

Universal Periodic Review of SPAIN

4th cycle

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Who We Are: the Coalition

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Spain and the 3rd Cycle

Spain fully accepted 252 recommendations (91%), partially accepted 13, and noted 10 they couldn't commit to, after the Report of the WG (18.3.2020).

The Report made recommendations on general migration issues and specifically on migrant minors. **Partial acceptance of recommendations on migration occurred in two cases** (Addendum, A/HRC/44/7/Add.1, 30 June 2020).

- In the 3rd cycle, **age determination procedures** were the main issue in respect of migrant minors.

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

New situations not previously covered

- Separated minors
- Invisible minors

Separated minors: the issue

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

- Non recognition in existing Spanish regulation.
- Treatment granted as unaccompanied minors (MENA in Spanish terminology).
- A distinct group, as per age (toddlers and children under 10 years old, generally), total dependency, not unaccompanied within Spanish territory.
- MENA regime means separating minors from the adult, often a woman, their sole emotional and cultural contact, and placing them in juvenile centers.
- No minor's best interests individual assessment, qualifying them as "helplessness" instead of "at risk".

The migration of Ukrainian minors has elicited a solution from the 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.

Recommendations

- 1) Legally define "separated children".
- 2) Create a detailed and systematic data record for them.
- 3) Develop a coordinated & dedicated action protocol involving all administrations and social actors.
- 4) Prioritize this group in the transfer from arrival points to national specialized destinations.
- 5) Instruct specialised prosecutors on minors on *de facto* guardianship and other effective measures already used by judges, for the minor's best interests.

Invisible minors: the issue

Minors born during migration arriving in Spain without documentation are **invisible**, lacking identity and nationality.

- Civil Registry's refusal to register them, violating their rights to identity, name, and nationality.

Pioneering court decisions 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.

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) Instruct officials and judges on this matter.

Thank you for your attention

