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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **Spain**

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## **I. Introduction and methodology used to prepare the national report**

1. Spain is now a firmly established democracy, thanks to the forces of progress at work during the transitional period in the 1970s and the adoption in 1978 of the current Spanish Constitution. The subsequent process of integration into the European Union and other regional organizations, the ratification of the vast majority of international human rights treaties, the applicable legislative framework, and active participation in various forums to uphold and promote human rights have transformed Spain into a country that is not only deeply committed to human rights but also aware of the challenges it faces. The international economic and financial crisis has presented new challenges in the sphere of human rights, particularly with regard to economic, social and cultural rights. The policies adopted in this context have entailed sacrifices for Spanish citizens but have attempted as far as possible to preserve the protections afforded to their rights. The fledgling but clear economic recovery will eventually make it possible to restore social protection measures and measures to assist the most disadvantaged groups affected by the crisis.

2. Since the first universal periodic review of Spain in 2010, the promotion and protection of human rights at the international level has continued to receive high priority in Spanish foreign policy. The country has provided political and financial support to the Office of the United Nations High Commissioner for Human Rights, and it actively supported the establishment of the Human Rights Council – of which Spain was a member from 2010 to 2013. Spain believes that the universal periodic review has proved to be of great value in promoting and protecting human rights throughout the world and that it deserves continued support. Spain maintains an open and standing invitation to all United Nations special rapporteurs who wish to visit the country.

3. The drafting of this national report was coordinated by the Human Rights Office of the Ministry of Foreign Affairs and Cooperation, in accordance with the guidelines adopted by the Human Rights Council. All ministries with relevant competencies participated in the drafting of the report, as did the Office of the Deputy Prime Minister. In May and September 2014, coordination meetings were held with civil society organizations, which also received a copy of the draft report and were invited to comment on it. The Ombudsman was also kept informed about the drafting process.

4. This national report includes information on the follow-up given to the recommendations accepted in 2010 as well as information on other aspects of human rights in Spain that were not addressed in the 2010 recommendations. In 2012, Spain submitted an interim report on the implementation of the recommendations accepted in 2010.

## **II. Legislative and institutional framework**

### **A. Signature and ratification of international conventions**

5. Since May 2010, Spain has ratified the following international instruments: the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; the Optional Protocol to the Convention on the Rights of the Child on a communications procedure; the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse; the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence; and the Convention on the Counterfeiting of Medical Products and Similar Crimes involving Threats to Public Health.

## **B. Improvements in the institutional framework**

6. While the institutional framework remains largely unchanged since the last universal periodic review, there have been two noteworthy developments in the field of human rights.

### **Hate crime and discrimination departments in all provincial prosecutor's offices in Spain**

7. One of the most prominent changes that have taken place in Spain in recent years has been the establishment of a hate crime and discrimination department in each of the provincial prosecutor's offices in Spain. This institutional strengthening has enabled the justice system to take more decisive action in response to these types of crimes. A national council of victims of hate crimes has also been established.

### **Improved coordination in respect of human trafficking**

8. The establishment of the post of National Rapporteur on human trafficking also deserves special mention, given that the Rapporteur has played an important role in improving coordination among the various institutions competent to deal with human trafficking issues — an inter-agency coordination mechanism on human trafficking was also established in June 2012 — and has helped to encourage better international coordination, specifically within the European Union.

## **C. Improvements in the legislative framework**

### **Reform of the Criminal Code of 2010 and the new draft reform**

9. In 2010, a major reform of the Spanish Criminal Code was adopted. The reform amended, *inter alia*, offences against the international community<sup>1</sup> and the offence of human trafficking, which was classified for the first time as a separate offence. It also expressly added trafficking for purposes of sexual exploitation and granted special protection to child victims. In addition, it increased the penalties for environmental offences, added the offence of trafficking in human organs and illegal organ transplant, expanded the aggravating circumstances related to discrimination and introduced new articles aimed at providing increased protection for minors against sexual abuse, sexual exploitation, prostitution and child pornography.

10. Proceedings are under way to adopt a new bill amending the Criminal Code that, *inter alia*, criminalizes forced marriage, strengthens protection for victims of gender-based violence,<sup>2</sup> amends the offence of sexual exploitation and forced prostitution, pays special attention to the most vulnerable victims of trafficking and strengthens protection for minors from criminal acts against their sexual freedom. In response to the recommendations received from the Working Group on Enforced or Involuntary Disappearances, the Committee on Enforced Disappearances and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, enforced disappearance has been classified as a separate offence in the reformed Criminal Code.

### **Elimination of discrimination on the basis of gender**

11. In this regard, particular mention should be made of the reform of the criminal offence of human trafficking,<sup>3</sup> which has been classified as a particular offence against the person distinct from the offence of smuggling of migrants, and of the adoption of the Strategic Plan for Equality of Opportunity 2014–2016, which will be implemented through the Special Plan for Equality between Women and Men in the Workplace and against Wage

Discrimination 2014–2016, the Action Plan for Equality between Women and Men in the Information Society and the Plan for the Advancement of Rural Women.

**Combating discrimination, racism, xenophobia and related intolerance**

12. The reform of the Criminal Code includes an amended list of types of behaviour that encourage, promote or directly or indirectly incite hatred, hostility or discrimination against a group, part of a group or an individual, with a view to strengthening existing legislation in this area. So as to focus specifically on the integration of immigrants, the second Strategic Plan for Citizenship and Integration 2011–2014 has been adopted and the Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance has been adopted and implemented.

### **III. Promotion and protection of human rights in Spain**

#### **A. Human Rights Plan (recommendations 84/R.1 and 84/R.5)**

13. In 2012, the Government of Spain conducted an assessment of the first Human Rights Plan. The final assessment was registered in parliament on 28 December 2012. Since then, the Government of Spain has compiled information on the human rights situation in the country, while at the same time launching various specific plans and measures that have had a significant impact on human rights. These plans and measures were implemented in response to the serious consequences of the economic crisis, which has been the focus of the Government's efforts since the start of the legislative session.

14. During this period, various sectoral plans have been adopted, and progress has been made in the implementation of others, including, for example, the National Strategic Plan for Children and Adolescents, the Strategic Plan on Equality of Opportunity, the National Strategy for the Inclusion of the Gypsy Population, the Spanish Strategy on Disability, the Master Plan for Spanish Cooperation,<sup>4</sup> actions to provide comprehensive support to victims of terrorism, the Business and Human Rights Plan, the National Action Plan for Social Inclusion and the Corporate Social Responsibility Plan. In addition, specific new steps are being taken, with priority given to groups such as families, young people and older persons, and in particular those facing poverty and social exclusion.

15. With a view to implementing these sectoral plans and gathering information on the human rights situation in Spain, the Government is working to establish a human rights strategy with specific objectives for the coming years.

#### **B. Elimination of discrimination on the basis of gender**

**Policies to promote equality of opportunity, particularly in the workplace  
(recommendations 84/R.9, 84/R.10, 84/R.11, 84/R.12 and 84/R.13)**

16. Since 2010, many legislative improvements have been made concerning equality of opportunity for women and men. The following are some of the pieces of legislation that have been adopted: Royal Decree Law No. 11/2013 on protection for part-time workers and other urgent economic and social measures; Act No. 27/2011 amending the Social Security Act in respect of social and economic benefits for women; the consolidated text of the Act on the Regulation and Supervision of Private Insurance, which was amended with a view to eliminating gender differences concerning insurance premiums and benefits; Act No. 14/2011 on Science, Technology and Innovation, which sets as one of its overall objectives the promotion of the inclusion of a gender perspective as a cross-cutting category in this

field; and Act No. 3/2012 on urgent measures to reform the labour market, which provides for conditional assistance to encourage the recruitment of women.<sup>5</sup>

17. The Strategic Plan on Equality of Opportunity 2014–2016 sets out the objectives and priority actions to be taken to eliminate any remaining gender-based discrimination and to achieve equality of opportunity for women and men. Its three main objectives are to: (i) reduce the inequalities that still persist in the areas of employment and the economy, with a special focus on the pay gap; (ii) support a work-life balance and joint responsibility; and (iii) eliminate violence against women just because they are women. In addition, it also has the following three objectives: (iv) to enhance women's participation in the political, economic and social spheres; (v) to promote equality of opportunity for women and men through the education system; and (vi) to fully integrate the principle of equality of treatment and opportunity in all government policies and actions.<sup>6</sup>

18. The policies adopted in the area of employment and participation in economic activity include the following: measures to integrate women who have difficulty finding work into society and the labour market; measures to promote self-employment and entrepreneurship among women; measures to promote equality plans in small and medium-sized businesses; the awarding of the distinction "Equality in Business"; the provision of access for women to decision-making positions in business and the continuous monitoring carried out by the Inspectorate of Labour and Social Security.

19. At the same time, other actions have been taken including measures to promote a work-life balance and joint responsibility in family matters, the teaching of equality education programmes in schools, actions aimed at incorporating the principle of equality of treatment and opportunity in public policies and in the public sector, interventions against sexist advertising through the Women's Image Observatory together with other actions to combat persisting stereotyped attitudes about the roles and responsibilities of women and men and the operationalization of the Council on Women's Participation.

**Combating gender-based violence (recommendations 84/R.7, 84/R.8, 84/R.30, 84/R.31, 84/R.32, 84/R.33, 84/R.34, 84/R.35, 84/R.36 and 84/R.37)**

20. Among the legislative measures taken since 2010, one that stands out is the amendment of article 88 of the Criminal Code through Organic Act No. 5/2010, which allows for penalties in the form of community service or tagging in lieu of custodial sentences. In the case of perpetrators of gender-based violence, such sentences must be served in a location that is different and separate from the victim's place of residence. In addition, the system of fees charged by the justice system was reformed through Royal Decree No. 3/2012, which exempts victims of gender-based violence from paying fees, while the free legal aid system was reformed to ensure that such victims are entitled to free legal aid regardless of their income level. In addition, Organic Act No. 10/2011 amended article 31 bis of Organic Act No. 4/2000 on the rights and freedoms of foreigners in Spain and their social integration, so as to enhance measures to protect foreign women victims of gender-based violence who choose to file a complaint against the perpetrator.<sup>7</sup> Royal Decree No. 1710/2011, for its part, amended the immigration regime for citizens of the European Union and the European Economic Area by allowing victims of gender-based violence to retain their residence permits under exceptional circumstances in the event of an annulment of their marriage, divorce or cancellation of a registered partnership. The reform of the Criminal Code currently under way criminalizes any action taken by a person accused or convicted of an offence of gender-based violence to render ineffective the remote tracking system installed to monitor the implementation of precautionary measures or restraining orders. The rights of women victims of gender-based violence are set out in the guidelines available at <http://www.msssi.gob.es/ssi/violenciaGenero/Recursos/GuiaDerechos/home.htm>.

21. In July 2013, the Government of Spain adopted the National Strategy for the Elimination of Violence against Women 2013–2016.<sup>8</sup> The strategy includes measures aimed at awareness-raising, prevention, consciousness-raising and detection, as well as measures to provide assistance, protection and support to women victims of gender-based violence, paying special attention to children and to women who are at greater risk, namely women with disabilities, women living in rural areas and foreign women. In order to achieve the objectives set out in the National Strategy, improvements have been made to the training provided to State security forces and law enforcement agencies and to the methods used to evaluate public policies.<sup>9</sup> In addition, the various possible forms of violence — such as trafficking in women and girls for sexual exploitation, female genital mutilation and forced marriage — are being brought more into the public eye.

22. The above-mentioned National Strategy has served as the framework within which the following specific actions have been taken: promoting institutional campaigns; emphasizing collaboration among the various social and economic stakeholders in both the public and private sectors; taking steps in various areas such as sports, culture, health and new technologies; offering specific awards; and taking measures to raise public awareness about trafficking in women and girls for purposes of sexual exploitation.<sup>10</sup>

23. Eliminating violence against women is also a priority of the State security forces and law enforcement agencies.<sup>11</sup> Two protocols have been developed in this regard – one on coordination, collaboration and referral among professionals dealing with domestic and gender-based violence and another on the system for the remote tracking of the implementation of restraining measures and penalties in cases involving gender-based violence.<sup>12</sup> The State security forces and law enforcement agencies possess a network of specialist care providers comprising teams for women and minors, Civil Guard criminal investigation police, family services, and groups for women and minors within the National Police Force. In addition, the Upgrading and Specialization Centre, which is part of the Training and Proficiency Division of the National Police and Civil Guard, offers training courses addressing gender-based violence. The Basic Guide to Psychological First Aid in Cases of Gender-based Violence has been prepared in order to provide better care for victims. There is also an integrated system for monitoring cases of gender-based violence in the country, which includes a subsystem focusing on victims who have died as a result of gender-based violence.<sup>13</sup> Between 2010 and 2014, several revisions were made to the risk assessment forms used by the police, and it was decided that a new tool would soon be launched to create and send follow-up warnings or alerts triggered by the continuous monitoring of changes in the level of risk faced by victims.

**Combating trafficking for purposes of sexual exploitation (84/R.38, 84/R.39, 84/R.40, 84/R.41, 84/R.42, 84/R.43, 84/R.44, 86/R.24 and 86/R.25)**

24. Efforts to combat trafficking for purposes of sexual exploitation have also received special attention since 2010.<sup>14</sup> In particular, as mentioned above, the post of National Rapporteur on human trafficking was established on 3 April 2014.

25. The offence of human trafficking was criminalized in article 177 bis of the Criminal Code through Organic Act No. 5/2010, in which it was classified as a particular offence against the person distinct from the offence of smuggling of migrants.<sup>15</sup> It is a crime of intent and is committed when the act is carried out for purposes of exploitation using any means that would nullify the victim's consent.<sup>16</sup> Exploitation, if it occurs, constitutes an offence separate from that of human trafficking. The crime of sexual exploitation and forced prostitution is regulated by article 188 of the Spanish Criminal Code, and sentences for that offence and for the offence of trafficking may be served consecutively. The aforementioned reform of the Criminal Code included an amendment to the classification of the offence of sexual exploitation and forced prostitution.

26. Another reform under way aims to improve the procedures used to identify victims and to meet the special needs of child victims of trafficking.<sup>17</sup> The Framework Protocol for the Protection of Victims of Trafficking also addresses the particular situation of child victims. Organic Act No. 10/2011 amended article 59 bis of Organic Act No. 4/2000 on the rights and freedoms of foreigners in Spain and their social integration, so as to enhance protection for foreign women in an irregular situation who are potential victims of trafficking and to encourage them to cooperate with the authorities in the investigation of trafficking offences.<sup>18</sup> Lastly, there is the Integrated Plan against Trafficking for Purposes of Sexual Exploitation 2009–2012, the second version of which will be adopted in 2014, and the Framework Protocol for the Protection of Victims of Human Trafficking was adopted on 28 October 2011. The reform of the Criminal Code will also include the criminalization of forced marriage.<sup>19</sup>

27. Generally speaking, police action is guided by the Protocol for the Protection of Victims of Trafficking and the Framework Protocol for the Protection of Victims of Human Trafficking. The Police Action Plan to Combat Human Trafficking for Purposes of Sexual Exploitation was submitted in April 2013. The Civil Guard has also included efforts to combat trafficking as one of the main objectives in its Strategic Plan 2013–2016. In order to increase access to the National Police Force, the e-mail address trata@policia.es has been created, and a section entitled “public participation” has been added to the Civil Guard’s official website. The role played by the Intelligence Centre against Organized Crime, which also manages the BDTrata database, should likewise be noted.

28. International cooperation has been intensified, as called for in the Integrated Plan against Trafficking for Purposes of Sexual Exploitation 2009–2012. In particular, Spain has actively participated in the European Union policy cycle to combat organized crime by drafting operational action plans for the Serious and Organised Crime Threat Assessment. International cooperation with INTERPOL, EUROPOL, EUROJUST and FRONTEX has also been strengthened.

### **C. Discrimination, racism and xenophobia (recommendations 84/R.7, 84/R.14, 84/R.18, 84/R.20 and 86/R.16)**

#### **Strengthening the legislative and institutional framework (recommendations 84/R.15, 84/R.16, 84/R.18, 84/R.17 and 86/R.22)**

29. One of the objectives of policies in this area in recent years has been to strengthen domestic law to ensure better protection for groups who are discriminated against on grounds of ethnicity, national origin, gender, sexual orientation or identity, disability, religion or beliefs and political or ideological views. To this end, acts of incitement to hatred and violence against groups or minorities are being reviewed as part of the aforementioned ongoing Criminal Code reform.<sup>20</sup> The Consolidated Act on the Rights of Persons with Disabilities and their Social Integration contains definitions of direct, indirect and multiple discrimination and of discrimination by association or harassment.

30. As mentioned previously, Hate Crimes and Discrimination Departments<sup>21</sup> were established in all provincial public prosecutor’s offices in March 2013 — similar departments had been set up earlier in the public prosecutor’s offices of Barcelona, Madrid and Seville — and a court prosecutor was appointed as national coordinator.

#### **Policies on discrimination, racism and xenophobia (recommendations 84/R.17, 84/R.19, 84/R.20, 84/R.46, 86/R.17 and 86/R.18)**

31. The Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance<sup>22</sup> was adopted on 4 November 2011. It focuses in

particular on the most vulnerable persons and sets forth objectives and measures for education, employment, health, the media, the Internet, sports and awareness-raising. More broadly, a map of discrimination in Spain has been developed to improve data collection and the production of official statistics on incidents and offences involving discrimination in general. In 2012 and 2013, 698 programmes in the areas of awareness-raising, education, employment, the media and victim protection received total subsidies of 19,594,509 euros.<sup>23</sup> The Master Plan for Coexistence and Improved Safety in and around Education Centres was adopted in 2013 and the Training Project for the Prevention and Detection of Racism, Xenophobia and Related Forms of Intolerance in Schools is under way. In the field of sports, the Comprehensive Plan on Physical Activity and Sports and the Manifesto for Equality and Participation of Women in Sports have been adopted, among other measures.

32. As a co-sponsor, Spain has been supporting the United Nations Alliance of Civilizations since 2010.<sup>24</sup> It also supports annual events marking World Interfaith Harmony Week and co-founded the King Abdullah Bin Abdulaziz International Centre for Interreligious and Intercultural Dialogue.

**Improvement of the national statistics system (recommendations 84/R.18, 84/R.17, 84/R.19, 84/R.20 and 84/R.21)**

33. The Crime Statistics System was reformed in 2011, pursuant to the collaboration agreement on information systems for racist and xenophobic incidents. One of the changes was the incorporation of the extensive and universal definition of racism and xenophobia suggested by the European Commission against Racism and Intolerance (ECRI). The training of State security forces has also been improved, taking advantage of synergies resulting from the FIRIR project on training in the detection and registration of racist and xenophobic incidents. A training handbook on the subject has been designed for security forces, leading to better oriented investigations.<sup>25</sup> It takes up articles 174 and 175 of the Criminal Code regarding offences perpetrated by an authority or public servant.<sup>26</sup> A specific protocol for State security forces is being formulated to deal with such incidents. Data on racist and xenophobic incidents were published in the Journal of Statistics of the Ministry of the Interior for the first time in 2012. A complete report on hate crimes committed in 2013 has also been published.<sup>27</sup>

**Assistance to victims of discrimination on grounds of racial or ethnic origin**

34. In order to provide better protection for victims, a department has been set up to assist victims of discrimination on grounds of racial or ethnic origin,<sup>28</sup> and there are plans for a website to provide institutional support to victims of racism.

**The specific case of the gypsy population (recommendations 84/R.24 and 86/R.27)**

35. Actions taken in respect of the gypsy population are part of the National Strategy for the Social Inclusion of the Gypsy Population in Spain (2012–2020)<sup>29</sup> — which includes quantitative objectives to be reached by 2020 in each of the four key areas for social inclusion (education, employment, housing and health) and intermediate goals for 2015 — and of the aforementioned Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance. Objectives in the area of education include increased preschool enrolment, the achievement of universal education and higher academic attainment at the primary level and are supplemented by specific actions. The following projects have received support: the transnational project “Roma families get involved”, the monitoring and support programme for gypsy students in compulsory primary and secondary education and the special classrooms under the Promociona programme run by the Fundación Secretariado Gitano.<sup>30</sup> The Ministry of Health, Social Services and Equality provides annual subsidies to an average of 130 programmes, run by



23 NGOs across 68 towns, totalling a multi-year average (2010–2013) of 5,489,780.27 euros.<sup>31</sup>

## **D. Immigration, asylum and refugee status**

### **Immigrant rights (recommendations 86/R.27, 84/R.23, 84/R.50, 84/R.51, 84/R.52 and 84/R.53)**

36. Organic Act No. 4/2000 on the rights, freedoms and integration of foreigners has been amended on a number of occasions.<sup>32</sup> The amendment introduced through Organic Act No. 2/2009 guarantees to all the full enjoyment of their fundamental rights and the gradual enjoyment of the rest of their rights according to the length of lawful residency in Spain. Organic Act No. 4/2013 established an enhanced protection system in the event of the expulsion of individuals benefiting from international protection and who come under the long-term residency regime.

37. In addition to the measures described in section C on discrimination, racism and xenophobia, one of the main steps taken for immigrant integration is the adoption of the Second Strategic Plan on Citizenship and Integration (2011–2014), whose purpose is to coordinate the policies of various public entities. The focus has been on social coexistence and the promotion of equal access for immigrants to social services, thus improving the social inclusion of diverse population groups at risk of social exclusion. Moreover, the Comprehensive Strategy against Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance also broaches discrimination in access to health care, housing and employment. The chief objectives in the latter domain are to reduce job insecurity and the segmentation of the labour market, to combat irregular recruitment and labour exploitation and to promote good quality employment. To this end, awareness-raising programmes to encourage equal treatment and non-discrimination in the labour market and programmes on managing diversity in the workplace<sup>33</sup> are under way, and tailored social and employment integration plans are available. Under general labour law, resident foreigners have the same labour and social security rights and obligations as Spanish workers.

38. The Strategic Plan on Citizenship and Integration includes a financial instrument, namely the Support Fund for the Reception and Integration of Immigrants. From 2005 to 2011, it was allocated 983 million euros. Although it has not received any budgetary appropriations since the 2012 fiscal year, the Government intends to allocate it funds as soon as the budgetary situation allows.

39. There are also programmes on humanitarian assistance for newly arrived immigrants, on the reception and integration of immigrants, especially in areas with a large immigrant population, and on voluntary return. A public network of migration centres<sup>34</sup> has been set up, in addition to the network of asylum seeker reception centres and the humanitarian assistance provided through NGOs funded by the Ministry of Employment and Social Security.

### **Specific protection for migrant children (recommendations 84/R.49, 84/R.54 and 86/R.34)**

40. Care of unaccompanied migrant children is covered in article 35 of Organic Act No. 2/2009 on the rights, freedoms and social integration of foreigners, which stipulates that, if the age of undocumented foreigners cannot be clearly established, “they shall receive swift and appropriate assistance from the competent child protection services, in keeping with provisions on the legal protection of minors, and the case shall be brought to the immediate attention of the Public Prosecution Service, which, in collaboration with the relevant health institutions, shall conduct the necessary tests on a priority basis to determine their age”.

Furthermore, Royal Decree No. 557/2011 provides that independent child protection services should be informed in such cases. In order to improve coordination among them, the Attorney General's Office issued opinion No. 1/2009 on aspects of inquiries into the age of unaccompanied foreign minors and the findings of the meeting of prosecutors specialized in minors and foreigners, held on 20 April 2010. A framework protocol for unaccompanied foreign children has been adopted.<sup>35</sup>

### **The right to asylum and subsidiary protection (recommendations 86/R.28 and 86/R.30)**

41. International protection is regulated under Act 12/2009 and a new implementation regulation is being developed.<sup>36</sup> Articles 5, 18, paragraph 1 (d), and 19, paragraph 1, of the Act set forth the principle of non-refoulement, which is also taken up in the current regulations and the draft regulations. Statutory guarantees with regard to asylum seekers and subsidiary protection claimants have been enhanced in recent years.<sup>37</sup> Relevant programmes include reception and integration programmes for asylum seekers, refugees and recipients of international protection and, since 2011, annual programmes for resettlement in Spain.

42. Although provisions on international protection do not recognize trafficking in persons as grounds for prosecution as such, in practice, and in keeping with the interministerial Protocol on the Protection of Trafficking Victims, the Asylum and Refugee Office considers all claims for international protection individually, regardless of whether or not the claimant is a trafficking victim, and notifies the National Police of any cases in which there is evidence of a trafficking offence.

### **Migrant detention centres**

43. Operating and internal regulations for migrant detention centres were adopted in March 2014.<sup>38</sup> Guarantees include the obligation to obtain judicial authorization before detaining a person in such centres, the right of detainees to contact NGOs that provide protection to migrants, the right of NGOs to visit the centres and the immediate release of migrants held by the administrative authorities as soon as the circumstances that warranted their detention are no longer relevant. The Public Prosecution Service has the authority to visit migrant detention centres and request from them any information it deems necessary.

### **Situation in Ceuta and Melilla**

44. The cities of Ceuta and especially Melilla have been under extraordinary migratory pressure in recent months, owing to large-scale assaults on perimeter fencing.<sup>39</sup>

45. Ceuta and Melilla have temporary migrant reception centres that provide basic social services and other specific services<sup>40</sup> to migrants in an irregular situation, asylum seekers and international protection claimants. They also have an information protocol for asylum seekers. The centres are open facilities; individuals are free to choose whether or not to stay in them.

46. The centre in Ceuta has a capacity of 512 people, while the one in Melilla can accommodate 480. However, as a result of the aforementioned migratory pressure, the centre in Ceuta is over capacity, with 638 residents, and the one in Melilla is almost three times over capacity, with 1,434 residents,<sup>41</sup> making it necessary to transfer migrants from these two cities to continental Spain.

47. In response to the extraordinary migratory pressure facing Ceuta and Melilla, the European Commission has pledged a package of emergency measures totalling 10 million euros.

## **E. Torture and ill-treatment (recommendations 84/R.29, 84/R.26 and 86/R.21)**

### **Prevention of torture and ill-treatment (recommendations 84/R.2 and 84/R.28)**

48. The Inspectorate for Security Personnel and Services is the body responsible both for inspecting and evaluating the services, centres and central and peripheral units of the police and Civil Guard directorates-general and the manner in which members of both forces perform their duties. Instruction No. 12 on the conduct expected of members of the State Security Forces was adopted in 2007 to protect the rights of detainees and persons in police custody. The National Police and the Civil Guard also have internal disciplinary rules whereby officers who subject detainees to any form of degrading or humiliating treatment are severely punished. In order to enhance protection in this area, human rights information sessions are provided to the police, prison administration staff, the judiciary, State attorneys and forensic doctors.

49. In November 2009, the function of national torture prevention mechanism was assigned to the Ombudsman.<sup>42</sup>

### **Full investigation of cases of torture and ill-treatment (recommendations 84/R.27 and 86/R.22)**

50. In recent years, the Constitutional Court has adopted various decisions — that were reissued in decision No. 53/2010 — requesting all judges and courts to step up investigations into reports of ill-treatment by the police. It also specified what aspects should be taken into consideration during investigations, including the high likelihood that evidence in this type of offence will be sparse and the presumption, for investigative purposes, that any injuries detainees exhibit at the end of their detention and which they did not have prior to it may be attributed to those in whose custody they were held. In July 2011, the Government adopted the Criminal Procedure Bill, which reduces from eight to three the number of hours within which lawyers must report to police stations and modifies the incommunicado detention regime with a view to introducing greater guarantees for those concerned, such as audio and video recording of incommunicado detentions in police stations and a visit every eight hours by a forensic doctor and a doctor appointed by the national torture prevention mechanism.

### **Data-collection system**

51. Measure 102 of the First Human Rights Plan provided for the design of an application for the collection of up-to-date data on cases of possible abuse or violation of the rights of persons in police custody. The application registers the acts for which police officers have been reported for human rights violations against detainees or persons in police custody.

## **F. Freedom of assembly and expression**

### **Freedom of assembly**

52. The right to unarmed peaceful assembly is, among other fundamental rights and public liberties, enshrined in article 21 of the Constitution, which specifies that the right is not subject to prior authorization but that the authorities should be notified in advance of assemblies taking place in public areas; assemblies “may be banned only where there are reasonable fears of disruption to public order and for the security of individuals and property”. These constitutional provisions are further developed in Organic Act No. 9/1983,

on freedom of assembly, which regulates the basic terms governing the exercise of this right.

53. The Protection of Public Safety Bill does not impair the ability to exercise the right to freedom of assembly and demonstration, as defined in the Constitution, and does not amend any articles of Organic Act No. 9/1983. The Bill merely sets forth a series of provisions on the punishment of violent, aggressive or coercive acts that arise from exercising the freedom to demonstrate or that affect public safety, such as holding unannounced or prohibited protests around vital infrastructure, participating in disruptions to public order in clothing that masks the face and hinders identification or assembling while carrying weapons or objects likely to cause injury.

#### **Protection of journalists during protests**

54. With the aim of promoting the conditions to enable State Security Forces and media personnel to work properly, a cooperation agreement was signed on 17 March 2011 between the Ministry of the Interior and the Spanish Federation of Journalist Associations to identify media personnel, thanks to distinctive vests, during protests that require police intervention.

### **G. Access to justice and protection of victims**

#### **Modernization of the justice system (recommendation 84/R.4)**

55. Regarding access to justice, a new judiciary organic act is being negotiated with a view to modernizing the judicial system and making it more efficient by speeding up judicial response times. In that connection, the Action Plan of the Secretary-General of the Justice System 2012–2014 has been adopted with the aim of restructuring the system. In order to improve training, the Legal Studies Centre designs an annual in-service training plan, which is available to prosecutors, court clerks, forensic doctors, other judicial professionals and State attorneys. Act No. 18/2011, on the use of information and communication technologies in the administration of justice, was adopted in July 2011 to facilitate interaction between individuals and professionals and the judicial system.<sup>43</sup>

#### **Legal aid**

56. The economic crisis has posed challenges to the legal aid programme. In response, a legal aid bill is being prepared, addressing the need to guarantee the sustainability of the free justice system through improved resource management and greater oversight of its use. The bill would increase the number of potential direct beneficiaries of the system, placing particular focus on the most vulnerable groups (victims of gender-based violence, terrorism and human trafficking; minors; and persons with physical disabilities who are victims of abuse or ill-treatment) and entitling them to legal aid irrespective of their ability to cover legal costs.

#### **Protection of crime victims**

57. Regarding the protection of crime victims, work is proceeding on the Crime Victim Status Bill, whose purpose is to ensure that Government entities provide as comprehensive assistance as possible to victims, both from a legal and social standpoint. This would imply not only reparation through a criminal trial but also the mitigation of other traumatic emotional effects brought on by their situation, independently from the proceedings. Based on the recognition of victims' dignity, the bill's goal is to defend their material and moral goods and, thereby, those of society as a whole. Special focus in this area is placed on victims of gender-based violence,<sup>44</sup> terrorism and hate crimes.<sup>45</sup>

## H. Children

### **Crimes against the sexual freedom of minors (recommendation 86/R.25)**

58. Special efforts have been and are being made to combat crimes against the sexual freedom of minors. The ongoing reform of the Criminal Code establishes harsher penalties for this type of offence and raises the age of sexual consent to 16 years,<sup>46</sup> thereby fulfilling a recommendation by the Committee on the Rights of the Child and improving the protection that Spain affords to minors, particularly in the effort to control child prostitution. Moreover, causing a child under the age of 16 to witness sexual acts or abuse of other persons has been explicitly criminalized, with sentences of up to 3 years' imprisonment. For crimes involving prostitution, a clearer distinction is drawn between offences against adults and those affecting minors or persons with disabilities, for which the penalties are harsher and to which new aggravating circumstances apply in order to combat the most harmful cases of child prostitution. Particular attention is also paid to punishing child pornography, the legal definition of which is taken from Directive 2011/93/EU. The production and dissemination of such material is punished, as is knowingly attending exhibitionist or pornographic shows involving minors or persons with disabilities.

### **Child Protection Bill (recommendation 86/R.25)**

59. Another very important measure under consideration is the approval of the Child Protection Bill, which will, inter alia, expedite placement and adoption procedures and include protection of the best interests of the child as an interpretative principle, substantive right and procedural rule.<sup>47</sup> It will also ban persons convicted of offences against sexual freedom or exploitation of minors from professions involving regular contact with children, impose the obligation for public authorities, civil servants and professionals who learn of abuse of a minor in the performance of their duties to inform the Public Prosecution Service and give priority to foster care over institutional care, particularly for children under 3 years of age.

### **Protecting the best interests of children whose parents live apart (recommendation 86/R.25)**

60. Another important line of action has been the protection of children whose parents live apart. To that end, the Shared Parental Responsibility Bill has been submitted to the Cabinet, stipulating that, in each specific case, it falls to the judge, who must act in the best interests of the child at all times, to determine whether a sole or shared custody arrangement is more appropriate, and to control the various aspects and content of parental relations. A Non-Contentious Jurisdiction Bill is also being processed. It seeks to update the procedure for returning minors in international abduction cases in order better to protect minors and their rights.

### **Protecting minors with behavioural problems (recommendation 86/R.23)**

61. In an important development, the bill to supplement the Child Protection Act introduces the possibility for minors to be placed in specialized centres for the protection of minors with behavioural problems, where the use of restraining methods and measures to restrict fundamental rights and freedoms is allowed only as a last resort, with the aim of providing them with a suitable educational environment, correcting their behaviour and allowing their personality to develop freely and harmoniously.

62. In May 2010, the basic operating protocol for centres and/or homes providing care for minors diagnosed as having behavioural disorders was adopted; it regulates procedures for the care of minors and establishes guarantees of respect for their rights. Lastly, the Second National Strategic Plan for Children and Adolescents<sup>48</sup> includes measures in favour

of minors with behavioural problems and specifies the bodies responsible for implementing them.

**Protecting the children of persons who have been arrested or imprisoned (recommendation 84/R.3)**

63. The Spanish prison administration runs various prison facilities designed to preserve the human rights of children under 3 years of age whose mothers are deprived of their liberty.

**Caring for poor and socially excluded children**

64. The Government is well aware of the importance of combating child poverty; for this reason it has included this objective at all levels of the 2013–2016 National Action Plan for Social Inclusion, in order to operate in various fields to prevent the intergenerational transmission of poverty.<sup>49</sup>

**I. Rights of persons with disabilities**

**Bringing domestic legislation into line with the Convention on the Rights of Persons with Disabilities**

65. Act No. 26/2011 and Royal Decree No. 1276/2011 brought Spanish legislation into line with the United Nations Convention on the Rights of Persons with Disabilities, a process that involved approving additional legislative, administrative and other measures. Royal Legislative Decree No. 1/2013, approving the revised text of the General Act on the Rights and Social Inclusion of Persons with Disabilities, helped clarify all existing legislation on the matter. An amendment to the Civil Code and the Civil Procedure Act is currently being drafted to better adapt those laws to the requirements of the Convention. The amendment will entail, inter alia, the introduction of new terminology abandoning the terms *incapaz* (incompetent) and *incapacitación* (incompetence) and their replacement with a reference to persons benefiting from judicially sanctioned supported decision-making, together with the new regulation on various formalities for protection and assistance in supported decision-making, the adaptation of the acts for which the person providing protection and assistance will require judicial authorization and an increase in checks on both the person affected and their property.

**Right to education for persons with disabilities (recommendation 84/R.3)**

66. An effort has also been made to improve the right of persons with disabilities to education, and chapter IV of the revised text of the General Act on the Rights and Social Inclusion of Persons with Disabilities is devoted specifically to the topic. The Spanish model is based on the concept of inclusive education, giving priority to inclusion in ordinary schools. In November 2010, a forum on the inclusion of pupils and students with disabilities in the school system was set up, and in June 2011, the Plan for the Inclusion of Pupils and Students with Special Educational Needs was adopted, in collaboration with the Spanish Committee of Representatives of Persons with Disabilities and the autonomous communities.

## J. Right to education

### **New Act on the Improvement of Educational Quality and accompanying policy measures (recommendations 84/R.47 and 84/R.48)**

67. On 9 December 2013, the Education Act (No. 2/2006) was amended by the Act on the Improvement of Educational Quality (Organic Act No. 8/2003), which has the following aims: to reduce the early school leaving rate; to improve educational outcomes in line with international standards, in terms of the comparative rate of both excellent pupils and students who have successfully completed compulsory secondary education; to boost employability and to encourage entrepreneurship in students.

68. Education is compulsory in Spain up to the age of 16. Currently, US\$ 10,094 is allocated to each pupil in State education every year, 21 per cent more than the average within the Organization for Economic Cooperation and Development (OECD) and the European Union,<sup>50</sup> and twice as much as a decade ago (from US\$ 18,927 million in 2000 to 36,012 million in 2010). The student-teacher ratio is lower than the OECD average (10.1 in Spain, as opposed to 13.7 in OECD countries).<sup>51</sup> Moreover, State spending on pre-primary education is equal to 0.9 per cent of the gross domestic product (GDP), compared to 0.5 per cent of the combined GDP in OECD countries. In recent years, there has been a gradual reduction in the percentage of citizens aged 18 to 24 who have completed the first stage of secondary education (CINE 2) but are no longer studying or in training. The figure was 31.2 per cent in 2009 and 24.9 per cent in 2012.

69. To address the challenges that have arisen in the education sector in Spain over the last few years, a number of programmes have been adopted to strengthen education and improve its quality and accessibility: the Territorial Cooperation Programme to Reduce Early Dropouts from Education and Training; the Enhancement, Guidance and Support Plan (Plan de Programas de Refuerzo, Orientación y Apoyo (PROA)); the Educa3 Plan for nursery education; and the Territorial Cooperation Programme to Improve Foreign-Language Learning. There are also several programmes that focus on groups with specific needs, such as the Gypsies, and broadly incorporate the gender perspective. The Ministry of Education, Culture and Sport also promotes activities in favour of lifelong training to enhance access to the labour market, increase job opportunities and boost recognition of informal education by valuing work experience.

70. Moreover, the Act on the Improvement of Educational Quality makes specific provision in the basic education curriculum for human rights education, which, pursuant to Royal Decree No. 126/2014, shall be a cross-cutting component included in all subjects. This topic is also accorded particular importance in the social science curriculum.

## K. Right to health

### **Reform of the national health system**

71. In 2012, owing to the economic crisis besetting Spain, the Ministry of Health, Social Services and Equality launched a health-care reform to render our national health system sustainable and ensure that it is universal, public and free for all Spanish residents, bearing in mind that it has been necessary to tackle an accumulated debt of 16 billion euros and a budget deficit growing at an annual rate of 5 per cent, which would have increased the debt by 175 per cent between 2009 and 2011. This reform has made it possible to maintain the high quality of health-care services and has also aided the economic recovery. Various measures have been adopted in this regard that devote particular attention to vulnerable groups:

(a) Insurance and health-care services: Royal Decree-Law No. 16/2012, on urgent measures to guarantee the sustainability of the national health system and enhance the quality and security of its services, has clarified the conditions of access to public health care through the concepts of “insured party” and “beneficiary”, and has legally regulated a genuine mechanism granting equal recognition to those groups. According to the 2013 OECD report entitled “Health at a Glance”, 99 per cent of the Spanish population has public health insurance and 13.4 per cent also has optional private coverage. Coverage is therefore provided to virtually all Spanish citizens and to residents who have acquired this right. Foreign nationals who are not registered or authorized residents of Spain will also receive publicly funded health care through the national health system as follows:

- (i) Emergency care in the event of serious illness or accident, whatever the cause, until they are discharged;
- (ii) Prenatal, delivery and postpartum care;
- (iii) In all cases, foreign nationals under the age of 18 shall receive health care under the same conditions as Spanish nationals.<sup>52</sup>

In cases where foreigners in an irregular situation in Spain do not have health coverage or resources, social service authorities in each autonomous community shall determine the type of assistance provided, in accordance with Royal Decree No. 576/2013. This Decree extends the range of health care provided for in the national health system’s common core portfolio of care services to persons requesting international protection and victims of human trafficking who are authorized to stay in Spain, for as long as their situation persists.<sup>53</sup>

(b) In Spain, coverage for all persons, regardless of their administrative status, extends to free disease prevention services and public health programmes, such as the diagnosis and treatment of communicable diseases (tuberculosis, human immunodeficiency virus), vaccination programmes and programmes to prevent and control communicable diseases.<sup>54</sup> There are also specific treatment protocols in the event of a mass influx of immigrants.

(c) With regard to pharmaceutical benefits, Royal Decree-Law No. 16/2012 modified the patient contribution system by introducing three criteria to regulate patient contributions (income, age and severity of the illness), thereby improving equity.

(d) Lastly, several projects are being implemented in the field of electronic health, such as the nationwide health card, electronic prescriptions and digital medical histories, which will increase efficiency, reduce the duplication of diagnostic tests and facilitate the administrative tasks carried out by health professionals, which will in turn alleviate pressure on the health-care system by reducing the number of visits, facilitate the movement of patients in the country and give them greater security.<sup>55</sup>

## L. Right to housing

### **Change in the housing model: promotion of renting and preservation of the existing housing stock**

72. In recent years, a change in the Spanish housing model has been encouraged to balance the two forms of access to housing (buying and renting), promote the maintenance and preservation of the existing housing stock and guarantee the right to housing. In this connection, the following laws have been adopted: Act No. 4/2013 on the greater flexibility and promotion of the housing rental market; Act No. 8/2013 on urban rehabilitation, regeneration and renovation; and Royal Decree No. 233/2013, which governs the 2013–



2016 State plan on the promotion of the housing rental market, building rehabilitation and urban regeneration and renovation.

**2013–2016 State plan on the promotion of the housing rental market, building rehabilitation and urban regeneration and renovation**

73. The State plan is specifically geared towards combating discrimination in access to housing. It includes the Housing Rental Assistance Programme, which offers assistance of up to three times the Public Indicator of Multiple Effect Income (IPREM) on the basis of household income, which is an objective criterion.<sup>56</sup> The plan also includes the Programme to Boost the Public Rental Housing Stock, directed at persons whose income is 1.2 to 3 times the value of IPREM, and which establishes the obligation to include temporary rental housing in public property developments. The temporary housing will be rented to households with a total income of up to 1.2 times the value of IPREM. At least 50 per cent of the housing built as part of property developments under the State plan must come under the temporary rental scheme, and 30 per cent of the properties available under the scheme must be reserved to facilitate access to housing for sectors of the population receiving support from social services in the autonomous communities and the cities of Ceuta and Melilla, local corporations, non-governmental organizations or other private non-profit bodies.

74. It is important to note under the legislation in force, women victims of gender-based violence and victims of terrorism are entitled to preferential protection in access to housing.

**Measures to protect mortgage holders**

75. The economic and financial crisis has also increased the risk of families in Spain facing eviction proceedings for failing to meet their mortgage payments on their first home. A number of measures have been adopted in an attempt to relieve the situation, with a particular focus on the mortgage holders who are most vulnerable or at risk of social exclusion, and who find themselves in one of three possible situations:

(a) Mortgage holders struggling to meet their obligations: the Government adopted Royal Decree-Law No. 6/2012 on urgent measures to protect destitute mortgage holders, which led to the establishment of mechanisms to restructure mortgages, favour more flexible foreclosure proceedings and adopt the Code of Good Practices for the Viable Restructuring of Debt Secured by a first home, which credit institutions may use at their discretion for certain specific mortgages. In 2013, the scope of application of the Code of Good Practices was extended to allow more people, such as mortgage guarantors with regard to their first home to benefit. In May 2013, the Government adopted Act No. 1/2013 on measures to strengthen the protection of mortgage holders, debt restructuring and public rental.<sup>57</sup>

(b) Mortgage holders involved in foreclosure proceedings: Royal Decree-Law No. 27/2012 has provided for the immediate postponement of home repossessions for a period of two years;

(c) Mortgage holders who have already lost their home: the Social Housing Fund has been set up for persons whose home has been legally repossessed since January 2008.<sup>58</sup> The 2013–2016 State plan on the promotion of the housing rental market, building rehabilitation and urban regeneration and renovation gives preferential treatment to persons evicted and affected by measures to facilitate foreclosure proceedings.

## **M. International cooperation for development (recommendation 84/R.55)**

### **Recommendations of the Development Assistance Committee: more concentrated geographical, sectoral and multilateral cooperation for development**

76. In December 2012, the Fourth Master Plan for Spanish Cooperation (2013–2016) was adopted.<sup>59</sup> This Master Plan is a response to the recommendations made by the OECD Development Assistance Committee in its 2011 peer review, in which it indicated the need to increase the geographical, sectoral and multilateral concentration of Spanish cooperation, work towards development results, improve accountability and strengthen evaluation and follow-up mechanisms. This geographical and sectoral concentration has also opened the way for the best possible response to the challenges that have arisen in the context of Spanish international development cooperation as a result of the economic crisis.<sup>60</sup>

77. During 2014, official development assistance has begun to increase again. The 2015 budget for Programme 143A of the Ministry of Foreign Affairs and Cooperation is up by 4.54 per cent compared to 2014, from €494.03 million to €516.47 million. The Secretary of State for International Cooperation and for Ibero-America has increased funding by 3.72 per cent, from €258.38 million to €268.01 million, and the Spanish Agency for International Development Cooperation has raised its contribution by 5.34 per cent, from €241.27 million to €254.14 million. Consequently, official development assistance will grow more than any other form of assistance provided by the Ministry of Foreign Affairs and Cooperation in 2015, marking a change in the trend with regard to cooperation for development, in accordance with the new economic status of Spain.

78. Spanish development cooperation is currently based on eight strategic guidelines, which in turn involve planning outcomes in partner countries.<sup>61</sup> In 2016, it will be directed towards 23 countries.<sup>62</sup> Multilateral concentration is achieved under the principles of aid effectiveness agreed upon in Busan. An example of this process of change is the establishment, in early 2014, of the Sustainable Development Goals Fund in cooperation with the United Nations Development Programme.

### **Improving transparency, accountability and coordination with other actors**

79. In terms of transparency and accountability, Spain is endeavouring to improve its information and knowledge management system.<sup>63</sup> Moreover, given the large number of actors in Spanish development cooperation, steps are being taken to better integrate all their abilities and encourage synergies. The Development Cooperation Council plays a fundamental role in this task. The Spanish Cooperation Portal has also been created to serve as an integration platform in this regard.<sup>64</sup> In early 2013, the new Spanish Cooperation Evaluation Policy was adopted.<sup>65</sup>

## **N. Historical memory**

### **Implementation of the Historical Memory Act (recommendation 84/R.45)**

80. In December 2007, the Government approved Act No. 52/2007, known as the Historical Memory Act, which has led, inter alia, to the adoption of measures to improve the benefits afforded to the relatives of Spanish citizens who died as a consequence of, or during, the civil war, and to persons who were imprisoned as a consequence of the circumstances described in Amnesty Act No. 46/1977; offer social protection to the “children of the war”; issue declarations of redress and personal recognition to those who suffered persecution or violence during the civil war and under the dictatorship; and act with regard to the acquisition of Spanish nationality or through the Historical Memory Documentary Centre.<sup>66</sup> The economic crisis has made it necessary to suspend the subsidies

provided for in the Historical Memory Act for exhumations. Spain is actively studying the recommendations put forward in this regard by the Committee on Enforced Disappearances and other special procedures.

## O. Combating the death penalty (recommendation 84/R.25)<sup>67</sup>

81. In 2010, Spain promoted the establishment of the International Commission against the Death Penalty and, in June 2013, the World Congress against the Death Penalty was held in Madrid. In recent years, bilateral efforts have been made and support has been given to work carried out by the European Union in favour of the international abolition of the death penalty.

### Notes

- <sup>1</sup> Dentro de este ámbito se incluyen los delitos contra el derecho de gentes, de genocidio, de lesa humanidad, contra las personas y bienes protegidos en caso de conflicto armado, piratería.
- <sup>2</sup> El refuerzo de la protección de las víctimas de violencia de género se produce por la tipificación de nuevos delitos, como el delito de hostigamiento o acecho o el delito de “ciber acoso”, y mediante la garantía de que, en caso de suspensión de la condena, la imposición de la multa no afecte negativamente a los intereses económicos de la víctima.
- <sup>3</sup> El delito de trata de seres humanos se recoge en el artículo 177 bis del Código Penal.
- <sup>4</sup> Está preparada para su aprobación la Estrategia de Derechos de la Infancia de la Cooperación Española.
- <sup>5</sup> Destacan asimismo la modificación de la Ley Orgánica 3/2007, de 22 de marzo, para la igualdad efectiva de mujeres y hombres, y la aprobación de la Ley 11/2013, de 26 de julio, de medidas de apoyo al emprendedor y de estímulo del crecimiento y de la creación de empleo que establece, entre otras medidas, la reducción de cuotas a la seguridad social y la transformación de contratos temporales suscritos con mujeres jóvenes en indefinidos.
- <sup>6</sup> Estos objetivos se desarrollan mediante 224 medidas para avanzar hacia la igualdad de trato y hacia la igualdad real de oportunidades entre mujeres y hombres.
- <sup>7</sup> Esta modificación posibilita que la autorización de residencia y trabajo que la mujer extranjera en situación irregular, que sea víctima de violencia de género, podía ya solicitar para sí misma, se haga extensiva a sus hijos (la autorización de trabajo para los hijos, solamente será concedida si éstos cumplieran con el requisito de edad mínima que exige el Estatuto de los Trabajadores). En la misma línea se contempla la concesión automática, y no potestativa, como antes, de una autorización provisional de residencia y trabajo para la mujer maltratada y sus hijos, que resuelva interinamente su situación hasta que se remita la resolución judicial relativa a la denuncia por violencia machista.
- <sup>8</sup> Esta Estrategia Nacional unifica en un mismo documento doscientas ochenta y cuatro medidas de actuación, y su ejecución implica un presupuesto estimado de 1.558.611.634 euros.
- <sup>9</sup> Para la mejora de los sistemas de evaluación se ha identificado a los órganos o instituciones responsables de cada medida.
- <sup>10</sup> Las medidas adoptadas en el marco de la mencionada Estrategia Nacional tienen como objetivo romper el silencio que rodea la violencia contra la mujer y sensibilizar a la sociedad contra esta lacra. Destacan en el ámbito de la difusión de campañas institucionales, campañas actuales con los mensajes de “Hay salida” a la violencia de género y “Si la maltratas a ella, me maltratas a mí”, difundidas a través de los medios de comunicación convencionales, y que han tenido una buena acogida tal y como ponen de manifiesto los post test realizados en 2012 y 2013 y la respuesta dada desde la sociedad civil. La colaboración con los distintos agentes sociales y económicos, públicos y privados se ha realizado mediante la firma de convenios con la Federación Española de Municipios y Provincias, con la ONCE o con 64 empresas en el marco de la iniciativa “Empresas por una Sociedad Libre de Violencia de Género”. En el ámbito deportivo se ha participado en las dos últimas ediciones de la Carrera de la Mujer o en el evento Free Yoga; en el ámbito cultural se ha participado en el concierto “Por ellas”, organizado por Cadena 100; en el ámbito sanitario a través de la distribución a los centros de salud de todo el territorio español de unos carteles con el mensaje “Hay salida. Confía en tu personal sanitario, cuéntanos lo que te está pasando” o el de las nuevas tecnologías, ámbito en el que

se ha lanzado una novedosa aplicación para smartphones llamada “Libres”, que actualmente cuenta con más de 6.000 descargas. Además, se han concedido los primeros premios a las buenas prácticas locales contra la violencia de género y a los trabajos de periodismo joven sobre esta causa. Por último, también se ha trabajado en la sensibilización social contra la trata de mujeres y niñas con fines de explotación sexual mediante la celebración de un acto conmemorativo del 18 de octubre, “Día Europeo contra la Trata de Seres Humanos”, y se ha trabajado también en la sensibilización frente a otras formas de violencia contra la mujer como los matrimonios forzados. En este sentido se ha instalado en el Congreso de los Diputados la exposición “Demasiado joven para casarse”, comisariada por el PNUD. También se han creado nuevos recursos como la web de recursos de prevención y apoyo a las víctimas de violencia de género (WRAP):

<http://wrap.seigualdad.gob.es/recursos/search/SearchForm.action>.

- 11 Este acuerdo se suscribió el 11 de octubre de 2013 entre el Ministerio de Justicia, el Ministerio del Interior, el Consejo General del Poder Judicial, la Fiscalía General del Estado y el Ministerio de Sanidad, Servicios Sociales e Igualdad.
- 12 Figura expresamente en los Planes Estratégicos del Cuerpo Nacional de Policía y de la Guardia Civil para el periodo 2013-2016.
- 13 Se ha previsto la interconexión de este sistema con las bases de datos del sistema penitenciario, con el fin de informar a la víctima de todo posible cambio en la situación penitenciaria del agresor. Asimismo, se ha previsto la interconexión del sistema VdG o VioGén con el sistema de información judicial SIRAJ y con las bases de datos policiales, al objeto de conocer los datos oficiales de identificación, tanto de la víctima como del agresor y los antecedentes policiales de éste.
- 14 Esta atención se ha prestado en el marco de los principios y recomendaciones establecidos por Naciones Unidas, la UE, y por los instrumentos internacionales ratificados por España.
- 15 Hasta ese momento la trata de seres humanos constituía una circunstancia agravante del delito de tráfico recogido en el artículo 318 bis CP, solamente en caso de fines de explotación sexual. La definición del delito recogida en el artículo 177 bis del Código Penal es acorde con el Protocolo para Prevenir, Reprimir y Sancionar la Trata de Personas, especialmente Mujeres y Niños (Palermo, 25 de diciembre de 2000) y el Convenio del Consejo de Europa de Acción contra la Trata de Seres Humanos (Varsovia, 16 de mayo de 2005), ambos ratificados por España.
- 16 Salvo que la víctima sea menor de edad, ya que, en ese caso, el consentimiento es irrelevante aún sin que se den los medios.
- 17 Se ha incluido un enfoque específico para las personas que están expuestas a una mayor vulnerabilidad en el Proyecto de Ley de reforma del Código Penal actualmente en tramitación.
- 18 Mediante esta Ley se amplía a los hijos de la víctima que se encuentren en España, o a cualquier otra persona que mantenga vínculos familiares o de otro tipo con la víctima, el derecho que ya asistía a ésta para solicitar a la Administración la adopción de medidas que correspondan para garantizar su seguridad. Esta protección se ve incrementada por la Circular 5/2011 de la Fiscalía General de Estado que unifica cómo deben proceder los agentes de la justicia en este ámbito.
- 19 Tratándose de un comportamiento coactivo, se ha estimado oportuno tipificarlo como un supuesto de coacciones cuando se obligue a otra persona a contraer matrimonio, castigándose también a quien utilice medios coactivos para forzar a otro a abandonar el territorio español o a no regresar al mismo, con esa misma finalidad de obligarle a contraer matrimonio.
- 20 Esta revisión se ha realizado en transposición de la Decisión Marco 2008/913/JAI.
- 21 La función de estos Servicios es detectar este tipo de conductas, así como realizar seguimiento y control de las investigaciones policiales y los procedimientos judiciales incoados por estos delitos desde su investigación hasta su enjuiciamiento y ejecución.
- 22 La Estrategia Integral se ha elaborado sobre la base de los convenios internacionales ratificados por España, así como las recomendaciones de procedimientos especiales.
- 23 Estas subvenciones se han realizado mediante convocatorias anuales dirigidas a entidades sin ánimo de lucro.
- 24 Este apoyo se ha concretado, por ejemplo, en el desarrollo de las Estrategias Regionales para el Sudeste Europeo, el Mediterráneo y el ámbito latinoamericano y en la promoción de la adhesión de nuevos Estados al Grupo de Amigos de la Alianza.
- 25 Hasta el momento han recibido formación un total de 165 instructores, que, a su vez, han formado a más de 20.000 especialistas de la Guardia Civil, el Cuerpo Nacional de Policía, la Policía Autonómica (Euzkintza, Mossos d'Esquadra y Policía Foral de Navarra) y Policías Locales.

- <sup>26</sup> Dicha información se encuentra en las páginas 66 y 67 del citado manual.
- <sup>27</sup> Este informe puede consultarse en el siguiente enlace:  
<http://www.interior.gob.es/documents/10180/1207668/Informe+sobre+los+delitos+de+odio+en+Espa%C3%B1a+2013.pdf/7eeb7e62-9117-47ab-bca0-bf3ed107d006>. Por otro lado, debe mencionarse igualmente que, como consecuencia de lo expuesto, la Agencia Europea de Derechos Fundamentales ha calificado a España como uno de los cinco países de la UE que facilita datos completos (página 159: [http://fra.europa.eu/sites/default/files/fra-2014-annual-report-2013\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2014-annual-report-2013_en.pdf)).
- <sup>28</sup> El Consejo para la Promoción de la Igualdad de Trato y no Discriminación de las Personas por el Origen Racial o Étnico, organismo de igualdad de trato adscrito al Ministerio de Sanidad, Servicios Sociales e Igualdad, presta este Servicio de Atención. Éste es de tipo presencial, telefónico y telemático y se presta para la tramitación de quejas o reclamaciones.
- <sup>29</sup> La Estrategia Nacional para la Inclusión Social de la Población Gitana en España ha sido concebida como una oportunidad para reforzar y profundizar en las líneas de trabajo y las medidas que han dado resultados positivos en las últimas décadas —durante los últimos cuarenta años se han producido en España importantes avances sociales en relación con la población gitana—. Para el cumplimiento de los objetivos de la Estrategia se ha aprobado un Plan Operativo 2014-2016, que contempla medidas generales para toda la población gitana, incidiendo en las áreas que contempla la Estrategia, a saber, educación, empleo, salud, acción social e igualdad de trato.
- <sup>30</sup> El Ministerio de Educación, Cultura y Deporte ha gestionado el Programa PROA de apoyo y refuerzo educativo en secundaria; el Programa Educa3, dirigido a cofinanciar la creación de plazas públicas del primer ciclo de educación infantil, y ha procedido a convocar subvenciones a entidades privadas sin ánimo de lucro para la realización de actividades dirigidas a la atención del alumnado con necesidad específica de apoyo educativo y a la compensación de las desigualdades en la educación. Cabe, asimismo, destacar que se continúa desarrollando desde el Ministerio de Sanidad, Servicios Sociales e Igualdad el Programa de Desarrollo Gitano, cuyas líneas básicas de actuación se centran en la colaboración interinstitucional tanto dentro del propio Ministerio como con otros departamentos ministeriales, las administraciones regionales y locales. En este sentido, con las Comunidades Autónomas se cofinancian proyectos de intervención social de carácter integral, que incluyen actividades en las áreas de acción social, educación, vivienda, salud, trabajo y también la lucha contra la discriminación y el racismo. Anualmente, se realizan una media de 96 proyectos, gestionados en su mayoría por los ayuntamientos de quince Comunidades Autónomas, con un total de cofinanciación de las tres administraciones en el periodo 2010-2013 de 11.083.595,46 euros.
- <sup>31</sup> Los programas que se consideran prioritarios en la actualidad son los programas de promoción y educación para la salud de la población gitana, con especial incidencia en las mujeres —por ejemplo, programas de formación de mujeres gitanas como agentes de salud, en los ámbitos de los cuidados infantiles, higiene y alimentación y prevención de enfermedades y adicciones, así como en el uso adecuado de los recursos sanitarios—; y los programas de inserción sociolaboral y educativa dirigidos a la población gitana. Destacan también programas integrales para las mujeres gitanas, que incluyen actividades de alfabetización, formación básica y habilidades sociales. El Instituto de la Mujer gestiona los programas CLARA y SARA, dirigidos a la integración socio laboral de las mujeres, entre las que se incluyen las mujeres gitanas. Por otro lado, el Instituto de la Mujer tiene un convenio con la Fundación Secretariado Gitano para el Programa para la inserción social y laboral de las mujeres gitanas.
- <sup>32</sup> Por real Decreto 557/2011, de 20 de abril, se aprobó el reglamento de ejecución de la ley.
- <sup>33</sup> Se ha desarrollado, por ejemplo, el Proyecto Gestión de la Diversidad Cultural en la Mediana y Pequeña Empresa (GESDIMEP).
- <sup>34</sup> La red pública de Centros de Migraciones está compuesta por cuatro Centros de Acogida de Refugiados y dos Centros de Estancia Temporal de Inmigrantes.
- <sup>35</sup> Su objetivo es coordinar la intervención de todas las instituciones y administraciones afectadas, desde la localización del presunto menor hasta su identificación, determinación de su edad y puesta a disposición del servicio público de protección de menores y documentación. Durante estos años se ha trabajado especialmente en las ciudades autónomas de Ceuta y Melilla y en las Comunidades Autónomas más afectadas, como Canarias.
- <sup>36</sup> El nuevo reglamento, culminada la segunda fase del Sistema Europeo Común de Asilo (SECA), transpone las Directivas 2013/32/UE y 2013/33/UE sobre procedimientos comunes para la concesión

- o la retirada de la protección internacional y sobre las normas de acogida de los solicitantes de protección internacional.
- <sup>37</sup> Se ha facilitado la asistencia gratuita de intérprete y abogado, la participación de ACNUR en todas las fases del procedimiento de protección internacional, incluida la fase de decisión y propuesta de resolución, y el papel de ONGs especializadas en la protección de refugiados. Asimismo, se ha reforzado el suministro de información a los solicitantes y se han realizado actividades de formación especializada para los agentes que participan en materia de protección internacional, especialmente para los empleados de las Oficinas de Extranjeros, de puestos fronterizos y de Centros de Internamiento de Extranjeros.
- <sup>38</sup> Este reglamento desarrolla lo establecido sobre el funcionamiento de dichos Centros en la Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social, e incorpora además algunos aspectos de la Directiva 2008/115/CE relativa a las normas y procedimientos comunes de los Estados miembros para el retorno de los nacionales de terceros países en situación irregular.
- <sup>39</sup> En el primer semestre de 2014 accedieron a ambas ciudades 4.176 inmigrantes irregulares, lo que supone un incremento del 157 % respecto al mismo periodo del año 2013, y se han contabilizado más de 10.000 intentos de asalto.
- <sup>40</sup> Los servicios básicos que se prestan son alojamiento, vestuario, manutención, limpieza e higiene y seguridad, a los que se suman otros servicios especializados como programas de formación, ocio, asesoramiento jurídico e intervención social.
- <sup>41</sup> Datos a fecha 11 de julio de 2014.
- <sup>42</sup> Información más completa acerca de la labor desempeñada por el Defensor del Pueblo puede encontrarse en el siguiente enlace: <http://www.defensordelpueblo.es/es/Mnp/Defensor/index.html>.
- <sup>43</sup> En dicha ley se recogen los derechos de los ciudadanos en sus relaciones con dicha Administración, los derechos y deberes de los profesionales del ámbito de la justicia en sus relaciones con la misma por medios electrónicos, las obligaciones de los integrantes de los órganos, oficinas judiciales y fiscalías, así como el régimen jurídico de la Administración Judicial electrónica, y las condiciones para hacer posible la íntegra tramitación electrónica de los procedimientos judiciales.
- <sup>44</sup> Se incluyen también los menores que se encuentran en un entorno de violencia de género.
- <sup>45</sup> En materia de víctimas del terrorismo, España ha desarrollado un avanzado sistema integral de apoyo y reconocimiento a las mismas, que se fundamenta en la actualidad en la Ley 29/2011, de 22 de septiembre, de Reconocimiento y Protección Integral a las Víctimas del Terrorismo.
- <sup>46</sup> Frente a los trece años del actual Código Penal.
- <sup>47</sup> Ello se ha realizado siguiendo recomendación de Naciones Unidas de 2013.
- <sup>48</sup> Este Plan Estratégico es el marco de cooperación de todas las Administraciones Públicas con competencia en materia de infancia. Puede ser consultado en el siguiente enlace: [http://www.observatoriodelainfancia.mssi.gob.es/documentos/PENIA\\_2013-2016.pdf](http://www.observatoriodelainfancia.mssi.gob.es/documentos/PENIA_2013-2016.pdf).
- <sup>49</sup> Las diferentes actuaciones responden a la mayoría de los objetivos planteados por la Recomendación Europea “invertir en la infancia: romper el ciclo de desventajas”, centrándose en aspectos como el mercado laboral, la combinación de prestaciones, el acceso a servicios de calidad, la educación, la igualdad de oportunidades, el acceso a la salud, la vivienda, el apoyo a las familias y la participación infantil. Además del Plan, se refuerza la atención a las familias con hijos en situación de privación material severa a través de los Servicios Sociales, mediante una partida extraordinaria de 17 millones de euros para luchar contra la pobreza infantil, que se repartirá a las CCAA a través de transferencias del Estado.
- <sup>50</sup> Panorama de la Educación 2012: indicadores de la OCDE.
- <sup>51</sup> Panorama de la Educación 2012: indicadores de la OCDE.
- <sup>52</sup> En relación con las víctimas de trata, si bien según el citado Real Decreto recibirán asistencia (extendida a toda la cartera del Sistema Nacional de Salud), aquellas que cuentan con una autorización de permanencia en España, derivada de la concesión de un periodo de restablecimiento y reflexión, del artículo 59 bis de la LO 4/2000, de 11 de enero, a instancias de la Delegación del Gobierno para la Violencia de Género se ha remitido a todas las Comunidades Autónomas una propuesta interpretativa para que se haga extensiva a todas las víctimas de trata identificadas formalmente por la policía. Dicha propuesta interpretativa se entiende que ha sido aceptada por las Comunidades Autónomas al no haber recibido objeción alguna al respecto.

- <sup>53</sup> En relación con las víctimas de trata, si bien según el citado Real Decreto recibirán asistencia (extendida a toda la cartera del Sistema Nacional de Salud), aquellas que cuentan con una autorización de permanencia en España, derivada de la concesión de un periodo de restablecimiento y reflexión, del artículo 59 bis de la LO 4/2000, de 11 de enero, a instancias de la Delegación del Gobierno para la Violencia de Género se ha remitido a todas las Comunidades Autónomas una propuesta interpretativa para que se haga extensiva a todas las víctimas de trata identificadas formalmente por la policía. Dicha propuesta interpretativa se entiende que ha sido aceptada por las Comunidades Autónomas al no haber recibido objeción alguna al respecto.
- <sup>54</sup> Debe hacerse mención especial a la cartera de servicios para menores de edad, que cuenta con: i. una línea humanización asistencia UCIS hasta los 18 años, y la estancia en unidades de pediatría hasta los 18 años, independientemente del especialista que les atiende; ii. una línea específica de atención al cáncer en unidades pediátricas; iii. una guía de práctica clínica para los cuidados paliativos en niños; iv. el Calendario Común de Vacunación Infantil; v. criterios comunes en la implementación del Programa de Cribado Neonatal para las enfermedades endocrinometabólicas.
- <sup>55</sup> El desarrollo de la dimensión electrónica de la salud favorece también la atención integral y la coordinación con los servicios sociales. Se está desarrollando en la actualidad la Estrategia de Promoción de la Salud y Prevención de la Enfermedad que se centra en dos grupos de población especialmente vulnerables: niños y mayores. Se ha establecido una Red de Escuelas de Salud para Ciudadanos y en 2012 se constituyó la Red Española de Agencias de Evaluación de Tecnologías Sanitarias y Prestaciones del Sistema Nacional de Salud. Por otro lado, destaca el proyecto “Compromiso por la calidad de las sociedades médicas en España”, cuyo objetivo es que las propias sociedades científicas valoren la eficacia de las intervenciones médicas.
- <sup>56</sup> La aplicación del criterio objetivo renta facilita el acceso a la vivienda a la población más vulnerable.
- <sup>57</sup> Esta ley afecta a la Ley de Enjuiciamiento Civil, la regulación del mercado hipotecario y otras normas del mercado financiero.
- <sup>58</sup> En mayo de 2014 se amplía el ámbito subjetivo de este Fondo para facilitar el acceso a otras personas o grupos que puedan resultar socialmente vulnerables como las unidades familiares con hijos menores.
- <sup>59</sup> [http://www.cooperacionespañola.com/sites/default/files/plan\\_director\\_cooperacion\\_espanola\\_2013-2016.pdf](http://www.cooperacionespañola.com/sites/default/files/plan_director_cooperacion_espanola_2013-2016.pdf).
- <sup>60</sup> Se ha procedido a una evaluación de las ventajas comparativas de la Cooperación al Desarrollo Española, lo que ha implicado la reorganización de nuestras prioridades sectoriales y geográficas, desde un enfoque orientado a resultados de desarrollo. En este sentido, se está aprovechando la experiencia adquirida por la Cooperación Internacional al Desarrollo de España después de muchos años dedicados a la cooperación, de modo que nuestra ayuda es cada vez mejor y más eficaz.
- <sup>61</sup> <http://www.cooperacionespañola.com/es/orientaciones-estrategicas-de-la-cooperacion-espanola-2013-2016>.
- <sup>62</sup> <http://www.cooperacionespañola.com/es/prioridades-geograficas>.
- <sup>63</sup> En este sentido, se está trabajando por la consolidación de “Info @ od”, el sistema on-line de recopilación y publicación de datos de la Cooperación Española (<http://www.cooperacionespañola.com/es/datos-infood>).
- <sup>64</sup> <http://www.cooperacionespañola.com/es>.
- <sup>65</sup> Los resultados de estas actuaciones, en el escenario de contracción presupuestaria existente, se han incorporado en el informe intermedio presentado por España voluntariamente al CAD en 2013 ([http://www.cooperacionespañola.com/sites/default/files/dcd\\_jl\\_2013\\_90\\_mtr\\_spain\\_final.pdf](http://www.cooperacionespañola.com/sites/default/files/dcd_jl_2013_90_mtr_spain_final.pdf)).
- <sup>66</sup> En este ámbito se realizan además otras medidas como la facilitación del acceso a los libros de actas de defunciones de los Registros Civiles; el reconocimiento a favor de las personas fallecidas en defensa de la democracia durante el periodo comprendido entre el 1 de enero de 1968 y el 31 de diciembre de 1977; el reconocimiento de indemnizaciones a “ex presos sociales”; y la revisión de símbolos y monumentos públicos.
- <sup>67</sup> La política exterior de España en materia de derechos humanos se articula en torno a la siguientes seis prioridades no excluyentes: lucha contra la pena de muerte, empresas y derechos humanos, derecho humano al agua potable y el saneamiento, derechos de las personas con discapacidad, no discriminación por razón de género u orientación sexual y protección de los defensores de los derechos humanos.