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Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21

Spain*

The present report is a summary of 27 stakeholders' submissions¹ to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Human Rights Council resolution 16/21, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

* The present document was not edited before being sent to United Nations translation services.



I. Information provided by the national human rights institution of the State under review accredited in full compliance with the Paris Principles

1. The Ombudsman stated that the human rights situation during the reporting period had been directly linked to the economic crisis.²
2. The Ombudsman formulated recommendations on the amendment of the 2012 Law on Court Fees that involved the reduction of variable fees by 80 per cent and the raising of the income thresholds relating to the waiving of fees.³
3. The Ombudsman pressed for the amendment of legislation in order to prevent evictions and to enable private individuals and financial bodies to reach agreements. The Ombudsman also called for an independent insolvency procedure to be set up for heavily indebted private individuals and consumers acting in good faith.⁴
4. The Ombudsman recommended that school canteens stay open during the holidays to ensure that minors at risk of exclusion did not go without proper meals.⁵
5. The lack of free health care for irregular migrants was a matter of concern to the Ombudsman.⁶
6. Pursuant to the recommendations formulated during the initial UPR of Spain, the Ombudsman stated the following:
7. The definition of the offence of torture contained in the Criminal Code should be brought into line with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.⁷
8. As the national mechanism for the prevention of torture, the Ombudsman had visited 442 facilities between 2010 and 2014.⁸ Work on the structure of that mechanism had resulted in the appointment, in 2013, of the members of the Advisory Board.⁹
9. The Ombudsman noted that it was essential that police officers always be duly identified. The Ministry of the Interior, at the request of the Ombudsman, had increased the size of the identification numbers worn by police officers.¹⁰
10. Notwithstanding the entry into force of police circular 2/2012 on identity checks, complaints continued to be filed of such procedures being carried out on the basis of ethnic or racial profiling.¹¹
11. As to historical memory, a number of steps had been taken relating to access to documents contained in civil and military archives; delays in processing applications for citizenship submitted by descendants of Civil War victims or exiles; cooperation by public administrations in efforts to locate and exhume the remains of Civil War victims; and removal from public buildings of symbols of the victors of the Civil War.¹²
12. Information was requested on specific steps taken to combat any segregation against Gypsy pupils in schools. The significance of the impact of media content on intolerance towards minorities was reiterated.¹³
13. It was requested that steps be taken to ensure the inclusion of persons with disabilities within the education system.¹⁴
14. Measures had been taken to ensure the proper identification of minors without identity papers who entered the country in the company of adults claiming to be their parents. The Ombudsman pointed to the need for suspected child victims to be transferred to the appropriate services as an obligatory part of procedures for the identification of minors victims of trafficking in persons.¹⁵

II. Information provided by other stakeholders

A. Background and framework

1. Scope of international obligations

15. Joint Submission 4 (JS4) recommended that the State ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.¹⁶

2. Constitutional and legislative framework

16. Joint Submission 2 (JS2) considered that, since the initial UPR of Spain, a number of laws and regulations had entered into force that were prejudicial to the safeguarding and promotion human rights.¹⁷

17. JS2 expressed concern at the existence, since 2012, of a bill on the reform of the Criminal Code introducing a system of reviewable life sentences, under which life imprisonment could be applied in practice. Furthermore, no new provisions or amendments had been introduced relating to the categorization of various international criminal offences.¹⁸ Amnesty International (AI) recommended that the State classify the offences of torture and enforced disappearance as separate offences in the category of crimes under international law contained in the Criminal Code.¹⁹

18. La Comuna (LC) reported that, in March 2014, the Law on the Judiciary had been amended to restrict universal jurisdiction to cases fulfilling certain requirements linked to the offence in question. Given that those requirements were unlikely to be met, the amendment made it almost impossible to apply the principle of universal justice.²⁰ Asociación Pro Derechos Humanos de España (APDHE) requested the UPR Working Group to ask the State to explain why the abovementioned new law (1/2014) had been approved, given that the Constitutional Court had previously ruled that universal justice was pure, absolute and concurrent.²¹ Human Rights Watch (HRW) recommended the Government to repeal Organic Law 1/2014 and ensure that Spain honours its international obligations with respect to the investigation and prosecution of crimes against humanity.²² A number of organizations expressed similar concerns.²³

3. Institutional and human rights infrastructure and policy measures

19. AI indicated that Spain had not prepared a new Human Rights Plan and called upon the State to do so.²⁴

20. The Women's International League for Peace and Freedom (WILPF) recommended that the Government closely monitor arms sales to countries where there was a risk that the weapons concerned would be used to violate human rights; and ensure that parliamentary reports on the monitoring of arms exports were handled in an open, transparent manner.²⁵

21. Joint Submission 3 (JS3) expressed regret that development cooperation funding had been reduced by almost 90 per cent and recommended that the State report on the impact of austerity policies on human rights.²⁶

22. JS4 recognized that, at the time of its initial UPR, the Government had accepted recommendations on the protection of children in situations of vulnerability and recommended that Spain continue to step up its efforts to implement the Second National Strategic Plan for Children and Adolescents.²⁷

23. Joint Submission 7 (JS7) stated that structures must be developed to enable children and adolescents to participate in the process of preparing and assessing action plans and

policies on violence prevention and protection against violence, and the commercial sexual exploitation of children and adolescents, in particular.²⁸

B. Cooperation with human rights mechanisms

24. JS4 pointed out that the Ministry of Foreign Affairs, the body responsible for preparing the national report for the second UPR of Spain, had sought contributions from a number of other ministries and opinions from the Ombudsman and other representatives of civil society.²⁹

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Right to life, liberty and security of the person

25. HRW considered that Spain should revisit its decision during its previous UPR to reject recommendations to review the incommunicado detention regime. Severely curtailed rights for certain suspects, including terrorism suspects, remained in place.³⁰ HRW recommended the Government to abolish incommunicado detention, and ensure that all suspects in police custody have prompt access to a lawyer at the outset of detention and the right to confer in private with their lawyers.³¹ The Commissioner for Human Rights of the Council of Europe (CoE-Commissioner)³² and the CoE Committee for the Prevention of Torture (CoE-CPT)³³ had repeatedly and extensively expressed concern over the incommunicado detention regime.

26. JS3 stated that a large number of detainees had alleged that they had been tortured while in prison.³⁴ Other organizations expressed similar concerns.³⁵ Fundación Acción Pro Derechos Humanos (FAPDH) recommended that video cameras be installed, in order to ensure effective judicial monitoring of the treatment of persons in police custody.³⁶

27. CoE-CPT noted that authorities had invested considerable resources to tackle prison overcrowding. In 2011 the occupancy level of prisons was of 112 per cent, while in 2007 it was of 143 per cent.³⁷ However, JS3 expressed alarm at the fact that, in Spain, the average incarceration rate was 143.7 per 100,000 inhabitants, the highest level in Western Europe. Alternative sentencing was almost non-existent.³⁸

28. The International Center for Advocates against Discrimination (ICAAD) noted that ethnic and religious minorities faced racial profiling by the authorities despite a recent circular prohibiting the use of quotas and police raids for detaining foreign nationals.³⁹ CoE-Commissioner stated that the authorities should combat discriminatory behaviour by members of the law enforcement forces and ensure that any racially-motivated misconduct is effectively investigated and adequately punished.⁴⁰

29. AI stated that, nine years after the entry into force of the Law against Gender Violence, no assessment of the workings of the relevant specialized courts had yet been carried out.⁴¹ ICAAD recalled that Spain rejected a recommendation to establish a national plan of action to combat violence against women. This should seriously be revisited by Spain during its next UPR.⁴²

30. In the view of JS4, sexual abuse was one of the most widespread forms of violence against children in Spain. JS4 recommended that, basing its approach on the Law on Child Protection, the State step up its efforts to combat ill-treatment and violence targeting children and focus on the sexual abuse of minors, mainly within the family.⁴³

31. JS7 considered that, in recent years, progress had been made regarding laws and policies on the sexual exploitation of children and adolescents. The national legislation on trafficking in persons was highly developed; however, more must be done to prepare effective responses. The relevant State plans and legislation must be updated to reflect the recommendations of the various international bodies.⁴⁴

2. Administration of justice, including impunity, and the rule of law

32. CoE Group of States against Corruption (CoE-GRECO) noted that the 2011 Eurobarometer revealed that 41 per cent of those Spaniards surveyed thought that corruption was widespread among members of the judiciary, whereas those sharing this view were 17 per cent in 2007. CoE-GRECO added that a 2013 national report noted an increase in the levels of trust in the judiciary to 47 per cent which probably finds its cause in recent decisions defending citizens' right to housing.⁴⁵

33. Joint Submission 1 (JS1) stated that, owing to a number of reforms of the Law on the Judiciary, the general population had reduced access to justice. For example, under Law 8/2012, on budgetary efficiency, 1,200 substitute judge posts had been abolished.⁴⁶ JS1 also stated that the bill on free legal assistance currently before the Congress only took into account gross income levels. Individuals whose assets exceeded the established thresholds but who could not meet the financial cost of a legal case would not be entitled to free legal assistance.⁴⁷ Furthermore, under the bill, irregular migrants could not benefit from such assistance.⁴⁸ In the view of JS2, the Law on Court Fees (10/2012) was an obstacle to access to justice in times of economic crisis and JS2 therefore urged the State to abandon its current policy regarding the inclusion of court fees.⁴⁹

34. JS2 considered that the draft Criminal Procedure Act afforded scant guarantees of the independence of the prosecution service. The bill should be amended to reflect the current structure of the prosecution service, which contained safeguards for that body's independence.⁵⁰

35. FAPDH noted that, in most cases of police abuse, the judicial system was incapable of carrying out an in-depth investigation. The majority of the complaints filed were abandoned because of the absence of appropriate monitoring mechanisms capable of providing legal confirmation that instances of abuse had actually occurred. FAPDH believed that it was as a result of that situation that recommendation 84.29, as accepted by Spain during its initial UPR, had not been implemented.⁵¹ FAPDH expressed concern at Government plans to deprive NGOs of their right to act as civil parties to criminal proceedings⁵² and believed that there was a need to reiterate the following recommendations accepted by Spain during its initial UPR: 84.27, 84.29, 84.26, 85.12, 85.19 and 86.21.⁵³

36. JS1 noted that, notwithstanding the recommendations made by various international bodies, the authorities continued to fail to respect the rights to truth, justice and redress of the victims of serious crimes committed during the Civil War and the subsequent dictatorship.⁵⁴ AI expressed regret at the Supreme Court's decision of 27 February 2012 ruling out and the possibility of investigating crimes committed during the Civil War and the Francoist period on the basis of grounds that contravened international law and standards.⁵⁵

37. APDHE requested the UPR Working Group to ask Spain whether it intended to repeal the Amnesty Act and whether it planned to adopt legislative measures to ensure that the courts observed the non-applicability of statutory limitations to crimes committed by the Francoist regime.⁵⁶ AI recommended that the State safeguard the rights to truth, justice and redress of the victims of the Civil War and the Francoist regime.⁵⁷ WILPF recommended that the State set up a Truth Commission.⁵⁸

38. The European Union Agency for Fundamental Rights (EU-FRA) noted that, between the 1940s and 1980s, stolen children were allegedly given up systematically for adoption at hospitals without their mothers' knowledge. It added that there was growing indication that the practice involved hundreds of children.⁵⁹ Todos los Niños Robados son También mis Niños (TNRTMN) pointed out that, between the 1940s and the 1980s, thousands of children had been abducted and had disappeared, as a part of Francoist repression.⁶⁰ By 1952, over 30,000 children had disappeared. Those events could be classified as crimes against humanity; however, in the eyes of the State, they were individual offences.⁶¹

39. In the view of TNRTMN, Spain had a duty to investigate all cases of enforced disappearance of babies, regardless of when they had been committed. Likewise, TNRTMN called upon the State to investigate and prosecute international crimes and cooperate with any requests it might receive from foreign courts that decide to investigate such offences.⁶²

40. Colectivo de Víctimas del Terrorismo (COVITE) considered that the members of terrorist organizations who had been released had neither cooperated with the judicial authorities nor asked their victims for forgiveness.⁶³ Fundación para la Libertad (FL) expressed regret that, with regard to almost half of the crimes committed by ETA, no culprit had been found or the statute of limitations had expired. FL recommended that the State introduce legislation to safeguard the non-applicability of statutory limitations to crimes against humanity and to ensure that crimes against humanity were prosecuted even when they had been committed by non-State bodies or terrorist groups.⁶⁴ COVITE recommended that the State carry out an official study into human rights violations committed by the ETA terrorist group and determine their number.⁶⁵

3. Right to privacy, marriage and family life

41. Fundación Triángulo (FT) considered that the Civil Registry Act contained provisions that were detrimental to the rights of members of the LGBTI community. In particular, FT referred to: the discrimination experienced by female partners of lesbian mothers in cases involving the establishment of maternity; the requirements governing sex changes in the civil registry; and the fact that persons born with an intersex condition continued to be classified as either "male" or "female" in the civil registry. FT recommended that the legislation on the civil registry be amended to reflect the equal status of heterosexual and same-sex marriages regarding the establishment of maternity; steps be taken to enable individuals to freely change their sex in the civil registry; and individuals not necessarily self-identifying as either male or female be allowed to register while in the process of developing their gender identity.⁶⁶

4. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

42. ICAAD reported that, in some instances, local authorities, political parties and neighbourhood associations opposed the establishment of Muslim prayer rooms. Also, restrictions had been imposed with regard to wearing religious symbols, including in schools, which had a disproportionate impact on Muslim students.⁶⁷ The CoE Commission against Racism and Intolerance (CoE-ECRI) recommended the State to ensure that the right to worship is respected in practice by granting Muslim communities' requests to build an adequate number of mosques.⁶⁸

43. The International Service for Human Rights (ISHR) recalled that during the first UPR of Spain, there were no recommendations regarding human rights defenders, freedom of expression or of peaceful assembly. However, the financial crisis had seen a 50 per cent increase in demonstrations compared to 2011. Human rights defenders had faced restrictions to their right to peaceful assembly, whilst a legislative proposal risked

restricting these fundamental rights further. Cases of human rights violations at times of public demonstrations had been reported, including excessive use of force by the police. Journalists had also been victims of beatings, insults and arrests by the police.⁶⁹ La Red de Medios Comunitarios (ReMC) stated that many photojournalists, contributors to publications and not-for-profit community broadcasters were finding it increasingly difficult to cover public demonstrations and gatherings owing to the policing methods employed.⁷⁰

44. A number of organizations expressed concern at a bill on the reform of the Public Security Act adopted by the Council of Ministers in November 2013.⁷¹ JS2 recommended that the State review the contents of the bill.⁷²

45. The CoE-Commissioner urged the authorities to adopt clear regulations on the proportionate use of force by law enforcement agents in the context of demonstrations. Continuous training should be provided to law enforcement officers on the use of projectile-firing weapons in accordance with the 1990 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.⁷³ Also, the Commissioner was concerned at the frequent lack of identification of law enforcement officials, especially during demonstrations. The authorities were urged to ameliorate the identification system concerning members of law enforcement, especially anti-riot forces.⁷⁴

46. ReMC stated that, under the General Audiovisual Communication Act of 2010, a time frame of one year had been established for the adoption of regulations on the provision of not for profit community-based media services. However, four years on, no such regulations had been introduced, leaving civil society organizations unable to obtain operating licences for community broadcasting operations.⁷⁵

5. Right to work and to just and favourable conditions of work

47. Joint Submission 5 (JS5) stated that, between 2007 and 2013, the number of unemployed persons had increased by 13,000 per week. The long-term unemployed had made up 45 per cent of the 5.8 million persons out of work in early 2014. The number of persons registered as unemployed had exceeded 6.2 million in the first quarter of 2013, an all-time high. The most worrying employment trend was the increase in the number of poor-quality, temporary, part-time contracts.⁷⁶

48. JS4 stated that, in 2013, the youth unemployment rate had stood at 55.6 per cent. Youth employment schemes had had little success. Young, inexperienced persons with a low level of qualifications and young migrants had the most difficulty finding work.⁷⁷ JS4 recommended that Spain step up its efforts to tackle youth unemployment⁷⁸ and more effectively combat discrimination against migrants in respect of working conditions and requirements governing access to employment.⁷⁹

49. JS4 pointed out that, notwithstanding the Law on Gender Equality, most management posts were still occupied by men. JS4 recommended that the State take steps to ensure equal employment opportunities for women and men, in law and in practice.⁸⁰

6. Right to social security and to an adequate standard of living

50. In the view of JS3, since the initial UPR of Spain, the situation regarding the exercise of economic, social and cultural rights had worsened owing to the crisis.⁸¹

51. JS5 stated that, in 2013, 28.2 per cent of the population had been at risk of poverty or social exclusion.⁸² At least 3 million persons lived in severe poverty.⁸³ JS5 added that, with the introduction of the austerity policy, social protection measures that might have cushioned the impact of the crisis were lacking. The differential impact of poverty on men and women was well known.⁸⁴ JS5 recommended that the State both avoid strengthening

any legislative measures or policies that might place persons in a situation of poverty and employment insecurity and launch a campaign against the stigmatization of poverty.⁸⁵

52. JS3 reported that 7 million persons, 16 per cent of the population, suffered from malnutrition. The Federación de Bancos de Alimentos had provided food for 1.5 million persons in 2012, twice as many as in 2009. JS3 recommended that the State enshrine the right to adequate food in the Constitution and develop national legislation elaborating on the content of that right.⁸⁶

53. The CoE-Commissioner expressed concern over the fact that children had been disproportionately affected by budget cuts and shrinking family benefits. The CoE-Commissioner underlined the need for a systematic impact assessment of austerity measures on children and other vulnerable social groups, in cooperation with civil society.⁸⁷

54. Joint Submission 6 (JS6) noted that during the years of the housing bubble (1997–2007), access to financing was the main means for accessing to housing. With the outbreak of the crisis, many found it difficult to pay their mortgages. According to official statistics, between 2008 and 2013, 497,797 foreclosure proceedings were initiated and 309,460 evictions took place.⁸⁸

55. JS6 added that people affected by mortgages had promoted institutional responses such as Royal Decree-Law 6/2012, promoting the enactment of housing debt payments, and Law 1/2013 on measures to protect mortgagees, debt restructuring and social rents. Both norms were a step forward but they established requirements that were difficult to fulfil.⁸⁹

56. JS6 recommended the Government to implement measures to eliminate evictions for economic reasons, and ensure suitable alternatives in line with international norms;⁹⁰ and develop policy to prevent the abandonment of property for speculative purposes and indiscriminate rent increases.⁹¹

7. Right to health

57. JS3 stated that the 2012 reforms had departed from the universal model of free health care and that the budget cuts made in recent years (-6 per cent in 2012; -22 per cent in 2013) had pushed the health-care system to its limits in terms of quality.⁹²

58. AI stated that, through Royal Decree-Law 16/2012 of September 2012, the Government had restricted the right of irregular migrants to health care, requiring them to pay for any such assistance. As a result of that reform, 873,000 persons had been left without health cards.⁹³ AI recommended that the State guarantee health care coverage for all persons residing in Spain, regardless of their administrative status.⁹⁴ JS2 noted the need for a specific ruling from the Constitutional Court on the pending appeals for the annulment of Royal Decree-Law 16/2012.⁹⁵

59. A number of organizations expressed concern at the bill restricting access to safe, legal abortion unveiled by the Government in late 2013.⁹⁶

60. Joint Submission 8 (JS8) reported that 1,400 adolescents gave birth each year, 13,000 young women had abortions, 35.6 per cent of young people between the ages of 15 and 19 did not use contraception and 23.1 per cent of young people used some form of contraception, but not in the appropriate manner.⁹⁷ In that context, JS8 believed that access to contraception was fundamental to the exercise of reproductive rights. Notwithstanding the fact that such access was guaranteed by law, it was limited owing to significant disparities in the coverage provided by the Autonomous Communities.⁹⁸

61. JS8 added that the use of contraception was influenced by cultural factors and that 30 per cent of women of childbearing age did not use any form of contraception. Most abortions involved young women or immigrant women, the latter often being

undocumented, or women living in situations of poverty and unemployment. JS8 called upon the State to ensure that the entire population had access to contraception.⁹⁹

62. FT stated that, as of July 2013, the Ministry of Health had denied persons unable to conceive owing to the lack of a male partner access to assisted reproductive techniques included in the basic portfolio of services. In the view of FT, that regulation constituted discrimination on the basis of sexual orientation and civil status.¹⁰⁰ FT recommended that the State reinstate the right of lesbians and single women to access assisted reproduction techniques offered by the national health system.¹⁰¹

63. Furthermore, FT reported that medical treatment related to transsexuality was not specifically covered in the basic portfolio of services of the social security system and recommended that it be included, given that complete coverage was offered only in a few Autonomous Communities.¹⁰²

8. Right to education

64. The CoE-Commissioner expressed concern about the substantial cuts inflicted on education budgets in the last years. The CoE-Commissioner called upon authorities to make sure that such developments do not affect equal access to quality education for all children.¹⁰³

65. JS8 noted that sex-education classes were optional.¹⁰⁴ JS8 recommended that the State incorporate sex education into the school curriculum, from primary to baccalaureate level, and develop sex-education material with a broad focus.¹⁰⁵

66. JS4 recognized that, at the time of its initial UPR, Spain had accepted the recommendations made on the right to education. However, there were a number of obstacles to the full enjoyment of that right. Education was the responsibility of the authorities of the various Autonomous Communities and there were, therefore, marked differences in the approach taken. JS4 recommended that the Government develop programmes to reduce the school dropout rate, allocating the funding necessary to ensure quality education.¹⁰⁶

67. FL recommended that State curricula to promote the respect for human rights include content that focused on the value of peace, justice and ethnic and cultural diversity and that highlighted the serious human rights violations committed in the name of racist ideologies.¹⁰⁷

68. Office international pour l'enseignement catholique (OIEC) indicated that the law required schools to accept students without discrimination. In reality, students with special needs, with certain disabilities or suffering exclusion faced difficulties to choose their schools.¹⁰⁸ The CoE-Commissioner was concerned about the potential impact of shrinking educational budgets on the inclusion of children with disabilities in mainstream education.¹⁰⁹

69. CoE-ECRI recommended that the authorities reduce significantly the secondary school drop-out rates of Roma pupils through, inter alia, material incentives and a greater use of vocational options in school.¹¹⁰ JS4 recommended that the State adopt laws safeguarding access to education for the most vulnerable groups in society, particularly child migrants and Gypsy children.¹¹¹

70. CoE-ECRI also recommended that the positive contribution of the Roma people to Spanish history and culture become a compulsory part of the curriculum for all pupils.¹¹²

71. FT pointed out that transsexual minors were frequently prevented from openly displaying their gender identity in the education system, leading to a high rate of school

dropout, suicide attempts and instances of minors running away from home and living on the fringe of society.¹¹³

9. Cultural rights

72. The European Bureau for Lesser Used Languages (EBLUL) considered that discrimination against the autochthonous non Castilian languages was systemic within the State, and that this discrimination was institutionalised. Spanish authorities either encouraged or tolerated supremacist attitudes among civil servants and other officials.¹¹⁴ EBLUL presented examples of linguistic discrimination regarding persons speaking Aragonese, Asturian, Basque, Catalan and Galizan.¹¹⁵

10. Persons with disabilities

73. The CoE-Commissioner welcomed improvements in the human rights policy and legal framework aimed at the 3.8 million persons with disabilities in Spain. However, budgetary cuts had a serious impact on the living conditions of these persons.¹¹⁶

74. The CoE-Commissioner called on Spain to promptly complete the process of reform of the legislation on the legal capacity of persons with intellectual and psycho-social disabilities and to ensure their full participation in the country's political and public life.¹¹⁷

11. Minorities

75. The OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) noted that Roma migrants had been particularly affected by the economic crisis.¹¹⁸

76. OSCE/ODIHR also indicated that Spain had achieved visible progress in addressing housing problems of Roma and Sinti communities. However, there were reports of forced evictions of Roma immigrants. OSCE/ODIHR added that forced evictions were a constant threat to Roma and often perpetuated their vulnerability and marginalization.¹¹⁹

12. Migrants, refugees and asylum seekers

77. JS4 recognized that, at the time of its initial UPR, Spain had accepted recommendations on discrimination against migrants. However, discrimination continued to be widespread in the social and legal spheres, exacerbated by the economic crisis.¹²⁰ WILPF noted that laws and police procedures relating to migrants had been toughened.¹²¹ JS4 recommended that the State continue with its efforts to safeguard the rights of migrants.¹²²

78. JS3 noted that the Asylum Act (12/2009) had provided for a six-month time frame for the enactment of its regulations but no steps had yet been taken in that regard, creating legal insecurity regarding the processing of cases.¹²³

79. A number of organizations expressed concern at the detention of foreign nationals in an irregular situation.¹²⁴ JS3 stated that many persons ended up in detention facilities because they were not legally resident in Spain, despite having spent many years in the country.¹²⁵ JS2 stated that foreign nationals held in detention facilities had reported that they had been subjected to harassment, ill-treatment and physical violence.¹²⁶ JS3 believed that the detention of foreign nationals was ineffective. For example, in 2013, 54 per cent of detainees in Barcelona had been released.¹²⁷ APDHE considered that detention should only be employed when no other less burdensome measures for ensuring expulsion, such as regular reporting in person to the authorities or the confiscation of passports, were available.¹²⁸

80. JS3 drew attention to the situation in Ceuta and Melilla. The policy of closing the borders involved the systematic violation of human rights, and collective expulsions

violated the principle of non-refoulement.¹²⁹ HRW recalled that, during its previous UPR, Spain rejected the recommendation to review readmission agreements. Several human rights organizations had documented unlawful summary returns to a third country from Ceuta and Melilla that placed migrants at serious risk of abuse by the third country security forces.¹³⁰

81. HRW recommended the Government to stop all summary and forcible returns to a third country from Ceuta and Melilla; and ensure diligent investigations of allegations of excessive use of force by its own forces.¹³¹ CoE-CPT recommended the authorities to take the necessary steps to ensure that escort staff is properly trained and deportation operations carefully documented.¹³²

82. JS7 observed that the repatriation of unaccompanied foreign minors contravened international law and that the principle of the best interests of the child was not being observed. JS7 considered that the legislation should be brought into line with the relevant international standards and recommended that the State adopt legislative measures strengthening the protection of unaccompanied foreign minors, given that they were at risk of becoming victims of trafficking in persons.¹³³

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a national human rights institution with “A” status).

Civil society:

Individual submissions:

AI	Amnesty International, London (UK)
APDHE	Asociación Pro Derechos Humanos de España, Madrid (Spain)
COVITE	Colectivo de Víctimas del Terrorismo, San Sebastián (Spain)
EBLUL	European Bureau for Lesser Used Languages, Carhaix (France)
FADPDH	Fundación Acción Pro Derechos Humanos, Madrid (Spain)
FL	Fundación para la Libertad, Bilbao (Spain)
FT	Fundación Triángulo, Madrid (Spain)
HRW	Human Rights Watch, Geneva (Switzerland), New York (USA)
ICAAD	International Center for Advocates Against Discrimination, New York (USA)
ISHR	International Service for Human Rights, Geneva (Switzerland)
LC	La Comuna, Madrid (Spain)
OIEC	Office International de l’Enseignement Catholique, Brussels (Belgium)
ReMC	Red de Medios Comunitarios, Madrid (Spain)
TNRTMN	Todos los niños robados son también mis niños, Madrid (Spain)
WILPF	Women’s International League for Peace and Freedom, Geneva (Switzerland).

Joint submissions:

JS1	Rights International Spain (RIS) – Institut de Drets Humans de Catalunya (IDHC), Barcelona (Spain)
JS2	FIBGAR – Fundación Internacional Baltasar Garzón; APAEM – Asociación Profesional de Abogados de Extranjería de Madrid; Women’s Link WorldwideFundación, Madrid (Spain)
JS3	Institut de Drets Humans de Catalunya (IDHC) – Asociación Pro Derechos Humanos de Andalucía (APDHA) – Comissió Catalana d’Ajuda al Refugiat (CCAR) –Educación por la Acción Crítica – Entrepobles – Grupo de Investigación en Derechos Humanos y Sostenibilidad de la Cátedra UNESCO de la Universidad Politécnica de Cataluña – Observatori DESC – Rights International Spain (RIS) – SOS Racisme Catalunya, Barcelona and Sevilla (Spain)
JS4	IIMA – Istituto Internazionale Maria Ausiliatrice, VIDES International – International Volunteerism Organization for Women, Education, Development, Veyrier (Switzerland)

- JS5 Educación para la Acción Crítica (EdPAC), Grupo de Investigación en Derechos Humanos y Sostenibilidad de la Cátedra UNESCO de Sostenibilidad, Observatori DESC, Entrepobles, Espai Social i de Formació d'Arquitectura (ESFA), VSF Justicia Alimentaria Global, Aliança per la Sobirania Alimentària de Catalunya, Xarxa Consum Solidari y Associació Salut i Agroecologia (ASiA), Barcelona (Spain)
- JS6 Habitat International Coalition and Observatori Drets Econòmics Socials i Culturals, Santiago (Chile) and Barcelona (Spain)
- JS7 Federation of Associations for the Prevention of Child Maltreatment and ECPAT, Madrid (Spain)
- JS8 Federación de Planificación Familiar Estatal y la Iniciativa por los Derechos Sexuales Equipo de Trabajo en Sexualidades y Géneros, Buenos Aires (Argentina)

National human rights institution(s):

DP Defensor del Pueblo*, Madrid (Spain)

Regional intergovernmental organization(s):

CoE The Council of Europe, Strasbourg (France)

Attachments:

(CoE-Commissioner) Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe following his visit to Spain from 3 to 7 June 2013, Strasbourg, 9 October 2013, CommDH(2013)18

(CoE-CPT) Report to the Spanish Government on the visit to Spain carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 31 May to 13 June 2011, CPT/Inf (2013) 6

(CoE-ECRI) European Commission against Racism and Intolerance report on Spain (fourth monitoring cycle), adopted on 7 December 2010 and published on 8 February 2011, CRI (2011)4.

(CoE-GRECO) Group of States against Corruption, Evaluation Report Spain, adopted by GRECO at its 62nd Plenary Meeting (Strasbourg, 2–6 December 2013) and published on 15 January 2014, Greco Eval IV Rep (2013) 5E

EU-FRA European Union Agency for Fundamental Rights, Vienna (Austria)

OSCE/ODIHR Office for Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe, Warsaw, (Poland)

² DP, para. 1.

³ DP, para. 2.

⁴ DP, para. 6.

⁵ DP, para. 4. See also WILPF, page 6.

⁶ DP, para. 8.

⁷ DP, para. 40. For the full text of the recommendation see A/HRC/15/6, para. 86.20.

⁸ DP, para. 38.

⁹ DP, para. 37. For the full text of the recommendation see A/HRC/15/6, para. 86.20.

¹⁰ DP, para. 41.

¹¹ DP, para. 22. For the full text of the recommendations see A/HRC/15/6, paras. 84.20 and 84.21.

¹² DP, para. 21. For the full text of the recommendation see A/HRC/15/6, para. 84.45.

¹³ DP, para. 25. For the full text of the recommendation see A/HRC/15/6, para. 84.24.

¹⁴ DP, para. 16. For the full text of the recommendation see A/HRC/15/6, para. 84.3.

¹⁵ para. 20. For the full text of the recommendation see A/HRC/15/6, para. 86.25.

¹⁶ JS4, para. 15.

¹⁷ JS2, para. 5.

¹⁸ JS2, paras. 19, 19.1 and 19.2. See also, JS1, paras. 19–23 and WILPF, page 3.

¹⁹ AI, page 5. See also CoE-Commissioner, para. 133 and COVITE, para. 12.

²⁰ LC, page 4.

²¹ APDHE, page 2. See also LC, page 4.

²² HRW, page 5.

²³ AI, page 3. APDHE, page 1, HRW, pages 4–5, JS1, paras. 28–33, JS2, paras. 11–12, JS3, para. 57. and WILPF, page 3.

²⁴ AI, pages 2 and 5. See also JS3, para. 56.

²⁵ WILPF, page 5.

- 26 JS3, para. 59.
- 27 JS4, paras. 7 and 10.
- 28 JS7, page 10.
- 29 JS4, para. 6. See also DP, para. 15.
- 30 HRW, pages 3–4. See also AI, pages 2 and 5 and ICAAD, para. 41.
- 31 HRW, page 5.
- 32 CoE-Commissioner, page 3, para. 107 and para. 146.
- 33 CoE-CPT (2013) 6 report, paras. 6–28.
- 34 JS3, para. 37.
- 35 AI, page 1, CoE-CPT (2013) 6 report, pages 6–7, FAPDH, para. 3, and ICAAD, paras. 38–42.
- 36 FAPDH, para. 53.
- 37 CoE-CPT (2013) 6 report, para. 46.
- 38 JS3, para. 36.
- 39 ICAAD, para. 14. See also AI, page 5 and EU-FRA, page 3.
- 40 CoE-Commissioner, para. 147.
- 41 AI, page 1. See also DP, para. 32.
- 42 ICAAD, para. 11. See also JS4, paras. 24–26.
- 43 JS4, paras. 17–19.
- 44 JS7, pages 1, 3 and 4. See also DP, para. 36 and ICAAD, paras. 3–6.
- 45 CoE-GRECO (2013) 5E report, para. 15. See also EU-FRA, page 3.
- 46 JS1, para. 27.
- 47 JS1, para. 6.
- 48 JS1, para. 8.
- 49 JS2, paras. 7–10. See also DP, para. 2, JS1, paras. 3–4 and WILPF, page 2.
- 50 JS2, paras. 28–29.
- 51 FAPDH, paras. 17, 37 and 39. For the full text of the recommendation see A/HRC/15/6, para. 84.29.
- 52 FAPDH, para. 48.
- 53 FAPDH, paras 62–67. For the full text of the recommendation see A/HRC/15/6, paras. 84.27, 84.29, 84.26, 85.12, 85.19, y 86.21.
- 54 JS1, paras. 36–37.
- 55 AI, page 4. See also LC, pages 1–3.
- 56 APDHE, page 3.
- 57 AI, page 5.
- 58 WILPF, page 5.
- 59 EU-FRA, pages 18–19.
- 60 TNRTMN, page 1.
- 61 TNRTMN, pages 3–4. See also EU-FRA, pages 18–19.
- 62 TNRTMN, page 5.
- 63 COVITE, para. 10.
- 64 FL, para. 10. See also COVITE, para. 15.
- 65 COVITE, para. 18.
- 66 FT, pages 3–5.
- 67 ICAAD, paras. 12–13.
- 68 CoE-ECRI report 2011, para. 133. See also ICAAD, para. 17.
- 69 ISHR, page 1. See also AI, page 4, CoE-Commissioner, para. 115–127 and ReMC, page 1.
- 70 ReMC, page 2.
- 71 JS1, para. 24. See also CoE-Commissioner, para. 130, HRW, page 2, ISHR, page 2, JS2, paras. 21–23 and JS3, paras. 34–35.
- 72 JS2, para. 24. See also HRW, page 5.
- 73 CoE-Commissioner, para. 148.
- 74 CoE-Commissioner, page 3.
- 75 ReMC, pages 2–3.
- 76 JS5, para. 15.
- 77 JS4, paras. 29–31. See also ICAAD, para. 27.
- 78 JS4, para. 32.
- 79 JS4, para. 15.

- ⁸⁰ JS4, paras. 27 and 28 (e).
⁸¹ JS3, paras. 1–2. See also JS4, para. 10 and WILPF, page 5.
⁸² JS5, para. 18.
⁸³ JS5, para. 25.
⁸⁴ JS5, para. 48.
⁸⁵ JS5, paras. 52 and 56.
⁸⁶ JS3, paras. 22, 24 and 32. See also JS5, paras. 50 and 54.
⁸⁷ CoE-Commissioner, page 2.
⁸⁸ JS6, paras. 6–8.
⁸⁹ JS6, para. 20.
⁹⁰ JS6, para. 24. See also HRW, page 3 and 5 and JS3, para. 19.
⁹¹ JS6, para. 27.
⁹² JS3, para. 6.
⁹³ AI, page 3. See also EU-FRA, page 10, ICAAD, para. 26, JS2, paras. 63–66, JS3, para. 7 and JS8, para. 24.
⁹⁴ AI, page 5.
⁹⁵ JS2, para. 66.
⁹⁶ AI, pages 3–5, JS1, paras. 14–16, HRW, pages 1–2 and 5, ICAAD, paras. 4 and 9, JS2, paras. 32–48 and WILPF, pages 3–4.
⁹⁷ JS8, para. 1.
⁹⁸ JS8, paras. 13–21.
⁹⁹ JS8, paras. 25, 26 and 29.
¹⁰⁰ FT, page 1.
¹⁰¹ FT, page 2.
¹⁰² FT, pages 3–4.
¹⁰³ CoE-Commissioner, page 2.
¹⁰⁴ JS8, paras. 3–4.
¹⁰⁵ JS8, paras. 8–9.
¹⁰⁶ JS4, paras. 11, 13 and 15.
¹⁰⁷ FL, para. 13.
¹⁰⁸ OIEC, paras. 8–10.
¹⁰⁹ CoE-Commissioner, page 2.
¹¹⁰ CoE-ECRI report 2011, para. 69.
¹¹¹ JS4, para. 15.
¹¹² CoE-ECRI report 2011, para. 72.
¹¹³ FT, page 4.
¹¹⁴ EBLUL, page 5.
¹¹⁵ EBLUL, pages 1–4.
¹¹⁶ CoE-Commissioner, page 2.
¹¹⁷ CoE-Commissioner, page 2.
¹¹⁸ OSCE/ODIHR, page 4.
¹¹⁹ OSCE/ODIHR, page 4.
¹²⁰ JS4, paras. 20–21.
¹²¹ WILPF, page 1.
¹²² JS4, para. 15.
¹²³ JS3, para. 48.
¹²⁴ AI, page 5, APDHE, pages 4–5, HRW, pages 1 and 4, ICAAD, paras. 18 and 25, JS2, paras. 49–62, JS3, paras. 38–50, WILPF, page 1.
¹²⁵ JS3, para. 43.
¹²⁶ JS2, para. 62.
¹²⁷ JS3, para. 43.
¹²⁸ APDHE, page 5.
¹²⁹ JS3, paras. 44 and 50. See also AI, page 5.
¹³⁰ HRW, page 1 and 4. See also EU-FRA, page 3 and WILPF, page 1.
¹³¹ HRW, page 4. See also CoE-CPT (2013) 6 report, page 7 and WILPF, page 1.
¹³² CoE-CPT (2013) 6 report, page 8.

¹³³ JS7, pages 8–9. See also DP, para. 17.
