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General Provisions

Lehendakaritza

4/2005 Equal Opportunities between Men and Women ACT of 18 February.

The citizen of the Basque Country are hereby informed that the Basque Parliament has approved the following Act

4/2005 Equal Opportunities between Men and Women Act of 18 February

PRELIMINARY RECITALS

I

The principle of equal opportunities and the express forbidding of any type of sex discrimination are included in different legal regulations.

The Convention on the Elimination of all Forms of Discrimination against Women, approved by the UN General Assembly in December 1979, addresses the principle of equal opportunities. In its Article 2, its members agree to "ensure by law and other appropriate means, the practical realization of this principle".

Moreover, since the entering into force of the Treaty of Amsterdam on 1 May 1999, equal opportunities have been formally consecrated as a basic principle of the European Union. According to Article 3.2 of the European Union Treaty, the aim of eliminating inequalities and to promote equality between men and women must form part of all policies and activities of the Union and its Member States.

Article 9.1 of the Basque Country Constitution, in referral to that established in the Spanish Constitution, addresses the right to equality and lack of sexual discrimination. Likewise, Article 9.2d) establishes the obligation of the public authorities to promote conditions and remove obstacles for the real and effective equality of the people and groups comprising them.

By approval of the 2/1998 Act of 5 February creating the Basque Women's Institute / Emakumearen Euskal Erakundea and, as established in its preliminary recitals, priority was given to the effective elimination of all forms of discrimination against women and the adoption of the necessary measures to promote their participation in all areas of our Community and assumed the task of promoting coordination action regarding the issue.

In development of the 2/1988 Act, the Basque Government has approved three plans of positive action for women in the Autonomous Region of the Basque Country, where the basic lines of intervention of the Basque public authorities are established in relation to the promotion of equal opportunities in all areas of life.

II

The role traditionally played by men and women in society is undergoing important changes. The greater participation of women in the labour market, their access to all levels of education and their greater access to training and to culture and, to a lesser extent, to decision-making areas, are generating favourable social changes for advances towards equal opportunities, changes that would not have been possible without the basic contribution of feminist movements and without the effort of all women who, from anonymity, have worked for the rights of women.

However, data on the labour market, socio-political participation, housework, violence against women and poverty, etc. continues to show the existence of a hierarchy in the relationship and social position of men and women as a result of the stereotypes and socio-cultural behavioural, sex-related standards that assign domestic responsibilities to women and public responsibility to men, based on a very unequal economic and social assessment and acknowledgement. Furthermore, there is a large number of women who suffer from multiple discrimination due to both their sex and other discriminations arising from factors such as race, ethnic origin, language, age, disability, wealth or sexuality, etc. All of this often conditions women fully exercising the rights inherent to all citizens.

The current challenge is to ensure the practical and effective application of the right to equality formally acknowledged in legal texts and, along these lines, this act includes specific mechanisms and measures to ensure the Basque public authorities undertake more incisive policies and action to eliminate this structural and universal phenomenon of inequality between men and women.

The social consensus related to acceptance of the right to women's equality with regard employment, socio-political participation, economic independence and the enjoyment of free time, etc. is growing, along with the need, convenience and justice for men to participate more and to be jointly responsible in domestic obligations. A society in which men and women have equal participation in public and domestic areas, in which a non-hierarchical relationship is structured between men and women and between reproduction and production, in which the valuing of work does not depend on whether it is carried out by men or women and in which a better use is made of the potential of all people and groups is currently the model considered as desirable by theory and by feminist groups and institutions working towards real and effective equality between men and women and that is expressed in individual and collective rhetoric. All of this provides an excellent opportunity to adopt an act aimed at incorporating the gender perspective into public politics.

Furthermore, the development of positive plans of action for more than a decade has provided experience and important advances in the Authorities themselves. These have enabled the implementation and development of equal opportunity policies on the three levels of the Basque public authorities, the creation of structures for the putting into practice thereof, the establishing of stable intra-institutional and inter-institutional coordinating and collaborating mechanisms, the training of people to move forwards in these policies and the presence of equality for men and women in the current political agenda. However, it is no less certain that there is still a great amount of work remaining to ensure equal opportunities between men and women is a strategic and priority objective for all Basque public powers and authorities and this act also seeks to have a bearing on this matter.

The advances that this act addresses in the development of equality policies is also necessary if a suitable response is to be given to the demands of Community normative regarding the integration of the gender viewpoints and of the objective of equal opportunities in all administrative policies and action.

Along these lines, the act seeks to establish the bases to go into further depth regarding the work carried out until now in the development of equality policies to place the country at the same level as the most advanced in this matter. All of this in the knowledge that equal opportunities, as well as a human right, is a strategic need for a more in-depth stance in democracy and for the building of a fairer, more unified and more socially and economically developed Basque society.

III

According to that established in the preliminary title, the ultimate aim of the act is to advance in the attaining of an egalitarian society in which all people are free, in both public and private areas, to develop their personal capabilities and make decisions without the limitations imposed by traditional roles according to sex and in which the different behaviour, ambitions and needs of men and women are taken into account, valued and encouraged. Thus, the act establishes the general principles to prevail over the actions of the public powers in terms of equal opportunities and to regulate a set of measures aimed at promoting and guaranteeing equal opportunities and treatment in all areas of life, particularly at promoting independence and strengthening women's social, economic and political position as a discriminated group.

From the general principles included in said title, it follows that the equality promoted by this act is equality in the widest sense of the word, relating not only to the initial conditions of access to rights, power and economic and social resources and benefits, but also to the conditions for their effective exercising and control. Likewise, this equality respects the diversity and integrating nature of the singularities of men and women, offsetting the current trend of imposing and generalising the masculine model. In short, it is a question of men and women being equal in their differences. This is the reason why the title of the act formulates the principle of equality “of” and not “between” men and women. This seeks to avoid the mere comparison between the situation of men and women, which often implicitly involves a hierarchy in which the situation of men is the desirable situation and that of women must adapt, surrendering their values, desires and aspirations.

The Preliminary Title also defines the two additional principles or strategies that are currently internationally considered as the most suitable to ensure equality between men and women: the integration of the gender perspective and positive action. More specifically, the act seeks to establish the bases for the effective application of these strategies in our country as a form of ensuring equality. Likewise, the title establishes the scope of application of the act that, although it is limited to the Autonomous Region of the Basque Country, also considers the need to promote the cooperation and combined work with other institutions and organisations within and outside the Basque Country in order to ensure all Basque citizens have equal opportunities.

IV

Title One defines the functions corresponding to each administrative level in terms of equal opportunities, based on the powers derived from Article 10.39 of the Regional Constitution, Articles 6 and 7 c) 2 of the Historic Territories Act and the statutory (Article 9.2) and Community (Article 3.2 of the European Union Treaty) regulations imposing the duty of all public powers to promote conditions and remove obstacles for effective and real equal opportunities and the obligation to promote this equality in all of their policies and actions. It also establishes the basic institutional organization and mechanisms for its coordination and regulates the criteria for financing the means considered in the act and possible formulas for financial cooperation.

V

Title two regulates a set of measures to integrate gender perspective into the actions of the Basque public powers and authorities: planning, the improvement of statistics and studies, staff training and the establishing of a procedure to incorporate the principle of equality into normative and administrative action. These measures, together with the participation of women in decision-making, as established in Title III, and with the establishing of sufficient economic and human resources and suitable, coordinated structures, as established in Title I, have been considered previous requirements or favourable conditions necessary for integrating the gender perspective into administrative action by the European Council in its Gender Mainstreaming report. Conceptual framework, methodology and presentation of good practices. Strasbourg, 1998.

VI

Title Three, concerning the basis of powers conferred by the Regional Constitution to the Autonomous Region with regard to the different issues, regulates a series of measures aimed at promoting the real and effective equality of men and women in the following areas of involvement: socio—political participation, culture and the media, education, employment, other basic social rights, conciliation of private, family and professional lives and violence against women.

VII

Title Four creates and regulates the Ombudsman’s office for the Equality of Men and Women, a new, independent body that seeks to ensure compliance with the Autonomous Region of the Basque Country

principle of equal treatment and to defend citizens in light of any gender-related discriminatory situations or practices that may arise in the private sector. Thus, the work being carried out concerning this issue by the El Ararteko institution regarding the Basque public sector is complemented and a response is given to the Community mandates as to the existence of independent bodies to promote the defence of the principle of the equal treatment of men and women, the duties of which include the provision of independent assistance to victims when processing their claims of sex discrimination, the undertaking of independent studies and reports regarding the matter and the making of recommendations regarding any issue related to said discrimination.

VIII

Finally, Title Five establishes the framework of infringements and sanctions in terms of equality opportunities.

PRELIMINARY TITLE

Article 1.– Purpose.

This act seeks to establish the general principles to prevail over the actions of public powers in terms of equal opportunities and to regulate a set of measures aimed at promoting and guaranteeing equal opportunities and treatment of men and women in all areas of life and, more particularly, to promote independence and strengthen their social, economic and political position. The ultimate aim of all this is to achieve an egalitarian society in which all people are free, in both public and private areas, to develop their personal capabilities and make decisions without the limitations imposed by traditional roles according to sex and in which the different behaviour, ambitions and needs of men and women are taken into account, valued and encouraged.

Article 2.– Scope of Application.

- 1.– This act will be applicable to all Basque public authorities, except for those established herein.
- 2.– Basque Public authority is understood, for the purposes of this act, as being:
 - a) The Autonomous Region Authorities, their independent bodies and the public organisations answerable or linked hereto.
 - b) The Municipal Authority, its independent bodies and the public organisations answerable or linked hereto.
 - c) The Local Authority, its independent bodies and the public organisations answerable or linked hereto.
- 3.– The general principles of Article 3 and Articles 16, 18.4 and 23 are applicable to all Basque public powers, as well as the private companies signing contracts or agreements of collaboration with any of them or that are beneficiaries of aid or subsidies granted by them.
- 4.– The act also applies to Basque Universities and to the private sector, under the terms established herein.

Article 3.– General Principles.

The general principles that must govern and guide the actions of the Basque public powers in terms of equality between men and women are as follows: equal treatment, equal opportunities, respect for diversity and difference, integration of the gender perspective, positive action, the elimination of gender-related roles and stereotypes, balanced representation and coordination and collaboration.

1.– Equal Treatment.

Any direct or indirect discrimination based on the sex of a person is forbidden, whatever the form used therefore.

For the purposes of this act:

a) Direct discrimination will exist when a person is, has been or may be treated in a less favourable manner than another in a similar situation due to their sex or to circumstances directly related to their sex, such as pregnancy or maternity. Without prejudice to its classification as a crime, sexist abuse at work is considered direct sexual discrimination.

b) Indirect discrimination will exist when an apparently neutral legal action, criterion or practice harms a substantially greater proportion of members of the same sex, except where said legal action, criterion or practice is adapted and necessary and can be justified with objective criteria not related to gender.

c) Measures that, despite involving a different treatment for men and women, have an objective and reasonable justification will not be considered as constituting sexual discrimination, among which will be those based on positive action for women, the need for special gender protection for biological reasons or promoting the involvement of men in housework and caring for others.

The Basque public powers may not grant any type of aid or subsidy to any activity that is gender-related discriminatory or to any individual or company to have been penalised by the authorities or criminally because of sexual discrimination for the period imposed in the corresponding sanction.

The Basque public powers will ensure the effective exercising of the basic rights of women or groups of women to suffer multiple discrimination due to other factors such as race, colour, ethnic origin, language, religion, political or other opinions, belonging to a national minority, wealth, birthplace, disability, age, sexuality or any other condition or personal or social circumstance.

2.– Equal Opportunities.

The Basque public powers must adopt the appropriate measures to ensure the effective exercising by men and women, under conditions of equality, of the political, civil, economic, social and cultural rights and other basic rights that may be recognised in the regulations, including the control and access to power and to economic and social resources and benefits. For the purposes of this act, equal opportunities must be understood as being related not only to the starting or initial conditions of access to power and to resources and benefits but also to the conditions for their effective exercising and control.

The Basque public powers will also ensure that the effective exercising of rights and access to the resources regulated in this act are not hindered or stalled by the existence of barriers, the elimination of which is contemplated in the 20/1997 Promotion of Accessibility Act of 4 December.

3.– Respect for Diversity and Difference.

The public powers must provide the necessary means for the process towards sexual equality to be made respecting the existing diversity and differences between men and women in terms of their biology, living conditions, aspirations and needs and the existing diversity and differences within the groups of men and women themselves.

4.– Integration of the Gender Perspective.

The Basque public powers must incorporate the gender perspective into all their policies and actions so that they all establish the general objective of eliminating inequalities and promoting equality between men and women.

For the purposes of this act, integration of the gender perspective is understood as the systematic consideration of the different situations, conditions, aspirations and needs of men and women, including specific objectives and actions aimed at eliminating inequalities and promoting equality in all policies and actions at all levels and in all its stages of planning, implementation and assessment.

5.– Positive Action.

To promote the attainment of real and effective equality between men and women, the public powers must adopt specific and temporary measures aimed at eliminating or reducing de facto sexual inequalities in the different areas of life.

6.– Elimination of Gender-Related Roles and Stereotypes.

The Basque public powers must promote the elimination of gender-related social roles and stereotypes on which inequality between men and women is based and according to which women are allocated the responsibility of the home and men that of the public environment, with very unequal economic and social assessment and recognition.

7.– Balanced Representation.

The Basque public powers must adopt the appropriate measures to ensure a balanced presence of men and women in the different decision-making areas.

For the purposes of this act, a balanced representation will be considered in pluri-personal administrative bodies when both sexes are represented by at least 40%.

8.– Collaboration and Coordination.

The Basque public powers are compelled to collaborate and coordinate their actions in terms of equal opportunities so that their interventions may be more effective and in line with the rational use of resources.

They must also promote collaboration and combined work with other institutions and organisations within and outside the Basque Country in order to guarantee equal opportunities for all Basque citizens.

TITLE I
POWERS, FUNCTIONS, ORGANISATION AND FINANCING

CHAPTER I

POWERS AND FUNCTIONS

Article 4.– General Provisions.

1.– The common institutions of the Autonomous Region of the Basque Country are responsible for legislative powers, the development of normative and direct action with regard to the equality of men and women.

2.– For the purposes of this act, direct action is considered the power of execution regarding any functions, programmes or services that, due to their general interest or to their specific technical, economic or social conditions, must be provided in a unitary manner throughout the Autonomous Region of the Basque Country.

3.– Without prejudice to the direct action of the common institutions of the Autonomous Region of the Basque Country, the execution of regulations regarding the equality of men and women corresponds to the municipal bodies of the historic territories and to the Local Authorities, according to that established in this act and in the normative it develops.

Article 5.– Of The Autonomous Region Authorities.

The powers of the common institutions regarding equality between men and women are specified, in relation to the Autonomous Region Authorities, by the following functions:

- a) Adaptation and creation of structures, programmes and procedures to integrate the gender perspective into their administrative activity.
- b) General planning and preparation of regulations and general directives concerning the equality of men and women.
- c) Design and implementing of measures of positive action and programmes and services that must be undertaken in a unitary manner for the entire Autonomous Region of the Basque Country.
- d) Assessment of the equality policies within the Autonomous Region of the Basque Country and of their level of compliance with this act.
- e) Promotion of collaboration between the actions of the different Basque public authorities in terms of equal opportunities.
- f) Establishing of basic and common minimum conditions regarding their functions and the training of their staff, of the different bodies, organisations and units applicable in terms of equality between men and women.
- g) Planning and design of the methodology to adapt the statistics to the principle of equality and the adaptation and maintaining of updated statistics to allow for knowledge of the differential situation between men and women in the different areas of regional intervention.
- h) Undertaking of studies and research as to the situation of men and women that must be unitary for the entire Basque Autonomous Region and for the whole Basque Country.
- i) Implementation of sensitisation activities concerning the situation of inequality between men and women and the necessary measures to promote equality when this is to be done in a unitary manner for the whole of the Basque Autonomous Region and the entire Basque Country.
- j) Monitoring of the Regional normative and its application according to the principle of equality between men and women.
- k) Specialist technical assistance in terms of equality between men and women to local organisations, the other Basque public powers and to the private sector.
- l) Establishing of requirements and basic minimum and common conditions applicable to the official approval of organisations for the provision of services regarding equality between men and women.
- m) Establishing of training measures to provide companies and organisations with material, economic and human resources for the development of plans, programmes and activities aimed at the attaining of equality for men and women.
- n) Provision of programmes or services to ensure access to the basic social rights of women suffering multiple discrimination that, due to their nature, must be provided unitarily for the entire Region.
- ñ) Establishing of socio-community resources and services for the conciliation of private, working and family lives of men and women that, due to their nature, must be provided unitarily for the entire Region.
- o) Establishing of relationships and channels of participation and collaboration with associations, the private sector and with organisations and institutions of the Autonomous Region and the rest of the Basque Country, as well as with other Autonomous Regions, nationwide and internationally.

p) Investigation and detection of gender-related discriminatory situations and the adoption of measures for their eradication.

q) Exercising of penalising powers.

r) Any other function included in this act or commissioned within the scope of its powers.

Article 6.– Of The Municipal Authorities.

The following functions correspond to the municipal authorities with regard to equality of men and women and in the scope of their respective historic territories:

a) Adaptation and creation of structures, programmes and procedures to integrate the gender perspective into their administrative activity.

b) Implementation of positive measures of action in their regional area.

c) Programming within the framework of the general plan of the Government of the Autonomous Region of the Basque Country in their regional area.

d) Adaptation and maintaining of updated statistics providing knowledge on the differential situation between men and women in the different areas of municipal intervention.

e) Implementation of studies and research on the situation of men and women in their regional area.

f) Undertaking, in their regional area, of sensitisation activities regarding the situation of inequality between men and women and the necessary measures to promote equality.

g) Monitoring of municipal legislation and its application according to the principle of equality between men and women.

h) Establishing of training measures to provide the local councils and other local organisations with the material, economic and human resources necessary for the development of programmes and activities aimed at attaining equality between men and women.

i) Provision of programmes or services to ensure access to the basic social rights of women suffering multiple discrimination that, due to their nature, must be provided on a supra-municipal level.

j) Establishing of socio-community resources and services to favour conciliation of the private, working and family lives of men and women that, due to their nature, must be provided on a supra-municipal level.

k) Establishing of relationships and channels of participation and collaboration with public and private organisations that, according to their activities or functions, contribute towards the attaining of equality for men and women in their regional area.

l) Detection of gender-related discriminatory situations arising in their region and adopting the necessary measures for their eradication.

m) Any other function that may be commissioned within their area of authority.

Article 7.– Of The Local Authorities.

1.– The following functions correspond to the local councils of the Autonomous Region of the Basque Country, either individually or through the associations of which they form part that are constituted for the purposes of this act:

- a) Adaptation and creation of structures, programmes and procedures to integrate the gender perspective into their Administrative activity.
- b) Implementation of positive measures of action at local level.
- c) Programming, within the framework of the general plan of the Government, and programming of the respective municipal councils, at local level.
- d) Adaptation and maintaining of updated statistics to provide knowledge as to the differential situation between men and women in the different areas of local intervention.
- e) Undertaking of studies and research as to the situation of men and women at local level.
- f) Undertaking of sensitisation activities at local level regarding the situation of inequality between men and women and the necessary measures to promote equality.
- g) Monitoring of the local normative and its application according to the principle of equality between men and women.
- h) Information and guidance for citizens, particularly women, regarding the resources and programmes related to equal opportunities and programmes or services aimed at ensuring access to the basic social rights of women suffering multiple discrimination.
- i) Provision of programmes or services to ensure access to the basic social rights of women suffering multiple discrimination that, due to their nature, must be provided on a municipal level.
- j) Establishing of socio-community resources and services for conciliation of the private, working and family lives of men and women that, due to their nature, must be provided on a municipal level.
- k) Establishing of relationships and channels of participation and collaboration with public and private organisations that, according to their activities or functions, contribute towards the attaining of equality for men and women at local level.
- l) Detection of gender-related discriminatory situations arising at local level and the adoption of measures for their eradication.
- m) Any other function that may be commissioned within their area of authority.

2.- To ensure the effective undertaking of the functions indicated in the previous paragraph by the local authorities, they will be provided with the technical assistance of the Authorities of the Autonomous Region and with the appropriate training of the corresponding municipal authorities.

Article 8.– Of The Official Approval of Organisations.

1.– In cases where the Basque public authorities are to sign agreements with the private sector regarding the provision of services related to equal opportunities, the consulting companies and organisations providing said services must be official approved by the corresponding public authority prior to commencement.

2.– The Basque Government must establish the minimum basic common requirements and conditions applicable to the official approval of private organisations for the provision of services related to equal opportunities that will, under all circumstances, abide by the criteria of service quality and efficiency.

CHAPTER II
 INSTITUTIONAL ORGANISATION AND COORDINATION AMONG THE BASQUE PUBLIC
 AUTHORITIES
 SECTION 1

EQUALITY ORGANISATIONS

Article 9.– The Autonomous Region Authorities.

Emakunde-The Basque Women’s Institute, is the organisation responsible for the promotion, advising, planning and assessment of equality opportunity policies in the Autonomous Region of the Basque Country and its legal system is as established in the act by which it was created.

Article 10.– Municipal and Local Authorities.

1.– The municipal and local authorities, in the scope of their auto-organisation authorities, must adapt their structures so that there is at least one administrative organisation, body or unit in each one responsible for the promotion, programming, advise and assessment of equal opportunity policies in their respective regional areas of action.

2.– These administrative organisations, bodies or units must, in their regional areas, undertake at least the following functions:

a) Design the programming or planning of equality and the corresponding monitoring and assessment mechanisms.

b) Design and promotion of specific measures of positive action.

c) Promotion of the inclusion of the gender perspective in all policies, programmes and actions of their respective Authority, at all levels and in all stages.

d) Advice and collaboration with the departments and other organisations and bodies answerable to their respective Authority regarding equal opportunities.

e) Citizen sensitisation in their regional area regarding the situation of inequality between men and women and the necessary measures to promote equality, bearing in mind the situations of multiple discrimination.

f) Promotion and proposals for the adaptation and creation of specific programmes and services by their respective Authority aimed at ensuring access to the basic social rights of women suffering multiple discrimination.

g) Promotion and proposals for the creation and adaptation of socio-community resources and services to favour conciliation of the private, working and family lives of men and women.

h) Detection of possible discriminatory situations in their regional areas and design and promotion of measures for their eradication.

i) Establishing of relationships and channels of participation and collaboration with public and private organisations that, according to their activities or functions, contribute towards the attaining of equality for men and women.

j) Diagnosis of the training needs regarding equality opportunities for the staff in their Authority and proposals as to the type of training required in each case, along with the criteria and priorities of access thereto.

k) Contact with appropriate organisations, bodies and units regarding equal opportunities, particularly Emakunde-Basque Women’s Institute.

l) Any other included in this act or that may be commissioned within their area of authority.

SECTION 2

UNITS FOR EQUALITY

Article 11.– Units for the Equality of Men and Women.

1.– The Autonomous Region Authorities must adapt their structures so that there is at least one administrative unit in each of their departments that is responsible for the promotion, coordination and collaboration with the different directorates and areas of the Department and with the autonomous organisations, public bodies and units attached thereto for the execution of that established in this act and in the plan for equality approved by the Basque Government. These units will have a constitutional position and an appropriate functional relationship and will be provided with a sufficient budget to comply with their purposes.

2.– The minimum functions to be undertaken by the administrative units indicated in the previous paragraph will be determined by regulation.

3.– The autonomous bodies and other public organisations to provide administrative units responsible for the promotion and coordination of implementing the measures established in this act and in the plan for equality established in Paragraph 1, Article 15 will be determined by regulation. In other cases, the units of the corresponding departments will assume their functions according to the autonomous organisations and other bodies attached thereto.

SECTION 3 COORDINATING BODIES

Article 12.– Inter-Institutional Commission for Equality between Men and Women.

1.– The Inter-Institutional Commission for Equality between Men and Women will be created as a body responsible for coordinating the policies and programmes that, in terms of equality between men and women, are developed by the Regional, municipal and local Authorities. This commission will be chaired by the Director of Emakunde.

2.– The Inter-Institutional Commission for Equality between Men and Women is attached to Emakunde-Basque Women's Institute.

3.– The composition, functions, organisation and operating system of the Inter-Institutional Commission for Equality between Men and Women will be as determined by regulation and must be represented by the Basque Government, municipal governments and local councils in equal proportions.

Article 13.– Inter-Departmental Commission for Equality between Men and Women.

1.– The Inter-Departmental Commission for Equality between Men and Women is the body coordinating the action of the Basque Government regarding equality between men and women and is attached to Emakunde-Basque Women's Institute.

2.– Its functions, composition, organisation and operating system will be as determined by regulation.

CHAPTER III FINANCING

Article 14.– General Provisions.

The regional, municipal and local authorities will allocate and specify, every year in their respective budgets, the necessary economic resources for the undertaking of the functions and the implementation of the measures established in this act.

TITLE II
MEASURES FOR THE INTEGRATION OF THE GENDER PERSPECTIVE IN THE ACTIONS OF THE
BASQUE PUBLIC POWERS AND AUTHORITIES
CHAPTER I
PLANNING

Article 15.– Plans for Equality between Men and Women.

1.– The Basque Government will approve, in each term of office and in a period of six months as of its start, a general plan that includes the lines of intervention and directives to guide the activities of the Basque public power with regard to equality between men and women in a coordinate and global manner. In the preparation of this plan, the Basque Government must ensure the participation of the remaining Basque public authorities.

2.– In the development of said lines of intervention and directives of the general plan established in Paragraph 1, each department of the Basque Government will prepare its own plans or programmes of action.

3.– The municipal governments and councils will approve plans or programmes for equality according to the lines of intervention and directives established in the general plan of the Basque Government and will ensure, through the necessary material, economic and human resources, that the measures established in said plans and in this act area implemented in an effective and coordinated manner in each of their departments, regional bodies and other public organisations answerable or linked thereto.

The councils may carry out said action individually or through the associations of which they form part or that have been constituted for these purposes, and will be provided with the technical assistance of the Basque Government and the economic assistance of the corresponding municipal governments, particularly those of a lesser economic and management capacity.

4.– Prior to their approval, the plans or programmes indicated in the two previous paragraphs must be communicated to Emakunde-Basque Women’s Institute so as to adapt their contents to the lines of intervention and directives established in the general plan that the Basque Government must approve at the beginning of each term of office, according to that established in Paragraph 1.

CHAPTER II
STATISTICS AND STUDIES

Article 16.– Adaptation of Statistics and Studies.

In order to put the provisions contained in this act into practice to ensure the effective integration of the gender perspective in their normal activities, the Basque public powers must, in the preparation of their studies and statistics:

- a) Systematically include the gender variable in any statistics, surveys and data collection undertaken.
- b) Establish and include in the statistical operations new indicators to ensure greater knowledge of the differences in values, roles, situations, conditions, aspiration and needs of men and women and their appearance and interaction in the reality to be analysed.
- c) Design and introduce the necessary indicators and mechanisms to provide knowledge of the incidence of other variables, the concurrence of which generates situations of multiple discrimination in the different areas of intervention.
- d) Provide sufficiently extensive samples so that the different variables included may be used and analysed according to the gender variable.

e) Use of the data provided to learn of the different situations, conditions, aspirations and needs of men and women in the different areas of intervention.

f) Review and, where applicable, adapt existing statistical definitions in order to contribute towards the acknowledgement and assessment of the work of women and to avoid the negative stereotyping of certain groups of women.

Only exceptionally, and by means of a report requested and approved by the appropriate body, non-fulfilment of any of the aforementioned obligations may be justified.

CHAPTER III STAFF TRAINING

Article 17.– Training of Staff at the Service of the Basque Public Authorities.

1.– The Basque public authorities must adopt the necessary measures for basic, progressive and permanent training of their staff in terms of equal opportunities so as to allow for the effective integration of the gender perspective in administrative action.

2.– To comply with that established in the previous paragraph, the Basque public authorities must prepare and implement training plans regarding equality opportunities for the staff at their service and carry out sensitisation activities for people with political responsibility.

3.– The Basque public authorities must also ensure the experience and/or specific training of the technical staff to hold posts involving the promotion and design of programmes and the provision of technical advice regarding equal opportunities, establishing specific requirements on knowledge of said issue for access thereto.

4.– In the subject matter of the selection processes for access to public employment, the Basque public authorities must include contents related to the principle of equal opportunities and its application to administrative activity.

CHAPTER IV MEASURES TO PROMOTE EQUALITY IN NORMATIVE AND ADMINISTRATIVE ACTIVITY

Article 18.– General Provisions.

1.– The Basque public powers must actively take into account the aim of equal opportunities in the preparation and application of regulations and of plans, programmes and other instruments for the formulating of public policies, subsidised programmes and administrative measures.

2.– For compliance with that established in Section One of this Article, the departments, autonomous organisations and public bodies answerable to the Basque public authorities or linked thereto must adapt to that established in Articles 19 to 22 of this act, without prejudice to the adaptation of the organisational and functional needs of the municipal and local institutions in the exercising of their powers and the formal and material singularities characterising their regulations.

3.– In the undertaking of the preliminary impact assessment according to gender and the introduction of measures to eliminate inequalities and promote equality as foreseen in Articles 19 to 20 of this act, the influence, in the differences between men and women, of the factors indicated in the last part of Paragraph 1 of Article 3.

4.– The Basque public powers must make non-sexist use of all types of language in the documents and mediums produced directly or through other people or companies.

Article 19.– Preliminary Impact Assessment According to Gender.

1.– Prior to preparing a regulation or administrative measure, the administrative body to promote it must assess the potential impact of the proposal in the situation of women and men as groups. Hence, whether the activity projected in the regulation or administrative measure may have positive or negative repercussions in the overall objective of eliminating inequalities between men and women and promoting their equality must be analysed.

2.– The Basque Government must approve, on proposal by Emakunde-Basque Women's Institute, regulations or directives in which the guidelines to follow for the aforementioned preliminary impact assessment according to gender are indicated, along with the regulations or administrative measures excluded from the need to carry out the assessment and the remaining processes foreseen in the following articles.

Article 20.– Measures for the Elimination of Inequalities and the Promotion of Equality.

1.– According to the impact assessment undertaken, the bill for the regulation or administrative measure must include measures aimed at neutralising its positive or negative on the situation of men and women considered as a group and at reducing or eliminating the inequalities detected and promoting equality of the sexes.

2.– Without prejudice to other measures considered appropriate, the Basque public authorities, in the normative regulating subsidies and in the event where it is permitted by contract legislation, will include among the criteria for successful bidding a clause that values the integration of the gender perspective in the bid presented and in the bill or activity subsidised. In the same events, the assessment criteria of the technical capacity of the candidates or bidders and, where applicable, among the requirements to be met by the beneficiaries of the subsidies, must include a valuation of their progress in the development of policies or action aimed at equal opportunities. Likewise, subject to the contract legislation and to that established in the following section, a condition of contract execution will be the obligation of the successful bidder to apply measures to promote equal opportunities during the provision.

3.– The Government Council, in the general Administration of the Autonomous Region, along with the equivalent bodies of the remaining public authorities and, in their default in the case of contractual files, the contracting bodies, will establish the types or characteristics of the contracts and subsidies in which the measures indicated in the previous section are to be applied, bearing in mind the applicable normative, the different contractual purposes and the coexistence or compatibility and coordination with the application of other public policies in the area of contracts and subsidies. The Basque Government must establish indicators to make assessment of compliance with the criteria or clause indicated in the previous section easier, which must include the preparation and implementation of plans or programmes for equality between men and women and to be acknowledged as a body collaborating in equal opportunities as established in Article 41.

4.– Without prejudice to the other measures considered appropriate, the regulations governing the selective processes for access, provision and promotion in public employment must include:

a) A clause by which, in the event of equality in skills, priority is given to women in the bodies, scales, levels and categories of the Authority in which representation is below 40%, except where there are reasons concerning the other candidate that, without being discriminatory due to gender, justify the non-application of the measure, such as belonging to other groups with special difficulties for access and promotion in employment.

The appropriate bodies in terms of public function in the corresponding public authorities must have suitable and updated statistics to ensure the application of that established in Section a).

b) A clause ensuring a balanced representation of men and women in the selection tribunals with suitable skills, abilities and preparation.

5.– Without prejudice to other measures considered appropriate, the regulations governing the juries created for the granting of any type of award promoted or subsidised by the Authority, as well as those governing similar bodies enabled for the acquisition of cultural and/or artistic funds, must include a clause guaranteeing

a balanced representation of men and women in the selection tribunals with suitable skills, abilities and preparation.

6.– For the purposes of that indicated in the previous two paragraphs, a balanced representation will be considered as existing when, in the tribunals, juries or similar bodies with over four members, each sex is represented by at least 40%. In the remainder, when the two sexes are represented.

7.– The administrative body promoting the regulation or administrative provision must establish indicators to assess the level of compliance and effectiveness of the measures indicated in the previous paragraphs with a view to obtaining the objective of eliminating inequalities and promoting equal opportunities.

8.– Only exceptionally and by means of a report promoted and approved by the appropriate body, may the non-compliance of that established in Paragraphs 2, 4 and 5 be justified.

Article 21.– Report by Emakunde-Basque Women’s Institute.

The bill for regulations prepared within the scope of the Autonomous Region Authorities must be communicated by Emakunde-Basque Women’s Institute in order to ensure the correct application of that established in Articles 19 to 20 of this act and, where applicable, to make proposals as to any improvements.

Article 22.– Explanatory Statement and Approval of the Regulation or Measure

1.– The bill or regulation or provision must be accompanied by a statement with a detailed explanation of the processes undertaken in relation to Articles 19 to 21 of this act and the results thereof.

2.– The approval or signing of the regulation or administrative measure in question will, at least concisely, record the undertaking of the processes indicated in the previous paragraph.

TITLE III
MEASURES TO PROMOTE EQUALITY IN THE DIFFERENT AREAS OF INTERVENTION
CHAPTER I
SOCIAL-POLITICAL PARTICIPATION

Article 23.– General Provisions.

All Basque public powers must promote a balanced presence of men and women with suitable skills, abilities and preparation in the appointing and designating of people to constitute or form part of their directive bodies and associations.

Article 24.– Associations and Organisations.

1.– The Basque public authorities must promote a balanced presence of men and women in the management bodies of the professional, business, social economy, union, political, cultural or similar associations and organisations. Hence, among other actions, they may adapt any corresponding subsidies according to the adoption of measures to ensure the increased presence of women in any management body in which they are under-represented.

2.– The Basque public authorities may not give any type of aid to associations and organisations that discriminate in their admission process or operations due on gender.

3.– The Basque public authorities will offer incentives to associations carrying out activities aimed at the attaining of the objectives established in this act.

4.– Non profit-making organisations working in the promotion of equal opportunities may be declared of public use under the terms established in the specific legislation of their corresponding legal forms.

5.– The Autonomous Region Authorities will promote the creation of an organisation to offer a free membership channel for the effective participation of women and of the associative movement in the development of social, economic and cultural policies and to be used as a valid contact with the Basque public authorities in terms of equal opportunities.

CHAPTER II CULTURE AND THE MEDIA

Article 25.– Cultural Activities.

1.– The Basque public authorities, in the area of their powers, must adopt the necessary measures to avoid any gender-related discrimination and to promote the balanced access and participation of men and women in all cultural activities developed within the Autonomous Region of the Basque Country.

The organisation and undertaking of cultural activities in public areas in which women are not permitted or where their participation under the same conditions as men is hindered is forbidden.

2.– The Basque public authorities may not grant any type of aid and their representatives may not participate in their capacity as such in any cultural activity, including festive, artistic or sporting activities or those related to standardisation of the Basque language, where gender-related discrimination is present.

3.– The Basque public authorities must adopt the necessary measures to ensure equal treatment and opportunities for men and women in relation to sports.

4.– The Basque public authorities will promote the sponsoring of sporting activities for both men and women in modalities where they have a minority participation. Public aid will also be increased for sporting modalities mostly practised by women.

Article 26.– The Social Media and Advertising.

1.– No social medium with activities within the scope of powers of the Autonomous Regional of the Basque Country may present people as inferior or superior in human dignity according to their sex or as mere sexual objects. Contents justifying, trivialising or inciting violence against women cannot be broadcast.

2.– The production, broadcasting and exhibition of advertisements presenting people as inferior or superior in human dignity according to their sex or as mere sexual objects are forbidden, along with those that justify, trivialise or incite violence against women.

3.– The social media, when producing its programmes, must use non-sexist language and ensure the active participation of women and a balanced presence and plural image of both sexes, regardless of the models of beauty and sexist stereotypes regarding the duties undertaken in the different areas of life and with special incidence on the contents aimed at the child and youth audience. Likewise, the broadcasting of political, social and cultural activities promoting or aimed at women under conditions of equality must be guaranteed, as well as those favouring their empowerment.

4.– The public media owned by the Autonomous Region will support and give preferential treatment with regard to access to its advertising areas to inter-institutional campaigns promoting the Inter-Institutional Commission for Equality between Men and Women in order to eliminate inequalities and promote equality between men and women. The appropriate mechanisms or agreements for institutional cooperations will be established for these purposes.

5.– The Basque public authorities, the autonomous bodies and other public organisations answerable or linked to them must contribute towards the broadcasting of the inter-institutional campaigns indicated in the previous paragraph within the scope of their powers through the provision of interior and exterior spaces or places used for advertising.

Article 27.– Advertising Control Body.

There will be a body in the Basque Government responsible for advising and analysing the advertising transmitted through the media and the advertising mediums used in order to eradicate all types of gender-based discrimination. It will also ensure the existence of codes of ethics related to the contents issued by the public media.

CHAPTER III
EDUCATION
SECTION 1
NON-UNIVERSITY EDUCATION

Article 28.– General Provisions.

The public educational policies must be aimed at ensuring an educational model based on overall personal development, regardless of the gender-related stereotypes and roles, rejecting all types of discrimination and ensuring academic and professional orientation that is not biased by gender. Hence, the real equality of men and women will be promoted in all its dimensions: curriculum, organisational and others.

Article 29.– Curriculum.

1.– The educational authorities will provide incentives for the undertaking of co-educational projects and will integrate the following co-educational objectives into the curriculum design and development of all areas of knowledge and disciplines of the different educational stages.

a) The elimination of gender-related prejudices, stereotypes and roles established according to social-cultural patterns of behaviour assigned to men and women in order to ensure possibilities of overall personal development for both male and female pupils.

b) The integration of women's knowledge and their social and historic contribution to the development of humanity, reviewing and, where applicable, correcting the contents taught.

c) The incorporation of the necessary knowledge so that male and female pupils take responsibility for their present and future needs related to housework and the care of people.

d) The training of pupils to choose academic options free of gender-based conditioning factors.

e) The prevention of violence against women through the learning of non-violent methods for the solving of disputes and of models of coexistence based on diversity and on respect for equal rights and opportunities.

2.– Likewise, the educational authorities will establish the prevention of violent behaviour as a basic principle at all educational levels and will establish specific contents and times related to learning for daily life, integrating the same aspects and contents related to the household and to caring for people as to the knowledge of personal relationships and the learning of non-violent methods to solve disputes and models of coexistence based on respect for equal opportunities and diversity.

Article 30.– Teaching Material.

1.– The production, circulation and use of text books and teaching material that presents people as inferior or superior in human dignity according to their sex or as mere sexual objects are forbidden in schools in the Autonomous Region, as are those that justify, trivialise or incite to violence against women.

2.– The text books and other teaching material used in schools in the Autonomous Region of the Basque Country must include the co-educational objectives indicated in Paragraph 1 of the previous Article. Non-sexist language must also be used and its images must ensure a balanced and non-stereotype presence of men and women.

Article 31.– People and Structures.

- 1.– In order to integrate the gender perspective into their work, the bodies responsible for the educational assessment, research and innovation and the teacher support services will be provided with personnel with specific training in co-education.
- 2.– The educational authorities will promote the balanced presence of men and women in the teaching staff of different areas of knowledge and educational stages and in the management bodies of schools.
- 3.– The teaching staff will be compelled to provide the management bodies of the schools with any information regarding any indications of violence against women and children of which they are aware.

Article 32.– Training.

- 1.– The educational authorities will set up training plans regarding co-education and aimed at teaching professionals, covering all non-university educational centres.
- 2.– In order to ensure that each school establishes the appropriate measures to set up said training plans, the educational authorities will provide the corresponding adaptations to timetables and schedules. Mechanisms will also be provided to assist any pupils affected by the planned calendar and timetables for said plans.
- 3.– The permanent range of training aimed at teaching professionals either individually or through schools, as well as integrating co-educational philosophy transversally into its contents, must include specific courses on co-education.

SECTION 2
UNIVERSITY EDUCATION

Article 33.– General Provisions.

- 1.– The universities forming part of the Basque university system will promote equal opportunities for men and women in relation to degrees and to access to decision-making areas and will promote the balanced, gender-related participation of pupils in all disciplines and areas of knowledge.
- 2.– They will also ensure that the gender perspective is integrated into the teaching staff and into research work concerning the different areas of knowledge, that non-sexist language is used and that the knowledge of women and the social and historic contribution towards the development of Humanity is incorporated.
- 3.– The Autonomous Regional Authorities will promote the stable, specialist training of equal opportunities in Basque universities and the inclusion of the gender perspective in all their disciplines and areas of knowledge.
- 4.– The educational authorities, in their calls for support for training and research, will particularly value projects that:
 - a) Are led by women, in branches of research where they are under-represented.
 - b) Having a balanced representation of men and women in their research teams.
 - c) Contribute towards the understanding of questions related to inequality between men and women and the hierarchic relationship between the sexes.
 - d) Approach measures to eliminate inequality and promote equality between men and women.

5.– The educational authorities will establish subsidies to support projects that promote the equality of men and women within the Basque university system.

CHAPTER IV
WORK
SECTION 1
HOUSEWORK

Article 34.– General Provisions.

The Basque public authorities will regularly make estimates as to the financial value of housework, including the care of people, made in the Autonomous Region of the Basque Country, and will inform the Basque society of the results of said estimates in order to promote its economic and social importance. They will also take into account the value of housework in the design of its economic and social policies.

Article 35.– Co-responsibility.

The Basque public authorities will promote the co-responsibility of men in housework. They will also adopt the appropriate measures so that the regulations developing that established in Article 49 include measures to promote the co-responsibility of men in this area.

SECTION 2
EMPLOYMENT

Article 36.– General Provisions.

The Basque public authorities, in the scope of their powers, must promote the conditions to ensure equal opportunities and treatment of men and women are real and effective under conditions for access to self-employment and under conditions of work, training, promotion, remuneration and contract termination.

Article 37.– Employment Services.

1.– The employment services involved in the different stages of the labour placement accompaniment process may not process any offer of employment involving gender-related discrimination.

2.– In order to adapt the employment services to the principle of equal opportunities, the Basque public authorities will:

a) Train the staff involved in its employment services and that of its collaborating bodies as to the form of incorporating the gender perspective in each stage of the overall labour placement accompaniment process: information-guidance, training, intermediation, support and monitoring of employment and self-employment placement and promotion.

b) Ensure that the employment services adopt measures aimed at ensuring an increase in the number of women contracted in professions in which they are under-represented.

Article 38.– Access to Employment.

In order to favour access to employment by women, the Basque public authorities with powers in the matter will:

a) Establish, in aid aimed at companies foreseeing measures for promoting contracts, the percentages in which men and women are appointed according to the size of the company, the sector of activity and the availability of male and female labour for the posts required.

b) Develop programmes for the promotion of stable and quality employment for women and for support for their appointment, allowing for their level of participation in the different forms of employment to be increased and to stop the unstable and temporary employment currently prevailing, particularly for women.

c) Prioritise, in the access of aid for financing constitutional expenses, investments in assets and general operating expenses, business initiatives promoted primarily by women, particularly in the sectors and professions where they are under-represented.

d) Encourage reciprocal guarantee companies through public aid to establish specific funds aimed at favouring the constitution and/or consolidation of business initiatives promoted primarily by women.

Article 39.– Training Plans.

1.– In the public tenders granting aid to company training plans, any training action seeking equal opportunities within the organisation will be prioritised, as will those allowing for work experience by women, particularly in occupations where they are under-represented.

2.– The necessary support mechanisms and services must also be established to ensure the participation of women in the different training actions in the area of both employment, particularly those providing skills to access posts and levels at which they are under-represented, and self-employment and the creation of businesses.

Article 40.– Equal Opportunity Plans and Policies.

1.– Companies mostly comprising public capital in all cases and private companies that, according to the number of employees or other criteria determined by regulation, will establish plans or programmes to include specific, effective measures aimed at promoting equal opportunities in their internal operations and in their external activities.

2.– The mechanisms for monitoring and assessment and the minimum compulsory contents to be included in said equality plans and programmes will also be established by regulation. These minimum compulsory contents may not refer to the area of labour relations.

3.– Emakunde-Basque Women's Institute must establish aid for the preparation of equal opportunity plans and for the appointing of experts on the matter by companies. The granting of aid will depend on the presentation of a report on the impact of the aid by the beneficiary organisation.

Article 41.– Collaborating Organisations.

In order to provide incentives for the initiatives that may arise in the social-labour area in favour of equal opportunities, the Basque Government may acknowledge any organisations developing a policy of equality in its organisation under the conditions determined by regulation as a collaborating organisation. Said conditions will require at least the preparation of a diagnosis and a plan of action in terms of equality, as well as a commitment to implement said plan, which must include measures aimed at ensuring equal treatment for men and women under working conditions and employment quality.

Article 42.– Collective Negotiation.

1.– In collective negotiations with their staff, the Autonomous Region Authorities must propose measures to promote equal opportunities in the area of public employment. They must also promote dialogue between the corporate contacts in order to ensure collective negotiations related to the private sector also include this type of measure, particularly those aimed at eliminating discrimination in remuneration.

2.– The Autonomous Region Authorities, through the Register of collective agreements, must ensure that these do not contain clauses contrary to the principle of equal opportunities, that they do not use language in a sexist manner and that they include specific measures against sexist harassment. They will also promote inspection with regard to the control and eradication of gender-related discrimination.

Article 43.– Sexist harassment.

1.– Without prejudice to its classification as a crime, for the purposes of this act sexist harassment at work is considered as any undesired verbal, non-verbal or physical behaviour aimed at another person due to their sex and with the aim or purpose of indecently damaging the dignity of another person or of creating an intimidating, hostile, degrading, humiliating or offensive atmosphere. When this behaviour is of a sexual nature it is considered as sexual harassment.

2.– Sexist harassment will be considered a very serious disciplinary offence for the staff of the Basque public authorities, according to that established in Article 2.1. of this act, in relation to Article 83.b) of the Basque Public Authorities Act 6/1989 of 6 June.

3.– The Basque public authorities will act according to law in the light of sexist harassment. Policies aimed at their staff must also be set up to prevent and eradicate sexist harassment at work. These policies must, among others, include the preparation and application of protocols of action.

4.– In the scope of their powers, the Basque public authorities must ensure the rights of victims of sexist harassment to urgent, free, specialist, decentralised and accessible legal and psychological assistance.

**CHAPTER V
OTHER BASIC SOCIAL RIGHTS**

Article 44.– Health.

1.– The Basque public authorities must contribute towards improving the health of women during their entire life cycle, particularly considering any health problems of greatest incidence.

2.– The Autonomous Region Authorities must ensure equal treatment and opportunities for men and women in health-related investigation and attention through the considering of the different situations, conditions and needs of men and women and, where necessary, through the development of specific policies. They must also promote the analysis, debate and awareness of the differences between men and women related to this area among the professionals and users and the social agents involved in the healthcare system.

3.– The healthcare authorities, when designing healthcare processes, must adopt measures to alleviate the workload derived from the care of people with health problems within the household in a non-remunerated manner and mostly by women.

4.– The Basque public authorities must meet the needs derived from the exercising of sexual and reproductive rights through preventative and direct programmes aimed, among others, at providing sexual planning and avoiding unwanted pregnancies and sexually transmitted diseases.

Article 45.– Social Inclusion.

1.– The Basque public authorities will adopt the necessary measures to counteract the greater incidence of poverty and social exclusion of women. This will be done on one hand through the integration of the gender perspective into the different sectorial programmes aimed at ensuring everyone can enjoy basic social rights and, on the other, through the design of specific programmes for groups of women suffering multiple discrimination.

2.– The Basque public authorities will promote the legal and economic measures necessary to improve the conditions of people in a condition of economic instability derived from widowhood and from the non-payment of maintenance and child support established in a legally approved agreement or legal sentence in the case of nullity of marriage, legal separation, divorce, extinction of the couple due to break-up, alimony or palimony. A guarantee fund will be created for these purposes, for situation of non-payment of maintenance and complements will be established for the lowest widow's pensions.

3.– The Basque public authorities will ensure the social welfare and protection of elderly women and will promote their participation in political, economic, social and cultural life.

4.– The Autonomous Region Authorities will prepare a plan of action regarding prostitution, in collaboration with the remaining authorities and social groups working in this field.

Article 46.– The Environment and Housing.

1.– The Basque public powers will find the necessary measures to ensure its policies and programmes regarding the environment, housing, urban planning and transport include the gender perspective, including questions related to personal safety and conciliation of private, family and working lives, as well as promoting greater participation of women in the design and implementation of said policies and programmes.

2.– Under the conditions determined by regulation, the appropriate Basque public authorities must give preferential treatment in awarding housing to women in a situation of exclusion or in a state of legally-established need.

CHAPTER VI
CONCILIATION OF PRIVATE, FAMILY AND WORKING LIVES

Article 47.– General Provisions.

The Basque public authorities must make the conciliation of private, family and working lives easier through promotion of the co-responsibility of men with regard to housework, of the adaptation of employment structures to the needs of private and family lives, of the creation and adaptation of socio-community services, of economic provisions and fiscal measures and of any other measure considered suitable for this purpose.

Article 48.– Employment Conditions.

1.– The regulations governing the working conditions of staff in the public authorities must include measures for the adapting and reordering of work time, without prejudice to the quality of employment and of the rights of workers, as well as any other type of measure aimed at ensuring conciliation of the private, family and working lives of men and women.

2.– The Basque public authorities, in the scope of their powers, must provide aid for companies to adapt and reorder work time and to adopt any other measure aimed at ensuring conciliation of the private, family and working lives of men and women.

3.– The Autonomous Region Authorities will grant aid to workers applying for leave of absence, leave or reductions in their working day to meet household needs and to care for dependent people. The regulations governing said aid must include measures aimed at ensuring the re-incorporation of people applying for them and to avoiding said leave or reduction jeopardising their careers.

Article 49.– Socio-community Services.

1.– The Basque public authorities must establish reasonable, flexible, quality and easy-to-access services to meet the needs to care for people who cannot care for themselves when carrying out daily activities due to a lack of sufficient functional independence.

2.– The Autonomous Region Authorities, in cooperation with the other appropriate authorities, must provide the necessary measures to ensure the existence of educational assistance and child care services to meet the needs of each area or district for children below school age and that offer extensive and flexible timetables and calendars.

3.– The Basque public authorities, in their calls for aid aimed at educational assistance and child care services, day centres, residences and other centres and programmes aimed at assisting dependent people, must give preference to, in compliance with the remaining quality criteria, those with extensive and flexible timetables and calendars.

4.– The educational authorities, in collaboration with the remaining appropriate authorities, must ensure the existence of a complete school dining room service in all educational stages, according to demand.

5.– The Basque public authorities must provide the necessary means so that, throughout child and primary schooling, there is additional, out-of-school assistance outside the pre-established school timetable and calendar so that conciliation of the private, family and working lives of men and women is ensured.

6.– The Basque public authorities must establish aid for the creation and maintenance of companies seeking to provide services aimed at favouring conciliation of the private, family and working lives of men and women.

7.– The Basque public authorities will establish relief programmes and other types of measures and services involving economic, technical and psycho-social support for people caring for others and will study and, where applicable, support initiatives and formulas for mutual support between individuals for the care of people.

CHAPTER VII VIOLENCE AGAINST WOMEN

Article 50.– Definition.

For the purposes of this act, violence against women is considered as any gender-related violent act resulting, or that may result, in physical, sexual or psychological damage and in the suffering of women, including threats to carry out said acts, coercion or the unreasonable loss of freedom brought about in public or private lives.

SECTION 1 INVESTIGATION, PREVENTION AND TRAINING

Article 51.– Investigation.

1.– The Basque public authorities must promote the investigation of the causes, characteristics, difficulties to identify the problem and the consequences of the different forms of violence against women and of the effectiveness and suitability of the measures applied for its eradication and to relieve its effects.

2.– Emakunde-Basque Women's Institute will regularly undertake an assessment of the effectiveness and scope of the resources and programmes existing in the Autonomous Region of the Basque Country in terms of violence against women. For this purpose, the remaining Basque public authorities involved must provide any information available on the resources and programmes depending on them.

3.– Emakunde-Basque Women's Institute must inform the Basque Parliament of the aforementioned assessment.

Article 52.– Prevention.

Without prejudice to the remaining preventative measures established throughout this act, the Basque public authorities, in the scope of their powers and in a coordinated manner, must carry out sensitisation campaigns for the prevention and elimination of violence against women.

Article 53.– Training.

1.– The appropriate bodies with regard to the training of staff from the Basque public authorities, in collaboration with Emakunde-Basque Women’s Institute, must make a diagnosis that will be regularly updated regarding the training needs of its staff involved in intervention in cases of violence against women and, according to said diagnosis, will establish training programmes adapted to the needs of the different professionals.

2.– The Basque public authorities must also favour the training of staff from private organisations who work in the field of prevention and elimination of violence against women and in the assistance and support for its victims.

SECTION 2

ASSISTANCE AND PROTECTION FOR VICTIMS OF DOMESTIC ABUSE AND SEXUAL AGGRESSION

Article 54.– Police Protection.

The appropriate Basque public authorities must provide specialist training to the police force involved in assistance and protection of victims of violence against women. Likewise, they must provide the Basque police force with the necessary resources to ensure the utmost efficiency in intervention regarding these cases and, more particularly, that regarding the implementation and control of legal measures adopted for the protection of victims of domestic abuse in order to ensure their safety and to prevent them from having to abandon their homes against their own will.

Article 55.– Legal Advice.

The Basque public authorities must provide the necessary means to ensure victims of domestic abuse and sexual aggression are entitled to free, specialist, immediate, integral and accessible legal advice. This advice will include the taking of accusatory action in criminal proceedings and the requesting of measures prior to the civil request for separation or divorce or provisional measures in the case of de facto unions.

Article 56.– Psychological Assistance.

1.– The Basque public authorities, in the scope of their powers, must ensure that victims of domestic abuse and sexual aggression are entitled to urgent, free, specialist, decentralised and accessible psychological assistance.

2.– The Autonomous Region Authorities must enable the human and material resources necessary so that the courts and tribunals of the Autonomous Region of the Basque Country may include expert psychological evidence whenever considered necessary to be able to prove the existence and gravity of the domestic abuse and sexual aggressions.

Article 57.– Safe Houses and Emergency Services.

1.– The municipal and local authorities, in the scope of their powers, will ensure the existence of sufficient safe house resources to meet the protection and temporary accommodation needs of the victims of domestic abuse.

2.– Municipalities with over 20,000 inhabitants and associations of townships already constituted or constituted for the provision of services that exceed said number of inhabitants are compelled to provide safe houses to meet the urgent protection and temporary accommodation demands of victims of domestic abuse.

3.– The appropriate Basque public authorities will ensure that there is at least one immediate safe house facility operating twenty-four hours a day, all year round in each historic territory and that it at least meets the following requirements:

- a) Accessible to any victim of domestic abuse requiring urgent and temporary protection and accommodation independent of her personal, legal or social situation.
- b) The provision of sufficient specialist staff for initial psycho-social assistance and to accompany victims to healthcare centres, police stations and courts or other places considered initially necessary.
- c) Provide the necessary safety conditions to safeguard the physical wellbeing of victims and of its staff.
- d) Serve as a bridge for access to the remaining social and safe house resources available.

4.– The Autonomous Region Authorities must, by regulation, establish minimum criteria and conditions of quality and operations regarding the safe house resources indicated in the previous paragraphs. This regulation must on all accounts include measures to ensure:

- a) Access to safe house resources for all victims in a situation of urgent need for temporary protection and accommodation and have nowhere else to go, independent of their personal and social circumstances.
- b) Coordination among the institutions responsible for the safe house resources and between these and the remaining services and resources available for victims of domestic abuse.
- c) Geographic mobility, so that women who must or prefer to abandon their municipality due to reasons of safety may access the safe houses existing in other municipalities.
- d) The existence of safety measures and accompaniment services and support for victims during the time they are in the safe houses.

Article 58.– Financial Provisions.

1.– According to that established in final provision [article six] of this act, victims of domestic abuse are exempt from the application of the minimum age limit established legally to receive basic rent and those having to abandon their homes and move to those of others as a result of a situation of domestic abuse are entitled to receive basic rent, whether they stay in family homes or otherwise, provided that they meet the remaining requirements demanded for its receipt.

2.– In order to promote their financial independence and to ensure their return to normal life, victims of domestic abuse staying in temporary safe houses or centres, provided that they meet the remaining requirements demanded for its receipt, are entitled to basic rent, even when their basic maintenance is covered by said houses or centres.

3.– The social services will provide a budgetary entry for urgent financial provisions in order to immediately meet the basic survival needs of the victims of domestic abuse while the granting of the remaining financial provisions to which they may be entitled is being processed.

4.– Under the conditions established by regulation, the Basque Government may grant extraordinary aid to victims of domestic abuse and sexual aggressions to alleviate situations of personal need that can be assessed and verified, provided that the appropriate bodies have observed the inexistence or insufficiency of ordinary aid available to cover these events.

Article 59.– Housing.

1.– According to their social-economic situation and to the remaining conditions determined by regulation, the appropriate Basque public authorities will give preferential treatment, in the awarding of homes financed with public funds, to people who have had to abandon their homes as a result of domestic abuse.

2.– The Basque public authorities will be coordinated to ensure that victims of domestic abuse are given the necessary residential resources in terms of both protected housing and temporary safe houses. The Autonomous Region Authorities will establish reserves and other types of measures aimed at meeting this objective.

Article 60.– Work Placement.

1.– Under the conditions determined by regulation, the victims of domestic abuse will be given preferential treatment to access training courses for employment that adapt to their profile and that are totally or partially financed by funds from the Basque public authorities, for which allowances or other measures will be established.

2.– The Basque Government must promote the appointing of victims of domestic abuse and their constitution as self-employed workers or cooperative partners under the conditions determined by regulation.

Article 61.– Education.

Under the conditions determined by regulation and according to their social-economic situation, victims of domestic abuse will be given preferential treatment in accessing children’s schools financed totally or partially by funds from the Basque public authorities and accessing grants or other aid and services existing in the area of education.

Article 62.– Inter-Institutional Coordination.

1.– The Autonomous Region Authorities must promote the signing of agreements of inter-institutional collaboration with the remaining Basque public authorities with powers in the matter in order to favour a coordinated and effective action in light of cases of domestic abuse and sexual aggressions and to ensure overall and quality assistance to their victims. Formulas for collaboration must also be promoted with the remaining institutions with powers in the matter.

2.– These collaboration agreements must establish certain guidelines or protocols of homogenous action for the entire Region, aimed at professionals involved in these cases. The agreements will also establish mechanisms for the monitoring and assessment of compliance with the commitments acquired by the parties.

3.– The municipal and local authorities will promote the adoption of agreements for collaboration and protocols of action in their regional areas that develop, specify and adapt the agreements and protocols indicated in the previous two paragraphs to their respective situations.

TITLE IV
THE OMBUDSMAN’S OFFICE FOR EQUAL OPPORTUNITIES
CHAPTER I
GENERAL PROVISIONS

Article 63.– Legal Nature and Attachment.

1.– The Ombudsman’s Office for Equal Opportunities is created as a body to defend citizens in the light of situations of gender-related discrimination and to promote compliance with the principle of equal opportunities in the Autonomous Region of the Basque Country.

2.– The Ombudsman’s Office carries out its functions with full independence with regard to the rest of the Authorities and is attached, without forming part of the Authority’s hierarchic structure, to Emakunde-Basque Women’s Institute.

Article 64.– Functions.

1.– The Ombudsman’s Office carries out its functions with objectivity and impartiality and is not hierarchically linked to any instructions of any kind.

2.– It is responsible for undertaking the following functions:

a) Carry out investigations, both *ex officio* and on request, to clarifying any situations of direct or indirect gender-related discrimination in the private sector.

b) Provide forms of negotiation and provide individuals and companies with recommendations to correct situations or practices of gender-related discrimination arising in private sector and to monitor compliance with said recommendations.

c) Provide advice and assistance to citizens with regard to possible situations of gender-related discrimination arising in the private sector.

d) Be used as a channel to solve cases of sexist abuse.

e) Analyse and assess the level of compliance with anti-discriminatory normative regarding equal opportunities.

f) Study anti-discriminatory legislation and jurisprudence and prepare bills of legislation and legislative reform.

g) Circulate the activities it carries out and its investigations and prepare reports and orders according to that established in this act.

h) Propose coordination mechanisms with the Ararteko or Basque Country Advocacy Commissioner, with Emakunde-Basque Women’s Institute and with other appropriate bodies and institutions regarding human rights and equal opportunities.

i) Collaborate with the employment authorities regarding the monitoring of compliance with anti-discriminatory employment normative regarding equal opportunities.

j) Any other function included in this act or commissioned for compliance with its purposes.

Article 65.– Limits.

1.– The Ombudsman must not examine each individual complaint relating to the intimacy of people or to those on whom sentences have been issued or are pending. Actions must also be suspended if, once started, legal action is taken against the interested party in the ordinary courts or the Constitutional Court.

2.– The investigation of the ombudsman’s office must be directly related to any discriminatory behaviour or facts, undertaking only that strictly necessary to clarify said behaviour or facts.

3.– On all accounts, the investigation carried out by the ombudsman’s office must be verified within the strictest reserve, without prejudice to the reflections considered necessary for inclusion in its reports.

4.– The ombudsman’s office is not empowered to revoke, cancel or penalise discriminatory situations.

Article 66.– Duty to Collaborate.

All individuals and companies subject to investigation by the ombudsman's office must make this job easier by providing any data, documents, reports or clarifications that, where necessary to clarify the facts, have been requested and providing, on request, access to their premises, except where this is their home in which case express authorisation must be obtained.

**CHAPTER II
ORGANISATION**

Article 67.– The Ombudsman for Equal Opportunities.

1.– The head of the ombudsman's office is the ombudsman for Equal Opportunities.

2.– The ombudsman for Equal Opportunities is appointed by majority proposal of the members of the Emakunde-Basque Women's Institute Board of Management and by decree by the president of the Basque Government for a period of five years and can be reappointed for successive periods of the same length. This decree must be published in the Official Journal of the Basque Country.

3.– The condition of ombudsman is incompatible with:

- a) All generally elected representative mandates.
- b) Any freely appointed political post.
- c) Membership to a political party, union or business association.
- d) The undertaking of management duties in an association or foundation.
- e) Remaining in active service in any public authority.
- f) Exercising of legal or fiscal professions.
- g) Exercising of any professional, liberal, trading or labour activity.

4.– The ombudsman will be released from his/her post due to the following causes:

- a) Resignation.
- b) Termination of the period for which his/her appointment was made.
- c) Death or unforeseeable disability.
- d) Serious breach of his/her duties in exercising the post.
- e) Having been convicted of deliberate crimes.
- f) Unforeseeable incompatibility.

5.– When the person appointed as the ombudsman is a civil servant of any Basque public authority, he/she must be declared as being in an administrative status of special services.

6.– The remuneration of the ombudsman is determined in the General Budgets of the Autonomous Region each year.

7.– Severance will take place when the circumstance arises or when the event to determine as such takes effect. It will be formalised by decree issued by the President of the Basque Government in which the reason for severance and the day on which severance takes place must be indicated. This decree must be published in the Official Journal of the Basque Country.

8.– When severance takes place due to a cause established in Section b), the ombudsman will continue with his/her duties until a new ombudsman has been appointed.

Article 68.– Other Staff Forming Part of the Ombudsman's Office.

1.– The Ombudsman for Equal Opportunities may appoint advisors and trustworthy personnel to undertake their duties according to its regulations and within the limits of the budget. These will be at the same level as any Basque Government staff.

2.– The legal system of civil servants at the service of the Authorities of the Autonomous Region of the Basque Country is applicable to the remaining staff.

Article 69.– Budget.

The necessary financial resources to finance the ombudsman's office must be allocated on a yearly basis in the General Budgets of the Autonomous Region of the Basque Country.

CHAPTER III
OPERATIONS
SECTION 1
INVESTIGATION PROCEDURE

Article 70.– Initiation.

1.– Any person or group of people considered to be discriminated against due to their gender, or those legally representing said people, may present a complaint to the Ombudsman's Office for Equal Opportunities.

2.– Any associations, organisations and other companies that aim to ensure compliance with the principle of equal opportunities are entitled to initiate and take part in the procedure on behalf or in support of the person considered to be discriminated against when they have his/her authorisation.

3.– Nationality, residence, age or legal incapacity of the person affected cannot constitute an obstacle for addressing the ombudsman's office.

4.– The complaint must be presented in writing or orally and, on all accounts, must be proven.

5.– The complaint must be subject to prior assessment to decide on its acceptability. Complaints will not be accepted in the event of any of the following circumstances:

a) It has no active legitimacy, according to that established in Paragraph 1 of this Article.

b) Where the period of one year has elapsed since the behaviour or facts to have caused the complaint has ended.

c) Where the person to have made the complaint is not identified.

d) Where there is bad faith or an abusive use of the procedure. In these cases, where there are cases of criminality, the appropriate Legal Authorities will be informed.

e) Where the complaint is not founded or where the data requested is not provided.

f) Where it refers to a question already examined by the ombudsman's office.

g) Where it is not related to the area of authority of the ombudsman's office. Complaints related to their respective areas of authority must be sent to the Ararteko or Basque Country Advocacy Commissioner.

6.- In the event of the ombudsman's office considering that the complaint should not be processed, the interested party must be informed of the grounds for such in writing and, where applicable, providing information as to the appropriate institutions to be notified of the case.

Article 71.- Preliminary Proceedings.

1.- Once the complaint has been accepted for processing, the necessary investigatory steps will be taken to clarify the events.

2.- During this stage of the proceedings, the person against whom the complaint has been made will be interviewed.

Article 72.- Completion.

1.- The decision to end the proceedings must take the result of the investigations into account. A proposal may be made for the parties as to the conciliatory measures considered appropriate to eradicate discriminatory situations or practices or those that may jeopardise equal opportunities. To this end, recommendations to the person against whom the complaint was made may also be provided.

2.- When the person against whom the complaint was made does not comply with the recommendations given by the ombudsman's office, it will provide the affected person with technical assistance regarding the processing of his/her claims of discrimination before the administrative or legal bodies.

3.- The action of the ombudsman's office is considered to end with administrative action for the purposes of its possible contest before the courts.

4.- If, during the investigations, rational proof of criminality appears, the Ombudsman's Office for Equal Opportunities must inform the Prosecuting Authorities.

SECTION 2 REPORTS AND JUDGEMENTS

Article 73.- Annual Report.

1.- The ombudsman's office must prepare an annual report containing the action carried out.

2.- The report must at least include the following contents:

a) List of the investigation carried out both ex officio and on request and the result thereof, indicating the proposals for conciliation and the recommendations given and whether they have been accepted or not.

b) List of rejected complaints and the reasons.

c) List of judgements issued according to that established in Article 75.

d) Any other issue considered as being of interest.

3.- The report must be presented before the Basque Government.

Article 74.– Extraordinary Reports.

Where the gravity or urgency of the facts requires as such, the ombudsman may, at any time and of his/her own initiative, present an extraordinary report before the Parliament.

Article 75.– Judgements.

The ombudsman's office is the body empowered to issue the judgements established in Article 95, Paragraph 3 of the Labour Proceedings Act.

TITLE V
OFFENCES AND SANCTIONS

Article 76.– Liability.

The administrative liability for offences committed in terms of equal opportunities is attributable to the individual or company to commit the action and omissions indicated in this chapter, without prejudice to the civil, criminal or other types of liability arising.

Article 77.– Offences.

1.– Offences are classified as minor, serious and very serious.

2.– A minor offence is considered as one that hinders or partially prevents the investigatory action of the Ombudsman's Office for Equal Opportunities.

3.– A serious offence is considered as:

a) Hindering or totally preventing the investigatory action of the Ombudsman's Office for Equal Opportunities.

b) Infringe the obligations and prohibitions established in Articles 26.1, 26.2, 30.1 and 40.1 of this act.

c) Recurrence in the commission of at least two minor offences.

4.– A very serious offence is considered as the recurring commission of at least two serious offences.

Article 78.– Recurrence.

For the purposes of this act, recurrence will be considered when the people responsible for the offences commit more than one offence of the same nature within the period of two years and where these offences have been sentenced.

Article 79.– Sanctions.

Sanctions will be applied in the following manner:

a) Minor offences are penalised by an official warning and/or fine of up to 900 euros.

b) Serious offences are penalised by a fine of up to 9,000 euros and/or the prohibition to access any type of public aid from the Basque public authorities for a period of between one and three years and/or temporary disablement for the same period of the individual or company responsible to enjoy the title of centre or service dealing in the provision of public services.

c) Very serious offences are penalised by a fine of up to 45,000 euros and/or the prohibition to access any type of public aid from the Basque public authorities for a period of between three and five years and/or temporary disablement for the same period of the individual or company responsible to enjoy the title of centre or service dealing in the provision of public services.

Article 80.– Adjustment of Sanctions.

To determine the sum of the fines and the application of the other sanctions, the appropriate body must abide by the following adjustment criteria:

- a) The nature of the damage caused.
- b) The existence of intentionality or recurrence.
- c) The solving of the faults leading to the start of the proceedings by the offending party prior to the sentence being passed.

Article 81.– Prescription System.

1.– Administrative offences regarding the issues established in this act prescribe: very serious, two years; serious, twelve months and minor, six months, all as of the commissioning of the offence.

2.– The term for prescription of the sanctions imposed under this act will be as follows: very serious, one year; serious, six months and minor, three months, all as of the day following that on which the sentence regarding the sanction was passed.

Article 82.– Jurisdiction.

The authorities with jurisdiction to impose sanctions for offences established by this act will be:

- a) The director of Emakunde-Basque Women's Institute for the imposing of sanctions for minor offences.
- b) The Government Council for the imposing of sanctions for serious and very serious offences.

Article 83.– Sanctioning Procedure.

The sanctioning procedure must adapt to the principles established in the 30/1992 Legal Framework for Public Administrations and Common. Administrative Procedure Act of 26 November and the 2/1998 Sanctioning Powers of the Public Authorities of the Autonomous Region of the Basque Country Act of 20 February.

ADDITIONAL PROVISIONS

One.– Evaluation and Review of the Act.

According to the powers invested in it by Article 13 of this act, the Inter-Institutional Commission for Equal Opportunities will monitor compliance with, development of, application to and, where applicable, the opportunity to review this act every five years. The report will be sent to the Basque Parliament.

Two.– Appointment of the Ombudsman for Equal Opportunities.

Within the twelve months following the entering into force of this act, the president of the Basque Government will appoint the ombudsman for Equal Opportunities.

Three.– Adaptation of Structures by the Basque Government.

1.– The appropriate bodies of the Basque Government, within the term of one year, will begin the necessary administrative procedures to amend the institutional structure decrees of its departments so that there is at least one administrative unit in each one responsible for promoting and coordinating implementation of the measures established in this act and in the plan for equality approved by the Government.

2.– The appropriate bodies of the Basque Government, within the term of one year, will begin the necessary administrative procedures to amend the lists of posts so that the specific experience and/or skills of the technical staff to hold posts to promote and design programmes and provide technical advice regarding equal opportunities is/are guaranteed, establishing specific requirements of knowledge in said matter for access thereto.

3.– The appropriate bodies of the Basque Government, within the term of one year, will begin the necessary administrative procedures to amend the list of posts at Emakunde-Basque Women’s Institute so that the duties attributed to it in this act can be carried out and to adapt it to the needs derived from its application.

4.– The appropriate bodies of the Basque Government, within the term of one year, will begin the necessary administrative procedures to amend the list of posts in the bodies responsible for the assessment, investigation and innovation of education and of the support services for teaching staff, including specific requirements for posts requiring training in co-education.

TRANSITIONAL PROVISION

Validity of certain regulations.

The following remain valid until the regulations of development of this act have been declared, which will expressly repeal them:

- a) Decree 301/1988 of 13 September in which the institutional and functional structure of the Basque Women’s Institute / Emakumearen Euskal Erakundea is established.
- b) Decree 78/1998 of 27 April in which the Begira Non-Sexist Advertising Advisory Commission / Berdintasuna Garatzeko Iragarkien Aholkularitza is created.
- c) Decree 103/1998 of 8 June in which the Basque Women’s Advisory Commission / Emakumearen Euskal Erakundea is created.
- d) Decree 424/1994 of 8 November in which the figure of the “Organisation Collaborating in Equal Opportunities between Men and Women” is created.
- e) Decree 251/1999 of 15 June regulating the Inter-departmental Commission for the coordinated implementation of the Positive Action Plan for Women in the Autonomous Region of the Basque Country.

REPEALING PROVISION

Repeal.– All regulations of the same or lower level opposing that established in this act are hereby repealed.

FINAL PROVISIONS

One.– Amendment of the 2/1988 Act of 5 February Regarding the Creation of the Basque Women’s Institute / Emakumearen Euskal Erakundea.

1.– The title of the 2/1988 Act of 5 February regarding the creation of the Basque Women's Institute / Emakumearen Euskal Erakundea is amended to its Spanish version: "Ley 2/1988, de 5 de febrero, sobre creación de Emakunde-Instituto Vasco de la Mujer" [2/1988 Act of 5 February regarding the creation of Emakunde-Basque Women's Institute] and its version in the Basque language "2/1988 Legea, otsailaren 5koa, Emakunde-Emakumearen Euskal Erakundea sortarazteari buruzkoa".

2.– Article 3 of the 2/1988 Act of 5 February regarding the creation of the Basque Women's Institute / Emakumearen Euskal Erakundea is amended to be drafted in the following manner:
"Article 3.– Functions.

Emakunde-Basque Women's Institute is responsible for the following functions:

- a) Preparation of the directives aimed at obtaining the aforementioned objectives and promoting their application by the different public powers in the Autonomous Region.
- b) Monitoring of equality policies and of autonomous legislation regarding their adaptation to the principle of equal opportunities, except for anti-discriminatory normative.
- c) Preparation of proposals for legislative reforms aimed at eliminating the obstacles that hinder or prevent real and effective equality between both sexes and the proposal for the normative of development of this act.
- d) The issue of reports and judgements regarding equal opportunities during the preparation of the general provisions promoted by the Autonomous Region Authorities.
- e) Design of methods to integrate the gender perspective into all political areas.
- f) Proposal to the appropriate bodies of the Basque public authorities of the basic minimum conditions regarding the functions and skills of staff in the different organisations, bodies and units related to equal opportunities.
- g) Advice and collaboration with the Basque public authorities on the design of the training plans regarding equal opportunities and on the achieving of the proposals objectives.
- h) Promoting and coordination of the objectives of the Inter-departmental Commission for Equal Opportunities and the Inter-institutional Commission for Equal Opportunities and the promotion of the necessary coordinating measures among the different public powers of the Autonomous Region in relation to the programmes involving the situation of women and equal opportunities.
- i) Study of the different conditions, needs and interests of men and women and the inequalities derived from them in politics, the economy, culture and society, particularly promoting the implementation of studies aimed at structuring the policy to be undertaken in the different areas of action.
- j) Advice and establishing of training measures to provide companies and organisations with material, economic and human resources to develop plans, programmes and activities aimed at obtaining equal opportunities.
- k) Proposal to the appropriate body regarding the requirements and basic minimum and common conditions applicable to the official approval of companies to provide services in terms of equal opportunities.
- l) Promotion and proposal in terms of service provision aimed at ensuring access to basic social rights by women suffering multiple discrimination.
- m) Promotion and proposal in terms of social-community service provision and adaptation that favour conciliation of the private, family and working lives of men and women.

n) Sensitisation of citizens, carrying out the necessary sensitisation, promotion and circulation activities and campaigns regarding the meaning and importance of equal opportunities and the need to work to achieve this and the empowerment of women.

ñ) Establishing relationships and channels of participation with associations, foundations and other bodies and organisations that, according to their activities or functions, contribute towards the attaining of the objectives of the institute.

o) Establishing relationships and channels of participation with institutions and similar organisations from other autonomous regions, nationwide and in the international community.

p) Any other function that may be commissioned in relation to its objectives”.

3.– All references to the Basque Women’s Institute / Emakumearen Euskal Erakundea in the 2/1988 Act must be understood as being made to Emakunde-Instituto Vasco de la Mujer [Emakunde-Basque Women’s Institute] in its Spanish version and Emakunde-Emakumearen Euskal Erakundea in its Basque version.

Two.– Amendment of the 6/1989 Basque Public Authorities Act of 6 July.

1.– A Paragraph 2 is added to Article 27 of the 6/1989 Basque Public Authorities Act of 6 June, the current text remaining as Section 1. The meaning of Paragraph 2 is as follows:

”2. Where there are equal skills, priority will be given to women in the bodies, scales and categories of the Authority in which their representation is below 40%, except where there are reasons concerning the other candidate that, without being discriminatory due to gender, justify the non-application of the measure, such as belonging to other groups with special difficulties for access to employment”.

2.– A Paragraph 3 is added to Article 31 of the 6/1989 Basque Public Authorities Act of 6 July. The current Paragraph 3 will hence become 4, with the following draft:

”3. Except where its lack of relevancy is duly justified, the composition of the tribunal or technical body for selection must be balanced between men and women regarding suitable skills, abilities and preparation. A balanced representation will be considered as existing when in bodies with over four members, each sex is represented by at least 40%. In the remainder, when the two sexes are represented”.

3.– A Paragraph 2 is added to Article 46 of the 6/1989 Basque Public Authorities Act of 6 July, so that the current Paragraphs 2 and 3 become 3 and 4, respectively. The meaning of the new Paragraph 2 is as follows:

”2. In the event of provision by tender, in the event of equal skills in the provision of a post, priority will be given to the woman when, in the body or scale in question and the level of said post, women are represented by less than 40%, except where there are reasons concerning the other candidate that, without being discriminatory due to gender, justify the non-application of the measure, such as belonging to other groups with special difficulties for access to employment”.

Three.– Amendment to the 7/1981 Governmental Act of 30 June.

1.– A Paragraph 2 is added to Article 17 of the 7/1981 Governmental Act of 30 June, with the following meaning:

”2. In the Government, both sexes will be represented by at least 40%”.

2.– Article 57.1 of the 7/1981 Governmental Act of 30 June is amended in the following manner:

”The bills presented to the Basque Parliament must be accompanied by a statement of motives and of the necessary background to make a decision thereto, as well as a preliminary assessment of the gender-related impact and the corresponding corrective measures. A record must also be made as to whether said bill involves an amendment to the budget”.

Four.– Amendment to the 5/1990 Basque Parliament Elections Act of 15 June.

A Paragraph 4 is added to Article 50 of 5/1990 Basque Parliament Elections Act of 15 June, with the following meaning:

"4. The candidacies presented by the political parties, federations, coalitions or groups of voters will be made up of at least 50% women. This proportion will be maintained in the list of candidacies and within each block of six names. The appropriate election committees of the historic territory will only accept candidacies that comply with that indicated in this Article, regarding both candidacies and their substitutes".

Five.– Amendment of the 1/1987 Act of 27 March regarding Elections for the General Authorities of the Historic Territories of Araba, Bizkaia and Guipúzcoa.

Article 6 B of the 1/1987 Act regarding Elections for the General Authorities of the three historic territories is drafted as follows:

"1. The candidacies presented by the political parties, federations, coalitions or groups of voters will be made up of at least 50% women. This proportion will be maintained in the list of candidacies and within each block of six names. The appropriate election committees of the appropriate areas will only accept candidacies that comply with that indicated in this Article, regarding both candidacies and their substitutes".

Six.– Amendment to the 1/1997 Legislative Decree of 11 November Approving the Summarised Text of the Regulatory Principles of the Basque Country Inland Revenue.

1.– A new Paragraph is added to Article 50 of the Legislative Decree of 11 November approving the summarised text of the Regulatory Principles of the Basque Country Inland Revenue with the following meaning:

"5. During the period established by the corresponding sanction, individuals or companies administratively or criminally sanctioned due to gender-related discrimination may not apply for subsidies or aid regulated under this title, nor can those sanctioned with this prohibition under the Equal Opportunities for Men and Women act".

2.– A new item is added to the end of Section c) in Paragraph 1 of Article 51 of the 1/1997 Legislative Decree of 11 November approving the summarised text of the Regulatory Principles of the Basque Country Inland Revenue, drafted as follows:

"c) (...) Likewise, where its relevancy has been ascertained according to the legally established procedure, the objective criteria for the awarding of aid or subsidies will include the integration of the gender perspective in the project and the progress of the applying person or company in the development of policies or action aimed at equal opportunities".

Seven.– Amendment of the 12/1998 Act of 22 May against Social Exclusion.

1.– A new Paragraph 3 is added to Article 3 of the 12/1998 Act of 22 May against Social Exclusion, so that the current number 3 becomes 4, drafted in the following manner:

"3. The consideration of an independent economic unit will also be given to people having to abandon their normal homes as a result of a situation of domestic abuse and who, for this reason, have to stay at the homes of others, independent to whether they are related or not".

2.– Paragraph d), Section 1, Article 18 of the 12/1998 Act of 22 May against Social Exclusion is amended in the following manner:

"d) Over the age of 23. People aged below 23 that, meeting the remaining requirements, care for minors or disabled people, are exempt, as are orphans. Also exempt are those aged below 23 who, meeting the remaining requirements, have been victims of domestic abuse and those joined to another person in marriage or another form of permanent relationship similar to marriage at least six months beforehand".

Eight.– Regulations or Directives to Previously Assess Gender-related Impact and the Incorporation of Measures to Eliminate Inequalities and Promote Equality.

The Basque Government will, within the period of one year, approve the regulations or directives including the guidelines to follow to previously assess gender-related impact and the list of provisions excluded from the need to undertake this procedure, as indicated in Paragraph 2, Article 19. Also within this period, the assessment indicators for the subsidy criteria or contractual clause established in Paragraph 3, Article 20 will be established.

Nine.– Regulation of Equality Plans in Companies.

In development of that established in the first two paragraphs of Article 40, the Basque Government will, within the period of one year, determine which private companies must prepare and implement equal opportunity plans and programmes, along with their minimum contents and the mechanisms for their monitoring and assessment.

Ten.– Regulation of Resources for Victims of Domestic Abuse.

Within the period of six months, the Basque Government will approve the normative regulating the criteria and minimum conditions of quality and operations for the safe house resources for victims of domestic abuse, as indicated in Paragraph 4, Article 57 of this act, as well as a programme of aid for said victims that develops that established in Section 2, Chapter VII of this act.

Eleven.– New Structural Decree for Emakunde-Basque Women's Institute.

In order to avoid the dispersion of the normative relating to the institutional and functional structure of Emakunde-Basque Women's Institute over different texts, the Basque Government will, within the period of one year, approve a new structural decree to replace Decree 301/1988 of 13 September.

Twelve.– Development of Normative.

The Basque Government is authorised to adopt the necessary provisions to development the normative of this act.

Thirteen.– Entering into Force of the Act.

This Act will enter into force on the day following its publication in the Official Basque Country Journal, except for Articles 19 to 22, which will enter into force one year afterwards.

I hereby order all citizens of the Basque Country, individuals and authorities alike, to observe this act and ensure it is observed.

Vitoria-Gasteiz, 21st February 2005.
The President of the Basque Government,
JUAN JOSÉ IBARRETXE MARKUARTU