

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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BACKGROUND

After the 2020 UPR recommendations, many policies and laws have been passed in Spain to comply with them. However, they have been insufficient to address the structural causes of violations of Economic, Social, and Cultural Rights. 12.7 million people are still at risk of poverty.

General recommendation:

Reform the tax system to make it more progressive, transparent, and efficient, including specific measures against fraud and evasion, in order to increase tax revenues and expand social spending.



JUSTICIABILITY AND IMPLEMENTATION OF ESCR

- In the Spanish Constitution ESCR are less guaranteed than civil and political rights, as they are recognized as “guiding principles” rather than fundamental rights. They lack jurisdictional guarantees and cannot be invoked before the courts.
- Regarding the application of the recommendations from UN treaty bodies, no internal body or procedure has been established, and the government does not consider these recommendations to be binding.
- In 2023, the Second National Human Rights Plan was approved, but it has not yet been developed.

Recommendations:

1. Address constitutional reform to ensure that ESCR are granted the same level of protection as civil and political rights.
2. Establish an effective and transparent procedure for the implementation of the rulings and recommendations of international human rights law bodies. To achieve this, we propose concrete measures.
 - A. To amend Law 25/2014 on Treaties and other International Agreements, with the incorporation of a new Title on International Human Rights treaties.
 - B. To modify Circular 1/2020 of the State Attorney's Office on "the legal nature of the resolutions issued by the Committees responsible for monitoring the United Nations Human Rights treaties" to bring them into line with IHRL.
 - C. To develop special protocols for precautionary measures.



COMBATING RACIAL DISCRIMINATION AND XENOPHOBIA

There have been legislative advances in this field and in the fight against hate crimes, thanks to the efforts of the National Office for the Fight Against Hate Crimes and specialized hate crime prosecutors. However, ethnic profiling persists, undermining the confidence of racial and ethnic minorities in reporting crimes when they occur.

Recommendation:

Accelerate the approval and implementation of the Independent Authority for Equal Treatment and Non-Discrimination.



RIGHT TO HEALTH

Previous recommendations highlighted the limitation of access to health services for, and a law was passed in 2018 to address this issue. In some regions, foreigners in irregular situations continue to be excluded or charged for healthcare.

The COVID-19 pandemic led to the suspension of services and the reallocation of specialists. But these services were not fully reinstated, resulting in hidden cuts. The principle of progressivity and non-regression is called into question here.

Recommendations:

1. Approve the draft law presented by the government to restore universal access to health benefits.
2. Reinstate services and specialists that were cut after COVID-19.



RIGHT TO HOUSING

Spain is facing an affordability crisis, lack of social housing, combined with the constant rise in housing prices.

For the first time in history, a Law on Housing Rights was passed in May 2023, introducing several significant measures. However, the lack of budget allocation and resistance from some regions make its effective implementation difficult.

The most critical shortcoming is in the area of evictions, and the law does not address seasonal rental contracts or room rentals, which are major issues for tenants' rights, particularly as they make up more than 25% of the rental market in cities like Barcelona.

Recommendations:

1. Develop a strategic housing plan with sufficient funding for social housing to meet the objectives of the Law.
2. Implement stronger measures to end evictions and regulate temporary contracts and room rentals.



RIGHT TO EDUCATION

Regarding education, public spending has increased during the period under review. However, some issues persist, such as school segregation and the public funding of private schools through the "grant-maintained" system. The school drop-out rate was 13.6% in that year, higher than the EU average rate.

Recommendations:

1. Finalize the plan for public spending on education between the State and the regions to reach the OECD average.
2. To develop a State Plan against educational segregation, with indicators, concrete measures and budget.



RIGHT TO WORK

Although there have been several legislative reforms in recent years, the temporary employment rate remains at 16% (46% for young people), 3 out of 4 part-time jobs are held by women, and the unemployment rate for individuals under 30 is nearly 20%. The young population in Spain also has one of the highest levels of overqualification in Europe.

Recommendations:

1. Continue working towards full employment, with particular attention to gender, age gaps, and discrimination.
2. Improve leave policies and rights related to care and work-life balance, ensuring they do not result in a reduction in pay.



BUSINESS AND HUMAN RIGHTS

The first Business and Human Rights Plan has not been implemented or followed up with actions for the second Business and Human Rights Plan in Spain.

A Law on Due Diligence was introduced last year but was not passed. Transposition of the Directive on corporate human rights and sustainability due diligence is still pending in Spain.

Some Spanish companies have been denounced for their activities in the Palestinian territories in consortium with Israeli companies (such as CAF).

Recommendations:

1. Transpose the European corporate due diligence directive into national law.
2. Involve Spain in the process of the binding international UN treaty for transnational corporations.
3. Develop a second Business and Human Rights Plan with measures to strengthen the regulatory framework.