



REFERENCE: DB/follow-up/Spain/68

28 November 2017

Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the Committee on the Elimination of Discrimination against Women (CEDAW), I have the honour to refer to the examination of the combined seventh and eighth periodic reports at the Committee's sixty-first session, held in July 2015. At the end of that session, the Committee's concluding observations were transmitted to your Permanent Mission (CEDAW/C/ESP/CO/7-8). You may recall that in paragraph 44 of the concluding observations, the Committee requested Spain to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 21 (a), (b) and (f) and 37 (c) of the concluding observations.

The Committee welcomes the follow-up report received on time in November 2016 (CEDAW/C/ESP/CO/7-8/Add.1) under the CEDAW follow-up procedure. At its sixty-eighth session, held in November 2017 in Geneva, the Committee examined this follow-up report and adopted the following assessment.

Regarding the recommendation made in **paragraph 21** of the concluding observations, in which the Committee recalls the provisions of the Convention and its general recommendation No. 19 on violence against women and urges the State party "to revise its legislation on violence against women": The State party reported on the adoption by Parliament of a non-binding proposal to amend its Organic Act of 28 December 2004 on comprehensive protection measures against gender-based violence, which aims to expand provisions on preventive, educational, social and care dimensions, as well as on criminal and civil legal treatment regarding all forms of gender-based violence against women, as required by the CEDAW General Recommendation No. 19, was accepted unanimously by the Congress of Deputies on 15 November 2016. It informed that following the adoption of this proposal, a subcommittee of the Congress of Deputies and the Senate was established, which concluded its work on 24 July 2017. It further reported that the conclusions adopted by consensus in this subcommittee will be sent to the Equality Committee of the Congress of Deputies.

Alternative information before the Committee reported on the activities of two subcommittees, and indicated that the subcommittee of the Senate is working on strategic measures to address gender-based violence against women. Alternative reports also underlined that civil society organizations have not received information in terms of a legislative proposal from the two subcommittees.

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The Committee welcomes the adoption by Parliament of a non-binding proposal to amend its Organic Act on comprehensive protection measures against gender-based violence, which aims to harmonize national legislation with General Recommendation No. 19 (1992) on violence against women. It also notes progression in the development of a legislative proposal in this regard. Regretting however that the proposal has not yet been adopted, the Committee considers that the State party has taken some steps to implement the recommendation. It considers that the State party **has been partially implemented**.

With regards to the recommendation urging the State party “to include other forms of gender-based violence [in its legislation on violence against women], such as violence by care providers, police violence and violence in public spaces, workplaces and schools”: The State party reported that following the reform of its Criminal Code, various forms of gender-based violence against women, including forced marriage and new criminal offences such as harassment, stalking and cyberbullying have been recognized. It added that the 2013 Organic Act on the Improvement of Educational Quality has led to the inclusion of education on the prevention and peaceful resolution of conflicts in all areas of personal, family and social life in basic school curricula, and added that these trainings must include the prevention of gender-based violence. It further reported that the Ministry of Education, Culture and Sport launched a strategic plan covering the prevention of gender-based violence, and that a toll-free hotline on ill-treatment or harassment at schools has been established.

Alternative information before the Committee underlined that the Organic Act on comprehensive protection measures against gender violence and corresponding action plans cover acts perpetuated by current or former intimate partners only and do thus not cover violence committed by care providers, employers of domestic service staff and other forms of violence.

The Committee takes note of the reform of the Criminal Code, expanding its coverage regarding the various forms of gender-based violence against women. It welcomes strategic action taken to prevent gender-based violence against women in schools, including through the revision of school curricula and the establishment of a free hotline on ill-treatment or harassment at school. It regrets, however, that other forms of gender-based violence, such as violence by care providers, police violence and other violence in public spaces and workplaces have not been addressed. The Committee considers that the State party has taken some steps to implement the recommendation. It considers that the State party **has been partially implemented**.

In relation to the recommendation that the State party “provide mandatory training for judges, prosecutors, police officers and other law enforcement officials on the Convention and the Optional Protocol, and on the strict application of criminal law provisions on violence against women and on gender-sensitive procedures for interviewing and treating women who are victims of violence”: The State party informed on mandatory initial training of judges and magistrates, which included in 2016 and 2017: (i) a module on gender-based violence and domestic violence, informing on legal instruments and problems in their application, as well as on their scope of competence and relations with examining courts; (ii) a module on the efforts of the General Council of the Judiciary in this area, and an introduction to the practical guide to the Organic Act on comprehensive protection measures against gender-based violence; (iii) a module outlining criminal offences relating to gender-based violence against women and respective case law, as well as on the use of protection orders and proceedings subsequent to the delivery of a final conviction. The State party further informed on internships in offices of prosecutors and courts working on cases of gender-based violence, which are mandatory to access the prosecution service. The State party also reported on mandatory specialization trainings for judicial police functions, which include a lecture on the legal aspects of domestic violence.

Alternative information before the Committee underlined that the Convention and the Optional Protocol are not tackled during the mandatory trainings mentioned by the State party. Reports also showed that initial trainings are mandatory for specialized functions only, which

results in insufficient training of substitute judges, regional and local police, legal aid attorneys, forensic assessment units, as well as psychological and health professionals. Reports further underlined that continuing education remains voluntary. Alternative information pointed out that this insufficiency results in a prevalence of sexist and discriminatory views in expert reports, judicial processes and sentences, and inadequate application of guidelines on gender-based violence.

The Committee welcomes the inclusion of legal instruments relating to gender-based violence against women in mandatory initial trainings of judges and magistrates. It also takes note of mandatory internships for prosecutors in services related to gender-based violence against women, and of lectures on legal aspects concerning domestic violence for the judiciary police forces. The Committee however regrets the lack of reference to the Convention and its Optional Protocol and the voluntary nature of continuing education on provisions relating to gender-based violence against women. It considers that the State party has taken some steps to implement the recommendation. It considers that the recommendation **has been partially implemented**.

Relating to the recommendation that the State party “collect statistical data on domestic and sexual violence disaggregated by sex, age, nationality and relationship between the victim and the perpetrator”: The State party indicated that data on sexual and domestic violence disaggregated by sex, nationality, age and relationship between the victim and the perpetrator is collected since 2000, that it is computed in quarterly statistical bulletins of examining courts and through the crime statistics system, and that it is published annually. It added that since 2016, the annual statistical bulletin contains a specific chapter on gender-based violence against women in prostitution, as well as on women victims of trafficking and sexual exploitation.

Alternative information before the Committee underlined insufficient registration and analysis of violence carried out in the absence of an ongoing or past partnership, as well as of violence against undocumented migrant women and women with disabilities. Reports furthermore pointed towards an insufficient disaggregation of data on acts against sexual liberty and indemnity, a category under which the majority of acts of gender-based violence in the State party fall.

The Committee welcomes the collection of data on domestic and sexual violence disaggregated by sex, nationality, age and relationship between the victim and the perpetrator since 2000. Regretting the limited focus of the data collected, which is restricted to violence occurring in ongoing or past partnerships, it considers that the State party has taken some steps to implement the recommendation. The Committee thus considers that the recommendation **has been partially implemented**.

The Committee recommends that, in relation to **paragraph 21** of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

1. Complete the revision of its legislation on violence against women to include all forms of gender-based violence, recalling the provisions of the Convention and its general recommendations No. 19 on violence against women and the new General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 (adopted in July 2017).

2. Include other forms of gender-based violence in its legislation on violence against women, such as violence by care providers, police violence and violence in public spaces, workplaces and schools.

3. Provide mandatory continuous education for judges, prosecutors, police officers and other law enforcement officials on the Convention and the Optional Protocol and on the strict

application of criminal law provisions on violence against women and on gender-sensitive procedures for interviewing and treating women who are victims of violence.

4. Disaggregate all statistical data on domestic and sexual violence by the absence or existence of a relationship between the victim and the perpetrator.

Regarding the recommendation made in **paragraph 37** of the concluding observations, calling upon the State party, in line with the provisions of the Convention and its general recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women, “to provide adequate treatment for women and girl asylum seekers with specific needs and adopt a gender perspective when developing programmes for assistance”: The State party reported that its Act regulating the right to asylum and subsidiary protection provides for treatment that is adapted to the specific situation of vulnerability of asylum seekers, and that, based on its article 46, special attention is to be granted to single-parent families, the elderly, people with disabilities, as well as to pregnant women and women seeking asylum for persecution based on their gender. The State party also informed on a revision of its handbook on the management of the reception and integration system for asylum seekers and beneficiaries of international protection in May 2017, with the objective to improve procedures for the detection of particular reception needs. The State party also reported on the drafting of a protocol to prevent and respond to sexual and gender-based harassment and violence in immigration centres.

The State party further informed on the amendment in February 2017 of the order regulating subsidies granted for the integration of immigrants, asylum seekers and beneficiaries of international protection, stateless persons and individuals under temporary protection, resulting in the introduction of a gender perspective as objective evaluation criterion for submitted programmes.

Alternative information before the Committee underlined insufficient resources allocated to services for asylum seekers and refugees, impeding the full application of the UNHCR guidelines on integrated strategies and the State party’s Protocols for the Protection of Trafficking Victims. Reports moreover pointed out that there is no consideration of interrelated, complementary and cumulative protection needs.

The Committee welcomes information provided by the State party on the legal basis that provides for adapted treatment to the specific situation of vulnerability of asylum seekers, including single-parent families, the elderly, people with disabilities, pregnant women and women seeking asylum for persecution based on their gender. It however regrets the reported lack of resources for the implementation of this legal basis and of related protocols. The Committee takes note of the revision of procedures to facilitate the identification of particular reception needs. It further welcomes the introduction of a gender perspective as essential criterion for the evaluation of integration programmes. The Committee considers that the State party has taken some steps to implement the recommendation. It thus considers that the recommendation **has been partially implemented**.

The Committee recommends that, in relation to **paragraph 37** of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to ensure the effective provision of adequate treatment for women and girl asylum seekers with specific needs, including by allocating qualified human and adequate technical and financial resources for corresponding services.



Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Hilary Gbedemah".

Hilary Gbedemah
Rapporteur on follow-up
Committee on the Elimination of Discrimination against Women