



LOPIVI

Organic Law for the Protection of Children Against Violence

“The thick layer of silence”

Only between 10 and 15% of cases are reported

There are three different registries in Spain.

➤ Unified Registry of Child Abuse (RUMI, 2018): **18,801** victims of abuse, 6,402 serious

➤ ANAR Phone number: (2018): Calls answered: **439,035**

<https://www.anar.org/wp-content/uploads/2019/12/Memoria-ANAR-2018.pdf>

➤ Statistical Yearbook of the Ministry of the Interior (2018): - **37,980** victimizations of minors, 5,382 for crimes against sexual freedom

This law creates a new unified registry

Children's rights to be protected in Spain

I SPANISH CONSTITUTION Article 39. 1.

"2. The public authorities also ensure the **comprehensive protection of children,**

4. "Children will enjoy the protection provided for in international **agreements that protect their rights**"

II CONVENTION ON THE RIGHTS OF THE CHILD (UNITED NATIONS), November 20, 1989):

1-Children and adolescents are subjects of their own right, included in this Convention

2-All measures that affect them will be oriented to their best interests

Article 19 1." State Parties shall adopt all appropriate legislative, administrative, social and educational measures to protect the child against all forms of physical or mental harm or abuse.....

" **III RATIFICATION BY SPAIN OF THE CONVENTION ON THE RIGHTS OF THE CHILD:** BOE December 31, 1990

Children Protection Laws approved in Spain since Convention

- ▶ **Law 21/1987, of November 11**, the **generalization of the best interests of the child** as an inspiring principle of all actions related to them, **both at the administrative level and the judiciary**; and the increase in the powers of the Public Prosecutor's Office in relation to minors, as well as their corresponding obligations.
- ▶ **Organic Law 1/1996, of January 15, on the Legal Protection of Minors**, partially modifying the Civil Code and the Civil Procedure Law, focuses on the full recognition **of the ownership of rights in minors and a progressive capacity to exercise it**, introducing the condition **of subject of rights to minors to the entire legal system in all matters that may affect them**. The right **to be listened to** and taken into consideration in everything concerning them introduces the dimension of evolutionary development in the direct exercise of their rights.
- ▶ **Organic Law 8/2015, of July 22, and Law 26/2015, of July 28**, both modifying the child and adolescent protection system, which introduces as **a guiding principle of administrative action the protection** of minors against all forms of violence.

What protection does this law add?

- ▶ **It takes into consideration the international treaties ratified by Spain.** Combat violence against childhood and adolescence from a comprehensive approach, in an extensive response to the multidimensional nature of its risk factors and consequences.
- ▶ **It gives priority to prevention, socialization and education,** both among minors and among families and the civil society itself. It seeks to enhance knowledge and skills of children and adolescents so that they can recognize violence and react against it, and thereby can be an active party in promoting a culture of good treatment for the childhood
- ▶ **It guarantees that children and adolescents are heard** and their opinions are taken into account as well as participation in matters of interest to them
- ▶ **It establishes protection measures, early detection, assistance, reintegration** of rights that have been violated and the promotion of the recovery of the victim
- ▶ **It pursues a didactic, informative and cohesive function.** It aims to prioritize violence against children and adolescents on the agenda of the public administrations, as well as to sensitize society as a whole

Main Measures

- **1. DUTY OF COMMUNICATION:** 1 .. **FOR EVERY PERSON** who becomes aware of any indications of violence, for civil servants who are entrusted with the assistance or care of children. Public administration is also expected **to FACILITATE** children means to communicate any sort of violence exerted on them or others
- **2. POSITIVE FAMILY SURROUNDING:** Promoting good **manners** and the exercise of positive parenting, education in rights and obligations
- **3-GUARANTEE A RELIABLE SURROUNDING** In environments where children and adolescents are raised,
- **4. PROTOCOLS OF ACTION AGAINST ANY INDICATION OF VIOLENCE** In educational, health, sports centers, Police and State Security Forces, in social centers, specifically in centers for minors
- **5. CREATION OF THE FIGURE OF “WELFARE COORDINATOR”** In schools, responsible for ensuring the proper functioning of violence prevention protocols.
- **6. TRAINING OF THE PROFESSIONALS INVOLVED** Specialized, initial and continuous training in the fundamental rights of childhood and adolescence
- **7. SOCIAL SERVICES INTERVENTION TEAMS** They will have an Intervention Plan and it will be subject to evaluation to assess its effectiveness. They are required to send the information on any cases of violence to the Unified Registry of Social Services on Violence against Children (RUSSVI).
- **8. UNIFIED REGISTRY OF SOCIAL SERVICES ON VIOLENCE (RUSSVI)**
- **9. CENTRAL REGISTRY OF SEX OFFENDERS AND HUMAN TRAFFICKING**
- **10. DUTY TO REPORT** The duty of communication is extended to the spouse and close relatives of the person who has committed a criminal act when it is a serious crime committed against a minor (they were generally exempted from doing so)
- **11 CREATION OF THE STATE COUNCIL FOR THE PARTICIPATION OF CHILDHOOD AND ADOLESCENCE**

Start up and coordination

- ▶ **STRATEGY AGAINST VIOLENCE:** It defines **measures to be carried out by the Public Administrations in the performance of their respective responsibilities**. It commits the General State Administration, Autonomous Communities, the cities of Ceuta and Melilla, and local entities.
- ▶ **SECTORIAL CONFERENCE ON CHILDREN AND ADOLESCENTS.** Council for **cooperation between Public Administrations in matters of protection and development of childhood and adolescence**. The goal is to achieve coherence and complementarity of the actions launched by the different levels of the Administrations in order to ameliorate effectiveness
- ▶ **SPECIFIC COMMITTEE IN THE INTER-GOVERNMENTAL COUNCIL OF THE NATIONAL HEALTH SYSTEM** It will support and **orient planning on health-related measures included in the law**, and will elaborate a common protocol of sanitary action within six months after its enactment.
- ▶ **MONITORING COMMITTEE** In order to **assess the implementation of the law, its legal and economic implications and conduct full evaluation**. Composed of the Ministries of Justice, of Internal Security and Social Rights and the 2030 Agenda and the collaboration of all ministerial departments and especially the Ministries of Health, Consumption, Education and Vocational Training and Equality. All of them will participate in matters involving their responsibilities

Attention to victims

- **1. SPECIALIZED UNITS OF THE POLICE AND STATE SECURITY FORCES** In accordance with the **protocols of police action** with minors, Immediate protection action, **Proceedings will only be carried out on a single occasion** and, always, through specifically **trained professionals**. Any type of direct or indirect contact in police stations between the investigated person and the child or adolescent will be prevented. When requested, minors will be allowed to file a complaint themselves
- **2. RIGHT TO FREE LEGAL ASSISTANCE AND THE IMMEDIATE APPOINTMENT OF A LAWYER**
- **3.-SPECILIZATION IN THE COURTS.** The Government is required to send to the Parliament, **before one year, a new law to guarantee the civil jurisdictional specialization in Childhood, Family and Capacity.**
- **4.-AVOID SECONDARY VICTIMIZATION** **Pre-trial documentary evidence** to avoid secondary victimization, as a rule. It is compulsory in the case of children **under fourteen.**
- **5.-PRECAUTIONARY SUSPENSION OF CUSTODY** In case of certain serious crimes, including against minors and people with disabilities, in order to protect the child from dangers and risks.
- **6. PRESERVE THE BEST INTEREST OF THE MINOR IN CASE OF FAMILY RUPTURE** To avoid that the breakdown of the parents implies detrimental consequences for the well-being and full development of the minors. Support services for families will be promoted, including mediation **except when there is gender violence. The use of the so-called parental alienation syndrome, lacking scientific evidence, is prohibited.**
- **7. SPECIFIC PROTOCOLS IN CASE OF GENDER VIOLENCE** In the event of gender-based violence, the **guidelines for action established in the protocols** on gender-based violence that the different health, police, educational, judicial and equality agencies have will be followed. In these cases there is no mediation
- **6 -EXTENSION OF THE PRESCRIPTION PERIOD AND NEW CRIMES** The statute of limitations **will count from the moment the victim has reached the age of thirty-five. Forgiveness of the offended person is eliminated**, when the victim is a person under eighteen. Removal of custody to those convicted of homicide or murder when the child is son/daughter of the victim.
- **7. VICTIMS ASSISTANCE OFFICES** Victims of violence will be referred to the Office of Victim Assistance for information, advice and necessary support.
- **8. THE MINOR IS GIVEN THE GUARANTEE TO BE HEARD.**