gender violence and, where appropriate, her children; and at the same time activates the social protection mechanisms established in favour of the victim by the various public administration agencies. The protection order confirms the situation of gender violence that gives rise to the recognition of the rights established in Organic Law 1/2004.

**Interim measures of a criminal nature** that may be taken by the judicial authority may be one or more of the following:

- **Eviction of the aggressor from the family home.**
- **Prohibition to reside in a certain town.**
- **Prohibiting the offender from** approaching the victim at a distance to be determined.
- Prohibition of the offender from contacting the victim and/or her relatives or other persons by any means: letter, telephone, etc.
- Prohibiting the aggressor from approaching certain places: the victim's workplace, children's schools, etc.
- Redaction of data relating to the victim's address.
- Judicial protection of victims in court offices.
- Seizure of weapons and prohibition of possession.

**Measures of a civil nature** may include the following:

- Allocation of the use and enjoyment of the family home.
- Determination of custody arrangements for minor children.
- Determination of visiting arrangements, communication and stay with the children.
- Setting a maintenance allowance.
- Any other measure that is necessary to remove children from danger or to prevent harm to them.

The application can be made by the victim herself, her next of kin, her lawyer, or the Public Prosecutor's Office. Without prejudice to the duty to report, social services that become aware of such a situation must bring it to the attention of the judicial body or the Public Prosecutor's Office so that the procedure to issue the protection order can be initiated or instigated. Where minors are involved, the court must in any event decide, including *ex officio*, whether civil measures are appropriate.

It is advisable to apply for a protection order at the same time as the complaint is filed, although it can also be applied for at a later date.

When no complaint is filed, the application for the protection order itself is considered as such, in terms of the facts and situations of violence described in the application.

The court must issue the protection order within 72 hours of its filing, following an appearance by the victim and the aggressor. The law establishes that this hearing must be held separately, thus avoiding confrontation between the two parties.

Article 544 bis of the Criminal Procedure Act establishes that, if any of the victim protection measures provided for in this precept are issued, the use of telematic devices to monitor compliance with them may be agreed by means of a reasoned decision.

## 3.2. In the area of sexual violence

As part of criminal proceedings initiated for the commission of any of the offences against sexual freedom provided for in the Criminal Code, the court may order any of the interim measures of a criminal nature provided for in criminal procedural law, such as provisional detention or a restraining order and/or forbid communicating with the victim, in order to ensure both the course of the criminal proceedings and the effectiveness of the judgement that is ultimately issued

Furthermore, interim measures of a civil nature may also be taken when the court so decides, which must be requested by the victim or their legal representative, or by the Public Prosecutor's Office when there are minor children or persons with judicially modified capacity, determining their compliance regime and, if appropriate, any complementary measures to them that may be necessary, provided that they have not been previously ordered by a civil court, and without prejudice to the measures provided for in Article 158 of the Civil Code.

Article 544 bis of the Criminal Procedure Act establishes that, in the case of the investigation of any of the crimes mentioned in Article 3 of the Organic Law on the Comprehensive Guarantee of Sexual Freedom<sup>2</sup>, if any of the victim protection measures provided for in this statute are agreed, the use of telematic devices to monitor compliance with them may be ordered by means of a reasoned resolution.

## 4. Right to apply for a European Protection Order

Law 23/2014 of 20 November 2014 on the mutual recognition of criminal decisions in the European Union

A victim of gender-based violence or sexual violence who is going to move to another Member State of the European Union to reside or stay there, and is the beneficiary of a protection measure adopted, as an interim measure or as a disqualification judgement, in a protection order, order for interim measures or judgement, may apply to the relevant court to issue the European protection order.

The European protection order issued by the court shall be documented in a certificate, which shall be transmitted to the competent authority of the other Member State for execution.

<sup>2</sup> Article 3 of Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual freedom, states: *"In any case, the criminal offences set forth in Title VIII of Book II of Organic Law 10/1995 of 23 November of the Criminal Code, female genital mutilation, forced marriage, harassment with a sexual connotation and trafficking for the purpose of sexual exploitation are considered sexual violence. Special attention will be paid to sexual violence committed in the digital environment, including the dissemination of acts of sexual violence, non-consensual pornography and child pornography in any case, and sexual extortion through technological means".*

## 5. The right to be a party to criminal proceedings: the offer of actions

### Articles 109 et seq. of the Criminal Procedure Act

In the act in which the judge receives the victim's statement, the public prosecutor shall instruct the victim of their right to appear as a party in the proceedings and to waive or not to waive the restitution of property, reparation of the damage and compensation for the harm caused by the punishable act.

The exercise of this right, which involves **the active involvement of the victim of gender-based violence or sexual violence in the judicial proceeding following her complaint and the exercise of the criminal action** and, where appropriate, the civil action, is carried out through the victim's appearance in the criminal proceedings through a private prosecution. For this purpose, the victim must appoint a lawyer to defend her interests and a *procurador* to represent her.

In addition, victims who have not waived their right may bring criminal proceedings at any time before the determining of the nature of the criminal offence.

The appointment of a lawyer and a *procurador* can be made at the free choice of the victim or through the public defender's office. In this regard, the law recognises **the right of victims of gender-based violence and sexual violence to be beneficiaries of free legal aid in proceedings arising from violence**, without prejudice to their right on the basis of their socio-economic situation through the general system.

The appearance and consequent status as a "party" in the criminal proceedings means that the victim, through her lawyer, can submit evidence, take part in the submission of evidence, and be informed of all the resolutions that are issued during the proceedings, with the right, if she does not agree, to file the appropriate appeals.

In addition, in a private prosecution, the victim may request the conviction of the aggressor and compensation for the injuries and harm suffered.

Regardless of whether or not the victim brings a private prosecution in the criminal proceedings arising from her complaint, the Public Prosecutor's Office is responsible for defending the interests of victims and injured parties in criminal proceedings. If she is convinced that an offence has been committed, she shall bring the charge against the person she considers responsible. If the court does not issue such a conviction, it will not bring a prosecution or may request that the proceedings be dropped, for example, if it considers that there is insufficient evidence of the facts.

## 6. Right to restitution of property, reparation of the damage and compensation for the harm caused

### Articles 100 et seq. of the Criminal Procedure Act

The commission of an offence makes it mandatory to make reparation for the damage caused. This civil liability includes the restitution of property, reparation of the damage and compensation for material and moral damages.

If the victim has brought a civil action (to claim civil liability) in the criminal proceedings, in the judgement that is handed down, and provided that it is a conviction, in addition to the penalty that may be imposed on the guilty party, the civil liability for the physical, psychological or moral damage caused to the victim by the crime will be established.

However, the victim may reserve her right to bring a civil action in a separate proceeding in the civil courts, so that the civil action will not be brought in the criminal proceeding. She may also waive any claims she may have in this regard.

## 7. Right to receive information on court proceedings

The victim, even if she does not exercise her right to take part in the criminal proceedings, should be informed of her role in the proceedings and of the scope, development and progress of the proceedings. Informing victims of their rights is the responsibility of the law enforcement agencies, the court and the Victim Assistance Offices.

The content of such information shall include:

- Their right to be a party to the criminal proceedings and to waive or not to waive the right to restitution of property, reparation of the damage and compensation for the harm caused by the criminal act.
- The possibility and procedure for applying for the aid that, in accordance with the law in force, they may be entitled to. Information on the status of legal proceedings, to examine them, as well as to be given copies of relevant documentation (Article 234 of the Organic Law of the Judiciary).
- They must be informed of any decision that may affect their safety, the issuing or amendment of other interim measures, the orders for the detention or provisional release of the accused and the prison situation of the aggressor (Articles 109, 506.3, 544 bis and ter of the Criminal Procedure Act).
- The victim must be informed of the place and date of the hearing (Articles 785.3, 962 and 966 of the Criminal Procedure Act).
- The victim must be notified of the judgement, both the judgement of the court of first instance and, where appropriate, the judgement on appeal. (Articles 270 of the Organic Law of the Judiciary; Articles 789.4, 973.2 and 976.3 of the Criminal Procedure Act). The victim must also be notified of the dismissal of the proceedings (Article 636 of the Criminal Procedure Act).



## 8. The right to the protection of the victim's dignity and privacy in proceedings related to gender-based violence and sexual violence

Article 63 of Organic Law 1/2004, of 28 December, on Comprehensive Protection Measures against Gender Violence

Article 50 of Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual liberty

Article 232.2 of the Judiciary Organic Law

Articles 19 et seq. of Law 4/2015, of 27 April, on the Statute of the Victims of Crime; Article 15.5 of Law 35/1995, on Aid and Assistance to Victims of Violent Crimes and Crimes against Sexual Freedom

Articles 2.a) and 3.1 of Organic Law 19/1994 on the Protection of Witnesses and Experts in Criminal Cases

With regard to **victims of gender-based violence**, Organic Law 1/2004 provides for specific measures to protect the victim's dignity and privacy. On the one hand, it is established that the personal data of the person, their descendants and the persons under their guardianship or custody, shall be confidential. The confidentiality of the victim's new home, place of work or children's schools not only preserves the victim's privacy, but is also an important instrument for her safety, as it prevents this information from coming to the knowledge of the accused. For the same purpose, the application form for the protection order provides that the victim may indicate an address or telephone number of a third person to whom law enforcement agencies or the courts may send communications or notifications.

In relation to **victims of sexual violence**, Organic Law 10/2022, of 6 September, on the comprehensive guarantee of sexual freedom, includes a series of specific measures to protect the dignity and privacy of victims. Thus, it establishes that, in proceedings and procedures related to sexual violence, the victims' privacy, and in particular their personal data, shall be protected.

The Spanish Data Protection Agency, within the framework of its powers, shall ensure specific protection of victims' personal data in cases of sexual violence, especially when this is perpetuated through information and communication technologies. To this end, the Agency will ensure the availability of an accessible and secure channel for reporting illegal content on the Internet that seriously undermines the right to the protection of personal data([Link to the reporting channel](#)).

Moreover, both in the area of gender-based violence and in the area of sexual violence, the **Crime Victims' Statute** Act recognises the right of victims to the protection of their privacy in **the context of criminal proceedings**, and in this regard, it imposes an obligation of judges, prosecutors, officials in charge of the investigation and any person who in any way is involved or participates in the proceeding to adopt the necessary measures to protect the privacy of victims and their families, in accordance with the provisions of the Law. In particular, with regard to victims who are minors or victims with disabilities in need of special protection, they shall take measures to prevent the dissemination of any information that could facilitate their identification.

In this regard, according to the Criminal Procedure Act, the judge may order, ex officio or at the request of the Public Prosecutor's Office or the victim, the adoption of any of the following measures when necessary to protect the victim's privacy or the respect due to the victim or the victim's family:

- **Prohibit the disclosure or publication of information relating to the identity of the victim**, of data that could directly or indirectly facilitate her identification, or of those personal circumstances that have been assessed in order to decide on her protection needs.
- **Prohibit the collection, disclosure or publication of images** of the victim or her family members.

The court may also decide, ex officio or at the request of the victim or the Public Prosecutor, that the court proceedings should not be public and that hearings should be held behind closed doors.

## 9. Aid for victims of crimes considered to be gender-based violence and sexual violence

Law 35/1995, of 11 December 1995, on Aid and Assistance to Victims of Violent Crimes and Crimes against Sexual Freedom Regulation on Aid to Victims of Violent Crimes and Crimes against Sexual Freedom, approved by Royal Decree 738/1997, of 23 May 1997

This is **public aid for the benefit of direct and indirect victims** of intentional and violent crimes committed in Spain resulting in death or serious bodily injury, or serious damage to physical or mental health; as well as for the benefit of victims of sexual violence within the meaning of the Organic Law on the Comprehensive Guarantee of Sexual Freedom, including victims of homicide following a crime against sexual freedom.

Regarding the **beneficiaries** covered by the law for this aid, women who are nationals of any other State and who are in Spain, whatever their official situation, may be eligible for aid when the affected party is a victim of sexual violence in the sense of the Organic Law on the Comprehensive Guarantee of Sexual Freedom, including victims of homicide following a crime against sexual freedom, or a victim of gender violence in the terms set out in Organic Law 1/2004, of 28 December, on comprehensive protection measures against Gender Violence.

The **status of victim** of gender-based violence or sexual violence **must be proven** by any of the following means of proof:

- Through the conviction.
- By means of the court decision to issue a restraining order as an interim measure for the protection of the victim or the provisional imprisonment of the accused.
- In the manner established in Article 23 of Organic Law 1/2004 of 28 December 2004 or in Article 36 of the Organic Law on the Comprehensive Guarantee of Sexual Freedom.

In the case of **death** as a result of violence, the requirements of proof shall apply to the beneficiaries as indirect victims, irrespective of the nationality or habitual residence of the deceased victim.

Persons who suffer serious bodily harm or serious damage to their physical or mental health as a direct consequence of the crime, including victims of vicarious violence, as provided for in Article 1.4 of Organic Law 1/2004 of 28 December on Comprehensive Protection Measures against Gender Violence, when their family member or close relative who is a minor dies as a consequence of the crime, shall be considered **direct victims** and, therefore, shall be eligible for this aid.

In the event of death, and always with reference to the date of death, the following persons shall be beneficiaries **as indirect victims**:

- The spouse of the deceased person, if not legally separated, or the person who had been living with the deceased person on a permanent basis with an analogous relationship of affection to that of a spouse, regardless of their sexual orientation, for at least two years prior to the time of death, unless they had had children in common, in which case mere cohabitation shall be sufficient.
- The children of the deceased who were financially dependent on the deceased, irrespective of their parentage or posthumous status. Children who are minors and children of incapacitated adults shall be presumed to be financially dependent on the deceased.
- The children of the persons referred to in paragraph a) above who were not the children of the deceased, provided that they were financially dependent on the deceased.
- In the absence of the persons referred to in paragraphs a), b) and c) above, the beneficiaries shall be the parents of the deceased person if they were financially dependent on him/her.
- The parents of a minor who dies as a direct result of the offence.

The **deadline** for applying for this aid is five years, starting in any case from the date of a final court decision or from the moment in which the victim's status as a victim is proven.

The **amount of** aid may in no case exceed the compensation set in the judgement and is calculated by applying criteria depending on the type of aid.

- In the event that the affected person is a **victim of sexual violence or a victim of gender violence**, the amount of the aid, calculated in accordance with the general criteria established in Law 35/1995, of 11 December, shall be increased by twenty-five per cent.
- In **cases of death resulting from sexual violence or gender violence**, the aid will be increased by twenty-five per cent for beneficiaries whose children are minors or adults for whom support measures have been judicially established.

**Provisional aid** may be granted prior to the final court decision ending the criminal proceeding, provided that the insecure economic situation of the victim or his or her beneficiaries is proven. In cases where the victim of the crime is considered to be a victim of sexual violence or gender-based violence, provisional aid may be granted regardless of the financial situation of the victim or the beneficiaries.

## INFORMATION TELEPHONE NUMBERS

National level	016 Hearing-impaired people: 900 116 016
Andalusia	900 200 999
Aragon	900 504 405
Canary Islands	112
Cantabria	942 214 141
Castilla-La Mancha	900 100 114
Castilla y León	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
Valencian Community	900 580 888
Ceuta	900 700 099
Melilla	

**More information:** in the Equality Bodies of the Autonomous Communities, in the regional and local Women's Centres, in the Victims' Assistance Offices, in the Legal Guidance Services of the Bar Associations and in women's and foreign nationals' organisations.

**Website of the Government Office for Gender Violence:** <https://violenciagenero.igualdad.gob.es/instituciones/home.htm>

This guide is for guidance only and has no legal validity.

In no case is it a substitute for specialised legal assistance.