

Universal Periodic Review

(21st session)

Contribution of UNESCO to Compilation of UN information

(to Part I. A. and to Part III - F, J, K, and P)

Spain

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations: Human rights treaties which fall within the competence of UNESCO and international instruments adopted by UNESCO

1. Table:

<i>Title</i>	<i>Date of ratification, accession or succession</i> dd/mm/yyyy	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	<i>Reference to the rights within UNESCO's fields of competence</i>
Convention against Discrimination in Education (1960)	Acceptance 20/08/1969	<i>Reservations to this Convention shall not be permitted</i>		Right to education
Convention on Technical and Vocational Education (1989)	Not state party to this Convention			Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage (1972)	Acceptance 04/05/1982			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage (2003)	Ratification 25/10/2006			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)	Ratification 18/12/2006			Right to take part in cultural life

II. Input to Part III. Implementation of international human rights obligations, taking into account applicable international humanitarian law to items F, J, K, and P

Right to education

Constitutional Framework:

2. The Right to Education is enshrined in Article 27 of the Constitution of 1978¹. This article states that “everyone has the right to education”. It defines the aim of education as the full development of human personality with due respect for the democratic principles of coexistence and for basic rights and freedoms (paragraph 2). According to the same article, basic education shall be compulsory and free (paragraph 4). Paragraph 1 of Article 27 also provides for freedom of teaching and paragraph 3 adds that parents shall have the right to ensure that their children receive religious and moral instruction in accordance with their own convictions. Regarding private education, paragraph 6 recognizes the right of individuals and legal entities to set up educational centres, provided they respect constitutional principles. In the matter of quality, it is a constitutional obligation for public authorities to inspect and standardize the educational system (paragraph 8). In addition, they shall help the educational centers which meet the requirements established by the law (paragraph 9). Moreover, Article 3 recognizes the use of official languages, others than Castilian, within Autonomous Communities.

3. Regarding equality, Article 9.2 provides for equality among all citizens and Article 14 adds that all citizens are equal before the law, regardless their birth, race, sex, religion, opinion or any other social or personal condition or circumstance.

Legislative Framework:

4. The basic legislative framework for education in Spain is made up of:

- a) The *Organic Law on Regulation of the Right to Education of 1985*², which recognizes in Article 1 the right of every Spaniard to free basic education without discrimination.
- b) The *Organic Law on Education of 2006*³, which recognizes in Article 1 several principles, such as non-discrimination, quality, lifelong learning and equality of opportunities.
- c) The *Organic Law of 2007 Modifying the Act on Universities of 2001*⁴. According to **Article 42** of the Law, access to university is a right of every citizen.
- d) The *Organic Law No. 1 on Integral Protection Measures against Gender-based Violence of 2004*⁵ recognizes the role of education in fighting against gender-based violence. According to the law, teaching gender equality has to be one of the goals of the education system from preschool to university and the Administration has to revise materials and textbooks to guarantee they do not contain any concepts or references that can encourage inequality.

¹ <http://www.la-moncloa.es/Espana/LeyFundamental/index.htm>

² <http://www.unesco.org/education/edurights/media/docs/ecb736fe7489961da41b75ca0b5abfc37cc64fb7.pdf>

³ <http://www.unesco.org/education/edurights/media/docs/98606af7709705adaa393f7089cde4d7c3d38a8c.pdf>

⁴ <http://www.unesco.org/education/edurights/media/docs/806fc428bc63e34a3951ec0cbaa8a58bf725cf33.pdf>

⁵ <http://www.unesco.org/education/edurights/media/docs/59f96d09893a79f23257b20ade2fda3a30243c64.pdf>

Policy Framework:

General information:

5. The Report on statistical data in education (*Datos y cifras, curso escolar 2010/2011*)⁶ gives an overview of the policies implemented in Spain in the education area and the obtained results. (*Datos y cifras, curso escolar 2010/2011*)⁷

6. It appears that in 2009, 39,4% of the 30-34 years old had reached higher education level, compared to 32,3% for the European average (in taking into account the 27 countries).

7. Regarding cultural diversity in education, Spain created a **Resources Center for Cultural Diversity in Education** (*Centro de Recursos para la Atención a la Diversidad Cultural en Educación, CREADE*) with the aim to raise awareness as regards the fundamental principles of non-discrimination and equal opportunities in Education. This Center supplies information, resources, material, teacher training, and professional staff with social and educational background to support the management of diversity from an intercultural approach. It aims to be a reference at local, national and international level calling at public administration, institutions, associations, NGOs and educational staff to build an intercultural citizenship. Its website is used as platform for exchanges.⁸

Cooperation:

8. Spain **is party** to the 1960 UNESCO Convention against Discrimination in Education since 20/08/1969.

9. Spain **reported** to UNESCO on the measures taken for the implementation of the 1960 UNESCO Convention against Discrimination in Education within the framework of the **Seventh Consultation** of Member States (covering the period 2000-2005).

10. However, Spain **did not report** to UNESCO within the framework of the:

- a) **Sixth Consultation** of Member States (covering the period 1994-1999)
- b) **Eighth Consultation** of Member States (covering the period 2006-2011)

11. Spain **did not report** to UNESCO on the measures taken for the implementation of the 1974 UNESCO Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms within the framework of the **Fourth Consultation** of Member States (covering the period 2005-2008). However, Spain **reported** to UNESCO within the framework of the **Fifth Consultation** of Member States (covering the period 2009-2012).

12. Spain **reported** to UNESCO on the measures taken for the implementation of the 1976 UNESCO Recommendation on the Development of Adult Education within the framework of the

⁶ Report on statistical data in education, Spanish Ministry of Education, accessible at: <http://www.educacion.es/dctm/ministerio/horizontales/prensa/documentos/2010/septiembre/datos-y-cifras-2010-2011.indd.pdf?documentId=0901e72b803eceed> (Accessed 29 August 2013)

⁷ Ibid.

⁸ National Report submitted to UNESCO within the framework of the Seventh Consultation on the measures taken for the implementation of the UNESCO Convention and the Recommendation against Discrimination in Education.

First Consultation of Member States (1993). However, Spain **did not report** to UNESCO within the framework of the **Second Consultation** of Member States (2011).

13. Spain **is not party** to the 1989 UNESCO Convention on Technical and Vocational Education.

Freedom of opinion and expression

Constitutional and Legislative Framework:

14. Freedom of expression is guaranteed under Section 20 of the Spanish Constitution (1978).⁹

15. The press is regulated under Law 14/1966 on Press and Printing.¹⁰ Under Article 3 of the Law, censorship may take place during the states of emergency or war. The Spanish Parliament approved the General Audiovisual Law in March 2010, which sets out rules on content and mode of operation for the players in the sector, as well as creates a new supervisory body, the National Council for Audiovisual Media.¹¹

16. Defamation and slander are criminal offences under Articles 205-216 of the Spanish Penal Code (1995).¹² Slander shall be punished with imprisonment of six months to two years or a fine. Severe defamation perpetrated with publicity shall be punished with the penalty of a fine from six to 14 months.

17. The Spanish Congress approved the Law on Transparency, Access to Information and Good Governance on 9 December 2013¹³.

Media Self-Regulation:

18. Media self-regulation mechanisms exist in the country, including through the Federation of Press Associations of Spain and its Board of Ethics¹⁴, the regional Catalan Journalists Association and the Information Council of Catalonia (El Consell de la Informació de Catalunya (CIC)).

Safety of Journalists:

19. **UNESCO recorded no killing of journalists in Spain between 2008 and 2012¹⁵.** Journalists work in a safe environment.

⁹ http://www.wipo.int/wipolex/en/text.jsp?file_id=185360

¹⁰ <http://www.teresaterrades.com/wp-content/uploads/leyde-prensa-de-Fraga-1966.pdf>

¹¹ <http://www.boe.es/boe/dias/2010/04/01/pdfs/BOE-A-2010-5292.pdf>

¹² http://www.sanchezcervera-abogados.com/en/files/2012/06/Criminal_Code_C%C3%B3digo_Penal.pdf

¹³ <http://www.boe.es/boe/dias/2013/12/10/pdfs/BOE-A-2013-12887.pdf>

¹⁴ <http://www.editorsweblog.org/2004/03/22/spain-first-national-ethical-press-council>

¹⁵ <http://www.unesco.org/new/en/communication-and-information/freedom-of-expression/press-freedom/unesco-condemns-killing-of-journalists/>

III. RECOMMENDATIONS

20. Recommendations made within the framework of the Working Group on the Universal Periodic Review in 2010¹⁶

21. The recommendations formulated during the interactive dialogue and listed below have been examined by Spain and enjoy its support:

- i) Adopt specific measures to ensure the protection of the **human rights of children of persons in detention** or prison and to improve access to **education for children with disabilities** (Czech Republic);
- ii) 10. Pursue its efforts to combat the persistence of traditional **stereotypes** regarding the role and responsibilities of women and men, namely by planning awareness-raising campaigns for the media and focused programmes in the education system (France);
- iii) 16. Do its utmost to combat **racially motivated crimes** and to ensure that human rights education is provided to any perpetrators of such offences (Qatar);
- iv) 47. Redouble its efforts to continue to incorporate into its educational system, at all levels, respect for human rights, especially those related to **non-discrimination and tolerance** for diversity (Nicaragua);
- v) 48. Strengthen the human rights component in school curriculums and education programmes for the public, with special focus on **women's rights** (Republic of Korea);
- vi) 52. Continue to support the Support Fund for the Admission, Integration and Education of Immigrants, as well as to support the work of various civil society organizations that work in favour of immigrants and that receive public funds to that end (Colombia);

22. The following recommendations enjoy the support of Spain, which considers that they are already implemented or in the process of implementation:

- i) 11. Put in place appropriate mechanisms to improve the situation of the **Roma minority** with respect to access to education, employment and health care (Hungary);
- ii) 14. Adopt educational measures, from childhood, to foster social rejection of **violence against women and children** and encourage the use of complaints against such cases (Portugal);
- iii) 21. Promote and carry out comprehensive education and training in human rights in the Spanish education system and in **programmes for public employees**, armed forces and military personnel at every level (Costa Rica);
- iv) 22. Enact human rights education programmes targeted at fighting **racism, xenophobia, and discrimination and violence against women** (Philippines);

¹⁶ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/144/32/PDF/G1014432.pdf?OpenElement>

23. **The following recommendations were examined by Spain, which provided responses by the fifteenth session of the Human Rights Council, in September 2010. The response of Spain to these recommendations was included in the outcome report adopted by the Human Rights Council at its fifteenth session.**

- i) 23 (Accepted). Respond to all recommendations set out in the report of the Ombudsman relating to the protection of the interests of **minors having behavioural problems** and in difficult social situations; pay more specific attention to the rights of such minors to have appropriate educational and medical support; and effectively implement an internal common regulation and an efficient inspection system in centres to prevent and combat abuse (Belgium);
- ii) 27 (Accepted). Ensure school integration of **Roma children**, children belonging to immigrant families or children living in socio-economically deprived areas, as expressed by CEDAW, and increase Roma women's awareness and access to services and programmes in education, employment and healthcare, as recommended by CERD, CDESCR, and the CRC (Israel);

24. **The recommendations below did not enjoy the support of Spain:**

- i) 8. Continue developing awareness-raising measures in educational policies in fighting gender based violence in order to tackle the deeply rooted stereotypes vis-à-vis women (Austria);

25. Analysis: Spain has continued fighting against discrimination, as established in its Constitution, through policies and strategies aiming at raising tolerance in the face of increasing facing diversity. However, Spain has not yet formulated a sufficient answer to the report of the Ombudsman on protection of minors with behavioural problems. In addition, more comprehensive measures could be undertaken by Spain to raise awareness about human rights.

26. **Specific recommendation for the second UPR cycle on the right to education:**

- 26.1 Spain is encouraged to continue to submit state reports for the periodic consultations of UNESCO's education related standard-setting instruments.
- 26.2 Spain could be encouraged to pursue its efforts to ensure the right of all children to a truly inclusive education.
- 26.3 Spain could be encouraged to take additional measures to improve access to education for children belonging to minorities and for children with immigrant background.
- 26.4 Spain could be encouraged to further address early school leaving.

Freedom of opinion and expression

27. Spain is encouraged to decriminalize defamation and place it within the civil code in accordance with international standards.

Cultural rights

28. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972), the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), Spain is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions and, as such, are conducive to implementing the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, Spain is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and NGOs from the civil society as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

Freedom of scientific research and the right to benefit from scientific progress and its applications

29. With regard to contribution of science and technology to development, Spain is encouraged to report to UNESCO within the framework of the on-going consultations with Member States on the monitoring of the implementation and the proposed revision of the 1974 Recommendation on the Status of Scientific Researchers, in particular on the measures undertaken in the country to implement such principles of the Recommendation as the obligation of state authorities to ensure that scientific researchers have the responsibility and the right to work in a spirit of intellectual freedom; to participate in the determination of the aims, content and methods of research, which should be compatible with respect for universal human rights and fundamental freedoms, as well as ecological and social responsibility; to creativity, occupational mobility, international cooperation for furtherance of international peace, cooperation and understanding, etc.