

Council of Europe contribution for the 21st UPR session regarding Spain

Prevention of torture

On 30 April 2013, the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report on its periodic visit to Spain, which took place from 31 May to 13 June 2011. It also published the report on its follow-up visit to Barcelona Prison for Men (La Modelo) carried out from 19 to 22 June 2012, together with the responses of the Spanish authorities (the two CPT reports and the Government's responses are attached below).

In the course of the 2011 visit, the CPT's delegation examined the treatment of persons detained by law enforcement agencies. The report highlights several allegations of serious physical ill-treatment by officers of the Civil Guard (*Guardia Civil*) in respect of persons held in incommunicado detention, and it recommends once again that steps be taken to ensure that the safeguards surrounding such detention are effective in practice. The report also refers to several allegations of ill-treatment by the Catalan police (*Mossos D'Esquadra*), and makes recommendations aimed at strengthening the safeguards in place and ensuring that all investigations into allegations of ill-treatment by the police are prompt and thorough. Further, the report recommends that all Mossos d'Esquadra officers wear at all times some form of identification, including during public order operations.

The increasing problem of overcrowding in prisons, and the negative impact it has on the conditions of detention, is highlighted in the report. Particular attention is drawn to the situation in La Modelo Prison in Barcelona where the state of dilapidation of the establishment is made worse by the chronic overcrowding. The apparent lack of action to improve the situation in La Modelo Prison led to the CPT carrying out a follow-up visit in June 2012; in the report on that visit, the Committee urged the authorities to put in place a strategy with clear timelines for the phased reduction in overcrowding at this prison.

In the course of the 2011 visit, the CPT's delegation also examined the situation in the high security departments in a number of prisons. The report recommends that measures be taken to ensure that all such departments provide prisoners with a proper programme of activities and that they have rigorous placement and review procedures in place.

In respect of the continued practice of resorting to mechanical restraint of prisoners (i.e. fixating a prisoner to a bed face down often for many hours), the report calls upon the authorities to review the application of the measure, to put into practice the panoply of safeguards advocated by the CPT, and to ensure that fixation is never used for punitive purposes. Further, the CPT recommends that the use of fixation as a means of restraint in educational centres for juveniles be ended. In response, the Spanish authorities provide detailed information on the legal basis regulating the various issues raised by the CPT and on the action being taken to improve the situation.

As regards the administrative detention of foreign nationals under aliens legislation, the report on the 2011 visit criticises the prison-like atmosphere in the Barcelona and Madrid detention centres, made worse by the restrictive regime in place and the limited contacts with the outside world. The report urges the authorities to review their approach towards the detention of irregular migrants. It also refers to several allegations of ill-treatment of detainees, in particular by an external intervention squad of the National Police; the CPT reiterates the importance of the Spanish authorities carrying out prompt and thorough investigations whenever allegations of ill-treatment are made.

A complete list of the CPT's recommendations, comments and requests for information is contained in Appendix I to the reports.¹



Spain report
2011.pdf



Spain response
2011.pdf



Spain report
2012.pdf



Spain response
2012.pdf

Council of Europe Commissioner for Human Rights

On 9 October 2013, the Commissioner for Human Rights, Nils Muižnieks released the report on his visit to Spain from 3 to 7 June 2013.²

The Commissioner's report focuses on following human rights issues:

- impact of the economic crisis and fiscal austerity measures on children³
- impact of the economic crisis and fiscal austerity measures on persons with disabilities⁴
- the role of law enforcement authorities in the protection of human rights⁵.

The Commissioner provides specific conclusions and recommendations at the end of each section.⁶

Upon releasing his report, Nils Muižnieks said that "cuts in social, health and educational budgets have led to a worrying growth of family poverty in Spain. This has had a particularly negative impact on the enjoyment of human rights by children and persons with disabilities. The Spanish authorities should do more to ensure that the human rights of vulnerable groups are better respected in the context of austerity measures".

"The growing child poverty, malnutrition and inadequate housing are issues of serious concern because of their potentially devastating long-term impact on children and the country. The Spanish authorities must implement effective strategies to solve these poverty-related problems and increase the protection of socio-economic rights". The Commissioner stresses that a systematic assessment of the impact that austerity measures have on children and other vulnerable social groups, in close co-operation with civil society and the national and regional ombudsmen, is a particularly important step to this end. He also recommends accession by Spain to the revised European Social Charter and its mechanism of collective complaints.

Commissioner Muižnieks also warns that significant cuts inflicted on education budgets in the last three years are undermining children's equality of opportunities by making it more difficult for children facing specific difficulties or disadvantage to access quality education in an inclusive environment. He also calls for human rights education to be kept as part of the curricula, as "it is a key factor in building a future generation of active and responsible citizens, who are the life blood of a democratic society".

Austerity measures are also worsening the living conditions and social inclusion opportunities of persons with disabilities. "The Spanish authorities should carry out an impact assessment of budgetary cuts on persons with disabilities and adjust policies to ensure that adequate resources are available for their education and employment opportunities."

In addition, the Commissioner is concerned about the conduct of law enforcement authorities. "Ill-treatment by and impunity of members of law enforcement agencies is a very serious, long-

¹ In the 2011 report on pp. 81-96; in the 2012 report on pp. 21-23.

² A summary of the report appears on pp. 2-3.

³ paras. 9-37.

⁴ paras. 50-88.

⁵ paras. 100-143.

⁶ paras. 38-49, 89-99 and 144-153.

standing human rights issue for which Spain has already been condemned by international bodies, including the European Court of Human Rights. The Spanish authorities should ensure that law enforcement officials fully abide by international human rights standards. In this context, incommunicado detention has led to grave human rights violations and should be abolished". The Commissioner also urges the authorities to vigorously counter ethnic profiling practices, which notably target and stigmatise migrants in stop-and-search operations.

Of concern are also the disproportionate use of force by law enforcement officials to control anti-austerity demonstrations and the imposition of fines on demonstrators. "This impinges on Spain's obligations to respect freedom of expression and peaceful assembly. I am also concerned about the frequent lack of visible identification numbers of law enforcement officials, especially during demonstrations, as this has impeded the prosecution and sanctioning of perpetrators of abuse. The recent changes in the size and display of the identification numbers of national police officers is a step forward. However, the numbers should be worn in a way that facilitates easy identification of the officers".

Lastly, underscoring that impunity for ill-treatment committed by law enforcement officials is antithetical to the very principle of democracy, the Commissioner calls on the Spanish government to end "its long-standing practice of granting pardons to those involved in serious human rights violations, including torture, whose absolute prohibition requires States to enact effective punishment".

The Commissioner's report on his visit to Spain in 2013 and the comments of the Spanish authorities appear below.



CHR report
Spain.pdf



Comment I Spain.pdf



Comment II
Spain.pdf

Fighting corruption

Third Round Compliance

On 11 July 2013, the Group of States against Corruption (GRECO) published its Third Round Compliance Report on Spain. In its report GRECO concluded that Spain has implemented satisfactorily or dealt with in a satisfactory manner in total six of the 15 recommendations contained in the Third Round Evaluation Report.

Concerning incriminations, following the adoption of the Third Round Evaluation Report⁷, Spain ratified the Criminal Law Convention on Corruption (ETS 173) and its Additional Protocol (ETS 191). This was an important step forward which also led to several amendments in the formulation of corruption offences in domestic legislation. At present, the criminalisation of bribery and trading in influence in the Spanish Penal Code is largely in line with the Council of Europe standards. The authorities are encouraged to pay further attention to the international dimension of corruption, notably, with respect to bribery and trading in influence of foreign and international officials, foreign jurors and arbitrators, and to the particular coverage of passive bribery in the private sector.

In so far as the transparency of political funding is concerned⁸, Law 5/2012 introduces a series of amendments aimed at improving transparency, oversight and enforcement in this domain. It includes additional bans on the sources of funding to political parties and further regulates loans. It also lays out certain publication requirements for political parties and related

⁷ 2009 Evaluation Report on Spain on Incriminations (Theme I).

⁸ 2009 Evaluation Report on Spain on Transparency of Party Funding (Theme II).

associations/foundations. It is too early to assess whether the recent legislative changes effectively result in improvements in an area which is acknowledged to constitute a major source of citizens' concern in Spain. In particular, it would be essential to ensure that political foundations and associations are not used as a parallel avenue for funding routine and campaign activities of political parties in spite of the applicable restrictions and thresholds set by law for the latter. Moreover, steps must be taken by political parties themselves to put in place efficient mechanisms for internal control and to improve the transparency of the financial operations performed at local level. It is important that citizens are provided with meaningful information on the identity of the donations made to political parties, their branches and related entities, to better help identify questionable financial ties and possible corruption in the party funding system. The Court of Audit continues to have a key role to play in performing substantial supervision of party accounts and in making its findings available for public scrutiny in a timely manner; it must be provided with sufficient resources and powers to do so. The sanctioning regime for irregular financing of political parties needs to be strengthened significantly. It is crucial for the credibility of the system that the law does not remain dead letter but that it is properly monitored and enforced; GRECO urges the Spanish authorities to take all possible steps in this respect.

The conclusions of the second compliance report from 2013⁹, which is attached below, should be read in conjunction with GRECO's two evaluation reports from 2009. They have also been attached below.



GrecoRC3(2013)20_GrecoEval3(2008)3_GrecoEval3(2008)3_Second_Spain_EN.pdf Spain_One_EN.pdf Spain_Two_EN.pdf

Fourth Evaluation Round

On 15 January 2014, GRECO published its fourth evaluation report on Spain. In the report attached below GRECO expresses concern about the proliferation of corruption scandals tainting the credibility of political institutions in Spain. It advises that the central Parliament lead by example by putting in place a comprehensive integrity package with clear ethical standards, matched with greater transparency of MPs' financial interests and a robust enforcement mechanism to sanction wrongdoing.

GRECO also identifies some structural flaws in the justice system and calls for additional guarantees to avoid politicisation of Spain's overburdened courts. GRECO acknowledges the vital role played by individual prosecutors and judges in the fight against corruption and encourages them to remain alert regarding risks to their integrity and impartiality, as well as to step up their endeavours to ensure professional and public accountability.

The implementation of the 11 recommendations addressed to Spain will be assessed by GRECO in the second half of 2015 through its compliance procedure.



GrecoEval4(2013)5_Spain_EN.pdf

Execution of judgments and decisions of the European Court of Human Rights

At 31 December 2013, there were 31 cases pending before the Committee of Ministers for supervision of their execution. 17 of these cases were a "leading case", i.e. raising a new structural/general problem and requiring the adoption of general measures.

⁹ Section III of the report, paras. 68-72.

The document attached presents the status of the execution of the respondent state.



Status execution
judgments Spain.pdf

Fight against racism and intolerance

On 8 February 2011, the European Commission against Racism and Intolerance (ECRI) published its fourth report on Spain.¹⁰ ECRI's Chair, Nils Muiznieks, said that, while there are positive developments, some issues of concern remain, such as the continued existence of "ghetto" schools of immigrant and Roma pupils and the absence of data on racist crime or incidents of discrimination on grounds of racial or ethnic origin.

A hate crimes and discrimination service has been established at the Barcelona Prosecution Office. Spain's specialised body to combat racism and discrimination - the Council for the Promotion of Equal Treatment of All Persons without Discrimination on Grounds of Racial or Ethnic Origin - was set up in 2009 to collect data and assist victims.

The latest plan for Roma development targets social inclusion, non-discrimination and equal treatment. The National Roma Council was set up to advise on policies that affect this community. The Foundation Institute for Roma Culture promotes Roma identity. Successful programmes to eradicate slums and re-locate the inhabitants to standard housing are on-going around the country.

However, there are a high number of neo-Nazi movements in Spain and racism on the Internet is increasing. The authorities should monitor this situation closely and initiate criminal proceedings where necessary. As a result of a Constitutional Court decision, Holocaust denial is no longer a criminal offence.

Despite some improvements in the asylum system, EU nationals are excluded from the right to seek asylum and asylum interviews are of poor quality. Internment centres do not provide adequate access to lawyers and NGOs, and there is a serious shortage of social workers. Unaccompanied minors facing repatriation are not always afforded independent legal representation and age determination methods are outdated and unreliable.

The report contains findings and recommendations regarding the following issues:

- Existence and implementation of legal provisions¹¹
- Human rights plan¹²
- Discrimination in various fields including in the criminal justice system, social services and healthcare, education, employment, housing, access to service and goods.¹³
- Climate of opinion, media, political discourse and sports¹⁴
- Racist violence¹⁵
- Vulnerable/target groups including Roma, North African Muslims, Jews, non-citizens¹⁶
- Conduct of law enforcement officials¹⁷
- Monitoring racism and racial discrimination¹⁸
- Education and awareness-raising¹⁹

¹⁰ A summary of the report can be found on pp. 7-8.

¹¹ paras. 1-44.

¹² paras. 45-47.

¹³ paras. 48-90.

¹⁴ paras. 91-110.

¹⁵ paras. 111-120.

¹⁶ paras. 121-199.

¹⁷ paras. 200-211.

¹⁸ paras. 212-214.

The following three recommendations were selected for priority implementation to be revisited two years later:

- Collect and publish data on acts of racism and racial discrimination;
- Include compulsory courses on human rights and non-discrimination in both initial and in-service training for law enforcement officials and judges;
- Ensure an even distribution of Spanish, immigrant and Roma pupils in schools.

Subsequently, on 5 December 2013, ECRI adopted conclusions on the implementation of these recommendations for which priority follow-up was requested.

ECRI's report on Spain, including Government observations, and the conclusions on the implementation of the recommendations subject to interim follow-up, are attached below.



ECRI report
Spain.pdf



Spain interim
follow-up.pdf

Protection of minorities

Framework Convention for the Protection of National Minorities

On 10 July 2013, the Committee of Ministers adopted a resolution on the protection of national minorities in Spain (attached below). The resolution contains conclusions and recommendations, highlighting positive developments²⁰ but also mentioning issues of concern²¹. Moreover, it mentions a number of areas where further measures are needed to advance the implementation of the Framework Convention for the Protection of National Minorities.

In addition to the measures to be taken to implement the detailed recommendations contained in Sections I²² and II²³ of the Advisory Committee's opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention.

Issues for immediate action²⁴

- take more resolute measures to implement effectively the policies aimed at improving the situation and the integration of the Roma, in close co-operation with Roma representatives; ensure that these policies are adequately resourced and are not disproportionately affected by budgetary restrictions;
- eliminate the practice of "ethnic profiling" by the police which targets persons belonging to some minority groups; increase training of the police to combat racism and discrimination, on the basis of existing good practices;
- investigate the reasons for the persisting concentration of Roma pupils in schools located in disadvantaged areas and with lower academic achievement, in order to eliminate these practices; ensure that the implementation of admission rules to schools does not result in discriminatory practices against Roma pupils;

Further recommendations²⁵

- consult with representatives of the Berber community regarding ways and means of improving the situation of the Berber community in keeping with the spirit of the Framework Convention;
- complete without further delay the process of adoption of comprehensive anti-discrimination legislation; develop a comprehensive system of data collection on discrimination and racially-

¹⁹ paras. 215-221.

²⁰ Part 1.a) of the resolution.

²¹ Part 1.b) of the resolution.

²² paras. 6 - 25 of the third Opinion of the Advisory Committee on the Framework Convention on Spain.

²³ paras. 26 - 150 *ibid*

²⁴ The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

²⁵ *Idem*.

motivated offences in the justice system, in order to promote a more effective implementation of the anti-discrimination legislation in force; provide adequate support to the work of the Council for the Promotion of Equal Treatment of all Persons without Discrimination on grounds of Racial or Ethnic Origin;

- continue and improve the systematic collection of data and information on the situation of the Roma in various areas of life; carefully assess the impact of the economic crisis on their situation, so as to avoid further discrimination against them;

- continue to provide adequate support to the Institute of Roma Culture; take more resolute measures, at the central and regional levels, to support the preservation and promotion of Roma culture;

- pursue and strengthen efforts to combat all forms of racism and intolerance and to promote respect for cultural and religious diversity; ensure that budgetary restrictions do not affect disproportionately the effective implementation of policies that have been launched in this respect and the work of related institutions; condemn firmly and unequivocally, investigate, prosecute and sanction effectively all expressions of racism or intolerance, including in politics and in the media;

- consider ways of promoting a wider application of the existing legislation against racism and racially-motivated discrimination; redouble efforts to improve the training and awareness of the judiciary on these issues; consider amending the Criminal Code in order to make the current provisions on hate crime more effective;

- take far more resolute measures to promote access of the Roma to the media, including by supporting the training of Roma journalists; combat the dissemination of prejudice and stereotypes against Roma in the media;

- ensure progression of Roma pupils beyond primary education, as well as their successful completion of secondary education; increase the use of school mediators in a more systematic manner; undertake a review of school textbooks in order to ensure that sufficient and adequate information on the Roma culture, history and language is provided to all pupils, at all levels of education;

- promote actively the participation of the Roma in elected bodies at all levels; continue supporting the work of the State Council for the Roma People with a view to ensuring its regular and effective consultation on all matters of concern to the Roma; ensure that the composition of the Council fully represents the diversity of the Roma movement in Spain; promote the establishment of consultative bodies for the Roma at the regional and local levels;

- take measures to avoid Roma street sellers losing their source of income as a result of the implementation of the new legislation on street markets and itinerant trade; pursue the ongoing projects to eradicate slums and segregated and substandard housing, drawing on existing good practices, in order to promote the integration of the Roma families concerned in mainstream housing.

The Committee of Ministers' resolution is largely based on the corresponding third Opinion of the Advisory Committee on the Framework Convention on Spain²⁶. The concluding remarks, contained in Section III²⁷, serve as the basis for the Committee of Ministers' Resolution. The Opinion of the Advisory Committee is also attached below.



CM resolution
Spain.pdf



3rd_OP_Spain_en.pdf

European Charter for Regional or Minority Languages

On 24 October 2012, the Committee of Ministers made public the third report on the application of the European Charter for Regional or Minority Languages by Spain. The report drawn up by the

²⁶ A summary of the report can be found on pp. 1-2.

²⁷ paras. 151-169.

Committee of Independent Experts, which monitors the application of the Charter, is contained in the attachment below.

Spain has a high level of commitment in protecting and promoting its regional or minority languages. However, there is a need for a coherent and systematic policy and a strategic approach to services in these languages so that users are not discouraged to use their language. Catalan has excellent support by authorities in Catalonia. Some deficiencies nevertheless still exist in the field of health services where further efforts are needed to train medical staff in Catalan. The same applies to Basque in the Basque Autonomous Community and Navarra. Catalan-language education on the Balearic Islands does not correspond to the undertakings chosen under the Charter. Education in Valencian and Galician needs improvement. The implementation of the Charter to Aranese has started, but Leonese still remains unprotected.

On the basis of this report, the Committee of Ministers in its Recommendation on the application of the European Charter for Regional or Minority Languages by Spain recommends the authorities to:

- amend the legal framework with a view to making it clear that the criminal, civil and administrative judicial authorities in the autonomous communities will conduct the proceedings in co-official languages at the request of one party;
- take the necessary legal and practical measures to ensure that an adequate proportion of the judicial staff posted in the autonomous communities concerned by the application of Article 9 of the Charter have a working knowledge of the relevant languages;
- review the recruitment, career and training schemes for the staff of the State administration offices with a view to ensuring that an adequate proportion of the staff posted in the autonomous communities have a working knowledge of the relevant languages;
- ensure the presence of all regional or minority languages in State public services;
- ensure the presence of all regional or minority languages in the provision of health care services.



SpainECRML3_en.pdf
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Action against trafficking in human beings

On 27 September 2013, the Group of Experts on Action against Trafficking in Human Beings (GRETA) published its first evaluation report on Spain²⁸, together with the final comments of the Spanish Government. Both documents are contained in the attachment below.

GRETA concludes²⁹ that the steps taken by the Spanish authorities to combat trafficking in human beings for the purpose of sexual exploitation, including the adoption of the National Action Plan to Combat Trafficking in Human Beings for Sexual Exploitation, the setting up of an Inter-Ministerial Monitoring Committee to evaluate its implementation, and the provision of funding for specialised organisations to provide assistance to victims of THB for the purpose of sexual exploitation. The introduction of the offence of THB in the Criminal Code in 2010, which covers different types of exploitation in line with the Convention, is also a positive development.

GRETA considers that a number of important challenges remain to be tackled through legislative, policy or practical measures in order to meet the requirements of the human rights-based approach outlined in paragraphs 45-53. Action to combat THB should address all victims of trafficking for all forms of exploitation, including through a comprehensive national action plan against THB. GRETA highlights the need to raise awareness of trafficking for the purpose of

²⁸ A summary of the report can be found on pp. 7-8.

²⁹ paras. 277-284.

labour exploitation and child trafficking and strengthen co-ordination between the State and regional authorities, including the different police forces.

Certain aspects of the present anti-trafficking action in Spain raise concerns as to their potential for contravening the core human rights principles and values required by the Convention. Thus the Spanish authorities must review the identification procedure of victims of trafficking with a view to ensuring that possible victims are treated, in the first place, as persons who have been exposed to human rights violations rather than as a source of evidence for criminal investigations. GRETA also stresses the need to adopt clear minimum standards of assistance for all victims of trafficking, regardless of their sex, age, nationality and type of exploitation.

Further, the rules and application of the recovery and reflection period should be reviewed to ensure that all possible victims of trafficking are systematically informed of the possibility to benefit from such a period. Efforts should also be strengthened to ensure that victims of trafficking can take full advantage of the right to be granted a temporary residence permit due to their personal situation or for co-operating with the authorities.

The Spanish authorities should ensure that victims or possible victims of trafficking are not forcibly removed from the country and that the assisted voluntary return scheme is adapted to their needs and takes due regard of their rights, safety and dignity.

Strengthening the effectiveness and expeditious investigations and prosecutions of THB-related offences is another area where further action is needed in order to apply the victim-centred approach promoted by the Convention.

All relevant professionals who may come into contact with possible victims of trafficking, including law enforcement officials, prosecutors, judges, labour inspectors and social workers, need to be continuously trained on the need to apply a human rights-based approach to action against THB on the basis of the Convention and the case-law of the European Court of Human Rights.

GRETA invites the Spanish authorities to keep it regularly informed of developments as regards the implementation of the Council of Europe Anti-Trafficking Convention and looks forward to continuing its good co-operation with the Spanish Government for achieving the purposes of this Convention.

In its report, GRETA provides a complete list of proposals to the Spanish authorities.³⁰



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R_ESP_public_en.pdf

Preventing and combating violence against women and domestic violence

Spain has ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. It will be covered by the monitoring procedure to be put in place following the entry into force of the Convention on 1 August 2014.

Social and economic rights

Spain ratified the European Social Charter on 06/05/1980 and has accepted all 72 paragraphs of the Charter.

³⁰Appendix I.

It ratified the protocol adding new rights on 24/01/2000 and the protocol reforming the supervisory machinery on 24/01/2000.

Spain has signed but not yet ratified the Revised Charter. It has not yet signed or ratified the 1995 Additional Protocol Providing for a System of Collective Complaints.

Cases of non-compliance

Thematic group 1: "Employment, training and equal opportunities"

► Article 1§2 – Right to work - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

The restrictions on access to employment in the public service for non-nationals are excessive. (Conclusions XX-1 (2012), p. 10)

► Article 1§3 – Right to free placement services

It has not been established that free placement services operate in an efficient manner. (Conclusions XX-1 (2012), p.10)

► Article 10§4 – Right to vocational training - Encouragement for the full utilisation of available facilities

It has not been established that the right to equal treatment for nationals of other States Parties lawfully resident or regularly working in Spain is guaranteed with respect to financial assistance. (Conclusions XX-1 (2012), p. 18)

Thematic Group 2 "Health, social security and social protection"

► Article 12§1 – Right to social security – Existence of a social security system

The minimum level of sickness benefit is manifestly inadequate. (Conclusions XX-2 (2013), p. 20)

► Article 12§4 – Right to social security - Social security of persons moving between states

1. Equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;
2. Equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties
3. The length of residence requirement for entitlement to non-contributory old-age pensions is excessive.

(Conclusions XX-2 (2013), p. 24)

► Article 13§1 – Right to social and medical assistance - Adequate assistance for every person in need

1. Minimum income eligibility is subject to a length of residence requirement;
2. Minimum income eligibility is subject to age requirements (25 years old);
3. Minimum income is not paid for as long as the need persists;
4. The level of social assistance paid to a single person is manifestly inadequate (except for the Basque country and Navarra).

(Conclusions XX-2 (2013), p. 27)

► Article 14§1 – Right to benefit from social services - Promotion or provision of social services

1. It has not been established that effective access to social services is guaranteed;
2. The conditions to be met by providers of social services are not clearly defined;
3. It has not been established that supervisory arrangements for ensuring that providers of social services comply with the conditions ensuring the quality of services exist.

(Conclusions XX-2 (2013), p. 31)

▶ Article 4 of the Additional Protocol – Right of the elderly to social protection
It has not been established that there is legislation protecting elderly persons from discrimination on grounds of age.
Conclusions XX-2 (2013), p. 36)

Thematic Group 3 “Labour rights”

▶ Article 2§1 – Right to just conditions of work - right to reasonable working time
1. The Workers’ Statute sets out, as a general rule, a reference period of 1 year for the calculation of average working hours, which is excessive.
2. The Workers’ Statute permits weekly working time in excess of 60 hours for certain categories of workers.
(Conclusions XiX-3 (2010), p. 15)

▶ Article 2§3 – Right to just conditions of work – annual holiday with pay
Workers who fall ill or are injured during their holiday are not entitled to take the days lost at another time.
(Conclusions XiX-3 (2010), p. 6)

▶ Article 4§1 – Right to a fair remuneration – Decent remuneration
The minimum wage is manifestly inadequate.
(Conclusions XiX-3 (2010), p. 8)

▶ Article 4§2 – Right to a fair remuneration- Increased remuneration for overtime work
The Workers’ Statute does not guarantee workers the right to an increased remuneration or to a longer rest period in compensation for overtime.
(Conclusions XiX-3 (2010), p. 9)

▶ Article 4§4 – Right to a fair remuneration – Reasonable notice of termination of employment
1. Workers with fixed-term contracts of less than a year whose contracts are broken before they end have no right to notice.
2. Workers with fixed-term contracts of more than one year whose contracts are broken before they end are entitled to only fifteen days’ notice.
(Conclusions XiX-3 (2010), pp. 9-10)

▶ Article 5 – Right to organise
It has not been established that representatives of trade unions other than the most representative have access to workplaces.
(Conclusions XiX-3 (2010), p. 11)

▶ Article 6§4 – Right to bargain collectively – Collective action
The cases in which the Government may resort to compulsory arbitration go beyond the requirements of Article 31 of the Charter.
(Conclusions XiX-3 (2010), p. 14)

Thematic Group 4 “Children, families, migrants”

▶ Article 7§5 – Right of children and young persons to protection – Fair pay
– young workers’ wages are not fair; and
– it has not been established that the apprentices allowances are adequate.
(Conclusions XiX-4 (2011), p. 7)

► Article 7§10– Right of children and young persons to protection – Special protection against physical and moral dangers

It has not been established that the legal framework effectively protects children from child pornography.

(Conclusions XiX-4 (2011), p. 10)

► Article 8§3 – Right of employed women to protection - Time off for nursing mothers

Domestic workers are not entitled to time off for breastfeeding.

(Conclusions XiX-4 (2011), p. 12)

► Article 16 – Right of the family to social, legal and economic protection

Family benefits are inadequate.

(Conclusions XiX-4 (2011), p. 17)

► Article 19§6 and 19§10 – Right of migrant workers and their families to protection and assistance – Family reunion

– Excluding social welfare benefits from the calculation of the worker's income is likely to hinder family reunion rather than facilitate it;

– No provision is made in law or in practice for the family reunion of children of migrant workers aged between 18 and 21 who do not have a disability and do not require the assistance of a third party because of their state of health.

(Conclusions XiX-4 (2011), pp. 26 and 29)

Please find attached below the Conclusions XX-1 (2012), Conclusions XX-2 (2013), Conclusions XiX-3 (2010), Conclusions XiX-4 (2011) regarding Spain as well as the country fact sheet.



SpainXIX3_en.pdf



SpainXIX4_en.pdf



SpainXX1_en.pdf



SpainXX2_en.pdf



Spain
factsheet_en.pdf