



Universal Periodic Review of SPAIN – 4th cycle

Separated & Invisible Migrant Minors

SLIDE 1: WHILE WE ARE INTRODUCED

SLIDE 2:

I am Eulalia W. Petit, joined by Casilda Rueda Fernández, both professors at the University of Seville. We present on behalf of a consortium including the EMET Arco Iris Foundation, assisting migrant women and children in Andalusia, Spain, and the Professor Uría Foundation, offering pro bono legal services. Our contribution stems from academic guidance on human rights protection and supranational action strategies.

Spain has a strong commitment to human rights under its 1978 Constitution, ratifying many international conventions over 45 years and pioneering in some areas. Spain has been elected for the third time as a member of the Human Rights Council for the years 2025 to 2027.

The Report of the Working Group on the UPR for Spain (18.3.2020) made recommendations on general migration issues and specifically on migrant minors. Spain fully accepted 252 recommendations (91%), partially accepted 13, and noted 10 they couldn't commit to (Addendum, A/HRC/44/7/Add.1, 30 June 2020). Partial acceptance of recommendations on migration occurred in two cases. In the 3rd cycle, age determination procedures were the main issue for migrant minors.

SLIDE 3

Changes in minor migratory flows in the last five years have highlighted two new risks to children's rights.

SLIDE 4

FIRST ISSUE: SEPARATED MINORS

In the last five years, there has been an increase in minors traveling with non-biological or non-legal guardians, 'separated minors' as per GC 6 CRC.

- The existing Spanish regulations do not recognize a distinct category for this group. In practice, they are often integrated with the MENA classification. Nevertheless, this group is distinct owing to their youthful age, total dependency, and the fact that they are not unaccompanied within Spanish territory.
- MENA consideration often leads to separating minors from the adult, often a woman, their sole emotional and cultural contact, and placing them in juvenile centers. Without assessing the minor's best interests, the measure aims at combating human trafficking and crime, automatically labeling them as "helplessness" instead of "risk," preventing supervised bonds.



The migration of Ukrainian minors has elicited a reaction from the Juvenile Prosecutor's Office, permitting the coexistence of adults and minors under constant supervision. Furthermore, certain judges have intermittently advocated for solutions utilizing legal constructs such as de facto guardianship.

SLIDE 5:

We would therefore like to ask your States to make the following recommendations:

- 1) Legally define "separated children."
- 2) Create a detailed and systematic data record for these minors.
- 3) Develop a coordinated and dedicated action protocol involving relevant administrations and social actors, outlining steps, responsibilities, and existing resources for child and gender-focused mobility.
- 4) Prioritize this group in the transfer from arrival points to national destinations where they receive specialized care.
- 5) Guide specialised prosecutors on minors on de facto guardianship and other effective measures already used by judges for the minor's best interests.

SLIDE 6:

SECOND ISSUE: INVISIBLE CHILDREN

Minors born during migration arrive in Spain without documentation and are considered invisible, lacking identity and nationality. This results in the Civil Registry's refusal to register them, violating their rights to identity, a name, and nationality.

Pioneering court decisions in Montilla, San Sebastián, and Roquetas de Mar have allowed minors' registration in the Civil Registry. In one instance, based on the CRC (1989, ratified by Spain in 1990) and the Convention for the Reduction of Statelessness (1961, ratified by Spain in 2018), Spanish nationality was granted to a minor.

SLIDE 7:

We would therefore like to ask your States to make the following recommendations:

- 1) Amend Civil Registry laws for a general solution to register undocumented minors out of term.
- 2) Update nationality laws to grant exceptional nationality to minors unable to obtain de jure or de facto their parents' nationality, preventing statelessness and safeguarding their best interests when Spain is their initial registration place.
- 3) Educate officials and judges on this matter.

SLIDE 7:

We express our gratitude for your attention and remain available for further assistance.