



UNIVERSAL PERIODIC REVIEW

“Situation of the rights of migrants, refugees and stateless persons in Spain”

Slide 1

Madam Director, distinguished members of the Council, representatives of the States,

We appreciate the opportunity to participate in this Universal Periodic Review (UPR) of Spain.

Slide 2: Who we are?

CONVIVE – Fundación Cepaim is an organization with ECOSOC consultative status. Our reports and analyses are developed in collaboration with various civil society organizations in Spain. In this context, we present our evaluation of the state of human rights in the country, with a special focus on migrants, refugees, and stateless persons.

Slide 3: Review of Previous UPR Recommendations

Spain has received key recommendations in previous UPR cycles, particularly concerning access to international protection, combating racial discrimination, and respecting the principle of non-refoulement. However, progress in implementing these recommendations has been, in some cases, insufficient.

Slide 4: Migrant´s Rights

- Although Spain has made progress in the guarantees of protection and access to justice for migrants in a non regular situation who are victims of hate crimes with the new legislation, for the majority of migrants in an irregular situation access to justice continues to be an obstacle due to the fear of being subjected to sanction and/or expulsion as a result of their migratory status. It is worth recalling the multiple recommendations of the Ombudsman's Office requesting the establishment of safe



complaint mechanisms and firewalls where the victim's status is prioritized over administrative status.

- Police stops by racial profiling are a discriminatory and stigmatizing practice that persists in Spain, having been considered “endemic” by different UN Working Groups and multiple international human rights bodies such as the UN Human Rights Committee in 2015, or the European Commission Against Racism and Intolerance in 2018.
- In terms of equal treatment and non-discrimination, Spain continues to fail to comply with its legal mandate to create an Independent Equality Body as a result of the Integral Law on Equal Treatment and Non-Discrimination in 2022.
- In relation to the detention of migrants, different social organizations continue to report cases of aggressions as well as limitations to the visiting regimes. It should be recalled that detention for migrants must always be a measure of last resort. In this regard, Spain continues to fail to develop alternative to detention as a guarantee of rights, in accordance with the GCM and the recent European Pact on Migration and Asylum.

Slide 5: Rights of Asylum Seekers and Refugees

- Regarding the situation of asylum seekers, the difficulties in the access to the international protection procedure continue. The limitation of telematic appointments, the difficulties to submit the application in person, and the delays in the procedure represent a violation of the right recognized in Article 6 of the Procedures Directive 2013/32/EU, which establishes a deadline of 3 days (extendable to 6) for the registration of the application and the submission.
- The impossibility of requesting international protection in diplomatic delegations, embassies or at border posts has been repeatedly denounced, as was noted by the Commissioner for Human Rights of the Council of Europe during her visit to Spain in November 2022.
- At border posts, and especially in Ceuta and Melilla, the practice of summary refoulement or collective expulsions has been reported by various institutions such as the Ombudsman, the European Court of Human Rights and the Committee on the Rights of the Child.

Slide 6: Statelessness

The article 32 of the 1954 Convention establishes the obligation of States Parties to facilitate the naturalization of stateless persons. Spanish legislation does not include any reduced period for the granting of Spanish nationality.



Spain has a specific procedure established by national law. While this procedure is a big step in the right direction, it contains a number of potential obstacles for applicants.

Free legal aid is only available at the appeal stage, and not at the time of the initial application.

The law explicitly prohibits the expulsion, and thus detention, of pregnant women, asylum seekers, unaccompanied minors amongst others. However, there are no procedural safeguards to prevent stateless persons from being detained for deportation.

Slide 7: Recommendations

Despite the wide range of recommendations in our reports, we will concentrate on five specific recommendations:

1. Ensure and guarantee the establishment of safe reporting mechanisms for irregular migrants and prioritize the safeguarding of victims' rights over their migration status.
2. Expressly prohibit the use of racial profiling in Organic Law on the protection of citizen security and in Law on equal treatment and non-discrimination.
3. Reduce the use of detention as a measure of last resort and promote the establishment of alternatives to detention.
4. Expressly prohibit the possibility of carrying out mass deportations, as well as guaranteeing access to the international protection procedure and the activation of protection mechanisms from abroad under article 38 of the Law on Asylum.
5. To facilitate naturalization of stateless persons, with a reduced time limit of 2 years and the elimination of other potential barriers, as well as to ratify the 1997 European Convention on Nationality and the 2006 Council of Europe Convention on Statelessness in relation to State Succession.

Conclusion

Spain must demonstrate a real commitment to human rights, not just by accepting recommendations but by implementing concrete measures to ensure effective protection for migrants, refugees, and stateless persons.

CONVIVE – Fundación Cepaim reiterates its willingness to collaborate in this process alongside other civil society organizations. We urge Spain to take meaningful steps towards a more just, intercultural and inclusive society.