

Other rights of victims of gender violence

Right to report the situation to the authorities

Women are entitled to report situations of gender violence they suffer to the appropriate authorities. This may be done at a Police Station (whether of the national, regional or local police forces), any Civil Guard Barracks, at the Court of First Instance or the Office of Public Prosecutions.

Such a report gives rise to the initiation of legal proceedings before the **Court for Violence against Women** (in order to investigate the facts and, where appropriate, impose criminal penalties on the persons responsible).

Right to request a Court Order providing for legal protection

A Court Order for legal protection is a ruling by a Judge acknowledging the existence of an objective situation of risk for the victim and ordering protection for the same during the processing of the lawsuit before the criminal courts; it also entitles the person named in it to receive the **economic and social rights** acknowledged in the Comprehensive Act.

The **protection measures** that the Court Authority may order in favour of female victims of gender violence and their children, where appropriate, may be criminal in nature:

1. Eviction of the assailant from the family home.
2. Ban on living in a particular town.
3. Ban on assailants to prevent them from coming within a distance determined by the Judge in the vicinity of victims and/or their relatives or other individuals.
4. Ban on assailants to prevent them from communicating with the victims and/or their relatives or other individuals by any means: letter, telephone, etc.
5. Ban on assailants to prevent them from approaching certain locations: the victims' workplace, their children's schools, etc.
6. Omission of information regarding the address of the victim.
7. Legal protection for victims at court offices.
8. Confiscation of weapons and bans on holding the same.

There may also be civil measures:

1. The use and enjoyment of the family home, furnishings and fitments.
2. The award of custody over minor children.
3. The suspension of the exercise of parental rights.
4. The suspension of the regime for fathers to communicate, visit and stay with their children or the way in which these activities are to be carried out, for example through an official Meeting Point.

5. The establishment of alimony for food.
6. Any other measure that may be necessary to protect minors from danger or to avoid harm to them.

Right to be a party to the criminal proceedings: the offer of legal action.

This is done through formal participation in the criminal proceedings as a "private prosecutor"; to this end, it is necessary to appoint a solicitor to defend the victims' interests and a barrister to represent them before the Court.

Right to restitution of objects, reparation for harm caused and compensation for damages suffered.

Right to receive information on the actions taken by the Court.

Right to protection of the victim's dignity and privacy within the framework of proceedings related to gender violence.

Right to access the financial aid foreseen for victims of violent crime and sexual assault.

Right to authorization of temporary residence on humanitarian grounds.

Right to immediate access to schooling for children where a change of residence is required because of gender violence.

Specific rights of foreign women:

- If they hold a residence authorization for "family regrouping" associated with the resident's permit corresponding to their assailant spouse, they may apply for and obtain a **temporary independent residence authorization** once a Court Order has been issued providing for their protection.
- If their **administrative status in Spain is irregular**, and providing that a judgement has been handed down **decreeing the commission of a crime of gender violence** and accrediting their status as victims, they may be granted a **temporary residence authorization on humanitarian grounds**. In addition, they may submit an **application** for such a residence authorization as soon as a **Court Order providing for their protection** has been issued in their favour, in which case any administrative proceedings under way to impose a penalty in connection with the said irregular status will be **suspended**.
- Foreign women who have fled their country of origin due to well-founded fears of suffering persecution on gender grounds may obtain the status of **refugee**.
- Foreign women legally present in Spain who are victims of gender violence and do not have a work permit can obtain information at the Employment Office of the Public Employment Service corresponding to their location **on their rights to be registered as jobseekers** and to have access to the **training and employment mediation actions, as well as the Active Insertion Income**.

Further information

At the Regional Government Equality Organizations, at Regional and Local Government Women's Service Centres, at Offices for Helping the Victims of Crime in court buildings, at the Legal Advice Departments of the Bar Associations and at the various associations for women and foreigners.

Telephone numbers for information

State-wide service: 016
People with hearing
impairment: 900 116 016
Andalusia: 900 200 999
Aragon: 900 504 405
Asturias: 112
Balearic Islands: 112
Basque Country: 900 840 111
Canary Islands: 900 506 968
Cantabria: 942 214 141
Castilla y León: 900 333 888
Castilla-La Mancha: 900 100 114

Catalonia: 900 900 120
Ceuta: 900 700 099
Extremadura: 112
Galicia: 900 400 273
La Rioja: 900 711 010
Madrid: 012
Melilla: 952 699 214
Murcia: 968 357 244 / 620
Navarre: 948 206 604
Valencia: 900 580 888

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The rights of foreign women who are victims of gender violence



SECRETARÍA GENERAL
DE POLÍTICAS DE IGUALDAD
DELEGACIÓN ESPECIAL DEL GOBIERNO
CONTRA LA VIOLENCIA
SOBRE LA MUJER



The rights of foreign women who are victims of gender violence

The **Gender Violence (Comprehensive Protection Measures) Act** (Fundamental Law 1 dated December 28th, 2004, published in the BOE nº 313 on December 29th, 2004) establishes and guarantees a series of rights for women who are or have been the victims of gender violence, so that they are able to bring their violent relationship to an end and recover their life project.

What rights do victims of gender violence have?

Fundamental Law 1/2004 (hereinafter the *Comprehensive Act*) recognizes an entire catalogue of rights for women who are the victims of gender violence:

- Right to information, comprehensive social assistance and free legal aid.
- Employment rights and Social Security benefits.
- Economic rights.

The Right to Information.

This includes the right to receive **information and advice** on the following matters:

- a) the **measures** that the Act itself foresees in order to give **protection** to the victims of gender violence
- b) the **rights and aid** that the Act acknowledges in their favour
- c) the **resources** for attention, emergencies, support and comprehensive recovery and how to access these

The right to comprehensive social assistance.

In order to ensure the reality of their right to physical and moral integrity, women who are victims of gender violence, and their minor children, are entitled to social services for:

- attention
- emergencies
- support and succour
- comprehensive recovery.

Through these services, it is possible for women:

- to receive **advice** on the actions that they can undertake and their rights,

- to find out about the **services** they can contact to obtain material, medical, psychological and social assistance,
- to access the various **accommodation resources** (emergency housing, temporary shelters, supervised centres, etc.)
- to recover their physical and/or psychological **well-being**,
- to obtain training, achieve their **insertion** or re-insertion in the **employment market**, and receive psycho-social support throughout their recovery itinerary.

The right to comprehensive social assistance is also acknowledged for any **minors** living in these family contexts.

The right to immediate legal assistance. The right to free legal aid.

Fundamental Law 1/2004 grants all women who are victims of gender violence **immediate legal assistance** in all proceedings related with their situation, including advice on reporting the matter.

A solicitor is appointed immediately but if the **right to free legal aid** is not requested or is eventually turned down, the victim in question must pay the **fees** charged for the actions performed by the solicitor and barrister.

For the **right to free legal aid**, applicants must show that their **financial income**, calculated for the whole year and family unit (excluding the income of the assailant), does not exceed twice the Multi-Purpose Public Income Indicator (IPREM in its Spanish acronym) or, exceptionally, when it does not exceed four times the value of IPREM in the light of their family circumstances, economic obligations and the cost of the proceedings.

In addition, the right to free legal aid comprises the following **benefits**:

- Free advice and guidance prior to the proceedings.
- Free insertion of notices or court proclamations in official publications.
- Exemption from the payment of the necessary deposits for the lodging of appeals.
- Free assistance from expert witnesses.
- Documents prepared by notaries public are free of charge or have a reduction of 80% on the tariff of fees.

Employment and Social Security Rights (*)

In order to exercise these rights, female workers must **show that there is a situation of gender violence**, either by means of the Court Judgement finding against their assailant, a court order providing for protection or, exceptionally and until such time as such a protection order is handed down, through a report by the Office of the Public Prosecutor stating the existence of indications that the woman in question is a victim of gender violence.

Rights for employees:

- Right to a **reduction in working hours**, entailing a corresponding reduction of their wages in the same proportion. A special agreement may be signed with the Social Security to maintain the same levels of contribution and reference salary so that future pension, permanent disability or death and survival benefits arising out of ordinary illnesses or an accident unrelated with employment are not adversely affected.
- Right to the **re-arrangement of working hours**.
- Preferential right to **change workplace**, with the option to return to the **previous job during the first 6 months**.
- Right to the **temporary suspension of the employment relationship with the option to return to the previous job**. The initial duration is for six months, which the Judge may extend for additional periods of three months up to a maximum of eighteen. Entitlement to receive **unemployment benefit** if the general requirements are met. The period of the suspension is considered as a period of **effective payment of dues** for Social Security benefits for retirement, permanent disability, death and survival, maternity and unemployment; the right to **health care** is maintained.
- Right to have the **employment contract rescinded with entitlement to receive unemployment benefit** if the general requirements are met.
- **Any dismissal is null and void** if it comes about as a result of the exercise of the above rights by a victim of gender violence.
- **Absence from work is not considered as a breach of contract** providing such absences are caused by the worker's physical or psychological situation as a result of gender violence. This must be accredited by the social services providing care or the health services.

Rights of self-employed workers:

Self-employed workers who are the victims of gender violence and who have to **cease being engaged in this activity** in order to make their protection effective shall not be obliged to pay any dues during a term of six months, which will be considered as a period of **effective payment of dues** for the purposes of Social Security benefits. In addition, the worker's situation will be considered to be **equivalent to registered as employed** and her right to the benefit of **health-care assistance** under the Social Security will be maintained.

Economic rights.

Specific economic assistance for women who are victims of gender violence with particular difficulty in obtaining employment.

This financial aid is established in Fundamental Law 1/2004 for female victims of gender violence, providing that they meet the following **requirements**:

- a) **Absence of income** amounting, on a monthly basis, to more than 75

per cent of the minimum inter-professional wage currently in force, excluding the proportional part of two bonus payments per annum.

- b) Special **difficulties to obtain employment** (age, lack of qualifications or social circumstances).
- c) **Accreditation of their status as victims of gender violence** (definitive judgement finding against their assailant, a court order in their favour providing for protection or, exceptionally, a report by the Office of the Public Prosecutor).

Active insertion income (RAI in its Spanish acronym)

Programme comprising financial assistance accompanied by actions aimed at increasing their opportunities for insertion on the job market.

In order to be included on the Programme, female victims of gender violence must comply with the following **requirements**:

- a) Accreditation of their **status as victims of gender violence** as indicated above, or also with the certificate indicating this situation by the social services of the Regional Government Administration, the Town Council, or the Refuge Centre.
- b) Registration as a **jobseeker**.
- c) No entitlement to **unemployment benefits or subsidies**, or to minimum farmers' income.
- d) **Absence of income** of any type amounting, on a monthly basis, to more than 75 per cent of the minimum inter-professional wage currently in force, excluding the proportional part of two bonus payments per annum.

Inclusion on the Active Insertion Income programme will be effected through the **Employment Office**.

Help for victims of gender violence to move house.

Women who are victims of gender violence and **beneficiaries of the Active Insertion Income** and who have been forced to change their place of residence in the 12 months prior to the application for admission to the RAI programme or while they are included on the same may receive, as a **lump-sum payment, a supplementary assistance** equivalent to **three months of the active insertion income**, without this reducing the duration of the said income. This aid may be received once only for each right to be included on the active insertion income programme.

Priority access to protected housing and public residences for the elderly.

The State Housing Plan 2005-2008 includes female victims of gender violence as a priority group for access to protected housing and financial aid for acquisition of housing. In addition, status as a victim of gender violence is a circumstance that will be taken into account for the granting of a place at a Public Residence for the Elderly.

(*) Collective bargaining agreements and in-company arrangements may include additional improvements to these rights.