



# Convention on the Elimination of All Forms of Discrimination against Women

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## Committee on the Elimination of Discrimination against Women

Pre-session working group

Forty-fourth session

20 July-7 August 2009

### List of issues and questions with regard to the consideration of periodic reports

#### Spain

The pre-session working group examined the sixth periodic report of Spain (CEDAW/C/ESP/6).

#### General

1. Please provide information on the process of the preparation of the report, including whether non-governmental organizations, particularly women's organizations were consulted. Please also indicate whether the report was adopted by the Government and submitted to Parliament.

#### Constitutional, legislative and institutional framework

2. Upon ratification, the State party entered a reservation that is still valid, namely, that the ratification of the Convention by Spain shall not affect the constitutional provisions concerning succession to the Spanish Crown. Please indicate whether the State party is considering withdrawal of the reservation.

3. According to article 96.1 of the Spanish Constitution of 1978, the Convention is part of the domestic legal order. Please indicate whether, and to what extent, the provisions of the Convention have been directly invoked in court cases. Also, provide information on the outcome of such cases and indicate what administrative or other remedies are available to women victims of discrimination.

4. The report indicates that Organic Law 3/2007 of 22 March on effective equality for men and women has created new institutional mechanisms, including the Inter-Ministerial Committee on Equality between Women and Men, the Equality Units and the Council on Women's Participation, and calls for a strategic plan for equality of opportunities (see paras. 17-32). Please indicate the coordination among those mechanisms in the implementation of the strategic plan for equality of

opportunities (2008-2011) and their relationship with the General Secretariat for Equality Policy and the Women's Institute (see para. 16).

5. The report mentions, in paragraph 40, the introduction in Organic Law 3/2007 of a definition for "affirmative action" and a general framework for its adoption. Please indicate whether the term is used as a synonym for temporary special measures under article 4, paragraph 1, of the Convention, and the Committee's general recommendation No. 25. Also please elaborate on the process of adoption of those measures.

### **Political participation and decision-making**

6. Please provide further information on the efforts, referred to in paragraph 112 of the report, taken by the State party with the aim of achieving parity between women and men in positions of responsibility in the national administration and in Government agencies and enterprises.

7. The report indicates that while a balanced gender composition of the lists of candidates for elections to the Congress of Deputies, Municipal Councils, European Parliament and Legislative Assemblies of the Autonomous Communities is required by law, the obligation does not apply to the lists of candidates for publicly elected bodies in municipalities with 3,000 inhabitants or fewer (para. 108). Please provide information on the level of participation in political life of women living in such municipalities, including the percentage of women candidates and measures taken to ensure their participation in political life.

8. Please indicate whether any temporary special measures, in accordance with article 4, paragraph 1, of the Convention and general recommendation No. 25 have been taken, as recommended by the Committee in its previous concluding comments (A/59/38, part two, para. 343) to accelerate the advancement of women, particularly in senior positions in areas such as the foreign service and the judiciary. Please provide statistics on the gender balance on all Government appointed boards, public bodies and advisory mechanisms. Furthermore, please provide gender-disaggregated data on women's representation in the armed forces.

### **Violence against women**

9. In its previous concluding comments, the Committee expressed concern about the number of reported murders of women by current and former spouses or partners (A/59/38, part two, para. 334). Notwithstanding the adoption of the Organic Law 1/2004 of 28 December on measures for integral protection against gender violence, the report indicates that in 2007 the number of women killed by their partner or former partner reached levels similar to those prior to the Organic Law 1/2004 (para. 361). Please describe the measures undertaken by the State party and the results achieved to eradicate violence against women.

10. The report indicates that applications for protection orders against gender-based violence have been gradually increasing (para. 363) and that 18.65 per cent of all applications for the period from June 2005 to August 2007 had been denied. The report also indicates that Royal Decree 2393/2004 on the rights and freedoms of foreigners in Spain and their social integration allowed victims to request temporary residence if they had a protection order (para. 368). Please provide information on the criteria required for a protection order to be granted. Please also indicate the

percentage, if available, of protection orders that have been granted to foreign women.

11. The report mentions Organic Law 1/2004 of 28 December, on measures of integral protection against gender violence, which requires the creation of a special prosecutor's office for violence against women and the creation of gender violence courts. Please indicate whether those two mechanisms have already been put in place and provide information on their functions and structure.

12. Please provide information on any cases where the Special Delegate of the Special Delegation of Government on Violence against Women has intervened before courts (see para. 374).

### **Trafficking and exploitation of prostitution**

13. The report indicates that in the State party "prostitution is driven primarily by male demand (99.7%)" (para. 77). Please provide information on measures taken to suppress exploitation of prostitution of women, including discouraging the demand for prostitution, as recommended by the Committee in its previous concluding comments (A/59/38, part two, para. 337).

14. The report mentions, in paragraph 87, the integral plan to combat human trafficking for purposes of sexual exploitation and its five areas of action. Please indicate whether the plan has already been approved and if so, please provide information on results achieved.

### **Sex roles and stereotyping and education**

15. The report indicates existing "difficulties in achieving balanced representation of women and men in executive positions, in obtaining for them the same pay, and in reconciling family and professional life" (para. 47). Please clarify whether those difficulties are related to patriarchal attitudes and rooted stereotypes, which were the concern of the Committee's previous concluding comments (A/59/38, part two, para. 332) and provide information on efforts taken to overcome them, particularly in accordance with article 5 (a) of the Convention.

16. With reference to paragraph 75 of the report, please provide updated information on the progress made by the Advertising Commission in the preparations of a protocol that will "unify" the State party's measures in avoiding "sexist advertising".

17. With reference to paragraph 153 of the report, please describe any current or planned actions aimed at combating stereotypes that identify some fields of study as purely feminine or masculine within middle-level vocational training.

18. The report indicates horizontal and vertical segregation within the teaching body at the university level (para. 158). Please provide information regarding the distribution of women at different levels, including the numbers of women at the professor, associate professor, senior lecturer and lecturer levels. Please also indicate what measures have been implemented to address this double segregation. Also, please provide sex-disaggregated data indicating any progress made by Roma women and girls at all educational levels since the last reporting period.

**Employment and reconciliation of work and family life**

19. Please provide information on strategies or measures in place to address the unemployment rate for women, as recommended by the Committee in its previous concluding comments, which, according to paragraph 175 of the report, is nearly twice the unemployment rate of men at all levels of education. Please indicate whether the State is considering the adoption of temporary special measures.

20. The report indicates that the wage gap is still one of the major differences between men and women in the labour market (para. 181). Please provide information on whether the Labour Inspection Office has received complaints against employers for wage discrimination against women for equal work and work of equal value and indicate whether these complaints were brought to court. Please also indicate the type of sanctions imposed on employers (see also paras. 219-221).

21. Figures on page 39 of the report show that 81 per cent of part-time employees in the State party are women. Please indicate whether there is a proportional payment of pensions and social benefits to part-time women workers. Please provide information on the age group of those women and on measures taken to ensure their access to full-time and permanent jobs.

22. Please also indicate all State support available to assist women in balancing work and family life, such as childcare, care of the elderly and flexible working hours.

23. Organic Law 3/2007, on the principle of equality and protection against discrimination, requires employers to negotiate equality plans in order to achieve equality in employment between women and men (see paras. 194 and 195). Please indicate how many equality plans have been implemented since Organic Law 3/2007 came into force, which authority monitors their implementation and whether sanctions apply in cases of non-compliance with the law.

24. The report indicates that men are entitled by law to parental leave (para. 193). Please provide information about the practical implementation of the provision, in particular whether men are taking advantage of this right and of measures taken to encourage them to do so.

**Health**

25. The report indicates an increase in the percentage of HIV/AIDS-infected women in 2004 (para. 232). Please update this data and provide information on the situation of women infected with HIV/AIDS, particularly their access to health care. Please also indicate what measures have been taken to increase public awareness of the risk and effects of HIV/AIDS and whether these measures have been aimed specifically at women and girls. Please also provide information on measures taken to prevent mother-to-child transmission of HIV/AIDS.

**Situation of particularly vulnerable groups of women**

26. According to the report, women with disabilities account for 58 per cent of all persons with disabilities in the State party. Please provide detailed information on the measures and policies included in the Plan of Action for Women with Disabilities 2007, referred to in paragraph 341 of the report and on their

implementation and results. Please also indicate whether a new plan of action for women with disabilities has been adopted by the State party.

27. The report indicates that there has been a sharp increase of migrant female workers in the agri-food industry (para. 276). Please provide updated data on the numbers of documented and undocumented migrant women working in the agricultural sector. Please also provide information about their situation and indicate the measures in place to enhance their de facto equality in employment, health and access to available social services.

28. The report provides limited information on the situation of Roma women and girls (paras. 165, 346 and 354). Please provide further information regarding the situation of Roma women and girls, including measures in place to protect their human rights, in particular with regard to their access to education, employment, housing and health.

#### **Economic consequences of divorce**

29. Please provide information on the type of property that is distributed on dissolution of relationship, and indicate, in particular, whether the law recognizes intangible property (i.e., pension funds; severance payments; insurance). Please also indicate whether the law provides for the distribution of future earning capacity and human capital or considers enhanced earning capacity or human capital in any manner in the distribution of property upon dissolution (e.g., through a lump-sum award reflecting the other spouse's estimated share in this type of asset or by allowing for an award of compensatory spousal payment).

#### **Amendment to article 20, paragraph 1, of the Convention**

30. Please describe progress towards acceptance of the amendment to article 20, paragraph 1, of the Convention, as recommended by the Committee in paragraph 352 of its previous concluding comments (A/59/38, part two, paras. 316-355).