United Nations CEDAW/C/ESP/Q/6/Add.1

Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
23 March 2009
English
Original: Spanish

Committee on the Elimination of Discrimination against Women

Pre-session working group

Forty-fourth session

20 July-7 August 2009

Responses to the list of issues and questions with regard to the consideration of the sixth periodic report

Spain*

* The present report is being issued without formal editing.

09-27664 (E) 230309 050509

Responses to the list of issues and questions produced by the CEDAW Committee regarding the examination of the Sixth Report presented by Spain under the Convention on the Elimination of All Forms of Discrimination against Women.

No. 1.- Please provide information on the report preparation process, including whether nongovernmental organizations, particularly women's organizations, were consulted. Please indicate as well whether the report was approved by the Government and brought before Parliament.

The preparation process for Spain's Sixth Periodic Report began at the Instituto de la Mujer [Women's Institute] and comprised three work phases. The first was to collect information from the various units of the Institute itself, as well as from the various departments of the Spanish Government. The second was to ask the Autonomous Communities for input, since these have jurisdiction over the advancement of women's equity in accordance with their Statutes of Autonomy. The third was to contact the entities making up the Governing Council of the Women's Institute, whose members cooperate in the Institute's functions and purposes, and to ask for a description of their main activities to promote equality between men and women.

Information on Spain's 17 Autonomous Communities and 2 Autonomous Cities was requested using a checklist of equality policies pursued in different areas of endeavour: legislation, plans, employment, violence, etc. These checklists were attached to the Sixth Periodic Report as Appendix 2.

Since there is as yet no body participating in women's organizations, information was requested from those that participate in the Governing Council of the Women's Institute. Organic Law 3/2007 of 22 March on the effective equality of women and men creates the *Consejo de Participación de la Mujer* [women's participation council], whose membership and operating bylaws will be approved shortly.

As regards the entities of the Governing Council it should be noted that this Council has representation from the two main unions, Comisiones Obreras (CC.OO) and the Unión General de Trabajadores (UGT), and from important women's organizations such as the Coordinadora española para el Lobby Europeo de Mujeres, Mujeres Progresistas, Federación Asociada de Mujeres Rurales (FADEMUR) and Organización de Mujeres empresarias y Gerencia Activa (OMEGA). All these organizations have filled out a specially designed form, which is attached to the Sixth Report as Appendix No. 3.

The General Secretariat for Equality Policy coordinated the finalization of the report and its presentation to CEDAW.

Constitutional, legislative and institutional framework

No. 2.- The State has ratified the Convention with one reservation, which is still asserted: ratification of the Convention by Spain will have no effect on its constitutional provisions for succession to the throne. Please indicate whether the State party is considering withdrawal of the reservation.

The Crown is the subject of Title II of Spain's 1978 Constitution, which, in Article 57.1, sets out the rules of succession, whereby males enjoy greater rights than females. The Constitution itself establishes that any change in this Title would require the approval of a two-thirds majority both in the Congress and the Senate, giving rise to dissolution of the Cortes. Each of the newly elected Houses would have to ratify the decision, study the new wording of the Constitution and approve it once again by a two-thirds majority. Once that amendment was approved by the Cortes, it would be voted on by the people in a referendum.

Under an agreement of the Council of Ministers of 4 March 2005, the Government of Spain asked "the Council of State, in plenary session, for a report on the amendments to the Constitution of Spain contained in the accompanying document (…) in the terms and with the objectives of that document."

This query included a petition to the Government's highest consultative body for a pronouncement on the possibility of amending Sect. 57 of the Constitution to remove the preference for males over females in the line of succession to the throne.

Maintenance of the preference for males in the succession to the throne reflects a historical tradition which, far from being inherent in a parliamentary monarchy like Spain's, is clearly a survival of a form of discrimination against women, doubtless very circumscribed in its effect, but with an undeniable symbolic value in that is part of the constitutional arrangements pertaining to the Head of State.

The Council of State has ruled that removal of the preference for males in the succession to the throne would be agreeable to the vast majority of Spaniards and would bring us into line with other European monarchies that have anticipated us in this regard, enacting complete equality of the sexes in the line of succession to the throne.

In this advisory opinion, specific wording for Art. 57.4 of the Constitution of Spain is proposed, as follows [*translation*]:

> *"The Crown of Spain shall be inherited by the successors of H. M. Juan Carlos I de Borbón, the legitimate heir of the historic dynasty. Succession to the throne shall follow the regular order of primogeniture and representation, the first line always having preference over subsequent lines; within the same line, the closer grade over the more remote; within the same grade, the elder over the younger."*

It will also be necessary, according to the Government's high consulting body, to add a new paragraph (6) to Sect. 57, to update all references in the text of the Constitution to the King and the Crown Prince [*translation*]:

> *"All references in the Constitution to the King or the Prince shall be construed to mean either the King or the Queen, the Prince or the Princess, as the case may be."*

Even though the social and political consensus on this reform is practically unanimous, it must be kept in mind that what is sought, politically, is to carry through all constitutional changes contemplated at the same time; and these affect not just the Crown, but also, as is indicated in the query submitted by the Government to the Council of State, regulation of the Autonomous Communities,

the constitutional treatment of the process of European integration, and Senate reform.

Political will is affected by the complex reform process, which requires dissolution of the Cortes and the organization of a general election, and by the need to achieve the highest possible degree of consensus on the whole reform package.

Although adoption of Organic Law 3/2007, of 22 March, on the effective equality of women and men (hereinafter referred to as LOIE), did give rise to a certain public debate on succession to the throne, for the moment no parliamentary initiatives are planned.

No. 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 please provide information on the outcome of such cases and indicate what administrative or other remedies are available to women victims of discrimination.

Art. 53.2 of the Constitution entitles any citizen to assert a claim for protection of the freedoms and rights recognized in Sect. 14 and in division 1 of Chapter 2 (which include the right to gender equality and nondiscrimination) by means of a preferential and summary court procedure and, when appropriate, by filing an individual appeal for protection (*recurso de amparo*) with the Constitutional Court.

In accordance with this precept, the laws regulating procedures before the various court jurisdictions reflect this process, so that fundamental rights are protected by judges and tribunals through preferential and summary court procedure, without prejudice to the possibility, once the usual procedure is exhausted, of seizing the Constitutional Court with a petition for protection of the fundamental right in question.

Then, if administrative actions are taken that flout the fundamental right to equality, protection is further enhanced, as a number of avenues become available for its review:

(a) Through the administrative remedy available to the individual vis-à-vis his or her own government (appeal, review, reinstatement, Sect. 107 et seqq. of Law 30/1992;

(b) Possibility of *ex officio* review by the Government;

(c) A preferential summary procedure before the jurisdictional authority, should the Government be sued by the individual;

(d) Appeal for protection (*recurso de amparo*) to the Constitutional Court, if the individual deems his or her fundamental right to equality not to have been properly protected.

Though it has not become customary, it is more and more frequent for the Convention on the Elimination of All Forms of Discrimination to be invoked in court in actions for violation of the right to gender equality and nondiscrimination; and, similarly, the Convention is invoked as a basis for the courts' rulings. No statistics are available on how often the Convention is invoked in legal actions.

The rulings set out below cite the Convention on the Elimination of All Forms of Discrimination against Women, among other sources, as the basis of the right to gender equality and nondiscrimination:

Constitutional Court (Plenary). Ruling No. 12/2008 of 29 January.

Elections; Candidacies; Presentation: Requirement for balanced membership of women and men: purpose: to give effect to Arts. 9.2 and 14 of the Constitution in the area of political representation, in which, though men and women are officially equal, it is clear that the latter have always been materially disadvantaged; overcoming a social reality whereby women are less present in public life; a measure that does not establish reverse discrimination or affirmative action (favouring one sex over the other), but rather a formula for gender balance in which absolute parity is not sought; an even-handed approach, in that each sex is assured of a certain proportion; target audience: parties, federations and coalitions of parties and groups of electors; may legitimately, under the Constitution, be imposed on these groups; a measure that is implemented in a reasonable manner and does not hinder the exercise of fundamental rights; the freedom to stand for election is not, nor can it be, absolute; a new legal limit that is neither the only one nor unsupported by the Constitution; nature: it is neither a prerequisite for electability nor a bar to election; it does not affect the individual's right to stand for election; it does not treat either sex unfairly: it does not call for any different treatment of candidates by reason of their sex; the proportions set are the same for candidates of either sex; the measure is not based on majority/minority considerations, but on sex alone, which naturally divides any society into two groups of equivalent size; legal regulation: it does not violate political parties' bylaws or infringe the fundamental right of association; the limitation is proportionate and constitutionally legitimate, nor does it infringe political parties' ideological freedom or their freedom of expression; it does not violate the fundamental right to equality before the law, nor does it infringe the right to vote or to stand for election, or citizens' right to participate in public life, or the constitutional arrangements concerning electors and candidates.

The Constitutional Court's ruling STC 214/2006, of 7 of July granted *amparo* to the complainant, on the basis that INEM's decision to suspend her job application during her mandatory maternity leave, thereby excluding her from the eligibility list for a position for which she was qualified and so harming her chances to enter the labour market, lacked any reasonable justification and therefore discriminated against the complainant on the basis of her sex, in violation of Sect. 14 of the Constitution.

STC 182/2004, of 4 July, granted *amparo* to the complainant. The High Court ruled that it was clear from the lower court decision that the complainant's successive pregnancies and spells of maternity leave were the pretext for not assigning her more responsible legal tasks, which disadvantaged her economically, and for ultimately transferring her to a different department, and that that business decision did constitute discrimination on the basis of sex [FJ 7]. 2.- While the complainant did not supply an extensive body of evidence for the alleged harm, she fully demonstrated a causal relationship between the deeds complained of and the legally relevant motive for them (her three pregnancies) [FJ 7].

3. Justice cannot be limited to a determination of whether the unequal treatment complained of is, in the abstract, reasonably and objectively justified; rather, the trier must consider whether, in concrete terms, what appears to be a

reasonable difference in treatment does not conceal, or permit the concealment of, discrimination that is in violation of Sect. 14 of the Constitution (SSTC 145/1991, 286/1994) [FJ 7].

Supreme Court (Civil Division, Section 1). Ruling No. 173/2004 of 10 March; Ruling No. 1113/1997 of 13 December; and Ruling No. 1112/1997 of 12 December.

Appeals for annulment of an application for a title of nobility which, based on discriminatory legislation, is awarded to men. In addition to the Spanish anti-discrimination standard, international treaties are adduced which ban gender discrimination. The appeal was dismissed on the grounds that the deeds appealed from were prior to the promulgation of the 1978 Constitution. As of STC 126/1997, of 3 July, a ruling was given that the historical legislation governing the regular inheritance of titles of nobility—from which is derived the rule whereby males are preferred to females where the line or rank is equal—does not appear to contradict Art. 14 of the Constitution.

High Court of Navarre (Social Division, Section 1). Ruling No. 137/2006 of 30 May. A complaint was made of violation of the right to gender equality and nondiscrimination in working conditions, and specifically the right to professional advancement, since female workers were prevented from moving from one section to another with no objective justification whatever. The High Court confirmed the lower court decision declaring the company guilty of discriminatory behaviour.

High Court de Cantabria (Social Division). Ruling No. 1161/2005 of 14 November. A union complained of gender discrimination by company in the hiring of women in jobs where women were in the minority. In addition to the company's failure to adopt the affirmative actions envisaged in the Convention regarding the hiring of women, where perfect equality would lead to their underrepresentation in the occupational category or group in question, both direct and indirect discrimination were observed. Violation of the fundamental right to gender equality and nondiscrimination and reverse onus of proof.

Article 14 of the Spanish Constitution of 1978 establishes the right to equality before the law and freedom from gender discrimination. As a fundamental right, this enjoys the strongest protection accorded to fundamental rights, namely the appeal for protection (*recurso de amparo*) to the Constitutional Court, which may be filed as a last resort after all other procedural avenues are exhausted, in whatever jurisdiction, provided the complaint is of violation of the right to gender equality.

Until the enactment of the LOIE, reverse onus of proof was available in the social area; this means that in cases where the complaining party's allegations are based on discriminatory actions based on gender, it is the responsibility of the defendant to prove that measures adopted are nondiscriminatory and proportionate. Since the entry into force of the LOIE, reverse onus of proof has been also introduced in cases under civil jurisdiction and in contentious administrative proceedings, in those cases based on gender discrimination.

No. 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 opportunity. 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.

The Inter-Ministerial Committee on Equality between Women and Men, as a collegial inter-ministerial body, belongs to the Ministry of Equality and reports to its chair.

Its membership and operation are regulated by Royal Decree 1370/2007, of 17 October, as modified by Royal Decree 41/2009, of 23 January, which makes the Committee dependent on the Ministry of Equality in view of the recent creation of that ministry by Royal Decree 432/2008, of 12 April, restructuring ministerial departments.

The purpose of the Inter-Ministerial Committee on Equality between Women and Men is to supervise the active integration of the principle of equality of treatment and opportunities in the actions of the Spanish Government, as well as to coordinate the various ministerial departments in terms of the policies and measures they have adopted in the area of equality between women and men.

The Inter-Ministerial Committee on Equality between Women and Men shall perform the following functions:

1. Follow-up and coordination of the application of the principle of equality of treatment and opportunities between women and men in the Spanish Government by actively integrating that principle into its standards, by defining and allotting budgets for public policies, and in jointly developing all its activities.

2. Analysis, discussion and follow-up of the Strategic Plan for Equality of Opportunities, to be periodically approved by the Government in accordance with LOIE Art. 17.

3. Coordination and supervision of the production of the Government's periodic report, included in the LOIE report, on the actual observance in all of its actions of the principle of equality between women and men.

4. Follow-up and coordination of the development and application of the Gender Impact Reports and the actions of the Equality Units set up within each ministerial department, as well as women's participation (%) in representative and management positions in the Spanish Government.

5. Follow-up of the agreements entered into and the conduct of the actions undertaken within the European Union and international organizations to achieve equality between women and men and eliminate all gender discrimination, without prejudice to the relevant jurisdiction of any other bodies.

6. Such other tasks as it may be assigned by the Government.

The membership of the Inter-Ministerial Committee on Equality between Women and Men shall consist of the Minister of Equality, as chair; the heads of the General Secretariat for Equality Policy and the Under-Secretariat of the Presidency, who shall act as, respectively, first and second vice-presidents of the Committee; and the following members: the heads of the Under-Secretariats of all ministerial departments; the head of the Special Delegation of Government on Violence against Women; the head of the Directorate General for Equality in Employment; the head of the Directorate General against Discrimination; the head of the Directorate

General of the Women's Institute; a representative of the Ministry of the Presidency, ranking as a Director General, designated by the head of the Ministry; a representative of the General Secretariat for Employment, ranking as a Director General, designated by the head of the General Secretariat.

The Ministry of Equality was created by Royal Decree 432/2008, of 12 April, which, in restructuring the ministerial departments, empowered the Ministry to recommend and execute Government policies in favour of equality and against all forms of discrimination and gender violence. In particular, it devises and develops actions and measures intended to ensure equality of treatment and opportunities in all spheres, especially between women and men, and encouragement of women's participation in society and politics.

Royal Decree 1135/2008, of 4 July, which sets the basic organic structure of the Ministry of Equality, establishes the reporting relationship of the Women's Institute and the Council on Women's Participation to the Ministry of Equality through the General Secretariat for Equality Policy, the executive authority of that Ministry.

As regards the Strategic Plan for Equality of Opportunities (2008-2011), it should be noted that it was approved by the Government in the Council of Ministers on 14 December 2007 and constitutes the main instrument of development of the above-mentioned Organic Law within the ambit of the Spanish Government; it is valid for four years (2008-2011). This Strategic Plan has twelve foci: participation in political and social life; economic participation; co-responsibility; education; innovation; knowledge; health; image, awareness of diversity and social inclusion; gender violence; external policy and cooperation policy, and protection of the right to equality.

These twelve foci shall be governed by four guiding principles, forming the Plan's basic framework: redefinition of a citizenship model suited to modern times, empowerment of women, gender mainstreaming, and recognition of scientific and technical innovation as a force for social change. Each Focus shall comprise an explanatory theoretical framework, a diagnosis of the situation, strategic objectives, and proposals for action. The budget of the Strategic Plan for Equality of Opportunities for actions funded by the Spanish Government during the 2008-2011 period is 3,690,249,738 euros.

As regards the Council on Women's Participation, regulations are in the process of being established for its mode of operation, jurisdiction and membership.

Finally, it should be noted that that all these institutions are under the supervision of the Minister of Equality.

No. 5.- The report mentions, in paragraph 5, 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.

Article 11 of LOIE provides that, to give effect to the constitutional right to equality, public authorities shall adopt specific measures for the advancement of women, to correct patent inequalities in their real situation as compared to men's.

Such measures, which shall be applicable so long as these inequalities persist, shall be reasonable and proportionate to the objective pursued in each case. Private natural and legal persons many also adopt such measures, under the conditions set out in the law.

Thus, it is laid down in Article 14.6 that in view of the peculiar difficulties encountered by women of especially vulnerable communities, for example minorities, migrants, girls, women with disabilities, seniors, widows and victims of gender violence, public authorities may also take affirmative action measures.

The law goes on to cite concrete situations in which public authorities shall take affirmative action measures:

According to Article 26.1(e), public authorities shall take affirmative action measures in favour of women's artistic and intellectual creation and production, fostering cultural, intellectual and artistic exchanges, both domestically and internationally, and the signing of agreements with the appropriate organizations.

Article 32.3 states that the Spanish Government shall promote affirmative action measures that make for significant changes in terms of implementation of the principle of equality, both on the part of the Government itself and under its mandate for development of cooperation in Spain's development.

Article 43 provides that, in accordance with law and through collective bargaining, affirmative action measures may be taken to promote women's access to employment and the effective application of the principle of equality of treatment and nondiscrimination in working conditions between women and men.

Finally, the Eleventh Additional Provision amending the Statute of Workers' Rights adds a new paragraph to the wording of section 27, which establishes that, notwithstanding the provisions of the previous paragraphs, collective bargaining may establish affirmative action measures to facilitate women's access to all professions. For that purpose, reservations and preferences may be established in the hiring conditions, so that, qualifications being equal, preference in hiring is given to persons of the sex less well represented in the group or vocational category concerned.

In addition, such measures may be established through collective bargaining in the area of professional classification, promotion and training arrangements, so that, qualifications being equal, preference in hiring is given to persons of the sex less well represented in the group, vocational category or job concerned.

No. 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.

First, LOIE sets the conditions for women's participation in political life on the basis of the principle of balanced presence or membership. Its purpose is to ensure adequate representation of both sexes in responsible bodies and positions and to prescribe the overall electoral system, which will reflect recent international accords in that regard and make progress toward guaranteeing a balanced presence of women and men among elected officials, for the fundamental purpose of improving the quality of political representation and, hence, of our democracy itself.

In addition, the *Strategic Plan for Equality of Opportunities (2008-2011)* has as one of its priority areas of action women's participation in political, social and economic life. Its mandates call upon public authorities to attain the following strategic objectives

- To increase women's participation in decision-making and political representative positions so as to achieve a balance of women and men.
- To increase women's participation in representative and managerial positions within the national government.
- To increase women's participation in managerial and responsible positions in the judiciary.
- To increase women's participation in corporate management.
- To increase women's participation in managerial and responsible positions in the media.
- To remove obstacles to women's participation.
- To set up Equality Units within ministries.
- To facilitate the work of the Monitoring Units on Equality.
- To act to enhance women's employability, the quality of their employment and wage equity.
- To see that women and men have equal opportunities and encourage socially responsible actions in the corporate world.
- To promote entrepreneurship and economic empowerment of women.
- To analyse and measure women's and men's participation in economic life: seeking equality for women.

No. 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 or fewer inhabitants (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.

The Spanish Federation of Municipalities and Provinces, which has an equality unit, reports a beneficial effect of the law on effective equality in that there has been an increase in the proportion of female mayors and municipal councillors in all of Spain's municipalities—among mayors, the percentage rose from 12.56% in 2003 to 14.60% in 2007, and among municipal councillors the change was from 25.53% in 2003 to 31% in 2007.

In municipalities with fewer than 5,000 inhabitants, where the effective equality law did not require electoral lists with balanced representation (40/60), the federation reports that the great majority nevertheless had balanced lists, and indeed many of them had more female candidates than male. There are, they suggest, two main explanations for this: 1- that the effective equality law had a coattails effect, or

2- that because these were political positions without much power, they were of little interest to men. The second explanation is perhaps the more plausible, but studies would need to be done to confirm it.

- The number of women councillors was 11,427, or 27% of the total.
- The number of women mayors was 872, or 14.84%.
- The councillor categories with the greatest representation of women were:
  1. Equality/Women's issues: 88.94%
  2. Social services: 56.61%

The categories with the least representation of women were:

1. Town planning and public works: 13.68%
2. Environment: 16.64%

All women's participation in political life is highly subject to the division of power by political parties when drawing up their electoral lists for elections, whether local, national or for the Autonomous Communities. Though it is true that the effective equality law has brought about greater representation of women, positions of power continue to be mainly assigned to men, so that the stereotyped "feminine" or "masculine" roles remain largely unchanged.

In small municipalities, grassroots associations, mainly of women, are significantly expanding women's presence in political life; women are being greatly "empowered" through the creation of networks that are themselves combining to form an ever stronger network.

No. 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.

Compared to the proportions found elsewhere, the percentage of women in the diplomatic corps is increasing, as in 2008 they accounted for 19% thereof. According to the recent Ministry of Foreign Affairs data (October 2008) an increase may be noted relative to the 2006 data included in the Sixth Report.

	Total, both sexes	*Total, women*	*Percentage of women*
Ambassadors and Permanent Representatives	128	17	13.28
Ambassadors on Special Mission	22	8	36.36
Second secretaries, diplomatic missions	129	20	15.50
Consuls-General	89	3	3.37

The Kingdom of Spain's national plan for the implementation of Resolution 1325 of the United Nations Security Council (2000) on Women, Peace and Security, approved in November 2007 and referred to in the Sixth Report, calls for the follow-up and evaluation of its measures by an interministerial group. That group was formed in April 2008, drawing its membership from the Ministry of Foreign Affairs and Cooperation (including the Spanish International Development Cooperation Agency (AECID)), the Ministry of Defence, the Ministry of the Interior, the Ministry of Justice, the Ministry of Education, Social Policy and Sport, the Ministry of Health and Consumer Affairs, and the Ministry of Equality.

Among the measures contained in this plan are the promotion of the presence of women on peacekeeping missions and their training in equality between women and men. In 2008 the proportion of women on international missions was 7.5%.

Currently, work is beginning on the first follow-up report on implementation of the Plan.

The Ministry of Defence has published Resolution 1325 and the national plan on the Web site of the *Observatorio de la Mujer en las Fuerzas Armadas* (Women's Observatory for the Armed Forces), and is encouraging the presence of women in such areas as tribunals and assessment boards; at the same time, considerable effort is being made to facilitate their deployment on foreign missions.

AECID, for its part, is about to publish its *Plan of Action on Women and Peacebuilding*, developed by the Directorate General for Planning and Evaluation of Development Policies (DGPOLDE), a unit of the Ministry of Foreign Affairs and Cooperation, as a proposed implementation of Resolution 1325 for all sectors involved in Spanish cooperation efforts.

Finally, in recent years there has been a substantial increase in participation by highly qualified Spanish women (attorneys, nurses, professors etc.) as international observers of elections in Central America, Bosnia-Herzegovina and Kosovo, and as cooperants in reconstruction programmes following armed conflicts.

Regarding the judiciary, we can supply data from the General Council of the Judiciary:

	31-12-2006		*31-12-2007*	
	Both sexes	*% women*	*Both sexes*	*% women*
Supreme Court Magistrates	80	8	75	7
Magistrates	3,748	43	3,873	45
Judges	612	65	617	64
Totals	4,440	45.7	4,565	46.5

The Women's Institute publication *"Las mujeres en cifras 1983-2008" [Women in Figures 1983-2008]* gives the following analysis of the situation of women in the judiciary: in 2006 women made up 45.52% of the profession, an increase of more than 14 percentage points since 1995. In spite of this increase, it is observed that for each year of the study, the higher the level in the judiciary, the lower the percentage of women falls, so that at the level of judge women are in the majority—in 2006, 65.22%—whereas on the Supreme Court women had a meagre 7.41% representation.

REPRESENTATION (%) IN THE JUDICIARY

	1995		*2002*		*2006*	
	Both sexes	***% Women***	***Both sexes***	***% Women***	***Both sexes***	***% Women***
TOTAL	3,386	31.02	4,200	39.71	4,695	45.52
President of the Supreme Court	1	0	1	0	1	0
Supreme Court Magistrates	96	0	95	0	81	0
Magistrates	2,543	27.85	3,226	35.77	3,741	43.14
Judges	549	50.09	685	65.26	624	65.22
Total officials on active duty	**3,192**	**30.86**	**3,997**	**39.85**	**4,447**	**45.58**
Supreme Court Magistrates on leave of absence	6	0	1	0	1	0
Magistrates on leave of absence	35	5.71	63	19.05	71	22.54
Judges on leave of absence	152	41.45	149	44.97	176	53.41
Total officials on leave of absence	193	33.68	213	37.09	248	44.35

Source: Women's Institute, using data from the General Council of the Judiciary.

WOMEN'S PARTICIPATION (%) IN VARIOUS CONSTITUTIONAL BODIES

	1992		*2000*		*2004*		*2007*	
	Both sexes	***% Women***	***Both sexes***	***% Women***	***Both sexes***	***% Women***	***Both sexes***	***% Women***
Council of State					28	0	30	6.67
General Council of the Judiciary					20	10.00	18	11.11
Court of Accounts	14	7.14	14	7.14	14	7.14	14	7.14
Central Elections Board					14	7.14	14	7.14
Economic and Social Council	61	4.92	61	9.84	61	14.75	61	15.25

Source: Women's Institute, using data from the senior positions file (FICESA). Constitutional Court data are taken from its Web page.

As regards measures undertaken in the judicial realm, in April 2007 the Plenary Session of the General Council of the Judiciary (CGPJ) unanimously approved the creation of the *Equality Committee* in compliance with the Third Additional Provision of the Organic Law on effective equality of women and men.

The duties of this Equality Committee are to advise the Plenary Session of measures needed to actively integrate the principle of equality between women and men into the exercise of the prerogatives of the General Council of the Judiciary and, in particular, to draw up advance reports on the gender impact of regulations. It must also attempt to improve equality conditions in the legal profession and to improve and further conciliation.

Recently, equality policies in the Armed Forces have achieved a very substantial improvement in the enlistment of women in the army. In comparison with the data of the Sixth Report, a very notable increase was found. Overall, the proportion of women was 12.3%, and they held close to 6% of command positions.

The following data are from the annual report for 2007-2008 of the *Observatorio de la Mujer en las Fuerzas Armadas*:

	% Women	*Greatest number of jobs per category*	
Officers	5.61	Commanders	148
Noncommissioned officers	1.17	Brigadier	1
		Sergeant 1st class	30
Private/seaman	18	Corporal 1st class	748

The following gives the strength of the armies and common corps broken down by sex:

	Proportion of women	*Proportion of men*
Land	24.28	75.72
Navy	13.06	86.94
Air	20.48	79.52
Common corps	33.19	66.81

This increase came about as a result of various endeavours undertaken in recent years, chief among them being:

– Creation of an atmosphere conducive to women's participation.

– Establishment of balanced membership on evaluation committees to facilitate increased female enlistment.

– Social awareness efforts, through advertising campaigns such as "Las Mujeres en las Fuerzas Armadas."

– Observation of March 8, International Women's Day.

– Promulgation of laws and standards on maternity and paternity in the armed forces.

– Opening of kindergartens and other services to facilitate women's participation.

– Training activities on gender mainstreaming and human rights using European Union, UNIFEM and INSTRAW guides.

Violence against women

No. 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 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 Organic Law 1/2004 (para. 361). Please describe the measures undertaken by the State party and the results achieved to eradicate violence against women.

29 June 2008 marked the third anniversary of the entry into force of the whole of Organic Law 1/2004 of 28 December on measures for integral protection against gender violence (hereinafter, the Integral Law). Consequently, to give effect to its Eleventh Additional Provision, the Government, in cooperation with the Autonomous Communities, has drawn up an assessment report on the effects of its implementation on the effort to combat gender violence. That report is attached; it summarizes the measures taken since the enactment of the Integral Law by local, regional and State governments. [Appendix 1]

It emphasizes the commitment generated by the Integral Law among the citizenry, institutions, the various professional teams and, especially, victims of gender violence. It sets out the measures taken during this period by the various governments having jurisdiction—the Government of Spain, the Autonomous Communities and the Autonomous Cities of Ceuta and Melilla—, and by the public prosecutor and the judiciary.

The work done to implement the Integral Law has been intense, as evidenced by the 63 meetings of the Council of Ministers at which measures for its implementation were adopted. During this period, in addition to the development of regulations, in order to make the measures more effective the Government took new, urgent actions and measures that were approved by the Council of Ministers: "Agreement on the adoption of urgent measures to combat gender violence" of 15 December 2006, "Agreement on the adoption of additional measures to combat gender violence" approved 2 March 2007, and "Agreement on the adoption of actions to give effect to the proposals approved unanimously by the Congress of Deputies in the area of gender violence", approved 22 June 2007. More than 20 conference and sectoral meetings were held with the Autonomous Communities, at which the subject was thoroughly gone into.

Some of the measures taken were: (For a complete list of the measures taken, see the three-year report)

Awareness and prevention measures including approval of the national gender violence awareness and prevention plan

Measures set in motion in the areas of advertising and media

Training of professionals

Measures set in motion to guarantee the right to information, including the "016" telephone information and help line

Measures to guarantee the right to full social assistance, through the creation of the 2005 and 2006 funds, and implementation of innovative projects at the local and Autonomous Communities level such as the Mobile Tele-Help Service

No. 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.

Granting of a protection order:

A protection order may be requested by any person subjected to physical or mental violence by a spouse, ex-spouse or person in a similar relationship or children or parents, as well as by such a person's legal counsel or immediate family. By the public prosecutor or judge

The order is requested using a single form, available at police stations, family court and social services offices of municipalities, autonomous communities or states, the public prosecutor's office or victim services units.

It is submitted to the family court or the public prosecutor's office, law enforcement personnel, victim services units or government social services offices and assistance organizations. Where assistance entities or organizations become aware of domestic violence situations, they shall immediately bring them to the attention of the examining magistrate or public prosecutor.

The procedure for granting a protection order is as follows: The examining magistrate hears the victim, his or her legal counsel, the requester, the public prosecutor and the aggressor, assisted where appropriate by a lawyer, in an emergency hearing held within no more than 72 hours of the application's being made. The judge hears the parties separately.

After the hearing, the examining magistrate rules on the application for protection and on the content and duration of the associated measures.

The protection order is served on the parties and immediately communicated by the judge to the victim and the competent public authorities so that timely protective measures may be taken.

The order is entered into the central register for the protection of victims of domestic violence.

The protection afforded is as follows:

Penal measures: Depending on the circumstances, the judge may grant pre-trial detention of the presumed aggressor, removal and barring of the aggressor from the family home, prohibition from residing in or going to certain places, prohibition of coming near or communicating with the victim, and suspension of the right to keep or bear arms.

Civil measures: These must be requested by the victim or the victim's legal counsel or, where minors or incapable persons are involved, by the public prosecutor, provided they have not already been granted by a body with civil jurisdiction. They may consist of assignment of the use and enjoyment of the family dwelling, determination of custody arrangements, visits, communication and time spent with the children, and maintenance arrangements. In exceptional cases the judge may authorize the women to arrange with a public agency or corporation to move from the family home co-owned with the presumed aggressor to alternate accommodation.

The civil measures contained in the protection order shall be valid for 30 days. To extend them for a longer time, an application for separation, divorce, annulment, child custody or alimony must be filed within that period. In such case, the measures shall remain in effect for 30 days following receipt of the application, during which period the civil judge shall decide whether or not to keep them in effect.

Once granted, the protection order affords other rights:

- Renta Activa de Inserción (minimum income) including assistance with a change of residence to give effect to women's protection.
- The economic assistance set out in Article 27 of the Integral Law, together with the aid provided in this regard by the Autonomous Communities.
- Labour and social security rights:
- Reduction or rescheduling of working hours, geographical mobility, change of workplace, suspension of employment with their position reserved, and termination of the employment contract with unemployment rights. Suspension or termination of the employment relationship entitle the person to unemployment benefits provided the basic requirements are met.
- Absence or lateness owing to the physical or mental state caused by gender violence shall be considered justified.
- Self-employed workers who cease work for their protection or to secure their right to integral social assistance may suspend their obligation to contribute for six months.
- Application for a residence permit on account of exceptional circumstances, which will only be granted when the judgement is, and application for independent residence permits for regrouped family members.

The order is entered into the central register for the protection of victims of domestic violence.

Percentage of protection orders granted to foreign women from the third quarter of 2005 to the second quarter of 2008:

05-Q3	*05-Q4*	*06-Q1*	*06-Q2*	*06-Q3*	*06-Q4*	*07-Q1*	*07-Q2*	*07-Q3*	*07-Q4*	*08-Q1*	*08-Q2*
30.2	29.4	30.3	31.9	32.3	31.1	32.4	35.3	35.6	35.6	34.9	36.9

Source: "JUDICIAL STATISTICS ON ENFORCEMENT OF ORGANIC LAW 1/2004: SUMMARY OF THE FIRST THREE YEARS OF THE INTEGRAL LAW" (General Council of the Judiciary, 2008)

No. 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.

Both the special prosecutor's office for violence against women and the gender violence courts called for in the Integral Law are now in operation.

The Divisional Prosecutor for Violence against Women was appointed under Royal Decree 872/2005, of 15 July.

Specialized Violence against Women courts were phased in beginning in June 2005. As of June 2008, the organization of Violence against Women courts consisted of 92 courts dealing exclusively with such cases and 366 that also deal with other cases corresponding to their criminal jurisdiction.

- Both institutions have issued numerous circulars and have held coordination meetings to ensure that both the courts and the special prosecutor's office are

working properly. The following documents are attached as a brief explanation of their activities: *Guía de criterios de actuación judicial frente a la violencia de género* (General Council of the Judiciary, 2008 [Appendix 2])

- Prosecutor General's Office, *Memoria* (2006), 321-339; *Memoria* (2007), p. 347-402; *Memoria* (2008), p. 480–519. [Appendices 3, 4 and 5]

No. 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).

Whenever a death occurs because of gender violence, or when a particularly important case comes to light, either because of the seriousness of the injuries or the alarm it causes in society, the Government's legal services shall appear for the prosecution, in the person of the Head of the Special Delegation of Government on Violence against Women, in defence of the rights and interests of the victims' families, under the authority vested in it by the Integral Law. Between July 2005 and June 2008, the Special Delegation appeared in 163 criminal cases.

Trafficking and exploitation of prostitution

No. 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).

To avoid any incidence of sex tourism to or from Spain, the Integral Plan to Combat Human Trafficking provides for information and awareness activities focusing on travel agencies and organizers of events, sports meets, conferences and other well-attended national or international meetings; further, to deter demand, the Plan calls for a specific measure whereby companies, institutions and organizers of public and professional events will be informed and made aware of human trafficking.

For that purpose, workshops and seminars will be organized for the various business and professional sectors, focusing on prevention and demand reduction and promoting self-regulation and control. Specific information campaigns will be designed specify for the sector comprising travel agencies, institutions and organizers of well-attended events. Thus, the following is set as Objective No. 2 in the Plan (Area 1): To make society aware of the problem of human trafficking for purposes of sexual exploitation, to send a clear, powerful message that this is a violation of fundamental rights, and to eliminate any trace of permissiveness, promoting social rejection and zero tolerance of human trafficking.

Objective 2 defines three actions:

1. Development and implementation of communications campaigns for the whole of society on the violation of the fundamental rights of women working as prostitutes and of the victims of human trafficking for purposes of sexual exploitation.

The units responsible for this measure are: the Ministry of Labour and Immigration, the Ministry of Education, Social Policy and Sport, and the Ministry of Equality.

2. The Government of Spain will seek to have 18 October celebrated as an international day against trafficking in human beings. The units responsible are the Ministry of Foreign Affairs and of Cooperation and the Ministry of Equality.

3. Promote control of singles advertisements in communications media. This is to be done by the Ministry of the Presidency and the Ministry of Equality.

No. 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.

The Integral Plan to Combat Human Trafficking for Purposes of Sexual Exploitation (2008-2011) was approved by the Council of Ministers of the Government of Spain on 12 December 2008.

An Interministerial Coordination Group has been set up, chaired by the Minister of Equality, to implement and follow up the Plan. Other group members are the Ministries of Foreign Affairs and Cooperation, Justice, the Interior, Education, Social Policy and Sport, Labour and Immigration, and Health and Consumer Affairs, with the following duties: - Follow-up and evaluation of the actions in the Plan. - Development of proposals.

- Coordination with the forum to combat human trafficking for purposes of sexual exploitation.
- Presentation of proposals and conclusions to the human rights plan monitoring committee
- Approval of an annual memorandum, to be submitted as a report to the delegated Equality Committee and the Council of Ministers.

Once set up, the group will meet periodically, at least quarterly.

At its first meeting a list of priorities was drawn up, the first of which was the legislative changes proposed in the Plan.

The various Departments and Institutions involved in the Plan's implementation shall submit half-yearly follow-up reports to the Interministerial Group.

No. 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.

The Spanish Government's Strategic Plan for Equality of Opportunities (2008-2011) calls for a series of actions focusing on various objectives in various spheres—called strategic foci—aimed at successfully eliminating the prejudices that persist in Spanish society and which perpetuate the idea of the inferiority or superiority of one of the sexes or stereotyped images of men and women.

Hence, the Strategic Plan diagnoses the situation as follows [*translation*]:

> *"Spanish society is still imbued with stereotypes and gender and roles that place women at a disadvantage to men and make it difficult for them to enjoy their full rights as citizens. This discrimination is unacceptable, but will perpetuate itself unless society as a whole decides to eradicate it, not just for reasons of democratic justice, but also to avoid the waste involved, for a society that aspires to be advanced and modern, in ignoring the ability, intelligence and contributions of half of its citizenry."*

In line with the Plan's strategic foci, the following are the objectives aimed at and the concrete actions planned for the elimination of stereotypes in specific areas:

Politico-social participation:

Objective: To remove obstacles to women's participation.

Actions: In the educational system, promote leadership and decision-making ability among both girls and boys and eliminate stereotypes that exclude women from positions of responsibility and decision-making authority.

Economic participation:

Objective: To enhance women's employability, job quality and wage equity.

Action: Conduct occupational training activities on equal opportunity, for women and men, with the goal of changing gender stereotypes that lead to unequal treatment of women in the labour force.

Education:

Objective: To implement coeducation in education centres' educational projects.

Action: Promote coeducation training programmes for education centre staff that focus on the elimination of prejudices, stereotypes and gender-based roles, in order to ensure full development of the student body.

Objective: To foster the design and implementation of nonsexist orientation programmes that promote course selection in a nondiscriminatory way.

Action: Encourage professional information and orientation campaigns that counter sexist stereotypes, proposing role models, both men and women, in spheres where one sex or the other is still poorly represented.

Innovation:

Objective: To design activities aimed at making the Internet a zone of freedom that will favour the enlargement of women's ambitions, becoming a tool for changing stereotypes and gender relationships.

Objective: For public authorities, to assume a leadership role by incorporating women as protagonists, through actions that facilitate their participation in technological areas, the acquisition of the necessary skills (technological fluency) and the inclusion of vulnerable groups.

Action: Step up women's presence on the Internet, promoting portals, pages and content that reflect their interests and needs and focus on their diversity:

- That build up women's entrepreneurial initiative, making use of the Internet's cost and communications capacity advantages.
- That create networks and design content, languages, and models that highlight women's needs and perspective.
- That act as a tool for changing stereotypes and helping to change gender relationships.
- That help reinforce women's empowerment and self-esteem.
- That help defend their rights through the creation of networks.

Action: Give visibility to positive models of creative female users that defy the "male and misogynistic" stereotype and will help lay to rest the myth of women's lack of technological skills.

Health:

Objective: To promote gender mainstreaming in the area of health policy while advancing specific women's health policies.

Action: Carry out a study on the effect of gender stereotypes on the health care provided by SNS and of the attitudes of caregivers to gender inequalities, in order to identify difficulties and opportunities and approach the necessary changes.

Image:

Objective: To promote egalitarian models in which the main social stakeholders are involved (communications media, education, peer group, family environment etc).

Action: Carry out social awareness actions on responsible consumption of goods and services that are not advertised by means of sexist stereotypes.

Objective: To see to it that in their programming, the RTVE corporation and the EFE agency, as well as the public broadcasters of the Autonomous Communities, pursue the objectives laid down in Articles 37 and 38 of the Organic Law on effective equality between men and women.

Action: Carry out studies and analyses of particularly damaging content, such as video games, gossip programmes, and magazines and other publications for adolescents, which materially reinforce sexist roles and stereotypes and even violence against women.

Violence:

Objective: To enhance ways of building awareness of and preventing gender violence and increase society's involvement in combating it through better knowledge of its causes and consequences.

Action: Form school inspection working groups to review the content of textbooks and teaching materials, with the goal of eliminating sexist stereotypes and encouraging equality between men and women.

No. 16.- With reference to paragraph 75 of the report, please provide updated information on the progress made by the Advertising Commission in the preparation of a protocol that will "unify" the State party's measures in avoiding "sexist advertising."

In 2007, the advertising committee of the Observatorio para la Igualdad de oportunidades entre mujeres y hombres [Observatory for Equal Opportunities between Women and Men] commissioned a study from a research team headed by Prof. Dr. María Teresa García Nieto and Prof. Dr. Carlos Lema Devesa, for the purpose of establishing a "Guía de intervención ante la publicidad sexista" [Action Guide on Sexist Advertising].

The guide has a dual purpose. First, it seeks to establish criteria for detecting sexist advertising, especially in the light of the existing legislation (in its various spheres: community, nation and Autonomous Communities), but also with regard to the objective content that determines whether an advertisement may, concretely, be considered "sexist".

The guide focused on production of a protocol whereby public authorities' actions could be channelled should a sexist advertisement be detected, with due regard to the varying jurisdiction of the different authorities (central, local and Autonomous Communities) and the existence of private self-regulation bodies, an example of which, in Spain, is the Asociación para la autorregulación de la comunicación comercial, a business association with membership that includes advertising agencies, advertisers and communications media.

The study was delivered in July 2008 and approved by the advertising group, having been published in December as part of the Women's Institute's Observatorio collection (No. 12). It can now also be found on the Women's Institute Web page at <http://www.migualdad.es/mujer/mujeres/igualdad/index.htm>.

No. 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.

An Equality Unit has been created within the Ministry of Education, Social Policy and Sport in accordance with provisions of Organic Law 3/2007 of 22 March on the effective equality of women and men.

That Equality Unit is charged with:

- Developing studies and technical reports on equality policies.
- Providing advice and technical support to the various units making up the Ministry of Education, Social Policy and Sport.
- Coordinating the Ministry's actions in the area of equal opportunity.
- Cooperating with other authorities and entities to encourage equal opportunity in education.

The Strategic Plan for Equality of Opportunities, besides, has as one of its strategic objectives:

Objective 11: Foster the design and implementation of nonsexist orientation programmes that promote course selection in a nondiscriminatory way.

Actions included under this Objective:

1. Promote specific training programmes in nonsexist, nonracist guidance for guidance counsellors.

2. Provide incentives for the design of vocational guidance manuals for the student body that incorporate the gender perspective and an intercultural vision.

3. Encourage professional information and orientation campaigns that counter sexist stereotypes, proposing role models, both men and women, in spheres where one sex or the other is still poorly represented.

4. Develop guidelines for action for universities and occupational training centres that focus specifically on nonsexist, nonracist guidance in the fields of student information, recruitment and guidance.

No. 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.

In this regard the regulations under Organic Law 4/2000 of 11 January, on housing, education, employment and health, are of great importance.

(a) Right to education: Art. 9 provides that foreigners under eighteen years of age have the right and duty of education on the same footing as Spaniards. In the case of childhood education, which is voluntary, public authorities guarantee that there will be sufficient spaces to allow for the schooling of the foreign population that so requests. Further, resident aliens are entitled to nonmandatory education on the same footing as Spaniards. The law expressly mandates public authorities to publicize the fact that resident aliens in need of education to enhance their social integration can receive it with recognition and respect for their cultural identity.

(b) Right to work: Foreigners who meet the requirements laid down in this Organic Law and its subsidiary provisions are entitled to have gainful employment, as employees or self-employed, as well as access to the social security system, in accordance with the legislation in force. Resident aliens in Spain have access to employment with the public authorities on the same footing as nationals of the member States of the European Union, in accordance with the constitutional principles of equality, merit and ability and the principle of publicity. Hence, they may apply in the public employment competitions held by public authorities.

(c) Right to housing: Art. 13 grants resident aliens in Spain the right of access to the public system of housing assistance on the same footing as Spaniards.

(d) Right to social security: Art. 14 recognizes resident aliens' right to social security benefits and services and other social services and benefits, both general and basic ones and more specific ones, on the same footing as Spaniards.

FACULTY OF OWNED CENTRES OF PUBLIC UNIVERSITIES BY CATEGORY

	Academic Year	*2002-2003*	*2003-2004*	*2004-2005*	*2005-2006*	*2005-2007*
Absolute data—Both sexes	**Total**	**86,105**	**87,879**	**90,267**	**91,877**	**95,114**
	Department heads [catedráticas/os], total	10,607	11,173	11,183	11,137	11,075
	Professors [catedráticas/os de universidad]	8,259	8,669	8,693	8,666	8,692
	Associate professors [catedráticas/os de escuelas universitarias]	2,348	2,504	2,490	2,471	2,383
	Associate professors [profesoras/es titulares], total	39,611	40,395	40,555	40,094	39,844
	Associate professors [profesoras/es titulares de universidad]	27,256	28,078	28,285	28,046	28,028
	Senior lecturers [profesoras/es titulares de escuelas universitarias]	12,355	12,317	12,270	12,048	11,816
	Senior lecturers [asociadas/os]	29,769	28,959	29,179	28,962	28,008
	Lecturers					
	Assistants	2,849	3,060	3,760	4,388	4,568
	Emeritae/Emeriti	327	345	380	405	380
	Tutors [maestras/os de taller]	73	71	65	59	66
	Collaborators [colaboradoras/es]	507	977	1,164	1,916	3,383
	Visiting professors [profesoras/es visitantes]	377	394	331	421	448
	Other, not specified	1,985	2,505	3,650	4,495	7,342
% Women	**Total**	**34.20**	**34.50**	**34.85**	**35.14**	**35.78**
	Department heads [catedráticas], total	17.11	17.59	18.03	18.11	18.43
	Professors [catedráticas de universidad]	12.91	13.39	13.67	13.96	14.36
	Associate professors [catedráticas de escuelas universitarias]	31.90	32.11	33.25	32.66	33.28
	Associate professors [profesoras titulares], total	37.11	37.71	37.84	38.06	38.12
	Associate professors [profesoras titulares de universidad]	35.36	36.14	36.33	36.53	36.68
	Senior lecturers [profesoras titulares de escuelas universitarias]	40.97	41.31	41.34	41.62	41.54
	Associate professors [asociadas]	34.41	34.12	34.14	34.10	33.92
	Lecturers					
	Assistants	48.75	48.89	48.56	47.58	48.16
	Emeritae	8.56	11.59	12.37	16.05	13.68
	Tutors	8.22	8.45	10.77	10.17	15.15
	Collaborators	44.97	41.35	40.03	40.66	43.78
	Visiting professors	34.48	35.28	36.25	39.43	41.52
	Other, not specified	45.79	45.99	45.70	45.14	45.97

Over the past five years, Equality Units have been being set up in Spain's largest universities, with the goal of combating the horizontal and vertical segregation of Spain's university faculty. The Women's Institute is acting as coordinator of these units, getting them together and trying to establish a working network. There is also discussion of the possibility that these Equality Units could compete for the grants announced by the Women's Institute.

The Strategic Plan for Equality of Opportunities, besides, has as one of its strategic objectives:

Objective 2: Promote the balanced presence of women and men in management, participation and decision-making functions in the educational system.

The following actions are involved:

1. Promote awareness and training activities and provide incentives to facilitate women's access to decision-making and management positions throughout the educational system.

2. Implement work/family/personal life balance measures in order to promote the balanced presence of women and men in all participatory areas of the educational system.

3. Foster the creation of advisory and follow-up committees on equal opportunity between women and men.

4. Seek a balanced presence of women and men in centres, in the various curricular disciplines, educational levels and management functions.

With respect to the data requested by the Committee, it should be noted that no official statistics can be provided on Roma women and girls, as these are sensitive data that enjoy special constitutional protection. The data provided below are estimates supplied by the Fundación del Secretariado Gitano.

As regards higher education, relatively few Roma of either sex have yet obtained university degrees. Scant data are available on graduate and postgraduate levels, and those that have been supplied by the few investigations and surveys done between 1992 and 2005 need to be treated with a certain caution.

- The estimated data that are available on primary education among Roma children and youth are as follows. Normalization of Roma student body as regards access to school: 90.76%.
- Normalization as regards required curricular level: 70.00%.
- Normalization in their social relations in the classroom: 57.10%.
- Normalization in terms of adapting to school rhythms, routines and standards: 67.11%.
- Normalization in terms of family participation in school affairs: 43.00%.
- Normalization in terms of obtaining the right to be different: 48.12%.

As regards secondary education, the information available is as follows:

- Of all Roma students beginning the first year of ESO (compulsory secondary education), some 80% drop out before finishing the last year.

- The highest dropout rate is among boys, especially in the first years.
- Roma girls tend to drop out mainly at the transition from primary to secondary school. The academic situation of the Roma student body presents greater difficulties than that of the non-Roma.
- 31.9% of the Roma student body pass all subjects, as opposed to 58.1% of the non-Roma student body.
- 39% of the Roma student body attend compensatory education programmes, as opposed to 14% of the non-Roma student body.
- 68.4% of Roma girls and boys are more than two years out of phase with their classmates, as opposed to 25.8% of non-Roman boys and girls.
- Roma girls attending school are achieving better results than Roma boys.

The causes of truancy are different between Roma girls and Roma boys. Factors like social pressure, the negative view of school taken by the families, the dedication to housework and a certain conception of the woman's role have greater weight among Roma girls, while among Roma boys lack of motivation and exclusive interest in paid work are the main factors.

Again, the lack of Roma role models with medium- or high-level education or employment and the scarcity of economic resources among Roma families have a negative impact on their staying in school.

With regard to estimated data on Roma university students, it must be admitted that there are no reliable data. It is estimated that around two hundred Roma have a university education. What is safe to say is that the Roma population is underrepresented at university. Of the 1,462,771 university students registered in 2004-2005, not more than 1,000 are thought to have been Roma, whereas, if their representation had been proportionate, there should have been 28,648.

Employment and reconciliation of work and family life

No. 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.

The Government is aware of the problem of women's employability, in view of women's greater difficulty in entering the labour market, their lower participation rate relative to men's, and their higher rate of unemployment. Organic Law 3/2007 of 22 March on effective equality of women and men (hereinafter LOIE) deals with programmes to improve women's employability, in Article 42, in the following terms [*translation*]:

> *"One of the priority objectives of employment policies will be to increase women's participation in the labour market and move toward effective equality between women and men. For that purpose, women's employability and length of employment will be enhanced, increasing their level of training and their adaptability to the demands of the labour market."*

Active job placement programmes will be established for women of all educational levels and ages, including occupational training, workshop schools and vocational schools; these are aimed at the unemployed but may give preference to particular communities of women or have a certain quota of women.

Because of the particular difficulty experienced by women in entering the labour market, specific measures and programmes are currently in place to encourage the employment of women; chief among these are:

The contract to encourage indefinite hiring, for persons having particular difficulty entering the labour market, including women seeking to provide services in professions or occupations with a lower rate of female employment.

Employment promotion programmes whereby the employer's social security contributions are topped up, generally when women are hired following their pregnancies or after five years of absence from the labour market, or are victims of gender violence.

Experimental employment programmes that include grants in aid of labour market entry for the unemployed, among whom are expressly included women having difficulty entering the labour market.

Pilot programmes run by the Women's Institute to encourage women's employment, including pilot programmes aimed at women at risk of social and employment exclusion, as part of the community initiative "Equal".

In addition to these programmes there are programmes for hiring the unemployed run by public authorities, nonprofit organizations and local corporations. Among other selection criteria, these programmes do consider gender.

Because of the current economic situation, and as one temporary special measure—among others that are more general—the Ministry of Labour and Immigration is looking into the possibility of reinstating benefits received by workers on account of the suspension of their contract when another procedure later results in the contract's termination.

The Ministry of Labour and Immigration also expects structural reforms in the services sector, which will have particularly affect women in that 86.7% of working women in Spain are employed in that sector according to data for the second quarter of 2008 in the labour market survey done by the Ministry of Labour and Immigration.

No. 20.- The report indicates that the wage gap is still one of the major differences between men and women in the labour market. 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.

In 2006 the Women's Institute undertook a study entitled "Diferencia y discriminación salarial por razón de sexo", which used a blend of the characteristics looked at in various other surveys; it determined that the greater part of the wage differential is caused by discrimination. Women's wage penalty on this score was estimated at 17%.

Thus, the study done in 2006 shows that women earn, on average, 20% less than men (wage difference), but if we analyse only those wage gaps that are the direct result of discrimination, the figure is 17%.

With respect to Labour Inspection Office statistics on complaints against employers for wage discrimination, no such statistics are available, as they are not broken out from the other complaints of gender discrimination in access to employment, training or working conditions.

No. 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.

Of the total of employed persons (men and women), 88.2% work a full day. When broken down by sex the data indicate that 77.2% of employed women work a full day. The data confirm that part-time contracts are significantly more numerous in the cohort of employed women than among employed men. The information in the second table is particularly interesting in that it shows the unequal distribution of family responsibilities between men and women.

If we look at all contracts, using Women's Institute sources that incorporate Ministry of Labour data, we see that the only case in which more women than men are hired is part-time contracts.

		2004	2008
Both sexes—Absolute data	**TOTAL**	**16,350,784**	**16,601,237**
	Indeterminate contracts	**1,419,718**	**1,759,885**
	Temporary contracts	**14,931,066**	**16,618,652**
	FULL-TIME DAY	12,629,622	12,349
	Indeterminate contracts	1,034,217	1,337,506
	Temporary contracts	11,595,405	12,932,116
	PART-TIME DAY	3,721,162	4,108,915
	Indeterminate contracts	385,501	422,379
	Temporary contracts	3,335,661	3,686,536
% Women	**TOTAL**	**44.43**	**47.09**
	Indeterminate contracts	**45.37**	**46.41**
	Temporary contracts	**44.34**	**41.65**
	FULL-TIME DAY	38.28	40.51
	Indeterminate contracts	38.60	39.91
	Temporary contracts	38.25	34.56
	PART-TIME DAY	65.30	66.58
	Indeterminate contracts	63.53	67.00
	Temporary contracts	65.51	66.53

Persons employed part-time by sex, because of part-time work.

				2008			
		2006	2007	1st qtr.	2nd qtr.	3rd qtr.	4th qtr.
Both sexes—Absolute data	**Total**	**2,373.6**	**2,383.1**	**2,449.9**	**2,449.2**	**2,323.9**	**2,479.0**
	Taking teaching or training courses	307.8	281.9	286.8	286.8	232.2	278.1
	Own illness or incapacity	46.5	39.6	45.3	43.2	40.8	41.6
	Care for children, grown children or adults (illness or incapacity)	313.0	347.5	369.7	382.9	371.7	370.0
	Other personal or family obligations	2661.8	305.5	300.0	273.2	251.2	238.1
	Inability to find full-day employment	778.9	737.2	765.8	810.7	815.6	947.8
	Unwillingness to work a full day	271.2	310.8	311.5	279.9	274.0	262.7
	Other reasons	380.3	649.9	357.2	362.4	326.8	332.0
	Reason unknown	14.0	11.4	13.6	10.2	11.6	8.7
% Women	**Total**	**79.45**	**80.44**	**79.84**	**79.82**	**79.29**	**80.02**
	Taking teaching or training courses	56.82	55.41	55.96	55.23	56.98	60.63
	Own illness or incapacity	55.48	53.54	61.15	59.26	56.13	65.63
	Care for children, grown children or adults (illness or incapacity)	98.75	98.62	98.43	98.69	98.71	98.22
	Other personal or family obligations	95.42	95.68	94.27	93.78	94.23	96.51
	Inability to find full-day employment	81.02	81.01	80.75	81.30	77.82	78.85
	Unwillingness to work a full day	84.22	84.40	16.21	82.07	82.26	83.21
	Other reasons	67.26	67.56	64.61	66.47	65.91	66.87
	Reason unknown	78.57	78.95	80.88	70.59	71.55	79.31

Source: Active Population Survey. National Statistical Institute.
Units: Thousands of Persons.

Social protection for part-time hires

Social protection for part-time hires

Workers on part-time contracts, regardless of their workday, are protected in all situations and contingencies contemplated in the social security system under which they are covered.

To ensure that they do have access to benefits, specific rules have been established for the calculation of the employer's and employee's contributions and of the contribution period necessary to have access to the associated social security benefits.

Though these specific rules for part-time contracts do comply with the principle of proportionality, different treatment certainly does exist in some cases for the two types of contract, viz. the full-time contract and the part-time contract, so that in relative terms an hour of part-time work costs more than an hour of full-time work.

During the study period a number of appeals were filed against the standard that governs contributions for part-time contracts: Additional Provision 7.1.1 to the LGSS and Royal Decree 144/1999. The outcome of these appeals did not give rise to the desirable amendment of the standard, but did vindicate those who held that part-time contracts were unfairly treated differently from full-time ones, thus setting a valuable precedent for possible future appeals.

No. 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.

LOIE included a battery of measures to permit the exercise of the right to conciliation, which were mentioned in the Sixth Report (paragraph 194, article 11).

Again, the Equality Plans for companies called for in LOIE in the context of collective bargaining, and mentioned in paragraphs 195 and 196 of the Sixth Report, introduce measures for balancing working, personal and family life; these, as it turns out, are the measures most valued by the companies' staff among all those proposed in the name of gender equality.

As regards flexible working hours, the provisions of Royal Legislative Decree 1/1995 of 24 March should be recalled; it approved the rewritten text of the Statute of Workers' Rights, as modified by the effective equality law, LOIE, which establishes, in Article 34.8, that [*translation*]: "The worker shall be entitled to adapt the duration and distribution of his or her daily working hours to secure the right to reconciliation of working, personal and family life, on the basis agreed to through collective bargaining or in the agreement reached with the employer, in compliance with the collective agreement as appropriate."

With respect to the first stage of childhood education, from 0 to 3 years, actions have been taken to enhance educational care at that stage to facilitate women's integration into the labour market. Further, the number of spaces has increased for children under 3, 13.2% of whom attended preschool in 2004; the figure rose to 16.6% in 2006 and to 17.4% in 2007. The high variation by region in this data is partly due to the fact that they include only centres authorized by school boards. If data for public or private centres run by other authorities are added in, the 2006 figure rises to 27.1%. The Organic Law on Education resolves this variation in sources by defining childhood education as a stage of education, so that, as the law is implemented, school attendance data for this age group will become dependent on the school boards; as a result, the figure for school attendance by children under 3 will go up to between 17.4% and 27.1%, which is still far from the European objective of 33%.

According to our data, as of January 2008, there were in Spain:

- 358,078 users of the public home help service, or 4.69% of all persons over 65.
- 395,917 users of the public telephone help line, or 4.72% of all persons over 65.
- 63,446 users of senior daycare centres, or 0.83% of all persons over 65.
- 339,079 users of seniors' residences, or 4.44% of all persons over 65.

Finally, we should mention Law 39/2006 of 14 December, on promotion of personal autonomy and care for dependent persons, which calls for a great social and financial investment; this was already mentioned in paragraphs 334 to 336 of the Sixth Report. This Law is being implemented in the various Autonomous Communities.

No. 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, what authority monitors their implementation and whether sanctions apply in cases of noncompliance with the law.

The entry into force of the LOIE, of 22 March 2007, meant a distinct increase in references to equality plans and to equality clauses in collective agreements signed after enactment of the LOIE: of the 1,470 agreements signed between 24 March 2007 and 31 March 2008, 6.5% made reference to plans and 31.3% to clauses on gender equality, according to the data obtained by the Fundación Io de Mayo from the statistical sheets published on this subject by the Ministry of Labour and Immigration.

No concrete data can be given on the number of equality plans implemented since the enactment of the effective equality law, as no register of such plans is called for in the applicable legislation.

The Ministry of Labour and Immigration, through the Directorate General of the Labour Inspection Office and Social Security, is the authority with responsibility for supervising the implementation of equality plans in business.

In February 2009, the Women's Institute set aside one million two hundred thousand euros for grants that would go to small and medium-sized enterprises planning to develop equality plans voluntarily (staff complement of fewer than 250 workers). With these grants the companies would be able to diagnose their gender equality (workforce composition by category and sex, operational measures for access to employment, internal training and promotion, measures to facilitate conciliation, etc), make tangible improvements and do a follow-up and evaluation of those planned actions.

In addition, the Women's Institute offers technical support and general advice on the implementation of equality plans in small and medium-sized enterprises so that equality plans will be implemented throughout Spain's entrepreneurial fabric, 90% of which consists of SMEs.

The Law on Social Infractions and Sanctions, approved by Royal Legislative Decree 5/2000, of 4 of August, is the standard applicable to cases of violation of Organic Law 3/2007, of 22 March. Such violations may be:

Failure by employers to comply with the obligation to institute equality plans laid down by the Statute of Workers' Rights and by collective agreements, as secured through collective bargaining, this being considered a serious violation.

Failure by businesses to develop equality plans as prescribed by regulation, in cases where such plans are mandatory; in this case the additional sanctions imposed by the Ministry of Labour when very serious discrimination infractions have occurred may be replaced by equality plans.

No. 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.

Without prejudice to the mandatory six weeks of leave to be taken by the mother after delivery, where both parents work the mother may opt to have the other parent take a certain uninterrupted portion of the post-delivery leave period, either simultaneously with the mother's leave or successively.

Should the mother not be entitled to leave with pay under the applicable standards, the other parent shall be entitled to suspend his work contract for the length of time that would otherwise have been granted to the mother, which shall be compatible with the exercise of his own recognized right to paternity leave.

In practice, the proportion of men availing themselves of this right is still very slight, less than 2%, as may be seen in the accompanying table:

MATERNITY LEAVE

	Both sexes (Absolute data)	% Mothers
1996	127,739	-
1997	146,971	-
1998	148,751	-
1999	165,946	-
2000	192,422	99.03
2001	208,695	98.69
2002	224,419	98.52
2003	239,858	98.46
2004*	282,080	98.37
2008*	299,605	98.24
2006	322,600	98.36
2007	331,642	98.43
2008	359,160	98.45

Source: Women's Institute. Our own figures, taken from data of the National Institute of Social Security.

* The volume of maternity leave recipients managed by INEM is given for November.

Beyond what is granted by law to men under the maternity leave provisions, the LOIE introduced a 13-day paternity leave. The Law also establishes that within no more than 6 years, paternity leave will become progressively longer, ultimately reaching the objective of four weeks.

In cases of the birth, adoption or fostering of a child, under the Statute of Workers' Rights the worker shall be entitled to leave of thirteen consecutive days, which may be extended, where more than two children are born, adopted or fostered, by two additional days for each child after the second. This leave is independent of the shared enjoyment of the periods of maternity leave stipulated in Article 48.4.

In the case of a birth, the leave may be taken only by the other parent. In the case of adoption or fostering, it shall be taken by only one of the parents, at their option; however, if the whole of the leave period stipulated in Article 48.4 is taken by one of the parents, the paternity leave may be taken only by the other.

Workers who take advantage of this right may do so during the period between the finalization of the leave for childbirth provided by law or agreement, or the judicial ruling formalizing the adoption, or the administrative or judicial decision with respect to fostering, and the finalization of the contract suspension envisaged in Article 48.4 or immediately thereafter.

Entitlement to the contract suspension referred to in that article is conferred by a full-time schedule or a part-time schedule of at least 50 percent of full-time hours, subject to agreement between the employer and the worker and as laid down by regulation.

The worker must acquaint the employer with his intention to exercise this right sufficiently in advance and in accordance with the provisions of the collective agreements if any.

As regards the new paternity leave established in the LOIE in 2008, the rate of application for paternity leave by fathers, relative to the percentage of mothers taking maternity leave, was 77.9%.

Since the promulgation of the LOIE, there has been entitlement to both maternity and paternity leave for part-time workers, as it is deemed necessary to establish flexible mechanisms for entitlement thereto.

The regulations set out in Art. 49 of Law 7/2007, of 7 April, are also important. That law gave approval for the basic statute of public employees, which includes:

(a) Childbirth leave: Is for sixteen consecutive weeks. Where both parents work the mother may opt to have the other parent take a certain uninterrupted portion of the post-delivery leave period, either simultaneously with the mother's leave or successively.

(b) Leave for adoption or fostering, whether in preparation for adoption, permanent or simple, with the possibility, as in the previous case, of joint entitlement of the father and mother.

(c) Paternity leave for childbirth or the fostering or adoption of a child: Is for fifteen days, to be taken by the father or the other parent as of the date of the birth, the administrative or judicial decision with respect to fostering, or the judicial ruling formalizing the adoption.

(d) Leave on account of gender violence against a female public servant: partial or complete absences of female public servants who are victims of gender

violence shall be considered justified for the time, and under the conditions, to be decided by care or health social services as appropriate.

(e) Female public servants who are victims of violence against women shall be entitled, for their protection or to secure their right to integral social assistance, to reduce their work schedule, with a proportionate decrease in pay, or reorder their working hours by adapting their schedule, adopting flexible hours or such other arrangements of working hours as may be deemed appropriate, under the conditions laid down for each such case by the competent public authority.

No. 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.

Epidemiological situation with respect to HIV/AIDS in women.

HIV infection: (Source: New diagnoses of HIV infection (N=5785). 2003-2007 period: data from 8 regions accounting for 32% of the Spanish population. *Up to date as of 30 June 2008*.)

Of the new diagnoses of infection reported in the 2003-2007 period, women accounted for 24.1% of the total.

The mean age upon diagnosis of HIV infection is 37, men being somewhat older (mean 37.8) than women (mean 34.8), but the year of diagnosis makes no difference.

80.7% of the women became infected through unprotected heterosexual relations.

Of the cases diagnosed in the 2003-2007 period, 37.3% showed inmunosuppression (<200 CD4) upon diagnosis, with a clear risk of suffering serious illness and the consequent AIDS diagnosis. The percentage of late diagnosis is lower among women (32.9%) than men (38.6%).

AIDS cases: (Source: National Register of AIDS cases. Up to date as of 30 June 2008).

Since the beginning of the epidemic in 1981 a total of 75,733 AIDS cases have been reported in Spain, 20% being women. Between 1996 and 1999 drastic decreases occurred (54%) in both sexes, while in recent years there have been smaller decreases and a trend toward stabilization. The male/female ratio is remaining above 3.

Although the declining trend appears in all age groups, and both among men and women, the number of cases reported is similar or identical for both sexes in younger age groups.

The mean age upon diagnosis has been increasing over the years, though it remains lower for women. In 2007 it was 37.3 years for women and 41.7 for men.

In conclusion, none of the information sources suggests an increase in cases of HIV/AIDS infection in women. The increase detected in 2004 did not continue, and indeed changed to a slight downward trend.

HIV/AIDS prevention measures for women:

In Spain, the epidemiological characteristics of HIV infection have been such that most prevention activities have not been specific to women. Nevertheless, actions aimed at preventing HIV infection do include some specific measures, such as detection of vulnerability, work on attitudes maintained by gender conditioning that deter women from taking preventive measures, access to condoms, and voluntary HIV tests with advice.

Consideration of women as a population particularly vulnerable to HIV/AIDS may be seen in the 2008–2012 Multisectoral Plan against HIV infection and AIDS in Spain, among whose objectives are:

- To improve women's level of health information and education with respect to sexual health, HIV infection and preventive measures, especially among cohorts subject to greater risk of infection.
- To provide women with total care, including early detection of STIs and cervical cancer.
- To develop specific actions to improve women's access to existing programmes and preventive measures.
- To foster women's involvement in the design and conduct of these programmes.

The Ministry of Health and Consumer Affairs, in cooperation with women's equality groups, has since 1997 been developing training courses for front-line medical staff on the prevention of HIV transmission in women through intake of these women, detection of risky sexual behaviours and HIV infection, and promotion of healthy sexual habits.

To facilitate these activities translating into primary care, a gender-focused protocol for the prevention of heterosexual HIV transmission has been developed. It enables professionals' prevention actions to be systematized in order to detect persons at risk for heterosexual HIV transmission, allow early detection of HIV infection and change risky attitudes and practices, with all of these actions having a gender focus.

In addition to this protocol, a number of different publications have been developed in cooperation with the Women's Institute, on the following subjects:

- Prevention of heterosexual HIV transmission/AIDS in women.
- Gender relationships and subjectivity. Prevention programmes method.
- Heterosexual HIV/AIDS transmission in Spain, an epidemiological review.

At the Ministry of Health and Consumer Affairs, since 1997, a gender-focused programme to prevent unwanted pregnancies, STIs and HIV/AIDS has been under development in-co operation with the Women's Institute. The purpose of this programme is to train medical staff working at health centres in preventing pregnancies and cases of heterosexual HIV transmission among young people.

At its recent meetings the National AIDS Committee, with representation from the various social agents working with AIDS, discussed the activities of the National Plan and agreed that they would include the gender perspective, as well as women's particular vulnerability to HIV/AIDS.

The Ministry of Health and Consumer Affairs also dispenses economic assistance to NGOs to finance prevention programmes. Among its priorities are action strategies for the prevention and early diagnosis of HIV infection in more vulnerable communities and populations, women being one of these.

The Ministry of Health and Consumer Affairs also has a specific report on the epidemiological situation of HIV/AIDS in women, which was updated in 2008.

In addition, the Secretariat for the National AIDS Plan is taking part in the National Health System's sexual health strategy.

Access to health care and measures taken to prevent mother-to-child transmission of HIV/AIDS.

In Spain, access to antiretroviral treatment is free and universal. The National Health System provides health care for the entire population—in the case of foreigners, with the requirement to be registered.

Prevention of perinatal transmission of HIV infections is based on the following four pillars:

- Early diagnosis of risky behaviours and HIV infection in women of childbearing age.
- Planned parenthood advice.
- Advice on continuing or terminating a pregnancy in cases of HIV infection or in women already pregnant who find they are infected.
- Prevention of infection of the foetus or newborn of HIV-infected women who wish to carry their pregnancies to term.

Since 1996 it has been standard practice to do an HIV test on pregnant women in the first trimester. If the test has not been administered at an early stage, or if the risk is high, it is also indicated at a later stage, but is always voluntary and confidential. Where there has been no medical supervision during the pregnancy, a quick test is done at the time of delivery. In all these cases the recommended treatment is indicated and is available free of charge. There are treatment recommendations and protocols, and a notable reduction of paediatric AIDS cases has been observed, as there have been fewer than 10 a year since 2004.

The health system is cooperating with scientific societies in the fields of infectious disease, paediatrics and obstetrics to issue and disseminate recommendations and campaigns aimed at achieving the lowest possible risk of mother-to-child transmission of HIV/AIDS in Spain.

In Spain, it is considered that there is no reason for HIV infection to result in discriminatory situations with respect to assisted reproduction techniques for persons with HIV. Women with HIV who are stable can opt for gestation. There have already been cases of couples with mixed HIV status taking advantage of the assisted reproduction protocol.

In cooperation with the scientific societies, documents are drawn up containing recommendations for follow-up of HIV infections from the standpoint of clinical practice, reproduction, pregnancy and prevention of vertical transmission. Such follow-up includes information on the various assisted reproduction techniques that mixed-HIV-status couples can use should they wish to carry a pregnancy to term. This document has been used as a guide for the various professionals that work with women in mixed-HIV-status couples wishing to become pregnant.

No. 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. Please also provide information 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.

The Plan of Action for Women with Disabilities 2007 is the operative instrument intended to respond to the needs and requirements brought about by the double discrimination to which women with disabilities are subject, and in particular to promote equal opportunity and full enjoyment of their civil and political rights.

The Plan, which is still in effect, includes two types of measure:

- Affirmative action measures intended to narrow the gap between men and women with disabilities.
- Cross-cutting measures, based on an integrated focus, with which are linked comprehensive policies to be adopted: both policies concerned with the citizenry in general and sectoral ones.

In addition to the Plan's function as a point of reference for specific action plans, it also serves as the starting point for the design of public policies on care for women with disabilities and provides essential basic data on the status of that community. Now that this function has been fulfilled, the Government is currently drafting a new Disability Action Plan which, while it does not differentiate between women and men, does include the gender perspective in its development, drafting and content. For that purpose, the draft of the Government's future plan has been submitted for consultation to the Ministry of Equality. The Plan of Action for Women with Disabilities 2007 is the operative instrument intended to respond to the needs and requirements brought about by the double discrimination to which women with disabilities are subject, and in particular to promote equal opportunity and full enjoyment of their civil and political rights.

Further, the Ministry of Education, Social Policy and the Ministry of Labour and Immigration have developed the Global Action Strategy for the Employment of Persons with Disabilities, which is to be implemented between 2008 and 2012.

Its main goal is to promote access to the labour market for a community that constitutes 8.6% of the population aged 16 to 64, but only 4.1% of the total number of employed persons, improving their employability and labour market integration.

Its objectives are as follows:

To remove the barriers of all kinds (sociocultural, legal and physical—both architectural and in the area of communications) that still hinder access to employment for persons with disabilities.

To enhance the education and training of persons with disabilities to make them more employable.

To design new employment policies that better meet the needs of persons with disabilities and to improve their administration.

To promote hiring of persons with disabilities in the regular labour market.

To overhaul sheltered employment, preserving the dynamic employment generation achieved in recent years and fostering transition to regular employment.

To improve the quality of employment and working conditions of persons with disabilities, in particular through active measures against discrimination in the labour market.

It aims to improve the systems whereby information on employment and persons with disabilities is gathered, analysed and disseminated as well as the coordination of public employment policies implemented by public authorities.

Over the planned five-year life of the Strategy, 3.7 billion euros is to be invested. Of the 740 million euros allotted to each year, 440 will go toward topping up the social security contributions of companies that hire persons with disabilities, while the remaining 300 million will be spent on sheltered employment, and in particular the special employment centres.

No. 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.

Most salaried women in the agri-food industry (31%) and in agriculture work on family farms, in the rural development process, though their employment is casual. Nevertheless, in recent years there has been a marked increase in immigrant labour recruited to work on specific projects (for example, the strawberry harvest). These workers are hired at the origin point (for the most part in Morocco) on a quota basis and receive work permits for the particular project, after which they return to their home countries.

Accordingly, the bulk of these are seasonal workers (in specific campaigns) with work permits.

		2005*	2006*	2007*
Both sexes—Absolute data	**TOTAL**	**995,607**	**827,130**	**331,625**
	Farm labour	**134,659**	**105,561**	**42,123**
	Agriculture, livestock, hunting and silviculture	2,021	1,778	1,161
	Industry	**950**	**793**	**417**
	Food, beverage and tobacco industry	223,365	193,951	47,336
	Unclassifiable	**111,234**	**56,643**	**33,992**
% Women	**TOTAL**	**42.6**	**42.2**	**38.7**
	Farm labour	**23.8**	**22.8**	**29.2**
	Agriculture, livestock, hunting and silviculture	4.8	4.3	4.0
	Industry	**7.6**	**6.6**	**6.5**
	Food, beverage and tobacco industry	86.6	86.8	83.0
	Unclassifiable	**48.9**	**49.5**	**43.2**

SOURCE: Women's Institute. Our own figures, taken from data of the Ministry of Labour and Social Services, Anuario de Estadísticas Laborales.

* Provisional data.

In terms of ongoing measures to improve effective equality in employment, health, and access to the available social services, the Women's Institute has its "Sara" Programme to motivate and support immigrant women in their social and employment participation. Its objectives are to improve immigrant women's quality of life through better training to help them participate in social life and, in particular, the labour market.

The CLARA Programme, also administered by the Women's Institute, is intended for women in the process of social and labour market integration, including immigrants. Its objectives are to improve the quality of life of women having particular difficulty entering the labour market through better preparation for employment.

Apart from this, the Strategic Plan for Equality of Opportunities 2008-2011 calls for the following actions under its strategic objectives (Focus 9 "awareness of diversity and social exclusion").

Objective 1: To incorporate the gender perspective and diversity management in the service offer, care and follow-up of public health, education, employment, justice, security and housing services.

Actions:

1.1 Increase training in gender mainstreaming for those responsible for planning, follow-up and evaluation in the various services through the inclusion of specific modules in vocational training for employment.

1.2 Offer front-line caregivers specific courses on the care of women suffering, or at risk of, social exclusion.

1.3 Foster coordination programmes between the various agents, to facilitate comprehensive care and follow-up of women suffering, or at risk of, social exclusion.

1.4 Design instruments and tools for gender-focused analysis of the specific situations of women suffering, or at risk of, social exclusion.

1.5 Introduce or broaden, as appropriate, the gender perspective in the criteria for assignment of subsidized housing and access to economic assistance with payment of rent.

1.6 In information, awareness and prevention campaigns, especially in the areas of health and gender violence, introduce accessibility criteria to makes them more readily understandable by women with visual or hearing impairments.

Objective 2: To have public authorities show leadership in inclusion policies for women suffering, or at risk of, social exclusion.

Actions:

2.1 Encourage the introduction of the gender perspective in care and inclusion programmes and actions to be conducted for women suffering, or at risk of, social exclusion.

2.2 Carry out information and awareness campaigns to make apparent the existence and the issue of communities of women suffering, or at risk of, social exclusion.

2.3 Foster affirmative actions to give communities of women suffering, or at risk of, social exclusion easier access to economic, educational and social resources.

2.4 Encourage the participation of women's organizations of women in the follow-up and evaluation of governmental social inclusion policies.

2.5 Encourage women suffering, or at risk of, social exclusion to form associations, to make them protagonists and active participants in processes of personal change and development.

2.6 Design quality indicators to assess care, follow-up and inclusion actions in the various fields of education, health, employment, housing, justice, security and social participation.

2.7 Evaluate actions pursuant to, and fulfilment of, the objectives of the various National Plans for social inclusion incorporating the gender perspective.

Objective 3: To design gender-focused cooperation, supervision and support strategies for third-sector programmes to promote the inclusion of women suffering, or at risk of, social exclusion.

Actions:

3.1 Design gender-focused protocols to provide diversified care for communities of women suffering, or at risk of, social exclusion.

3.2 Promote third-sector initiatives designed to re-integrate communities of women suffering, or at risk of, social exclusion through lines of credit, infrastructure supply and tax measures.

3.3 Coordinate the actions of the various public authorities and the third sector.

3.4 Guarantee the transparency of the various agents involved through economic, methodological and labour supervision and the pursuit of the gender-focused objectives proposed.

3.5 Encourage the active participation and empowerment of women suffering, or at risk of, social exclusion in social inclusion programmes set in motion by the third sector.

3.6 Foster an ongoing exchange of experiences and best practices in the development of third-sector inclusion programmes and projects.

Objective 4: To gain greater knowledge of the processes of exclusion and poverty among women.

Actions:

4.1 Establish a system of social exclusion indicators that breaks down the available information by sex and is harmonized with those used by the European Union.

4.2 Promote the creation of a working group on "equality and gender" in the IMSERSO's *Observatorio de Mayores* [seniors' observatory].

4.3 Promote the conduct of research on the feminization of exclusion processes and the measures and action guidelines to be applied, in each of these situations, taking the gender perspective.

4.4 Evaluate the economic the situation of senior women, with particular attention to their social security coverage.

Objective 5: To match social services' responses and resources to the various needs of communities of women suffering, or at risk of, exclusion.

Actions:

5.1 Increase training in gender mainstreaming for those responsible for planning, follow-up and evaluation of social services through the inclusion of specific modules in vocational training for employment.

5.2 Review social services' standards and planning to detect gaps or shortcomings related to specific needs of groups of women suffering, or at risk of, exclusion.

5.3 Foster an ongoing exchange of experiences and best practices in the management of social services.

Finally, the *Plan Nacional de la Alianza de Civilizaciones* [national plan for the alliance of civilizations] and its actions within the ambit of the Ministry of Labour and Immigration are part of the Strategic Plan for Civic Integration 2007-2010. Among other actions, the Plan contains the following:

- Encourage the leadership capacity of immigrant women (measure 3.6).

No. 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.

As already indicated, the Roma population of Spain is estimated at 650,000 to 700,000, or about 1.65% of the total population.

The Roma community has suffered systematic exclusion and has found itself on the fringes of the rights of citizenship. Further, Roma traditions consign women to the domestic and caregiving sphere exclusively, removing them at an early age from formal education and employment. Moreover, practices are still followed that systematically violate women's fundamental rights, such as marriages arranged and coerced by their families. Even so, they have a life expectancy greater than Roma men and also non-Roma women.

The Government of Spain is making great efforts to foster greater Roma participation in all areas and strata of society, as evidenced by the creation of the Consejo Estatal del Pueblo Gitano [State council of the Roma people] by Royal Decree 891/2005, of 22 July

The Consejo Estatal del Pueblo Gitano is the interministerial collegiate body, with a consultative and advisory role, reporting to the Ministry of Education, Social Policy and Sport. The Consejo formalizes the cooperation of Roma associations with the Spanish Government in the development of social welfare policies that afford the Roma population comprehensive assistance.

Among other functions, the Consejo proposes measures for the advancement of the Roma people, advises on development plans for them, distributes useful information on topics of interest to them and commissions studies on projects and programmes.

The fourth National Action Plan on Social Inclusion of the Kingdom of Spain 2006-2008 called for the following actions affecting the Roma population:

- Develop comprehensive social action projects, in cooperation with the Autonomous Communities, to care for the Roma population, prevent their marginalization and help integrate them into society.
- Develop actions related to equality of treatment and opportunities, training, information exchange and best social practices.
- Have plans specific to the Roma population developed by the Autonomous Communities.
- Carry out a national sociodemographic survey on the Roma population, as well as a study on their health conditions;.
- Prepare a map of Roma housing and communities in Spain.
- Develop labour market and social integration programmes in cooperation with NGOs.
- Establish and develop the functions of the Consejo Estatal del Pueblo Gitano.

- Create the Instituto de Cultura Gitana to develop and promote Roma history, culture and language.

Currently, the Plan of Action for the Development of the Roma Population 2009–2012 is being finalized. Through its eight areas of action (citizenship and equality of treatment, education, employment and economic activity, social action, health, housing, culture, and the Roma people in the European political agenda) it seeks to take new steps in tracing the reality of the Roma population and adopting measures to afford them a position and participation In all areas of society. The Plan takes the cross-cutting gender perspective as one of its fundamental pillars.

Finally, the Strategic Plan for Equality of Opportunities 2008-2011 incorporates the following strategic objectives in its Focus 9: image, awareness of diversity and social inclusion.

Objective 1: To incorporate the gender perspective and diversity management in the service offer, care and follow-up of public health, education, employment, justice, security and housing services.

Objective 2: To have public authorities show leadership in inclusion policies for women suffering, or at risk of, social exclusion.

Objective 3: Design gender-focused cooperation, supervision and support strategies for third-sector programmes to promote the inclusion of women suffering, or at risk of, social exclusion.

Objective 4: To gain greater knowledge of the processes of exclusion and poverty among women.

Objective 5: Match social services' responses and resources to the various needs of communities of women suffering, or at risk of, exclusion.

Economic consequences of divorce

No. 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).

It should be emphasized that there have been two significant reforms in this area. First, Law 13/2005, of 1 July, amends the Civil Code provisions governing matrimony, allowing marriage between persons of the same sex. It should be noted therefore that in Spain, as of the Law's entry into force, the economic consequences of the dissolution of a marriage will be the same for all marriages, regardless of the spouses' sex.

Second, Law 15/2005, of 8 July, amends the Civil Code and the Civil Judgements Law with respect to separation and divorce.

That Law introduced an obligation for spouses to share domestic responsibilities and the care of ascendants, descendants and other dependents;

amended the regulations on separation and divorce to facilitate direct access to either, ending the requirement to obtain a separation before a divorce can be granted, and reducing the minimum interval after marriage to three months; eliminated the causes of separation or divorce; and enacted other relevant measures.

As regards the effects of separation or divorce, the Civil Code not only sets out the consequences of the existence of minor children or economically dependent adult children, it also regulates the effects on the spouses, in particular:

1. The compensatory pension, regulated by Article 97 of the Civil Code, which was amended by Law 15/2005, introducing the possibility of making it temporary.

The spouse who is economically disadvantaged relative to the other by the separation or divorce and whose situation is worse than before the marriage shall be entitled to compensation, such compensation to consist of a temporary or indefinite pension, or a lump-sum payment, as determined in the governing agreement or ruling.

The amount and duration of the compensatory pension shall be calculated taking into account all of the following circumstances:

1. Any agreements entered into by the spouses.

2. Their age and state of health.

3. Their vocational qualifications and probable employability.

4. Their past and future dedication to the family.

5. Either spouse's contribution through work to the mercantile, industrial or professional activities of the other.

6. The duration of the marriage and cohabitation.

7. The possible loss of pension rights.

8. The wealth, economic means and needs of each spouse.

9. Any other relevant circumstance.

This is not a "numerus clausus", but rather certain considerations adduced in the Law to be taken into account by the body having jurisdiction at the time a decision is made.

In granting a compensatory pension consideration must be given both to the contributions through care and attention to the family and to the work of the other spouse, and to the time past and to come given the age of the minor children. Years of cohabitation too are taken into account, as well as vocational qualifications and probable employability.

The amount and its updating shall be established either by mutual agreement between the spouses or by a judicial ruling.

This compensatory pension may only be altered should there be a material change in the wealth of either spouse and may be replaced by a transfer of capital (in money or in kind), the constitution of an annuity or the usufruct of particular assets.

2. Indemnification. In the event of an annulment, the Law provides that the putative spouse whose marriage has been declared null and void shall be entitled to indemnification if there has been cohabitation, subject to the circumstances previously mentioned and stipulated in Article 97 of the Civil Code.

3. Use of the family home. Another effect of a separation or divorce is the possibility that use of the family home and its ordinary furnishings may be granted to the more disadvantaged party, either the children and the spouse with whom they remain or, should there be no issue, the spouse most in need of protection, for a period to be prudentially set, provided this is advisable in all the circumstances.

4. The purpose of the delivery of health care is the protection of health. In the Spanish system, health care is publicly provided for all persons qualifying as beneficiaries, a distinction being made between beneficiaries as of right (workers) and those whose entitlement is derived from the fact that they are the dependents of a beneficiary as of right, not from their own status as a worker and, therefore, affiliated with social security.

Such coverage applies to spouses, ascendants, descendants and siblings either of the principal or the principal's spouse, if they live with the principal, are dependent on him or her and do not receive income of any kind.

Where separated or divorced spouses are health care beneficiaries by derived entitlement, when the marriage is dissolved the health care coverage is not terminated; rather, they remain health care beneficiaries as long as the principal (the ex-spouse who is a worker) lives and they are not so entitled on any other basis.

5. Widowhood pension. Separated or divorced spouses are entitled to receive a widowhood pension if they meet the following requirements:

- They have not remarried or entered into a domestic partnership.
- They are in receipt of a compensatory pension under a separation ruling or divorce decree, which pension has ended upon the decease of the principal.

Where one principal leaves more than one widow (widower), they shall be entitled to receive a pension whose amount is proportional to the length of time they lived with the late spouse, except that in every case 40% of the total is reserved for the last cohabiting spouse, provided that spouse is not in receipt of another widowhood pension.

Law 40/2007, of 4 December, on social security measures, not only amends the regulations on widowhood pensions but introduces a new category of beneficiary: any person with whom the principal may have been living at the time of his or her death in a domestic partnership and who can demonstrate that his or her income during the previous calendar year was less than 50% of the sum of that income and that of the principal during the same period. That percentage is reduced to 25% should there be children of both persons with entitlement to orphan's benefit.

As regards the division of assets, it should be noted that in the Spanish system, the marital regime is the legal statute governing the economic relationship during a marriage, which is regulated by the Civil Code. There are three types of economic marital regime:

The community property regime, meaning that any gains or benefits obtained by either of the spouses during the marriage are jointly administered and that upon its dissolution they shall be equally divided between the spouses.

The separate property regime, where the property acquired in any manner during the marriage by either spouse remains the property of that spouse, and each administers, enjoys and disposes of his or her goods, but is obliged to make a contribution proportional to his or her earnings to the payment of family expenses. Upon dissolution of a marriage contracted under this regime there will be a difference in the amounts allotted to each, in that one spouse may have engaged in a professional activity and acquired assets while the other looked after the family and had no opportunity to amass wealth, the latter therefore being entitled to an amount proportional to such unequal increase in wealth.

Participation, whereby each of the spouses acquires the right to a share in the gains of the other during the time that regime has been in force; this is the temporary equivalent of the separate property regime.

The following issues then arise:

(a) Disposal of principal residence and common household furnishings: Though such rights may belong to only one of the spouses, the consent of both is required or, as appropriate, a court order (Art. 1320 of the Civil Code).

(b) Administration of community property: Where there is no marriage contract, management and disposal of community property is a joint responsibility of both spouses, without prejudice to the stipulations of the following articles (Art. 1375 of the Civil Code).

(c) The spouses shall keep each other periodically informed of the status and yield of any and all economic activity (Sect. 1383 of the Civil Code).

(d) The proceeds of the liquidation of all community property shall be equally shared (Art. 1404 of the Civil Code).

It should be noted, finally, that in the case of a common-law marriage the partners shall share those goods they jointly acquired in the same proportions as payment for them was made by each.

Amendment to Article 20, paragraph 1, of the Convention.

No. 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).

Spain has set in motion, but not yet completed, the process of ratification of the amendment to Article 20, paragraph 1, of the Convention. It is hoped that the amendment will be ratified this coming year.