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Act 17/2020, of 22 December, amending Act 5/2008, on the right of women to eradicate sexist violence

202-00067/12

Adoption

Plenary Assembly of the Parliament of Catalonia, Sitting 68, 18.12.2020, DSPC-P 128

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The Plenary Assembly of Parliament, in its session held on 17 and 18 December 2020, debated the Final Report of the Institutional Affairs Committee on the Members' bill amending Act 5/2008, of 24 April, on the right of women to eradicate sexist violence (202-00067/12), and the amendments reserved by the parliamentary groups.

Finally, in accordance with article 55.2 of the Statute of Autonomy and articles 123 and 124 of the Rules of Procedure of the Parliament, it has approved the following Act:

Act amending Act 5/2008, on the right of women to eradicate sexist violence

Preamble

Act 5/2008, of 24 April, on the right of women to eradicate sexist violence, was a pioneering act, the outcome of the engagement of feminist organisations and political parties and consensus-building. Even today it may still be considered the most groundbreaking act in the Spanish State with respect to sexist violence.

On 4 December 2018, evaluation reports about the ten years that Act 5/2008 has been in force were submitted to the Equal Rights Committee of the Parliament of Catalonia, identifying some shortcomings in its implementation and suggesting that it should be amended to provide more comprehensive and guaranteed protection for women victims of sexist violence.

Furthermore, on 13 December 2018, the Plenary Assembly of Parliament approved Motion 32/XII, in which the chamber voted in favour of extending the material scope of application of the aforementioned Act to encompass institutional violence as sexist violence.

This period has also seen the adoption of the Council of Europe Convention on preventing and combating violence against women and domestic violence, opened for signature in Istanbul on 11 May 2011 and ratified by Spain in 2014. This Act is primarily inspired by this Convention which applies to all forms of violence against women and covers all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. Furthermore, the Convention compels the adoption of the measures needed to prevent and respond to violence against women. In particular, it calls for the measures taken to involve, where appropriate, all relevant actors, such as government agencies, parliaments and national, regional and local authorities, and further urges the allocation of appropriate financial and human resources for the adequate implementation of integrated policies and measures and programmes to prevent and combat all forms of violence covered by the scope of the Convention.

Also relevant due to its regulatory impact on this Act is the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 and in particular its Protocol 12, which lays down a general ban on discrimination based on the fundamental principle that all persons are equal before the law.

Likewise, reference should additionally be made in respect of the Council of Europe to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse of 25 October 2007, which covers any person under the age of eighteen, and the Convention on Action against Trafficking in Human Beings of 1 February 2008, which seeks to prevent trafficking in human beings for sexual or other purposes.

All of the abovementioned regulations are reflected, to a greater or lesser extent, in this Act which is designed to expand, enhance and update Act 5/2008 and also safeguard the rights of transgender and cisgender women and non-binary people in order to respect gender diversity.

Treatment of issues such as violence against women in political life, which may have the effect of discouraging women's political participation and restricting their ability to influence public life, is an example of the outcome of the parliamentary work and the amendments and innovations introduced.



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Another new feature is the regulation of institutional violence as an area involving the definition of due diligence and the specification that such violence can be committed either by action or by omission.

Regulation of digital violence is also introduced given the numerous sexist assaults which take place using social media and all kinds of electronic or digital devices, such as identity theft, posting photographs or videos without consent, and insults and threats.

One of the most significant amendments is the inclusion of a definition of sexual consent in which the need for express willingness is stipulated as an essential requirement.

Finally, amendments are made to broaden the types of violence in the social and community sphere, the forms of sexist violence and the need to train professionals.

In terms of its structure, this Act consists of 27 articles, an additional provision and a final provision.

Article 1. Amendment of article 2 of Act 5/2008

Article 2.2 of Act 5/2008, of 24 April, on the right of women to eradicate sexist violence, is amended to read as follows:

“2. References to women included in this Act are understood to include girls and adolescent girls, and therefore also transgender women, girls and adolescents.”

Article 2. Amendment of article 3 of Act 5/2008

Article 3 of Act 5/2008 is amended to read as follows:

“Article 3. Definitions

“For the purposes of this Act, the following definitions are applied:

“a) *Sexist violence*: violation of human rights through the violence that is perpetrated against women as a manifestation of the discrimination and the situation of inequality in the framework of a system of power relations of men over women and which, produced by physical, economic or psychological means including threats, intimidation and coercion, results in physical, sexual or psychological harm or suffering, whether it is produced in the public or private spheres.

“b) *Awareness-raising*: the set of educational, teaching and communicative actions aimed at bringing about changes and modifications in the social mindset that enable progress in the eradication of sexist violence.

“c) *Prevention*: the set of actions aimed at avoiding or reducing the incidence of the problem of sexist violence by means of reducing the risk factors and thus preventing its normalisation, as well as those actions aiming at raising awareness among the population that no form or manifestation of violence is justifiable or acceptable.

“d) *Detection*: putting into practice of various theoretical and technical instruments that allow for the identification and visibility of the problem of sexist violence, whether it appears sporadically or is already stable, and which create knowledge of the situations in which intervention is necessary so as to prevent its development and becoming habitual.

“e) *Support*: the set of actions provided for a person to allow her to overcome the situations and the consequences created by sexist violence in the personal, family, employment and social spheres, along with guaranteeing her safety and providing her with the necessary information concerning resources and procedures.

“f) *Recovery*: the process of de-victimisation in the affected areas carried out by the women themselves and their children. This process involves the personal and social life cycle of the woman focused on re-establishment in all the areas harmed by the situation of sexist violence experienced.

“g) *Redress*: the set of legal, economic, social, employment, health, educational and other similar measures undertaken by various bodies and actors responsible for intervention in the field of sexist violence which contribute to the re-establishment of all the areas harmed by the situation experienced by ensuring the required assistance and advice.

“h) *Due diligence*: the obligation of the public authorities to adopt legislative and other measures so as to take action with the requisite speed and efficiency and ensure that authorities, staff, officials, public entities and other actors working on behalf of these public authorities comply with this obligation in order to appropriately prevent, investigate, prosecute, punish and redress acts of sexist violence and protect the



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victims.

“i) *Secondary victimisation or re-victimisation*: additional maltreatment exercised against women who are in situations of sexist violence and their children as a direct or indirect consequence of the quantitative and qualitative shortcomings of the actions carried out by the responsible bodies as well as of inappropriate or negligent actions taken by other actors involved.

“j) *Sexual consent*: express willingness within the framework of sexual freedom and personal dignity which leads to and endorses the performance of sexual practices. Sexual consent must be given freely, must continue to be valid throughout the entire sexual practice and is limited to one or more persons, to certain sexual practices and to certain precautionary measures to prevent unwanted pregnancy and sexually transmitted diseases. There is no consent if the perpetrator creates conditions or takes advantage of contexts that either directly or indirectly impose a sexual practice against the woman’s will.

“k) *Intersectionality or intersection of oppression*: concurrence of sexist violence in conjunction with other forms of discrimination, such as origin, skin colour, phenotype, ethnicity, religion, administrative situation, age, social class, economic precariousness, functional or mental diversity, addictions, serostatus, deprivation of liberty or sexual and gender diversity, which means that they have an aggravating and distinct impact. The interaction of these discriminations should be taken into consideration when addressing sexist violence.

“l) *Economic precariousness*: situation of a person whose income is equal to or less than the income sufficiency indicator in Catalonia.”

Article 3. Amendment of article 4 of Act 5/2008

Article 4 of Act 5/2008 is amended to read as follows:

“Article 4. Forms of sexist violence

“1. Sexist violence is made up of a continuum of situations in which each of the forms of sexist violence interacts with the various spheres in which they take place.

“2. Sexist violence can be perpetrated on an ad hoc or repeated basis in any of the following ways:

“a) *Physical violence*: covers any act of force against a woman’s body with the result or risk of causing her physical injury or harm.

“b) *Psychological violence*: covers any behaviour or omission that produces a loss of esteem or suffering in a woman by means of threats, humiliation, harassment, scorn, disdain, demands for obedience or submission, verbal coercion, insults, isolation or any other restriction on her sphere of freedom. Sexist violence can also be perpetrated by threatening or inflicting physical or psychological violence against the woman’s emotional environment, especially her children or other family members who live with her or have a direct relationship with her, when it is intended to cause her distress. It additionally includes situational violence which is committed through the exercise of violence against the woman’s goods and property with economic or sentimental value, or against animals with which she has a bond of affection, with the aim of causing her distress or creating an intimidating environment.

“c) *Sexual violence*: covers any action that violates the sexual freedom and personal dignity of women by creating conditions or taking advantage of contexts that directly or indirectly impose a sexual practice without the woman’s consent or against her will, regardless of the relationship between the woman and the perpetrator(s). It includes bodily access, genital mutilation or risk of genital mutilation, forced marriages, trafficking in women for the purpose of sexual exploitation, sexual harassment and harassment based on sex, sexual threats, exhibition, observation and imposition of any sexual practice, among other behaviours.

“d) *Obstetric violence and violation of sexual and reproductive rights*: this consists of preventing or hindering access to reliable information which is necessary for independent and informed decision-making. It can have an impact on various areas of physical and mental health, including sexual and reproductive health, and can prevent or hinder women from making decisions about their sexual practices and preferences and about their reproduction and the conditions under which it takes place according to the situations included in the applicable sectoral legislation. It includes forced sterilisation, forced pregnancy, impeding abortion in the legally established cases, hindering access to contraceptive methods, methods for the prevention of sexually transmitted diseases and HIV and to assisted reproduction methods and also gynaecological and obstetric practices which do not respect women’s decisions, bodies, health and



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emotional processes.

“e) Economic violence: consists of intentional and unjustified deprivation of resources for the physical or psychological wellbeing of a woman and, where applicable, her children, repeated and unreasonable failure to pay alimony stipulated in the case of separation or divorce, hindering the disposal of her own or shared resources in the sphere of the family or couple and unlawful appropriation of the woman’s property.

“f) Digital violence: consists of online sexist violence and misogyny committed, instigated, amplified or aggravated, in part or in whole, through the use of information and communication technology, social media platforms, websites or forums, email and instant messaging systems and other similar means that adversely impact women's dignity and rights. These actions cause psychological and even physical harm; reinforce stereotypes; impair dignity and reputation; infringe on women’s privacy and freedom of action; cause economic loss to women; and pose obstacles to women’s political participation and freedom of speech.

“g) Second-order violence: consists of physical or psychological violence, reprisals, humiliation and persecution exercised against people who assist victims of sexist violence. It includes acts that hamper the prevention, detection, support and recovery of women in situations of sexist violence.

“h) Vicarious violence: consists of any type of violence perpetrated against children with the aim of causing psychological harm to their mother.

“3. The various forms of sexist violence are also understood to be violence against women when they are perpetrated with the threat or infliction of physical or psychological violence against their emotional environment, especially against their children or other family members, with the intention of causing distress to the woman.”

Article 4. Amendment of article 5 of Act 5/2008

Article 5 of Act 5/2008 is amended to read as follows:

“Article 5. Spheres of sexist violence

“Sexist violence can manifest itself in any of the following spheres:

“First. Violence in the sphere of the couple: physical, psychological, digital, sexual or economic violence perpetrated against a woman by the man who is or has been her spouse or by the person who has or has had a similar affective relationship with her.

“Second. Violence in the family sphere: consists of physical, digital, sexual, psychological or economic violence exercised against women and children in the family and perpetrated by members of the family or by members of the household in the framework of the affective relations and ties of the family setting. It includes forced marriage. It does not include violence exercised in the sphere of the couple.

“Third. “Violence in the workplace: consists of physical, sexual, economic, digital or psychological violence that may occur in the public or private sphere during the working day, or outside the workplace and the working day if it is related to work. It can take the following forms:

“a) Harassment based on sex: consists of any unwanted verbal or physical behaviour related to the sex or gender of women performed with the purpose or effect of violating women’s dignity, integrity or working conditions because they are women by creating an intimidating, hostile, degrading, humiliating, offensive or upsetting environment that hinders their promotion, occupation of posts, access to decision-making positions, remuneration and professional recognition on an equal basis with men.

“b) Sexual harassment: consists of any unwanted verbal, non-verbal or physical behaviour of a sexual nature which is intended as or has the effect of an assault on the dignity and freedom of a woman or creates an environment that is intimidating, hostile, degrading, humiliating, offensive or upsetting to her.

“c) Discrimination on the grounds of pregnancy or maternity: any adverse treatment of women related to existing or potential pregnancy or maternity that constitutes direct discrimination and a violation of the fundamental rights to health, physical and moral integrity and work.

“Fourth. Violence in the social or community sphere which covers the following manifestations:

“a) Sexual aggression: the use of physical and sexual violence exercised against women determined by the premeditated use of sex as a weapon to demonstrate power and abuse them.

“b) Sexual harassment.



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“c) Trafficking in women for the purpose of sexual exploitation and for other purposes with a gender dimension.

“d) Female genital mutilation or risk of female genital mutilation: includes any procedure that involves or is likely to involve the partial or total removal of, or injury to, the female genitalia, even with the express or implied consent of the woman.

“e) Violence deriving from armed conflict: includes all forms of violence against women that may take place in these situations such as murder, rape, sexual slavery, forced pregnancy, forced abortion, forced sterilisation, intentional infection with disease, torture and sexual abuse.

“f) Violence against the sexual and reproductive rights of women such as selective abortion and forced sterilisation.

“g) Femicide: gender-based murders and homicides of women, inducements to suicide and suicides as a consequence of pressure and violence towards women.

“h) Gender-based assaults.

“i) Harassment, degrading treatment, threats and coercion in the public sphere.

“j) Restrictions on or denial of women's freedom or access to public or private spaces, or to work, training, sports, religious or leisure activities, and also restrictions on freedom of speech in terms of their sexual orientation or gender expression and identity or their aesthetic, political or religious expression.

“k) Reprisals for individual and collective speech and expressions of women demanding respect for their rights as well as public expressions and speech that directly or indirectly encourages, promotes or incites hostility, discrimination or violence towards women.

“Fifth. Violence in the digital sphere: sexist violence that takes place in digital communication networks, defined as a new open forum for interaction, participation and governance using information and communication technologies. It includes cyberbullying, surveillance and stalking, falsehoods, insults or discriminatory or denigrating expressions, threats, unauthorised access to computers and social media accounts, violation of privacy, tampering with private data, identity theft, non-consensual disclosure of personal information or intimate content, damage to the computers or channels of expression of women and women's groups, speech inciting discrimination against women, sexual blackmail through digital channels and the publication of personal information with the intention that others will attack, locate or harass a woman.

“Sixth. Violence in the institutional sphere: actions and omissions of the authorities, public personnel and officials of any public body or institution whose purpose is to delay, hinder or prevent access to public policies and the exercise of the rights recognised by this Act to ensure a life free of sexist violence in accordance with the situations included in applicable sectoral legislation. Any lack of quantitative and qualitative due diligence in tackling sexist violence constitutes a manifestation of institutional violence if it is known about or promoted by the authorities or becomes a pattern of repeated and structural discrimination. This violence can stem from a single serious act or practice, from the repetition of acts or practices of lesser scope that generate a cumulative effect, from the failure to act when there is awareness of the existence of a real or imminent danger, and from re-victimising practices or omissions. Institutional violence includes law-making and the interpretation and application of law intended to bring about or resulting in the same outcome. The use of parental alienation syndrome is also institutional violence.

“Seventh. Violence in the sphere of women's political life and the public arena: sexist violence that occurs in public and political life venues, such as political institutions and public administrations, political parties, the media and social networks. When this form of sexist violence occurs in political institutions or public administrations and is tolerated and not penalised, it is also a form of institutional violence.

“Eighth. Violence in the educational sphere: any type of violence that occurs in the educational setting between members of the educational community. It may take place between peers, from adults to minors or vice versa. It includes bullying, sexual abuse and physical, sexual, psychological or emotional maltreatment. Some of these forms of violence are gender-based or based on sexual identity.

“Ninth. Any other similar forms that harm or are likely to harm the dignity, integrity or freedom of women.”

Article 5. Amendment of article 6 of Act 5/2008

Article 6 of Act 5/2008 is amended to read as follows:



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“Article 6. Aims

“The measures established by this Act have the following aims:

“a) To fulfil with due diligence the obligations of awareness-raising, prevention, investigation, support, protection, recovery, redress and punishment of sexist violence, while ensuring non-repetition and the removal of the social structures and practices that give rise to and perpetuate it in accordance with the competences granted to the administrations of Catalonia.

“b) To recognise the rights of women who suffer sexist violence to support, assistance, protection, recovery, comprehensive redress and assurance that they will not be re-victimised.

“c) To ensure equal opportunities for women and men, women’s autonomy and freedom and effective rights for women.

“d) To establish mechanisms to carry out research into sexist violence and to disseminate its results and also establish mechanisms for social awareness-raising and information intended for women.

“e) To provide the public authorities of Catalonia with sufficient resources and effective tools to eradicate sexist violence in the preventative, educational, health, training, justice and criminal enforcement, political participation, media, digital, employment, social and sports spheres and also in the political life and public sphere of women.

“f) To establish the catalogue of rights of women who find themselves in situations of sexist violence which are enforceable before public administrations and also for their children as well as assuring them free access to the public services established for this purpose.

“g) To guarantee the economic rights of women who find themselves in situations of sexist violence in order to facilitate the process of comprehensive recovery and redress.

“h) To evaluate every two years the Comprehensive Support and Recovery Network for women who experience sexist violence made up of a cluster of public resources and services for comprehensive support, assistance, protection, recovery and redress.

“i) To establish mechanisms for comprehensive and coordinated actions against sexist violence and create specific mechanisms to tackle second-order violence through the collaboration of the public administrations of Catalonia as well as participation by women’s associations, professional associations and citizens’ organisations working to combat sexist violence.

“j) To ensure specialised, compulsory and regular training for all professional groups involved in support, assistance, protection, recovery and redress for women who suffer sexist violence, their children and their family and community environment as well as venues for retraining and supervision.

“k) To safeguard the principle of appropriacy of measures so that their application takes into account the specific needs and requirements of all women who suffer sexist violence. The design and implementation of measures must put women’s rights at the centre and promote women’s decision-making autonomy and personal empowerment.”

Article 6. Amendment of article 7 of Act 5/2008

Article 7 of Act 5/2008 is amended to read as follows:

“Article 7. Guiding principles in the actions of the public authorities

“The public authorities of Catalonia, in order to reach the aims established by article 6, must follow these criteria for action:

“a) The obligation to safeguard the effectiveness of women’s rights and to ensure that they can live a life free of violence, bearing in mind the dimension of human rights, democratic quality and the rule of law.

“b) The commitment to non-discrimination against women by preventing public authorities from discriminating against them, ensuring that people who are part of or work for administrations are held accountable for acts of discrimination and protecting women against any discrimination perpetrated by third parties.

“c) Due consideration of the structural aspect and multi-causal and multi-dimensional nature of sexist violence, in particular with respect to the involvement of all actors responsible for awareness-raising, detection, support and redress systems.



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“d) Due consideration of the individual impact on the woman who is directly affected by sexist violence and of the collective impact on other people who are aware of it and who assist in the authorities’ response.

“e) Due consideration of the comprehensive nature of the measures, which need to take into account all the harm that women and their children suffer as a result of sexist violence. This harm, which includes the use of parental alienation syndrome, has an impact on the physical, emotional, digital, economic, employment, community and social spheres.

“f) The cross-cutting nature of the measures, in such a way that each public authority involved must define specific and coordinated actions in its own field of action according to global action models in the framework of four-year programmes for comprehensive action against sexist violence in Catalonia.

“g) Due consideration of women’s diversity and intersectionality. Sexist violence has a compounded and distinct impact when it occurs in conjunction with other grounds of discrimination such as origin, phenotype, ethnicity, religion, migration status, age, social class, physical or intellectual disability, serostatus, drug addiction or any other addiction, deprivation of liberty, sexual orientation or gender identity and expression.

“h) Due consideration to ensure that all measures prioritise women’s concerns, rights, empowerment and safety together with their effective and equal participation in decision-making.

“i) The accessibility and balance of actions across the territory, ensuring special support for rural areas and women with a disability in these areas.

“j) The commitment that building responses to sexist violence must come from putting women’s rights at the centre and based on the specific needs and experiences of women in situations of violence by drawing on the methodologies and practices that have been defined by civil society and academia and feminist organisations in particular given their experience.

“k) Due consideration of the infringements experienced by women of certain groups in specific situations in line with chapter 5 of title III.

“l) An active commitment to ensure the protection of the personal data of women in situations of violence as well as of other people involved or witnesses pursuant to applicable legislation. The protection of the personal data of the network professionals involved must also be assured.

“m) An active commitment to prevent secondary victimisation and institutional violence against women and their children and to adopt measures to prevent the reproduction or perpetuation of stereotypes about women and sexist violence.

“n) Mandatory and regular training on the gender, childhood and diversity perspective for professionals who directly or indirectly attend to women in situations of violence in order to address prejudices and stereotypes as well as the continuous evaluation of this training through professional supervision and retraining. Specialisation must be ensured in the case of public posts.

“o) The promotion of instruments for collaboration and cooperation between public administrations for all public policies to eradicate sexist violence and in particular the design, monitoring, evaluation and accountability of the measures and resources to be implemented.

“p) The promotion of instruments for participation and collaboration with social organisations, and especially women’s organisations such as women’s councils, the women’s association movement and women’s groups in social and trade union movements, in the design, monitoring and evaluation of public policies to eradicate sexist violence.

“q) Professional and social participation which entails the availability of all personnel from the various fields who may need to deal with the complexity of the forms of sexist violence and with the criteria and participation of the affected groups.

“r) Annual accountability of the administrations that design and carry out public policies for the eradication of sexist violence in order to assess how far they have been implemented, their effectiveness and options for improving them.

“s) Regularly setting up venues for sharing information and projects between the professional sector in the various areas for addressing sexist violence, the women affected and the women’s groups involved in tackling it.



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“(t) The need to ensure promptness in actions so as to enable appropriate support and avoid any increase in the risk or in victimisation.

“(u) The prohibition of mediation if one of the involved parties is a woman who suffers or has suffered any form of sexist violence in the sphere of the couple or the family.

“(v) The commitment of the Catalan Government and all Catalan administrations to the rights of women and compliance with the principle of equality for all people who live in Catalonia in line with article 37 of the Statute of Autonomy and international human rights treaties.

“(w) The fact that digital violence can amplify sexist violence and have a severe, lasting and repeated impact on women.

“(x) The promotion of instruments for awareness-raising, prevention and collaboration in the training of professionals and future professionals in communication, information and publicity on the guiding principles of this Act, good practices and codes of ethics to contribute to the eradication of sexist violence.”

Article 7. Addition of a new paragraph to article 8 of Act 5/2008

A paragraph, 5, is added to article 8 of Act 5/2008 with the following wording:

“5. The appropriateness of the approach to sexist violence calls for preliminary quantitative and qualitative analysis. The obligation to gather official statistical data for drawing up and evaluating public policies on sexist violence must be met within the framework of Catalan legislation on statistics, especially with respect to the regulation of statistical confidentiality, in the terms laid down by Catalan statistics regulations, personal data protection regulations and other applicable regulations, notwithstanding the roles of the Observatory for Gender Equality and the Centre for Studies, Research and Training on Sexist Violence.”

Article 8. Addition of an article 8 bis, to Act 5/2008

An article, 8 *bis*, is added to Act 5/2008 with the following wording:

«Article 8 *bis*. Research into digital sexist violence

“Research into digital sexist violence must address the type of women who experience this violence, the kinds of violence they experience, its frequency, the type of profiles that perpetrate it and spread these discourses, the platforms where abuses and violence take place, the impact of this violence individually and in terms of women’s fundamental rights and human rights, the police and courts’ response, the ratio of complaints actually filed to the number that could and should have been filed, and the reasons why they are not filed or are shelved, the impact on people who report violence against women, and the institutional response to protect these people.”

Article 9. Addition of an article, 8 ter, to Act 5/2008

An article, 8 *ter*, is added to Act 5/2008 with the following wording:

“Article 8 *ter* Research and public discussion about sexist violence in political life

Research and the promotion of public discussion must address the type of violence experienced by women in political life, its frequency, the gendered motivations, the impact on their ability to exert influence including withdrawal from politics or loss of opportunities to take office, the impact on women in the population as a whole, the response of political institutions and parties, the police and courts’ response, and the causes of under-reporting. Research must include attention to the diversity of women in politics, including racial or ethnic status, age, sexual orientation, gender expression and identity, and functional diversity.”

Article 10. Addition of a new paragraph to article 9 of Act 5/2008

A paragraph, 6, is added to article 9 of Act 5/2008 with the following wording:

“6. The administrations of Catalonia responsible for education, communication, participation and citizens’ rights, the Catalan Audiovisual Council and the other administrations of Catalonia must include training and educational resources on digital citizenship with a view to providing technical knowledge and also education in values that foster responsible, constructive, respectful and critical use of information and communication technology to ensure that women are treated in accordance with the principles and values of this Act.”

Article 11. Addition of a new paragraph to article 12 of Act 5/2008

A paragraph, 3, is added to article 12 of Act 5/2008 with the following wording:



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“3. In order to combat sexist violence, it is essential to include coeducation and affective-sexual education through a specific, cross-cutting, rigorous and systematic approach to the gender perspective from early childhood education until at least the end of compulsory education.”

Article 12. Addition of a new paragraph to article 15 of Act 5/2008

A paragraph, 3, is added to article 15 of Act 5/2008 with the following wording:

“3. Gender-sensitive training for teachers must be implemented from the beginning of their training process and must be extended to all members of the educational community.”

Article 13. Amendment of article 17 of Act 5/2008

Article 17 of Act 5/2008 is amended to read as follows:

“Article 17. The university education sphere

“1. Under the terms of their independence, universities must include specific training content on sexist violence in the curricula of bachelor’s, master’s and doctoral degree courses in those study programmes which may have the greatest impact on attaining the objectives of this Act.

“2. Universities must ensure that texts and materials containing content that is sexist, violent and discriminatory towards women and which contributes to reinforcing stereotypes and promotes gender inequality are removed from degree courses, unless the use of these texts and materials is intended for discussion in order to encourage critical thinking among students. More generally, universities must train teachers in the eradication of sexism in the classroom.

“3. Universities must have protocols in place for prevention, detection, support and redress in situations of sexual harassment and harassment based on sex as well as other forms of sexist violence that may occur among members of the university community. They must further provide appropriate training in the gender perspective and non-revictimisation to persons involved in the procedures and in the investigation of informative or disciplinary proceedings arising from the implementation of the protocol. Universities must draw up an evaluation report at regular intervals which they must submit to the administrations responsible for university policy and gender equality policies in strict compliance with personal data protection regulations.

“4. Universities must equip their equality units or observatories with sufficient human and material resources to carry out the roles of prevention, detection, support and redress and also provide, within the scope of their competences, assistance services for women in the university community who have suffered or are suffering from sexist violence.

“5. As a means of redress and pursuant to current legislation, the Catalan Government must provide free enrolment in undergraduate degrees for women students who can provide documentary proof of their status as victims of sexist violence and also for their dependent children.

“6. Universities, authorities and public bodies responsible for university policy must establish compensatory mechanisms in the calculation of eligibility, the duration of research grants, scholarships or contracts, the time limit for obtaining a degree and the merit and seniority assessment processes for all staff to ensure that periods in which a situation of sexist violence has occurred do not penalise women’s academic or professional careers.

“7. Universities must put in place inter-institutional cooperation mechanisms to ensure the coordination of the respective protocols for dealing with sexist violence in situations where the victim and the aggressor are from two different universities and to share information.

“8. Universities must set up institutional cooperation mechanisms to enable undergraduate students who are victims of sexist violence and their dependent children in cases of violence in the sphere of the couple and also students who have suffered sexual harassment, harassment based on sex, sexual orientation, gender identity or gender expression to transfer to another university free of charge.”

Article 14. Amendment of article 19 of Act 5/2008

Article 19 of Act 5/2008 is amended to read as follows:

“Article 19. Training of personnel

“1. The Catalan Government must ensure that continuous and specialised training is provided for all professionals working in prevention, detection, support, assistance, recovery and redress in situations of



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sexist violence.

“2. The Catalan Government must promote specific specialisation and training for labour inspectors and court and non-court personnel working in the administration of justice, law enforcement personnel, personnel of the Institute of Legal Medicine and Forensic Sciences of Catalonia assigned to the comprehensive forensic assessment units, personnel of all services of the Secretariat for Criminal Measures, Reintegration and Victim Care, and of the Public Prosecutor's Office in Catalonia that intervene in legal proceedings related to sexist violence. Forensic doctors' specialisation must be ensured from the first actions in the legal proceedings and they must form part of the comprehensive forensic assessment units.

“3. Professional associations, trade unions and employers' associations and public bodies must ensure that the specific training and skills referred to in this article are incorporated into the corresponding training programmes.

“4. Training must include programmes of support and care for the personnel involved in dealing with sexist violence so as to prevent and avoid the occupational hazards associated with this professional activity. Such programmes must be made available to all professionals regardless of the type of relationship they have with the competent administration.

“5. The training courses referred to in this article must include the gender perspective, the structural and social causes of sexist violence, its characteristics, causes, effects and consequences, and the intersection of other identities with sexist violence.”

Article 15. Amendment of article 29 of Act 5/2008

Article 29 of Act 5/2008 is amended to read as follows:

“Article 29. Grants for companies

“1. The regulations for grants whose beneficiaries are companies with a staff of twenty-five or more must include the requirement, with the agreement of the social partners, to identify the measures that will be used to prevent, detect and intervene in cases of sexual harassment and harassment based on sex in their workplaces, and they must have protocols for dealing with and preventing sexual harassment and harassment based on sex.

“2. Failure to use or improper use of the measures referred to in paragraph 1 are grounds for not awarding or, where applicable, withdrawing the grant.”

Article 16. Addition of a chapter to title II of Act 5/2008

A chapter, 8, is added to title II of Act 5/2008 with the following wording:

“Chapter 8. Political parties

«Article 29 *bis*. Political parties

“1. Political parties must have an internal equality plan and a protocol for prevention, detection and action in response to sexist violence perpetrated inside or outside the organisation by members or supporters or by persons who are not members but hold a position of representation or have been appointed to a specific role regardless of the hierarchical level or public office they hold.

“2. Political parties must ensure the independence and expertise in sexist violence of the people conducting the investigation, undertake due diligence, implement the necessary provisional remedies, provide advice and assistance services to victims and arrange for appropriate redress measures.

“3. Political parties must include a ban on acts of sexist violence in their internal rules and in their programmes for welcoming new members and must suspend or expel any of their members who commit such acts.

“4. Political parties must publicise their protocol for prevention, detection and action in response to sexist violence, conduct awareness-raising actions among their members, and regularly evaluate and review the operation and implementation of the procedures set out in the protocol.”

Article 17. Addition of four paragraphs to article 31 of Act 5/2008

Four paragraphs, 4 to 7, are added to article 31 of Act 5/2008 with the following wording:

“4. The approach to sexist violence must seek to eliminate the psychological, legal, social, economic and community factors that hinder the reporting of sexist violence.



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“5. The risk assessment by the Generalitat Police Force - Mossos d'Esquadra must be individualised and tailored to the specific type of violence. The risk assessment must be based on information about the subjective perception of risk of the woman herself; the relationship of power, affection or emotional or economic dependence between her and the aggressor; the duration and type of violence suffered; the woman's family and community support; the existence of legal proceedings underway between the two sides; and the existence of factors for the vulnerability and empowerment of the woman. The risk assessment must include the risk experienced by the woman's children.

“6. When a woman goes to a police station to file a complaint as a result of having experienced any of the forms of sexist violence, the officers of the Generalitat Police Force - Mossos d'Esquadra must ask the bar association for the presence of a lawyer in order to secure legal assistance from the initial moment of the complaint.

“7. A risk assessment tool, including the risk to the woman's children, must be devised for use by forensic doctors and comprehensive forensic assessment units. The comprehensive forensic assessment units must necessarily include family professionals to assess the risks to children of the visitation and custody system to be established including on a preventive basis.”

Article 18. Amendment of article 33 of Act 5/2008

1. Article 33.2(f) of Act 5/2008 is amended to read as follows:

“f) A report from the Catalan Women's Institute. In addition, the Catalan Women's Institute must also officially publish, every 31 December and 30 June, the number of women who are victims of sexist violence and who should have access to the recovery and redress service. These data must be cumulative since the same date of the previous year and are the ones to be used to calculate the minimum amount of the budget item referred to in paragraph 2 *bis* of the first additional provision.”

2. A paragraph, 4, is added to article 33 of Act 5/2008 with the following wording:

“4. The consent of parents or legal guardians is not required for access to support and recovery rights for children and adolescents from the age of sixteen onwards.”

Article 19. Amendment of article 46 of Act 5/2008

Article 46 of Act 5/2008 is amended to read as follows:

“Article 46. Minimum guaranteed income, financial assistance and other allowances

“1. In order to encourage the independence of women in situations of sexist violence and in terms of the right to receive the minimum guaranteed income, it is only the individual income and earnings of each woman that should be taken into account as long as the requirements established by the Act 14/2017, of 20 July, on the guaranteed minimum income, are met.

“2. In order to determine the shortfall in income that may lead to entitlement to other financial assistance established by this Act, it is only the individual income and earnings of each woman that should be taken into account, and any income from public or private emergency financial benefits as a victim of sexist violence within the sphere of the couple or family must not be included pursuant to articles 7.e and 11.d of Decree 55/2020 of 28 April.

“3. With respect to social emergency benefits, women who are victims of sexist violence have the rights established by article 30 of Act 13/2006, of 27 July, on social assistance of a financial nature.

“4. The Catalan Government may grant extraordinary financial assistance to women who have suffered sexist violence, identified through any of the means established by article 33. This assistance must go towards the alleviation of situations of personal need that it is possible to evaluate and verify with a previous report from the competent bodies on the non-existence or insufficiency of ordinary allowances to meet these situations.”

Article 20. Amendment of article 55 of Act 5/2008

Paragraph 1 of article 55 of Act 5/2008 is amended to read as follows:

“1. The Dedicated Telephone Hotline Service is a universal and free service for immediate guidance and advice offering comprehensive support and information on public and private resources available to all those to whom this Act is applicable.”



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Article 21. Amendment of article 68 of Act 5/2008

Article 68 of Act 5/2008 is amended to read as follows:

“Article 68. Rural environments

“The support, help and protection services established in title III must provide access for women from rural environments and hard-to-access areas to centres that may be far from their places of origin and residence and based on criteria of the greatest possible proximity to their residence while ensuring their anonymity.”

Article 22. Amendment of article 69 of Act 5/2008

Article 69 of Act 5/2008 is amended to read as follows:

“Article 69. Old age

“The Catalan Government must promote efficient awareness-raising strategies aimed at older women to familiarise them with the resources and strategies to confront violence against women and allow them to adopt an active stance when faced with these situations, for which purpose it must provide specific information on sexist violence against older women.”

Article 23. Amendment of article 70 of Act 5/2008

Article 70 of Act 5/2008 is amended to read as follows:

“Article 70. Transgender women and gender diversity

“1. All measures and the recognition of rights indicated by this Act must respect gender diversity.

“2. For the purposes of this Act, transgender women who do not have their gender recorded as female in official documentation are equal to other women who have suffered sexist violence insofar as they self-identify as women.”

Article 24. Addition of an article, 76 bis, to Act 5/2008

An article, 76 bis, is added to Act 5/2008 with the following wording:

“Article 76 bis. Responsibility of administrations arising from re-victimisation and institutional violence

“1. The differing degrees of responsibility of administrations for re-victimisation and institutional violence depend on the intensity of the administration’s actions and the adverse impact and risks they may have for women’s fundamental rights.

“2. In addition to their financial liability, responsibility for the actions of the competent administrations includes the disciplinary accountability of the personnel taking action, whether established or non-established public employees, pursuant to the Spanish Act 40/2015, of 1 October, on public sector legal system, and the Act 26/2010, of 3 August, on the legal and procedural system of the public administrations of Catalonia.

“3. In administrative proceedings in which it is necessary to rule on the responsibility of administrations for institutional violence against a woman or a group of women, legally constituted entities, associations and organisations whose aims include advocating and promoting women’s rights, trade unions and professional associations are considered to be interested parties. This recognition is subject to the consent of the women affected, notwithstanding article 12.3 of Organic Act 3/2007, of 22 March, on effective equality between women and men, or any regulation that replaces it in relation to any disputes over sexual harassment and harassment based on sex that may occur.

“4. The public administrations of Catalonia must provide support to women who decide to initiate a liability claim procedure.

“5. The public administrations of Catalonia must draw up a model of support to set the framework for their actions in order to ensure that there is no secondary victimisation of women. The model of support must be deployed by means of a protocol, which is the document that sets out the technical and organisational aspects required for its implementation. Redress for acts of institutional violence includes reversal of the act, provided this is possible and does not re-victimise the woman, and review of the practice that gave rise to the institutional violence.

“6. The public administrations of Catalonia must perform annual assessments of victimisation of women and their children included in the circuits for dealing with sexist violence and which include court proceedings. The findings of these assessments must be submitted to the Parliament of Catalonia and must



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be published so that civil society is aware of them. They must also be reported to the General Council of the Judiciary, the State Prosecutor's Office and the Ministry of Justice if the evaluations affect their areas of competence."

Article 25. Addition of an article, 76 *ter*, to Act 5/2008

An article, 76 *ter*, is added to Act 5/2008 with the following wording:

"Article 76 *ter*. Responsibility of administrations and political institutions arising from violence against women in politics

"1. All administrations and political institutions must incorporate as a standard of conduct the prohibition of any type of sexist violence, including sexist and misogynist discourse, offensive language towards women and psychological or sexual harassment, harassment based on sex, sexual orientation or gender identity or expression. They must further specify the appropriate penalties in their disciplinary systems. These penalties must be more severe in cases of multiple discrimination.

"2. All administrations and political institutions must have a protocol for prevention, detection and action in situations of sexist violence. This protocol must include appropriate provisional remedies and redress measures. The independence and expertise in sexist violence of the people conducting the investigation must be ensured and advice and assistance services for victims must be provided.

"3. All administrations and political institutions must provide mandatory training on gender equality and sexist violence both for their staff and also for people holding publicly elected or appointed positions."

Article 26. Addition of a paragraph to the first additional provision of Act 5/2008

A paragraph, 2 *bis*, is added to the first additional provision of Act 5/2008 with the following wording:

"2 *bis*. The Catalan Government's budget act must allocate a specific budget item to fund support, recovery and redress for women who have suffered sexist violence. This item must provide at least sufficient resources to attend to all cases in accordance with the latest data published by the Catalan Women's Institute."

Article 27. Addition of two additional provisions to Act 5/2008

Two additional provisions, the thirteenth and the fourteenth, are added to Act 5/2008 with the following wording:

"Thirteenth. Agreement with Internet intermediary platforms

"The Catalan Government, with the assistance and intervention of the Catalan Audiovisual Council in all matters concerning audiovisual communication services and video-sharing platforms, must promote an agreement with the main Internet intermediary platforms to set up a ongoing relationship between the Ministry of Home Affairs, the Catalan Women's Institute and other relevant bodies to work on the establishment of flexible and prompt criteria and mechanisms for reporting and removing content related to digital sexist violence, hostility and discrimination against women and hate speech as well as flexible and prompt mechanisms for protection and restorative justice for victims of digital violence. The National Women's Council of Catalonia must be consulted in setting these criteria.

"Fourteenth. Allocation of resources in public administration budgets.

"The budgets of the Catalan Government and Catalan local authorities must allocate the funding required to achieve the objectives of this Act."

Additional provision. Effects of the provisions that entail expenditure charged to the budgets of the Catalan Government.

The provisions of this Act that entail expenditure charged to the budgets of the Catalan Government take effect from the entry into force of the budget act for the financial year immediately following the entry into force of this Act.

Final provision. Bill on support for the children of women who are victims of sexist violence

The Catalan Government must present within nine months a bill to amend the legal system to provide the necessary guarantee of support for the children of women victims of sexist violence with no need for open legal proceedings, and also in the case of minors between the ages of fourteen and sixteen with respect to the consent of the parents or legal guardians. During this period the Catalan Government must ensure such support is provided.