



**Office International de l'Enseignement Catholique (OIEC)**  
**Catholic International Education Office**  
(Special consultative status to the United Nations ECOSOC)

HUMAN RIGHTS COUNCIL

**Universal Periodic Review (UPR)**

**21<sup>st</sup> session**

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**SPAIN**

Key issue:

**Right to education**

1. **Catholic International Education Office (OIEC)** is a NGO with special consultative status to the Economic and Social Council of United Nations (ECOSOC). Founded in 1952, OIEC represents world-wide Catholic education and its aim is to promote educational catholic projects in relation with the principles of the United Nations. OIEC is present in 103 countries and represents about 50 millions pupils and students in more than 210.000 schools around the world. OIEC's priorities issues are: Education for all (and its application in the field of human rights education, peace, justice, solidarity and sustainable development); Freedom of education; Freedom of religion; and Dialogue of cultures.

2. On UPR's process, OIEC is focused on two issues: Education for all and freedom of education. The information contained in this document had been provided by the FERE-CECA (the Spanish Federation of Religious in Education – Heads of catholic educational institutions). There are 820.158 students in FERE-CECA: 561.068 in primary education, 55.087 in secondary education, and 204.003 in higher education. The FERE-CECA is member of the State Council of Educational Establishment "Consejo escolar del Estado".

## **Quality of education (including freedom of education and access to education for people with specific needs)**

### **A. Freedom of education**

3. The international Covenant on Economic, Social and Cultural Rights, ratified by Spain in 1977, in its article 13 (3, 4) provides that : *"The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.*

*No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State."*

3. Article 27 of the Spanish Constitution recognizes the right to education and freedom of education, such as the right to build educational institutions, a right which that is interpreted as a right to create, lead and develop an ideology for the schools.

4. The whole private schools, including catholic institutions, have rights and obligations. They can develop their own educational project based for example on catholic ideology as long as it matches with the principles of the constitution. They can also conclude

contract with State (Called “Concertation”), whereby government commits to pay teachers’ salaries and a number of others expenditures of school. As for the school, it agrees to observe certain obligations regarding student enrolment, establishment of school board, and guarantee of free education.

5. The funding from the administration to the schools is unfortunately inadequate to cover all expenditures. Moreover, the “Concertations” are only possible for compulsory levels (compulsory primary and secondary education that is until the age of 14). Yet, almost all autonomous communities also manage early childhood education (0 to 3 years) and vocational training, some even High School Diploma.

6. The Spanish New Institutional Act related to the improvement of educational quality of 2013 states that:

- Freedom of education regards as a projection of ideological, religious and pedagogical freedom, and a projection of right to freely express and disseminate the wills, ideas, opinions and pluralism, “so that neither the state nor public or private institutions impose a type of education”.
- The right of families to make the best choice for the education of their children ensuring children’s education and teaching in respecting of their religious, philosophic and pedagogical beliefs, and recognizing families’ right to choose the schools different from those founded by the government.

7. This Act has led progress in educational and pedagogical models chosen to tenure every school. That has set up the public funding of co-educational schools (either boys or girls students). However, the vast majority of schools (especially catholic schools) have students of both genders.

### **B. Access to education for Students with special needs, with certain disabilities or with social inequality or exclusion**

8. Spanish laws on students’ enrolment require schools to accept students without any discrimination (economic, social and religious).

9. Students with special needs in education, with certain disabilities or with social inequality or exclusion have the same rights like any other students. Moreover they receive a legal offer relating to the aids.

10. However, in reality, these students face so many difficulties to choose their schools because all the schools do not have the necessary resources, whether human or material. Consequently, these students are automatically kept aside for the schools categorized as institutions of integration or specialized institutions. From this point, the school boards whose main mission is to ensure enforcement of the law and to avoid that students

being out of school, regularly go beyond their functions and choose the institution in which the students are going to be enrolled.

11. Besides this, the economic crisis known since 2008 causes a gradual reduction of resources awarded to schools that help students with difficulties: for instance, removing academic support teachers (therapeutic pedagogy, speech), scholarships for the canteen, aid for acquisition of machinery and equipment, etc. The situation becomes really awkward in some autonomous communities; especially those hosting institutions cannot rely on additional funding from the families

### **C. The detail of proposals of OIEC's regarding the enhancement of the Spain News Institutional Act related to the improvement of educational quality of 2013**

12. With the News institutional Act (which has not yet entered into force), the freedom of education and the fight against discrimination in education have been established effectively in Spain even though there are areas that could be improved. The main area, as already mentioned, is economic conditions which ensure the complete freedom of parents in their choice. The others areas are:

#### **13. The autonomy of schools**

- Own distinctive character and ideology: enhance acceptance (not only « the respect ») by parents and children.
- Educational project of the school: more autonomy.
- All academics abilities: at all levels, High School Diploma included.
- Right of Holders: include an article as integral part of the legislation that may expressly stating that :
  - o The creative freedom of schools
  - o The rights of the holders to outline their own distinctive character understood as the right of holders of private school, based on the principles of the Constitution related to fundamental rights and to the service of Truth, to endow school with specific character and orientation not restricted to religious and moral aspects of the educational activity and that may be extended to the different aspects of this activity.
  - o The student's admission in accordance with its own distinctive character.
  - o Pedagogical autonomy and differences in curriculum always respecting the minima established by State.

#### **14. Students' enrolment**

- Presentation of conditions for students' enrolment in the school itself and not in the official institutions.
- Avoid the phenomenon of « areas » and allow the choice of school independently of the residence location.
- No discrimination under international treaties.

- Review of legal enrolment criteria.
- Approval of the educational project, not only its « respect » like indicated in the Institutional Act related to Education, but also “to include the specificity of school regarding to the private schools of Concertation”.

### **15. The curriculum**

- Handling education as « a service of general interest » (services’ law, Eu’s directive on services and the Agreement of the committee) and not as “a public service” which would allow the government to take the rights of private entities and individuals.
- The curriculum must be in harmony with the Spanish constitution (art. 27) and not only depending to the program of “availability of places”.
- Include freedom of education into the principles of the Institutional Act of right to education obtained by the news Act related to the improvement of educational quality of 2013.

### **16. Regime of « Concertation »: content**

- Guarantee free vocational or technical training (average and higher grade of training cycle)
- Ensure access to “contracts of Concertation” to fulfilling the basic needs of schooling, and taking into account the fact that “school fulfils the basic needs of schooling when acquiring an equivalent request to public school of the district.
- increase the term of the « contracts of Concertation » and the automatic renewal
- Extend the free schooling (in whole or in part) to early childhood education (0 to 3 years) and to High School Diploma
- Update the contract of concertation with regard to the economic needs for operational expenditure.
- Allow in financial levels with public funds, volunteers aids from families to the centers in all autonomous communities in Spain without any legal constraints.

### **17. Complementary and afterschool activities, services**

- Clarify and make the scheme of complementary and afterschool activities and complementary services more flexible. More autonomy and clear boundaries. The intervention of the authority will be limited to verify the willingness and not the profit.

### **18. The penalties**

- Amend the current penalties of Concertation system.

## **Recommendations**

19. Encourage pedagogical and organisational real autonomy of schools without the interference of public administrative.
20. Recognize explicitly the rights of schools' holders: orientation, management, students' enrolment, educational project, ideology, etc., the express rights which could not remain in the hand of autonomous community (regions) or local administrations.
21. Provide adequate funding based on the education real cost at level of basic and compulsory education
22. Increase the public founding for educational levels which are not compulsory in order to guarantee freedom of education and freedom of choosing a school.
23. Extend programs content so that the schools can offer educational project that suited to the society.
24. Revise meaningfully the « Concertation » system in order to remedy the shortcomings of the existing system: inadequate economical module, expenditure inconsistent with labor law, excessive bureaucracy and administrative barriers, discretionary of the examinations of file by administrations etc.
25. Implement adequate training for teachers on the news pedagogical needs and the pillars of own distinctive character of Centre.
26. Consider the education as « a service of general interest » and not as “a public service”.