

UNIVERSAL PERIODIC REVIEW SPAIN – IV CYCLE

STANDARDS FOR THE RECOGNITION AND PROTECTION OF MIGRANTS' RIGHTS

Situation of migrants' rights

Access to Justice

Access to justice continues to present a challenge for migrants in an irregular administrative situation who are victims of crime.

The Organic Law 4/2000 and its regulations provide for a sanctioning and/or expulsion procedure for persons in an irregular administrative situation (art. 57 et seq. LOEX) without considering the guarantees of access to justice set out in international and EU law.

Police Identification and Ethnic Profiling

Despite multiple warnings from international human rights organisations such as the UN Human Rights Committee in 2015, or the European Commission Against Racism and Intolerance in 2018, the Law still does not provide for the express prohibition of this type of identification.

Organic Law 4/2015 of 30 March 2015 on the protection of citizen security (art.16)

Non Discrimination

Despite its provision in law, Spain has still not created the Independent Authority for Equal Treatment and Non-Discrimination, responsible for protecting and promoting equal treatment and non-discrimination of persons on the grounds of the causes and in the areas of competence provided for.

Detention

The measure of detention in detention centres for foreigners (CIE) is disproportionate and violates the principles of last resort and proportionality of punishment of the state legal system and international commitments.

Recommendations:

- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and their Families.
- To guarantee access to effective judicial protection, prioritizing the right to protection of victims over immigration status.
- To expressly prohibit in Organic Law 4/2015, of March 30 on the protection of citizen security and in Law 15/2022, of July 12, comprehensive for equal treatment and non-discrimination the use of racial profiling.
- To create the Independent Authority for Equal Treatment and Non-Discrimination established by Law 15/2022.
- Adopt all necessary measures to ensure compliance with the principle of non-refoulement by the Spanish State.
- Immigration detention as a measure of last resort and promote alternative programs to immigration detention.